



CITY OF BLACK DIAMOND
August 15, 2013 Council Meeting Agenda
25510 Lawson St., Black Diamond, Washington

7:00 P.M. – CALL TO ORDER, FLAG SALUTE, ROLL CALL

PUBLIC COMMENTS: Persons wishing to address the City Council regarding items of new business are encouraged to do so at this time. When recognized by the Mayor, please come to the podium and clearly state your name and address. Please limit your comments to 3 minutes. If you desire a formal agenda placement, please contact the City Clerk at 360-886-5700. Thank you for attending this evening.

PUBLIC HEARINGS:

1.) **AB13-061** – Shoreline Master Program

Mr. Nix

APPOINTMENTS, PRESENTATIONS, ANNOUNCEMENTS: None

UNFINISHED BUSINESS: None

NEW BUSINESS:

2.) **AB13-062** – Resolution Regarding Department of Ecology’s Comment Letter on
the City’s Draft Shoreline Master Program

Mr. Nix

5.) **AB13-065** – Resolution Accepting 288th Project

Mr. Williamson

6.) **AB13-066** – Resolution Authorizing Agreement with South County Area Transportation
Board

Mayor Olness

DEPARTMENT REPORTS:

MAYOR’S REPORT:

COUNCIL REPORTS:

ATTORNEY REPORT:

PUBLIC COMMENTS:

CONSENT AGENDA:

EXECUTIVE SESSION:

7.) **Claim Checks** – August 15, 2013, Check No. 39870 through No. 39922 (void check nos.39754, 39877) in the amount of \$533,901.17

8.) **Payroll** – July 31, 2013, No. 18094 through No. 18112 and ACH Pay in the amount of \$282,849.53

9.) **Minutes**– Workstudy Notes of July 25, 2013 and August 1, 2013 and Regular Meeting Minutes of August 1, 2013

ADJOURNMENT:

CITY COUNCIL AGENDA BILL

City of Black Diamond
Post Office Box 599
Black Diamond, WA 98010

ITEM INFORMATION		
SUBJECT: Public Hearing - Department of Ecology's comment letter on the City's Draft Shoreline Master Program in order to be in compliance with RCW 90.58.090.	Agenda Date: August 15, 2013	
	AB13-061	
	Department/Committee/Individual	
	Mayor Rebecca Olness	
	City Administrator – Mark Hoppen	
	City Attorney – Chris Bacha	
	City Clerk – Brenda L. Martinez	
	Finance – May Miller	
	Natural Resources/Parks – Aaron Nix	X
	Economic Devel. – Andy Williamson	
Cost Impact: \$70,000	Police – Jamey Kiblinger	
Fund Source: Ecology Grant	Court – Stephanie Metcalf	
Timeline: N/A	Comm. Dev. – Stacey Welsh	
Agenda Placement: <input type="checkbox"/> Mayor <input type="checkbox"/> Two Councilmembers <input type="checkbox"/> Committee Chair <input checked="" type="checkbox"/> City Administrator		
Attachments: Ecology letter dated July 26, 2013 w/attachments and Public Hearing Notice		
SUMMARY STATEMENT: <p>The Black Diamond City Council requested that the Mayor submit the City's Draft Shoreline Master Program (SMP) to the Department of Ecology for review through Resolution 12-829. The Mayor submitted the Draft Plan via letter on October 3, 2012 and the City received confirmation of a complete submittal package from the Department of Ecology in its October 9, 2013 letter. This letter also confirmed that Black Diamond's Draft SMP was ready for formal review by the Department in accordance with WAC 173-26-100 and 110.</p> <p>In a July 26, 2013 letter received by the Mayor, the Department of Ecology gave conditional approval of Resolution 12-829, contingent that the City responds to both required and recommended changes as submitted within their July 26, 2013 letter within the 30-day response criteria found in RCW 90.58.090.</p>		
COMMITTEE REVIEW AND RECOMMENDATION: Planning and Community Development – August 7, 2013		
RECOMMENDED ACTION: PUBLIC HEARING. ACTION ON THE ITEM IS UNDER NEW BUSINESS.		
RECORD OF COUNCIL ACTION		
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
August 15, 2013		



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000

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July 26, 2013

The Honorable Rebecca Olness
City of Black Diamond
24301 Roberts Drive
Black Diamond, WA 98010

Re: City of Black Diamond Comprehensive Shoreline Master Program Update – Conditional Approval, Resolution Number 12-829

Dear Mayor Olness:

I would like to take this opportunity to commend the city of Black Diamond (City) for its efforts in developing the proposed comprehensive Shoreline Master Program (SMP) update. It is obvious that a significant effort was invested in this update by your staff and engaged community. The SMP will provide a framework to guide development and habitat restoration along the City's shorelines.

As we have already discussed with your staff, the Washington State Department of Ecology (Ecology) has identified specific changes necessary to make the proposal approvable. These changes are detailed in Attachment B. Recommended changes are included in Attachment C. Ecology's findings and conclusions related to the City's proposed SMP update are contained in Attachment A.

Pursuant to RCW 90.58.090 (2)(e), at this point, the City may:

- Agree to the proposed changes, or
- Submit an alternative proposal. Ecology will then review the alternative(s) submitted for consistency with the purpose and intent of the changes originally submitted by Ecology and with the Shoreline Management Act.

Final Ecology approval will occur when the City and Ecology agree on language that meets statutory and Guidelines requirements.



The Honorable Rebecca Olness
July 26, 2013
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Please provide your written response within 30 days to the Director's Office at the following address:

WA State Department of Ecology
Attention: Director's Office
PO Box 47600
Olympia, WA 98504-6700

Ecology appreciates the dedicated work that you, the City Council, Natural Resources staff (Director Aaron Nix), the Planning Commission, and the Shoreline Advisory Committee have put into the Shoreline Master Program update.

Thank you again for your efforts. We look forward to concluding the SMP update process in the near future. If you have any questions or would like to discuss the changes identified by Ecology, please contact our Regional Planner, Anthony Boscolo at Anthony.Boscolo@ecy.wa.gov or (425) 649-7049.

Sincerely,



Maia D. Bellon
Director

Enclosures (3)

By Certified Mail [7012 1010 0003 3028 3348]

cc: Aaron Nix, City of Black Diamond
Anthony Boscolo, Ecology
Peter Skowlund, Ecology
Erik Stockdale, Ecology

**ATTACHMENT A: FINDINGS AND CONCLUSIONS
FOR PROPOSED COMPREHENSIVE UPDATE TO THE CITY OF BLACK DIAMOND
SHORELINE MASTER PROGRAM**

SMP Submittal accepted October 9, 2012, Resolution No.12-829
Prepared by Anthony Boscolo on June 13, 2013

Brief Description of Proposed Amendment:

The City of Black Diamond has submitted to Ecology for approval, a comprehensive update to their Shoreline Master Program (SMP) to comply with Shoreline Management Act (SMA) and SMP Guidelines requirements. The updated master program submittal contains locally tailored shoreline management policies, regulations, environment designation maps, administrative provisions as well as local ordinance # 08-875 adopted by reference as part of the SMP. Additional reports and supporting information and analyses noted below, are included in the submittal.

Black Diamond ordinance #08-875 established the current regulations for critical areas within the city limits. These regulations were updated in 2009 and are adopted by reference in the SMP. The SMP also contains provisions which modify the city's critical area protections to ensure consistency with the SMA and the SMP Guidelines.

