



## CITY OF KIRKLAND

### Department of Public Works

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### MEMORANDUM

**To:** Kurt Triplett, City Manager

**From:** Julie Underwood, Public Works Director  
Joel Pfundt, Transportation Manager  
Kimberly Scrivner, Transportation Planner

**Date:** July 8, 2021

**Subject:** CROSS KIRKLAND CORRIDOR MASTER PLAN UPDATE

### **RECOMMENDATION:**

It is recommended that the City Council receive an update about the progress made to date on implementing the [Cross Kirkland Corridor Master Plan](#), about other activities related to the corridor, and for the staff to receive the Council's guidance about whether and how to update the *Plan*.

### **BACKGROUND DISCUSSION:**

**Eastrail:** The [Eastrail](#) is the 42-mile multiuse corridor that was a former rail line first developed in 1904 as part of the [Lake Washington Belt Line](#). This line extended from Renton to Snohomish County and supported the coal, lumber, and agriculture industries as well as light industrial activities such as products supporting Boeing. In late 2009, the Burlington Northern Santa Fe Railway (BNSF) sold the rail line to the Port of Seattle and the Eastside Rail Corridor, now called Eastrail, came into public ownership.

**Cross Kirkland Corridor (CKC):** The [CKC](#) is the 5.75-mile section of the Eastrail corridor owned by the City of Kirkland and running north through the heart of Kirkland. The CKC was the first improved section of the Eastrail where railroad tracks and ties were removed and an interim trail was built on the existing ballast.

In late 2011, Kirkland negotiated the purchase of a 5.75-mile section of the corridor within the City. The deal closed on April 13, 2012. Sound Transit and other utilities retained easements along the rail-banked portion of Eastrail prior to the City's purchase of its segment.

The CKC Interim Trail is a ten-foot-wide crushed gravel trail that runs from the South Kirkland Park & Ride through the Totem Lake Business District ending at 132<sup>nd</sup> Ave NE/Slater Ave NE. It is "interim" because the *Cross Kirkland Corridor Master Plan* calls for future improvements, including creating recreational and cultural amenities, community connections, art, economic development, implementing transit options and widening and paving the corridor

### **Cross Kirkland Corridor Master Plan and Implementation:**

In June 2014, the City Council adopted the *Cross Kirkland Corridor Master Plan*.

The *Plan* outlines the community's vision for the corridor and includes four primary goals:

1. **Connect Kirkland:** enhance and create connections, create more than one type of trail, safe crossings, wayfinding, reach beyond the city and connect to transit.
2. **Shape a Place Unique to Kirkland:** unique character, honoring history, make the trail a destination and a place for all, embrace landscape and art, emphasize multi-use.
3. **Foster a Green Kirkland:** Enhance ecology, build stewardship
4. **Activate Kirkland and Evolve with time:** growth, active edges, strengthen businesses and development, evolve.

The *Plan* also summarizes the corridor into various Character Zones that identify the unique nature of different segments of the corridor. Kirkland has made great progress with implementing the *Plan* and outcomes worth noting include:

- **Connections to the Community:** The *Plan* includes the location of access points, types and locations of amenities, and how road crossings are handled. Most connections identified in the *Plan* have been implemented but some have yet to be realized, some have been suggested for improvements (such as adding [runnels](#) to more of the staircases), and other connections have since been identified that are not called out in the *Plan*. So far, the City has implemented:

Seven roadway crossings that add additional safety features, six of which include rapid flashing beacons to facilitate safe crossings

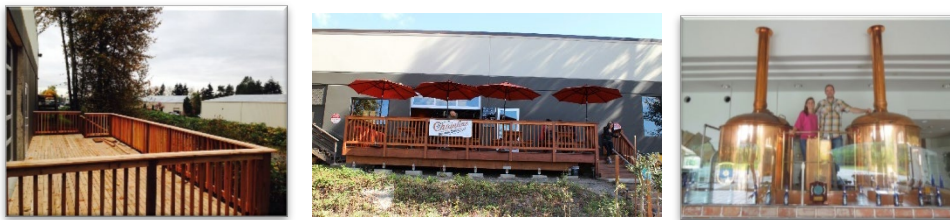


25 additional crossings/connections that connect neighborhoods and the surrounding area to the CKC. Some of these are more formal connections that include staircases and/or bridges while others have more of a trail-like character.



The City has also identified several locations for improved [ADA parking](#). These will be installed through the City's Capital Improvement Program.

Zoning regulations were also updated to support businesses along the corridor. Images below show the Chainline brewery in its former location.



- **Connections to the Region:** Kirkland has been working closely with the [Eastrail Regional Advisory Council](#), co-chaired by Deputy Mayor Arnold, to coordinate efforts to build out the 42-mile vision of this connected corridor. King County [provides a map](#) and timeline of other construction projects outside of Kirkland. More information about this is noted below.

