

**ATTACHMENT H: FUNDING AND INTERGOVERNMENTAL  
COOPERATIVE AGREEMENT**

**FUNDING AND INTERGOVERNMENTAL COOPERATIVE AGREEMENT  
BETWEEN  
THE CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY AND THE  
CITY OF SHORELINE  
FOR THE  
LYNNWOOD LINK LIGHT RAIL TRANSIT PROJECT**

This funding and intergovernmental cooperative agreement (“**Agreement**”) is between the Central Puget Sound Regional Transit Authority, a regional transit authority organized under RCW 81.112 (“**Sound Transit**”) and the City of Shoreline, a Washington municipal corporation (“**City**”).

**RECITALS**

**WHEREAS**, Sound Transit is a governmental entity created pursuant to RCW 81.104 and 81.112 with all powers necessary to implement a high capacity transit system within its boundaries in King, Pierce, and Snohomish counties; and

**WHEREAS**, the City is a non-charter optional municipal code city incorporated under the laws of the State of Washington, with the authority to enact laws and enter into agreement to promote the health, safety and welfare of its citizens and for other lawful purposes; and

**WHEREAS**, in 1996, 2008, and 2016, pursuant to state law, Sound Transit' proposed, and Central Puget Sound voters approved financing for, regional transit system plans that was a package of transit improvements and expansions including increased bus service, an expansion of link light rail, and improved access to transportation facilities known as Sound Move, ST2, and ST3, respectively; and

**WHEREAS**, these regional transit system plans include, among other projects, the Lynnwood Link Light Rail Extension Project connecting the cities of Seattle, Shoreline, Mountlake Terrace, and Lynnwood; and

**WHEREAS**, The Sound Transit Board adopted Resolution 2015-05, selecting the route, profile, and stations for the Lynnwood Link light rail extension project on April 23, 2015 (the Alignment Resolution). This action defined and selected the light rail alignment, profile, stations, and associated infrastructure to be built between the Northgate Transit Center and the Lynnwood Transit Center. This action established the project definition for the Federal Transit Administration (“FTA”) and the Federal Highway Administration (“FHWA”) NEPA Records of Decision (“ROD”), issued July 10, 2015 and August 31, 2015, respectively. For purposes of this Agreement, the term “Project” refers to that portion of the Lynnwood Link Extension project, including mitigation identified in each ROD, which is located within the City; and

**WHEREAS**, Sound Transit is proceeding to design and build the segments of the light rail transit system in the City as described in the Alignment Resolution, including without limitation a public

rail transit line, stations, other infrastructure, improvements, public transit and passenger amenities, and mitigation measures associated therewith (referred to herein collectively as the “**Project**”); and

**WHEREAS**, the Project provides for two light rail stations at N. 145<sup>th</sup> Street and N. 185<sup>th</sup> Street (the “Shoreline Stations”), with associated benefits and impacts for residents, businesses and visitors to Shoreline; and

**WHEREAS**, on February 11, 2016, the City and Sound Transit (referred to herein as the “**Parties**”) entered into a Term Sheet, which provided a general framework regarding the Parties’ intent to work together to develop future agreements, relating to the Project; and

**WHEREAS**, in furtherance of these objectives, the Parties entered into that certain Expedited Permit and Reimbursement Agreement on or around September 29, 2016 (the “**Permitting Agreement**”), which contains provisions related to the City’s administrative land use review and approval of the Project; and

**WHEREAS**, on June 22, 2017, the Sound Transit Board adopted Motion 2017-93, Guidelines for Access Enhancement Partnering Agreements with the Cities of Seattle, Shoreline, Mountlake Terrace, and Lynnwood, that identified amounts and types of access enhancement funds that would be available for improvements within or adjacent to the Project in these cities (the “**Access Enhancement Funds**”); and

**WHEREAS**, the City owns and operates public rights-of-way, regional and local non-motorized and bicycle facilities, parks, and other infrastructure and improvements within the City, that will be impacted by certain Project improvements and the City is responsible for managing streets and rights-of-way and public utilities within its jurisdiction for a variety of uses and public benefits, including public safety; and

**WHEREAS**, to provide for Sound Transit’s temporary and long term use of the City right-of-way the Parties have separately authorized execution of a Transit Way Agreement granting Sound Transit the right to own, operate, and maintain transit facilities in public rights-of-way in the City; and

**WHEREAS**, the Growth Management Act (“**GMA**”), the Shoreline Management Act (“**SMA**”), and State Environmental Policy Act (“**SEPA**”) grant the City authority to exercise its land use powers in review of permits related to the Project and nothing herein is intended to waive such authority;

**WHEREAS**, the GMA provides that regional transportation facilities are essential public facilities and the Project is an essential public facility; and

**WHEREAS**, as part of its GMA planning and in anticipation of the Project (as defined below), the City engaged in station area planning efforts and adopted two subarea land use plans that up-

zoned the areas surrounding each of the two Shoreline stations and identified needed infrastructure and capital facilities necessary to provide safe and adequate access to the two stations; and

**WHEREAS**, the City has also adopted regulations governing Special Use Permits, as set forth in SMC 20.30.330, to provide for an Essential Public Facility through the issuance of a Special Use Permit that will address project development standards including, design standards, mitigation measures, project phasing, review procedures, vesting, and other appropriate development requirements; and

**WHEREAS**, the Parties have a joint interest in ensuring that the Project incorporates design and mitigation measures appropriate to its impacts and represents a high-quality investment for City of Shoreline residents and taxpayers; and

**WHEREAS**, the Parties have worked collaboratively to identify projects and improvements that are eligible for Access Enhancement Funds and projects that might be completed jointly for reduced impacts to the public, and overall cost savings and efficiencies and desire to confirm their mutual agreements with respect to the same as well as the Parties' agreements on certain other Project-related matters, all as set forth in further detail herein; and

**WHEREAS**, the Interlocal Cooperation Act, set forth in chapter 39.34 of the Revised Code of Washington, specifically authorizes this Agreement in furtherance of these objectives

**NOW THEREFORE**, in consideration of the mutual promises, terms, and conditions set forth herein, the Parties hereby agree as follows:

## **AGREEMENT**

### **SECTION I. STREET VACATIONS**

**1.1 Sound Transit to Petition for Vacation of Certain City Rights-of-Way.** Pursuant to the requirements of SMC 12.17 and RCW 35.79, Sound Transit shall initiate petition(s) to the City for street vacations in areas where the Project is expected to exclusively use any existing City right-of-way and where no remaining public facilities or interests will remain once the Project is in service (the "**Street Vacations**"). The Street Vacations are generally depicted and described in **Exhibit A** attached hereto. The Parties shall cooperate to identify the precise location of the Street Vacations as soon as practicable after the execution of this Agreement, and Sound Transit shall move forward to complete the Street Vacations as soon as practicable thereafter. The amount and type of compensation to the City for the Street Vacations shall be as mutually agreed between the Parties, and may include exchanges of Sound Transit property, subject to all applicable state and local laws, federal grant requirements, and Sound Transit's surplus property disposition policies and procedures.

**1.2 Reservation of Rights.** The Parties acknowledge and agree that street vacation decisions are discretionary decisions of the Shoreline City Council which require prior notice and public hearing prior to approval. Nothing within this Section shall be construed to require the City

Council to approve any street vacation proposed by Sound Transit, nor shall the City Council's decision regarding any street vacation impair Sound Transit's current or future rights to use or occupy City rights-of-way under law, or by any separate agreement, permit, or approval.

## **SECTION II. EARLY PERMITTING AND PROJECT WORK**

The Parties agree that Sound Transit may seek, and the City may permit, certain early work for clearing, grading, and utility relocations required for the Project (“**Project Early Work**”). The City may authorize the Project Early Work prior to City review and/or issuance of the Special Use Permit for the Project, and may issue any land use approval or permit necessary for the completion of the Project Early Work, including without limitation any associated Critical Area Special Use Permit, right-of-way or street use permit, or ministerial permits for shoring, clearing, grading, or construction.

## **SECTION III. STATION ACCESS ENHANCEMENT FUNDS AND PROJECTS**

**3.1 Sound Transit Access Enhancement Funds.** Sound Transit Board Motion 2017-93 identifies Shoreline North/185th Station and the Shoreline South/145th Station as being suburban stations, each entitled to a total allocation of \$4 million dollars, with Two Million Dollars (\$2,000,000) to be provided by Sound Transit and Two Million Dollars (\$2,000,000) of matching funds to be provided by the City.

**3.2 City Contribution.** Sound Transit accepts the funds encumbered or expended for City projects identified in **Exhibit B** hereto as meeting the requirement for secured matching funds of Two Million Dollars (\$2,000,000) per station, consistent with the guidelines in Motion 2017-93.

**3.3 Access Enhancement Projects.** The Access Enhancement Funds may be used for projects following Sound Transit's System Access Policy goals of a) increasing transit ridership and b) encouraging convenient and safe connections to Sound Transit services through all access modes. Sound Transit agrees that any combination of the multi-modal access improvement projects generally described and depicted in **Exhibit C** (Shoreline South/145th Station Access Project Priorities) and in **Exhibit D** (Shoreline North/185th Station Access Project Priorities) hereto (collectively, the “**Access Enhancement Projects**”) satisfy the requirements of Motion 2017-93.

**3.4 Changes to Access Enhancement Projects.** The Parties may, by mutual agreement, agree to include other projects located generally within a quarter mile of the Shoreline Stations, so long as they are substantially equivalent to the Access Enhancement Projects described herein, and so long as the funding limitations and all other requirements of Motion 2017-93 and this Agreement are met.

**3.5 City to Construct Access Enhancement Projects; Coordination of Improvements.** The City shall be responsible for all steps necessary to design, construct, and implement the Access Enhancement Projects identified in this Agreement, including environmental review and mitigation, hazardous waste removal or mitigation, coordination of all required approvals and permits, acquisition of right-of-way, air rights and other property rights, community involvement, construction management, and ownership and maintenance of the Access Enhancement Projects. The Parties agree to work in good faith to coordinate completion of the Access Enhancement

Projects. The Parties may mutually agree during the term of this Agreement to provide for Sound Transit's construction of certain portions of the Access Enhancement Projects concurrent with Project construction, so long as the costs of said construction are reasonably reallocated consistent with the provisions of Motion 2017-93. The City shall pay any costs that may occur that would increase the cost beyond Sound Transit's maximum funding obligation pursuant to said Motion.

