



# MEMORANDUM

To: Transportation and Public Works Committee

Through: William Appleton, Public Works Director

Date: 11/11/2018

Subject: Agreement to Transfer Real Property Between WSDOT and the City of SeaTac

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## **Purpose:**

Authorize the City Manager to execute the attached land swap agreement (Attachment 1) thereby fulfilling the first of two City of SeaTac local agency payments for the completing SR 509 project as agreed to in Section 3.1 of the attached Interlocal Agreement which has been approved by Council for execution.

## **Background:**

The City of SeaTac (City) and the Washington State Department of Transportation (WSDOT) have agreed to enter into an Interlocal Agreement (Attachment 2) which identifies the City's funding and payment responsibilities as a Tier 1, local agency partner in the construction of the SR 509 Completion Project (Project). The first City payment towards the Project, as described in the ILA, in an amount of \$2.0 million will be made through the exchange of real estate. Specifically, the City shall exchange real property required by the Project and valued in an amount of \$\_\_TBD\_\_, for real property owned by WSDOT and desired by the City valued at \$\_\_TBD\_\_ (Attachments 3 & 4); the difference in value of \$2.0 million is the City's first of two local agency match payments to be made to WSDOT. The second and final payment of \$2.0 million is not due until the second phase of the Project and is described in the ILA.

Properties received by the City through the subject transaction will allow for the expansion of Des Moines Creek Park and provide the opportunity to either return valuable property back to the public tax roll through development or convert it to a higher public use.

GCB 2928

AGREEMENT TO TRANSFER REAL PROPERTY

BETWEEN WSDOT AND THE CITY OF SEATAC

This INTERLOCAL AGREEMENT (Agreement) is entered into between the City of SeaTac (CITY) and the Washington State Department of Transportation (WSDOT), collectively referred to as the "Parties" and individually referred to as the "Party."

The State of Washington, acting by and through its Department of Transportation (WSDOT) and the City of SeaTac (City), collectively referred to as the Parties and individually as the Party, enter this Agreement on the date last written on the final page. This Agreement binds the successors, assigns, subsidiaries, officials, agents, representatives, servants, employees, officers, and sureties of both Parties.

This Agreement is based on the following facts and representations, all of which the Parties agree are true:

Commented [DJ1]: Why would anyone sign an agreement without facts and representations they believe are true? This statement is useless.

Commented [TT2R1]: See proposed replacement language

RECITALS

1. In July 2015, the Washington State Legislature funded the WSDOT Gateway Program (Program) through the Connecting Washington revenue package. The Program is comprised of two projects: the State Route (SR) 167 Completion Project and the SR 509 Completion Project. These projects provide essential connections to the ports of Tacoma and Seattle and will help ensure that people and goods move more reliably through the Puget Sound region; ~~and.~~
2. Funding for the Program will come from the State of Washington gasoline tax, tolls, local contributions, and potential federal and state grants. Total funding for the Program is \$1.875 billion, which includes local contributions of up to \$130 million. The Program has been funded over a 16-year timeline, with major construction for a first stage ~~phase~~ occurring from 2019 through 2025, and a second stage ~~phase~~ occurring from 2026 through 2030. Local contributions will be needed to construct both the stage ~~phase~~ one and the stage ~~phase~~ two projects and will come from Local Agency Partners; ~~and.~~
3. In 2017 the Washington State Legislature enacted Engrossed Senate Bill 5096 § 306(20) (b) requiring development of a Memorandum of Understanding (MOU) between the Local Agency Partners and WSDOT to fund the \$130 million from local agency partners for the Puget Sound Gateway Program that was included in the 2015 Connecting Washington transportation revenue package. The legislation allows the Local Agency Partners to contribute local funding by combining local monetary and in-kind contributions, including but not limited to land donations.

Commented [DJ3]: This is verbatim from the MOU. Please rewrite.

Commented [TT4R3]: See proposed rewrite

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~~To that end.~~ In accordance with the MOU In June 2018, WSDOT and Local Agency Partners

signed, including the City, in June 2018 signed the Puget Sound Gateway Program SR 167 and SR 509 Completion Projects Local Funding and Phasing Memorandum of Understanding (Exhibit A – Final Gateway Memorandum of Understanding dated June 28, 2018) that summarized WSDOT and Local Partner Agencies’ future commitments and planned timing of those commitments to contribute to the SR 167 and SR 509 projects; and. The MOU allows

In support of the local funding strategy, Local Agency Partners can to contribute local funding by combining local monetary and in-kind contributions; and.

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3. Contribution funding will be through the inter-local agreement between the Parties as noted in (Exhibit B - Interlocal Agreement for the Construction of the Puget Sound Gateway Program GCB 3068. (Dated 11 XX 2018 (Exhibit B) and GCB 3068, which the AGO has Approved as to Form, is currently being circulated between WSDOT and the City of SeaTac for signature

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4.5. The City, in the letter to the Gateway Program dated April 13, 2018 (Exhibit C – SeaTac / WSDOT Commitment Letter Dated April 13, 2018 (Exhibit C), acknowledges the City’s participation in the SR 509 Completion Project local contributions through a grant application and through the provision of real estate owned by the City in the vicinity of 28<sup>th</sup> 26<sup>th</sup>/24<sup>th</sup> Avenue South as shown on (Exhibit D – Exchange Property Map) that is needed by WSDOT to construct the SR 509 Project. Within the subject area, there is approximately 2,640 square feet of existing ROW and approximately 253,525 square feet of real property. The real property to be acquired from the City includes real property that is currently designated as both City right-of-way and non-right-of-way. The City’s real estate has estimated its current value at \$2M, the final value of which will be determined prior to the transfer to WSDOT, determined by the sum net difference of the fair market value of the City’s properties going to WSDOT, the fair market value of WSDOT’s properties going to the City, and the City’s local contribution commitment for Stage 1 of Phase 1 of the SR 509 Completion Project of \$2.0 M. The Parties have will established a land exchange ledger (Exhibit E – City of SeaTac/WSDOT Land Exchange Ledger – SR 509 Completion (Exhibit E) to track any and all exchanges to value pertaining to the property transactions contemplated keep track of the land values being exchanged between the City of SeaTac and WSDOT; and. At the time the Agreement is signed, the ledger represented in Exhibit E is the agreed upon template for documenting the exchange cost details.

Commented [DJ5]: No need to be so specific, direct the reader to the exhibit

Commented [DJ6]: This statement does not match what is stated on Exhibit E

Commented [DJ7R6]:

Commented [TT8R6]: See proposed additional language

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Commented [DJ9]: "Will establish" is this to be an update of Exhibit E? If so please rewrite

Commented [DJ10R9]:

Commented [TT11R9]: See proposed revised language; Exhibit E has been updated

Commented [DJ12]: This is past tense but the attached GCB 3068 (Exhibit F) is not signed.

Commented [TT13R12]: This maintenance agreement is in the process of being executed. Once executed, it will be added to GCB 2928 as Exhibit F

5.6. WSDOT and the City of SeaTac will have also entered into a cooperative agreement to maintain and operate stormwater facilities located within the WSDOT limited access right of way and the the City of SeaTac right of way in the (Exhibit F – WSDOT and City of SeaTac Cooperative Agreement (Exhibit F); and.

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6.7. The Parties need want to complete the acquisitions before the project construction can commences on SR 509.

Commented [DJ14]: Good, but what if you dont? will construction not proceed if the acquisitions are not complete?

Commented [TT15R14]: See revised language; without this land exchange, the SR 509 project will not happen.

NOW THEREFORE, pursuant to RCW 47.28.140 and RCW 47.52.090, and in consideration of the terms, conditions, and performances contained herein, and the attached Exhibits A, B, C, D, E, and F; which are incorporated and made a part hereof, IT IS MUTUALLY AGREED AS FOLLOWS:

**II—TERMS AND CONDITIONS**

~~Now, therefore, in furtherance of the foregoing and in consideration of the following terms and conditions and the attached Exhibits A, B, C, D, E and F which are incorporated herein by this reference, the Parties agree as follows:~~

1. ~~The City agrees to convey by quitclaim deed to WSDOT the real property located in the vicinity of 28<sup>th</sup> 26<sup>th</sup> / 24<sup>th</sup> Avenue South where it crosses the SR 509 route as shown in Exhibit D.~~
2. WSDOT agrees to convey by quitclaim deed to the City the real property located in the vicinity of 28<sup>th</sup> 26<sup>th</sup> / 24<sup>th</sup> Avenue South and in the vicinity S 188<sup>th</sup> St, as shown in Exhibit D.
3. The City agrees ~~to entered~~ into a Maintenance Agreement (Exhibit F) regarding stormwater facility maintenance responsibilities as part of the acceptance of the WSDOT property depicted in Exhibit D.
4. The Parties agree that any funds exchanged between WSDOT and the City as part of this Agreement will be dependent on the appraised value of City's properties going to WSDOT and on the appraised value of the WSDOT properties going to the City minus the City's local contribution commitment for stage 1 of Phase I of the SR 509 Completion Project of \$2.0M, as described in the attached ILA (Exhibit B). The Parties further agree to an equitable and timely distribution of funds and properties to satisfy the terms of the ILA (Exhibit B).

**Commented [DJ16]:** Not needed

**Commented [DJ17]:** Why is there two 'Now, Therefor' statements?

**Commented [DJ17]:** Why is there two 'Now, Therefor' statements?

**Commented [DJ18]:** according to exhibit D this looks like 26th Ave S

**Commented [DJ19]:** see comments on this exhibit-it addresses property relinquishment and purchases not clearly defined as part of this agreement-there are multiple land exchanges that when all of these are appraised, the sum total is the property wSDOT is getting is worth at least \$2 mil more. Sections 1 and 2 do not really make that clear

**Commented [TT20R19]:** We have revise agreement to include Section 3 as a means of addressing your concerns

**Commented [DJ21]:** Now reference to this agreement which is a maintenance agreement but using a 'GCB' number, is future tense

**Commented [DJ22]:** Is this not the future appraisal value, according to my conversation with Tom Tobin on Nov 8?

**Commented [TT23R22]:** Agreed

**III—GENERAL PROVISIONS**

- 6.5. The City understands and agrees that for any of the state-owned lands to be conveyed under this Agreement, the WSDOT shall retain ownership all rights of access, light, view and air between the state-owned lands conveyed and SR 509. The City further understands and agrees that the City, its successors and/or assigns, shall not have any rights of ingress or egress (to, from and between) the state-owned lands conveyed and SR 509. The City further understands and agrees that the City and its successors and/or assigns shall not be entitled to any damages for the loss of access, light, view or air in connection with any construction, reconstruction, operation or maintenance of SR 509. This term shall be contained in all conveyance documents to the City.
- 7.6. Each Party fully releases and discharges the other from and against any and all claims, demands, actions, causes of action, obligations, costs, expenses, damages, losses, and liabilities, of any kind or nature, existing, claimed to exist, or which can hereafter ever arise out of or result from or in connection with any past, current, or future act, error, or omission relating to the City's and the WSDOT's actions or inactions.
- 8.7. Any property conveyed to the City or to the WSDOT under this Agreement shall be conveyed by quitclaim deed to the City or to the WSDOT on an "as is" "where is" and "with all faults" basis. Each Party hereby waives and relinquishes all rights and privileges arising out of, or with respect to, any representations, warranties or covenants, whether express or implied, which may have

been made or given, or which may be deemed to have been made or given, by the other Party or its representatives, except for those representations, warranties and covenants set forth in this Agreement.

Except to the extent of any representations or warranties set forth elsewhere in this Agreement, each Party has not relied upon and will not rely upon, and the other Party expressly disclaims, any representations or warranties with respect to, and shall have no liability for: (i) the condition of the property or any buildings, structures or improvements located thereon or the suitability thereof for habitation, occupancy or for the intended use of the Parties or for any use whatsoever; (ii) any applicable building, zoning or fire laws or regulations or with respect to compliance therewith or with respect to the existence of or compliance with any required permits, if any, of any governmental agency; (iii) the availability or existence of any water, sewer or utilities, any rights thereto, or any water, sewer or utility districts; (iv) access to any public or private sanitary sewer system; (v) the fact that all or a portion of the property may be located on or near an earthquake fault line; or (vi) the presence of any hazardous substances in any improvements on the property, including without limitation asbestos or formaldehyde, or the presence of any environmentally hazardous wastes or materials on or under the property. Without limiting the generality of the foregoing, except to the extent of any representations or warranties set forth elsewhere in this Agreement, each Party shall have no liability to the other Party with respect to the condition of the property under common law, or any federal, state, or local law or regulation, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 as amended, 42 U.S.C.A. sections 9601 et seq., and the Washington Model Toxics Control Act ("MTCA"), RCW 70.1050. Each Party hereby releases and waives any and all claims which the Party has or may have against the other Party under any of the foregoing laws or with respect to the condition of the property, except to the extent of any claims the Party may have arising from any express representations, warranties or covenants of the other Party under this Agreement. Each Party acknowledges to the other Party that it has been given the opportunity under this Agreement to fully inspect the property and each Party assumes the responsibility and risks of all defects and conditions, including such defects and conditions, if any, that cannot be observed by casual inspection, subject to the exception of rights expressly set forth above.