FINDINGS OF FACT

Need for amendment:

The proposed amendment is needed to comply with the statutory deadline for a comprehensive update of the City's local Shoreline Master Program pursuant to RCW 90.58.080 and 100. This amendment is also needed for compliance with the policies of the Shoreline Management Act, the applicable guidelines and implementing rules. The original City SMP was approved by Ecology in 1977 and has never been updated. This SMP update is also needed to address land use changes that have occurred along the City's shorelines over the past 36 years and to provide consistency between the updated SMP and the environmental protection and land use management policies and practices provided by the City's Critical Areas Ordinance, Comprehensive Plan, Flood Management Plan. In 1998 the City limits expanded through the annexation of lands around Lake Sawyer. In accordance with WAC 173-26-160, the City has been implementing the 1978 King County SMP for the newly acquired shoreline jurisdiction. This SMP update will bring all shoreline jurisdiction in Black Diamond under the same set of policy and regulations.

SMP provisions to be changed by the amendment as proposed:

This comprehensive SMP update is intended to entirely replace the City's existing SMP. Under the existing SMP no lands qualified as shoreline jurisdiction. Only in 1998, when the City incorporated the lands around Lake Sawyer did the City acquire lands required to be regulated by the SMA. This updated SMP increases, by 100%, the linear extent of shorelines to be covered and regulated by the

City. As a result, this SMP will now regulate approximately .01 miles of river and 6.6 miles of lake shorelines.

Under the existing SMP, there is one environment designation; Rural. In contrast, the updated SMP regulates activities and development along the City’s shorelines using the following five (5) new designations, each containing purpose statements, designation criteria, and management policies. The new designations and their purposes statements are listed below:

- 1) **Natural** – to protect those shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline functions intolerant of human use. These systems require that only very low intensity uses be allowed in order to maintain the ecological functions and ecosystem-wide processes. Consistent with the policies of the designation, include planning for restoration of degraded shoreline within this environment. (Portions of Lake Sawyer Regional Park identified as wetlands)
- 2) **Shoreline Residential** – to provide for residential needs where the necessary facilities for development can be provided. An additional purpose is to provide appropriate public access and recreational uses. (residential areas of Lake Sawyer)
- 3) **Shoreline Residential Limited** – The Shoreline Residential Limited environment designation recognizes the higher level of ecological function and sensitivity associated with specific islands located in Lake Sawyer, when compared to other shoreline areas that are developed or planned for residential development. This designation also recognizes the presence of existing residential and recreational uses in these areas and is designed to provide for development and/or redevelopment that is compatible with the protection of ecological functions at such time when appropriate facilities are provided, such as potable water, electricity and waste disposal that complies with King County and State Health Department regulations. In addition to residential and recreational uses, an additional purpose of this environment is to provide for ecological enhancement.
- 4) **Urban Conservancy** – to protect and restore ecological functions of open space, floodplain and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses. (more heavily used park areas such as Lake Sawyer Boat Launch Park and portions of Lake Sawyer Regional Park)
- 5) **Aquatic** – to protect, restore, and manage the unique characteristics and resources of the areas waterward of the ordinary high-water mark.

The table below is a summarization of the changes in the updated SMP along with a comparison to the existing 1978 SMP.

Proposed Change Topic	Existing 1978 SMP Requirement	Proposed Requirement
Shoreline Stabilization	Precautions to avoid adverse effects. However, no prescriptions for avoiding/minimizing impacts described.	Consistent with Guideline requirements of WAC 173-26. New Stabilization restricted to the minimum size necessary and allowed only with a demonstrated need for protection and proof of

		infeasibility of softer alternatives through a geotechnical analysis.
Critical Area Regulations	No critical area regulations are identified	Incorporated CAO provisions which have been modified for consistency with the SMA and include protections for fish and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous areas, streams, wetlands, and aquifer recharge areas. Stream buffer widths range 25 – 150 feet. Wetland buffers widths range 40 – 225 feet.
Allowed/Prohibited Uses	Use and modification table does not exist. With only one environment designation, uses were generally covered in the body of the SMP	A use and modification matrix is embedded in the SMP which was created to align with the City of Black Diamond's anticipated future land use. The new matrix specifically addresses types of modifications anticipated and their appropriateness in a lacustrine environment.
Environment designations	RURAL	NATURAL, AQUATIC, URBAN CONSERVANCY, SHORELINE RESIDENTIAL LIMITED, SHORELINE RESIDENTIAL.
SMP SETBACKS	All setbacks begin at 25 feet from OHWM. Rear yard setback is 20 feet. Total of 45 foot setback. Lake Sawyer currently regulated by King County SMP which establishes a 20 foot setback.	25-100 Feet
BREAKWATERS, JETTIES, GROINS, WEIRS	Not addressed	Prohibited in all shoreline designations
Moorage Facilities	Allowed	Permitted
Mining	Conservancy: Allowed Natural: Prohibited	Prohibited
Piers, docks	Permitted	Minimum size needed for

		access to watercraft.
Ecological protection	Requirements to avoid and minimize impacts of some projects.	Implementation of the concepts of no net loss of shoreline ecological function and mitigation sequencing.

The SMP changes include more site and use-specific policies and regulations designed to achieve no net loss of ecological function such as:

- Stabilization preference hierarchy from non-structural, to soft, to hard being the least preferred option.
- Geotechnical reports required as specified in WAC 173-26 for shoreline stabilization and the placement of structural flood hazard reduction measures.
- Dredging requires the use of the conditional use permit process. Dredging is prohibited except for public utilities, support of a water-dependent use, and restoration activities and only when authorization has been received by state and federal agencies.
- Mitigation sequencing is applied to all development regulated by the SMP within the shoreline jurisdiction.
- Vegetation conservation is applied throughout shoreline jurisdiction across all shoreline environment designations. Vegetation conservation standards are also applied through the critical area regulations with buffers ranging from 40 to 225 feet.

Amendment History, Review Process: The City indicates the proposed SMP amendments originated from a local planning process that began in June, 2008. In October 2009 the city released the SMP Update Public Participation Plan. The record shows that workshops and public hearings which were open to the public were held on December 6, 2011, January 10, February 7, February 21, March 6, March 13, March 27, April 10, May 8, May 31, June 19 and June 21, 2012. Affidavits of publication provided by the City indicate notice of the hearings was published on March 2 and June 8, 2012.

Pursuant to WAC 173-26-110, as indicated below, the City of Black Diamond has satisfied the submittal requirements for a comprehensive SMP update:

- Pursuant to WAC 173-26-110(1), a signed resolution was provided to the department which indicated that the SMP had been preliminary approved by Resolution No. 12-829, on September 6, 2012.
- As a comprehensive update, Resolution No. 12-829 is consistent with WAC 173-26-100(2).
- Pursuant to WAC 173-26-110(3), amended environment designation maps were submitted to the department.
- Pursuant to WAC 173-26-110(4), materials, minutes, and process summary were provided to the department.

- Pursuant to WAC 173-26-110(5), SEPA was noticed on March 2, 2012. On March 2, 2012, the City issued a SEPA Determination of Non-Significance (DNS) with a comment period ending March 30, 2012. No appeals were filed.
- Pursuant to WAC 173-26-110(7), copies of all public, tribal, and agency comments were submitted to the department.
- Pursuant to WAC 173-26-110(8), a completed SMP checklist was submitted to the department.
- Pursuant to WAC 173-26-110(9), copies of the use analysis, inventory and characterization, cumulative impacts analysis, and restoration plan were submitted to the department.

With passage of Resolution # 12-829, on September 6, 2012, the City authorized staff to forward the proposed amendments to Ecology for approval.

The proposed SMP amendments were received by Ecology for state review and verified as complete on October 9, 2012. Notice of the state comment period was distributed to state task force members and interested parties identified by the City on November 8, 2012, in compliance with the requirements of WAC 173-26-120, and as follows: The state comment period began on November 13 and continued through December 21, 2012. No public comments were received.

Consistency with Chapter 90.58 RCW: The proposed amendment has been reviewed for consistency with the policy of RCW 90.58.020 and the approval criteria of RCW 90.58.090(3), (4) and (5). The City has also provided evidence of its compliance with SMA procedural requirements for amending their SMP contained in RCW 90.58.090(1) and (2).