**3.6 Environmental Review.** The City is and shall serve as the "Lead Agency" for purposes of any required compliance with the State Environmental Policy Act (SEPA), Ch. 43.21C RCW, of both the Access Enhancement Projects and any other projects undertaken pursuant to Section 4 of this Agreement. Where such environmental review has not been completed the City shall coordinate environmental review with Sound Transit, and provide Sound Transit with the opportunity for design review and coordination through construction of said improvements. Upon execution of this Agreement, the City may invoice Sound Transit for the funding authorized in this Agreement for the following Access Enhancement Projects that have already been subject to complete and adequate SEPA review by the City: Projects 2 and 18 listed in **Exhibit C** and all of the projects listed in **Exhibit D** (Projects 4, 6, 7, 13, 15, 16).

Prior to receiving Sound Transit Board approval for funding for Access Enhancement Projects 4 and 5 in **Exhibit C**, or for any projects modified pursuant to Section 3.4 that require additional SEPA review or Projects undertaken pursuant to Section 4 of this Agreement that have completed SEPA review, the City shall complete the required environmental documentation for SEPA and design and obtain the necessary permits to construct the Access Enhancement Projects. The City will coordinate with Sound Transit in preparing environmental documents to ensure that SEPA review is adequate to support funding from Sound Transit dollars toward the Access Enhancement Projects. Sound Transit will cooperate with the City to complete the environmental documentation and secure the required permits but shall not be required to incur out of pocket (non-staff time) costs in connection with its efforts without the City providing reimbursement or a credit consistent with this Agreement. Nothing in this Section 3.6 shall be interpreted to waive or replace the review or mitigation requirements of the City's Special Use Permit for the Project, or the City's agreement to use the SEPA documentation for the Project unchanged in accordance with Section 3 of the Permitting Agreement.

**3.7 Sound Transit Board Final Action.** Pursuant to Section 3.6, where SEPA review is required for Access Enhancement Projects 4 and 5 in **Exhibit C** or for any Access Enhancement Projects undertaken pursuant to Section 4 of this Agreement that have not undergone SEPA review, within ninety (90) days of the City's completion of the environmental review for such Access Enhancement Projects, Sound Transit staff will bring to the Sound Transit Board for its consideration an action authorizing funding for said Access Enhancement Projects. If approved by the Sound Transit Board, those Access Enhancement Projects shall also be eligible for funding in accordance with the terms of Motion 2017-93 and this Agreement.

**3.8 Financial Reimbursement.** Sound Transit will pay the City an amount not to exceed Four Million Dollars (\$4,000,000) for the Access Enhancement Projects as described in this Agreement.

A. Invoice Form. The City shall submit invoices and supporting documentation for Sound Transit's payment of any portion of the Access Enhancement Funds. The invoices

must include the appropriate purchase order number, which will be provided by Sound Transit after execution of this Agreement, a cover memo in the form of **Exhibit E** hereto, and supporting documentation detailing the work completed and associated costs.

B. Invoice Submittal and Payment. The City shall submit its invoices with the required documentation via email or mail to [AccountsPayable@SoundTransit.org](mailto:AccountsPayable@SoundTransit.org), or Sound Transit, Accounts Payable, 401 S. Jackson St., Seattle, WA 98104-2826. Invoices are payable thirty (30) days after Sound Transit's receipt of the invoice and acceptable documentation.

C. Incomplete Invoices. If Sound Transit determines that an invoice lacks sufficient documentation to support payment, Sound Transit will notify the City of its determination and request that the City provide additional documentation. Sound Transit may withhold payment for contested portions of the invoice until supporting documentation for the contested portions are provided, however such approval shall not be unreasonably withheld.

D. Eligible Expenses. Eligible expenses shall include the City's direct expenses to design, construct, and implement the Access Enhancement Projects identified in this Agreement, including environmental review and mitigation, hazardous waste removal or mitigation, coordination of all required approvals and permits, acquisition of right-of-way, air rights and other property rights, community involvement, and construction management. Direct expenses includes consulting expenses.

**3.9 Records Retention and Audit.** During the period of construction of the Access Enhancement Projects and for a period not less than six (6) years, or that period established by the State Archivist, from the date of final payment to the City, records and accounts pertaining to subjects of this Agreement and accounting are to be kept available for inspection and audit by representatives of Sound Transit, the State of Washington, and the federal government. Copies of the records shall be furnished to Sound Transit upon request and shall be maintained in accordance with a work order accounting procedure prescribed by the Division of Municipal Corporations of the State Auditor's Office.

#### **SECTION IV. FUTURE PROJECTS FOR PUBLIC ACCESS**

The Parties agree to meet and confer in good faith to identify options for including the following access-related improvements within or adjacent to the Project, subject to the City's completion of environmental review per Section 3.6, above, and approval of any required funding or other approvals by the City Council and Sound Transit's Board, and so long as said improvements are consistent with Sound Transit's plans and policies governing its construction, operation, and maintenance of the Project:

**4.1 City Future Non-motorized Access Projects.** The Parties will cooperate to identify properties owned or controlled by Sound Transit that could be utilized for non-motorized public access purposes, including without limitation possible future connections or construction of non-motorized bridges, trails, pedestrian walkways, and/or other facilities, such as may be needed to complete the preferred route for the City's Trail Along the Rail Project, as generally illustrated in

**Exhibit F** attached hereto. As mutually agreed by the Parties, Sound Transit will grant non-exclusive easements or other approvals to the City, where necessary on the identified Sound Transit property, in order to allow the City to construct, operate, and maintain for public access purposes such future non-motorized facilities, subject to mutually agreeable terms and conditions, and all applicable state and local laws, federal grant requirements and Sound Transit's surplus property disposition policies and procedures. In addition, as requested by the City, Sound Transit will support the City's attempts to acquire approvals from other entities for such agreed upon future non-motorized uses.

**4.2 Bicycle and Transit Facilities Funding.** Prior to the adoption of Sound Transit Board Motion 2017-93, the City had initiated the planning and preliminary environmental review for projects intended to qualify as Intermodal Transit Centers and Major Bicycle Intercepts at each of the stations planned in the City. The City will provide Sound Transit with this information, as well as new information regarding additional actions taken by adjacent jurisdictions and other transit agencies subsequent to the adoption of Motion 2017-93, for Sound Transit to evaluate with respect to whether the Shoreline Stations should be considered Intermodal Transit Centers and Major Bicycle Intercepts, consistent with the previous evaluations; provided, however, the City acknowledges and agrees that the Sound Transit Board would need to expressly authorize any additional funding for these projects or revisions to the funding provisions of Motion 2017-93. Any expenditure of funds necessary for the City's planning and environmental review for said facilities, as described in **Exhibit B**, may be considered matching funds expended by the City pursuant to Section 3.4 hereof.

**4.3 Traffic Functionality Mitigation.** Site layout design changes are currently underway for both the Shoreline North/185<sup>th</sup> Station and the Shoreline South/145<sup>th</sup> Station. Sound Transit agrees that the Kiss and Ride facilities should be designed to be located off City ROW, however, if the Parties agree that this is not feasible, then the Parties agree to cooperate to identify mutually agreeable options for design or operations to provide functionality for Kiss and Ride pick-up and drop-off customers, transit priority, and intersections adjacent to the stations areas. The Parties also agree to cooperate to identify any traffic functionality issues associated with the Shoreline North 185<sup>th</sup> Station. If the Parties mutually agree that it is necessary, prior to Sound Transit's submittal of the Special Use Permit application, the Parties will enter into a formal written concurrence to address issues of mutual concern regarding potential significant functional failure of light rail passenger pick-up and drop-off at both Shoreline Stations, and or transit priority and intersection performance at the Shoreline North/185<sup>th</sup> Station.

#### **SECTION V. COORDINATION OF CONSTRUCTION MITIGATION PLANS**

Immediately upon execution of this Agreement, the Parties will begin to coordinate to develop construction mitigation plans (or construction management plans) that are consistent with the commitments described in the FTA Record of Decision. Sound Transit acknowledges that pursuant to SMC 20.40.438(E), a construction management plan or agreement completed before any building permit may be issued for the Project and that the City may require a construction management plan specific to the scope of any land use approval or permit issued under Section 2 of this Agreement regarding Early Permitting.



## **SECTION VI. AGREEMENT ON CERTAIN PROJECT ELEMENTS**

The Parties acknowledge and agree that they have met and conferred, and have reached Agreement, that the Project elements described in this Section 6 should be included in the Project, and are generally consistent with all relevant provisions of the Shoreline Municipal Code, including without limitation the Special Use Permit criteria applicable to the Project (the “**Mutually-Agreed Project Elements**”). Upon Sound Transit’s application to the City for approval of the Special Use Permit, the City shall, through its staff and consultants, support the inclusion of these Mutually-Agreed Project Elements as fully satisfying all such Code requirements.

**6.1 Ronald Bog Mitigation Project.** In order to facilitate early implementation of wetland mitigation for the Project, the Parties agree that Sound Transit may provide off-site wetland mitigation at the Ronald Bog Park as agreed to in the June 3, 2017, Ronald Bog 4(f) and Mitigation Concurrence letter and as described in that certain Shoreline Critical Area Report, 2<sup>nd</sup> Draft, dated June 9, 2017, (referred to herein as the “**Ronald Bog Mitigation Project**”). The City supports Code modifications, through the general SUP process, needed to permit the Ronald Bog Mitigation Project pursuant to SMC 20.40.438(D), as described in the Concurrence Analysis Memo #302203 in **Exhibit G**. Alternatively, the City supports relief from these provisions of SMC Chapter 20.80 through a Critical Area SUP process specific to the wetland mitigation scope as permitted by SMC 20.30.333. The City further acknowledges and agrees that the financial guarantee requirements of SMC 20.80.120 do not apply to the Project pursuant to state law.