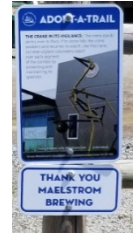
### **Willows Road Regional Trail Connector**

One of the more recent improvements to the Cross Kirkland Corridor is the Willows Road Regional Trails Connector, which connects the north end of the CKC (a segment owned by King County) to the future Redmond Central Connector project.

Partially funded by a large state allocation secured by Kirkland's state legislators, the Willows Road Connector provides a crucial link that eventually will connect the CKC to the Sammamish River Trail and on to the regional trail system. This project is now complete (ribbon cutting event being planned now by CIP Outreach; more details to come soon).



- Ecology, Stewardship and History:** Kirkland's community has contributed countless hours stewarding the CKC. Many of the connections noted above, the former depot site pavilion and ecology efforts have been the result of many volunteer hours and coordination. The community has also contributed to the 'Adopt a Trail' program, the bench donation program and providing much researched expertise on local history. There have also been other ecology related efforts along the corridor such as invasive species removal and replanting of native species.



Honoring the rail, maritime, and industrial heritage of Kirkland with a pavillion at the former passenger rail depot site.

- Art, Character and Placemaking:**  
 The CKC is not just a corridor to travel through but also a destination. The corridor showcases art and amenities such as the Feriton Spur park. Nestled between the Google campus buildings, this park features a playground, a basketball court, sand volleyball and other amenities for the community. This is the result of the public/private partnership with Google when the City purchased the rail right-of-way to allow for the Google expansion and the park was built by the developer. The expansion Feriton Spur Park will be completed in Autumn, 2021.



The CKC also showcases art along the corridor, including the mural underneath the 85<sup>th</sup> Street Bridge, and use of the former rail ties in an art piece.





Some of the character zones are more built out than others in terms of their intended purpose. The Feriton Spur park provides a great example for how this corridor becomes a destination. The new Totem Lake Park is another example of the connection between the CKC and Kirkland's public spaces and parks.



Other character zones will retain their more natural character while other sections of the corridor may see more of these [placemaking](#) features as the corridor evolves over time.

- **Building out the Vision:** The Cross Kirkland Corridor is currently an interim multi-use corridor. Some other multi-use purposes have yet to be realized and may look different than what is identified in the existing *Plan* and there is still progress to be made on what has already been planned for and imagined.

## Upcoming projects and connections:

- **Totem Lake Connector:**

The Totem Lake Connector is a non-motorized bridge that will further improve the CKC and safety by spanning the wide and high-volume intersection of NE 124<sup>th</sup> Street and Totem Lake Boulevard. Work to prepare the site began this past April which included fencing off the site, clearing, installing a pedestrian by-pass, leveling, and creating work areas. The contractor is anticipated to finish the initial foundation piles to support the bridge near the end of August 2021.



All needed steel has been acquired, and production of various pieces of the bridge structure has begun.

Once work on the foundation piles is done, completing the bridge support system and beginning to install the bridge superstructure will be next. Then, once the superstructure is up, completing all other elements of the project (lighting, painting, landscaping, etc.) will occur. The project aims to be complete toward the end of 2022.

- **Bridge lighting under I-405:**

Kirkland received \$600,000 in State appropriation funds for trail lighting where the CKC passes under I-405. The design phase for this project is underway.

- **Extending the Interim Trail between 132nd Avenue NE/Slater AVE NE and Willows:**

King County owns the segment of the Eastrail between 132<sup>nd</sup> Avenue NE /Slater and Willows Road. King County is removing the tracks and ties and is building its segment of the interim trail this coming autumn, to be completed by year end. A City/County agreement to facilitate this extension and also allow for economic redevelopment near the corridor is the subject of one of the action items on the 7/20/21 Council meeting.

- **Crossing of the CKC at 132<sup>nd</sup> Avenue NE/Slater AVE NE:**

The 2019 King County Parks Levy included \$100,000 to study this proposed crossing. The City and County are in the process of finalizing an agreement to complete this work, and this project is expected to begin in the coming months.

- **Crossing of the Eastrail at 134<sup>th</sup> Avenue/Court NE**

The City is working with King County (the County owns the Eastrail corridor in this section) to cross the Eastrail with a new street at 134<sup>th</sup> Avenue/Court NE, which will provide a connection between NE 124<sup>th</sup> Street and NE 126<sup>th</sup> Place. The connection is identified on the Citywide Connections Map as T-30 and is being driven by the new Lee Johnson Auto Dealership Campus development. The City anticipates Lee Johnson will make application within the next month or two and is currently in review with the Design Review Board (DRV21-00225). This public roadway connection is the subject of the MOU up for action under "Business" on the 7/20/21 Council meeting.