Consistency with “applicable guidelines” (Chapter 173-26 WAC, Part III): The proposed amendment has been reviewed for compliance with the requirements of the applicable Shoreline Master Program Guidelines (WAC 173-26-171 through 251 and 173-26-020 definitions). This included review of a SMP Submittal Checklist, which was completed by the City.

Ecology staff thoroughly reviewed the SMP goals, policies, regulations, environment designations, maps, administrative provisions, definitions, and legal provisions for consistency with the Guidelines. Ecology staff also thoroughly reviewed and evaluated the City’s SMP inventory, characterization and analysis, public involvement process, and Growth Management Act integration, including critical areas. In addition, Ecology staff reviewed and evaluated the City’s Shoreline Restoration Plan including the background data and documentation.

Consistency with SEPA Requirements: The City submitted evidence of SEPA compliance in the form of a SEPA checklist and issued a Determination of Non-Significance (DNS) for the proposed SMP amendments on March 2, 2012. Notice of the SEPA determination was published in the Covington / Maple Valley / Black Diamond Reporter on March 2, 2012. Ecology did not comment on the DNS.

Other Studies or Analyses supporting the SMP update: Ecology also reviewed the following reports, studies, map portfolios and data prepared for the City in support of the SMP amendment:

These supporting documents include:

- *a October 29, 2009 public participation plan,*
- *a August 6, 2010 shoreline inventory and characterization,*
- *a September 2012 cumulative impacts analysis, and*
- *a September 2012 restoration plan*

Summary of Issues Raised During The Public Review Process:

The City's SMP amendment drafting/public review process had quality participation with 35 oral and written comments submitted. The city did an exemplary job of addressing the concerns of interested parties. At the conclusion of the process staff was praised for their efforts in making the update a collaborative process. During the public participation period, extensive debate centered on the following topics: Setbacks, incentives for setback reductions, and use of Lake Sawyer.

Setbacks – Citizens expressed concern over the creation of larger setbacks given the existing setback is 20 feet yet the typical development is located much further from the water. This was highlighted in the Final Cumulative Impacts Analysis (CIA) which stated the average setback is 48 feet within the residential areas of Lake Sawyer. Although an incentive base setback scheme was created which allows for setback reductions from the standards setback, concern still remained that particular incentives would not be feasible or would increase the risk of erosion.

The City finally settled on a buffer scheme for residential areas which includes a 40 foot standard setback which could be reduced to 25 feet with a combination of upland related enhancements or use of water related enhancements. Additional setback averaging measures were also integrated into the final buffer system to add additional flexibility.

Ecology also provided written comment within the City provided Checklist which identified deficiencies in the proposed setback system, and indicated that the setback system did not meet the requirements of WAC 173-26-186 (8) for no net loss of shoreline ecological functions. Ecology noted the wide range in existing setbacks and that more equitable solutions should be pursued to give weight to localized circumstances. Given that a nearly identical setback scheme is included in the Final submittal, Ecology is requiring changes as identified in Attachment B.

Vegetation planting and bulkhead removal – As an incentive for a reduced setback, the SMP requires that a landowner choose from a number of site improvements. These range from increasing the amount of impervious surface, to installing a green roof, to bulkhead removal, to installing near shore plantings.

Concern was expressed over setback reduction incentives which require vegetation planting or bulkhead removal. In particular, that this type of incentive would go beyond the requirement of no net loss of shoreline ecological function and could lead to shoreline erosion.

In Ecology's initial review it indicated that incentive measures would need to be prioritized to emphasize near shore improvements. Based on the incentives proposed by the City these would involve some level of either bulkhead removal or near shore native vegetation plantings. This prioritization is consistent with the ecosystem needs identified in the Shoreline Analysis Report and is thus being required change as identified in Attachment B, required changes.

Damage from boat wakes – A number of citizens expressed concern over bulkhead removal standards. It was expressed that erosive forces caused by boat wakes threaten private property, and removal of a bulkhead would increase the risk. The City has standards which limit speed and usage to particular times of the day, yet those efforts seem to have raised the intensity of the use, and have failed to alleviate the concerns of shoreline landowners.

The City took steps to clarify that the SMP doesn't require bulkhead removal. Further, the City clarified that softer methods of stabilization have been shown to provide comparable protections while providing ecological benefits and improved shoreline access while meeting the requirements of the SMA.

Public access standards – Concern was raised regarding public access requirements for subdivision creating four lots or greater. Specifically, that requiring public access would devalue the new lots by taking away one of the characteristics unique to typical shoreline landowners.

As a result of this concern, the City inserted new standards into the SMP. The Shoreline Administrator now has the ability to determine if the public access requirement is met by community or visual access rather than public access.

Flooding concerns – Concerns were expressed regarding flooding due the increasing amount of development and impervious surface in the watershed. The City noted that concern and correctly indicated that shoreline jurisdiction only extends two hundred feet from the OHWM.

Summary of Issues Raised by Ecology as Relevant To Its Decision:

Vegetation Conservation – As proposed, the vegetation conservation standards allow for removal of 'unhealthy' trees within the shoreline setback. This is in conflict with WAC 173-26-221(5). Limited vegetation removal is allowable for safety and view protection. Required changes have been included to ensure proper hazardous tree removal consistent with WAC 173-26-221(5).

Additional standards have been incorporated into the proposed SMP when a tree is considered 'significant'. The SMP does not have a definition for significant tree. Rather, it relies on a definition located in city code outside of the SMP. This definition has been incorporated into the SMP as a required change.

Shoreline Setbacks – Setbacks within the SMP vary by environment designation. The most common designation, applied to the majority of residential areas, is the Shoreline Residential environment

designation. As proposed, the Shoreline Residential environment designation requires a standard 40 foot setback from the ordinary high water mark.

This reach contains a wide variety of lot shapes and sizes. An analysis of lots in this designation shows that the majority range in size from less than 1/10th of an acre to greater than 3 acres. The average lot size is roughly ½ acre. More telling is that the standard deviation is greater than .4 acres, which indicates that 68% of the lots are between approximately .15 acres and .95 acres, with the remaining 32% being outside of that range. The minimum lot size that can be achieved through subdivision is 9600 square feet or .22 acres.

Existing setbacks from the ordinary high water mark also vary greatly. The Final Cumulative Impacts Analysis Component for the City of Black Diamond summarizes the residential setbacks as follows:

The Shoreline Analysis Report included an initial analysis of the median setback distance for all structures within the shoreline jurisdiction, which was approximately 57 feet. This analysis has been refined and updated to focus only on primary residential structures. A review of building footprint data and aerial photography indicated that approximately 112 primary structures in Segment A are located within 40 feet of the OHWM, which is the proposed standard setback in the SMP for the Shoreline Residential environment. Of these, 67 structures are located within the proposed 20-foot minimum setback. The remaining 155 structures within Segment A lie more than 40 feet from the shoreline, outside the proposed maximum setback. The median setback is approximately 48.7 feet based on available data. However, the mapped location of the ordinary high water mark does not always correspond well with the apparent shoreline edge in aerial photos and therefore we believe this number may not accurately reflect the true median setback. (AHBL, September 2012, Page 6)

As described, existing setbacks have been difficult to measure with confidence. WAC 173-26-201 (3) (g) requires that when less is known about a particular resource, provisions should be more protective to ensure resource protection. Further, WAC 173-26-201 (2) (e) requires avoidance of impacts as the primary step of resource protection.

Relative to other shoreline reaches, the ecological functions within this reach have been found to be limited (AHBL/Otak, August 6, 2012). However limited, replacing those functions with residential structures and appurtenances is a loss of ecological function.

Flexible Shoreline Setbacks – Flexible setbacks, or reduced setbacks with enhancement, have been incorporated into the Black Diamond SMP. Under the proposed system, up to a 25 foot reduction can be achieved by performing a combination of ‘enhancements’. The minimum achievable setback from the Ordinary High Water Mark is 25 feet.