**6.2 Utility Undergrounding on North 155<sup>th</sup> Street.** In order to eliminate a conflict between existing overhead utility lines, running along North 155<sup>th</sup> Street, and Sound Transit’s guideway, running on the east side of I-5, Sound Transit must relocate a segment of these existing lines that extends westerly a distance. This utility relocation work will require Sound Transit to undertake some undergrounding and the addition or replacement of utility poles and vaults, some of which will need to be installed along a portion of Twin Ponds Park in the City. The City is interested in determining the feasibility of undergrounding the utility lines that run adjacent to the Park, along North 155<sup>th</sup> Street, as a separate City funded element of the work and would utilize its utility franchise provisions to undertake such work. The Parties agree to work together to develop a conceptual design and cost estimate that would define the City’s contribution towards the undergrounding work. The Parties will strive to decide whether to move forward with the City funded undergrounding work within fourteen (14) days of execution of this Agreement and the Parties shall then continue to work together to enter into an agreement to address design and construction of the undergrounding work and methodology for cost reimbursement between the Parties. The provisions for reimbursement will include credit for costs Sound Transit would otherwise not incur without the undergrounding work and credit to the City for any costs that Sound Transit would otherwise incur for its Project, absent the City funded elements. The Parties understand that time will be of the essence to negotiate this future agreement and to design and coordinate with each other and the impacted utilities in order to not preclude the City’s ability to pursue the City’s undergrounding work and so as to not impact Sound Transit’s Project schedule.

The Parties agree to resolve any Section 4(f) requirements associated with utility relocations within the Park concurrent with the Parties decision regarding undergrounding.

## **SECTION VII. COOPERATION; DISPUTE RESOLUTION; REMEDIES**

**7.1 Cooperation of the Parties.** The provisions contained in this Agreement depend upon timely and open communication and cooperation between the Parties. In this regard, communication of issues, changes, or problems that arise should occur as early as possible in the process, and not wait for explicit due dates or deadlines. Each Party shall work cooperatively and in good faith toward resolution of issues in a manner that ensures adequate time for each Party to consider and address the issues. This Agreement contemplates the execution and delivery of future documents, instruments, approvals, and permits, the final form and contents of which are not presently determined. The Parties shall provide the necessary resources and work in good faith to develop in a diligent and timely manner the final form and content of such documents, instruments, approvals, and permits.

### **7.2 Dispute Resolution.**

A. Any disputes or questions of interpretation of this Agreement that may arise between Sound Transit and the City shall be governed under the Dispute Resolution provisions in this Section. The Parties agree to exercise their best efforts to resolve any disputes that may arise through this dispute resolution process, rather than in the media or through other external means.

B. The Parties agree to use their best efforts to prevent and resolve potential sources of conflict at the lowest level.

C. The Parties agree to use their best efforts to resolve disputes arising out of or related to this Agreement using good faith negotiations by engaging in the following dispute escalation process should any such disputes arise:

(1) Level One - Sound Transit's Designated Representative and the City's Designated Representative shall meet to discuss and attempt to resolve the dispute in a timely manner. If they cannot resolve the dispute within fourteen (14) calendar days after referral of that dispute to Level One, either party may refer the dispute to Level Two.

(2) Level Two - Sound Transit's Executive Project Director and the City's Assistant City Manager shall meet to discuss and attempt to resolve the dispute, in a timely manner. If they cannot resolve the dispute within fourteen (14) calendar days after referral of that dispute to Level Two, either party may refer the dispute to Level Three.

(3) Level Three - Sound Transit's Executive Director of Design, Engineering and Construction Management or Designee and the City's City Manager or Designee shall meet to discuss and attempt to resolve the dispute in a timely manner. If they cannot resolve the dispute within fourteen (14) calendar days after referral of that dispute to Level Three, either party may refer the dispute to Level Four.

D. Except as otherwise specified in this Agreement, in the event the dispute is not resolved at Level Three within fourteen (14) calendar days after referral of that dispute to Level Three, the Parties are free to file suit or agree to alternative dispute resolution methods such as mediation. At all times prior to resolution of the dispute, the Parties shall continue to perform and make any required payments under this Agreement in the same manner and under the same terms as existed prior to the dispute.

**7.3 Notice of Default.** Neither party shall be in default under this Agreement unless it has failed to perform under this Agreement for a period of thirty (30) calendar days after written notice of default from any other party. Each notice of default shall specify the nature of the alleged default and the manner in which the default may be cured satisfactorily. If the nature of the alleged default is such that it cannot be reasonably cured within the thirty (30) day period, then the defaulting party shall initiate reasonable actions to cure within the thirty (30) day period; provided, however, such default shall not be deemed a cure unless and until the defaulting party diligently prosecutes such cure to completion.

**7.4 Remedies.** Either party hereto has the right to exercise any and all of the following remedies, singly or in combination, and consistent with the dispute resolution and notice of default sections of this Agreement, in the event the other party violates any provision of this Agreement:

- A. Commencing an action at law for monetary damages;
- B. Commencing an action for equitable or other relief;
- C. Seeking specific performance of any provision that reasonably lends itself to such remedy.

**7.5 Cumulative Remedies.** In determining which remedy or remedies for a party's violation are appropriate, a court may take into consideration the nature and extent of the violation, the remedy needed to prevent such violations in the future, whether the party has a history of previous violations of the same or similar kind, and such other considerations as are appropriate under the circumstance. Remedies are cumulative; the exercise of one shall not foreclose the exercise of others.

**7.6 Failure to Enforce.** Neither party hereto shall be relieved of any of its obligations to comply promptly with any provision of this Agreement by reason of any failure of the other party to enforce prompt compliance, and one party's failure to enforce shall not constitute a waiver of rights or acquiescence in the other party's conduct.

## **SECTION VIII. GENERAL PROVISIONS**

**8.1 Federal Clauses.** The Parties shall comply with all applicable requirements of their respective federal funding programs and agencies. The City acknowledges that Sound Transit plans to fund its obligations under Section 3 with grants from one or more agencies of the Federal government. The contracts and project documents for the Access Enhancement Projects shall expressly incorporate any applicable federal clauses and requirements into their respective terms. The Parties further acknowledge that any funding agency may request changes to this Agreement to comply with its funding requirements, and agree to cooperate in the negotiation of any such change.

**8.2 Assignability; Beneficiary.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors or assignees. Either party hereto may assign any monetary receivables due them under this Agreement; provided, however, such assignment shall not relieve the assignor of any of its rights or obligations under this Agreement.

**8.3 Designated Representatives.** To promote effective intergovernmental cooperation and efficiencies, each Party designates the following persons as their representatives (“Designated Representatives”) who shall be responsible for coordination of communications between the Parties and shall act as the point of contact for each party. The Designated Representatives shall coordinate with the City Coordinator and the ST Coordinator and shall communicate regularly to discuss the status of the tasks to be performed, identify upcoming Project decisions and any information or input necessary to inform those decisions, discuss any substantial changes to the Project, and resolve any issues or disputes related to the Project, where authorized and consistent with this Agreement. The Designated Representatives are:

**SOUND TRANSIT:  
Light Rail Project Manager**

**CITY OF SHORELINE:  
Project Manager**

Each Designated Representative is also responsible for coordinating the input and work of its agency, consultants, and staff as it relates to the objectives of this Agreement. The Parties reserve the right to change Designated Representatives by providing notice to the other Party during the term of this Agreement.

**8.4 Notices.** Unless otherwise provided herein, all notices and communications concerning this Agreement shall be in writing and addressed to:

Central Puget Sound Regional Transit Authority  
Attention: Deputy Executive Director DECM  
401 South Jackson Street  
Seattle, WA 98104-2826

And to:

City of Shoreline  
Attention: City Manager  
17500 Midvale Avenue N  
Shoreline, WA 98133

Unless otherwise provided herein, all notices and communications concerning this Agreement shall be in writing and addressed to the Designated Representative. Unless otherwise provided herein, all notices shall be either: (i) delivered in person, (ii) deposited postage prepaid in the certified mails of the United States, return receipt requested, (iii) delivered by a nationally recognized overnight or same-day courier service that obtains receipts, or (iv) delivered electronically to the other party’s Designated Representative as listed herein.

**8.5 Costs and Fees.** Each party shall be responsible for its own costs, including legal fees, in negotiating or finalizing this Agreement, unless otherwise agreed in writing by the Parties.

**8.6 Force Majeure.** The Parties shall not be deemed in default with the provisions of this Agreement where performance was rendered impossible by war or riots, civil disturbances, floods or other natural catastrophes beyond its control; the unforeseeable unavailability of labor or materials; labor stoppages or slowdowns; or power outages exceeding back-up power supplies. This Agreement shall not be revoked or a party penalized for such noncompliance, provided that such party takes immediate and diligent steps to return to compliance and to comply as soon as practicable under the circumstances without unduly endangering the health, safety, and integrity of both parties' employees or property, or health, safety, and integrity of the public or the Parties' respective property.

**8.7 Amendments.** This Agreement may be amended only by a written instrument executed by each of the parties hereto.

**8.8 Entire Agreement.** This Agreement constitutes the entire agreement of the parties with respect to the subject matters specifically addressed in this Agreement, and supersedes any and all prior negotiations, oral and written, understandings and agreements with respect hereto.

**8.9 Section Headings.** Section headings are intended as information only, and shall not be construed with the substance of the section they caption.

**8.10 Construction.** In construction of this Agreement, words used in the singular shall include the plural and the plural the singular, and "or" is used in the inclusive sense, in all cases where such meanings would be appropriate.

**8.11 Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all counterparts together shall constitute but one and the same instrument.

**8.12 Forum.** This Agreement shall be interpreted, construed and enforced in accordance with the laws of the State of Washington. Venue for any action under this Agreement shall be King County, Washington.

**8.13 Interpretation.** This Agreement is executed by the Parties under current interpretations of applicable federal, state or local statute, ordinance, law or regulation.