9.8. Once fully executed, this Agreement binds the Parties until all terms and conditions are met and until each Party has conveyed the property it has agreed to convey. The entire Agreement between the Parties hereto is contained in this Agreement and the Exhibits hereto; and this Agreement supersedes all previous representations, negotiations, understandings, or agreements, written and oral, with respect to properties described in Exhibit D. No modification, termination or amendment of this Agreement may be made except by written agreement signed by those authorized to bind the Parties subsequent to the date of this Agreement, unless otherwise provided herein.

~~10.9.~~ No failure by either Party to insist upon the strict performance of any covenant, duty, agreement, or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or any other covenant, agreement, term or condition. Either Party hereto, by notice, and only by notice as provided herein may, but shall be under no obligation to, waive any of its rights or any conditions to its obligations hereunder, or any duty,

obligation or covenant of the other Party hereto.

~~41.10.~~ Each of the provisions of this Agreement has been reviewed and negotiated, and represent the combined work product of the Parties hereto. No presumption or other rules of construction which would interpret the provisions of this Agreement in favor of or against the Party preparing the same shall be applicable in connection with the construction or interpretation of any of the provisions of this Agreement.

~~42.11.~~ This Agreement and the right of the Parties hereto shall be governed by and construed in accordance with the laws of the State of Washington and the Parties agree that in any such action, venue shall lie exclusively in King County, Washington. In the event of any controversy, claim, or dispute arising out of this Agreement, each Party shall be solely responsible for the payment of its own legal expenses, including but not limited to, attorneys' fees and costs.

~~43.12.~~ No Party to this Agreement shall transfer or assign any right or obligation hereunder without the prior written consent of the other Party.

~~44. Summary of Exhibits: The following Exhibits are incorporated into this Agreement:~~

**Commented [DJ24]:** This whole section is not needed. All the exhibits are already called out

~~Exhibit A – Final Gateway Memorandum of Understanding dated June 28, 2018~~

~~Exhibit B – Interlocal Agreement for the Construction of the Puget Sound Gateway Program GCB 3068 (Dated 11-XX-2018)~~

~~Exhibit C – SeaTac / WSDOT Commitment Letter Dated April 13, 2018~~

~~Exhibit D – Exchange Property Map~~

**Commented [DJ25]:** it is not called this

~~Exhibit E – Land Exchange Ledger~~

~~Exhibit F – WSDOT and City of SeaTac Cooperative Agreement~~

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Party's date signed last below:

CITY OF SEATAC

WASHINGTON STATE  
DEPARTMENT OF TRANSPORTATION

By (print): \_\_\_\_\_

By (print): \_\_\_\_\_

Signature:  
Joseph Scorcio  
City Manager  
City of SeaTac

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

APPROVED AS TO FORM:

\_\_\_\_\_  
By (print):

\_\_\_\_\_  
Signature:  
City of SeaTac Attorney

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

Signature:  
Craig Stone  
Gateway Program Administrator

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

APPROVED AS TO FORM:

\_\_\_\_\_  
By (print):

\_\_\_\_\_  
Signature:  
Assistant Attorney General

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

DRAFT

**GCB 2928**

**AGREEMENT TO TRANSFER REAL PROPERTY  
BETWEEN WSDOT AND CITY OF SEATAC**

**EXHIBIT A**

**FINAL GATEWAY  
MEMORANDUM OF UNDERSTANDING  
DATED JUNE 28, 2018**

DRAFT



**GCB 2928**

**AGREEMENT TO TRANSFER REAL PROPERTY  
BETWEEN WSDOT AND CITY OF SEATAC**

**EXHIBIT B**

**INTERLOCAL AGREEMENT  
FOR THE CONSTRUCTION OF THE  
PUGET SOUND GATEWAY PROGRAM  
GCB 3068**

DRAFT

**GCB 2928**

**AGREEMENT TO TRANSFER REAL PROPERTY  
BETWEEN WSDOT AND CITY OF SEATAC**

**EXHIBIT C**

**SEATAC /WSDOT COMMITMENT  
LETTER DATED APRIL 13, 2018**

DRAFT

**GCB 2928**

**AGREEMENT TO TRANSFER REAL PROPERTY  
BETWEEN WSDOT AND CITY OF SEATAC**

**EXHIBIT D**

**SEATAC & WSDOT LAND  
EXCHANGE PROPERTY MAP**

DRAFT

**GCB 2928**

**AGREEMENT TO TRANSFER REAL PROPERTY  
BETWEEN WSDOT AND CITY OF SEATAC**

**EXHIBIT E**

**LAND EXCHANGE LEDGER**

DRAFT

**GCB 2928**

**AGREEMENT TO TRANSFER REAL PROPERTY  
BETWEEN WSDOT AND CITY OF SEATAC**

**EXHIBIT F**

**WSDOT AND CITY OF SEATAC  
COOPERATIVE AGREEMENT**

DRAFT

## GCB 2928

### AGREEMENT TO TRANSFER REAL PROPERTY

### BETWEEN WSDOT AND THE CITY OF SEATAC

This INTERLOCAL AGREEMENT (Agreement) is entered into between the City of SeaTac (CITY) and the Washington State Department of Transportation (WSDOT), collectively referred to as the “Parties” and individually referred to as the “Party.”

#### RECITALS

1. In July 2015, the Washington State Legislature funded the WSDOT Gateway Program (Program) through the Connecting Washington revenue package. The Program is comprised of two projects: the State Route (SR) 167 Completion Project and the SR 509 Completion Project. These projects provide essential connections to the ports of Tacoma and Seattle and will help ensure that people and goods move more reliably through the Puget Sound region.
2. Funding for the Program will come from the State of Washington gasoline tax, tolls, local contributions, and potential federal and state grants. Total funding for the Program is \$1.875 billion, which includes local contributions of up to \$130 million. The Program has been funded over a 16-year timeline, with major construction for a first stage occurring from 2019 through 2025, and a second stage occurring from 2026 through 2030. Local contributions will be needed to construct both the stage one and the stage two projects and will come from Local Agency Partners.
3. In 2017 the Washington State Legislature enacted Engrossed Senate Bill 5096 § 306(20) (b)) requiring development of a Memorandum of Understanding (MOU) between the Local Agency Partners and WSDOT to fund the \$130 million from local agency partners for the Puget Sound Gateway Program that was included in the 2015 Connecting Washington transportation revenue package. The legislation allows the Local Agency Partners to contribute local funding by combining local monetary and in-kind contributions, including but not limited to land donations.  
  
In June 2018, WSDOT and Local Agency Partners signed Memorandum of Understanding (Exhibit A) that summarized WSDOT and Local Partner Agencies’ future commitments and planned timing of those commitments to contribute to the SR 167 and SR 509 projects.
4. Contribution funding will be through the inter-local agreement between the Parties as noted in Exhibit B - Interlocal Agreement for the Construction of the Puget Sound Gateway Program GCB 3068 (Exhibit B). GCB 3068, which the AGO has Approved as to Form, is currently being circulated between WSDOT and the City of SeaTac for signature.
5. In the letter SeaTac / WSDOT Commitment Letter Dated April 13, 2018 (Exhibit C), the City’s participation in the SR 509 Completion Project local contributions through a grant application and

through the provision of real estate owned by the City in the vicinity of 26<sup>th</sup>/24<sup>th</sup> Avenue South as shown on Exhibit D, that is needed by WSDOT to construct the SR 509 Project.. The real property to be acquired from the City includes real property that is currently designated as both City right-of-way and non-right-of-way. The City's real estate has estimated its current value at \$2M, the final value of which will be determined by the sum net difference of the fair market value of the City's properties going to WSDOT, the fair market value of WSDOT's properties going to the City, and the City's local contribution commitment for Stage 1 of Phase 1 of the SR 509 Completion Project of \$2.0 M. The Parties have established a land exchange ledger (City of SeaTac/WSDOT Land Exchange Ledger-SR 509 Completion (Exhibit E) to track any and all exchanges to value pertaining to the property transactions contemplated between the City of SeaTac and WSDOT. At the time the Agreement is signed, the ledger represented in Exhibit E is the agreed upon template for documenting the exchange cost details.

6. WSDOT and the City of SeaTac will enter into a cooperative agreement to maintain and operate stormwater facilities located within the WSDOT limited access right of way and the City of SeaTac right of way in the WSDOT and City of SeaTac Cooperative Agreement (Exhibit F).
7. The Parties need to complete the acquisitions before project construction can commence on SR 509.

**NOW THEREFORE**, pursuant to RCW 47.28.140 and RCW 47.52.090, and in consideration of the terms, conditions, and performances contained herein, and the attached Exhibits A, B, C, D, E, and F which are incorporated and made a part hereof, IT IS MUTUALLY AGREED AS FOLLOWS:

1. The City agrees to convey by quitclaim deed to WSDOT the real property located in the vicinity of 26<sup>th</sup> / 24<sup>th</sup> Avenue South where it crosses the SR 509 route as shown in Exhibit D.
2. WSDOT agrees to convey by quitclaim deed to the City the real property located in the vicinity of 26<sup>th</sup> / 24<sup>th</sup> Avenue South and in the vicinity S 188<sup>th</sup> St, as shown in Exhibit D.
3. The City agrees entered into a Maintenance Agreement (Exhibit F) regarding stormwater facility maintenance responsibilities as part of the acceptance of the WSDOT property depicted in Exhibit D.
4. The Parties agree that any funds exchanged between WSDOT and the City as part of this Agreement will be dependent on the appraised value of City's properties going to WSDOT and on the appraised value of the WSDOT properties going to the City minus the City's local contribution commitment for stage 1 of Phase I of the SR 509 Completion Project of \$2.0M, as described in the attached ILA (Exhibit B). The Parties further agree to an equitable and timely distribution of funds and properties to satisfy the terms of the ILA (Exhibit B).
5. The City understands and agrees that for any of the state-owned lands to be conveyed under this Agreement, the WSDOT shall retain ownership all rights of access, light, view and air between the state-owned lands conveyed and SR 509. The City further understands and agrees that the City, its successors and/or assigns, shall not have any rights of ingress or egress (to,

from and between) the state-owned lands conveyed and SR 509. The City further understands and agrees that the City and its successors and/or assigns shall not be entitled to any damages for the loss of access, light, view or air in connection with any construction, reconstruction, operation or maintenance of SR 509. This term shall be contained in all conveyance documents to the City.

6. Each Party fully releases and discharges the other from and against any and all claims, demands, actions, causes of action, obligations, costs, expenses, damages, losses, and liabilities, of any kind or nature, existing, claimed to exist, or which can hereafter ever arise out of or result from or in connection with any past, current, or future act, error, or omission relating to the City's and the WSDOT's actions or inactions.
7. Any property conveyed to the City or to the WSDOT under this Agreement shall be conveyed by quitclaim deed to the City or to the WSDOT on an "as is" "where is" and "with all faults" basis. Each Party hereby waives and relinquishes all rights and privileges arising out of, or with respect to, any representations, warranties or covenants, whether express or implied, which may have been made or given, or which may be deemed to have been made or given, by the other Party or its representatives, except for those representations, warranties and covenants set forth in this Agreement.

Except to the extent of any representations or warranties set forth elsewhere in this Agreement, each Party has not relied upon and will not rely upon, and the other Party expressly disclaims, any representations or warranties with respect to, and shall have no liability for: (i) the condition of the property or any buildings, structures or improvements located thereon or the suitability thereof for habitation, occupancy or for the intended use of the Parties or for any use whatsoever; (ii) any applicable building, zoning or fire laws or regulations or with respect to compliance therewith or with respect to the existence of or compliance with any required permits, if any, of any governmental agency; (iii) the availability or existence of any water, sewer or utilities, any rights thereto, or any water, sewer or utility districts; (iv) access to any public or private sanitary sewer system; (v) the fact that all or a portion of the property may be located on or near an earthquake fault line; or (vi) the presence of any hazardous substances in any improvements on the property, including without limitation asbestos or formaldehyde, or the presence of any environmentally hazardous wastes or materials on or under the property. Without limiting the generality of the foregoing, except to the extent of any representations or warranties set forth elsewhere in this Agreement, each Party shall have no liability to the other Party with respect to the condition of the property under common law, or any federal, state, or local law or regulation, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 as amended, 42 U.S.C.A. sections 9601 et seq., and the Washington Model Toxics Control Act ("MTCA"), RCW 70.1050. Each Party hereby releases and waives any and all claims which the Party has or may have against the other Party under any of the foregoing laws or with respect to the condition of the property, except to the extent of any claims the Party may have arising from any express representations, warranties or covenants of the other Party under this Agreement. Each Party acknowledges to the other Party that it has been given the opportunity under this Agreement to fully inspect the property and each Party assumes the responsibility and risks of all defects and conditions, including such defects and conditions, if any, that cannot be observed by casual inspection, subject to the exception of rights expressly set forth above.