As proposed, the enhancements listed in SMP Table III can be utilized in any order, regardless of ecological needs. These enhancements range from monetary contributions to a city restoration fund, to bulkhead removal, to connecting to the sanitary sewer system, to written agreement to follow a vegetation management plan.

Although somewhat similar approaches have been used by other jurisdictions, the City of Black Diamond has not provided a rationale of how shoreline ecological functions will be protected under a

reduced setback. Rather, the Final Cumulative Impacts Analysis Component for the City of Black Diamond acknowledges additional impacts, though minimized.

All development in the Shoreline Residential environment would be subject to a standard 40-foot setback from the OHWM. This setback can be reduced to a minimum of 25 feet when approved mitigation or restoration actions are taken, such as bulkhead removal, vegetation preservation, use of LID techniques, or keeping impervious surface significantly below allowances. (SMP 4.B.3 and 4.B.4) Implementation of these techniques will minimize impacts on ecological functions by limiting impervious surface and reducing stormwater runoff to the lake that could contain excess nutrients and toxic materials, as well as increasing the potential for natural filtration by preserving natural vegetation. (AHBL, September 2012, Page 37)

Environment Designations – As drafted, the SMP contains five environment designations; Aquatic, Natural, Urban Conservancy, Shoreline Residential, and Shoreline Residential Limited. Concern was raised early in the drafting stage regarding the broad application of the Shoreline Residential designation. In particular, concern about the application to two large and lots in Shoreline Residential environment designation.

WAC 173-26-211 contains specific criteria for which areas may be considered for each environment designation. The Shoreline Residential designation criteria are as follows.

"Assign a "shoreline residential" environment designation to shoreline areas inside urban growth areas, as defined in RCW 36.70A.110, incorporated municipalities, "rural areas of more intense development," or "master planned resorts," as described in RCW 36.70A.360, if they are predominantly single-family or multifamily residential development or are planned and platted for residential development."

As previously described, residentially zoned lots on Lake Sawyer vary greatly in terms of size. The two lots in question are the largest lots in the designation and are 12.9 and 10 acres respectively. They are spatially diverse being located on the north and south ends of Lake Sawyer. Within the City of Black Diamond Shoreline Analysis Report these two areas were considered distinct enough to be separated for other residential areas.

The City of Black Diamond Shoreline Analysis Report describes the northern 12.9 acre lot as follows.

"The parcel appears to have a road that branches into two roads or driveways that lead to separate homes or outbuildings. There appears to be three significant structures on the parcel, as well as additional outbuildings. Personal communication with neighboring residents and visitors indicates that there is a larger historic house, a caretaker's house and a new cabin or conference building, plus small out buildings located on the site.

....

The property comes to a point out into the lake where there appears to be some very limited areas of armoring (approximately 2% of the total shoreline); however, the majority of the property has a natural shoreline with abundant, overhanging vegetation. There are three docks on the property that are visible in aerial photos." (AHBL/Otak, August 6, 2012, Page 32)

The Southern 10 Acre lot located adjacent to Lake Sawyer Regional Park was not specifically described in the City of Black Diamond Shoreline Analysis Report. In the report it was grouped with the Lake Sawyer Regional Park reach and conditions were analyzed as a whole. The Cumulative Impacts Analysis does provide some specific descriptions of the southern 10 acre lot.

"The residential parcel north of the park, which large enough for subdivision, is anticipated to remain vacant for the foreseeable future until sanitary sewer service is provided to the area. At such time, the parcel may convert to residential use. Although there are no current plans to do so, there is also the potential that this property could be converted to public recreational use as it is adjacent to the current Regional Park."

...

"This property has approximately 1,363 feet of shoreline frontage and, under the minimum lot dimension requirements of the proposed SMP and BDMC 18.30.040, could be subdivided to create up to 22 shoreline frontages." (AHBL, September 2012, Page 29)

Although not providing clear information about the specific properties physical characteristics, the information from the CIA does provide insight into the ecological uniqueness of the property.

CONCLUSIONS OF LAW

After review by Ecology of the complete record submitted and all comments received, Ecology concludes that the City's proposed comprehensive SMP update, subject to and including Ecology's required changes (itemized in Attachment B), is consistent with the policy and standards of RCW 90.58.020 and RCW 90.58.090 and the applicable SMP guidelines (WAC 173-26-171 through 251 and .020 definitions). This includes a conclusion that approval of the proposed SMP, subject to required changes, contains sufficient policies and regulations to assure that no net loss of shoreline ecological functions will result from implementation of the new updated master program (WAC 173-26-201(2)(c)).

Ecology also concludes that a separate set of recommended changes to the submittal (identified during the review process and itemized in Attachment C) would be consistent with SMA policy and the guidelines and would be beneficial to SMP implementation. These changes are not required, but can, if accepted by the City, be included in Ecology's approved SMP amendments.

Consistent with RCW 90.58.090(4), Ecology concludes that those SMP segments relating to critical areas within Shoreline Management Act jurisdiction provide a level of protection at least equal to that provided by the City/County's existing critical areas ordinance.

Ecology concludes that the City has complied with the requirements of RCW 90.58.100 regarding the SMP amendment process and contents.

Ecology concludes that the City has complied with the requirements of RCW 90.58.130 and WAC 173-26-090 regarding public and agency involvement in the SMP update and amendment process.

Ecology concludes that the City has complied with the purpose and intent of the local amendment process requirements contained in WAC 173-26-100, including conducting open houses and public hearings, notice, consultation with parties of interest and solicitation of comments from tribes, government agencies and Ecology.

Ecology concludes that the City has complied with requirements of Chapter 43.21C RCW, the State Environmental Policy Act.

Ecology concludes that the City's comprehensive SMP update submittal to Ecology was complete pursuant to the requirements of WAC 173-26-110 and WAC 173-26-201(3)(a) and (h) requiring a SMP Submittal Checklist.

Ecology concludes that it has complied with the procedural requirements for state review and approval of shoreline master program amendments as set forth in RCW 90.58.090 and WAC 173-26-120.

Ecology concludes that the City has chosen not to exercise its option pursuant to RCW 90.58.030(2)(f)(ii) to increase shoreline jurisdiction to include buffer areas of critical areas within shorelines of the state. Therefore, as required by RCW 36.70A.480(6), for those designated critical areas with buffers that extend beyond SMA jurisdiction, the critical area and its associated buffer shall continue to be regulated by the City's critical areas ordinance. In such cases, the updated SMP shall also continue to apply to the designated critical area, but not the portion of the buffer area that lies outside of SMA jurisdiction. All remaining designated critical areas (with buffers NOT extending beyond SMA jurisdiction) and their buffer areas shall be regulated solely by the SMP.

DECISION AND EFFECTIVE DATE

Based on the preceding, Ecology has determined the proposed amendments comprehensively updating the SMP, are consistent with Shoreline Management Act policy, the applicable guidelines and implementing rules, once required changes set forth in Attachment B are approved by the City. Ecology approval of the proposed amendments with required changes is effective 14 days from Ecology's final action approving the amendment.

As provided in RCW 90.58.090(2)(e)(ii) the City may choose to submit an alternative to the changes required by Ecology. If Ecology determines that the alternative proposal is consistent with the purpose and intent of Ecology's original changes and with RCW 90.58, then the department shall approve the alternative proposal and that action shall be the final. Approval of the updated SMP and proposed alternative/s is effective 14 days from Ecology's final action approving the alternative/s.