**8.14 Severability.** In case any term of this Agreement shall be held invalid, illegal or unenforceable in whole or in part, neither the validity of the remaining part of such term nor the validity of the remaining terms of this Agreement shall in anyway be affected thereby.

**8.15 Mutual Indemnity.** Each Party to this Agreement shall protect, defend, indemnify, and save harmless the other Party, its 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 the first Party's negligent or grossly negligent acts or omissions or its intentional misconduct or that of its officers, officials, employees or agents. No Party will be required to indemnify, defend, or save harmless the other party 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 the Parties, the indemnity provisions provided herein shall be valid and enforceable only to the extent of the Party's own negligence. Each Party agrees that its obligations under this subparagraph 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 Party, by mutual negotiation, hereby waives, 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 a Party 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 from the responsible Party to the extent of that party's liability.

**8.16 Attorneys' Fees.** In the event that any litigation or arbitration between the Parties arises out of or in connection with this Agreement, the substantially prevailing or successful Party shall be entitled, in addition to other relief as may be granted, to a reasonable sum for all its attorneys' fees and costs in such proceedings.

**IN WITNESS WHEREOF**, each of the parties hereto has executed this Agreement by having its authorized representative affix his/her name in the appropriate space below.

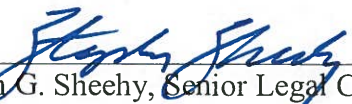
**SOUND TRANSIT**

By:   
Peter M. Rogoff, Chief Executive Officer

Date: 2/22/18

Authorized by Motion No. M2018-11

Approved as to form:

By:   
Stephen G. Sheehy, Senior Legal Counsel

**CITY OF SHORELINE**

By:   
Debbie Tarry, City Manager

Date: 1/30/18

Authorized by City Council  
Motion on 1/29, 2018

Approved as to form:

By:   
Margaret King, City Attorney

List of Exhibits

Exhibit A – Proposed Street Vacation Plan

Exhibit B – List of City Projects for Matching Funds

Exhibit C – Shoreline South/145th Station Access Project Priorities

Exhibit D – Shoreline North/185th Station Access Project Priorities

Exhibit E – Sound Transit Invoice Form

Exhibit F – Preferred Trail Along the Rail Route, Feasibility Report-2017

Exhibit G – Wetland Mitigation Code Modifications Concurrence Analysis #302203



















































## EXHIBIT B - List of City Project for Matching Funds

Project	Other	City	Future Funding (Undetermined)	Total	Project Timeframe	Data Source
145 <sup>th</sup> Corridor Study (completed)	\$246,000	\$404,000	\$0	\$650,000	2016-17	2017-2022 CIP Adopted
145 <sup>th</sup> Interchange Project – Feasibility and Design	\$3,892,500	\$627,500	\$0	\$4,520,000	2017-18	2017-2022 CIP Adopted
145 <sup>th</sup> Interchange Project – ROW and Construction	\$16,173,000	\$500,000	\$0	\$16,673,000	2019-21	2017-2023 CIP Update
145 <sup>th</sup> Corridor Project (Aurora to I-5) – Design and partial ROW	\$4,235,000	\$1,756,000	\$0	\$5,991,000	2017-18	2017-2022 CIP Adopted
145 <sup>th</sup> Corridor Project (Aurora to I-5) –ROW, and Construction	\$0	\$0	\$39,000,000	\$39,000,000	2018-24	Current Project Estimate
185 <sup>th</sup> Corridor Study	\$0	\$700,089	\$0	\$700,089	2016-18	2017-2022 CIP Adopted
Trail Along the Rail – Feasibility and Design (through 30% Design and Environmental Review)	\$0	\$420,000	\$0	\$420,000	2016-18	2017-2023 CIP Update
Trail Along the Rail - Full Design, Acquisition and Construction	\$0	\$0	\$9,000,000	\$9,000,000	2018-23	Current Project Estimate
148 <sup>th</sup> Non-Motorized Bridge – Feasibility and Design (through 30% Design and Environmental Review)	\$0	\$500,000	\$0	\$500,000	2017-18	2017-2022 CIP Adopted
148th Non-Motorized Bridge – Full Design, Acquisition and Construction	\$0	\$0	\$13,300,000	\$13,300,000	undetermined	Current Project Estimate
195 <sup>th</sup> Separate Trail (completed)	\$371,950	\$164,631	\$0	\$536,581	2015-16	2017-2022 CIP Adopted
Meridian & 155 <sup>th</sup> Signal Improvements	\$352,385	\$300,936	\$0	\$653,321	2017-18	2017-2023 CIP Update
Bike Plan Implementation – projects on 5 <sup>th</sup> Ave (155 <sup>th</sup> to 175 <sup>th</sup> ) and 1 <sup>st</sup> Ave (185 <sup>th</sup> to 195 <sup>th</sup> )	\$112,450	\$17,550	\$0	\$130,000	2017-18	Project Manager Estimate based on contract bid
Woonerf Concept for 3 <sup>rd</sup> (149 <sup>th</sup> to 151 <sup>st</sup> )	\$0	\$20,000	\$0	\$20,000	2017	Current Project Estimate
<b>Totals</b>	<b>\$25,383,285</b>	<b>\$5,410,706</b>	<b>\$61,300,000</b>	<b>\$92,093,991</b>		

# EXHIBIT C. Shoreline South/145th Access Project Priorities

Project #	Street	From	To	Sound Transit Draft Priority Score	Draft City Priority	Sound Transit Direct Impact	Sound Transit Required Mitigation	City Project Cost	Description		Photo
2	1st Ave NE	N 149th St	N 155th St	14	High			\$1,217,000	No direct LLE impact identified.	No continuous sidewalks in this area. Connects to Twin Ponds Park. Eventual connection to non-motorized bridge over I-5. Increased traffic anticipated.	
4	N 148th St	Meridian Ave N	1st Ave NE	9	High			\$1,256,000	No direct LLE impact identified. NOTE: Environmental Review not yet completed.	Part of green network, no sidewalk or bike facility currently. Will connect to future bridge over I-5.	
5	Bridge N 148th	1st Ave NE	5th Ave NE	11	High			\$16,400,000	Bridge over I-5. No direct impact identified by ST. NOTE: Environmental Review not yet completed.	Important non-motorized connection from Parkwood Neighborhood (and rezoned area) to station. Increases walkshed.	
18	1st Ave NE	N 145th St	NE 149th St	18	High			\$1,343,000	No direct impact identified. No continuous sidewalks in this area. Connects to Twin Ponds. NOTE: Shoulder treatment on east side of 1st Ave NE for pedestrian access between N 145th Street and a Temporary Transit Park and Ride required if parking leased from properties on 1st Ave NE.	No continuous sidewalks in this area. Connects to Twin Ponds. Eventual connection to non-motorized bridge over I-5. Increased traffic anticipated.	

\$20,216,000

# EXHIBIT C. Shoreline South/145th Access Project Priorities



City of Shoreline







- LEGEND**
- Existing Sidewalks
  - ▭ ST Light Rail Station/Improvement
  - ▭ Priority Project
  - Future Trail
  - ▭ Existing Bike Facilities (or will be in place by station opening)
  - ▭ Growth Project (TIF)
  - Subarea Boundary

This map is not an official map. No warranty is made concerning the accuracy, currency, or completeness of data depicted on this map.