- **Crossing of the Eastrail at 139<sup>th</sup> Avenue NE/Willows Road NE**

Part of the City/County MOU for 134<sup>th</sup> Ave crossing includes the City's commitment to provide trail crossing safety investments at 132<sup>nd</sup> AVE NE/Slater and where the Eastrail crosses Willows Road NE. The City is working with the County to connect the Eastrail to the City's new Willows Road NE connector project. That crossing will provide additional lighting, pedestrian amenities, and eventually the recommendation would be a Rapid Flashing Beacon (RFB) consistent with other CKC roadway crossings. The first stage of this project is to add the striping and the additional streetlight, with the RFB planned to come at a later stage.

## Regional Coordination:

Kirkland regularly participates in other regional coordination activities associated with the Eastrail. This coordination is intended to benefit further development of the corridor. A map and timeline of other projects along the 42-mile corridor can be found on King County's [web-page](#).

- **Eastrail Regional Advisory Council (RAC):** The [RAC](#) was formed in 2012, with the original members being entities that had property rights or ownership interests along the corridor: Sound Transit; the cities of Kirkland and Redmond; Puget Sound Energy; and King County. In 2017, the RAC was expanded to include representatives from jurisdictions through which the Eastrail passes (the cities of Bellevue and Renton), new Eastrail owners (the City of Woodinville and Snohomish County), and the [Eastside Greenway Alliance](#). These entities work together to maintain a collaborative, regional planning process for Eastrail. The owners' goal is to achieve connectivity and multiple uses, maximizing public benefit and enjoyment throughout the corridor both directly and indirectly.

Deputy Mayor Arnold is the Vice-Chair of the RAC.

In the past, RAC members, including the City of Kirkland, have been asked to participate in funding agreements that support the work program of the RAC. Some upcoming work program items that the Council may be asked to support in the future include:

- Outreach to the general public, with a focus on equity;
- Wayfinding along the corridor; and
- Data collection, such as additional pedestrian and bicycle counts.

At [Council's July 6 meeting](#), the Council approved Deputy Mayor Arnold supporting a Memorandum of Understanding (MOU) between RAC members and Eastrail Partners establishing a mutual understanding regarding the ongoing collaboration between the two bodies. If approved by the RAC, the MOU will return to the Council for adoption.

- **Eastrail Partners (EP):** The [EP](#) was formed in 2019 as a non-profit advocacy group focused on community engagement for the Eastrail and seeking public/private partnerships to advance further development of the corridor. The [Eastrail Partners Board of Directors](#) represent expertise in advocacy, land use, design, development, communications, and community on Lake Washington's Eastside.
- **Fiber:** The Eastrail is a multiuse corridor and one of those uses is the opportunity for this corridor to provide a connected line for fiber and telecommunications. The City has been working closely with the County and other owners of the Eastrail on this project. The project team includes King County IT, and Eastrail principal staff team members representing property owners (King County, Sound Transit, and the cities of Redmond, Kirkland, and Woodinville); easement holders (Puget Sound Energy, King County, and Sound Transit); and right-of-way permit authorities (the cities of Renton and Bellevue).

There is great interest in building out the conduit and fiber before the remaining, incomplete Eastrail segments are built.

The Kirkland Council will be asked to review and provide guidance on a proposed, non-binding Memorandum of Understanding (MOU) between the above-mentioned parties that outlines expectations related to coordination to identify the best paths forward. The draft MOU does not bind Kirkland to any agreement or business model. Kirkland's interests are to maximize the public benefit of fiber investments to the Kirkland community and the region, and to retain full City control over the CKC portion of any regional agreement. Staff will work with the Council on any future agreements that may include a cost recovery and revenue sharing agreement, and a common lease agreement should all parties agree to select a vendor and a proposed request for proposal document to identify a potential vendor (see Attachment A, MOU).

