Ordinance No. 123934

Council Bill No. 117508

AN ORDINANCE relating to recreational trail agreements with King County; authorizing the Director of Seattle Public Utilities to grant King County permission to develop and operate recreational trails on portions of utility property in the Tolt Right of Way, the Lake Youngs Reservoir area, the West Seattle Right of Way, the Snoqualmie Valley/Rattlesnake Lake area, and the Cedar River Pipeline Drain Right of Way; in partial consideration for which the County will grant the City permission to use King County property in the vicinity of Rattlesnake Lake for recreational trails and an access road; and authorizing the Director to execute the agreements for these property uses.

Related Legislation File: _____

Date Introduced and Referred: 7.2.12	To: (committee): Libraries, Utilities + Conservation
Date Re-referred:	To: (committee):
Date Re-referred:	To: (committee):
Date of Final Action: 7.23.12	Date Presented to Mayor: 7.24.12
Date Signed by Mayor: 7/30/12	Date Returned to City Clerk: 8/1/12
Published by Title Only ✓ Published in Full Text _____	Date Vetoed by Mayor:
Date Veto Published:	Date Passed Over Veto:
Date Veto Sustained:	Date Returned Without Signature:

Law Department

The City of Seattle – Legislative Department

Council Bill/Ordinance sponsored by: _____

Committee Action:

Date	Recommendation	Vote
7/17/2012	Do Pass	JG, SB, RC

This file is complete and ready for presentation to Full Council. _____

Full Council Action:

Date	Decision	Vote
7.23.12	Passed	8-0 excused: SC

Keith Kurko
SPU Trails Agreement ORD
March 12, 2012
Version #2

CITY OF SEATTLE

ORDINANCE 123934

COUNCIL BILL 117508

AN ORDINANCE relating to a recreational trails agreement with King County; authorizing the Director of Seattle Public Utilities to grant King County permission to develop and operate recreational trails on portions of utility property in the Tolt Right of Way, the Lake Youngs Reservoir area, the West Seattle Right of Way, the Snoqualmie Valley/Rattlesnake Lake area, and the Cedar River Pipeline Drain Right of Way; in partial consideration for which the County will grant the City permission to use King County property in the vicinity of Rattlesnake Lake for recreational trails and an access road; and authorizing the Director to execute the agreement for these property uses.

WHEREAS, the City of Seattle, acting by and through its Seattle Public Utilities Department, owns in fee real property located in King County and commonly referred to as the Tolt Pipeline Right of Way, the Lake Youngs Reservoir Perimeter, the West Seattle Right of Way at Duwamish Waterway, the Snoqualmie Valley/Rattlesnake Lake Connector Trail, and the Cedar River Pipeline Drain Right of Way (collectively known as "the Property"); and

WHEREAS, in December 1973, King County and Seattle entered into a 25-five year agreement in which the City granted King County non-exclusive permission to use a portion of the Tolt Pipeline Right of Way for recreational trail purposes, which agreement expired in June 1998; and

WHEREAS, in March 1988, King County and Seattle entered into a 15-year agreement in which Seattle granted King County non-exclusive permission to use portions of the Lake Youngs Reservoir Perimeter for recreational trail use, which agreement expired in February 2003; and

WHEREAS, King County desires to continue its use of portions of the Tolt Pipeline Right of Way and the Lake Youngs Reservoir Perimeter, and also desires to develop additional trails on portions of the West Seattle Right of Way at the Duwamish Waterway, the Snoqualmie Valley/Rattlesnake Lake Connector Trail, and the Cedar River Pipeline Drain Right of Way; and

WHEREAS, while the primary purpose of the Property is for the transmission and distribution facilities of a public water supply system, certain recreational uses are compatible and provide maintenance benefits; and

SPS CITY CLERK

WHEREAS, Seattle is willing to grant King County permission to use portions of the Property for limited recreational trail purposes, subject to certain conditions and provided that such use does not unreasonably interfere with SPU's use of the Property for its water supply system or other necessary utility purposes; and

WHEREAS, in consideration for use of the Property, King County will pay SPU an annual maintenance fee, and will, in turn, grant Seattle permission to use certain County-owned property located at the north end of Rattlesnake Lake in the Cedar River Watershed for a recreational trail and access road serving the Cedar River Watershed Educational Center; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The Director of Seattle Public Utilities or his designee is authorized to execute, for and on behalf of the City, a 20-year agreement with King County substantially in the form of the King County and Seattle Public Utilities Trails Agreement attached hereto as Attachment 1 (Trails Agreement), granting King County permission to non-exclusive use of utility-owned property more particularly described in Attachment 1 for the development and operation of recreational trails. The Director is further authorized to extend the agreement for up to an additional 20 years with such amendments or deletions as the Director deems are in the best interest of Seattle Public Utilities.

Section 2. In partial consideration of the rights granted to King County under the Trails Agreement, the Director of Seattle Public Utilities is authorized to execute, for and on behalf of the City, an agreement substantially in the form of the Rattlesnake Lake Agreement attached hereto as Exhibit G to the Trails Agreement and granting the City permission to non-exclusive use of County-owned property described in Exhibit G for a Seattle Public Utilities trail and access road to the Cedar River Watershed Education Complex.

2012 CITY CLERK

Section 3. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the 23rd day of July, 2012, and signed by me in open session in authentication of its passage this 23rd day of July, 2012.

Sally Bagshaw
President pro tem of the City Council

Approved by me this 30th day of July, 2012.

Michael McGinn, Mayor

Filed by me this 1st day of August, 2012.

Monica Martinez Simmons, City Clerk

(Seal)

Attachment 1 – King County and Seattle Public Utilities Trails Agreement

SMS CITY CLERK

Attachment 1

KING COUNTY AND SEATTLE TRAILS AGREEMENT

This King County and Seattle Trails Agreement ("**Agreement**") is entered into by and between the CITY OF SEATTLE (the "**City**"), a municipal corporation of the State of Washington, acting by and through its Seattle Public Utilities department ("**SPU**"), and KING COUNTY, a political subdivision of the State of Washington ("**King County**"). SPU and King County are sometimes referred to in this Agreement collectively as the "**Parties**" and individually as a "**Party.**"

RECITALS

WHEREAS, the City of Seattle, acting by and through its Seattle Public Utilities Department, owns in fee real property located in King County and commonly referred to as the Tolt Pipeline Right of Way; the Lake Youngs Reservoir Perimeter; the West Seattle Right of Way at Duwamish Waterway; the Snoqualmie Valley/Rattlesnake Lake Connector Trail; and the Cedar River Pipeline Drain Right of Way ("the Property").

WHEREAS, the primary purpose of the Property is for the transmission and distribution of a public water supply; and

WHEREAS, King County desires SPU's permission to use portions of the Property for the construction, operation, and maintenance of public recreational trails; and

WHEREAS, SPU is willing to grant King County permission to use portions of the Property for limited recreational trail purposes, subject to certain conditions and provided that such use does not unreasonably interfere with SPU's use of the Property for its water supply system or other necessary utility purposes;

NOW, THEREFORE, for and in consideration of the mutual promises and covenants set forth herein, the sufficiency of which is hereby acknowledged by both Parties, the Parties agree as follows:

1. Permitted Use.

1.1 Grant. The City hereby grants to King County permission to use the following real property:

A. Portions of the City of Seattle's fee owned property commonly referred to as the Tolt Pipeline Right of Way described and depicted on Exhibit A;

B. Portions of the City of Seattle's fee owned Lake Youngs Reservoir Perimeter described and depicted on Exhibit B;

SEA CITY CLERK

C. Portions of the West Seattle Right of Way at Duwamish Waterway described and depicted on Exhibit C;
D. Portions of the Snoqualmie Valley/Rattlesnake Lake Connector Trail described and depicted on Exhibit D; and
E. Portions of the Cedar River Pipeline Drain Right of Way described and depicted on Exhibit E.

The above properties are collectively referred to herein as "the Property".

1.2 Permitted Use. The City's permission is granted upon the condition that King County will use the Property solely for the construction, operation, and maintenance of Recreational Trails for use by members of the general public free of charge, and for no other purpose whatsoever. "Recreational Trail(s)" or "Trail" means unimproved or improved pathways on portions of the Property made available for use by pedestrians, bicycles, equestrians, cross-country skiers, non-motorized wheeled recreational equipment, and motorized wheelchairs or other specialized equipment that accommodates use by disabled users.

The definition of Recreational Trails shall not apply to informal trails connecting to the Property that were constructed by private entities without King County's approval. King County will not schedule any special event, such as a marathon, bike-a-thon, or any other event likely to result in increased numbers of people using any Recreational Trail without obtaining SPU's prior written permission, which may be granted or withheld in SPU's sole discretion. The permitted use does not give King County the right to issue exclusive use permits to any third party, and King County shall not issue third party permits for the use of the Property without written permission from SPU.

1.3 Non-exclusive Use. King County's right to use the Property is non-exclusive. SPU reserves the right to permit other entities or individuals to use any or all portions of the Property, including the right to permit other utilities to use any portion of the Property for the benefit of SPU or pursuant to law, orders, or requirements of any government entity with authority to make such orders. SPU agrees to make reasonable efforts to inform King County of proposed or pending uses of the Property that may significantly affect the operation of the Recreational Trails. Except in case of emergency, SPU will make reasonable efforts to notify King County about SPU's repair or maintenance activities on the Property if the activities will significantly impact Recreational Trail use for more than twenty-four hours. King County will acquire no rights or interest in or to the Property, and King County's right to use and occupy the Property is limited to the uses and conditions herein.

1.4 Use by Motorized Vehicles. The use of motorized vehicles on the Property is only allowed as necessary for the construction, maintenance, operation, inspection,

SEA CITY CLERK

rehabilitation or repair of Recreational Trail facilities, and for providing police, security, fire and emergency services.

1.5 No Interference. King County's use of the Property for Recreational Trails must not unreasonably interfere with SPU's or the City's present or future use of the Property, or any adjoining City of Seattle properties, for water, utility or any other City purpose, including the sale of any portion of the Property or the sale of any adjoining City properties. If such unreasonable interference occurs, as determined in the discretion of the Director of SPU or his or her designee, King County will reduce or eliminate the interference at King County's sole cost and expense within thirty (30) days after written notice from the Director.

1.6 Use Subject to PSE Easement. The City granted Puget Sound Energy, Inc., an easement over portions of the Property known as the Tolt Pipeline Right-of-Way. The easement agreement was recorded in King County on December 10, 2009, Recording Number 20091210000069 (the "PSE Easement"). King County's use of the Property for Recreational Trails in the PSE Easement area is subject to all limitations, terms and conditions of the PSE Easement as described in the recorded agreement, which is incorporated herein by reference.

2. Effective Date; Term; Extensions.

2.1 Effective Date. This Agreement will be effective on the date last signed by an authorized representative of each Party following authorization by Seattle City Council and Metropolitan King County Council ("Effective Date").

2.2 Term. The term of this Agreement will be twenty (20) years from the Effective Date, unless extended or terminated earlier by either Party pursuant to the terms herein.

2.3 Extensions. It is understood and agreed that at least one (1) year prior to the expiration date of the term of this Agreement and one (1) year prior to the expiration of any extended term, at its option King County may request an extension of this Agreement. If the Director or his or her designee determines that continued use by King County is in the best interest of SPU, then the Director or his or her designee may extend this Agreement for one or more terms of such duration as the Director may determine, on the same terms and conditions herein, provided that the total of all extended terms shall not exceed twenty years without further action by Seattle City Council, and the Maintenance Fee for any extended term shall be subject to renegotiation.

3. Construction of Recreational Trails.

CAS CITY CLERK

3.1 General Obligation Regarding Construction. King County will be solely responsible for completing any construction of Recreational Trails or Trail related improvements on the Property; however, King County will work closely with SPU to make sure any new construction or improvements are completed in compliance with SPU needs, preferences, internal standards and operational requirements. King County will not install pavement, new gravel, landscaping, buildings or structures of any kind in or on the Property without prior written consent from the Director of SPU, which may be conditioned in his or her discretion and will be subject to the requirements stated below. Replacing gravel on existing gravel pathways or roads as part of routine maintenance is addressed in Section 4.1.

3.2 Plan Review and Approval. King County will not request construction bids or undertake any construction or installation of any modifications or improvements upon the Property without SPU's prior written approval, which shall include SPU's approval of all plans and specifications, including landscaping elements. King County will submit plans and specifications at 30%, 90% and 100% in the design development process, and more often if King County chooses to do so. SPU will have 30 calendar days to review submitted plans and specifications and submit comments or request additional information, which King County will provide in a timely manner.

3.3 Minimum Plan Requirements. At a minimum, the plans and specifications will specifically address the management of construction impacts on site, including but not limited to stockpiling of materials, equipment storage, erosion and sediment control, disposition of dewatering and wastewater discharges, safety barriers, temporary access detours and/or closures, signing, and similar matters. The plans and specifications will also specifically address the protection of SPU pipelines and other facilities, both from construction impacts as well as any permanent weight load or other impacts deriving from any constructed Recreational Trail.

3.4 Construction. King County, its agents, and contractors, will perform all work on the Property in accordance with plans and specifications approved by SPU. King County will install barriers, signage and any other appropriate device or infrastructure necessary to prohibit the public from entering the Property at Recreational Trail areas where construction or improvements are occurring and will leave such measures in place until after SPU inspects the Trail upon completion and determines the construction conforms to the plans, specifications, and SPU preferences, needs, internal standards and operational requirements. King County will give SPU reasonable prior notice of all pre-construction and construction meetings and of the commencement of construction, so that SPU has the option of attending such meetings and inspecting the Property during construction. During construction, King County will submit any change orders that substantively address design or operational modifications to SPU for its review and approval prior to any work on such change orders proceeding. SPU will have 5 working days to either

2015 CITY CLERK

respond with comments, or if the issue requires coordination, to request additional time to review the impacts of the proposed change order. SPU will make reasonable efforts to perform timely review and coordination in order to minimize construction delays. King County and its contractors will abide by state, federal and local codes regarding work, construction, and structures in proximity to water supply systems and will request and pay for safety watch(es) when required by the codes or by SPU. King County will complete all work within the Property in a neat and efficient manner. King County will remove all debris and restore non-Recreational Trail portions of the Property affected by construction activities to their preconstruction condition, if possible, or to a reasonably similar condition. King County agrees to provide as-built plans of any Recreational Trail to SPU as soon as possible after completion of Trail work.

3.5 Public Notice. King County will be solely responsible for appropriately notifying adjacent property owners about planned construction activities and informing the public about plans to develop or open Recreational Trails. King County will be the primary point of contact for the public for all Recreational Trail related construction; however, King County will provide SPU advance notice of all public communications involving the Property and will provide SPU the opportunity to review and comment about written public notices and to participate in public meetings at SPU's discretion.

3.6 Reimbursement of SPU Construction –Related Costs. King County will complete all Recreational Trail construction and installation at its sole cost and expense. King County will reimburse SPU for all expenses associated with SPU's review, approval and inspection of proposed and constructed Recreational Trail improvements. SPU will issue invoices for its costs and expenses and King County will make payment to SPU within thirty (30) calendar days of receiving invoices.

3.7 Compliance with Law. King County will complete all construction in compliance with all applicable federal, state, and local laws and regulations. SPU will not assume responsibility for or control over the working conditions and safety practices of employees, contractors, or subcontractors hired by King County to perform any work on the Property, and nothing in this Agreement, including SPU's plan review and approval, will be construed to place a duty, express or implied, on SPU to control or be responsible for such activities of King County. King County further acknowledges and agrees that SPU's reviews and/or inspections of plans and construction of the Recreational Trails is for SPU's internal requirements and purposes only, and will not be construed as any type of certification, warranty or other approval with respect to King County's compliance with any and all applicable federal, state and local laws, ordinances and building codes.