8. Once fully executed, this Agreement binds the Parties until all terms and conditions are met and until each Party has conveyed the property it has agreed to convey. The entire Agreement between the Parties hereto is contained in this Agreement and the Exhibits hereto; and this Agreement supersedes all previous representations, negotiations, understandings, or agreements, written and oral, with respect to properties described in Exhibit D. No modification, termination or amendment of this Agreement may be made except by written agreement signed by those authorized to bind the Parties subsequent to the date of this Agreement, unless otherwise provided herein.
9. No failure by either Party to insist upon the strict performance of any covenant, duty, agreement, or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or any other covenant, agreement, term or condition. Either Party hereto, by notice, and only by notice as provided herein may, but shall be under no obligation to, waive any of its rights or any conditions to its obligations hereunder, or any duty, obligation or covenant of the other Party hereto.
10. Each of the provisions of this Agreement has been reviewed and negotiated, and represent the combined work product of the Parties hereto. No presumption or other rules of construction which would interpret the provisions of this Agreement in favor of or against the Party preparing the same shall be applicable in connection with the construction or interpretation of any of the provisions of this Agreement.
11. This Agreement and the right of the Parties hereto shall be governed by and construed in accordance with the laws of the State of Washington and the Parties agree that in any such action, venue shall lie exclusively in King County, Washington. In the event of any controversy, claim, or dispute arising out of this Agreement, each Party shall be solely responsible for the payment of its own legal expenses, including but not limited to, attorneys' fees and costs.
12. No Party to this Agreement shall transfer or assign any right or obligation hereunder without the prior written consent of the other Party.

**IN WITNESS WHEREOF**, the Parties hereto have executed this Agreement as of the Party's date signed last below:

CITY OF SEATAC

WASHINGTON STATE  
DEPARTMENT OF TRANSPORTATION

\_\_\_\_\_  
By (print):

\_\_\_\_\_  
By (print):

\_\_\_\_\_  
Signature:  
Joseph Scorcio  
City Manager  
City of SeaTac

\_\_\_\_\_  
Signature:  
Craig Stone  
  
Gateway Program Administrator

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

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

APPROVED AS TO FORM:

APPROVED AS TO FORM:

\_\_\_\_\_  
By (print):

\_\_\_\_\_  
By (print):

\_\_\_\_\_  
Signature:  
City of SeaTac Attorney

\_\_\_\_\_  
Signature:  
Assistant Attorney General

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

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

**GCB 2928**

**AGREEMENT TO TRANSFER REAL PROPERTY  
BETWEEN WSDOT AND CITY OF SEATAC**

**EXHIBIT A**

**FINAL GATEWAY  
MEMORANDUM OF UNDERSTANDING  
DATED JUNE 28, 2018**



**Washington State  
Department of Transportation**

Transportation Building  
310 Maple Park Avenue S.E.  
P.O. Box 47300  
Olympia, WA 98504-7300  
360-705-7000  
TTY: 1-800-833-6388  
www.wsdot.wa.gov

June 28, 2018

The Honorable Steve Hobbs  
Chair  
Senate Transportation Committee  
P.O. Box 40444  
Olympia, WA 98504-0444

The Honorable Judy Clibborn  
Chair  
House Transportation Committee  
P.O. Box 40600  
Olympia, WA 98504-0600

The Honorable Curtis King  
Ranking Member  
Senate Transportation Committee  
P.O. Box 40414  
Olympia, WA 98504-0414

The Honorable Mark Harmsworth  
Ranking Member  
House Transportation Committee  
P.O. Box 40600  
Olympia, WA 98504-0600

In the 2017 Legislative session, Engrossed Senate Bill 5096 Section 306(20)(b) directed WSDOT to develop a Memorandum of Understanding (MOU) to fund the \$130 million from local agency partners for the Puget Sound Gateway Program included in the 2015 Connecting Washington transportation revenue package. Engrossed Senate Bill 5096 stated that:

*The secretary of transportation must develop a memorandum of understanding with local project stakeholders that identifies a schedule for stakeholders to provide local matching funds for the Puget Sound Gateway project. Criteria for eligibility of local match includes matching funds and equivalent in-kind contributions including, but not limited to, land donations. The memorandum of understanding must be finalized by July 1, 2018. The department must submit a copy of the memorandum of understanding to the transportation committees of the legislature and report regularly on the status.*

In October 2017, WSDOT began a stakeholder process to help establish the local contributions necessary to achieve the \$130 million in local funding. The resulting Funding and Phasing Subcommittee, made up of 18 affected jurisdictions, has met five times. From this group, a grant-focused strategy emerged as the most feasible way to fund the \$130 million. A key element of the grant-focused strategy was to identify smaller project elements within the Gateway Program that provide clear and measurable benefits to local jurisdictions, called "Local Nexus Projects." The Funding and Phasing Subcommittee met regularly to establish a process for determining benefits derived from the Local Nexus Projects, align on contributions, and develop the MOU.

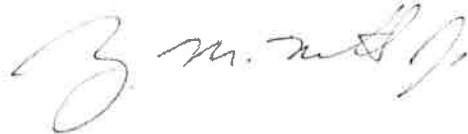
Puget Sound Gateway Program Memorandum of Understanding  
June 28, 2018  
Page 2

All 18 jurisdictions have endorsed and signed the attached Local Funding MOU.

Additionally, WSDOT and our local agency partners have already submitted four grant applications this spring for the Local Nexus Projects. We submitted three applications with the Puget Sound Regional Council (PSRC) and one with the Freight Mobility Strategic Investment Board (FMSIB). We received the FMSIB grant and two PSRC grants, totaling \$13 million, which combined with local match funding, brings the local contribution amount to over \$26 million for this initial grant cycle.

If you have any questions or would like to meet for an update on the Puget Sound Gateway Program, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Millar", written in a cursive style.

Roger Millar, PE, FASCE, FAICP  
Secretary of Transportation

# Puget Sound Gateway Program SR 167 and SR 509 Completion Projects

## Local Funding and Phasing Memorandum of Understanding

### 1. Participating Parties

In addition to the Washington State Department of Transportation (WSDOT), the following Local Agency Partners constitute those parties currently participating in this Memorandum of Understanding pertaining to the local contribution requirement for the Puget Sound Gateway Program (Gateway Program):

- Port of Seattle
- Port of Tacoma
- King County
- Pierce County
- City of Algona
- City of Auburn
- City of Burien
- City of Des Moines
- City of Edgewood
- City of Federal Way
- City of Fife
- City of Kent
- City of Milton
- City of Pacific
- City of Puyallup
- City of SeaTac
- City of Sumner
- City of Tacoma

### 2. Background and Purpose of MOU

In July 2015, the Washington State Legislature and Governor Inslee acted to fund the Gateway Program through the Connecting Washington revenue package. The Gateway Program is comprised of two projects: the State Route 167 Completion Project and the State Route 509 Completion Project. These projects provide essential connections to the ports of Tacoma and Seattle and will help ensure that people and goods move more reliably through the Puget Sound region.

WSDOT is the lead project sponsor and is responsible for the planning, design and construction of the Gateway Program, as well as for its overall financial management. The program has been guided from its beginning by a Joint SR 167/SR 509 Executive Committee (Executive Committee), comprised of elected and appointed representatives of local jurisdictions served by the Gateway Program (Algona, Auburn, Burien, Des Moines, Edgewood, Federal Way, Fife, Kent, Milton, Pacific, Puyallup, SeaTac, Sumner, Tacoma, King County, Pierce County, Port of Seattle, and Port of Tacoma) as well as Federal Highway Administration, Washington State Transportation Commission, Washington State Department of Transportation, Puget Sound Regional Council, Sound Transit, Pierce Transit, and the Freight Mobility Strategic Investment Board.

Funding for the Gateway Program has been approved to come from the state gas tax, tolls, local contributions, and potential federal and state grants. Total funding for the Gateway Program, from the 2015 Connecting Washington transportation funding package, is \$1.875 billion, which includes local contributions of \$130 million. The program has been funded over a 16-year

timeline. Based on the legislative funding plan, major construction for a first stage would occur from 2019 through 2025, and a second stage from 2026 through 2030. Local contributions will be needed to construct both stage one and stage two projects.

In the 2017 Legislative session new language was enacted (Engrossed Senate Bill 5096 § 306(20)(b)) requiring development of a Memorandum of Understanding (MOU) between the Local Agency Partners and WSDOT. The legislature directed that:

*The secretary of transportation must develop a memorandum of understanding with local project stakeholders that identifies a schedule for stakeholders to provide local matching funds for the Puget Sound Gateway project. Criteria for eligibility of local match includes matching funds and equivalent in-kind contributions including, but not limited to, land donations. The memorandum of understanding must be finalized by July 1, 2018. The department must submit a copy of the memorandum of understanding to the transportation committees of the legislature and report regularly on the status.*

To this end, the Executive Committee of the Gateway Program convened a Funding and Phasing Subcommittee (Subcommittee) to develop a MOU that summarizes their planned future commitments and planned timing of those commitments to contribute to the SR 167 and SR 509 projects.

The Subcommittee goals include:

- Support efforts to build the Gateway projects on or ahead of schedule
- Create successful local partnerships
- Obtain sufficient local funding to build the Puget Sound Gateway projects
- Time grant-funding projects to support the project delivery schedule

The construct of local funding participation, when authorized by the legislative bodies of the relevant agencies through a series of forthcoming interlocal agreements, is based on the following projections:

	<b>SR 167</b>	<b>SR 509</b>	<b>TOTAL</b>
<b>Port contributions</b>	\$30 million	\$30 million	<b>\$60 million</b>
<b>Federal INFRA grant</b>	\$10 million	\$10 million	<b>\$20 million</b>
<b>Local agency partner match</b>	\$10 million	\$10 million	<b>\$20 million</b>
<b>Other Grants (PSRC, FMSIB, TIB)</b>	\$20 million	\$10 million	<b>\$30 million</b>
<b>Total</b>	<b>\$70 million</b>	<b>\$60 million</b>	<b>\$130 million</b>

### 3. Local Funding Strategy

A key element of the local funding strategy is to identify projects within the Gateway Program that provide clear and measurable benefits to local jurisdictions. In the Gateway Program, these are called "Local Nexus Projects," are designed to:

- Create a positive business case for Local Agency Partners by focusing on the parts of the program that are most relevant and important to local jurisdictions
- Leverage the potential to access significant grant funding to support local funding assumptions

In support of the local funding strategy, Local Agency Partners shall:

- Participate, co-fund match, and submit grant applications with support from Subcommittee staff, as identified in Section 6 of this MOU
- Combine local monetary and in-kind contributions and project funds to ensure fully-funded applications, as identified in Section 6 of this MOU
- Support the grant effort and avoid competition with the local projects in the year of application

The following Local Nexus Projects have been identified within the north (SR 509) and south (SR 167) segments of the Gateway Program:

Gateway North (SR 509)	Gateway South (SR 167)
188 <sup>th</sup> South Ramps	Meridian West Ramps
SeaTac Access, with Ramps to 28 <sup>th</sup> /24 <sup>th</sup> Avenue South	54 <sup>th</sup> Avenue East Ramps
Veterans Drive Extension	Interurban Trail
Lake to Sound Trail	Valley Avenue West Ramps
	Port of Tacoma Access/SR 509 Spur
	70 <sup>th</sup> Avenue E Bridge Relocation

If Local Nexus, INFRA, and any other pending grant projects become fully funded, these projects will contribute substantially toward the Legislative requirement for local match. Funding commitments will be achieved via an interlocal agreement from each signing party up to the amounts presented in this MOU. Local Agency Partner signatories to this MOU understand that once the local contribution requirements set forth in ESB 5096 (\$130 million) is achieved, that Local Agency Partners will not be required to commit to additional funds beyond what is outlined in this MOU. If additional grant funding or additional funds from other sources are obtained that fulfill the \$130 million local contribution requirement, the Secretary of Transportation and the Executive Committee will review and determine to either reduce local agency partner match payments, or recommend expanding scope of the Gateway Program, and amend each signing party's interlocal agreement accordingly.

#### 4. Local Participation Policy

The Joint Executive Committee has agreed to a funding and phasing policy that structures local agency partner match requirements to be commensurate with the benefits accrued from the project at a local level. This policy states that:



*All local agency partners accrue some benefit from the Puget Sound Gateway Program. Partners receiving fewer benefits, however, are not expected to contribute as much as partners who receive more benefits. Direct benefits are those that are most quantifiable, but there are other components of value that include indirect, strategic and policy/social benefits. Both direct and indirect benefits will be assessed as part of the consideration of local contributions, because they are more easily quantifiable than strategic and policy/social benefits.*

All Local Agency Partner signatories of this MOU expect to seek approval of interlocal agreements to contribute a match to be applied to Local Nexus Projects at a level that reflects their respective anticipated level of benefit, as identified in Section 6 of this MOU.