### **Other projects and ongoing work:**

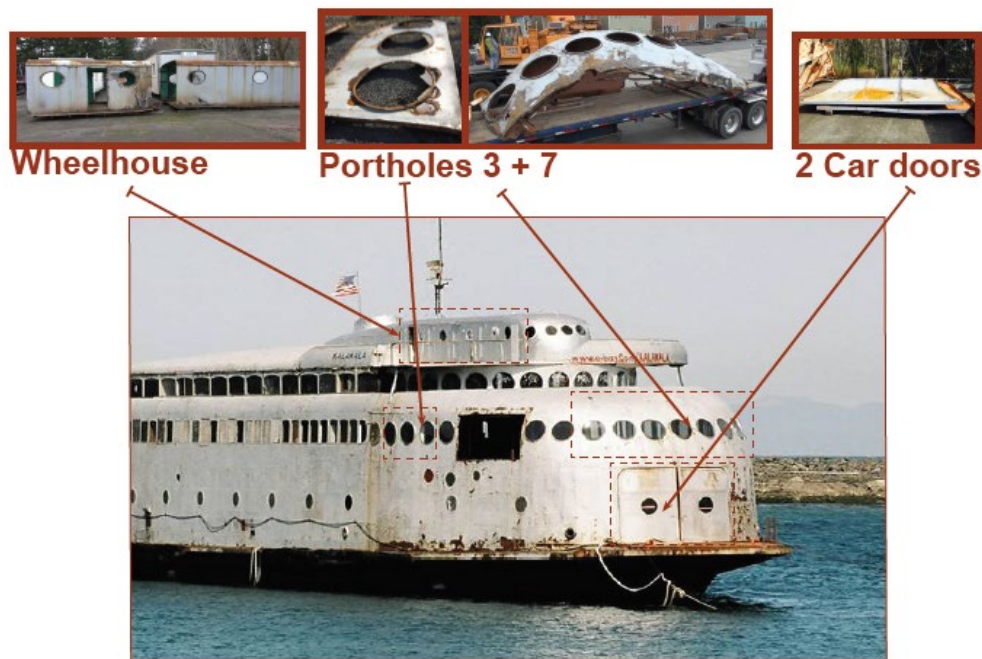
- **Kalakala:**

The Kalakala was a former ferry boat built between 1933 and 1935 at the Lake Washington Shipyards, now known as Carillon Point. The ship served as a former ferry, research vessel, and later a fish cannery, and it was voted the second biggest attraction at the 1962 World's Fair. With its silver, streamlined, art-deco design, the Kalakala pioneered innovation and technology, including the world's first fire suppression system on board any vessel, and the first non-military vessel to use radar navigation.

When the Kalakala eventually was demolished in 2015, a committee comprised of interested citizens, members of Kirkland's Cultural Arts Commission, representatives from both the Kirkland Arts Center and the Kirkland Heritage Society, and Kalakala enthusiasts formed to develop a concept for transforming Kalakala pieces into art and heritage installations. The City competed against hundreds of historians and fans to salvage iconic pieces and bring them home to Kirkland in February, 2015.

Kirkland now owns the wheelhouse, several sections of the lines of portal windows, and railings, among other pieces. Presently, the pieces are being treated to remove the lead paint and hazardous material from them. Some of the portal pieces will be used in the new Feriton Spur Park expansion in various forms, and the remaining pieces will continue to be stored on the CKC near the Public Works Maintenance Center. However, the hazardous materials, such as lead paint, will be removed, which will allow them to be part of future installations.





- **Signage and restrooms along the corridor:**

The City Council and staff have heard public interest in restrooms and other amenities along the corridor. The new Feriton Spur Park will provide a public restroom and a new restroom has also been built at the Totem Lake Park and will connect with the CKC through the Totem Lake boardwalk. Other restrooms are available at existing parks along or near the corridor. Updated map signs will identify existing restroom facilities, accessible parking, and other connections that have been implemented since the original signs were placed.

Wayfinding signs have been evaluated and planned that will point people to other connections available to the community along the corridor. This wayfinding project remains unfunded, but could occur as part of the overall Parks wayfinding project scheduled for 2022/2023.

In summary, over the seven years since the 2014 adoption of the *Cross Kirkland Corridor Master Plan*, there has been a meaningful array of improvements that have been made to the CKC for its increased enjoyment and usefulness. These improvements have implemented many of the recommendations and priorities of the *Plan*.

### **NEXT STEPS:**

Periodically in recent years, the Council has deliberated whether an update of the *Cross Kirkland Corridor Master Plan* is in order.

The current *Plan* was adopted by the Council prior to the passage of the regional Sound Transit 3 ballot measure. The current *Plan* anticipated light rail or similar high capacity transit being constructed along the corridor, which Sound Transit is not planning at this time. However, Kirkland continues to view the CKC as a multi-use corridor, and Kirkland anticipates future multimodal amenities. However, those multimodal amenities may look different than what was proposed originally in the adopted *Plan*. Further, there may be other elements of the *Plan* that the Council believes merit reexamination, or items that should be added.

Potential future *Plan* elements could include:

- Creating a parallel paved corridor for higher speed bicycles, e-bikes and electric scooters to safely separate pedestrians, joggers, children and pets from fast moving trail users.
- Exploring electric (and possibly autonomous) shuttles along a parallel paved lane to connect the Kirkland community to the Village at Totem Lake and the transit centers in Totem Lake and the South Kirkland Park and Ride.
- Exploring further public/private partnerships for investing in art, recreation and public amenities such as Feriton Spur Park along the CKC.
- Evaluating how the CKC right-of-way can help improve water and air quality through environmental investments in tree planting and stormwater treatment.
- Updating land-use and zoning codes to catalyze further CKC-oriented commercial and residential development.
- Identifying potential funding sources for new *Plan* investments.