Attachment B:

Ecology Required Changes

The following changes are required to comply with the SMA (RCW 90.58) and the SMP Guidelines (WAC 173-26, Part III):

ITEM	DRAFT SMP Submittal PROVISION (Cite)	TOPIC	BILL FORMAT CHANGES (underline = additions; strikethrough = deletions)	RATIONALE
1	Ch. 1.E ¶ 3	Environment Designations	Black Diamond has designated its Lake Sawyer shorelines under four <u>five</u> shoreline environments: Aquatic, Natural, Urban Conservancy, <u>Shoreline Residential Limited</u> and Shoreline Residential.	WAC 173-26-211 requires the application of shoreline environment designations. The Black Diamond SMP contains five designations including Shoreline Residential Limited.
2	Ch. 3.B.5.c.3	Public Access	h. The cost of providing the access, easement, or an alternative amenity is unreasonably disproportionate to the total long-term cost of the proposed development or other. <u>Where constitutional or legal limitations preclude public access.</u>	Exceptions to public access standards are limited to those found in WAC 173-26-221 (4)(d)(iii).
Vegetation Conservation				
3	Ch. 3.B.7.c Shoreline Vegetation Conservation Regulations	Vegetation Conservation Standards	3. Any normal and routine maintenance of existing trees shall not be subject to these clearing and grading regulations, provided; that said maintenance does not involve removal of healthy trees and is not detrimental to the health of any trees.	The SMP allows the unmitigated removal of unhealthy non-hazardous trees. This is in conflict with WAC 173-26-221(5)(c). Shoreline vegetation conservation, WAC 173-26-201 (2) (e). Environmental

Impact Mitigation, and the provisions of WAC 173-26-186(8), as they relate to a finding of no net loss of shoreline ecological functions.

The importance of vegetation in urban areas is addressed in the guidelines and the City's Inventory and Analysis. The Guidelines highlight the relative importance of vegetation in WAC 173-26-201(3)(d)(viii): While there may be less vegetation remaining in urbanized areas than in rural areas, the importance of this vegetation, in terms of the ecological functions it provides, is often as great or even greater than in rural areas due to its scarcity.

Specific to Black Diamond, the City's Inventory and Characterization creates lists of recommendations for shoreline management. Chapter 7.1.2 states:

"Conservation of existing native vegetation during land development and ongoing use is critical to maintaining the ecological processes and natural functions of shoreline

			<p>areas" and "The removal of mature trees and native vegetation should be regulated in a manner that provides protection that is equal to or greater than current Sensitive Area Regulations."</p> <p>The Inventory and Characterization language above is supported by the concept of Mitigation Sequencing, WAC 173-26-201(2) (e), by first avoiding, then minimizing and mitigating for impacts. Further, the SMP itself contains policy language supporting the preservation of existing vegetation.</p> <p>Policy 5 states "Removal of non-hazardous mature trees and native vegetation within the required shoreline setback should be severely restricted regardless of lot size or use." Policy 1 supports the concept of mitigation sequencing. It reads: "Clearing and grading activities in shoreline areas should be limited to the minimum necessary to accommodate shoreline development and should result in the enhancement of vegetation over time to</p>
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<p>provide a greater level of ecological functions, human safety, and property protection. Allowing the unmitigated removal of unhealthy non-hazardous trees cannot be supported based on the analysis provided. Mitigation is required on a project by project basis which will provide equal or greater functions.</p>				
<p>See rational for required change #3</p>	<p>b. Pruning consistent with accepted arboricultural practices that does not involve the removal of healthy trees and is not detrimental to the health of any trees, maintenance of existing ornamental landscapes and other activities allowed pursuant to these regulations, provided that said modification is conducted in a manner consistent with this Master Program and results in no net loss to ecological functions or critical fish and wildlife habitats.</p>	<p>Vegetation Conservation Standards</p>	<p>Ch. 3.B.7.c.5 Shoreline Vegetation Conservation Regulations</p>	<p>4</p>
<p>Pursuant to WAC 173-26-221(5)(c), vegetation conservation standards required. By referencing 'Regulation 18', which does not exist, this regulation would avoid maintenance and monitoring standards. This appears to be an oversight as previous drafts of the SMP were properly referenced.</p>	<p>b. If the proposed removal of native vegetation is intended for the development of non-native landscaping outside of the required setback area, ornamental species may be used for the revegetation, provided impacts are mitigated by planting native vegetation elsewhere on the property. The required setback area shall be a priority location for mitigation plantings and mitigation plantings shall be subject to Regulation 18-14 below.</p>	<p>Maintenance and monitoring</p>	<p>Ch. 3.B.7.c.13 Shoreline Vegetation Conservation Regulations</p>	<p>5</p>
<p>The SMP doesn't allow tree removal within the shoreline setback except to mitigate hazard. To ensure consistency with WAC 173-26-201(2)(e), the application of hazardous tree standards must be</p>	<p>15. Hazardous trees may be removed when determined by a member of the American Society of Consulting Arborists or similar professional organization in accordance with the International Society of Arboriculture method found in "2011 Tree Risk Assessment (part 9)." in its most recent or adopted form. If a hazardous tree is removed it shall be mitigated to result in no net loss of shoreline ecological functions.</p>	<p>Hazardous tree removal</p>	<p>Ch. 3.B.7.c Shoreline Vegetation Conservation Regulations</p>	<p>6</p>

		defined. See also rational for required change #2 See rational for required change #3												
7	Ch. 4.C.8.c.3 Residential Development Standards	c. Pruning consistent with accepted arboricultural practices shall be allowed within the open space tract to provide views of the water from and through the tract, but non-hazardous healthy native vegetation shall be retained consistent with Subsection b above.												
8	Ch. 7 Definitions	Significant Tree – Means any tree that is at least six inches diameter at breast height. A tree growing multiple stems shall be considered significant if at least one of the stems, as measured at a point six inches from where the stems digress from the main trunk, is at least four inches in diameter. Any tree planted that is planted to fulfill requirements of this chapter shall be considered significant, regardless of size. <i>10/16/2012</i>												
Shoreline Setbacks														
9	Ch. 4.B.2 Basic Development Standards – Table II	Ecology has reviewed the City's Cumulative Impact Assessment (AHBL, September 2012), but did not find conclusions or technical references supporting the proposed buffers, and their ability to contain sediment, nitrogen, nitrate or phosphorus from 40-feet down to 25-feet from the lakes edge. Further, the City's Cumulative Impact Assessment provides the following conclusion related to the impact of new												
<table border="1"> <tr> <td data-bbox="720 90 797 394">DEVELOPMENT STANDARD</td> <td data-bbox="720 394 797 655">NATURAL</td> <td data-bbox="720 655 797 877">URBAN CONSERVANCY</td> <td data-bbox="720 877 797 1100">SHORELINE RESIDENTIAL</td> <td data-bbox="720 1100 797 1423">SHORELINE RESIDENTIAL LIMITED</td> <td data-bbox="720 1423 797 1646">AQUATIC</td> </tr> <tr> <td data-bbox="797 90 875 394">Shoreline Setback (from OHWM) ² Please also see Regulation #2 related to non-conforming single family homes.</td> <td data-bbox="797 394 875 655">100 ft</td> <td data-bbox="797 655 875 877">100 ft. (standard) may be reduced to 75 ft. (minimum) with enhancement</td> <td data-bbox="797 877 875 1100">4050 ft. (standard) may be reduced to 25ft. (minimum) with enhancement</td> <td data-bbox="797 1100 875 1423">50 ft. (standard) may be reduced to 25 ft. (minimum) with enhancement</td> <td data-bbox="797 1423 875 1646">N/A</td> </tr> </table>			DEVELOPMENT STANDARD	NATURAL	URBAN CONSERVANCY	SHORELINE RESIDENTIAL	SHORELINE RESIDENTIAL LIMITED	AQUATIC	Shoreline Setback (from OHWM) ² Please also see Regulation #2 related to non-conforming single family homes.	100 ft	100 ft. (standard) may be reduced to 75 ft. (minimum) with enhancement	4050 ft. (standard) may be reduced to 25ft. (minimum) with enhancement	50 ft. (standard) may be reduced to 25 ft. (minimum) with enhancement	N/A
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Shoreline Setback (from OHWM) ² Please also see Regulation #2 related to non-conforming single family homes.	100 ft	100 ft. (standard) may be reduced to 75 ft. (minimum) with enhancement	4050 ft. (standard) may be reduced to 25ft. (minimum) with enhancement	50 ft. (standard) may be reduced to 25 ft. (minimum) with enhancement	N/A									