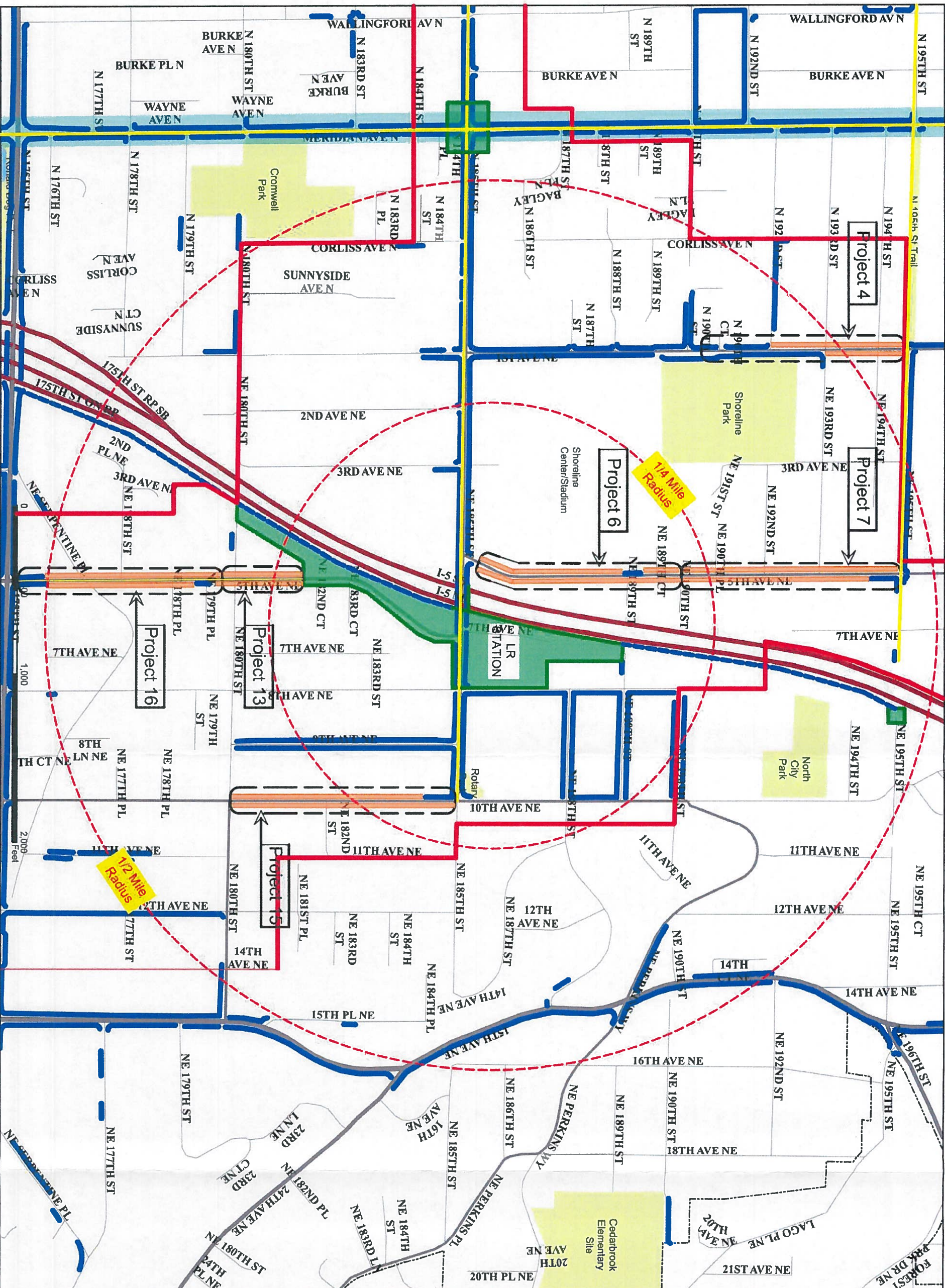
**145th Station Access Priorities**

# EXHIBIT D. Shoreline North/185th Access Project Priorities

Project #	Street	From	To	Sound Transit Draft Priority Score	City Priority	Sound Transit Direct Impact	Sound Transit Required Mitigation	City Project Cost	Description	Considerations	Photo
4	1st Ave NE	N 190th St	NE 195th St	13	High			\$714,000	No direct ST impacts identified.	This segment is an important connection to the 195th multi use path. Currently this segment is the only gap in sidewalk on 1st. Has not been competitive for grant funding.	
6	5th Ave NE	NE 185th St	NE 190th St	15	High			\$1,752,000	Currently lacks sidewalk/bike lanes.  NOTE: Sound Transit Direct Impacts and Required Mitigation as of the 60% design were eliminated through cost reduction process and move of garage to east side of I-5). City Project Cost adjusted approximately based on change in length.	Important N-S connection to the station, currently lacking sidewalks/bike lanes. ST garage construction rebuilds much of this segment. Anticipating increased traffic on this arterial.	
7	5th Ave NE	NE 190th St	NE 195th St	15	High			\$1,986,000	No direct ST impacts identified.	Currently lacks sidewalks, connects to multi use path. Anticipating increased traffic volumes on this arterial.	
13	5th Ave NE	NE 180th St	NE 185th St	18	High	\$1,418,000		\$258,000	<b>ST Direct Impact</b> ST rebuilding much of this roadway segment. Rebuild will include a multi-use path on the west side of 5th Ave NE which extends to 180th. Sidewalks will be constructed 183rd to just south of 182nd. Remaining stretch would be a "City Project Cost". <b>City Project Cost</b> Remaining stretch of sidewalk (to 180th) is estimated at \$258k however there are overhead power issues at 180th that ST would prefer City to construct due to ability to underground.	Important N-S connection to the station, currently lacks sidewalks/bike lanes. Anticipating increased traffic on this arterial. Most of this segment being rebuilt by Sound Transit.	
15	10th Ave NE	NE 180th St	NE 185th St	16	High			\$1,731,000	No direct ST impact identified, no sidewalks currently. Important connection to North City.	Important connection to the south to/from North City. Currently lacks sidewalks.	
16	5th Ave NE	NE 175th St	NE 180th St	13	High			\$2,717,000	No direct ST impacts identified.	Important connection from 175th street north to the station. Currently lack sidewalks.	

\$9,158,000

# EXHIBIT D. Shoreline North/185th Access Project Priorities



City of Shoreline

- LEGEND**
- Existing Sidewalks
  - ST Light Rail Station/Improvement
  - Priority Project
  - Future Trail
  - Existing Bike Facilities (or will be in place by station opening)
  - Growth Project (TIF)
  - Subarea Boundary



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## 185th Station Access Priorities



**Exhibit E**

**Invoice Form**

Invoice No. \_\_\_\_\_ Dated: \_\_\_\_\_

TO: Sound Transit

Accounts Payable

401 S Jackson Street

Seattle, WA 98104

accountspayable@soundtransit.org

Attention: Accounts Payable and [Sound Transit's Designated Representative]

Re: Shoreline Access Enhancement Projects

The City's authorized representative certifies that the amount of \$ \_\_\_\_\_ is due and payable to the City in accordance with the provisions of the Agreement, as supported by the attached invoice and supporting documentation.

*[Identify the phase(s), and the amounts by phase, for which the amount due applies]*

The City makes the following representations and warranties to Sound Transit in connection with the Invoice:

- All work performed to date has been, unless otherwise specifically stated by the City, performed in accordance with the terms and conditions of this Agreement.
- The amount specified above has been computed in accordance with, and is due and payable under, the terms and conditions of the Agreement, has not been the subject of any previous invoice (unless disputed or rejected for payment) and is not the subject of any pending invoice from the City.

Any liability of Sound Transit arising from these representations and warranties are governed by the terms and conditions of the Agreement.

**City of Shoreline**

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

*[Name, Position]*

## Exhibit F - Trail Along The Rail

- 3 1st Avenue NE from NE 159th Street to NE 161st Street (Ridgecrest Park).** Part of Sound Transit access improvements is the construction of a shared use path along 1st Avenue NE right of way between NE 159th Street and NE 161st Street that will connect directly to Ridgecrest Park.
- 4 1st Avenue NE from NE 170th Street to NE 174th Street.** A shared-use path will be included with Sound Transit 1st Avenue NE roadway improvements for this section.
- 5 5th Avenue from NE 180th Street to NE 185th Street.** Sound Transit will be reconstructing 5th Avenue NE to align with the entrance to the 185th Street light rail station at the intersection of NE 185th Street and 5th Avenue NE. Rather than reconstructing this portion of 5th Avenue NE with symmetrical sidewalks and bike lanes, the roadway design incorporates a shared-use path along the western side of the street from NE 180th Street to NE 185th Street.
- 6 Northern Multimodal Access to 185th Street Light Rail Station.** A shared-use path that parallels the northern service access drive to the 185th Street light rail station could provide multimodal access to the station from NE 189th Street. The City will continue to coordinate the design of the multimodal access through this area with Sound Transit.
- 7 NE 195th Street End Improvements.** Part of Sound Transit roadway improvements to the end of NE 195th Street will be the construction of a shared use path that connects to the 195th Street Pedestrian Bridge.

### On-Street Connections

At this time, Council has given no direction for property acquisition for the trail project, so the project team developed alternative routes to study interim connections between disconnected trail segments (rated moderate or difficult) until the full vision of the trail is achieved. As the study has advanced, the team has refined the set of alternative routes to not only create a near-term continuous pedestrian/bicycle route from the south to north end of the Trail, but also provide permanent pedestrian and bicycle connections to local destinations such as the Shoreline library, Ridgecrest business district, schools, and parks. The refined alternative routes are now more appropriately called “on-street connections”. The following list highlights the changes from the feasibility analysis to the preferred alignment:

- A On-Street Connection at 3rd Avenue NE and NE 158th Street** may receive traffic calming measures as part of the alternative routing. NE 155th Street may receive a two-way cycle track on the north side for connection to 3rd Avenue NE.
- B 3rd Avenue NE from NE 165th Street to NE 170th Street** may receive traffic calming measure along 3rd Avenue NE as

## Exhibit F - Trail Along The Rail

part of an interim connection to Ridgecrest Park to the south and NE 170th Street to the north. In addition, pedestrian/bicycle improvements along NE 165th Street would improve walking and bicycling connections between Ridgecrest Park and Ridgecrest Business District.

- C** **The On-Street Connection at NE 175th Street** will be incorporated with the 5th Avenue multimodal improvements. This on-street connection provides access to the King County Library.
- D** **NE 190th Street to the 195th Street Pedestrian Bridge.** A shared-use path could run along the perimeter of North City Elementary School play fields and then run through to North City Park and connect to 10th Avenue NE and continue via an on-street connection to the 195th Street Pedestrian Bridge.

### TRAIL COSTS

The typical cost of trails can vary greatly depending on the complexity of the project. The Trail is approximately two and half miles in length and has an estimated cost range of \$10 to \$20 million. There are several factors that will influence the overall cost of the project, which include:

- Topography. Steep slopes may require ramps, retaining walls, and/or cut and fill material
- Stormwater collection, flow control, and conveyance
- Environmentally critical area mitigation
- Right of way acquisition and temporary construction easements
- Street crossings: signals, Rectangular Rapid Flashing Beacons (RRFB), striping, and signage

In the near term, on-street connections, as discussed in the preferred alignment, offer a lower cost interim alternative to constructing difficult (and therefore higher cost) sections of the Trail while still providing a continuous pedestrian/bike route from the south to north end of the Trail. It is estimated the on-street connections may save up to \$9 million.

The next phase of the project will refine the design to 30 percent and update the estimate of probable costs with the more defined scope of work.