In the near term, the City will be updating the *Active Transportation Plan (currently updating)*, the *Transportation Master Plan (update launches in 2022)*, and the *Parks, Recreation, and Open Space Plan (currently updating)*. The outcome of those plans could have implications to the current *Cross Kirkland Corridor Master Plan*; if Council is interested in updating the *Plan*, staff recommends funding this update in the 2023-2024 Budget.

In addition to providing the Council with an overview of the progress that has been made so far on implementing the *CKC Plan*, staff will be seeking the Council's input regarding timing on updating the *CKC Plan*.

Attachment A: Eastrail Fiber Development Overview and DRAFT MOU

## I. Eastrail Fiber Development Project

The Eastrail is a regional trail that will connect the Eastside like never-before and provide the cities of Renton, Bellevue, Kirkland, Woodinville, and Redmond with new opportunities for non-motorized recreation and transportation. The opportunities are many, whether it is expanding our transportation options, creating economic and cultural opportunities, protecting natural resources, maintaining access to scenic vistas, or providing recreation around the beautiful Northwest. In addition, King County along with other Eastrail owners investigated the feasibility of placing fiber along the 28.7 miles section of the Eastrail. Fiber studies completed during 2019 included a fiber feasibility study that estimated the cost to build fiber infrastructure between \$10-\$12 million and the return on investment study gauged favorable private sector interest in access to fiber if it was built.

## II. Project Justification

The Eastrail Corridor is being development into a high-quality pedestrian and bicycle trail with potential for additional transportation, utility and smart city uses. These new and future uses make the communications infrastructure development essential and imperative to the long-term success of the Eastrail. This is a legacy development; meaning building conduit and fiber now and before (more than \$61 million or 24 projects currently planned) are completed. Eliminating the need to tear up and rebuild newly completed projects to place conduit and fiber in the Eastrail. Completing this project now with a dig once strategy, this project will future proof the Eastrail for planned and unanticipated future requirements.

## III. Project Team

King County IT, and Eastrail Principal Staff Team member representing property owners (King County, Sound Transit, and the Cities of Redmond, Kirkland, and Woodinville); plus easement holders (Puget Sound Energy, King County, and Sound Transit); and right-of-way permit authorities (Cities of Renton and Bellevue).

## IV. Project Timeframe

- 01/01/2021 – 12/31/2024

## V. Current Scope of Project

This project presents the opportunity to build conduit and fiber optic infrastructure within the Eastrail Corridor through a **significant (28.7-mile) portion of King County's fast-growing metropolitan areas (Woodinville, Kirkland, Redmond, Bellevue, Renton, and unincorporated parts of King County).**

## VI. Project Team Current Activities include

1. Developing a non-binding memorandum of understanding
2. A request for proposal for the project
3. Investment and revenue share agreements
4. Vendor contract/lease agreement

## VII. Oversight

The Parties acknowledge that council, board, or commission prior reviews and authorization may be required as a matter of law before one or more of the Parties may execute any real property instrument to implement or allow the Fiber Work in the Eastrail, and neither the RFP nor the MOU may alter any such requirement.

## VIII. Project benefits and Outcomes

Fiber Optics will provide the communication infrastructure to support regional planned and future activities along the Eastrail Corridor. New opportunities to use the fiber optics to support trail & community projects. Including non-motorized recreation, transportation, and trail enhancements, including internet access, smart lighting, smart trail sensors, public safety, traffic crossing signals, and wildlife video streaming.



The 2019 feasibility study by consultant CTC Energy and Technology identified fiber optic infrastructure as an economic development benefit. As part of the Return on Investment study, talking with more than 12 private companies in the region (real estate developers, aircraft manufactures, telecom companies, and architectural firms), there are indications that additional infrastructure capacity is needed along the Eastrail. In addition, our RFP will determine the potential of this infrastructure to generate revenue by leasing property rights and spare fiber to private partners. The return on investment analysis, concluded, "The potential revenue opportunity is robust, as is the significant value and avoided cost derived by public sector users over time. "The consultants expect that revenues will cover operational expenses and debt service.

#### **IX. Budget Estimate**

The consultants (CTC) high-level cost estimate of \$6 - \$12.6 million dollars to construct a 28.7-mile telecommunication infrastructure. \$12.6 million represents the conceptual specifications consisting of four, four-inch conduits within the Eastrail main line and one, one-inch conduit in the Redmond spur.

#### **X. Funding, Cost Recovery and Revenue Sharing**

King County and/or Eastrail Partners need more time to identify and make plans for potential funding sources in case a public model ends up being the top choice. Possible funding options (e.g., Eastrail Owners, bond, ARPA through Federal government or other federal funding sources). Our plans for securing funding will depend on the results from the RFP and the funding and the amount required for the project. Last year, Eastrail Regional Advisory Council (RAC) members expressed support for the project. Next month (2021), conversations will begin with Eastrail partners to develop an cost recovery and revenue share agreement including (past and future) investments in the Eastrail.