#### **5. Benefit Assessment Methodology**

The proposed financial participation by each partner is based on a general, qualitative assessment of the net benefits expected to be received by full completion of the Gateway Program. The assessment includes the following metrics, based on available project data and transportation modeling outputs:

- **Direct transportation linkages.** The location of direct access points for new limited access highways or other transportation infrastructure that benefits the community.
- **Effects on local sales taxes.** The impacts of the projects to sales tax receipts, both in terms of one-time construction sales taxes for the project, and ongoing sales taxes from impacts to commercial uses.
- **Travel time savings.** Overall travel time savings for local car and truck traffic associated with the projects.
- **Traffic diversion from local streets.** The diversion of, or increase in, traffic on local arterials due to the project, with associated positive impacts to traffic safety and local road maintenance.
- **Effects on local employment.** The potential effects of improved accessibility are reviewed, particularly in the context of access to new or potential employment uses.
- **Effects on developable residential lands.** The potential impacts of changes in traffic flow and accessibility on residential land development, with a focus on areas within the jurisdiction that are available for redevelopment.
- **Effects on developable employment lands.** The potential impacts of changes in traffic flow and accessibility on the development or redevelopment of commercial and industrial lands.
- **Achievement of local policy goals.** The alignment of the WSDOT Gateway Program with local plans and policies.
- **Environmental and social benefits.** Environmental and social benefits specifically linked to these projects, including upgrades to pedestrian and cycling infrastructure, and wetlands and riparian restoration.

The approach and findings of the benefits assessments have been provided to the Local Agency Partners.

**6. Local Jurisdiction Anticipated Contributions to the Program**

Based on results from the benefit assessment described in Section 5, contributions for each of the Local Agency Partners were determined by project stage in the tables below. Following execution of this MOU, interlocal agreements will be drafted for subsequent approval. Anticipated contributions only become binding commitments when embedded in interlocal agreements, and the conditions therein are approved by the proposed funding entity. Interlocal agreements between WSDOT and the respective Local Agency Partner must be in place for a project prior to issuance of the Request for Proposals (RFP) for any proposed construction contract. The interlocal agreements will become binding commitments, within the statutory authority of the Local Agency Partner, and will define the schedule of local match payments expected over the duration of each construction project stage.

WSDOT will exercise due diligence to develop and construct each project on schedule within the Gateway Program to the best of its abilities. Local Agency Partners will participate in project development reviews and project meetings in support of the Gateway Program.

If grant pursuits identified in the Stage 1 and Stage 2 tables below are not achieved sufficient to meet the \$130 million local contribution, additional grants will be pursued from the funding programs listed or from other funding programs that may become available over the life of the Gateway Program. If Local Nexus Projects go to construction without planned grants, the Local Agency Partner match funds will still be provided by agreement with WSDOT. If it is determined that a Local Nexus Project cannot be fully funded, WSDOT will review options with the Executive Committee. If an official decision is determined by the Executive Committee and the Secretary of Transportation that the Local Nexus Project is not to be included in a construction project, the Local Agency Partner match may be withdrawn.

**Stage 1 Grant Pursuits for Local Nexus Projects**

Project	Estimated Construction Cost	Funding Program	Grant Target Amount	Target Due Mo/Year	Anticipated Construction Expenditure	Local Agency Partner Match	Partner Nexus
70 <sup>th</sup> Avenue E/Interurban Trail	\$32,245,600	FMSIB	\$5,000,000	Mar 2018	2019-2021	\$800,000 \$500,000 \$3,000,000	Fife Tacoma Port of Tacoma
		TIB	\$5,000,000	Aug 2018	2019-2021		
		State Capital & Transportation	\$1,400,000	Mar 2018	2019-2021		Fife
Veterans Drive/ SR516 Interchange	\$33,800,000	PSRC	\$4,500,000	Apr 2018	2021-2025	\$1,000,000	Kent
		TIB	\$5,000,000	Aug 2020	2021-2025	\$1,000,000	Kent
SeaTac Access	\$176,883,500	PSRC	\$4,500,000	Apr 2018	2021-2025	\$2,000,000 \$500,000	SeaTac (ROW in lieu) Des Moines

Port of Tacoma Access/509 Spur	\$323,042,000	PSRC	\$4,500,000	Apr 2018	2021-2025	\$1,500,000 \$3,000,000 \$800,000	Tacoma Port of Tacoma Fife
		FMSIB	\$5,000,000	Mar 2020	2021-2025		
All Gateway Program		INFRA	\$20,000,000*	Nov 2017	2019-2021		
SR 167 Stage 1		Port of Tacoma		Jan 2021	2021-2025	\$9,000,000	Port of Tacoma
SR 509 Stage 1		Port of Seattle		Jan 2021	2021-2025	\$15,000,000	Port of Seattle (expected in 2023-2025)
<b>Total Stage 1</b>			<b>\$54,900,000</b>			<b>\$38,100,000</b>	<b>\$93,000,000</b>

### Stage 2 Future Grant Pursuits for Local Nexus Projects

Project	Estimated Construction Cost	Funding Program	Grant Target Amount	Target Due Mo/Year	Anticipated Construction Expenditure	Local Agency Partner Match	Partner Nexus
Meridian Avenue Interchange		TBD	\$3,000,000	2022	2026-2030	\$2,000,000	Puyallup
Valley Avenue Interchange		TBD	\$3,000,000	2022	2026-2030	\$2,000,000	Pierce County
188 <sup>th</sup> Street Interchange improvements		TBD	TBD	2023	2026-2030	TBD	SeaTac
SR 167 Stage 2		TBD	\$4,000,000	2022	2026-2030	\$500,000 \$500,000	Edgewood (ROW in lieu) Sumner
		Port of Tacoma		Jan 2026	2026-2030	\$15,000,000	Port of Tacoma
SR 509 Stage 2		TBD	\$4,000,000	2024	2026-2030		
		Port of Seattle		Jan 2026	2026-2030	\$15,000,000	Port of Seattle
<b>Total Stage 2</b>			<b>\$14,000,000</b>			<b>\$35,000,000</b>	<b>\$49,000,000</b>
<b>Total Stages 1 &amp; 2</b>			<b>\$68,900,000</b>			<b>\$73,100,000</b>	<b>\$142,000,000</b>

\* – If no INFRA, apply for FHWA BUILD grant for Port of Tacoma Access (SR 509 Spur)

TBD – grant funding program pursuit to be determined in future

## 7. Terms and Termination

### 7.1. Amendments

This MOU shall be periodically reviewed and evaluated regarding the need for modifications or amendments by mutual determination of WSDOT and Local Agency Partners. Amendments to the MOU shall be required if program funding assumptions need to be adjusted that affect the ability to construct the identified Local Nexus Projects or the ability to achieve the \$130 million local contribution. Such amendments shall only be binding if they are in writing and signed by authorized personnel from all of the Local Agency Partners. Except as set forth in an amendment, the MOU will be unaffected and shall continue in full force and effect in accordance with its terms. If there is conflict

between an amendment and the MOU or any earlier amendment, the terms of the most recent amendment will prevail.

If there is a conflict between subsequent interlocal agreements and the MOU or any earlier amendments, the terms of the interlocal agreements will prevail.

Changes that do not affect the ability to construct the identified Local Nexus Project or achieve the \$130 million local contribution shall be addressed through the interlocal agreement between WSDOT and the relevant Local Agency Partner.

## **7.2. Dispute Resolution**

Should any signatory to this MOU object at any time to any actions proposed or the manner in which the terms of this MOU are implemented, the Executive Committee shall hear the dispute first and if the disputant(s) is/are not satisfied with the Committee's proposed decision, the Committee will send to the Secretary of Transportation its proposed solution and all documentation relevant to the dispute. The Secretary of Transportation shall provide the Executive Committee with his/her advice on how to resolve the dispute within thirty (30) calendar days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the Executive Committee shall prepare a written response that considers any timely advice or comments regarding the dispute from the Secretary of Transportation, signatories and other interested parties, and provide them with a copy of this written response. WSDOT will then proceed according to this final decision.

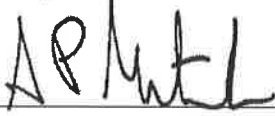
## **7.3 Conditions for Termination of Participation**

Subject to legislative appropriation and all applicable laws, each signatory shall ensure that the Gateway Program is carried out in accordance with the terms of the MOU and subsequent interlocal agreements. A signatory may terminate its participation in this MOU if its terms cannot be met and by providing written notice to the Secretary of Transportation and the Executive Committee a minimum of 180 calendar days before a project issues an RFP that relies on that local agency partner funding. Prior to providing written notice terminating participation, however, the signatories shall consult with WSDOT to determine whether an amendment to the MOU might be feasible. If a signatory terminates its participation, WSDOT will then consult with the Executive Committee to determine if project scope elements need to be removed if contributions are not realized in accordance with this understanding.

## **8. Period of Agreement.**

This MOU will commence on July 1, 2018 and will dissolve when the \$130 million of local contribution have been secured, or when the Local Nexus Projects have been constructed and are complete.

9. Signatories



Stephen P. Metruck  
Executive Director  
Port of Seattle

6/21/18

Date



John Wolfe  
Chief Executive Officer  
Port of Tacoma

5/30/18

Date



Dow Constantine  
County Executive  
King County

6/22/18

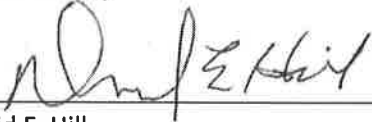
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Bruce Dammeier  
County Executive  
Pierce County

5/30/18

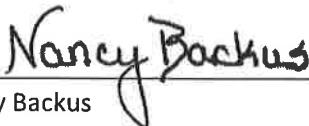
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David E. Hill  
Mayor  
City of Algona

6/25/18

Date



Nancy Backus  
Mayor  
City of Auburn

6/11/18

Date



Brian Wilson  
City Manager  
City of Burien

6/17/18

Date



Michael Matthias  
City Manager  
City of Des Moines

6/26/18

Date



Daryl Eidinger  
Mayor  
City of Edgewood

6/13/18

Date



Jim Ferrell  
Mayor  
City of Federal Way

6/20/18

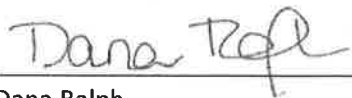
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Pat Hulcey  
Councilmember  
City of Fife

6/20/18

Date



Dana Ralph  
Mayor  
City of Kent

6/26/18

Date



Shanna Styron-Sherrell  
Mayor  
City of Milton

6/21/18

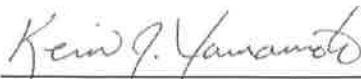
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Leanne Guier  
Mayor  
City of Pacific

6/21/18

Date

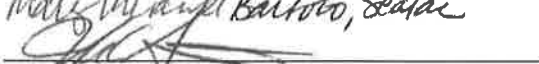


Kevin Yamamoto  
City Manager  
City of Puyallup

6/12/18

Date

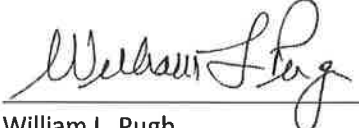
Appas Form:  
Maly M. Buroto, Seatac



Joseph Scorcio  
City Manager  
City of SeaTac

6/28/18

Date



William L. Pugh  
Mayor  
City of Sumner

6/8/18

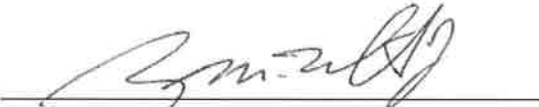
Date



Elizabeth A. Pauli  
City Manager *Approved as to form*   
City of Tacoma

6/27/18

Date



Roger Millar  
Secretary of Transportation  
Washington State Department of Transportation

6/27/18

Date

**GCB 2928**

**AGREEMENT TO TRANSFER REAL PROPERTY  
BETWEEN WSDOT AND CITY OF SEATAC**

**EXHIBIT B**

**INTERLOCAL AGREEMENT  
FOR THE CONSTRUCTION OF THE  
PUGET SOUND GATEWAY PROGRAM**

**GCB 3068**



## GCB 3068

### **Interlocal Agreement for the Construction of the Puget Sound Gateway Program**

This INTERLOCAL AGREEMENT (Agreement) is entered into between the City of SeaTac (CITY) and the Washington State Department of Transportation (WSDOT), collectively referred to as the "Parties" and individually referred to as the "Party."