4. Recreational Trail Operation and Maintenance.

SEATTLE CITY CLERK

4.1 Maintenance. King County will maintain all Trail improvements requested, constructed or installed by King County on the Property. Otherwise, King County and SPU will maintain the Property as set forth in this section and as outlined in the table below. SPU retains the right to perform additional or different maintenance on the Property to the extent required for utility or other purposes. With SPU's prior written approval, King County may perform different or additional grounds maintenance on the Property as it deems appropriate for the recreational nature of any Recreational Trail, provided that King County does not interfere with SPU's operations, or undermine or damage SPU's facilities. During the term of this Agreement, at the SPU Director's discretion, the Parties may agree in writing to change the maintenance responsibilities outlined in the table below. King County will be the initial point of contact for public maintenance requests and Trail-related complaints, and will provide SPU a King County contact for referral of Trail maintenance requests and Trail complaints as appropriate. When a Trail complaint or maintenance request involves an area of the Property where King County has responsibility for maintenance, King County will respond to Trail maintenance requests and complaints in a timely manner. When a Trail complaint or maintenance request involves a Right-of-Way in which SPU has responsibility for maintenance under this section, King County will refer the request or complaint to SPU in a timely manner, and will coordinate responses with SPU as necessary. All maintenance tasks in the table below shall be performed at the sole expense of the Party responsible for the task as follows:

Right of Way Area	Task Description	Responsible Agency	
		SPU	King County
Tolt Pipeline Right of Way	Mow grass	X	
	Clear brush, fallen trees	X	
	Maintain posts and bollards	X	
	Maintain 1¼ inch minus gravel*	X	
	Respond to trail complaints and maintenance requests per section 4.1 of Agreement		X
	Maintain signage per section 4.3 of Agreement		X
	Joint SPU-King County annual inspection of R-O-W used for recreational trail purposes	X	X
Lake Youngs Reservoir Perimeter	Mow grass		X
	Clear brush, fallen trees		X
	Maintain 1¼ inch minus gravel*		X
	Pick up litter		X
	Maintain signage per section 4.3 of Agreement		X
	Maintain outer perimeter fence		X
	Respond to Trail complaints and maintenance requests per section 4.1 of Agreement		X
	Maintain inner perimeter fence	X	
	Joint SPU-King County annual inspection of perimeter used for recreational Trail purposes	X	X

SEA CITY CLERK

Snoqualmie Valley/Rattlesnake Lake Connector Trail	Mow grass		X
	Clear brush, fallen trees		X
	Maintain gravel pathway		X
	Pick up litter		X
	Maintain Trail signage per section 4.3 of Agreement		X
	Respond to Trail complaints and maintenance requests per section 4.1 of Agreement		X
	Joint SPU-King County annual inspection of R-O-W used for Recreational Trail purposes	X	X
West Seattle Right of Way at Duwamish Waterway	Mow grass		X
	Pick up litter		X
	Maintain asphalt pathway		X
	Removal of invasive plants/weeds		X
	Maintain Trail signage per section 4.3 of Agreement		X
	Maintain and ensure safety of pedestrian bridge		X
	Respond to Trail complaints and maintenance requests per section 4.1 of Agreement		X
	Joint SPU-King County annual inspection of R-O-W used for Recreational Trail purpose	X	X
Cedar River Pipeline Drain Right of Way**	Mow grass	X	
	Clear brush, fallen trees	X	
	Pick up litter	X	
	Maintain Trail signage per section 4.3 of Agreement		X
	Respond to Trail complaints and maintenance requests per section 4.1 of Agreement		X
	Joint SPU-King County annual inspection of R-O-W used for Recreational Trail purposes	X	X

* If King County requests the use of smaller gravel in any location, SPU will determine on a case-by-case basis whether the use of smaller gravel will be permitted and whether the gravel will be installed and maintained by King County or by SPU at King County's expense.

**King County's maintenance responsibilities in this area will not begin until this property becomes a King County Trail. This property will be considered a Trail when King County Parks opens the corridor to public access. King County will notify SPU 30 days in advance of opening the Trail to the public.

4.2 Surface Water Management. King County will take all steps necessary to minimize erosion from surface water resulting from Recreational Trail use of the Property. If in the reasonable opinion of the Director of SPU, such erosion affects the earth cover within the Property and appurtenant facilities, the Director may close the affected areas of the Recreational Trail until, in the reasonable opinion of the Director of SPU, the cause and effect of the erosion have been remedied by King County. This section shall not apply to informal trails connecting to the Property that were constructed by private entities without King County's approval.

SMC CITY CLERK

4.3 Signage. King County will install Trail signage at the Property as follows:

A. Prior to posting signage on or adjacent to the Property, King County will obtain SPU's prior written approval of the sign design, content and location, which approval may be withheld or conditioned in SPU's sole discretion. Some signage will include Trail use rules. Signage may be substantially similar to the examples attached hereto as Exhibit F.

B. Following the initial approval process, King County may routinely repair or replace Trail signage so long as the appearance, content or locations of the signs does not change.

C. Trail signage installed at Trail access locations will contain a working King County telephone contact number to report Trail questions, complaints and maintenance issues. If the contact number changes, King County will replace signage with the new contact telephone number within 30 days of the change of contact.

D. If requested by SPU, King County will install SPU-approved signage during Trail closures.

E. King County will pay for, supply, and install any additional signs SPU deems necessary to adequately identify Trail areas or to warn Recreational Trail users away from utility facilities.

F. At its sole cost and expense, King County will maintain all signs in reasonably good condition and at a minimum will ensure that the signs are accurate and legible.

G. King County will install SPU-approved signage prior to opening any portion of the Property for Recreational Trail use.

4.4 Access. SPU will at all times have free access to the Property. This access will include but not be limited to access for the installation, operation, maintenance and repair of SPU's facilities, and for the patrolling of the Property or for any other purpose. King County shall obtain SPU's written permission prior to installing such items as barriers, gates or bollards, and King County will provide SPU the ability to have its own padlock or other locking devices on such structures. King County shall use its own clearly labeled locks to access the property, and shall provide SPU with keys to such devices.

4.5 Temporary Trail Closures. King County understands that SPU's operation, repair, maintenance, inspection, and construction of its water supply system facilities, as

2015 CITY CLERK

well as field training, acts of nature, and other activities, may, on occasion, require the temporary closure of Recreational Trail areas. SPU agrees to minimize the length of time of any closure and to provide as much notice as possible to King County of impending closures, except in case of closures necessitated by an emergency in which case SPU will notify King County as soon as reasonably possible under the circumstances. SPU will install gates, barriers, or other signage in the case of SPU required temporary closures. King County will obtain SPU approval for temporary Trail closures the County deems necessary for maintenance or other purposes. King County will be responsible for installing its own closure devices in the case of King County required Trail closures.

4.6 Damage to Trails, Facilities, or the Property. SPU will continue to use the Property for utility purposes, including use by heavy trucks and machinery for utility construction, installation, operation, and maintenance. SPU will not be held liable for any claims or damage to Recreational Trail improvements, appurtenances, or landscaping constructed or placed in, under, across, or upon the Property. In the event of SPU damage to Trail improvements, SPU will backfill any trenches or excavations, but will not repair damaged improvements. SPU will notify King County if SPU damages Trail improvements. This paragraph does not limit King County's ability to seek damages from other users of the Property, including SPU's licensees or permittees. King County will promptly notify SPU if the County discovers any damage to the Property or utility facilities. If damage to the Property occurs as a result of Recreational Trail use, King County will pay to repair or restore the Property or facilities to a good condition. SPU will determine in its discretion whether SPU will perform the repairs or restoration or whether it will require King County to do so, subject to SPU pre-approval of such repairs or restoration, and the schedule for such activities.

4.7 Construction or Repair of Utility System Facilities. SPU will notify King County if there are plans to construct new utility system facilities on portions of the Property in use as Recreational Trails, and will make a good faith effort to design facilities that accommodate existing Recreational Trails without relocation; provided that SPU will not be required to compromise cost effectiveness, reliability, capacity, safety, other utility system requirements or any other requirements deemed necessary for its projected needs. King County will reimburse SPU for costs and expenses SPU incurs as a result of accommodating an existing or contemplated Recreational Trail. These costs and expenses may include, but are not limited to, increased costs for design, construction, maintenance and operation incurred in order to accommodate a Trail or a Trail-related mitigation.

4.8 Joint SPU – King County Meeting and Emergency Contacts. King County and SPU shall meet annually to discuss Trail operations, any planned Trail improvements, and maintenance. King County and SPU will provide each other with current

DNS CITY CLERK

emergency contact information, including a phone number for after-hours emergencies.

5. Reimbursement.

5.1 Maintenance Fee. King County will pay SPU an annual fee of $20,000 (the "Maintenance Fee"). In 2012, the Maintenance Fee will be prorated based on the Effective Date of this agreement and will be remitted to SPU within 30 days of that Effective Date. The Maintenance Fee will be annually adjusted for inflation starting in 2013 based on the "Consumer Price Index for All Urban Consumers (CPI-U)" published by the Bureau of Labor Statistics of the U.S. Department of Labor. If this index is discontinued or becomes unavailable, a comparable index will be chosen by SPU and King County. For the purpose of calculating future Maintenance Fees starting in 2013, the $20,000 Maintenance Fee specified in this agreement is linked to a baseline reference date of January 1, 2012. The 2013 Maintenance Fee will be adjusted based on the change in the CPI-U for all of 2012. The Cedar River Pipeline Drain Right of Way is currently not part of King County's regional trails system. When the Cedar River Pipeline Drain Right of Way property is formally opened for use as a King County regional Trail, the annual Maintenance Fee for the entire agreement will be adjusted upward to a base rate of $22,000 in 2012 dollars, plus any prior CPI-U adjustments.

5.2 Additional Costs. King County will reimburse SPU for any maintenance that is not specified in Section 4.1 and that SPU incurs as a result of Recreational Trail use of the Property, including but not limited to additional security costs or non-routine maintenance and repair. Additionally, if SPU determines that Recreational Trail use of the Property requires additional routine services not included in Section 4.1 or results in unanticipated increases to SPU's maintenance costs, King County and SPU agree to either (a) re-negotiate the Maintenance Fee to address the increased costs or (b) make reasonable modifications to the Recreational Trail use in order to eliminate the increased costs.

5.3 Time and Method of Payments Starting in 2013. Starting in 2013, SPU will issue King County an invoice for the annual Maintenance Fee by March 1st of each calendar year during the term. In 2013 and for subsequent years, King County's annual payment to SPU shall be due within thirty (30) calendar days of the date of invoice. SPU will also invoice King County by March 1st for any additional costs and expenses described in this Agreement (for example, under Section 4.6 or Section 5.2). King County will pay SPU for any additional costs or expenses within thirty (30) calendar days of the date of invoice.

5.4 Additional Consideration. In addition to the Maintenance Fee under Section 5.1, King County will grant the City use rights of County owned property in the Cedar

SEA CITY CLERK

River Watershed and located at the north end of Rattlesnake Lake by an agreement substantially in the form of the Rattlesnake Lake Agreement attached as Exhibit G.

6. Relocation, Removal, or Termination of a Trail.

If SPU determines that any Recreational Trail or portion of a Recreational Trail must be removed and relocated from the Property or terminated, SPU will send written notice to King County. After receipt of written notice from SPU, King County will immediately notify the public of the impending Trail relocation or closure. Unless otherwise provided in SPU's notice, King County will have 180 calendar days to relocate or close the affected portion of the Property for public use. King County will coordinate with SPU about appropriate closure activities, which may include placement of fences or barricades, installation of Trail signage regarding closure and detour, removal of Trail improvements, or other actions. King County will pay all costs and expenses associated with the relocation, termination, or removal of the Trail from any portion of the Property. If King County fails to take steps to close the Trail within 180 calendar days of receipt of SPU's notice (or by the time specified in the notice), SPU may take any reasonably necessary steps to close, remove, relocate or terminate any Recreational Trail at the expense of King County.

7. Early Termination of Agreement.

In addition to termination for default under Section 9, either Party may terminate this Agreement under the following circumstances.

7.1 King County Termination Right. King County may terminate this Agreement upon six (6) months written notice to SPU. Upon such notification, King County will immediately take steps to advise the public of the impending closure of the Recreational Trails.

7.2 City Termination Right. Upon written notice to King County, the Director of SPU may terminate this Agreement for utility requirements, which may include but not be limited to a change, modification, or expansion of utility system facilities, operations, or maintenance procedures, a regulatory requirement, a future need by the City of Seattle for the use of the Property or a portion thereof, an increased risk to public safety or potential liability to the City of Seattle and/or SPU. In the event of termination, SPU will provide King County with advance notice that is reasonable under the circumstances.

8. Default.

"Default" means the failure of either Party to perform any obligation or to comply with any term under this Agreement, and to fail to cure such non-performance or failure to comply within thirty (30) days after written notice from the other Party. However, a Party will not

SMC CITY CLERK

be in Default if the failure to perform or comply is such that it cannot reasonably be cured within thirty (30) days and the Party commences a cure within thirty (30) days after notice and diligently pursues the cure to completion. If either SPU or King County disagree regarding whether non-performance or non-compliance has occurred, or if the Parties cannot agree on a cure or a reasonable time frame for implementing the cure, prior to terminating this Agreement, the disagreement will first be referred to the Director of SPU and the Director of King County Department of Natural Resources and Parks (KCDNRP) for a negotiated resolution. If the SPU Director and KCDNRP Director cannot reach resolution, the Party claiming the other Party is in Default may choose to terminate the Agreement and pursue any remedies allowable at law or equity. Additionally, upon termination of this Agreement, King County will restore the Property as required under Section 9; otherwise, SPU will be entitled to perform any work required to remove and close Recreational Trails, and SPU's costs will be paid by King County within thirty (30) days of receipt of an invoice from SPU. SPU's failure to exercise such right at any time will not waive its right to terminate for any future breach or default or to exercise any available self-help remedy.

9. Restoration of Property upon Termination or Expiration.

Upon the termination or expiration of this Agreement or termination of the use of any portion of the Property for Recreational Trail purposes, King County will remove all Recreational Trail related improvements, including but not limited to signs, structures, paving and King County property in the portion terminated, unless otherwise directed by SPU. SPU and the County will coordinate such activities beginning six months prior to the expiration of this Agreement, or beginning upon receipt of notice of termination. King County will pay all costs and expenses associated with the termination of the Recreational Trail use and the removal of any improvements from any portion of the Property. If King County fails to perform these obligations within 180 days of the termination or expiration of the Agreement, SPU may perform them, and King County will reimburse SPU's actual costs incurred in performing these obligations within 30 days of receipt of invoice(s) from SPU. King County's obligation to reimburse SPU will survive the termination of this Agreement.

10. Compliance with Law.

At all times, King County's use and operation of the Property will comply with all applicable federal, state, and local laws, ordinances, codes, rules and regulations, including but not limited to laws prohibiting discrimination and Health and Safety Laws and Environmental Laws.

As used in this Agreement, "Health and Safety Law" means any applicable requirement of the Hazardous Waste Operations and Emergency Response (HAZWOPER) Program, codified at WAC 296-62-300 et seq., and any other applicable requirements under

SEA CITY CLERK

federal, state and local environment, health and safety laws, and regulations or ordinances.