The Parties will collaborate in good faith to investigate and pursue [funding sources, including but not limited to Federal funding opportunities]. We anticipate all will equitably share fiber for individual public use based on cost recovery and revenue share model.

#### **XI. Project Priorities**

The intent is to advertise an RFP that includes the following priorities, which are consistent with the Eastrail Owners' input: (1) Increase the capacity for service to underserved and/or unserved areas of the County; (2) Balance upfront and ongoing costs with maximizing service; (3) Encourage equitable economic development; (4) Address privacy and data security; (5) Preserve or advance the potential for a municipal-owned broadband system; and (6) Provide benefits or enhancements for Eastrail users; (7) Support partnerships that enable extensions from the Eastrail Fiber main route to last mile connections.

#### **XII. Equity and Social Justice Impact**

Findings from King County 2020 Broadband Access Study - Key takeaways from the 2020 study shows the vast majority (72%) of King County residents encounter one or more obstacles to having a successful internet experience.

Differences in lack of access to the internet are observed across high impact groups.

- 19% of insecurely housed groups do not to have internet access at their place of residence.
- 20% of households with incomes under \$25,000 do not have internet access where they live.
- 13% of residents living with a disability do not have internet access where they live.
- 13% of residents that speak a language other than English do not have internet access where they live.

In addition to the obstacles highlighted within the King County 2020 Broadband Access Study. The COVID-19 Pandemic has heightened the issues many families across the community face with lack of access to internet access, technology, and digital skills training

**DRAFT MEMORANDUM OF UNDERSTANDING****Regarding Eastrail Fiber Optic Project**

This MEMORANDUM OF UNDERSTANDING (“MOU”) is made by and among King County, a home rule charter county and political subdivision of the State of Washington (“King County”); Central Puget Sound Regional Transit Authority, a regional transit authority operating pursuant to Chapter 81.112 RCW (“Sound Transit”); Puget Sound Energy, Inc., a Washington public utility corporation (“PSE”); the City of Woodinville, a Washington municipal corporation (“Woodinville”); the City of Redmond, a Washington municipal corporation (“Redmond”), and the City of Kirkland, a Washington municipal corporation (“Kirkland”), each a “Party” and collectively the “Parties.”

**RECITALS**

- A. The Eastrail (previously the “Eastside Rail Corridor”) is a former BNSF Railway Company rail line segment running from milepost (“MP”) 5.0 in the City of Renton in King County to MP 38.25 in the City of Snohomish in Snohomish County, together with a spur line (the “Redmond Spur”) extending from MP 0.0 in the City of Woodinville to MP 7.3 in the City of Redmond in King County.
- B. The Port of Seattle acquired the Eastrail from the BNSF Railway Company in 2009. Previously, in 2008, a portion of the Eastrail from MP 5.0 in Renton to MP 23.8 in Woodinville, along with the Redmond Spur, had been “railbanked” pursuant to the National Trails System Act, 16 USC §1247(d) and its implementing regulations, with King County (and later the City of Redmond as to its portion of the Redmond Spur) as the interim trail user. As of the date of this MOU, the remainder of the Eastrail from MP 23.8 in Woodinville to MP 38.25 in the City of Snohomish remains subject to interstate freight rail use although active freight service is presently embargoed (i.e. temporarily but indefinitely halted).
- C. Between 2010 and 2015, the Parties each acquired from the Port of Seattle various property interests in the Eastrail within King County, from Renton to Woodinville (the “Main Line”), and in the Redmond Spur. The property rights of each Party are generally summarized in **Exhibit A**.
- D. Consistent with railbanking, several of the Parties plan to develop, or are presently developing, the railbanked segments of the Eastrail corridor for recreational, transportation, and utility uses.
- E. The Parties recognize that a range of current and future municipal, county, public sector, business, and nonprofit needs could be served by installing new fiber optic infrastructure in the Eastrail, and the Parties desire to jointly pursue a plan to design, install, construct, operate, and maintain such infrastructure within the portion of the Eastrail located within the geographic boundaries of King County.



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

### **1. Purpose; Project Concept.**

1.1 The Parties have envisioned and intend to work to complete a series of actions and transactions for their mutual benefit. The Parties wish to set forth their understandings in this Memorandum of Understanding (“MOU”) with respect to their respective interests in those actions and transactions. This MOU is a non-binding document that creates no rights and imposes no legally binding obligations on any Party. While the Parties are committed to working cooperatively, expeditiously, and efficiently to further the Eastrail fiber project concept using this MOU as a guide, the processes described in this MOU are tentative and subject to review and modification as the Parties move forward with their discussions.