**WHEREAS**, pursuant to Chapter 39.34 Revised Code of Washington (RCW), Interlocal Cooperation Act, the Parties desire to enter into an agreement with one another in order to jointly establish a mutual and cooperative system to carry out their respective obligations of this Agreement for the construction of the Puget Sound Gateway Program (PROGRAM); and

**WHEREAS**, in 2015 the Legislature funded the construction of the PROGRAM through the Connecting Washington revenue package; and

**WHEREAS**, in funding the PROGRAM, the Legislature directed that \$130 million of the \$1.875 billion is to come through local funding sources; and

**WHEREAS**, the north segment of the State Route 509 Completion Project (PROJECT) is part of the PROGRAM and is largely within the CITY. It includes 188<sup>th</sup> South Ramps, SeaTac Access with Ramps to 28<sup>th</sup>/24<sup>th</sup> Avenue South, Veterans Drive Extension and Lake to Sound Trail as called out on page 5 of Attachment B; and

**WHEREAS**, since 2007, in recognition of the local and regional benefits that it will bring to the Puget Sound region, the CITY has been a strong proponent and has taken an active role in completing the PROJECT; and

**WHEREAS**, in 2013 the SeaTac City Council passed Resolution 13-007 (Attachment A) expressing its strong support for a transportation investment package inclusive of funding for the PROJECT; and

**WHEREAS**, the PROJECT now includes a full folded diamond interchange at South 188<sup>th</sup> Street as shown on the Attachment C (these ramp improvements referred to as 188<sup>th</sup> South Ramps in the Attachment B) and a SeaTac Access half interchange with two lanes in each directions and ramps at 28<sup>th</sup>/24<sup>th</sup> Avenue South, both within the CITY; and

**WHEREAS**, The CITY has entered into a Local Funding and Phasing Memorandum of Understanding (MOU) with WSDOT (Attachment B), commencing on July 1, 2018, acknowledging that the CITY is one of eighteen (18) Local Agency Partners committed to provide matching funds/contributions commensurate with the benefits accrued from the PROJECT at a local level; and

**WHEREAS**, the CITY is willing to contribute both matching funds and real estate towards the required local contribution;

**NOW, THEREFORE**, in consideration of the terms, conditions, and performances contained herein, the above recitals that are incorporated herein as if fully set forth below, and the Attachments A, B and C which are attached hereto and by this reference made a part,

IT IS MUTUALLY AGREED AS FOLLOWS:

**1. PURPOSE**

1.1. This Agreement quantifies the CITY's local contribution commitment to be applied towards the construction of the PROJECT component of the PROGRAM and defines the roles and responsibilities between the Parties for delivery of the PROJECT.

**2. WSDOT RESPONSIBILITIES**

2.1. WSDOT shall design and construct the PROJECT to be consistent with the Proposed Design Alternative as specified in Attachment C, subject to any deviations made in accordance with Section 2.3 below.

2.2. WSDOT shall manage implementation of the PROJECT to minimize the duration of construction while maintaining the full scope of the Proposed Design Alternative specified in Attachment C.

2.3. WSDOT shall coordinate and seek concurrence from Local Agency Partners on any significant deviations from the Proposed Design Alternative contemplated during implementation of the PROJECT as specified in Attachment C.

**3. FUNDING AND PAYMENT RESPONSIBILITIES**

3.1. In consideration of the faithful performance of this Agreement, the CITY agrees to contribute local agency matching funds or property to the PROJECT component of the PROGRAM having a value not to exceed Four Million Dollars (\$4,000,000) according to the following schedule:

PROJECT STAGE 1: The CITY shall transfer to the State of Washington real estate and/or cash valued in an amount not to exceed Two Million Dollars (\$2,000,000) to be applied towards the SeaTac Access Local Nexus Project as identified in the MOU dated July 1, 2018 and the commitment letter from the CITY to WSDOT dated April 13, 2018. WSDOT shall be responsible for all costs associated with the real estate appraisal and transfer process, which is expected to be completed in 2018.

PROJECT STAGE 2: Following the receipt by the CITY of Construction Sales Tax from the PROJECT in an amount of Two Million Dollars (\$2,000,000) and upon WSDOT's request, funds in an amount not to exceed Two Million Dollars (\$2,000,000) will be contributed to the PROJECT by the CITY; Said funds shall only be applied towards the construction of the South 188<sup>th</sup> Street Interchange, referred to as 188<sup>th</sup> South Ramps Project in the MOU dated July 1, 2018, and as

described and depicted in the Proposed Design Alternative in Attachment C (full folded diamond interchange), unless otherwise approved by the SeaTac City Council.

- 3.2. The CITY shall not be obligated to contribute local agency matching funds in real estate and/or cash in excess of Four Million Dollars (\$4,000,000) for the PROJECT. If WSDOT requests additional funds from the CITY in the future, a written amendment to this Agreement authorizing a contribution increase must be mutually agreed upon, and subject to SeaTac City Council approval.

#### 4. DESIGNATED REPRESENTATIVES

- 4.1. Project related communications between the Parties, including, but not limited to, invoicing and administration for this Agreement will be between the Designated Representatives of each Party, as follows:

- 4.1.1. For SEATAC:  
William Appleton  
Public Works Director  
4800 South 188<sup>th</sup> Street  
SeaTac, WA 98188  
(206) 973-4741  
[Wappleton@ci.seatac.wa.us](mailto:Wappleton@ci.seatac.wa.us)

- 4.1.2. For WSDOT:  
Craig Stone  
Program Administrator  
999 Third Avenue, Suite 2200  
Seattle, WA 98104  
(206) 805-2961  
[StoneC@wsdot.wa.gov](mailto:StoneC@wsdot.wa.gov)

#### 5. TERM

- 5.1. This Agreement is effective as of the last date of execution and will terminate upon either the CITY's fulfillment of its local match commitment of Four Million Dollars (\$4,000,000), upon cancelation of the PROJECT, or upon completion of the PROJECT whichever comes first. This Agreement may also be terminated pursuant to Section 6, TERMINATION.

#### 6. TERMINATION

- 6.1 Neither WSDOT nor the CITY may terminate this Agreement without the written concurrence of the other Party.

- 6.1.1. If this Agreement is terminated by the CITY prior to the fulfillment of the terms stated herein, the CITY agrees to reimburse WSDOT for the actual direct and related indirect expenses and costs it has incurred for the

PROJECT up to the date of termination, as well as the costs of non-cancelable obligations.

6.1.2. If this Agreement is terminated by WSDOT prior to the fulfillment of the terms stated herein, WSDOT will be responsible for the actual direct and related indirect expenses and costs it has incurred for the PROJECT up to the date of termination, as well as the costs of non-cancelable obligations.

6.1.3. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.

**7. AMENDMENT**

7.1. This Agreement may be amended or modified only by the mutual agreement of the Parties. Such amendments or modifications shall not be binding unless they are in writing and signed by persons authorized to bind each of the Parties.

**8. INDEMNIFICATION AND HOLD HARMLESS**

8.1 To the extent permitted by law, WSDOT and the CITY shall protect, defend, indemnify, and save harmless each other, their respective officers, officials, employees, and agents, while acting within the scope of their employment as such, from any and all costs, claims, judgment, and/or awards of damages, arising out of, or in any way resulting from, Indemnifying Party's negligent acts or omissions. Neither WSDOT nor the CITY will be required to indemnify, defend, or save harmless each other if the claim, suit, or action for injuries, death, or damages is caused by the sole negligence of the other party. Where such claims, suits, or actions result from concurrent negligence of WSDOT and the CITY, the indemnity provisions provided herein shall be valid and enforceable only to the extent of WSDOT's or the CITY's own negligence. WSDOT and the CITY agree that their respective obligations under this subsection extend to any claim, demand, and/or cause of action brought by, or on behalf of, any of its employees or agents. For this purpose, WSDOT and the CITY, by mutual negotiation, hereby waive, with respect to the other party only, any immunity that would otherwise be available against such claims under the industrial insurance provisions of Title 51 RCW. In the event that WSDOT or the CITY incurs any judgment, award, and/or cost arising therefrom, including attorneys' fees, to enforce the provisions of this section, all such fees, expenses, and costs shall be recoverable by the prevailing party. This indemnification shall survive the termination of this Agreement.

**9. DISPUTES**

9.1. In the event that a dispute arises under this Agreement, it shall be resolved as follows: The Parties shall each appoint a member to a disputes board; these two members shall select a third member not affiliated with either Party. The three-member board shall conduct a dispute resolution hearing that shall be informal and unrecorded. An attempt at such dispute resolution in compliance with the aforesaid process shall be a prerequisite to the filing of any litigation concerning the dispute.

The Parties shall equally share in the cost of the third disputes board member; however, each Party shall be responsible for their own costs and fees.

**10. VENUE**

10.1. In the event that either Party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this Agreement, the Parties agree that any such action or proceedings shall be brought in King County Superior Court, Maleng Regional Justice Center. Further, the Parties agree that each will be solely responsible for payment of their own attorneys' fees, witness fees, and costs.

**IN WITNESS WHEREOF**, the Parties hereto have executed this Agreement as of the Party's date signed last below:

CITY OF SEATAC

WASHINGTON STATE  
DEPARTMENT OF TRANSPORTATION

By (print):

By (print):

Signature:  
City Manager

Signature:  
Gateway Program Administrator

Date:

Date:

APPROVED AS TO FORM:

APPROVED AS TO FORM:

City of SeaTac Legal Department

*L. Scott Lockwood*  
Assistant Attorney General

By (print):

By: *L. Scott Lockwood*

Date:

*10/30/2018*  
Date:

**GCB 2928**

**AGREEMENT TO TRANSFER REAL PROPERTY  
BETWEEN WSDOT AND CITY OF SEATAC**

**EXHIBIT C**

**SEATAC /WSDOT COMMITMENT  
LETTER DATED APRIL 13, 2018**



4800 South 188<sup>th</sup> Street  
SeaTac, WA 98188-8605

City Hall: 206.973.4800  
Fax: 206.973.4809  
TDD: 206.973.4808

April 13, 2018

Mr. Craig Stone, P.E.  
WSDOT Program Administrator – Gateway Program  
401 2<sup>nd</sup> Ave South, Suite 300  
Seattle, WA 98104

RE: Grant Application – SeaTac Access Project (Ramps at 24<sup>th</sup>/28<sup>th</sup> Corridor)

Dear Mr. Stone,

The City of SeaTac acknowledges that it is a local project stakeholder in the Puget Sound Gateway - State Route 509 completion project (SR 509) and that the SR 509 project has a Legislative-imposed local match of \$60 million. The City recognizes both the local and regional benefits the SR 509 project will bring to the Puget Sound and affirms its commitment to reasonably participate along with state, regional and local funding partner agencies to meet the local match requirement and see the project successfully constructed. Since the funding partner agencies have not yet reached the Local Contribution Agreement that is due to the Legislature by July 1, 2018, the City of SeaTac cannot indicate what will be our final allocation.

However, the current grant application for the SeaTac Access Project needs to be submitted at this time, prior to the final contribution agreement. As it is in the best interests of all the funding partner agencies to secure this grant, this letter confirms the City of SeaTac's commitment to provide local match for this grant application through the provision of real estate owned by the City that is needed by WSDOT for the construction of the SR 509 project. The City's real estate has an estimated current value of \$2 Million. The final value will be determined prior to the transfer to WSDOT. The City will not be asked, nor will it provide other funds or in-kind contributions to this grant application nor to the SeaTac Access Project.

The City's commitment to the final Local Contribution Agreement will include the full value of this land transfer. Other City of SeaTac commitments, if any, will be negotiated and included in the final Local Contribution Agreement.

Sincerely,

Joseph Scorcio, AICP  
City Manager  
City of SeaTac

Cc: Will Appleton, Public Works Director  
SeaTac City Councilmembers

Mayor  
Michael J. Siefkes

Deputy Mayor  
Erin Sitterley

Councilmembers  
Rick Forschler  
Joel Wachtel  
Peter Kwon  
Pam Fernald  
Clyde Hill