# Exhibit F - Trail Along The Rail

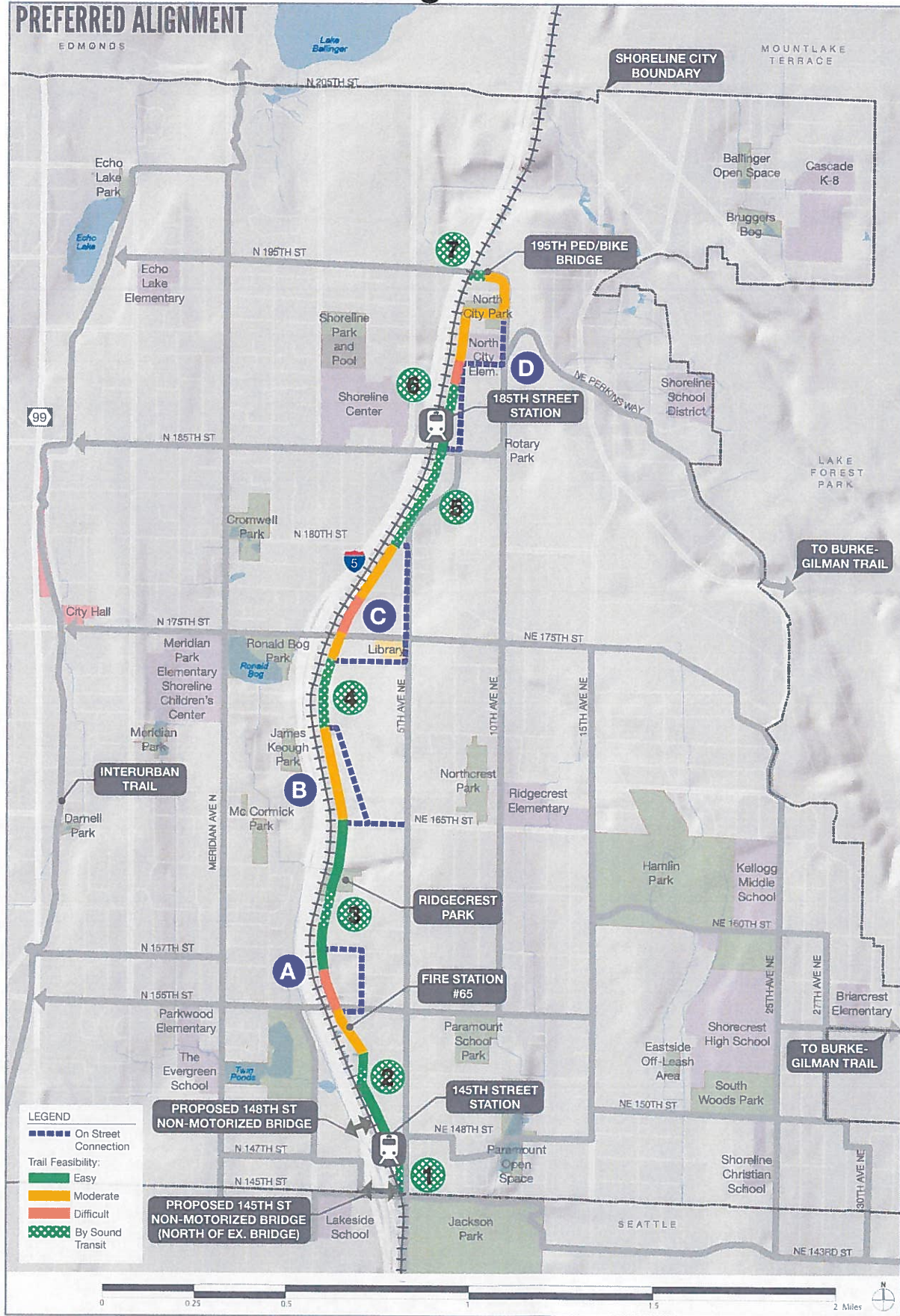


Figure 19. Preferred Alignment Plan.



*Planning & Community Development*

17500 Midvale Avenue North

Shoreline, WA 98133-4905

(206) 801-2500 ♦ Fax (206) 801-2788

**Lynnwood Link Extension**  
CONCURRENCE REQUEST ANALYSIS #302203

**CODE SECTION: SMC 20.80 Critical Areas**

**SMC 20.80.010 Purpose**

**SMC 20.80.030(D) Recreation Areas Operation, Maintenance, Repair, or Replacement**

**SMC 20.80.040(C)(1) Modifications to Existing Structures within Critical Areas**

**SMC 20.80.056 Voluntary critical area restoration projects**

**SMC 20.80.110(A) Permanent field marking**

**SMC 20.80.280(D) Stream Buffer Allowed Uses and Alteration**

**SMC Table 20.80.330(A)(1) Wetland Buffer Requirements**

**SMC 20.80.330(C) Buffers on Mitigation Sites**

**SMC 20.80.330(G) Allowed Wetland Buffer Uses**

**I. ISSUES:**

Sound Transit is proposing to locate a wetland mitigation project in the City's Ronald Bog Park to meet requirements at local, state, and federal levels to mitigate for permanent wetland impacts within Shoreline, along I-5, for their Lynnwood Link Extension (LLE) project.

Ronald Bog Park was originally acquired through King County's Forward Thrust bond and the existing recreation use in the park is protected in perpetuity. Ronald Bog is a large, Category II or III wetland. The proposed mitigation project would reestablish and enhance approximately 1.2 acres of wetland (split between two parts of the park) and establish associated 85-foot wide buffers (approximately 2.4 acres). The project would require permanent restriction of public access from approximately 3.6 acres of the park, within the mitigation wetland and buffer, in order to meet federal mitigation requirements.

The standard development code requirement for a Category II or III wetland with a habitat score of 6-7 is for a 165-foot wide wetland buffer. If this 165-foot buffer size is applied to the new wetland mitigation areas, it would extend beyond the north park property line into the N 175<sup>th</sup> Street right-of-way (ROW), would cross into the WSDOT limited access ROW to the east, and into private properties located adjacent to the southeast corner of the Park.

## EXHIBIT G - WETLAND CODE MODIFICATION ANALYSIS #302203

An 85-foot wetland buffer is proposed for both wetland mitigation areas to reduce the total size of the area that would be permanently restricted to public access, maintain some of the existing lawn area and public water access, and to enable mitigation areas that are completely within the Park boundaries. A wetland buffer reduced by approximately 50 percent of the standard is necessary in order to avoid new buffer requirements over ROW or private property adjacent to the park as well as to maintain existing public recreation access and flexibility for future park improvements.

In order to adequately maintain the public recreation use in the park, the project proposes to formalize and improve passive recreation trails in the north and central areas of the park to ADA accessible standards. Most of the park is overlaid by City-required buffers for existing stream and wetland critical areas. Gravel, 5-foot wide trails are proposed within these required buffers with a net decrease in informal trails and restoration of vegetation surrounding trails to ensure no net loss of function and values with these improvements. While trails and wildlife viewing structures are allowed within critical area buffers, the code limits them to the outer 25 percent of the required buffer width. The desired public access improvements cannot be permitted if the critical area regulations are applied without modification, because they would be located closer than 25 percent in a number of places to one or both critical areas, but not closer than 25 feet (see attached map).

As part of the mitigation project, SMC 20.80.110 requires provision of permanent field marking of all critical area tracts, easements and dedications, or as recommended by a qualified professional. This standard requires permanent markings placed at least every 50 feet, necessitating approximately fifteen Designated Critical Area signs along the outer perimeter of the mitigation buffer. This standard is typically applied to single family properties with an average lot width of about 60 feet, therefore application of this standard would mean that there would be one permanent marking (sign) per lot. Ronald Bog Park is located on one parcel approximately 13.4 acres in size where application of this standard - installation of a permanent sign every 50 feet - would result in a proliferation of signs along the perimeter of the park and within the park.

Fifteen signs seems excessive when you can see three or more signs from any point within the park. Wider spacing between permanent signs for Ronald Bog, if recommended by a qualified professional, could meet the intent of this standard to serve as a visual reminder of the presence of critical areas and related protections.

## II. CONCURRENCE REQUEST:

### Current Code Requirements

- **SMC 20.80.010 Purpose**
  - B. *By identifying and regulating development and alterations to critical areas and their buffers, it is the intent of this chapter to:*
    1. *Protect the public from injury, loss of life, property damage or financial losses due to flooding, erosion, landslide, seismic events, or soils subsidence;*

## EXHIBIT G - WETLAND CODE MODIFICATION ANALYSIS #302203

2. *Protect unique, fragile and valuable elements of the environment;*
3. *Reduce cumulative adverse environmental impacts to water quality, wetlands, streams, and other aquatic resources, fish and wildlife habitat, landslide hazards, and other geologically unstable features and protect the functions and values of critical areas from overall net loss;*
4. *Ensure the long-term protection of ground and surface water quality;*
5. *Alert members of the public, including appraisers, assessors, owners, potential buyers, or lessees, to the development limitations of critical areas and their required buffers;*
6. *Serve as a basis for exercise of the City's substantive authority under the State Environmental Policy Act (SEPA) and the City's Environmental Procedures (Chapter 20.30 SMC, Subchapter 8); and comply with the requirements of the Growth Management Act (Chapter 36.70A RCW) and its implementing rules;*
7. *Establish standards and procedures that are intended to protect critical areas while accommodating the rights of property owners to use their property in a reasonable manner; and*
8. *Provide for the management of critical areas to maintain their functions and values and to restore degraded ecosystems.*

Any project modifying critical areas or their buffers must be consistent with the purpose and intent of Chapter 20.80. Modifications to any provisions of SMC 20.80 must be consistent with SMC 20.80.010.

- **SMC 20.80.030(D) Recreation Areas Operation, Maintenance, Repair, or Replacement**

*"Maintenance, operation, repair, modification, or replacement of existing publicly improved recreation areas as long as any such activity does not involve the expansion of facilities and existing improvements into a previously unimproved portion of critical areas or required buffers. Maintenance, operation, repair, modification, and replacement of publicly improved recreation areas within designated fish and wildlife habitat areas shall be permitted if all activities are performed consistent with the development standards of this chapter, best available science or adaptive management plans as recognized by the City. Retention and replanting of native vegetation shall occur wherever possible in areas of land disturbance;"*

This provision allows for maintenance, repair and replacement of other existing improvements such as improved trail within the required stream and wetland buffers. This provision cannot be applied to new or unofficial trails or any improvements that would increase hardscape area or expand trails into areas where formal trails do not currently exist.

- **SMC 20.80.040(C)(1) Modifications to Existing Structures within Critical Areas**  
*"Structural modification of, addition to, maintenance, repair, or replacement of legally nonconforming structures consistent with SMC 20.30.280, which do not meet*

## EXHIBIT G - WETLAND CODE MODIFICATION ANALYSIS #302203

*the building setback or buffer requirements for wetlands, fish and wildlife habitat conservation areas, or geologic hazard areas if the modification, addition, replacement or related activity does not increase the existing building footprint of the structure or area of hardscape lying within the critical area or buffer. Within landslide hazard areas additions that add height to a nonconforming structure may only be allowed with review of a critical area report demonstrating that no increased risk of the hazard will occur. Where nonconforming structures are partially located within critical areas or their buffers, additions are allowed with a critical area report delineating the critical area(s) and required buffers showing that the addition is located entirely outside the critical area or buffer;"*

This provision allows for replacement of an existing structure within a required wetland buffer so long as the structure is no larger or closer to the wetland. This provision does not indicate whether the replacement needs to be in the same location as the existing structure. By that reasoning the sculpture or picnic shelter could be moved to another location in the park within the wetland buffer area, but they could not be moved into the required stream buffer area under this provision.