1.2 The Parties denoted as “fee” owners in Exhibit A to this MOU (collectively, the “Owner Parties”) have worked collaboratively to address the availability of communications infrastructure for both public and private use. Together, the Owner Parties have identified multiple use cases for communications infrastructure, particularly in the business and residential areas along the Eastrail including, but not limited to, the cities of Renton, Newcastle, Bellevue, Kirkland, Redmond, and Woodinville. To address this need, the Owner Parties intend to contract with a vendor to install conduit and high-count fiber infrastructure to enable high-quality fiber services along the Eastrail to facilitate private sector investment and services to businesses and residential areas adjoining the Eastrail, cities and King County.

1.3 As currently conceived, King County intends to issue a request for proposals (“RFP”) to seek a professional firm or consortium of firms (the “Vendor”) for the specific purpose of designing, constructing, maintaining, and operating approximately 28 route miles of new underground (or, as engineering design or permitting may require, aerial) conduit and fiber optic cable in the Eastrail (the “Fiber Work”). The 28 miles of fiber infrastructure would extend from roughly MP 5 to MP 26 along the main line and MP 0 to MP 7 along the Redmond Spur. The fiber would pass through the cities of Renton, Newcastle, Bellevue, Kirkland, Redmond, and Woodinville. The fiber infrastructure would generally consist of four (4) conduits, each such conduit being four (4) inches in diameter. A minimum of one of the four conduits would be designated for municipal use by the Parties and other public or quasi-public entities, and a minimum of five (5) innerducts would be placed in that municipal conduit, with a single 288-count fiber optic cable placed in one of the five innerducts in the municipal conduit. Access vaults would be placed at strategically identified locations along the corridor where required for fiber installation and slack storage. In response to the RFP, prospective vendors would propose business models to design, construct, operate, and maintain this infrastructure, with the option to utilize the remaining capacity and extract benefits such as revenue sharing with other fee owners from it.

### **2. Request for Proposals (RFP) Process and Timeline.**

2.1 The Parties will identify staff who will work cooperatively and in good faith to collaborate with King County to develop the RFP to select a Vendor to design, construct, maintain, and operate fiber infrastructure within the Eastrail corridor consistent with the project concept described in Section 1.3 of this MOU.

2.2 With the Parties' input, King County will endeavor to complete development of the RFP by late-September, 2021. Provided that the late-September, 2021 RFP development goal is met, King County intends to issue the RFP in November 2021. Among other things, the RFP will specify the criteria by which a Vendor will be selected and the makeup of the selection committee, which may include one or more representatives of the Parties.

2.3 After the RFP solicitation period ends, presently anticipated for late December 2021, King County will lead the selection committee to evaluate and score all proposals consistent with the evaluation process and scoring criteria established in the RFP. At the conclusion of that process, the successful Vendor will enter into one or more contracts with the Owner Parties for performance of the Fiber Work.

### **3. Development of Uniform Real Estate Instrument or Alternative Model; Protection of Property Rights; Legislative Approvals.**

3.1 The Parties acknowledge that as presently contemplated, the RFP process could result in a variety of proposals embodying different business models for the Fiber Work and that depending on the business model in the proposal selected through the RFP, the Vendor selected to carry out the Fiber Work may require some sort of property interest or interests in the Eastrail. To promote efficiency in pursuit of the Fiber Work, the Owner Parties agree to work collaboratively and in good faith to develop a uniform lease, license, or other real estate instrument that could be executed by each Owner Party and by the selected Vendor if and when a contract for the Fiber Work is executed. The Owner Parties will endeavor to complete such common real property instrument or template by June 30, 2021. Alternatively, the Owner Parties may explore the option of leasing real property interests to King County for sublease or assignment to the selected Vendor in support of the Fiber Work.

3.2 The Parties agree that any property interest or interests made available to the successful Vendor will be subordinate to all prior existing property rights in the Eastrail corridor, including but not limited to the Parties' rights identified in Exhibit A to this MOU.

3.3. The Parties agree that the successful Vendor will bear all costs and expense to relocate any fiber infrastructure installed pursuant to the Fiber Work in the event that such relocation becomes necessary as a result of one or more of the Parties desiring to exercise their prior existing property rights in the Eastrail.

3.4 The Parties acknowledge that council, board, or commission authorization may be required as a matter of law before one or more of the Parties may execute any real property instrument to implement or allow the Fiber Work in the Eastrail, and neither the RFP nor this MOU may alter any such requirement.

3.5 The Parties agree that the property-related requirements set forth in Sections 3.2, 3.3, and 3.4 of this MOU will be stated in the RFP and as terms or conditions of any final contract awarded for the Fiber Work.