City Manager  
Joseph Scorcio

City Attorney  
Mary Mirante Bartolo

City Clerk  
Kristina Gregg

GCB 2928 Exhibit C

**GCB 2928**

**AGREEMENT TO TRANSFER REAL PROPERTY  
BETWEEN WSDOT AND CITY OF SEATAC**

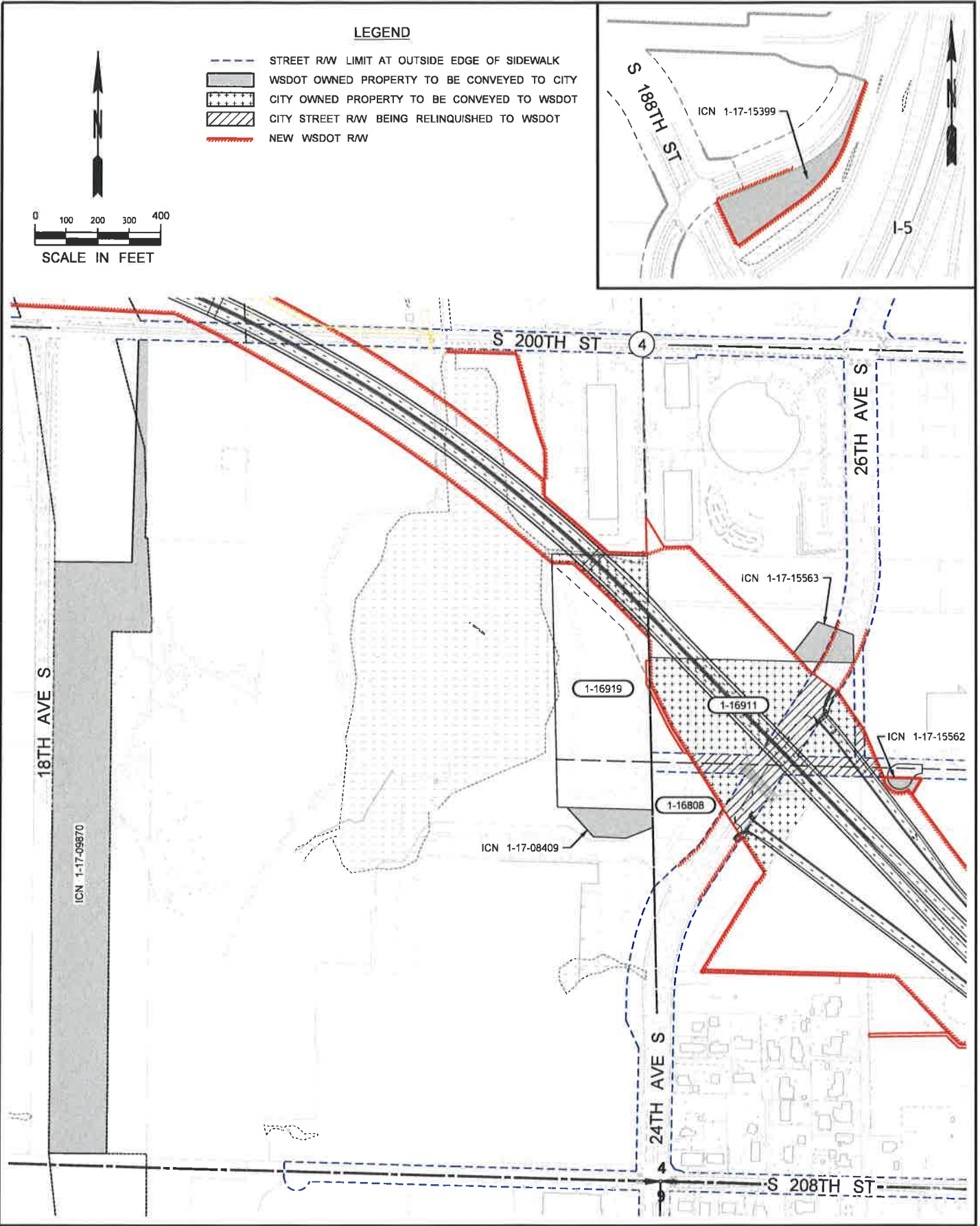
**EXHIBIT D**

**SEATAC & WSDOT LAND  
EXCHANGE PROPERTY MAP**

DRAFT



DATE: 11/09/2018 PRINTED BY: Kittler FILE NAME: c:\users\kittler\pww\wdot\01617941\City of Seatac-WSDOT Land Exchange.dgn



# CITY OF SEATAC / WSDOT EXHIBIT D

**GCB 2928**

**AGREEMENT TO TRANSFER REAL PROPERTY  
BETWEEN WSDOT AND CITY OF SEATAC**

**EXHIBIT E**

**LAND EXCHANGE LEDGER**

DRAFT

**AGREEMENT GCB 2928  
CITY OF SEATAC / WSDOT LAND EXCHANGE - SR509 COMPLETION PROJECT  
EXHIBIT E**

KC PIN	WSDOT ROW #	CURRENT STATUS	AREA (sf)	APPRAISED VALUE	USE	OWNER/GRANTOR
3445000140	1-17-15562	Surplus Property	4336	\$ 77,200.00	204th Street	WSDOT
3445000108	1-17-15563	Surplus Property	17814	\$ 320,600.00	26th Avenue	WSDOT
6663000015	1-17-08409	Surplus Property	19589	\$ 352,600.00	Stormwater Treatment Pond	WSDOT
5083100015	1-17-15399	Surplus ROW	46170	\$ 1,385,100.00	City Hall Expansion	WSDOT
N/A	1-17-09870	Surplus ROW	TBD		City Park Expansion	WSDOT
WSDOT Sub Total A			87,909	\$ 2,135,500.00		
422049284	1-16919	City Property	35452	TBD	SR 509	City of SeaTac
		City Property	942	TBD	Sewer Easement	City of SeaTac
3445000110	1-16911	City Property	73123	TBD	Temporary Construction Easement	City of SeaTac
		City Property	141877	TBD	SR 509	City of SeaTac
N/A		City Street	36478	N/A	SR 509	City of SeaTac
3445000110	1-16808	City Property	2403	TBD	Sewer Easement	City of SeaTac
		City Property	12044	TBD	Temporary Construction Easement	City of SeaTac
3445000144		City Property	44438	TBD	SR 509	City of SeaTac
N/A		City Street	25183	N/A	SR 509	City of SeaTac
City of SeaTac Sub Total B			225,112	\$ -		
City of SeaTac Gateway Program Local Contribution				\$	2,000,000.00	

**GCB 2928**

**AGREEMENT TO TRANSFER REAL PROPERTY  
BETWEEN WSDOT AND CITY OF SEATAC**

**EXHIBIT F**

**WSDOT AND CITY OF SEATAC  
COOPERATIVE AGREEMENT**

DRAFT

## WSDOT AND CITY OF SEATAC COOPERATIVE AGREEMENT

This Cooperative Agreement (this "Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2018, between the City of SeaTac ("City") and the Washington State Department of Transportation ("WSDOT"), each of which is referred to herein individually as a "Party" and collectively as the "Parties."

### Recitals

**WHEREAS**, the CITY will acquire real property from WSDOT that is within WSDOT limited access right of way, located generally at the northeast corner of Military Road South and South 188<sup>th</sup> Street in the City of SeaTac and depicted in Exhibit \_\_\_\_ ("WSDOT ROW"); and

**WHEREAS**, WSDOT is responsible pursuant to RCW 47.24 for maintenance and operation of stormwater facilities located within WSDOT limited access right of way and the CITY is responsible for maintenance and operation of stormwater facilities located within CITY right of way; and

**WHEREAS**, the CITY designed, constructed, and operates permanent storm water treatment facilities ("CITY Constructed Facilities") adjacent to and within WSDOT ROW; and

**WHEREAS**, an outfall pipe and biofiltration swale, both of which are part of the CITY Constructed Facilities, are located on WSDOT ROW as depicted in Exhibit A; and

**WHEREAS**, it would be to the mutual benefit of the Parties for the CITY to perform the operation and maintenance of CITY Constructed Facilities located on WSDOT ROW as set forth in this Agreement, and to establish in writing each party's responsibilities; and

**NOW THEREFORE**, by virtue of RCW 47.28.140, the above recitals are incorporated herein as fully set forth below, in consideration of the terms, conditions, covenants, and performances contained herein, and the attached exhibits which are incorporated and made a part hereof; it is mutually agreed as follows:

### **AGREEMENT**

#### 1. General.

1.1. The CITY shall make no modifications to or perform work on the City Constructed Facilities located within WSDOT ROW, except as provided in Section 2 below, without the prior consent of WSDOT.

1.2. WSDOT will not be responsible for any mitigation or damages that may arise from the

maintenance and operation of the CITY Constructed Facilities located within WSDOT ROW identified in this Agreement.

1.3. The CITY shall maintain the function of the biofiltration swale on both the portion of right of way that is transferred to the CITY and the portion of right of way remaining with WSDOT ownership.

2. City Responsibility.

2.1. Routine maintenance and operation of CITY Constructed Facilities located within WSDOT ROW in accordance with the latest maintenance requirements of the CITY.

2.2. Emergency maintenance and operation of CITY Constructed Facilities located within WSDOT ROW.

2.3. Repair or replacement of CITY Constructed Facilities located within WSDOT ROW due to deterioration.

2.4. Repair or replacement of of CITY Constructed Facilities located within WSDOT ROW due to damage caused by accidents, vandalism, adverse weather or unanticipated forces or actions.

2.4.1. In the event damage was caused by a third party, CITY shall notify WSDOT within 24 hours of the replacement or repair work as to any relevant information the CITY may possess pertaining to the name of the person causing the damage, a description of the damage and the repair, and the cost of repair.

2.5. Implement and maintain any necessary traffic control in accordance with the current Manual of Uniform Traffic Control Devices (MUTCD) while performing maintenance, repairs, modifications or other work by consent on CITY Constructed Facilities located within WSDOT ROW.

2.6. Ensure WSDOT ROW is clear of debris resulting from CITY work activities on CITY Constructed Facilities located within WSDOT ROW.

3. Right of Entry. WSDOT grants the CITY access to WSDOT ROW for the purpose of conducting the operation, maintenance, repair, or replacement of CITY Constructed Facilities located within WSDOT ROW as described in this Agreement.

4. Term/Termination. The term of this Agreement begins on the latest date of execution by the Parties and ends upon 90 days written notification for any of the following: 1) the decommission and removal by the CITY of the CITY Constructed Facilities located within

WSDOT ROW Y, 2) the transfer of the responsibility to maintain and operate the CITY Constructed Facilities located within WSDOT ROW to a new owner of the property, 3) the mutual agreement to terminate this Agreement or to revise the term end of this Agreement.

5. Payment and Cost. The CITY will be financially responsible for all work it is required to perform under this Agreement

6. Indemnity.

6.1. Each of the PARTIES shall defend, indemnify and hold the other PARTY and its assigns harmless from and against any and all claims, actions, losses, liabilities, damages, costs and expenses (collectively, "Claims") suffered or incurred by reason of or resulting from each of the PARTY's negligent acts or omissions during the ownership, maintenance, repair, replacement or other work (including in connection with the right of entry contemplated in Section 3 of this Agreement).

6.2. If the Claims are caused by or result from the concurrent negligence of (a) WSDOT, its agents or employees and (b) City, its agents or employees, or involves those actions covered by RCW 4.24.115, the indemnity provisions contained herein shall be valid and enforceable only to the extent of the negligence of each PARTY's agents or employees.

6.3. Each of the PARTIES agrees that its obligation under subparagraph 6.2 extend to any claim, demand, and/or cause of action brought by, or on behalf of, any of its employees or agents. For this purpose, each of the PARTIES, by mutual negotiation, hereby waives, with respect to each of the other PARTIES only, any immunity that would otherwise be available against such claims under the Industrial Insurance provision of Title 51 RCW.

7. Designated Representative. Each Party hereby designates the following Designated Representatives, who shall be the Party's primary point of contact for the purposes outlined in this Agreement. Either Party may from time to time change its Designated Representative by providing notice to the other Party of such change in the manner set forth in Section 9.

<b>CITY:</b>	<b>WSDOT:</b>
Name: _____	Name: John White

Address: _____	Address: 999 Third Ave, Ste 2200
Phone: _____	Seattle WA 98104
Email: _____	Phone: 206 805 2966
	Email: WhiteJH@wsdot.wa.gov

8. Cooperation. The Parties agree to cooperate to the extent reasonably required to affect the purposes of this Agreement, including without limitation by negotiating, executing, and delivering any and all documents or instruments, and taking any and all actions, that may be necessary or appropriate to give full force and effect to the terms and conditions of this Agreement.
9. Notices. All notices under this Agreement will be sent to the Designated Representatives unless a different representative for notices is identified in writing. All notices will be deemed to be given when personally delivered, three days after deposit in the United States Mail, postage prepaid, or when delivered marked registered or certified mail, return receipt requested, and addressed to the Party's Designated.
10. Disputes, Venue, and Costs. Venue for any disputes pertaining to this Agreement shall be King County, Washington. Each Party shall bear the costs of their own costs and attorney's fees.

**EXHIBIT LIST**

Exhibit A: Location Map of Storm Water Treatment Facility

**IN WITNESS WHEREOF**, each of the Parties has executed this Agreement by having its authorized representative affix his/her signature in the appropriate space below:

:

**CITY OF SEATAC**

**WSDOT**

\_\_\_\_\_

\_\_\_\_\_



By: Joseph Scorcio, City Manager

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

Approved as to Form:

\_\_\_\_\_

City of SeaTac Legal Department

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

Mike Cotten

Interim Northwest Region Administrator

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

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

Craig Stone

Puget Sound Gateway Program  
Administrator

Authorized by \_\_\_\_\_

Approved as to form:

\_\_\_\_\_

By: \_\_\_\_\_, Legal Counsel

## WSDOT AND CITY OF SEATAC COOPERATIVE AGREEMENT

This Cooperative Agreement (this "Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2018, between the City of SeaTac ("CITY") and the Washington State Department of Transportation ("WSDOT"), each of which is referred to herein individually as a "Party" and collectively as the "Parties."

### Recitals

**WHEREAS**, WSDOT is responsible pursuant to RCW 47.24 for maintenance and operation of facilities within WSDOT limited access right of way and CITY is responsible for maintenance and operation of facilities within CITY right of way.

**WHEREAS**, CITY designed, constructed, and operates permanent storm water treatment facilities and a portion of these facilities comprising outfall pipe and biofiltration swale are outside of CITY right of way and inside of WSDOT right of way as depicted in Exhibit A.

**WHEREAS**, It would be to the mutual benefit of WSDOT and CITY for the CITY to perform the operation and maintenance of those facilities as set forth in the Agreement and to establish in writing each party's responsibility.

**WHEREAS**, the CITY requested WSDOT to transfer a portion of the right of way where the stormwater facility is located.

**NOW THEREFORE**, by virtue of RCW 47.28.140, the above recitals are incorporated herein as fully set forth below, in consideration of the terms, conditions, covenants, and performances contained herein, and the attached exhibits which are incorporated and made a part hereof; it is mutually agreed as follows.