"Environmental Laws" means any and all federal, state, or local statutes, codes, regulations, orders, and requirements issued thereunder, and common-law causes of action, whether federal, state or local, that apply to any toxic material or hazardous substance, pollutant, waste material, health and safety of persons or protection of the environment, including any amendments or supplements to such laws or regulations, including, but not limited to: the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., the Toxic Substances Control Act, 15 U.S.C. §2601 et seq., the Federal Water Pollution Control Act, 49 U.S.C. § 1801 et seq., the Safe Drinking Water Act, 42 U.S.C. § 300f et seq., the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA") 42 U.S.C. § 9601 et seq., the Washington Model Toxics Control Act (MTCA), RCW Ch. 70.105D, the Washington Hazardous Waste Management Act, RCW Ch. 70.105, the Washington Shoreline Management Act, RCW Ch. 90.58, and all local environmental codes and regulations including without limitation, stormwater, drainage and wastewater, and sewer regulations and requirements.

11. Prohibited Substances.

11.1 No Prohibited Substances without SPU Approval. King County understands and agrees that any hazardous, dangerous or toxic material, waste or substance, or other pollutant or contaminant, regulated under federal, state or local law, or any substance prohibited by SPU from discharge into a public drainage control system or into a public sewer system, drain, ditch or natural watercourse according to federal, state and local laws, as hereafter amended or supplemented ("**Prohibited Substances**"), are not allowed in or around the Property or any other City facilities without the express written permission of SPU. Petroleum products routinely used to operate motorized vehicles used by King County in or around the Property will not be in violation of this Section so long as the use is consistent with Section 1.4 and King County takes reasonable precautions to prevent leaking and spills.

11.2 Prior Approval. Prior approval may be obtained for bringing Prohibited Substances onto the Property for use during construction through the construction approval process. Prior approval may also be obtained for the use of petroleum products for emergency generation of electrical power during periods of outage. King County will obtain SPU's approval prior to initiating any other process requiring the use, handling or storage of Prohibited Substances on the Property or adjacent to any other City facilities. SPU may consider approving the specific use or activity, but only after King County demonstrates to the satisfaction of SPU that King County has all necessary permits, if any, for operation and a Prohibited Substances emergency response plan. King County will be solely responsible for the use, handling and storage of any Prohibited Substance in compliance with all applicable law, and SPU's approval of such use, handling or storage will not be construed as

SEA CITY CLERK

limiting King County's liability for a release of a Prohibited Substance, or as creating liability on the part of the City of Seattle.

11.3. Environmental Audits. King County agrees to cooperate in any environmental audits, conducted by SPU's staff or independent third parties, specifically related to King County's use or storage of Prohibited Substances. King County agrees to reimburse SPU for the cost of such audits. King County agrees to provide SPU with notice of every governmental inspection of the Property or any other affected City facilities, notice of violation, and order to clean up contamination, within five (5) days after receipt thereof by King County. King County agrees to permit SPU to participate in all settlement or abatement discussions. In the event King County fails to take remedial measures, as required by any final administrative or judicial order, decrees, or other legal instrument signed by a state, federal, or local regulatory agency within the time specified by such order, decree or instrument, SPU may elect to perform such work, and King County covenants and agrees to reimburse SPU for all costs associated with SPU's work.

12. Release, Indemnification, and Hold Harmless.

12.1 Release and Indemnification. King County releases and will defend, indemnify and hold harmless the City of Seattle, its directors, officers, elected officials, employees, agents and assigns (collectively referred to as the "**Indemnitees**") from and against any and all Claims arising out of or in connection with King County's occupancy, use or improvement of the Property, or that of any of its employees, agents, contractors, licensees, officers, guests, or invitees, or the use of the Property by the general public, including but not limited to Claims arising from King County's breach of its obligations hereunder, any act or omission of King County or its agents, contractors, licensees, or invitees, and any Environmental Liability, unless caused by the sole negligence or intentional acts of the Indemnitees. "Claims" includes claims, losses, costs, liabilities, demands, actions, damages and expenses (including, but not limited to reasonable attorney's fees). "Environmental Liability" means any and all liabilities, claims, lawsuits, costs, liens, obligations, expenses, attorney fees, fines, penalties, damages, consequential damages, and losses, arising from the release of a Hazardous Substance or any non-compliance with Environmental Laws. An Environmental Liability may be based upon an Environmental Law, any cause of action, criminal or civil statute, permit requirements, court or administrative order. "Hazardous Substance" means any material that is regulated or restricted by an Environmental Law, including but not limited to, CERCLA and MTCA.

12.2 Waiver of Immunity under Title 51. King County agrees that the foregoing indemnity specifically covers actions brought by its own employees and that this indemnity shall survive termination or expiration of this Agreement. The foregoing indemnity is specifically and expressly intended to constitute a waiver of King

SEA CITY CLERK

County's immunity under Washington's Industrial Insurance Act, RCW Title 51, to the extent necessary to provide SPU with a full and complete indemnity from claims made by King County and its employees. King County shall promptly notify SPU of casualties or accidents occurring in or about the Property.

12.3 Application of RCW 4.24.115. To the fullest extent permitted by applicable law, the foregoing release, indemnity and hold harmless shall apply to and for the benefit of the Indemnitees. If it is determined that RCW 4.24.115 applies to this Agreement, King County agrees to defend, indemnify and hold harmless the Indemnitees to the maximum extent permitted thereunder, and specifically for King County's negligence concurrent with that of the Indemnitees to the full extent of King County's negligence.

12.4 Recreational Use. SPU is permitting the use of the Property conditioned, in part, upon King County's agreement to make the Recreational Trails available to the public at no cost. To the extent that the Recreational Land Use Statute, RCW 4.24.200-.210, or other applicable law provides immunity to the City and King County, the Parties do not intend the indemnity in this Section 12 to act as a waiver of such immunity.

12.5 A hold harmless provision to protect the City, similar to this Section 12, shall be included in all contracts or other agreements entered into by King County in connection with the permitted uses under this Agreement or with King County's execution of its duties and obligations under this Agreement.

12.6 The City or SPU shall give King County timely written notice of the making of any claim or of the commencement of any such action, suit or other proceeding covered by the indemnity in this section. In the event any such claim arises, the City or SPU may tender the defense thereof to King County and thereupon King County shall have the duty to defend, settle or compromise the claim, and the City shall cooperate fully therein.

12.7 The indemnification obligations under this Section shall survive the termination or expiration of this Agreement.

THE INDEMNIFICATION PROVISIONS OF THIS SECTION 12 WERE SPECIFICALLY NEGOTIATED AND AGREED UPON BY THE PARTIES.

13. Invalidity.

Any provision of this Trail Agreement which shall prove to be invalid, void or illegal shall in no way affect, impair, or invalidate any other provision hereof and the remaining provisions hereof shall nevertheless remain in full force and effect.

SEA CITY CLERK

14. Nonwaiver.

The failure of Seattle Public Utilities to insist upon or enforce strict performance by King County of any of the provisions of this Agreement or to exercise any rights under this Agreement shall not be construed as a waiver or relinquishment to any extent of its right to assert or rely upon any such provisions or rights in that or any other instance; rather, the same shall be and remain in full force and effect.

15. Assignment, Successors and Assigns.

This Agreement is personal to the Parties. As a result, King County will not assign, transfer, or otherwise dispose of any of the privileges granted under this Agreement without the prior written consent of SPU.

16. Applicable Law; Venue.

This Agreement shall in all respects be interpreted, construed and enforced in accordance with the laws of the State of Washington and the sole venue for any action arising out of this Agreement shall be the Superior Court of King County, King County, Washington.

17. Notices.

All notices hereunder must be in writing and shall be deemed validly given if sent by United States mail, by personal delivery, or by overnight delivery by a nationally recognized carrier, addressed as follows (or to any other address that the party to be notified may have designated to the sender by like notice):

If to SPU:
Seattle Public Utilities
Attention: Division Director
Facilities and Real Property Services
700 Fifth Avenue, Floor 50
Seattle, WA 98104-5004

If to King County:
Kevin R. Brown
Division Director
King County Parks and Recreation Division
201 South Jackson St., Suite 700
Seattle, WA 98104

18. Headings.

The titles of sections are for convenience only and do not define or limit the contents.

SEATTLE CITY CLERK

19. Entire Agreement; Exhibits.

This Agreement, including the exhibits, sets forth the entire agreement of the Parties, and supersedes any and all prior agreements, with respect to the Property and/or the Trail Areas. The following exhibits are made a part of this Agreement:

A. Tolt Pipeline Right of Way
B. Lake Youngs Reservoir Perimeter
C. West Seattle Right of Way at Duwamish Waterway
D. Snoqualmie Valley/Rattlesnake Lake Connector Trail
E. Cedar River Pipeline Drain Right of Way
(All above collectively, "the Property")

F. Routine Trail Signage Depiction
G. Rattlesnake Lake Agreement

20. Relationship of Parties.

Nothing contained herein shall be construed as to make the parties hereto partners, associates, joint venturers, or participants in any legal relationship other than that of lessor and lessee. Neither party hereto shall have the power to contract or incur any obligation or liability in the name of the other party.

SEA CITY CLERK

IN WITNESS WHEREOF, the City of Seattle has caused this agreement to be executed by its Director of Seattle Public Utilities pursuant to City of Seattle Ordinance _____ this _____ day of _____, 2012.

THE CITY OF SEATTLE

By _____
Ray Hoffman, Director, Seattle Public Utilities

STATE OF WASHINGTON)
) ss.
KING COUNTY)

I certify that I know or have satisfactory evidence that Ray Hoffman signed this instrument, on oath stated that he is authorized to execute the instrument and acknowledged it as the DIRECTOR OF SEATTLE PUBLIC UTILITIES to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

_____
Name (printed) _____
Notary Public in and for the State of Washington,
residing at _____
My appointment expires _____

2015 CITY CLERK

This Agreement is hereby accepted for and on behalf of KING COUNTY, a political subdivision of the State of Washington, which by such acceptance agrees to assume and be bound by all of the terms and conditions herein contained.

KING COUNTY, a political subdivision of the State of Washington

By _____

Title _____

Date _____

STATE OF WASHINGTON)
) ss.
KING COUNTY)

I certify that I know that _____ signed this instrument, on oath stated that ___ was authorized by the _____ of KING COUNTY to execute the instrument, and acknowledged it as the _____ of King County, Washington, to be the free and voluntary act of such county for the uses and purposes mentioned in the instrument.

Dated: _____

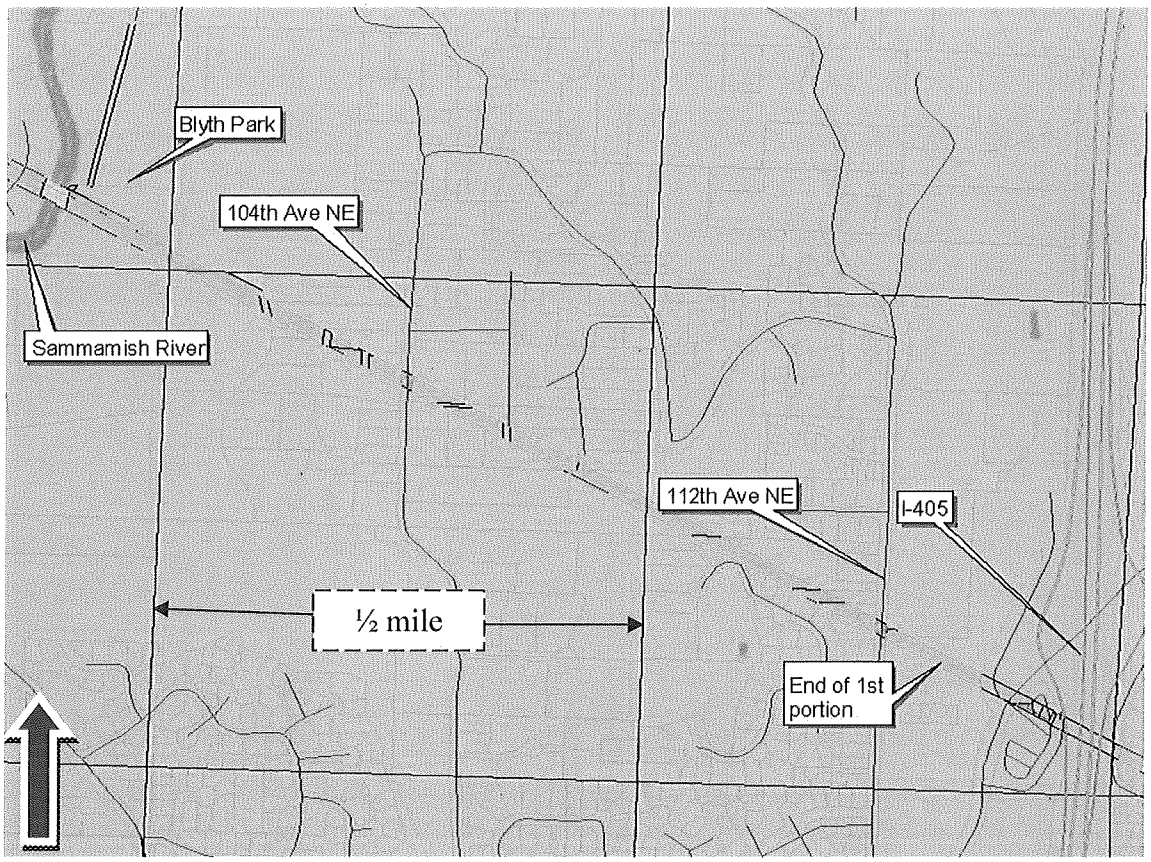
_____
Name (printed) _____
Notary Public in and for the State of Washington,
residing at _____
My appointment expires _____

SEA CITY CLERK

KING COUNTY AND SEATTLE TRAILS AGREEMENT
EXHIBIT A
TOLT PIPELINE RIGHT OF WAY
PROPERTY DESCRIPTION

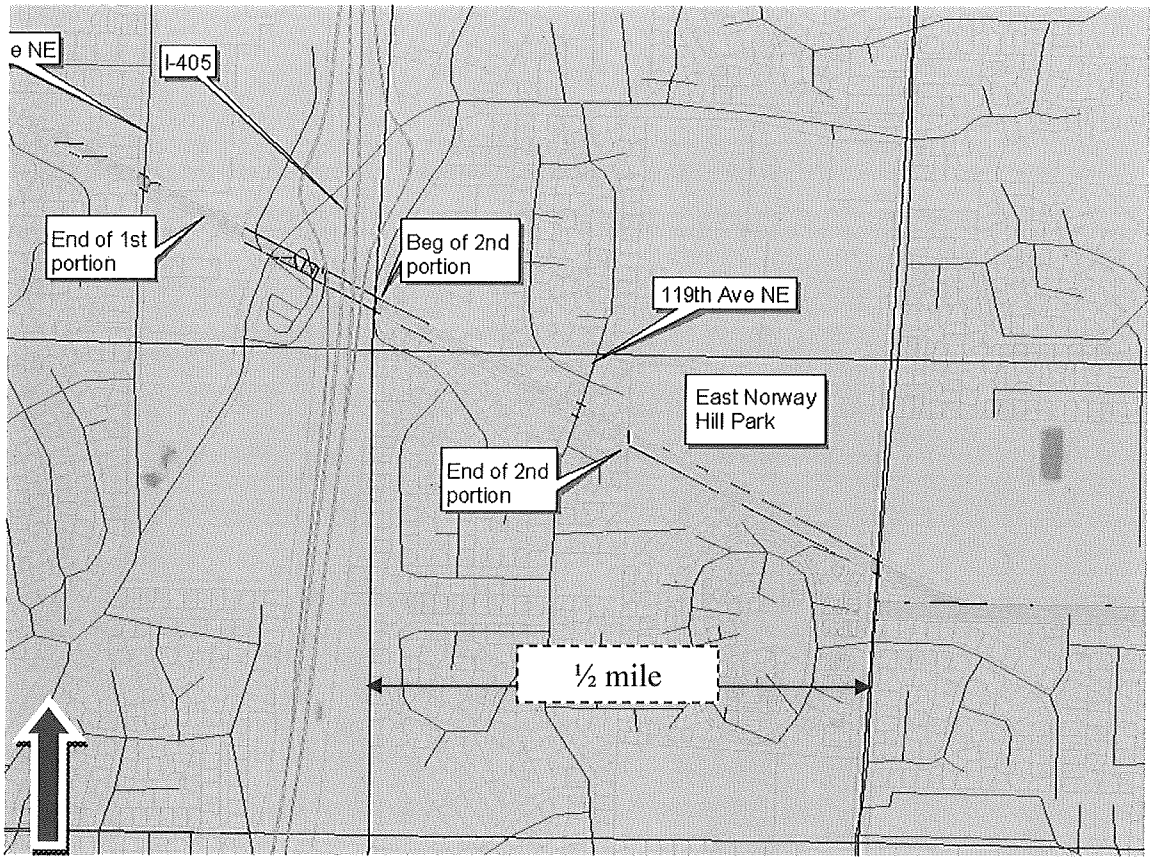
Trail along Tolt Pipeline Right of Way

Western end (Sammamish River) to vicinity I-405: Beginning on the east bank of the Sammamish River, south of the City of Bothell's Blyth Park, in the southeast quarter of the southeast quarter of Section 07, Township 26 North, Range 05 East, W.M., thence proceeding in a southeasterly direction past 104th Ave NE, 112th Ave NE and ending approximately 400 ft southeasterly of 112th Ave NE in the southeast quarter of the northeast quarter of Section 17, Township 26 North, Range 05 East, W.M.