#### **4. Initial Investments; Revenue Sharing Model.**

4.1 The Parties acknowledge that the cities of Redmond and Kirkland have already installed or are in the process of installing fiber conduit in the Eastrail. The Parties intend that if those Owner Parties make their conduit available for the Fiber Work then they would receive compensation, credit, an offset, or other form of consideration for making that conduit available to the Vendor for the Fiber Work, and that their in-kind investment would be repaid or otherwise compensated before other Owner Parties would receive any revenue or other payment from the Vendor in connection with the Fiber Work. The Parties agree that a similar principle would apply to any other Party or Owner Party that materially contributes to the initial Fiber Work. The Parties intend that the contract with the Vendor will include terms relating to such contributions and compensation.

4.2 The Owner Parties intend to negotiate a revenue-sharing plan or model to fairly allocate revenue or other benefits from the Fiber Work among them. The Owner Parties intend to complete the revenue-sharing plan or model not later than the date that the RFP is issued as described in Section 2.1. The Owner Parties contemplate that the revenue-sharing plan or model may be based on their relative share of investment in the Fiber Work, or the length of the Eastrail that they respectively control, or some other reasonable basis rationally related to the Fiber Work and the Owner Parties' respective involvement in the Fiber Work, and taking into account the cost-recovery principles stated in Section 4.1 of this MOU.

4.3 The Parties will collaborate in good faith to investigate and pursue funding sources including but not limited to Federal funding opportunities.

#### **5. Railbanking.**

Consistent with Recital B, the Parties recognize that pursuant to railbanking, all interim uses of the railbanked Eastrail from milepost 5.0-23.8 on the main line and on all of the Redmond Spur are subject to future reconstruction and reactivation of the railbanked right-of-way for interstate freight rail service. The Parties agree that if reconstruction and reactivation of any railbanked portion of the Main Line or Redmond Spur occurs, and if such reconstruction and reactivation requires removal or relocation of the fiber infrastructure installed pursuant to the Fiber Work, then the successful Vendor or its successor should be responsible for all costs and expenses associated with the removal or relocation of fiber infrastructure to accommodate such restoration of interstate freight rail service. The Parties intend that these reactivation-related deal points will be stated in the RFP and as a term or condition of any final contract awarded for the Fiber Work.

#### **6. North of MP 23.8.**

Consistent with Recital B above, the Parties recognize that at the present time the Eastrail remains subject to interstate freight rail use from MP 23.8 to MP 38.25. The Parties intend that any future Fiber Work conducted on that portion of the Eastrail shall be undertaken in a manner consistent with the then-applicable regulatory regime and any final, binding orders or decisions of the federal Surface Transportation Board (STB) in any proceedings pertaining to that portion of the Eastrail. The Parties intend that this STB compliance requirement will be stated in the RFP and as a term or condition of any final contract awarded for the Fiber Work.

## 7. Dispute Resolution.

The Parties agree to use their best efforts to resolve any disputes arising under this MOU using good-faith negotiations and to timely elevate any dispute that cannot be reasonably resolved at the staff level. The Parties agree to continue to work in good faith during the pendency of any dispute so that the purposes of this MOU are not frustrated. The Parties further agree to communicate regularly to discuss matters arising under this MOU and to prevent disputes from arising.

KING COUNTY, WASHINGTON

PUGET SOUND ENERGY, INC.

By: \_\_\_\_\_

Name, Title

By: \_\_\_\_\_

Name, Title

SOUND TRANSIT

CITY OF REDMOND, WASHINGTON

By: \_\_\_\_\_

Name, Title

By: \_\_\_\_\_

Name, Title

CITY OF WOODINVILLE, WASHINGTON

CITY OF KIRKLAND, WASHINGTON

By: \_\_\_\_\_

Name, Title

By: \_\_\_\_\_

Name, Title

## Property Rights in Eastrail Corridor

	King County	Sound Transit	PSE	Woodinville	Kirkland	Redmond
<b>Main Line (MP*)</b>						
5.0-12.4	7.4	7.4	7.4			
12.4-13.5	1.1	1.1	1.1			
13.5-14.8	1.3	1.3	1.3			
14.8-20.3	5.5	5.5	5.5		5.5	
20.3-23.8	3.5	3.5	3.5			
23.8-26.0	2.2		2.2	2.2		
<b>Redmond Spur (MP*)</b>						
0.0-3.4	3.4	3.4	3.4			
3.4-7.3	3.9	3.9	3.5-5.2			3.9

Easement	
Fee**	

\* All milepost references are approximate, provided for convenience only, and subordinate to the relevant legal description in any recorded deed of conveyance, grant of easement, or similar real property instrument of record.

\*\* "Fee" here is shorthand for all of the residual rights that BNSF conveyed to the Port of Seattle in 2009, less those specific easement rights conveyed by the Port to others (e.g. King County, PSE, Sound Transit, etc.). The interests labeled as "fee" here thus may amount to fee simple title to the corridor in some segments, or a railroad easement in others. This summary table is not a substitute for complete title work competently performed by a reputable title company or other resource.

\*\*\*Easement rights being negotiated as of May 2021