10	Ch. 4.B.3.1 Flexible Shoreline Setback Regulations	Setback Standards	<p>a. The forty (40) <u>fifty (50)</u> foot standard setback in the Shoreline Residential and the fifty (50) foot Shoreline Residential Limited Environments may be reduced down to a</p>	<p>development: "Development of the 11 existing vacant lots, as well as new lots from subdivision, including associated construction of new overwater structures and shoreline armoring, has the potential to further degrade ecological function. As described in Chapter 2, impervious cover in Segment A is estimated at approximately 25-30%, and construction of new residences and expansion of existing homes could potentially increase this coverage up to the maximum allowed. (AHBL, 2012; 39)" Therefore, Ecology requires the noted change to limit development to a minimum of 50-foot upland of the OHWM to minimize potential impacts related to the decline in buffer effectiveness consistent with Environmental Impact Mitigation (WAC 173-26-201(2)(e)) and No Net Loss (WAC 173-26-186(8)) SMP-Guidelines requirements. See rational for #9</p>
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11	Ch. 4.C.7.c Recreational Development - Regulations	Setback Standards	<p>minimum of twenty-five (25) feet when setback reduction impacts are mitigated using a combination of the voluntary mitigation options provided in Table III to achieve an equal or greater protection of lake ecological functions.</p> <p>1. All structures associated with a recreational use, except water dependent structures, such as docks and boardwalks, and appurtenances that provide access to the water for that use, shall maintain a standard setback of fifty (50) feet in the Shoreline Residential Environment, forty (40) feet in the Urban Conservancy Environment and one-hundred (100) feet in the Urban Conservancy Environment from the OHWM. This setback may be reduced down to 25 feet in the Shoreline Residential, 30 feet in the Shoreline Residential Limited Environment and 75 feet in the Urban Conservancy Environment using setback reduction mechanisms in Table II in this Chapter. Existing structures may be replaced in their current location and configuration to the extent allowed by state and federal agencies with jurisdiction. Any further setback reduction shall require approval of a shoreline variance application.</p>	Pursuant to WAC 173-26-020, a boardwalk is not considered a water-dependent use. See also rationale for #9
12	Ch. 4.C.8.c.3 Residential Development	Setback Standards	<p>f. New primary residential structures shall not be located within 100 feet of the Ordinary High Water Mark (OHWM).</p>	<p>The Cumulative Impacts Analysis was performed under a development scenario where the minimum rear lot setback is 25 feet and an additional 75 foot public space running parallel to OHWM for large lot subdivision. Given that the 25 foot rear lot setback is only found in BDMC, and not within the SMP, it then becomes essential in terms of meeting no net loss, as required by WAC 173-26-186(8), to include a provision maintaining the setback provided in the</p>

Flexible Shoreline Setback Regulations		Cumulative Impacts Analysis.							
13	Ch. 4.B.2 Basic Development Standards – Table II	Setback Standards	DEVELOPMENT STANDARD	NATURAL	URBAN CONSERVANCY	RESIDENTIAL SHORELINE	RESIDENTIAL SHORELINE LIMITED	AQUATIC	Pursuant to WAC 173-26-201(3)(d)(i) it must be shown that the minimum setback (with buffer enhancement) will adequately protect water quality, habitat, and other shoreline ecological functions. Ecology provided feedback to the City, citing concerns related to impacts and inadequate protection of shoreline ecological functions associated with the proposed flexible shoreline buffer/setbacks in an email send on 8/19/2011 and the Checklist. Ecology has reviewed the City's Final Shoreline Analysis Report (OTAK AHBL, 2010) and Final Cumulative Impacts Analysis (AHBL 2012), but did not find an analysis supporting small enhanced buffers. The impacts of future development under this scenario have not been shown to meet no net loss of shoreline ecological functions pursuant to WAC 173-26-201(2)(e). The following changes must be
			Shoreline Setback (from CHWM) ² Please also see Regulation #2 related to non-conforming single family homes.	100 ft	100 ft. (standard) may be reduced to 75-ft. (minimum) with enhancement ⁵	40 ft. (standard) may be reduced to 25-ft. (minimum) with enhancement	50 ft. (standard) may be reduced to 25 ft. (minimum) with enhancement	N/A	
<p>²The standard setback applies to all permanent and temporary primary and accessory structures unless specifically exempted below. Setbacks are measured landward, on a horizontal plane perpendicular to the shoreline. The setback may be reduced to the minimum setback indicated in Table II where the applicant agrees to implement voluntary enhancements as described in Sections B.3 and B.4 below, and the Shoreline Administrator determines the proposal is consistent with all other requirements that apply to specific zones. Development associated with water dependent uses, shoreline access and ecological restoration such as overwater structures, shoreline stabilization, trails, stairs and similar appurtenances are not required to meet the minimum setback. However, where such development is approved within the minimum setback, the placement of structures and hard surfaces shall be limited to the minimum necessary for the feasible operation of the use.</p>									

14	Ch. 4.C.7.c Recreational Development - Regulations	Setback Standards	<p>1. All structures associated with a recreational use, except water dependent structures, such as docks and appurtenances that provide access to the water for that use, shall maintain a standard setback of fifty (50) feet in the Shoreline Residential Environment, forty (40) feet in the Shoreline Residential Limited Environment and one-hundred (100) feet in the Urban Conservancy Environment from the OHWM. This setback may be reduced down to 25 feet in the Shoreline Residential, 30 feet in the Shoreline Residential Limited Environment and 75 feet in the Urban Conservancy Environment using setback reduction mechanisms in Table II in this Chapter. Existing structures may be replaced in their current location and configuration to the extent allowed by state and federal agencies with jurisdiction. Any further setback reduction shall require approval of a shoreline variance application.</p>	incorporated to ensure adequate protections under the required setbacks. See rational for required change #13
15	Ch. 4.B.3 Flexible Shoreline Setback Regulations	Flexible setbacks	<p>3. Flexible Shoreline Setback Regulations In addition to the specific requirements for particular uses, the following standards shall apply:</p> <p>1. A standard setback shall be established from the ordinary high water mark for all lots within shoreline jurisdiction. The setback shall not apply to docks, piers, bridges and similar water dependent structures.</p> <p>a. The forty (40) foot standard setback in the Shoreline Residential and the fifty (50) foot Shoreline Residential Limited Environment may be reduced down to a minimum of twenty-five (25) feet when setback reduction impacts are mitigated using a combination of the voluntary mitigation options provided in Table III to achieve an equal or greater protection of lake ecological functions.</p> <p>b. The one-hundred (100) foot setback within the Urban Conservancy environment may be reduced to a minimum of seventy-five (75) feet when setback reduction impacts are mitigated using a combination of the mitigation options provided in Table III to achieve an equal or greater protection of lake ecological functions.</p> <p>c. No setback reduction is allowed in the Natural environment, where a one-hundred (100) foot setback shall be required.</p> <p>d. At least one Water-Related Action of 25 feet of reduction allowance from selected Upland Related reduction mechanisms in Table III must be undertaken in order to achieve the full setback</p>	See rational for required change #13

~~reduction allowed.~~

~~e.—~~Alternative Setback Averaging – In instances of unique lot configurations, the Shoreline Administrator or his/her designee may allow modification either of the standard or mitigated shoreline setback, by allowing a partial reduced setback if a compensating increased setback for other portions of the development is provided. Modified setback averaging may only be allowed where a qualified professional demonstrates that all of the following conditions are met:

- ~~i.~~ Alternative setback averaging will not reduce shoreline functions or functional performance;
- ~~ii.~~ The total area contained in the setback area after averaging is no less than that which would otherwise be required; and all increases in setback dimension for averaging are generally parallel to the shoreline edge;
- ~~iii.~~ The setback depth at its narrowest point is not reduced to less than twenty-five feet;
- ~~iv.~~ Under no circumstances shall a structure encroach more than five feet beyond either the standard or mitigated setback.