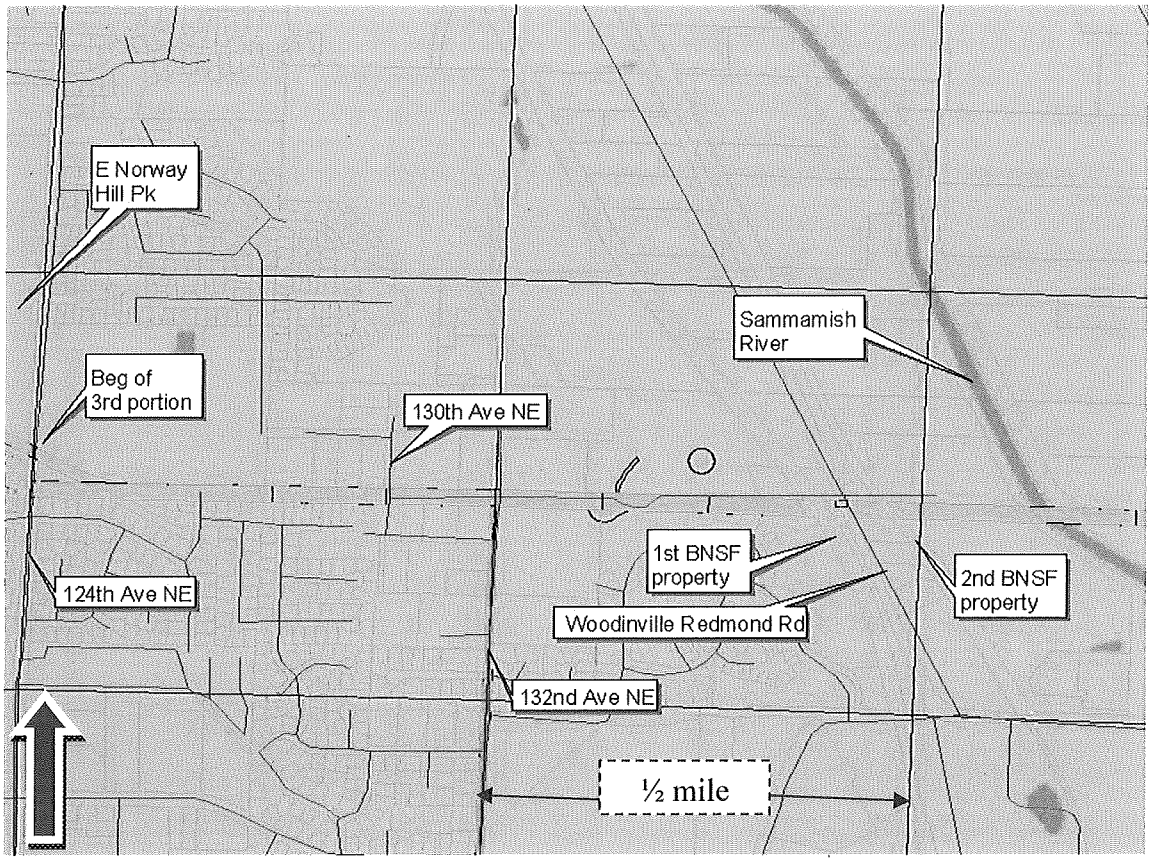
SEA CITY CLERK

I-405 to East Norway Hill Park portion: Beginning at eastern boundary of I-405 in the southwest quarter of the northwest quarter of Section 16, Township 26 North, Range 05 East, W.M., thence proceeding in a southeasterly direction past 119th Ave NE and ending approximately 270 feet southeast of 119th Ave NE at the western boundary of the King County's East Norway Hill Park in the northwest quarter of the southwest quarter of Section 6, Township 26 North, Range 05 East, W.M. (The next portion of the trail is over King County park property. SPU only has an easement for a watermain pipeline right-of-way and private maintenance road.)



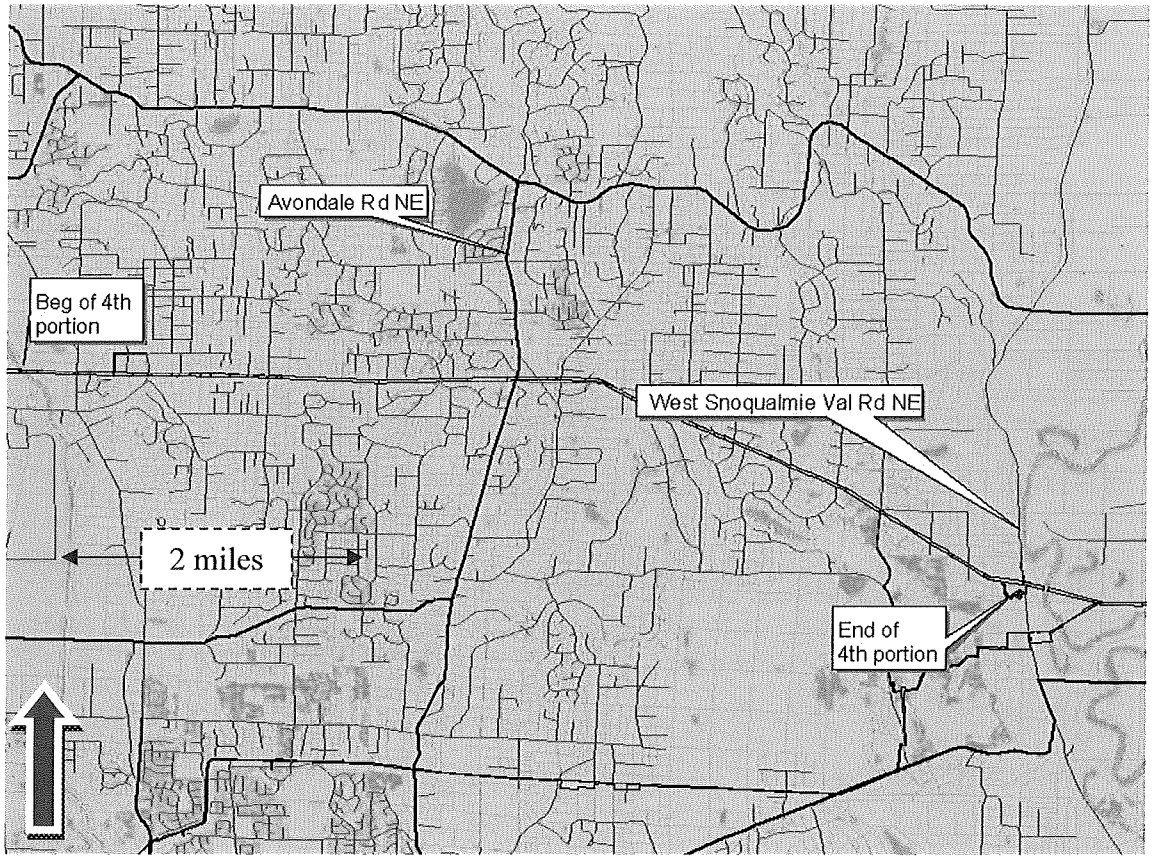
2015 CITY CLERK

124th to Sammamish River portion: Beginning at the eastern boundary of 124th Ave NE in the northwest quarter of the southeast quarter of Section 16, Township 26 North, Range 05 East, W.M., thence proceeding in a southeasterly direction approximately 500 feet to the north line of the south half of the southeast quarter of said section, thence east past 132nd Ave NE, thence continuing east after 132nd Ave NE approximately 1,900 feet until City of Seattle property is intersected by Burlington Northern Santa Fe property, thence continuing east from Burlington Northern Santa Fee property approximately 80 feet until the western boundary of the Woodinville-Redmond Rd. Continuing again from the eastern boundary of the Woodinville-Redmond Rd in a eastern direction approximately 200 feet until City of Seattle property is again intersected by another Burlington Northern Santa Fe property. Continuing east again approximately 860 feet from the eastern boundary of the second Burlington Northern Santa Fe property until the western boundary of the Sammamish River in the southwest quarter of the southeast quarter of Section 15, Township 26 North, Range 05 East, W.M.



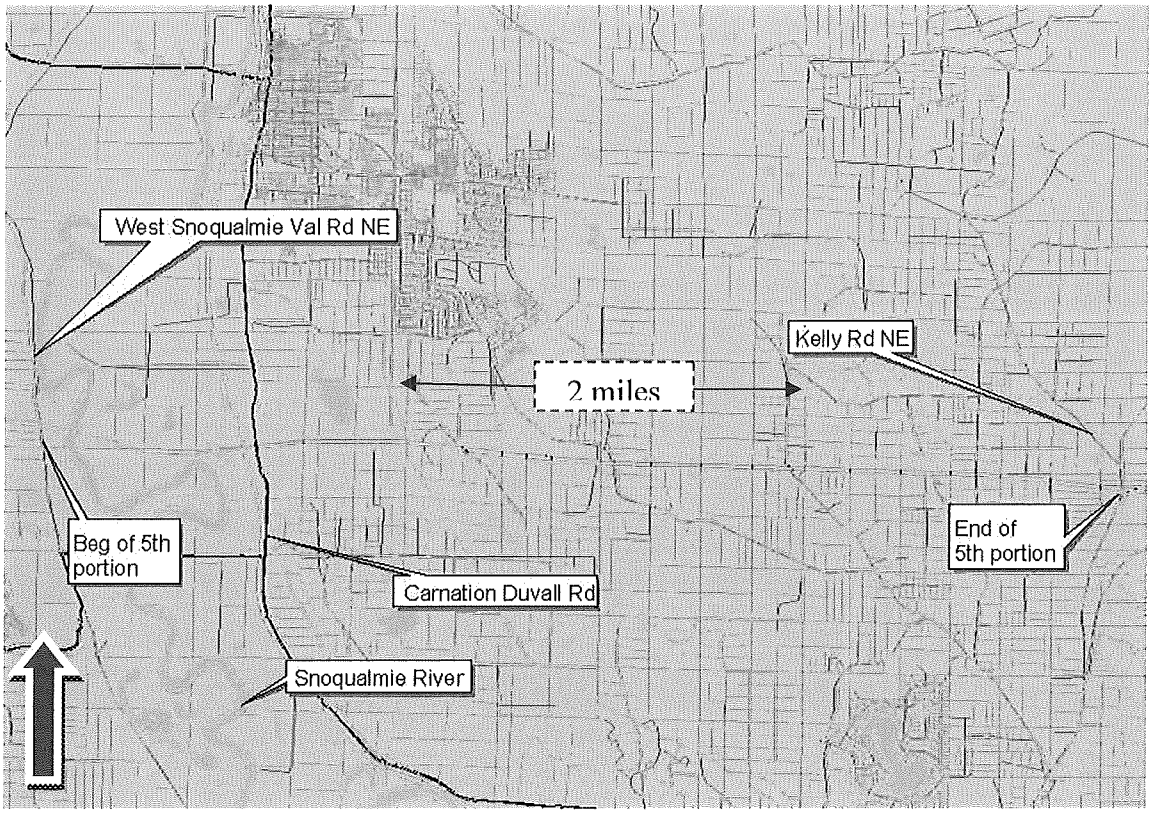
SEA CITY CLERK

Sammamish River to W Snoqualmie Valley Rd NE: Beginning on the eastern boundary of the Sammamish River in the southwest quarter of the southeast quarter of Section 15, Township 26 North, Range 05 East, W.M. and proceeding east past 148th Ave NE, 155th Ave NE, 168th Ave NE, 184th Pl NE, Avondale Rd NE, Bear Creek Rd NE, and Mink Rd NE until NE 148th St in the southeast quarter of the southwest quarter of Section 17, Township 26 North, Range 06 East, W.M. Continuing in southeasterly direction after NE 148th St, past 204th Pl NE, NE 143rd St, 216th Ave NE, 217th Pl NE, 221st Ave NE, 227th Ave NE, 232nd Ave NE, 238th Ave NE, and 242nd Ave NE until reaching the western boundary of W Snoqualmie Valley Rd NE in the south one-half of the southwest quarter of Section 23, Township 26 North, Range 06 East, W.M.