### **AGREEMENT**

#### 1. General.

- 1.1. CITY shall make no modifications to the facilities nor perform work except as described in Section 2 below without the consent of WSDOT prior to implementation.
- 1.2. WSDOT will not be responsible for any mitigation or damages that may arise from the maintenance and operation of the facilities identified in this Agreement
- 1.3. CITY shall maintain the function of the biofiltration swale on both the portion of right of way that is transferred to the CITY and the portion of right of way

remaining with WSDOT ownership.

2. City Responsibility.

2.1. Routine maintenance and operation in accordance with the latest maintenance requirements of the CITY.

2.2. Emergency maintenance and operation

2.3. Facility repair or replacement due to deterioration.

2.4. Facility repair or replacement of damage caused by accidents, vandalism, adverse weather or unanticipated forces or actions.

2.4.1. In the event damage was caused by a third party, CITY shall notify WSDOT within 24 hours of the replacement or repair work as to any relevant information the CITY may possess.

2.5. Implementing and maintaining necessary traffic control in accordance with the current Manual of Uniform Traffic Control Devices (MUTCD) while performing maintenance, repairs, modifications or other work by consent.

2.6. Clear WSDOT right of way free of debris resulting from CITY work activities.

3. WSDOT Responsibility.

3.1. None.

4. Right of Entry. WSDOT grants CITY access to WSDOT right-of-way for performing operation, maintenance, repair or replacement of the facilities designated in Exhibit A, as described under Section 2, City Responsibility, of this Agreement.

5. Term/Termination. The term of this Agreement begins on the latest date of execution by the Parties and ends upon 90 days written notification for any of the following: 1) the decommission and removal of the facility by CITY, 2) the transfer of the responsibility to maintain and operate the facility to a new owner of the property, 3) the mutual agreement to terminate this Agreement or to revise the term end of this Agreement.

6. Payment and Cost. CITY and WSDOT will each be financially responsible for all work that each is required to perform under this Agreement, except as otherwise noted.

7. Indemnity.

7.1. Each of the PARTIES shall defend, indemnify and hold the other PARTY and its assigns harmless from and against any and all claims, actions, losses, liabilities, damages, costs and expenses (collectively, "Claims") suffered or incurred by reason of or resulting from each of the PARTY's negligent acts or omissions during the ownership, maintenance, repair, replacement or other work (including in connection with the right of entry contemplated in Section 4 of this Agreement).

7.2. If the Claims are caused by or result from the concurrent negligence of (a) WSDOT, its agents or employees and (b) City, its agents or employees, or involves those actions covered by RCW 4.24.115, the indemnity provisions contained herein shall be valid and enforceable only to the extent of the negligence of each PARTY's agents or employees

7.3. Each of the PARTIES agrees that its obligation under subparagraph 7.2 extend to any claim, demand, and/or cause of action brought by, or on behalf of, any of its employees or agents. For this purpose, each of the PARTIES, by mutual negotiation, hereby waives, with respect to each of the other PARTIES only, any immunity that would otherwise be available against such claims under the Industrial Insurance provision of Title 51 RCW.

8. Designated Representative. Each Party hereby designates the following Designated Representatives, who shall be the Party's primary point of contact for the purposes outlined in this Agreement. Either Party may from time to time change its Designated Representative by providing notice to the other Party of such change in the manner set forth in Section 9.

CITY:	WSDOT:
Name: _____	Name: John White
Address: _____	Address: 999 Third Ave, Ste 2200
Phone: _____	Seattle WA 98104
Email: _____	Phone: 206 805 2966
	Email: WhiteJH@wsdot.wa.gov

9. Cooperation. The Parties agree to cooperate to the extent reasonably required to effect the

purposes of this Agreement, including without limitation by negotiating, executing, and delivering any and all documents or instruments, and taking any and all actions, that may be necessary or appropriate to give full force and effect to the terms and conditions of this Agreement.

10. Notices. All notices under this Agreement will be sent to the Designated Representatives unless a different representative for notices is identified in writing. All notices will be deemed to be given when personally delivered or three days after deposit in the United States Mail, postage prepaid, or when delivered marked registered or certified mail, return receipt requested, and addressed to the Party's Designated.

**EXHIBIT LIST**

Exhibit A: Location Map of Storm Water Treatment Facility

**IN WITNESS WHEREOF**, each of the Parties has executed this Agreement by having its authorized representative affix his/her signature in the appropriate space below:

**CITY OF SEATAC**

**WSDOT**

\_\_\_\_\_

\_\_\_\_\_

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

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

Its: Mayor \_\_\_\_\_

Mike Cotten

Interim Northwest Region Administrator

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

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

Authorized by Motion \_\_\_\_\_

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

Craig Stone

Puget Sound Gateway Program  
Administrator

Authorized by \_\_\_\_\_

Approved as to form:

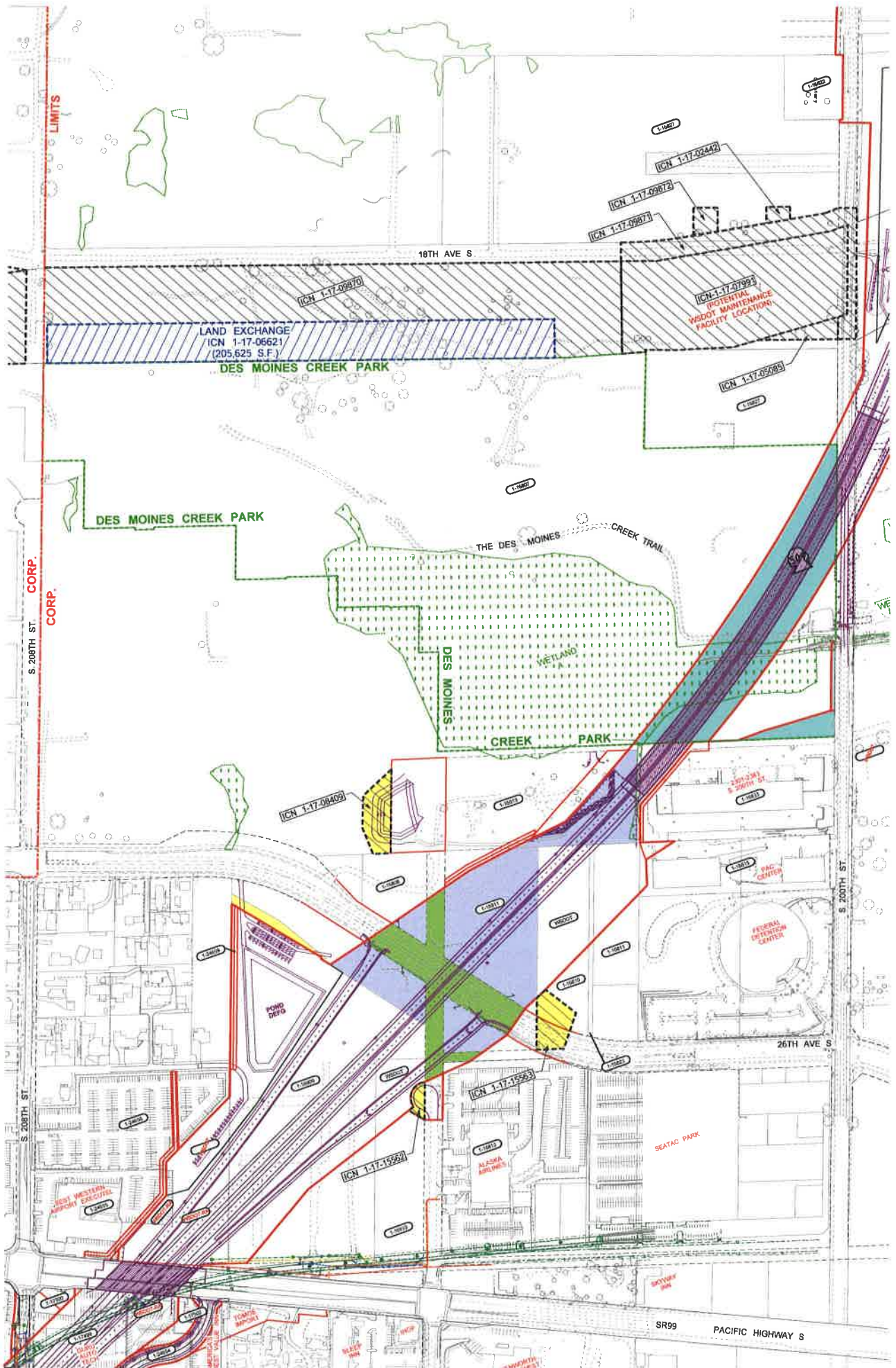
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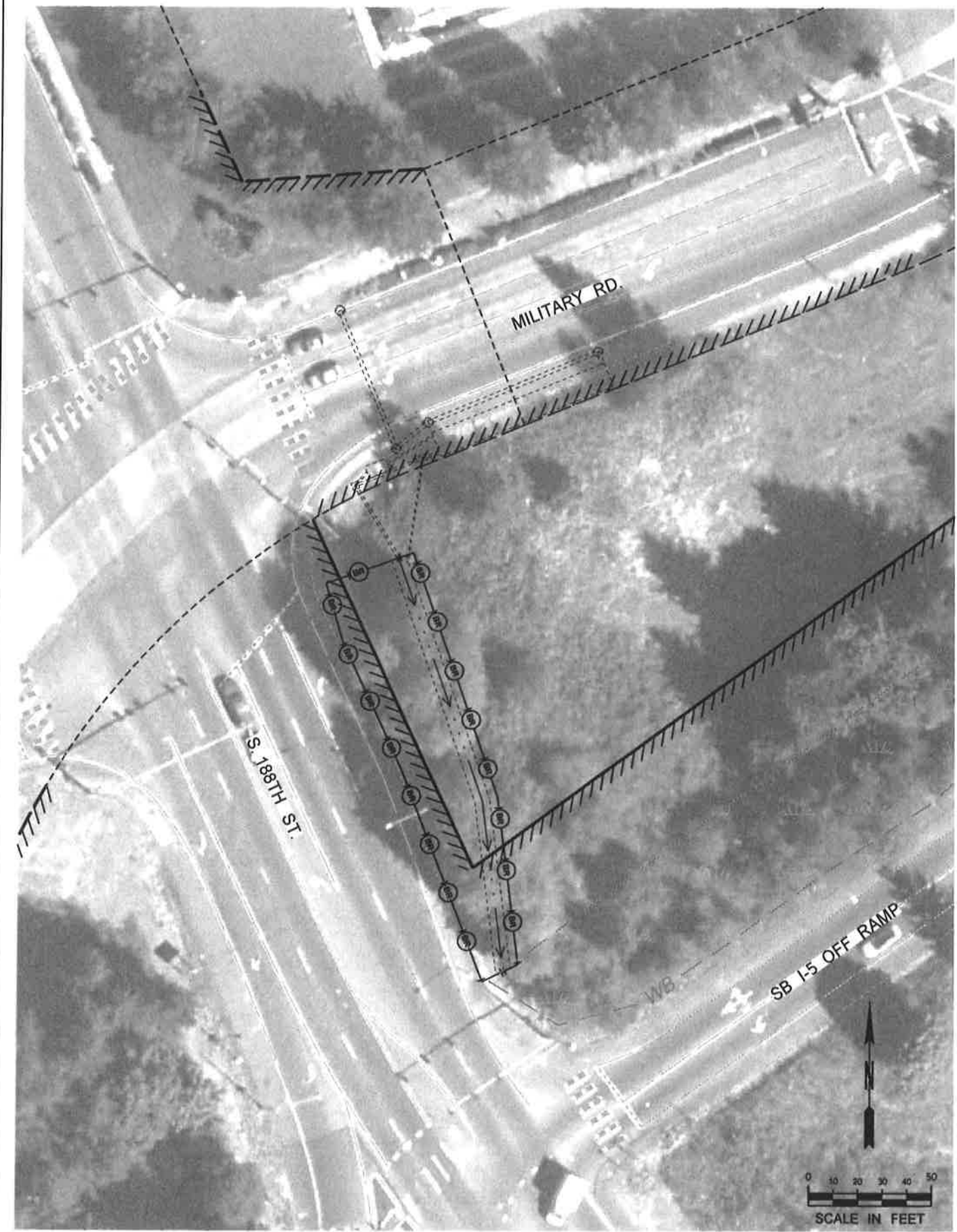
By: \_\_\_\_\_, Legal Counsel

Approved as to form:

\_\_\_\_\_

By: \_\_\_\_\_, Legal Counsel





c:\users\roegreg\pw\_wsdot\0161941\ICN-1-17-15399\_SurplusRC.dgn

**EXHIBIT A**



NO.	DATE	BY	TYPE	REVISION

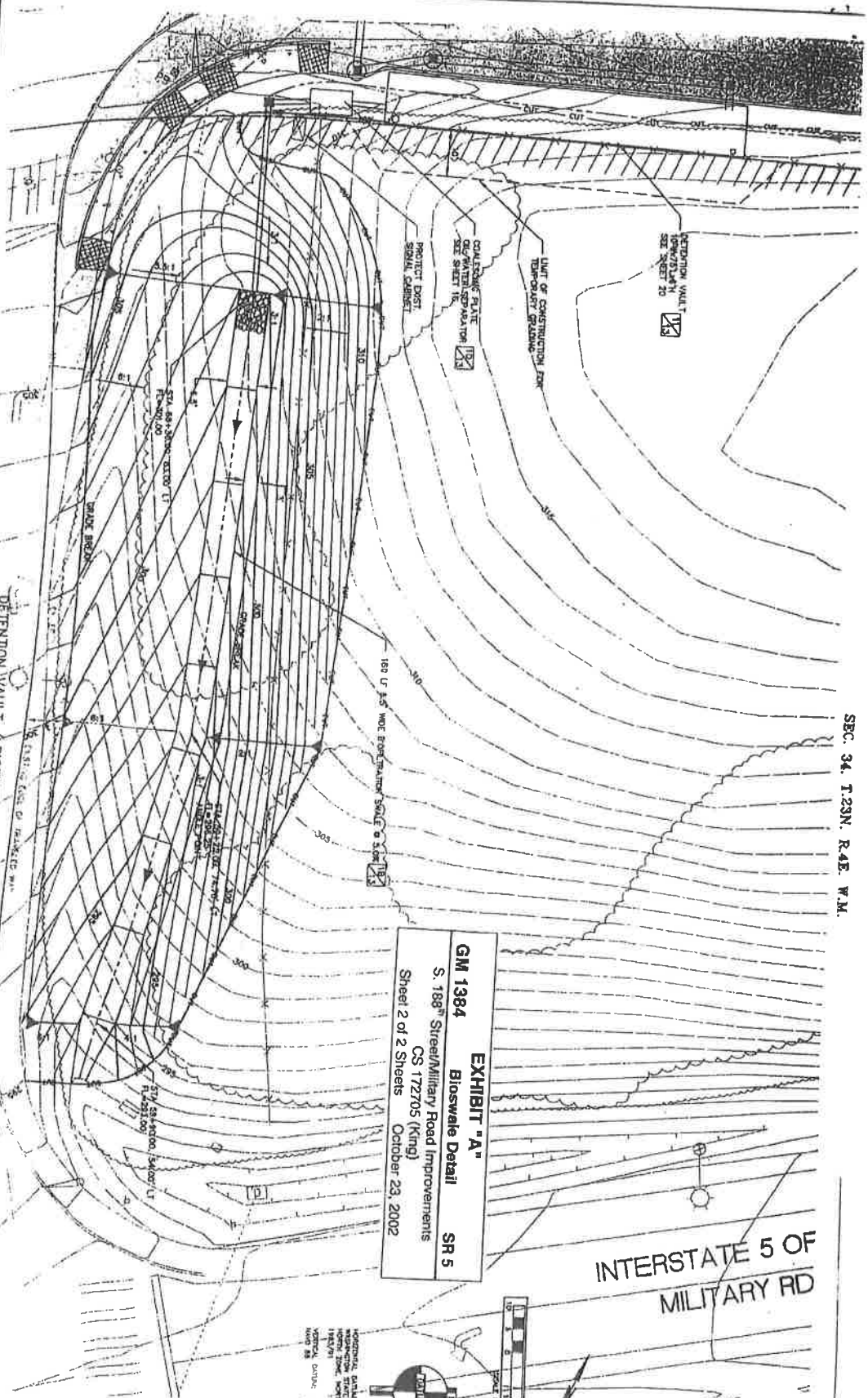
**DAVID FRANKS**  
**LAND ASSOCIATES INC.**  
 115-115A Avenue B  
 Flushing, NY 11354  
 Phone: 718-271-1155

**CITY OF SPARTAN**  
**Public Works Department**  
 Bruce Reynolds, P.E., Director  
 10000 10th Street, Spartanburg, SC 29308  
 Telephone: (803) 587-0000



**S. 188TH STREET / MILITARY ROAD S.**  
**DRAINAGE STRUCTURE DETAILS**

CALL 42 HOURS  
 BEFORE WORK  
 1-800-437-5853  
**SHEET NO. 18**  
 OF 40



**GM 1384**  
**EXHIBIT "A"**  
**Bioswale Detail**  
**SR 5**  
 S. 188th Street/Military Road Improvements  
 CS 172705 (King)  
 Sheet 2 of 2 Sheets  
 October 23, 2002

SEC. 34, T.29N. R.4E. W.M.



U.S. Department  
of Transportation

**Federal Highway  
Administration**

Washington Division

Suite 501 Evergreen Plaza  
711 South Capitol Way  
Olympia, Washington 98501-1284  
(360) 753-9480  
(360) 753-9889(FAX)  
<http://www.fhwa.dot.gov/wadiv>

July 9, 2018

HRW-WA/WAP2837S926

Roger Millar  
Secretary of Transportation  
Department of Transportation  
Olympia, Washington

Attention: Bob Knudsen-Northwest Region Office

**Approval of Disposal of Real Estate  
SR 5 and South 188<sup>th</sup> St. Interchange  
IC # 1-17-15399**

Dear Mr. Millar:

We approve your request to dispose of property by exchange with the city of Seatac for the property described in your June 18, 2018 letter of request. We previously responded by email with you that additional information was required. The information was provided to us this morning by Cathy George of the Northwest Region. We appreciate that information and can approve your request, subject to the following condition provided by Ms. George (highlighted in the enclosed email from Ms. George):

“Completion of a maintenance agreement for the drainage swale feature remaining on the property outside the surplus should be required as part of the surplus.”

If you have any questions regarding this matter, please contact me at (360) 753-8655 or by email at [david.leighow@dot.gov](mailto:david.leighow@dot.gov).

Sincerely,

DANIEL M. MATHIS, P.E.  
Division Administrator

By: David A. Leighow  
Right-of-Way Program Manager

Enclosure

cc: Cathy George, Dean Moon, Omar Jepperson, LeRoy Patterson, WSDOT; Lindsey Handel,  
FHWA

NOTE: For Right of Way Shown on This Map, the Shaded Area is Located on the Right of Way Shown on Sheet 1 of 2 of the Plans approved by the Board of Public Works on March 24, 1959.

**BEGINNING OF PLAN**  
 STA. LW 2420 +00  
 NE 1/4 NE 1/4 Sec 3

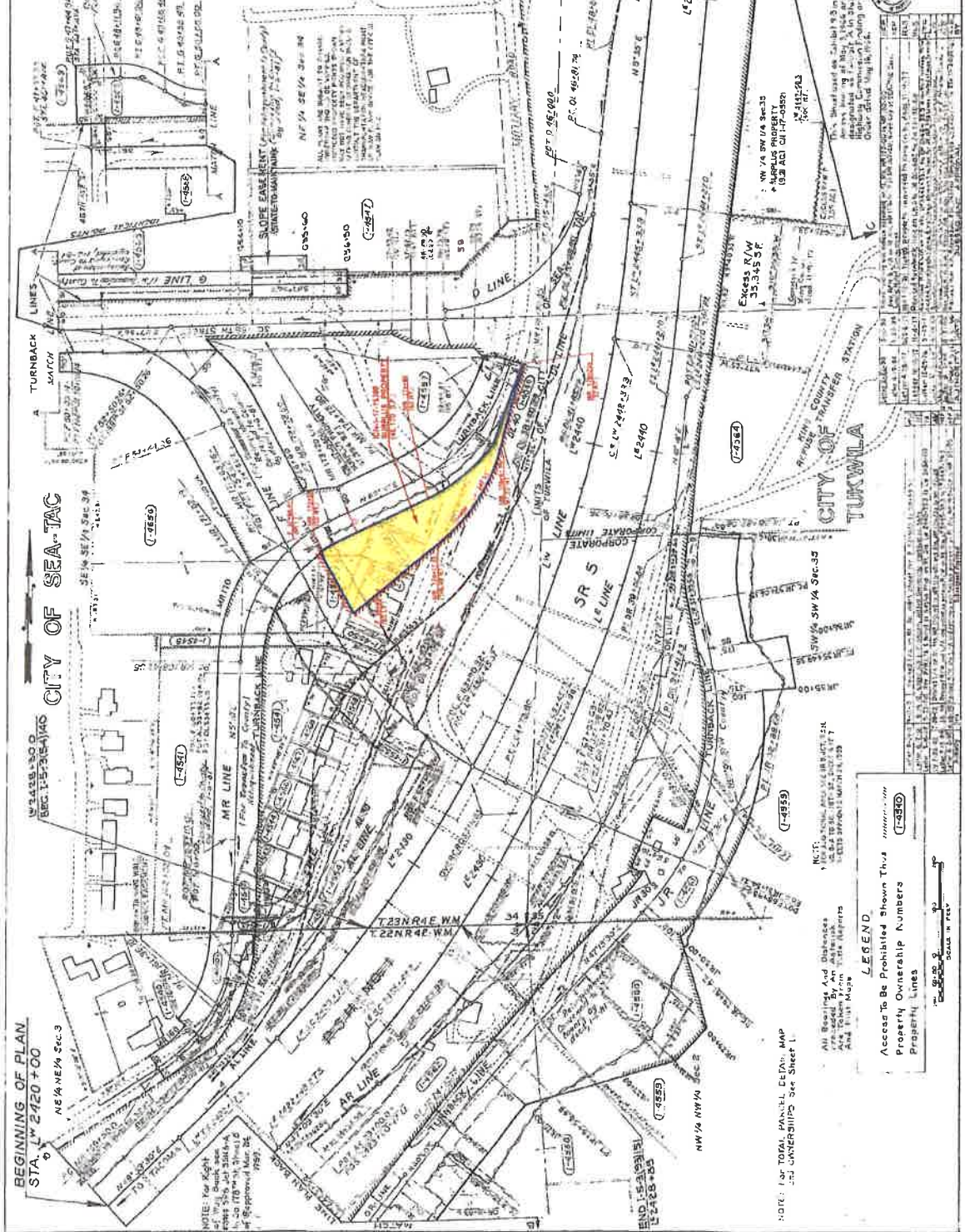
**END OF PLAN**  
 STA. LW 2454 +00

**CURVE DATA**

STATION	PC	PT	PT	PT	PT	PT	PT	PT	PT
13+00.00	13+00.00	13+00.00	13+00.00	13+00.00	13+00.00	13+00.00	13+00.00	13+00.00	13+00.00
13+50.00	13+50.00	13+50.00	13+50.00	13+50.00	13+50.00	13+50.00	13+50.00	13+50.00	13+50.00
14+00.00	14+00.00	14+00.00	14+00.00	14+00.00	14+00.00	14+00.00	14+00.00	14+00.00	14+00.00
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15+50.00	15+50.00	15+50.00	15+50.00	15+50.00	15+50.00	15+50.00	15+50.00	15+50.00	15+50.00
16+00.00	16+00.00	16+00.00	16+00.00	16+00.00	16+00.00	16+00.00	16+00.00	16+00.00	16+00.00
16+50.00	16+50.00	16+50.00	16+50.00	16+50.00	16+50.00	16+50.00	16+50.00	16+50.00	16+50.00
17+00.00	17+00.00	17+00.00	17+00.00	17+00.00	17+00.00	17+00.00	17+00.00	17+00.00	17+00.00
17+50.00	17+50.00	17+50.00	17+50.00	17+50.00	17+50.00	17+50.00	17+50.00	17+50.00	17+50.00
18+00.00	18+00.00	18+00.00	18+00.00	18+00.00	18+00.00	18+00.00	18+00.00	18+00.00	18+00.00
18+50.00	18+50.00	18+50.00	18+50.00	18+50.00	18+50.00	18+50.00	18+50.00	18+50.00	18+50.00
19+00.00	19+00.00	19+00.00	19+00.00	19+00.00	19+00.00	19+00.00	19+00.00	19+00.00	19+00.00
19+50.00	19+50.00	19+50.00	19+50.00	19+50.00	19+50.00	19+50.00	19+50.00	19+50.00	19+50.00
20+00.00	20+00.00	20+00.00	20+00.00	20+00.00	20+00.00	20+00.00	20+00.00	20+00.00	20+00.00
20+50.00	20+50.00	20+50.00	20+50.00	20+50.00	20+50.00	20+50.00	20+50.00	20+50.00	20+50.00
21+00.00	21+00.00	21+00.00	21+00.00	21+00.00	21+00.00	21+00.00	21+00.00	21+00.00	21+00.00
21+50.00	21+50.00	21+50.00	21+50.00	21+50.00	21+50.00	21+50.00	21+50.00	21+50.00	21+50.00

**NOTE:** For Right of Way Shown on This Map, the Shaded Area is Located on the Right of Way Shown on Sheet 1 of 2 of the Plans approved by the Board of Public Works on March 24, 1959.

**NOTE:** For Right of Way Shown on This Map, the Shaded Area is Located on the Right of Way Shown on Sheet 1 of 2 of the Plans approved by the Board of Public Works on March 24, 1959.



**LEGEND**  
 Access to Be Prohibited Shown Thus  
 Property Ownership Numbers  
 Property Lines

**SCALE:** 1" = 40'

**DATE:** JAN 21 1959

**BY:** [Signature]

**CHECKED:** [Signature]

**APPROVED:** [Signature]