Replacement in a new location only complies with this code if the building footprint of the structure or area of hardscape is not increased within the buffer and the structure is not located any closer to the wetland than the existing location.

The proposed relocation of the existing art piece "The Kiss" from its current location in the wetland buffer (where the new wetland is proposed to be created) to another location in the park would be acceptable if the new location is also in the wetland buffer and no closer to the existing wetland than the existing location. The proposed mitigation project shows the existing log shelter as remaining in place, which is permissible under SMC 20.30.280.

- **SMC 20.80.056 Voluntary critical area restoration projects**
  - A. *When a critical area restoration project is proposed that is not required as mitigation for a development proposal, the City may grant relief from standard critical area buffer requirements if the restoration project involves:*
    1. *The daylighting of a stream; or*
    2. *Creation or expansion of a wetland that would increase the area of the wetland and/or wetland buffer.*
  - B. *At the time a restoration project is proposed, a buffer shall be established that will apply to the restoration project boundary. Restoration project buffers shall be established according to the following requirements:*
    1. *A buffer may be applied to the restored portion of the stream or wetland that is not less than 75 percent of the standard buffer associated with the type of stream or category of wetland; or*
    2. *The project proponent may request a reduced buffer of between 50 percent and 75 percent of the standard buffer associated with the type of stream or*



## EXHIBIT G - WETLAND CODE MODIFICATION ANALYSIS #302203

*category of wetland. The following criteria will be used by the City in reviewing the request for a reduced buffer:*

- a. The Director determines that applying a 50 percent to 75 percent buffer would significantly limit the use of the property for existing or permitted uses, thus making the restoration project infeasible;*
- b. The proposed buffer relief is the minimum necessary to achieve the restoration project;*
- c. There will be a net environmental benefit from the restoration project with the reduced buffer;*
- d. Granting the proposed relief is consistent with the objectives of the critical area restoration project and consistent with purposes of the City's critical area regulations.*

This mitigation project is required due to development by Sound Transit of the LLE project in other wetland critical areas within the same subbasin of Thornton Creek. The proposed location of this mitigation is off-site in order to provide one robust mitigation site within the same subbasin where the impacts are occurring. Based on the *L200 City of Shoreline Critical Areas Report, 2<sup>nd</sup> Draft, dated June 9, 2017, and prepared by HNTB|Jacobs for Sound Transit, (Draft CA Report)*, the Ronald Bog mitigation project would result in an overall increase in the functions provided before and after the project as well as more functions than are currently provided by the wetlands that will be impacted. The *Draft CA Report* states that "Although the proposed wetland creation/reestablishment will result in a permanent reduction of buffer area, the proposed conversion of lawn buffer and invasive species thickets to wetlands is considered an overall functional lift."

This provision does not directly apply to the project because this project is required mitigation; however, it could potentially be a basis for considering a code modification. There is a need to balance the protected public uses in the park with the public benefit of replacing wetland function and values within the affected subbasin in Shoreline rather than through smaller, less functional wetlands adjacent to the impacts or accepting fee-in-lieu payments that would go to projects entirely outside of the City's drainage basins.

- **SMC 20.80.110(A) Permanent field marking**

*"All critical areas tracts, easements, and dedications, or as recommended by a qualified professional, shall be clearly marked on the site using permanent markings, placed at least every 50 feet, which include the following text:*

*City of Shoreline Designated Critical Area. Activities, including clearing and grading, removal of vegetation, pruning, cutting of trees or shrubs, planting of nonnative species, and other alterations may be prohibited. Help protect and care for this area. Please contact the City of Shoreline with questions or concerns."*

## EXHIBIT G - WETLAND CODE MODIFICATION ANALYSIS #302203

This standard requires permanent markings placed at least every 50 feet, necessitating approximately fifteen Designated Critical Area signs along the outer perimeter of the mitigation buffer. This standard is typically applied to single family properties with an average lot width of about 60 feet, therefore application of this standard would mean that there would be one permanent marking (sign) per lot.

Ronald Bog Park is located on one parcel approximately 13.4 acres in size where application of this standard - installation of a permanent sign every 50 feet - would result in a proliferation of signs along the perimeter of the park and within the park. Fifteen signs seems excessive when you can see three or more signs from any point within the park. Approximate 50-foot spacing is illustrated on the site map attached.

Wider spacing between permanent signs for Ronald Bog, if recommended by a qualified professional, could meet the intent of this standard to serve as a visual reminder of the presence of critical areas and related protections. The permanent field marking would meet all other requirements of this standard and would meet the intent of the section.

The *Draft CA Report* does not currently include recommendations for sign spacing. Recommendations from a qualified professional would be needed to consider an alternate spacing. The Director of Parks, Recreation and Cultural Services has also requested that an increase in allowable spacing between these signs be considered to reduce the visual clutter and enhance the overall aesthetic experience of park visitors.

- **SMC 20.80.280(D) Stream Buffer Allowed Uses and Alteration**

*“Activities and uses shall be prohibited in stream buffers, except as provided for in this chapter. Stream buffers shall be maintained as undisturbed or restored natural vegetation. No clearing or grading activities are allowed within required stream buffers except as allowed under SMC 20.80.030, 20.80.040, 20.80.274, or consistent with an approved buffer enhancement plan consistent with the provisions of this subchapter. No structures or improvements shall be permitted within the stream buffer area, including buildings, decks, docks, except as otherwise permitted or required under the Shoreline Master Program, SMC Title 20, Division II, or under one of the following circumstances:*

- 1. Approved Mitigation. When the improvements are part of an approved rehabilitation or mitigation plan; or*
- 2. No Feasible Alternative. Construction of new roads, utilities, and accessory structures, when no feasible alternative location exists; or*
- 3. Trails. Construction of trails over and in the buffer of piped stream segments, and the construction of trails near other stream segments, consistent with the following criteria:*
  - a. Trails should be constructed of pervious surface, with preference for natural materials. Raised boardwalks utilizing nontreated pilings may be acceptable;*

# EXHIBIT G - WETLAND CODE MODIFICATION ANALYSIS #302203

- b. Trails shall be designed in a manner that minimizes impact on the stream system;
  - c. Trails shall have a maximum trail corridor width of five feet; and
  - d. Trails should be located within the outer 25 percent of the buffer, i.e., that portion of the buffer that is farther away from the stream and located to avoid removal of significant trees; or
4. Footbridges. Construction of footbridges that minimize the impact to the stream system;"

New trails within stream buffers would need to be located closer to the stream than the outer 25 percent of the required buffer width due to the constraints of the site and the preference for a loop trail. The passive recreation trails would meet the other design criteria for this type of improvement within buffer areas and would not be located closer than 60 feet from the open stream.

- **SMC Table 20.80.330(A)(1) Wetland Buffer Requirements**

Wetland Category	Buffer Width According to Habitat Score			
	Habitat Score of 3 – 4	Habitat Score of 5	Habitat Score of 6 – 7	Habitat Score of 8 – 9
Category I: Based on total score or Forested	75 ft	105 ft	165 ft	225 ft
Category I: Estuarine	150 ft (no change based on habitat scores)			
Category II: Based on total score	75 ft	105 ft	165 ft	225 ft
Category III (all)	60 ft	105 ft	165 ft	225 ft
Category IV (all)	40 ft (no change based on habitat scores)			

Ronald Bog is classified as a Category II or III wetland with a habitat score of 6 so the required buffer width is 165 feet.

- **SMC 20.80.330(C) Buffers on Mitigation Sites**

*"All mitigation sites shall have buffers consistent with the buffer requirements of this chapter. Buffers shall be based on the expected or target category of the proposed wetland mitigation site."*

The requirement of the standard 165-foot wide wetland buffer would restrict the use of the park all the way to the north property line adjacent to N 175<sup>th</sup> Street and would require restrictions on adjacent WSDOT limited access areas and private properties located adjacent to the southeast corner of the Park. A wetland mitigation project that would add new encumbrances to adjacent public ROW or private property is not viable. A reduce buffer width is proposed to reasonably protect the wetland mitigation area, meet regulatory requirements for mitigation within the impacted

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subbasin, and not encumber properties that are not party to the mitigation project or impacts.

- **SMC 20.80.330(G) Allowed Wetland Buffer Uses**

*"The following uses may be allowed within a wetland buffer in accordance with the review procedures of this chapter; provided they are not prohibited by any other applicable law and they are conducted in a manner so as to minimize impacts to the buffer and adjacent wetland:*

1. *Conservation and Restoration Activities. Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife.*
2. *Passive Recreation. Passive recreation facilities designed and in accordance with an approved critical area report, including:*
  - a. *Walkways and trails; provided, that those pathways are limited to minor crossings having no adverse impact on water quality. They should be generally parallel to the perimeter of the wetland, located only in the outer 25 percent of the wetland buffer area, and located to avoid removal of significant trees. They should be limited to pervious surfaces no more than five feet in width for pedestrian use only. Raised boardwalks utilizing nontreated pilings may be acceptable; and/or*
  - b. *Wildlife viewing structures.*
4. *Normal and routine maintenance and repair of any existing public or private facilities within an existing right-of-way, provided, that the maintenance or repair does not increase the footprint or use of the facility or right-of-way."*

New trails within the wetland buffer would need to be located closer to the wetland than the outer 25 percent of the required buffer width due to the constraints of the site and the preferences for a loop trail and maintenance of public access to open water. No trails would be located closer than 25 feet to the existing or created wetland areas and would all be located in areas where there are existing informal trails, small gravel trails, or pedestrian accessible lawn.

No new wildlife viewing structures are proposed for this project and the existing, permitted shelter would remain in its current location.