SEATTLE CITY CLERK

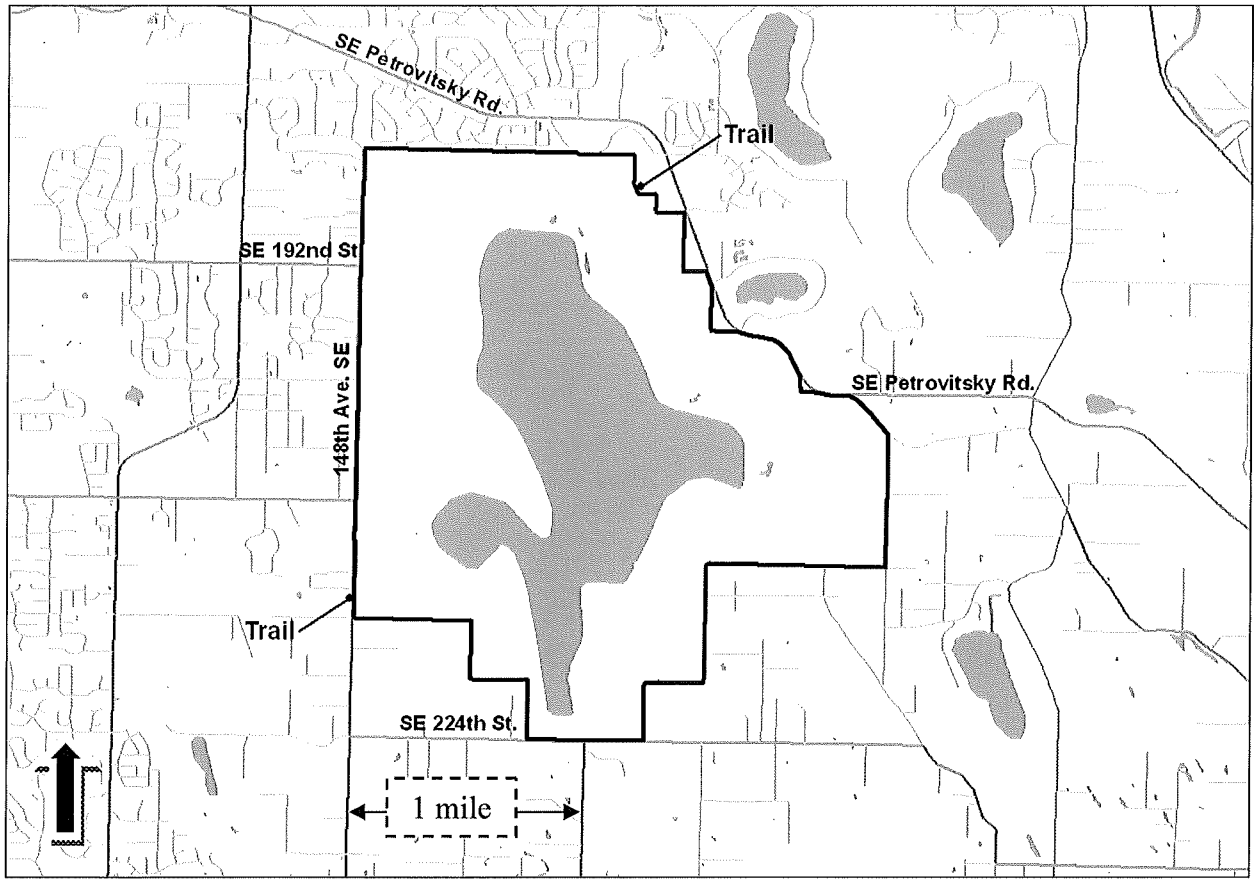
W Snoqualmie Valley Rd NE to Kelly Rd NE (Eastern end): Beginning at the eastern boundary of W Snoqualmie Valley Rd NE in the south one-half of the southwest quarter of Section 23, Township 26 North, Range 06 East, W.M. and continuing southeasterly across the Snoqualmie River and the Carnation Duvall Rd. Thence easterly approximately four miles to Kelly Rd NE in the west one-half of the northwest quarter of Section 27, Township 26 North, Range 07 East, W.M. and the end of the trail.



SEA CITY CLERK

KING COUNTY AND SEATTLE TRAILS AGREEMENT
EXHIBIT B
LAKE YOUNGS RESERVOIR PERIMETER
PROPERTY DESCRIPTION

The Lake Youngs Trail runs along the outside of the fence surrounding the City of Seattle's Lake Youngs Reservation. The Lake Youngs Reservation itself is not open to the public because it is part of the Cedar River water supply system which provides water to more than a million people in King County. The Reservation is located northeast of the City of Kent near the City of Covington.



SEA CITY CLERK

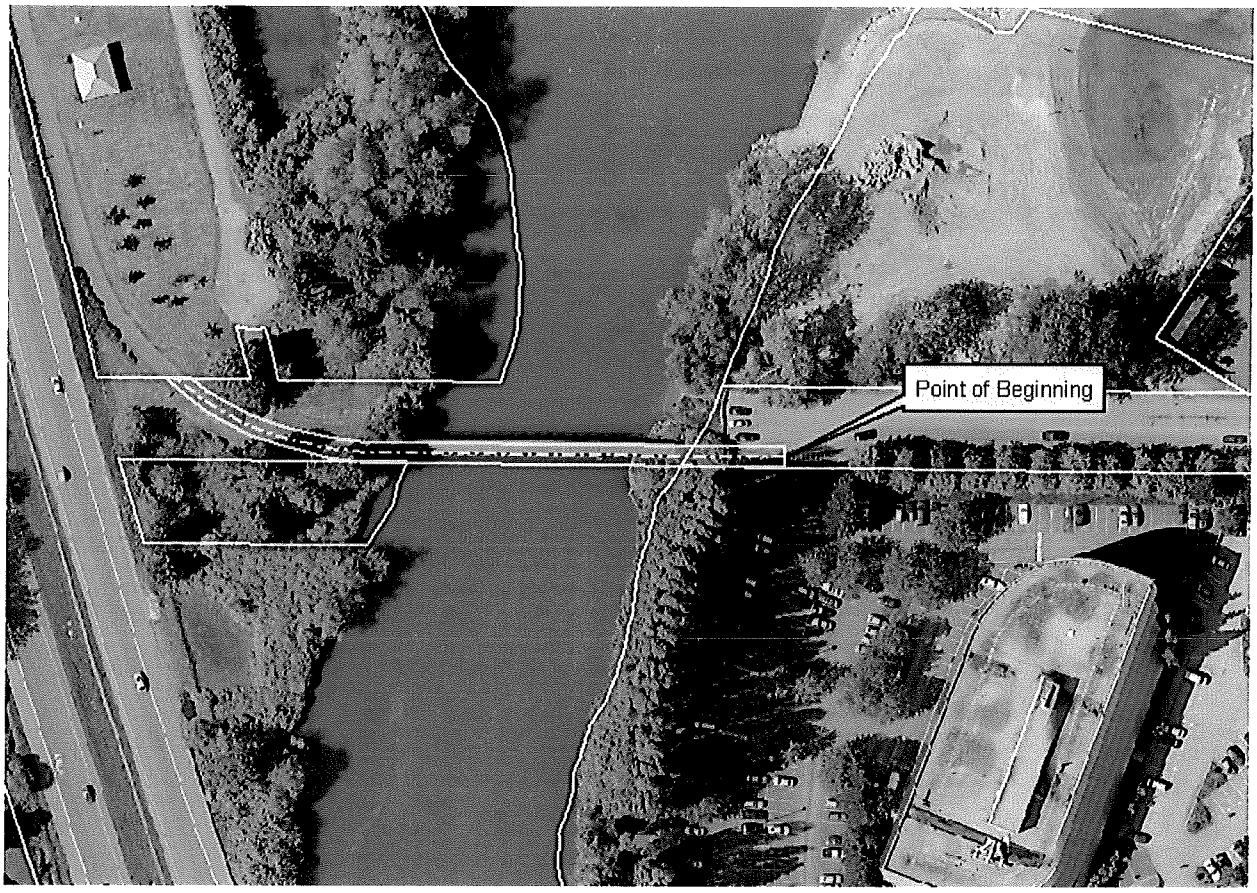
KING COUNTY AND SEATTLE TRAILS AGREEMENT
EXHIBIT C
WEST SEATTLE RIGHT OF WAY AT DUWAMISH WATERWAY
PROPERTY DESCRIPTION

A strip of land 16 feet in width, the centerline of which is described as follows:

That portion of Government Lots 10 and 11 and of the bed of the Duwamish River in Section 4, Township 23 North, Range 4 East, W.M., in King County, Washington, described as follows:

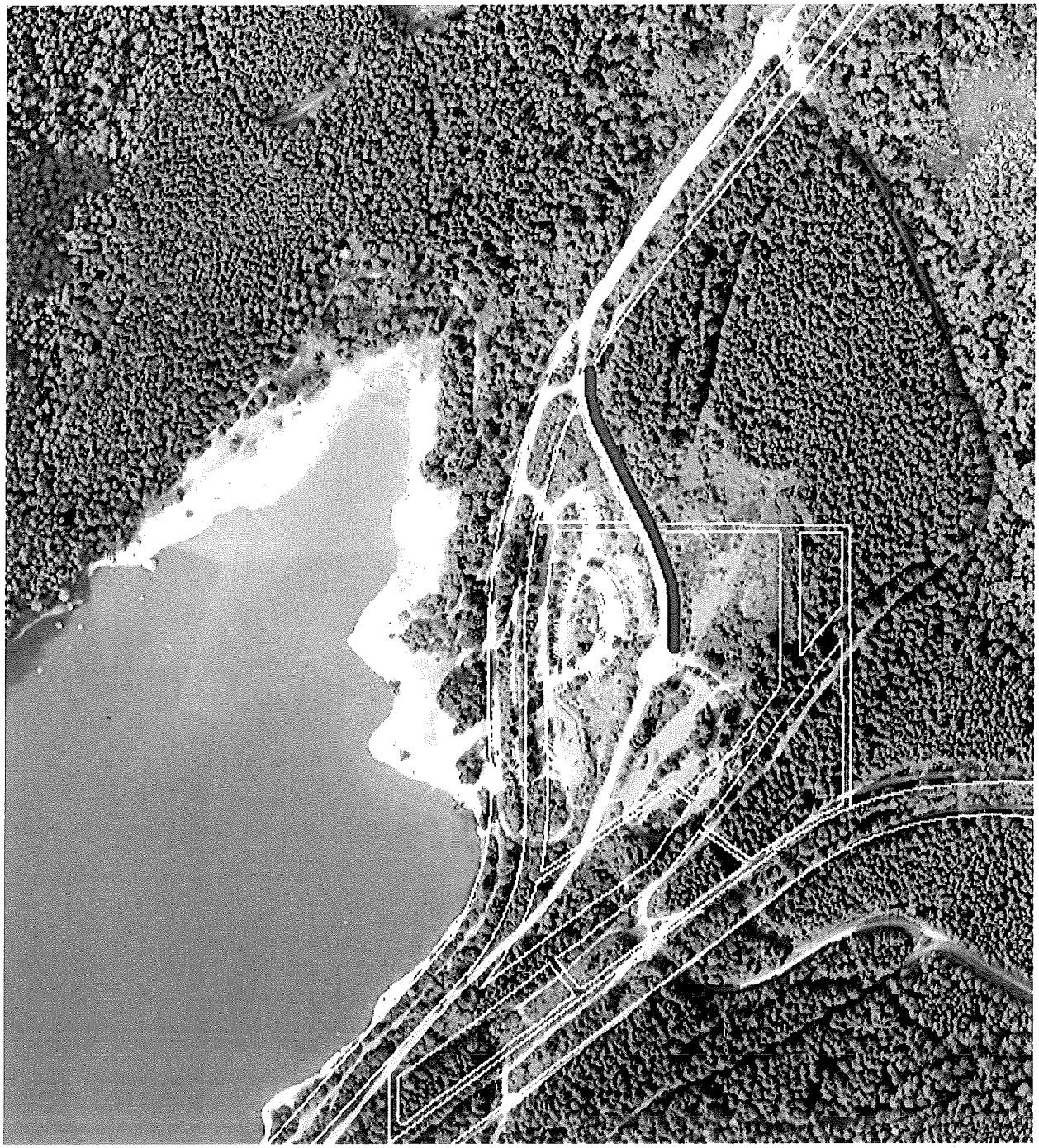
Beginning at the intersection of the South line of said Section 4, which line is also the South line of the City of Seattle right of way as condemned in King County Superior Court Cause No. 121648, and the Westerly line of Government Lot 10 in said Section 4;
Thence South 89°18'51" East along said South line a distance of 78.5 feet;
Thence North 0°41'09" West a distance of 8 feet to the TRUE POINT OF BEGINNING;
Thence North 89°18'51" West a distance of 319.2 feet to a point of curve;
Thence along a curve to the right having a radius of 225 feet through a central angle of 42°10'00" a distance of 165.69 feet to the terminus of said line of the Northerly margin of said City of Seattle right of way in Government Lot 11 of said Section 4. (Contains an area of 7,740 square feet or 0.18 acres, more or less, including 2,700 square feet of the bridge deck.)

2015 CITY CLERK



SEA CITY CLERK

KING COUNTY and SEATTLE TRAILS AGREEMENT
EXHIBIT D
Snoqualmie Valley/Rattlesnake Lake Connector Trail on SPU property



SEA CITY CLERK

KING COUNTY AND SEATTLE TRAILS AGREEMENT
EXHIBIT E
CEDAR RIVER PIPLINE DRAIN RIGHT OF WAY
PROPERTY DESCRIPTION

PARCEL A:

The West 20 feet of the Northwest quarter of the Northwest quarter of Section 27, Township 23 North, Range 5 East, W.M., in King County, Washington, lying Northerly of Tract D, Fairwood Park Division No. 11, according to the plat thereof recorded in Volume 102 of Plats, pages 63 through 66, in King County, Washington;

ALSO the East 20 feet of the West 40 feet of the South 100 feet (as measured along the West Line thereof) of that portion of the Northwest quarter of the Northwest quarter of Section 27, Township 23 North, Range 5 East, W.M., in King County, Washington, lying Northerly of Tract D, Fairwood Park Division No. 11, according to the plat thereof recorded in Volume 102 of Plats, pages 63 through 66, in King County, Washington.

PARCEL B:

Tract C, Fairwood Park Division 9, according to the plat thereof recorded in Volume 88 of Plats, pages 30 and 31, in King County, Washington.

PARCEL C:

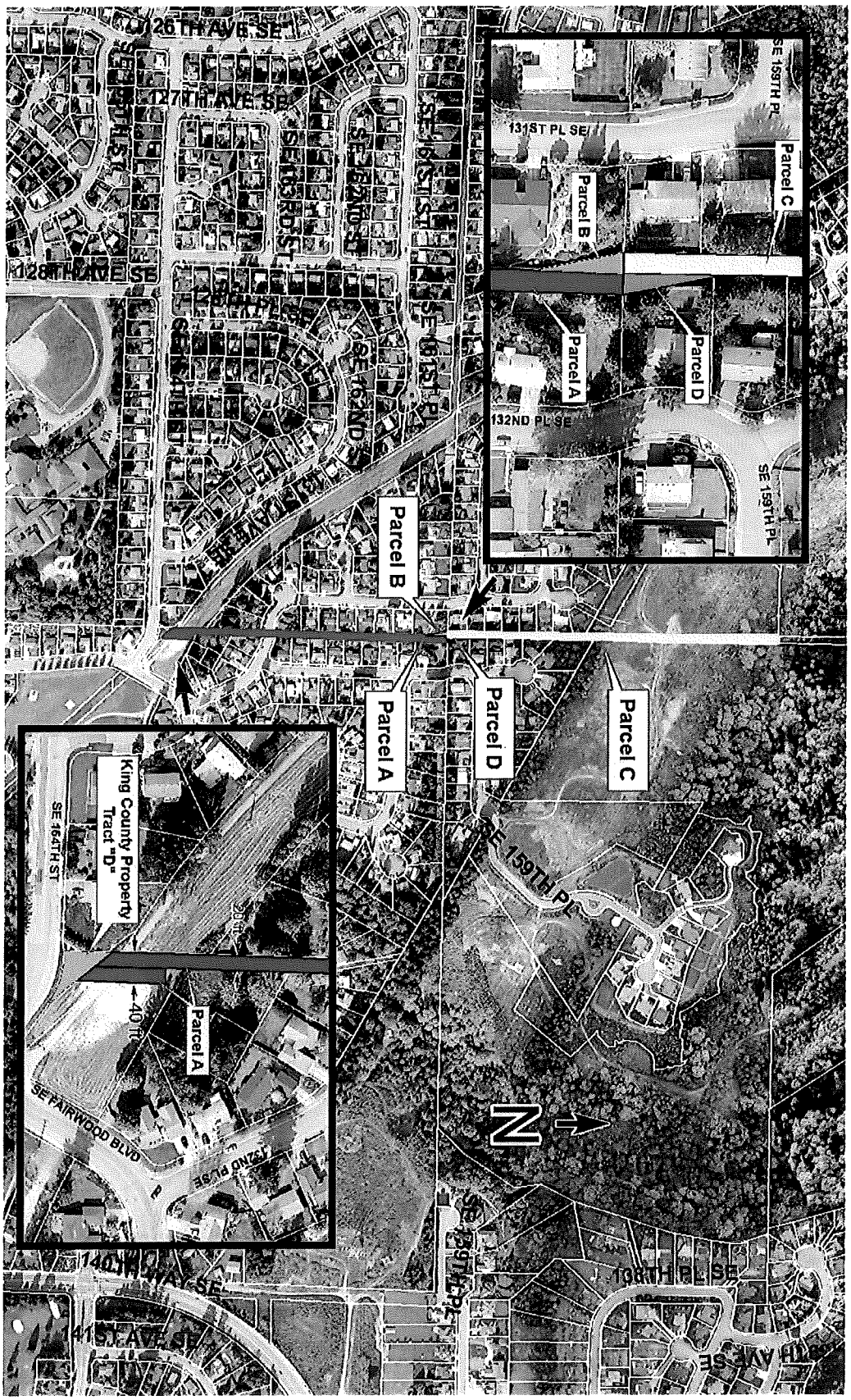
The East 20 feet of the South 875 feet of the Southeast quarter of Section 21, Township 23 North, Range 5 East, W.M., in King County, Washington.