2. Please see provisions for Nonconforming Uses and Development in Chapter 6: Administration.

3. All property owners who obtain approval for a reduction in the setback must record the final approved setback and corresponding conditions in a Notice on Title, and provide a copy of the Notice on Title to the Shoreline Administrator.

4. Setback reductions shall not apply to enforcement actions, after the fact permits or similar actions.

5. Mitigation of native vegetation as discussed below shall consist of a mixture of trees, shrubs and groundcover and be designed to improve habitat functions. Preparation of a revegetation plan shall be completed by a qualified professional and include a monitoring and maintenance program that shall, at a minimum, include the following:

- a. The goals and objectives for the mitigation plan;
- b. The criteria for assessing the mitigation;
- c. A monitoring plan that includes annual progress reports submitted to the Shoreline Administrator and that lasts for a period sufficient to establish that performance standards have been met as determined by the Shoreline Administrator, but no less than five years; and
- d. A contingency plan.

5. Whenever the Shoreline Administrator determines that monitoring has identified a significant adverse deviation from predicted impacts, or that mitigation or maintenance measures have failed, the property owner shall be required to institute corrective action, which shall be subject

16	Ch. 4.B.4 Shoreline Setback Reduction Mechanisms – Table III	Flexible setbacks	<p>to further monitoring as necessary to ensure the success of requirement mitigation measures.</p> <p>6. Please see Chapter 3, Section B.7.C (Vegetation Conservation Regulations) for additional requirements, including maintenance, monitoring and criteria for mitigation success.</p>	<p>REDUCTION MECHANISM</p> <p>Water-Related Actions</p> <p>1 Removal of existing bulkhead located at, below, or within 5 feet landward of the shoreline's ordinary high water mark (OHWM) and subsequent restoration of the shoreline to a natural or semi-natural state, including restoration of topography; beach/substrate composition and stabilization of disturbed soils with native vegetation.</p> <p>2 Restoration of natural shoreline conditions (e.g. no bulkhead or other unnatural shoreline features such as upland impervious surfaces or other structural alterations allowed) within 10 feet of the OHWM, including restoration of native vegetation. The reduction will only be granted if ecological functions would be improved relative to the existing condition.</p> <p>3 Existing hard structural stabilization at or near the ordinary high water mark is removed and new hard structural shoreline stabilization measures are setback from the OHWM between 2 ft. to 4 ft. based on feasibility and existing conditions and are sloped a maximum angle of 3:1 vertical:1 horizontal to provide dissipation of wave energy and increase the quality or quantity of nearshore shallow water habitat.</p>	<p>REDUCTION ALLOWANCE</p> <p>Bulkhead Removal on shoreline: 15 feet 50% of shoreline: 40 feet 25% of shoreline: 5 feet</p> <p>10 feet</p> <p>5 feet</p>	See rational for required change #13
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			5-foot	
4	<p>Soft structural shoreline stabilization measures are installed waterward of the CHMM on a site currently containing only hard stabilization. They shall include the use of gravels, cobbles, boulders and/or logs, as well as vegetation. The material shall be of a size and placed to remain stable and accommodate alteration from wind and boat driven waves and shall be graded to a maximum slope of 1 vertical: 4 horizontal.</p>			
5	<p>Contribution to a City restoration fund, or bank, for offsite shoreline restoration and implementation of measures contained in the setback reduction mechanisms of the Water Related Actions, items 1 through 4, of Table III above. Amount shall be determined by the Shoreline Administrator based upon the approximate cost that would be required to accomplish the applicant selected water related shoreline enhancement at the on-site area of improvement. The City shall establish the fund or bank and more specific operational rules, to make this reduction mechanism available.</p>		5-15 feet	
6	<p>Contribution to a City restoration fund, or bank, for offsite shoreline restoration in the City owned parks on Lake Sawyer. Amount shall be determined based upon the cost per frontage foot shown below times the number of frontage feet on the applicant's parcel as shown in the current King County property tax assessment database. The City shall establish the restoration cost per foot for the three setback reductions below to make this reduction mechanism available.</p>		5-15 feet	
	<p>Setback Reduction of 5 ft. = \$XXX per foot of frontage at the on-site location. Setback Reduction of 10 ft. = \$YYY per foot of frontage at the on-site location Setback Reduction of 15 ft. = \$ZZZ per foot of frontage at the on-site location.</p>			
Upland Related Actions				
7	<p>Restoration of native vegetation (and preservation of existing trees and native vegetation) in at least 75 percent of the reduced (i.e. that portion remaining after reductions are applied) setback area. The remaining 25 percent of the setback area can be comprised of existing non-invasive, non-</p>		10 feet	

<p>Urban Conservancy (WAC 173-26-211(5)(e)(iii)). Those areas identified shall be changed to the Urban Conservancy designation. Additional changes are needed throughout the SMP to ensure consistency with the purpose and management policies of WAC 173-26-211(5)(e). See rationale for required change #17</p>																																					
<p>Urban Conservancy areas include shorelands within Lake Sawyer Boat Launch Park, portions of Lake Sawyer Regional Park that are not designated wetlands and large unplatted lots, as shown in Figure 1. This designation will preserve and enhance the ecological functions of publicly-owned properties and undeveloped portions of the shoreline, while retaining future options for passive and active shoreline recreation, limited residential development and public access. The publicly-owned Lake Sawyer Boat Launch and Lake Sawyer Regional Park offer potential for ecological restoration.</p>	<p>Environment Designations</p>	<p>Ch.2.D.3.c Designated Areas</p>																																			
<p>7. Native understory vegetation and trees within the Urban Conservancy and Natural Environment and within shoreline setback areas in all environments shall be retained, unless necessary to provide water access, to provide limited view corridors or to mitigate a hazard to life or property. Where limited removals are allowed pursuant to the conditions provided above, vegetation shall be replaced to assure no net loss is achieved.</p>	<p>Environment Designations</p>	<p>Ch.3.B.7.c Shoreline Vegetation Conservation Regulations</p>																																			
<p>See rationale for required change #17</p>	<p>Environment Designations</p>	<p>Ch.4.B.1 Table I</p>																																			
<table border="1"> <tr> <td>SHORELINE USES</td> <td>NATURAL</td> <td>URBAN CONSERVANCY</td> <td>SHORELINE RESIDENTIAL</td> <td>SHORELINE RESIDENTIAL LIMITED</td> <td>AQUATIC¹</td> </tr> <tr> <td>Community Pier (Private Shared Use)</td> <td>X</td> <td>X-P</td> <td>P</td> <td>C</td> <td>P</td> </tr> <tr> <td>....</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Single Family</td> <td>X</td> <td>X-P⁵</td> <td>P</td> <td>C</td> <td>X</td> </tr> <tr> <td>....</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>New Roads related to Permitted Shoreline Activities</td> <td>X</td> <td>X-C</td> <td>C</td> <td>X</td> <td>X</td> </tr> </table>	SHORELINE USES	NATURAL	URBAN CONSERVANCY	SHORELINE RESIDENTIAL	SHORELINE RESIDENTIAL LIMITED	AQUATIC ¹	Community Pier (Private Shared Use)	X	X-P	P	C	P						Single Family	X	X-P ⁵	P	C	X						New Roads related to Permitted Shoreline Activities	X	X-C	C	X	X	
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¹ Please also see adjacent upland environment. Where a use would be located both in upland and overwater, the more restrictive standards apply.