### Code Modifications Criteria

- **SMC 20.40.438 Light Rail System Supplemental Criteria**

(A) states *"A light rail transit system/facility shall be approved through a special use permit as specified in SMC 20.30.330."*

(B) and (C) specify which sections of Title 20 Development Code shall be applied to the light rail transit system/facility, stations, parking garage and related improvements, including application of Chapter 20.80 SMC – Critical Areas.



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### **(D) Modifications of Subsections B and C of This Section Requirements.**

*“Due to the unique nature of a regional light rail transit system and its facilities, strict application of this Code’s development standards will not always be possible. If the applicant demonstrates that compliance with one or more of the development standards or requirements set forth in subsections B and C of this section would make siting, development or operation of the facilities impossible or impracticable (as that term is defined by WAC 365-196-550 and/or other law), would result in reduced public benefits, or alternative actions could meet or exceed the intended goals of such requirements, then the City may waive or modify such requirements as part of the special use permit process in accordance with this section.”*

Sound Transit may apply through the required Special Use Permit for specific code modifications or waivers of applicable requirements based on the criteria in SMC 20.40.438:

- Compliance with standards makes the project impossible or impracticable; or
- Would result in reduced public benefits; or
- Alternative actions could meet or exceed the intended goals of such requirements.

The final decision on these code modifications would be made by the Hearing Examiner through the SUP decision process.

Alternatively, Sound Transit could seek relief from the strict application of the critical area regulations through the Critical Area Special Use Permit process, SMC 20.30.333, in order to seek approvals for construction of this offsite wetland mitigation project prior to the general SUP application decision and in order to complete construction of the mitigation prior to start of the light rail system that will cause the impacts to be mitigated.

### **Code Modifications Requests**

- 1) Reduction of Mitigation Buffer Width by approximately 50 percent**  
Propose to reduce the 165-foot wide wetland buffer required per SMC Table 20.80.330(A)(1) for a Category III wetland with habitat score of 6 and applicable to mitigation sites per SMC 20.80.330(C) by 49 percent to 85 feet wide based on recommendations of a qualified professional and application of the criteria for voluntary restoration projects in SMC 20.80.056 to this mitigation project.
- 2) Relaxation of Restriction for Trails to only Outer 25 Percent of Buffer Width**  
Propose to modify provisions SMC 20.80.280(D)(3)(d) and 20.80.330(G)(2)(a) to allow improved recreational trails of up to five feet wide, surfaced with gravel or boardwalk, to be located within required stream and wetland buffers, but no closer than 25 feet to wetlands or 60 feet to open channel streams.

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- 3) **Increase Spacing between Permanent Field Markings to > 50 feet apart**  
Propose to modify the provision in SMC 20.80.110(A) to increase the spacing between permanent field marking signs to greater than 50 feet apart as recommended by a qualified professional.

### III. STAFF ANALYSIS:

#### a. **Reduction of Mitigation Buffer Width by 50 percent**

If the criteria for voluntary restoration projects in SMC 20.80.056 is applied to this required mitigation project, which is voluntarily proposed to be located within an existing City park to keep it within the affected subbasin, the project does meet the criteria for up to a 50 percent buffer reduction. Application of the standard buffer width would significantly limit the use of the property for existing or permitted uses, thus making the restoration project infeasible. The US Army Corps of Engineers, WA Department of Fish and Wildlife, and WA Department of Ecology representatives have agreed that the proposed buffer would be adequate to meet federal and state requirements that apply to this proposed Sound Transit wetland mitigation project. The Shoreline Parks, Recreation, and Cultural Services Department has agreed that the remaining area open to public access north of the restoration area is reasonable to maintain existing public passive recreation access in the park.

There will be a net environmental benefit from the mitigation project with the reduced buffer, because the alternative is a limited restoration project adjacent to the impacts coupled with fee-in-lieu payment for mitigation outside of Shoreline and outside of the affected watershed. The total wetland area, as well as the quality of functions and values to be reestablished at Ronald Bog, will be the same or greater than the total area of wetlands impacted by the LLE light rail project. Granting the proposed relief is consistent with the objectives of the critical area mitigation project and consistent with purposes of the City's critical area regulations for no net loss.

- **SMC 20.40.438 (C) Modification Criteria Demonstration**

The proposed modifications result in greater public benefit than strict application of the critical area standards in the form of relocated and improved public access, as well as higher quality wetland mitigation in the affected subbasin.

#### b. **Remove Restriction of Trails to Outer 25 percent of Buffer Width**

Currently, there is a network of informal use trails crisscrossing the wetland and stream buffers in the eastern portion of Ronald Bog Park. These trails are somewhat overgrown in the summer resulting in cover for undesirable activities. In the wet season, they are soggy and not pleasant to use. The extent of these informal trails interrupts the buffer areas, making them less functional in protecting the critical areas they surround. Formalization of trails, and overall reduction in length of trails, would increase public safety, significantly reduce the total length of trails within these buffer areas, improve the quality of the public use experience overall, and result in better buffer quality and functions.

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The proposed trail improvements would replace the existing three foot gravel loop path through the arboretum at the northeast corner of the park and would create a trail through current lawn area to the existing shelter and relocated sculpture. None of the informal trails in the eastern portion of the park would be formalized. This layout ensures no net loss of wetland and stream habitat functions and values consistent with the purposes of SMC Chapter 20.80 Critical Areas. Both the trail layout and the associated restoration work must be designed by qualified wetland and stream professionals to ensure that best available science is applied.

- **SMC 20.40.438 (C) Modification Criteria Demonstration**

The proposed modifications would result in greater public benefit than strict application of the critical area standards, in the form of replacement of substandard informal public access with formal public access within critical area buffers in the park, with no net loss and potential net gain to wetland and stream buffer function and protection of the critical areas. Formalized trails result in better overall wetland protection when located within required buffer areas.

The City cannot legally agree to a mitigation project that would eliminate all recreational use within the park due to the Forward Thrust covenant that applies to this property.

- c. **Increase Spacing between Permanent Field Markings to Greater than 50 feet apart**

Application of this standard which specifies placement of permanent field markings (signs) at least every 50 feet for critical area easements in Ronald Bog Park would result in installation of approximately fifteen critical area signs in the park. Permanent signage placed so it is visible, but not excessive, would serve to inform visitors of the presence of a protected critical area. Targeted placement of permanent signage, as recommended by a qualified professional, would result in spacing greater than 50 feet apart and would ensure that permanent markings are in areas viewed by most users of the park and adjacent private property owners.

- **SMC 20.40.438 (C) Modification Criteria Demonstration**

The proposed modifications result in greater public benefit than strict application of the critical area standards by minimizing visual clutter while still adequately providing the required information to the public. No recommendation on spacing has been provided yet by a qualified professional.

#### IV. RECOMMENDATION:

Staff recommends conditional concurrence with all the critical area requirement modifications proposed for the LLE wetland mitigation project and public access enhancement project in Ronald Bog Park. The proposed modifications will be consistent with the purpose of the City's adopted critical area regulations (SMC 20.80.010) and will be designed to ensure no net loss of critical area functions and values. Additionally, re-establishment and enhancement of wetland areas at Ronald Bog Park would, by



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design, increase the floodplain capacity and reduce the risk of flooding of adjacent private properties and public rights-of-way.

The alternative of a mitigation project that is immediately adjacent to the impacts would not meet the required size or quality for compensatory wetland and buffer areas. It would also require an additional out-of-basin, fee-in-lieu mitigation. Overall this option would result in a net loss of wetland area and function within the impacted subbasin. The proposed code modifications allow for a project that results in at least no net loss of wetland areas and functions. Additionally the project would potentially result in a net gain in wetland functions to the subbasin. Relocating existing public areas within the park would more effectively meet the Forward Thrust covenant requirement to preserve existing public uses of the park for equal or greater public benefit than strict application of the adopted standards.

The proposed relocation of "The Kiss" sculpture to a location outside the wetland mitigation and buffer areas, but within the existing lawn area of the park and no closer to the wetland is consistent with SMC 20.80.040(C)(1) and does not require a code modification.

Additional information would need to be submitted by Sound Transit with the Special Use Permit application to demonstrate that SMC 20.40.438(D) is met and the project is consistent with SMC 20.80; however, it is expected these requirements can be met.

### V. CONCURRENCE DECISION:

Sound Transit will formalize the proposed modification by submitting a request for modification of the City of Shoreline Municipal Code, General Development Standards (SMC Title 20) as part of the required Special Use Permit (SUP) application.

An updated critical area report addressing the following will also be submitted with the SUP application:

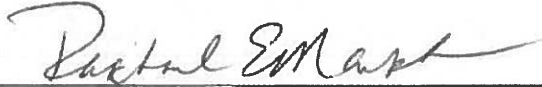
1. Articulate how the criteria under SMC 20.80.056(B)(2) are met by the proposed mitigation project; and
2. Provide a recommendation for spacing of permanent field marking as required by SMC 20.80.110(A) with a clear articulation of how the decision criteria under SMC 20.40.438(C) would be met if the spacing recommendation is greater than 50 feet.
3. Clearly articulate if the buffer functions would be the same or greater than existing if the proposed trail formalization is constructed as shown on the proposed plans.

The proposed modifications of SMC Chapter 20.80 provisions to:

- Reduce the required buffer width for the wetland mitigation site by approximately 50 percent; and
- Relax the limitation of passive recreation trails to the outer 25 percent of wetland and stream buffer widths; and
- Increase the spacing for permanent markings to greater than 50 feet apart, as recommended by a qualified professional;

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are generally consistent with the decision criteria in SMC 20.40.438(D), allowing for modifications of the development code for the light rail transit system and its facilities. With submittal of recommendations from a qualified professional clearly addressing the proposed modifications and design specifics, staff can support these modifications in the SUP staff report to the Hearing Examiner or through an alternate CASUP application process.



\_\_\_\_\_  
PCD Director's Signature

\_\_\_\_\_  
Date

1-22-18

Juniper Nammi, ST Project Manager  
Prepared by

1/5/2018  
Date