PARCEL D:

Those portions of Lots 23 and 24, Fairwood Park Division No. 14, according to the plat thereof recorded in Volume 88 of Plats, pages 81 and 82, in King County, Washington, described as follows:

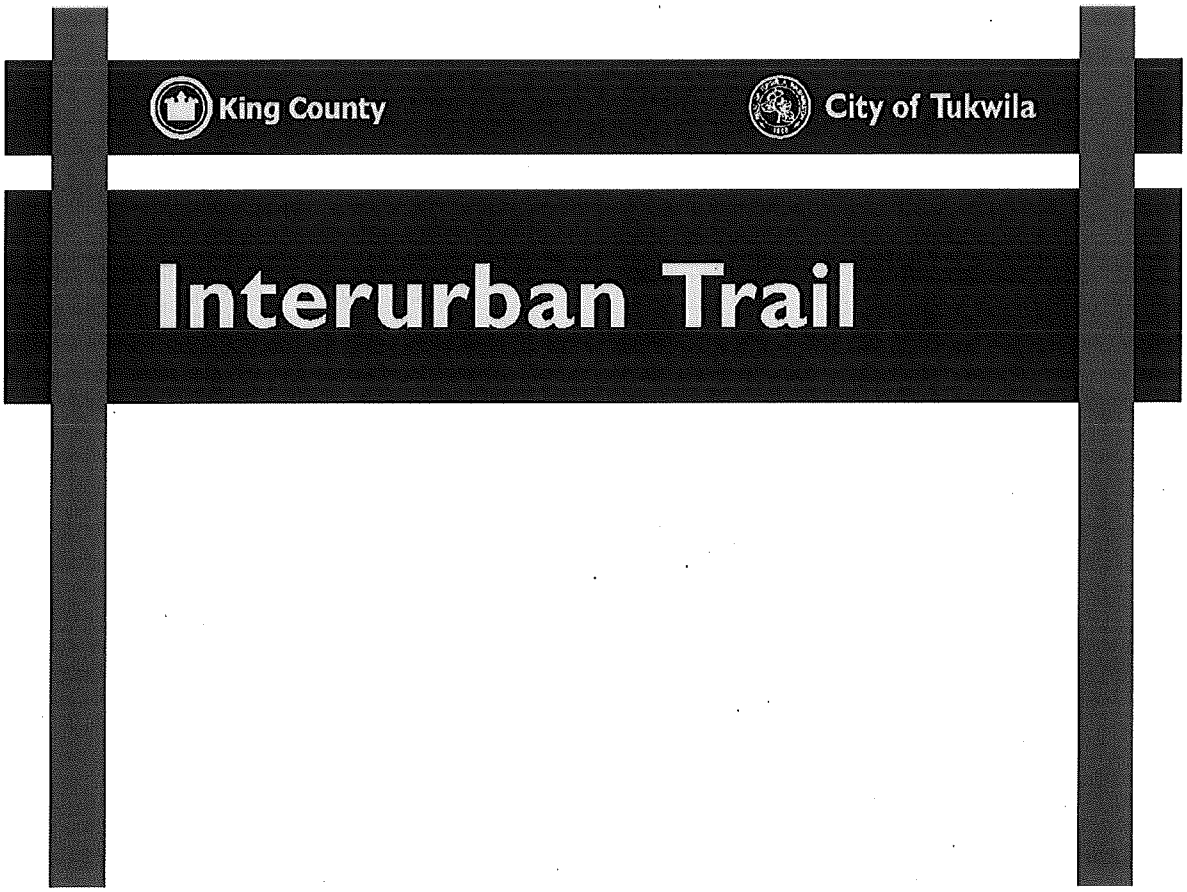
Beginning at the Southwest corner of said Lot 24;
Thence along the South line of said Lot 24, South 88°59'58" East 20 feet;
Thence North 10°01'17 West 112.08 feet, more or less, to the West line of said Lot 23;
Thence South 01°18'00 West along the West line of said Lots 23 and 24, 100 feet, to the point of beginning.

SEATTLE CITY CLERK



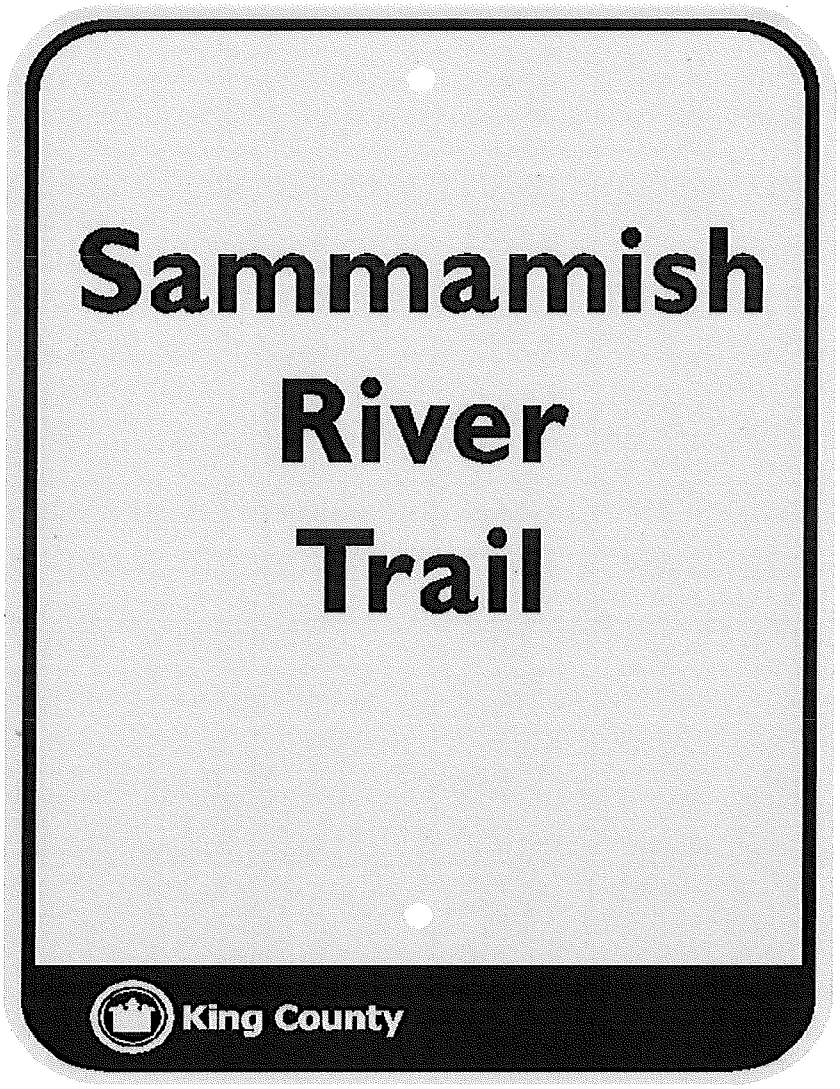
2015 CITY CLERK

KING COUNTY AND SEATTLE TRAILS AGREEMENT
EXHIBIT F
ROUTINE TRAIL SIGNAGE DEPICTION



6Ft Gateway Sign Example

SEA CITY CLERK



18 inch Minor Sign Example

SEATTLE CITY CLERK

Exhibit G
RATTLESNAKE LAKE AGREEMENT
between
King County Department of Natural Resources, Parks and Recreation Division
and
Seattle Public Utilities

This Agreement ("**Agreement**") is entered into by and between the CITY OF SEATTLE (the "**City**"), a municipal corporation of the State of Washington, acting by and through Seattle Public Utilities ("**SPU**"), and the KING COUNTY, a political subdivision of the State of Washington ("the **County**"). SPU and King County are sometimes referred to in this Agreement collectively as the "**Parties**" and individually as a "**Party**".

RECITALS

1. Whereas, the County owns part of a former railroad right of way identified by the King County Assessor as Tax Parcel# 3423089018 ("the County Property"), a portion of which runs along the east side of Rattlesnake Lake along the original route of Cedar Falls Road SE and which property is more particularly described below (the "County Property) ; AND

2. Whereas, a portion of the County Property is currently in use as a public recreational trail (the "SPU Trail") built and operated by Seattle Public Utilities (SPU); AND

3. Whereas, a portion of the County Property is in use as the current Cedar Falls Road SE, a road built as part of the SPU watershed complex; AND

4. Whereas, SPU built a trail segment, the Snoqualmie Valley Trail Extension (the "Connector Trail"), on SPU property ("SPU Property") for King County to connect the County's Snoqualmie Valley Trail to the State of Washington's John Wayne Trail; AND

5. Whereas, the County and SPU now wish to clarify and memorialize their agreement regarding the use of the County Property and the use of the SPU Property, including maintenance and operation of the SPU Trail, Cedar Falls Road SE, and the Connector Trail AND

6. Whereas, SPU intends to grant the County access to the SPU Property for use and maintenance of the Connector Trail via a separately-negotiated Trails Agreement between SPU and the County, to which this Agreement shall be attached as Exhibit B. Now, therefore, in consideration of the foregoing, the Parties agree as follows:

TERMS AND CONDITIONS

1. **Permitted Use.**

SMC CITY CLERK

1.1 Grant. The County hereby grants to the City permission to use portions of the County Property according to the terms and conditions herein. The County Property is identified by the King County Assessor as Tax Parcel# 3423089018, the portions the City is permitted to use are described as follows:

Cedar Falls Road SE. The County grants the City the exclusive right to use a portion of the County Property for SPU's Cedar Falls Road SE serving the SPU watershed complex (the "Road"), as depicted on Attachment A.

SPU Trail. The County grants the City the right to use a portion of the County property for the purpose of a public recreational trail (the "SPU Trail"). The SPU Trail begins on the west side of Cedar Falls Road SE at the north end of Rattlesnake Lake and terminates on the south boundary of the Property, all as depicted on Attachment A. The City assumes full and complete responsibility for all maintenance of the SPU Trail, pursuant to this Agreement.

1.2 Authorized Uses. The County understands, acknowledges, and agrees that the SPU Trail is and shall be open to the public for non-motorized recreational travel, including hiking, horseback riding, bicycling and other compatible recreational uses. In addition to those authorized activities, the City may use the County Property as necessary to construct, operate, repair, and maintain the SPU Trail so long as these activities do not displace, impair, or cause unsafe operation of utility systems near the SPU Trail. SPU understands, acknowledges, and agrees that motorized vehicles are prohibited on the SPU Trail, except for: SPU vehicles used in the maintenance, operation or repair of SPU Trail facilities; emergency service vehicles (police, fire, ambulance, security, etc.); and official County vehicles utilized on County business, including but not limited to inspection of the SPU Trail.

1.3 Limits on Use. The City shall not use, or authorize others to use, the SPU Trail in any manner inconsistent with Section 1 of this Agreement.

1.4 Advertising Restrictions. SPU understands that the advertising of tobacco products, as defined in King County Ordinance No. 10615, and spirits, as defined in King County Ordinance No. 14509, is strictly prohibited. SPU further understands that pursuant to Ordinance No. 14509, additional subject-matter restrictions on advertising may be imposed by the Director of the Parks and Recreation Division of the King County Department of Parks and Recreation ("Director"). Therefore, SPU expressly covenants that it will not at any time display, promote or advertise any tobacco products, spirits or other subject matter expressly prohibited by the Director.

SEA CITY CLERK

1.5 As-Is Condition. The City accepts the County Property in its "as-is" condition. The County makes no warranties, express or implied, regarding the condition of the County Property or its fitness for any particular purpose.

2. Effective Date; Term; Extensions.

2.1 Effective Date. This Agreement will be effective on the date last signed by an authorized representative of each Party following authorization by Seattle City Council and Metropolitan King County Council ("Effective Date").

2.2 Term. The term of this Agreement will be twenty (20) years from the Effective Date, unless extended or terminated earlier by either Party pursuant to the terms herein.

2.3 Extensions. It is understood and agreed that at least one (1) year prior to the expiration date of the term of this Agreement and one (1) year prior to the expiration of any extended term, at their option the Parties may request an extension of this Agreement for one or more terms of such duration on the same terms and conditions herein, provided that the total of all extended terms shall not exceed twenty years without further action by the Seattle City Council and the Metropolitan King County Council.

3. City's Duties and Obligations Regarding Maintenance, Operations, and Improvements.

3.1 Road Maintenance and Operations. SPU shall be responsible to maintain the portion of Cedar Falls Road SE on the County Property including maintaining paving, striping, and the road shoulder area.

3.2 Trail Maintenance and Operations. SPU shall be responsible to continue maintaining and operating the SPU Trail in a safe condition, as it has done in the past. Specifically, the City shall continue to perform the following maintenance:

- Clear brush;
- Maintain trail surface;
- Maintain landscaping;
- Maintain bollards.

All SPU Trail maintenance activities shall be performed by SPU staff. Unless the County agrees in advance and in writing, SPU shall not use paid, third-party

SEA CITY CLERK

maintenance staff to maintain the SPU Trail. However, SPU may use volunteer work parties to maintain or improve the SPU Trail, at SPU's discretion.

3.3 Alterations and Improvements. With the exception of routine or emergency maintenance, SPU shall not alter or improve the SPU Trail in any way without prior review and written approval from the County. Any such improvements shall be at SPU's expense.

3.4 Signage. SPU shall place warning and directional signs along the SPU Trail on an as-needed basis, and SPU shall, when necessary, install other barriers or devices, whether to protect the public from natural or other hazards, or from SPU's Trail maintenance or improvement activities; to protect SPU's utility system and the watershed; or to prevent unauthorized vehicle access to the SPU Trail.

3.5 Access. SPU shall provide the County with keys or other direct means to enable the County to have independent access to the SPU Trail. The Parties agree, for reasons of protection and safety, to promptly secure and lock any gates, bollards, or other devices unlocked for activities, use, or access. The County may use any and all means that the County deems proper to open gates or remove bollards in an emergency in order to obtain access to the SPU Trail.

4. Execution of Maintenance and Other Services; Reimbursement of Costs.

4.1. SPU to perform in good faith. SPU shall execute its duties and obligations under this Agreement on a good-faith, reasonable basis.

4.2 SPU to pay all maintenance costs and expenses. SPU shall pay all costs and expenses associated with, related to, or arising out of its maintenance duties and obligations under this Agreement.

4.3 County's remedies. If SPU fails to maintain the SPU Trail or the Road or to perform any of its other duties or obligations arising under or related to this Agreement, then the County may notify SPU of such failure and may request SPU to perform within thirty days or such other period of time as may be reasonable under the circumstances. If, after receiving a written request from the County, SPU fails to perform such duty or obligation, and if such failure, in the County's sole judgment, threatens the public health, safety or welfare, then the County may perform SPU's duties or obligations, and bill SPU for the cost and expense of such work; and SPU shall reimburse the County within thirty (30) days of invoice. The County's rights under this Section 4 are in addition to the right of termination under Section 10 and the right of dispute resolution under Section 11 of this Agreement.

5. Ownership; Police Powers. Notwithstanding any provision of this Agreement, upon the expiration or termination of this Agreement, the County shall retain ownership of the

SEATTLE CITY CLERK

Property, including all improvements, restoration, permanent fixtures, and County-purchased equipment. Nothing in this Agreement shall be considered to diminish the governmental or police powers of the County or SPU. The County may inspect the SPU Trail at any time.

6. **Notices.** All notices hereunder must be in writing and shall be deemed validly given if sent by United States mail, by personal delivery, or by overnight delivery by a nationally recognized carrier, addressed as follows (or to any other address that the party to be notified may have designated to the sender by like notice):

SEA CITY CLERK

If to King County:
Kevin R. Brown, Director
King County Parks and Recreation Division
201 South Jackson Street, Suite 700
Mail Stop – KSC-NR-0700
Seattle, WA 98104-38550
Phone: 206-296-8631

If to Seattle Public Utilities:
Attn: Division Director
Seattle Public Utilities
700 5th Avenue, PO Box 34018
Seattle, WA 98124-4018
Phone: 206-684-5852

Either Party hereto may, at any time, by giving ten (10) days written notice to the other Party hereto, designate any other address in substitution of the foregoing address to which such notice or communication shall be given.

7. Compliance with Laws.

7.1. In general. SPU agrees to comply with any and all applicable federal, state, and local laws, ordinances, codes and regulations that are applicable to the occupancy and use of the County Property, and the maintenance and operation of the SPU Trail.

7.2. Nondiscrimination. SPU agrees to comply with all applicable federal, state, and county laws regarding nondiscrimination including, but not limited to, the federal Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §12101 et seq., RCW Chapter 49.60, and King County Code Chapter 12.16; and SPU specifically agrees not to unlawfully discriminate against any employee or applicant for employment because of age, race, color, religion, creed, sex, national origin, marital status, sexual orientation, or the presence of any sensory, mental, or physical handicap.

7.3. Environmental. SPU agrees to maintain the SPU Trail in compliance with any and all Environmental Laws. If SPU or its invitees release any hazardous substances on the Trail, SPU agrees to clean up and remediate the SPU Trail and bring the SPU Trail into compliance with environmental laws.

7.4. Definitions. For purposes of this Agreement, "Environmental Laws" means any and all federal, state or local statutes, codes, regulations, orders, and requirements issued thereunder, and common-law causes of action, whether federal, state, or local, that apply to any toxic material or hazardous substance, pollutant, waste material, health and safety of persons or protection of the environment, including any amendments or supplements to such laws or regulations, including, but not limited to: the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., the Toxic Substance Control Act, 15 U.S.C. § 2601 et seq., the Federal Water Pollution Control Act, 49 U.S.C. § 1801 et seq., the Safe Drinking Water Act, 42 U.S.C. § 300f et seq., the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA") 42 U.S.C. § 9601 et seq., the Washington Model Toxics Control Act, RCW Ch. 70.1050, the Washington Hazardous Waste

SEA CITY CLERK

Management Act. RCW Ch. 70.105, the Washington Shoreline Management Act, RCW Ch. 90.58, and all local environmental codes and regulations including without limitation, storm water, drainage and wastewater, and sewer regulations and requirements. "Hazardous Substance" includes any material that is regulated or restricted by law. "Release of a Hazardous Substance" may include, but not be limited to the contamination of the property by a Hazardous Substance released by SPU Trail users or invitees on the SPU Trail.

8. Hold Harmless.

8.1 Release and Indemnification. SPU releases and will defend, indemnify and hold harmless King County, its directors, officers, elected officials, employees, agents and assigns (collectively referred to as the "**Indemnitees**") from and against any and all Claims arising out of or in connection with SPU's occupancy, use or improvement of the Property, or that of any of its employees, agents, contractors, licensees, officers, guests, or invitees, or the use of the Property by the general public, including but not limited to Claims arising from the City's breach of its obligations hereunder, any act or omission of the City or SPU or its agents, contractors, licensees, or invitees, and any Environmental Liability, unless caused by the sole negligence or intentional acts of the Indemnitees. "Claims" includes claims, losses, costs, liabilities, demands, actions, damages, and expenses (including, but not limited to reasonable attorney's fees). "Environmental Liability" means any and all liabilities, claims, lawsuits, costs, liens, obligations, expenses, attorney fees, fines, penalties, damages, consequential damages, and losses arising from the release of a Hazardous Substance or any non-compliance with Environmental Laws. An Environmental Liability may be based upon an environmental law, any cause of action, criminal or civil statute, permit requirements, court or administrative order. "Hazardous Substance" means any material that is regulated or restricted by an Environmental Law, including but not limited to, CERCLA and MTCA.

8.2 Waiver of Immunity under Title 51. SPU agrees that the foregoing indemnity specifically covers actions brought by its own employees or those of the City and that this indemnity shall survive termination or expiration of this Agreement. The foregoing indemnity is specifically and expressly intended to constitute a waiver of the City's immunity under Washington's Industrial Insurance Act, RCW Title 51, to the extent necessary to provide King County with a full and complete indemnity from claims made by the City or SPU and its employees. King County shall promptly notify the City or SPU of casualties or accidents occurring in or about the Property.

8.3 Application of RCW 4.24.115. To the fullest extent permitted by applicable law, the foregoing release, indemnity and hold harmless shall apply to and for the benefit of the Indemnitees. If it is determined that RCW 4.24.115 applies to this

SPS CITY CLERK

Agreement, SPU agrees to defend, indemnify, and hold harmless the Indemnitees to the maximum extent permitted thereunder, and specifically for the City or SPU's negligence concurrent with that of the Indemnitees to the extent of the City or SPU's negligence.

8.4 Recreational Use. King County is permitting the use of the Property conditioned, in part, upon SPU's agreement to make the Property available to the public for use at no cost. To the extent that the Recreational Land Use Statute, RCW 4.24.200-.210, or other applicable law provides immunity to the City and SPU and King County, the Parties do not intend the indemnity in this Section 8 to act as a waiver of such immunity.

8.5 The County shall give the City or SPU timely written notice of the making of any claim or of the commencement of any such action, suit or other proceeding covered by the indemnity in this section. In the event any such claim arises, the County may tender the defense thereof to the City or SPU and thereupon the City and SPU shall have the duty to defend, settle or compromise the claim, and the County shall cooperate fully therein.

8.6 The indemnification obligations under this Section shall survive the termination or cancellation of this Agreement.

8.7 A hold harmless provision to protect the County, similar to this Section 8, shall be included in all contracts or other agreements entered into by the City or SPU in connection with the permitted uses under this Agreement or with SPU's execution of its duties and obligations under this Agreement.

8.8 **THE INDEMNIFICATION PROVISIONS OF THIS SECTION 8 WERE SPECIFICALLY NEGOTITATED AND AGREED UPON BY THE PARTIES.**

9. **Insurance.** The County and SPU shall each maintain, for the duration of this Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the SPU Trail and SPU Trail-related activities in, on, or in connection with the County Property. Said insurance requirements may be met by a program of self-insurance and the cost of such insurance shall be paid by the respective Party.

10. **Termination. This Agreement may be terminated as follows:**

10.1 Necessity. If, the County, in its sole discretion, determines that termination of this Agreement is necessary, whether to transfer ownership of the County Property, or otherwise, then the County may do so. In such event the County will endeavor to

SEA CITY CLERK

give the City at least ninety days' advance written notice of termination for necessity.

10.2 Convenience. Either Party may terminate this Agreement for convenience upon not less than six months' advance written notice to the other Party.

10.3 Default. If either Party breaches this Agreement, the other Party may terminate this Agreement; PROVIDED that the terminating Party shall give the breaching Party advance written notice specifying the breach, and at least thirty days to cure the breach ; and PROVIDED FURTHER that if it is not reasonable to cure the breach within thirty days, then the terminating Party shall give the breaching Party written notice specifying the breach, and state a reasonable amount of time to cure the breach before termination will become effective.

10.4 Federal Rails to Trails Act. Under the Rails-to-Trails Act, 16 U.S.C. §1247(d), and that certain Quit Claim Deed from the Burlington Northern Railroad Company ("BNSF"), King County Recording Number 9212160954, BNSF and its designees, licensees, or assigns reserved the right to reactivate rail service over the County Property, which may require the relocation or removal of the SPU Trail. In the event of such reactivation, this Agreement shall terminate effective the date that BNSF or its successor in interest notifies the County that such right is being exercised. The County will endeavor to give SPU reasonable notice of such termination plans.

11. Dispute Resolution.

The Parties agree to use their best efforts to resolve disputes regarding this Agreement in an economic and time-efficient manner to advance the purposes of this Agreement. In the event that a dispute arises between the Parties, they shall attempt to resolve such dispute as expeditiously as possible and will cooperate so that the express purposes of this Agreement are not frustrated, and so that any maintenance, repair, operation, or use of the SPU Trail on the County Property is not delayed or interrupted. If the Parties are unable to resolve the dispute between themselves within ninety calendar days from the date the aggrieved Party first notified the other Party, then the Parties agree that they shall attempt to mediate the dispute with the first available mediator from Washington Arbitration and Mediation Service (WAMS) or Judicial Arbitration and Mediation Service (JAMS) or their successors or a mutually agreed-upon arbitration and/or mediation service. The Parties shall each pay one half (SPU-50 percent; County-50 percent) of the cost of such mediation. If such mediation fails, then nothing in this Section 13 shall otherwise limit the Parties' legal, equitable, or other rights or remedies.

12. General Terms and Conditions.

SEATTLE CITY CLERK

12.1 Legal Relations. Nothing contained herein shall make, or be deemed to make, the County and the City a partner of one another and this Agreement shall not be construed as creating a partnership or joint venture. Nothing in this Agreement shall create any right, duty, or obligation in any person not a party to it.

12.2 Jurisdiction and Venue. The exclusive jurisdiction and venue for any disputes arising under this Agreement and not otherwise resolved by the dispute resolution required in Section 13, including matters of construction, validity, and performance, shall be in the Superior Court for King County in Seattle, Washington.

12.3 Section Headings. The section headings contained herein are only for convenience and reference and are not intended to be a part of this Agreement or in any manner to define, limit, or describe the scope or intent of this Agreement or the particular sections to which they refer.

12.4 Entire Agreement. This Agreement constitutes the entire Agreement between the County and SPU and may not be altered, amended, or modified except by an instrument in writing, signed by the Parties with the same formality as this Agreement.

12.5 Singular and Plural. Wherever the context shall so require, the singular shall include the plural and the plural shall include the singular.

12.6 Non-Waiver. Neither the waiver by either Party to this Agreement of any breach of any covenant, condition, or provision thereof, nor the failure of either Party to seek redress for violation of, nor failure of either Party to insist upon strict performance of any such covenant, condition, or provision, shall be considered to be a waiver of any such covenant, condition, or provision or of any subsequent breach thereof.

12.7 Neutral Authorship. Each Party has been represented by counsel in connection with the negotiation, execution, and delivery of this Agreement and its Attachments. Each of the provisions of this Agreement has been reviewed and negotiated, and represents the combined work product of both 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 this Agreement, will apply in connection with the construction or interpretation of any of the provisions of this Agreement or its Attachments.

13. Attachments.

Attachment A – Site Map of Rattlesnake Lake

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed on this _____ day of _____, 2012.

SPS CITY CLERK

KING COUNTY

Kevin R. Brown, Director
Parks and Recreation Division

Date

PAO _____
Risk Management _____

CITY OF SEATTLE

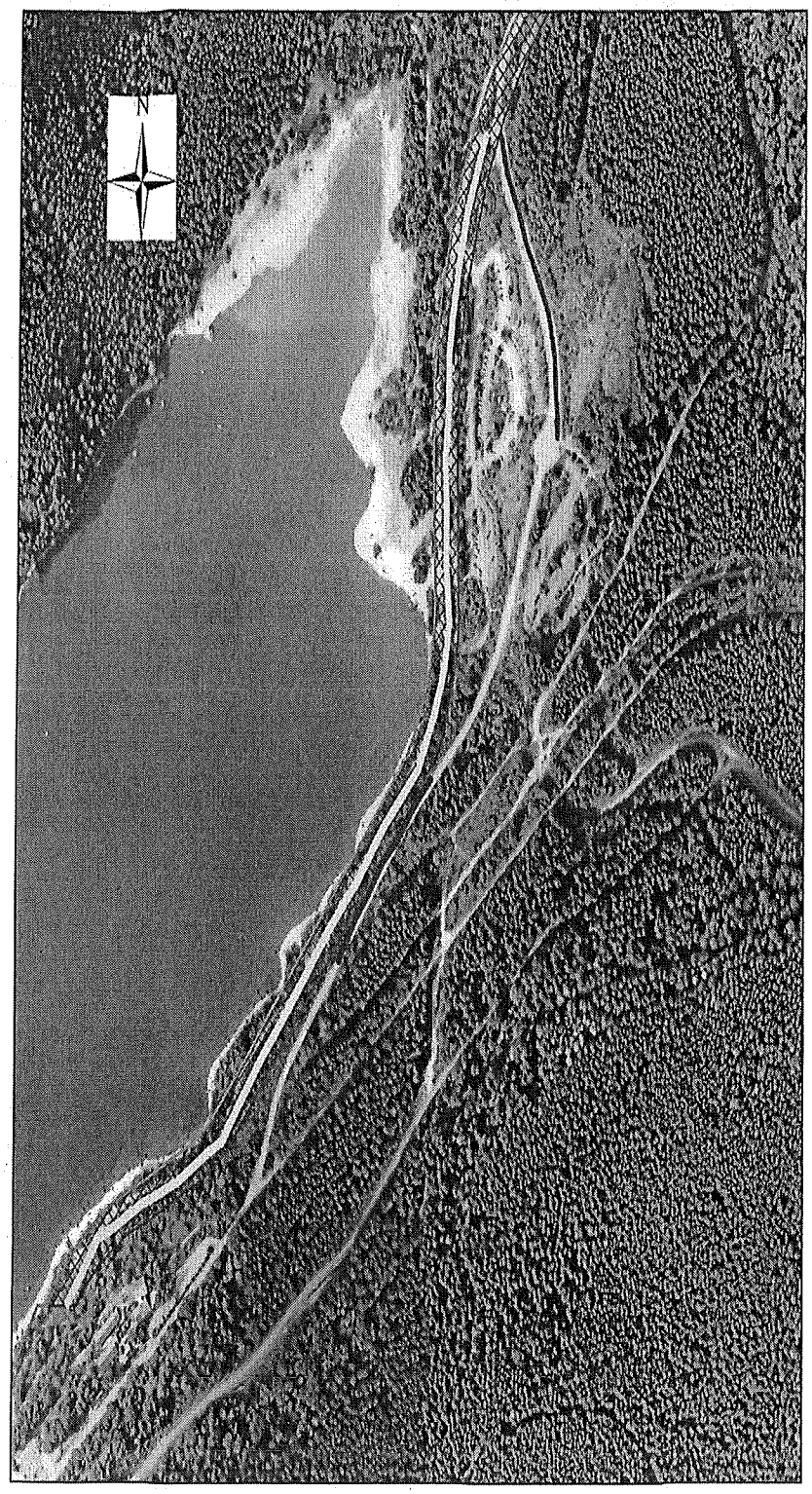
Ray Hoffman, Director
Seattle Public Utilities

Date

SEA CITY CLERK

Attachment A – SITE MAP

SEATTLE CITY CLERK



Attachment A
Site Map of Rattlesnake Lake

Rattlesnake Lake Agreement

PURPLE CROSS HATCH
KING COUNTY (KC)
SNOQUALMIE VALLEY TRAIL
RIGHT-OF-WAY

YELLOW LINE
SPU TRAIL ON KC
SNOQUALMIE VALLEY TRAIL
RIGHT-OF-WAY

RED LINE
KC CONNECTOR TRAIL
ON SPU PROPERTY

BLUE LINE
PORTION OF CEDAR FALLS ROAD
ON KC SNOQUALMIE VALLEY TRAIL
RIGHT-OF-WAY

200 100 0 200 400 600 800 Feet

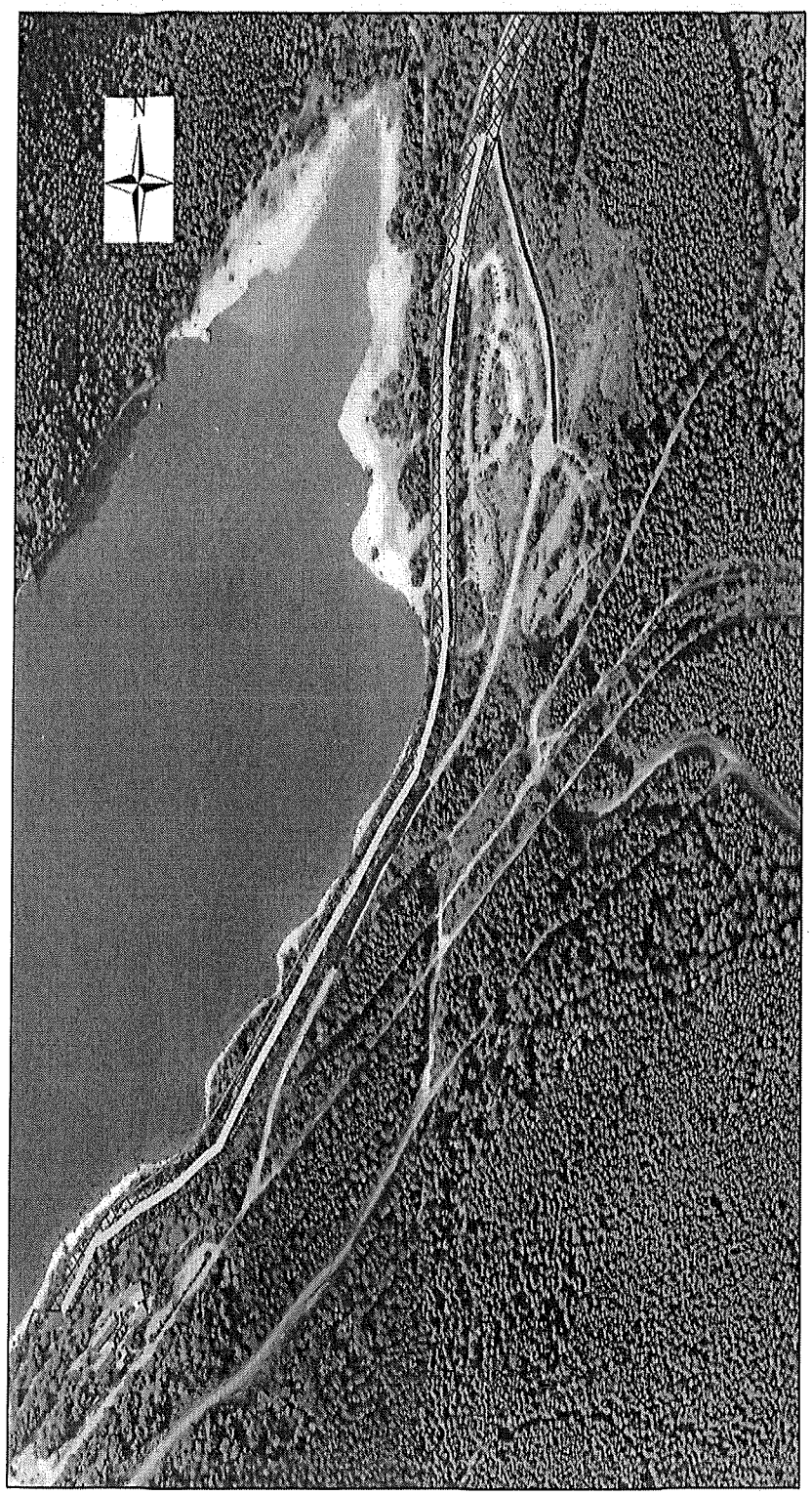
King County
Department of
Natural Resources and Parks
Parks and Recreation Division

March 2012

The information included on this map has been compiled by King County staff from a variety of sources and is subject to change without notice. King County makes no representations or warranties, express or implied, as to accuracy, completeness, timeliness, or rights to the use of such information. This document is not intended for use as a survey product. King County shall not be liable for any general, special, indirect, incidental, or consequential damages including, but not limited to, lost revenues or lost profits resulting from the use or misuse of the information contained on this map. Any sale of this map or information on this map is prohibited except by written permission of King County.

SMS CITY CLERK

CITY CLERK



Attachment A
Site Map of Rattlesnake Lake

Rattlesnake Lake Agreement

PURPLE CROSS HATCH
KING COUNTY (KC)
SNOQUALMIE VALLEY TRAIL
RIGHT-OF-WAY

YELLOW LINE
SPU TRAIL ON KC
SNOQUALMIE VALLEY TRAIL
RIGHT-OF-WAY

RED LINE
KC CONNECTOR TRAIL
ON SPU PROPERTY

BLUE LINE
PORTION OF CEDAR FALLS ROAD
ON KC SNOQUALMIE VALLEY TRAIL
RIGHT-OF-WAY

200 100 0 200 400 600 800 Feet

King County
Department of
Natural Resources and Parks
Parks and Recreation Division

March 2012

The information included on this map has been compiled by King County staff from a variety of sources and is subject to change without notice. King County makes no representations or warranties, express or implied, as to accuracy, completeness, timeliness, or rights to the use of such information. This document is not intended for use as a survey product. King County shall not be liable for any general, special, indirect, incidental, or consequential damages including, but not limited to, lost revenues or lost profits resulting from the use or misuse of the information contained on this map. Any sale of this map or information on this map is prohibited except by written permission of King County.

SEATTLE CITY CLERK

Form revised: December 6, 2011

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Seattle Public Utilities	Keith Kurko/233-1516	Karl Stickel/684-8085

Legislation Title: AN ORDINANCE relating to a recreational trails agreement with King County; authorizing the Director of Seattle Public Utilities to grant King County permission to develop and operate recreational trails on portions of utility property in the Tolt Right of Way, the Lake Youngs Reservoir area, the West Seattle Right of Way, the Snoqualmie Valley/Rattlesnake Lake area, and the Cedar River Pipeline Drain Right of Way; in partial consideration for which the County will grant the City permission to use King County property in the vicinity of Rattlesnake Lake for recreational trails and an access road; and authorizing the Director to execute the agreement for these property uses.

Summary of the Legislation:
This legislation would authorize the Director of Seattle Public Utilities (SPU) to execute a 20-year agreement with King County granting it permission to use portions of five SPU properties, primarily water supply pipeline rights of way, for non-motorized recreational trail purposes. As consideration for SPU's permission, King County will pay SPU an annual maintenance fee of $20,000 and will, in turn, grant SPU permission, by means of a Rattlesnake Lake Agreement, to use certain County-owned property in the Cedar River Watershed at the north end of Rattlesnake Lake.

Background:
SPU owns and operates a municipal and industrial water supply system serving over 1.3 million people and businesses. As part of that system, SPU owns property in King County commonly referred to as the Tolt Pipeline Right of Way, the Lake Youngs Reservoir Perimeter, the West Seattle Right of Way at Duwamish Waterway, the Snoqualmie Valley/Rattlesnake Lake Connector Trail, and the Cedar River Pipeline Drain Right of Way.

In 1973, King County and Seattle entered into a 25-year agreement granting the County permission to use a portion of the Tolt Pipeline Right of Way for non-motorized recreational trail purposes. This agreement expired in 1998. In 1988, a similar agreement was signed for trail use of the Seattle Water Department's (one of SPU's predecessor departments) Lake Youngs Reservoir Perimeter and this agreement expired in 2003.

While the primary purpose of SPU's property is for the transmission and distribution of a public water supply, certain limited recreational uses are compatible, and they provide some maintenance benefits for SPU.

CITY CLERK

King County wants to renew and continue its trail use of portions of the Tolt Pipeline Right of Way and the Lake Youngs Reservoir Perimeter, and also to develop additional recreational trails on portions of the West Seattle Right of Way at Duwamish Waterway, the Snoqualmie Valley/Rattlesnake Lake Connector Trail, and the Cedar River Pipeline Drain Right of Way.

This legislation authorizes the Director of Seattle Public Utilities to enter into a 20-year agreement with King County in the form of the "King County and Seattle Public Utilities Trails Agreement" which grants King County permission to non-exclusive use of the aforementioned property for the development and operation of recreational trails. SPU reserves the right, for its own purposes, to early termination or relocation of all or part of the County's trail use of this property. There is a 20-year renewal clause in the agreement.

The City's permission is granted upon the condition that King County will use the property solely for recreational trails, and the use of trails by members of the general public will be free of charge. King County will perform all work on the property in accordance with plans and specifications pre-approved by SPU.

In exchange for use of this property, King County will pay SPU an annual maintenance fee of $20,000, indexed for inflation. Through an attached Exhibit G, "Rattlesnake Lake Agreement", the County will grant SPU permission to use County property in the Cedar River Watershed for an access road serving the Cedar River Watershed Education Center and for an SPU recreational trail.

Please check one of the following:

____ **This legislation does not have any financial implications.**

__X__ **This legislation has financial implications.**

Anticipated Revenue/Reimbursement Resulting from this Legislation:

Fund Name and Number	Department	Revenue Source	2012 Revenue	2013 Revenue
Water Fund (43000)	SPU	King County	$20,000	$20,000 + annual inflation adjustment
TOTAL			$20,000	$20,000 + annual inflation adjustment

Revenue/Reimbursement Notes:
This only has revenue implications and requires no additional appropriations.

SEA CITY CLERK

Other Implications:

a) Does the legislation have indirect financial implications, or long-term implications?
No.

b) What is the financial cost of not implementing the legislation?
For the City, there would be $20,000 per year of foregone revenue for the next 20 to 40 years. In the Cedar River Watershed, the City would likely have to purchase an easement from King County for the SPU road and the SPU trail that now traverses County land.

c) Does this legislation affect any departments besides the originating department?
No.

d) What are the possible alternatives to the legislation that could achieve the same or similar objectives?
No other alternatives are available that achieve a similar result.

e) Is a public hearing required for this legislation?
No.

f) Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?
No.

g) Does this legislation affect a piece of property?
Yes, and maps are included as Exhibits to the legislation.

h) Other Issues:
None.

2012 CITY CLERK

City of Seattle
Office of the Mayor

June 5, 2012

Honorable Sally Clark
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Clark:

I am pleased to transmit the attached proposed Council Bill which would authorize the director of Seattle Public Utilities to sign a 20-year agreement granting King County permission to use several SPU properties for recreational trails.

Seattle Public Utilities owns and operates a water supply system that serves over 1.3 million people and businesses. As part of that system, SPU has properties in King County that it uses primarily for water supply pipeline rights of way. In 1973 and 1988 King County and Seattle signed long-term agreements granting the County use of portions of two of those pipeline rights of way for non-motorized recreational trail purposes. These agreements have expired.

While the primary purpose of SPU's property is for the transmission and distribution of drinking water, some limited recreational uses are compatible, and they provide some maintenance benefits for SPU. King County wants to renew and continue its trail use of two of the rights of way, and also to develop additional recreational trails on portions of three others. In exchange, King County would pay SPU a $20,000 maintenance fee annually indexed for inflation and will permit SPU to use County-owned property near Rattlesnake Lake in the Cedar River Watershed for an access road serving the Watershed Education Center and for an SPU recreational trail.

Approving this legislation will benefit SPU ratepayers while also providing citizens of King County access to a wonderful recreational amenity. If you have any questions, please contact Keith Kurko at 233-1516.

Sincerely,

Michael McGinn
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

Michael McGinn, Mayor
Office of the Mayor
600 Fourth Avenue, 7th Floor
PO Box 94749
Seattle, WA 98124-4749

Tel (206) 684-4000
Fax (206) 684-5360
TDD (206) 615-0476
mike.mcginn@seattle.gov

CITY CLERK

FILED
CITY OF SEATTLE
12 SEP -7 PM 3:15
CITY CLERK

STATE OF WASHINGTON – KING COUNTY

--ss.

287392 No. 123933,934,935,936,937
CITY OF SEATTLE,CLERKS OFFICE

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:TITLE ONLY ORDINANCE

was published on

08/10/12

The amount of the fee charged for the foregoing publication is the sum of $ 104.63, which amount has been paid in full.

Subscribed and sworn to before me on

08/10/12

Notary public for the State of Washington,
residing in Seattle

JENNIFER A. BORRERO NOTARY PUBLIC STATE OF WASHINGTON COMMISSION EXPIRES 10-24-15

State of Washington, King County

City of Seattle

Title Only Ordinances

The full text of the following legislation, passed by the City Council on July 23, 2012, and published below by title only, will be mailed upon request, or can be accessed at http://clerk.seattle.gov. For information on upcoming meetings of the Seattle City Council, please visit http://www.seattle.gov/council/calendar.

Contact: Office of the City Clerk at (206) 684-8344.

ORDINANCE NO. 123933

AN ORDINANCE authorizing, in 2012, acceptance of funding from non-City sources; authorizing the heads of the Seattle Fire Department, Seattle Police Department, Office of Economic Development, Office of Sustainability and Environment, Department of Neighborhoods, Human Services Department, Department of Information Technology, Seattle City Light, Department of Parks and Recreation, Seattle Department of Transportation and Seattle Public Utilities to accept specified grants and private funding and to execute, deliver, and perform corresponding agreements; and ratifying and confirming certain prior acts.

ORDINANCE NO. 123934

AN ORDINANCE relating to a recreational trails agreement with King County; authorizing the Director of Seattle Public Utilities to grant King County permission to develop and operate recreational trails on portions of utility property in the Tolt Right of Way, the Lake Youngs Reservoir area, the West Seattle Right of Way, the Snoqualmie Valley/Rattlesnake Lake area, and the Cedar River Pipeline Drain Right of Way; in partial consideration for which the County will grant the City permission to use King County property in the vicinity of Rattlesnake Lake for recreational trails and an access road; and authorizing the Director to execute the agreement for these property uses.

ORDINANCE NO. 123935

AN ORDINANCE relating to the Seattle Center Department; authorizing execution of a right of entry agreement with Comcast Cable Communications Management, LLC and a license agreement with KCTS Television, to allow for access of conduit and installation of fiber optic cable and related equipment needed to provide various communication services at Seattle Center.

ORDINANCE NO. 123936

AN ORDINANCE relating to the Technology Matching Fund Program; making allocations and authorizing implementation of certain Technology Matching Fund projects in 2012; providing that 2012 appropriations for the Technology Matching Fund from the Cable Television Franchise Subfund and from the Information Technology Fund shall automatically carry forward into the 2013 fiscal year; that any unspent funds from an individual project may be applied to another Technology Matching Fund project; and ratifying and confirming certain prior acts.

ORDINANCE NO. 123937

AN ORDINANCE relating to the referral of certain permit applications from the Department of Planning and Development to the Department of Neighborhoods for historic landmark review and amending Sections 25.05.800 and 25.12.370 of the Seattle Municipal Code.

Date of publication in the Seattle Daily Journal of Commerce, August 10, 2012.

8/10(287392)