21	Ch. 4.B.2 Table II	Environment Designations	<p>⁵ This use is subject to further zoning restrictions in the Black Diamond Municipal Code.</p> <table border="1" data-bbox="409 1501 938 2016"> <tr> <td data-bbox="409 1501 541 1648">DEVELOPMENT STANDARD</td> <td data-bbox="409 1648 541 1753">NATURAL</td> <td data-bbox="409 1753 541 1858">URBAN CONSERVANCY</td> <td data-bbox="409 1858 541 1963">SHORELINE RESIDENTIAL</td> <td data-bbox="409 1963 541 2016">SHORELINE RESIDENTIAL LIMITED</td> <td data-bbox="409 2016 541 2089">AQUATIC</td> </tr> <tr> <td data-bbox="541 1501 674 1648">Minimum lot width and water frontage</td> <td data-bbox="541 1648 674 1753">N/A</td> <td data-bbox="541 1753 674 1858">N/A-60 ft.²</td> <td data-bbox="541 1858 674 1963">60 ft.²</td> <td data-bbox="541 1963 674 2016">N/A</td> <td data-bbox="541 2016 674 2089">N/A³</td> </tr> <tr> <td data-bbox="674 1501 938 1648">Minimum Lot Size</td> <td data-bbox="674 1648 938 1753">No further subdivision is allowed</td> <td data-bbox="674 1753 938 1858">No further subdivision is allowed 9,600 sq. ft Subdivision of unsewered properties is prohibited</td> <td data-bbox="674 1858 938 1963">9,600 sq. ft⁸ Subdivision of unsewered properties is prohibited.</td> <td data-bbox="674 1963 938 2016">No further subdivision is allowed.</td> <td data-bbox="674 2016 938 2089">N/A³</td> </tr> </table>					DEVELOPMENT STANDARD	NATURAL	URBAN CONSERVANCY	SHORELINE RESIDENTIAL	SHORELINE RESIDENTIAL LIMITED	AQUATIC	Minimum lot width and water frontage	N/A	N/A-60 ft. ²	60 ft. ²	N/A	N/A ³	Minimum Lot Size	No further subdivision is allowed	No further subdivision is allowed 9,600 sq. ft Subdivision of unsewered properties is prohibited	9,600 sq. ft ⁸ Subdivision of unsewered properties is prohibited.	No further subdivision is allowed.	N/A ³	See rational for required change #17
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22	Ch. 1.E ¶ 3	Environment Designations	<p>⁷ Subdivision is subject to further zoning restrictions in the Black Diamond Municipal Code. Black Diamond has designated its Lake Sawyer shorelines under four five shoreline environments: Aquatic, Natural, Urban Conservancy, Shoreline Residential Limited and Shoreline Residential.</p>					WAC 173-26-211 requires the application of shoreline environment designations. The Black Diamond SMP contains five designations including Shoreline Residential Limited.																		

²Please see Residential Subdivision Standards in Chapter 4, Section C.8.c.

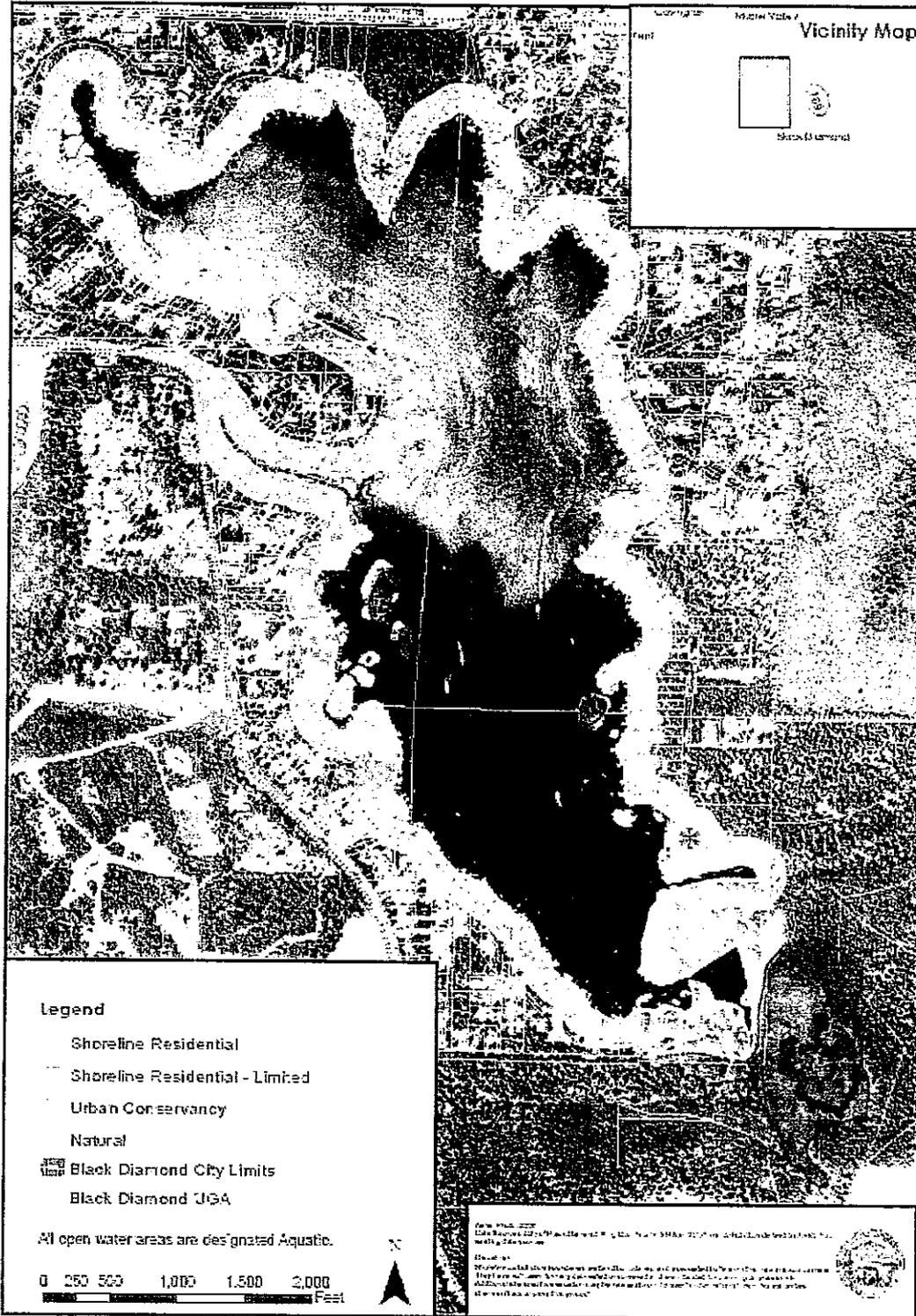
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- Granger, T., T. Hruby, A. McMillan, D. Peters, J. Rubey, D. Sheldon, S. Stanley, E. Stockdale. April 2005. Wetlands in Washington State - Volume 2: Guidance for Protecting and Managing Wetlands. Washington State Department of Ecology. Publication #05-06-008. Olympia, WA.

Required Change # 17
 Parcels noted with Red Asterisk shall be designated Urban Conservancy.

**City of Black Diamond
 Shoreline Master Program
 LAKE SAWYER**

**FIGURE 1
 Shoreline Environment Designations**



Attachment C:

Ecology Recommended Changes

The following changes are recommended to clarify elements of the City's updated SMP

ITEM	SMP Submittal Provision (Cite)	TOPIC	BILL FORMAT CHANGES (underline = additions; strikethrough = deletions)	RATIONALE
1	Table of Contents	Referencing	<u>Chapter 7 Definitions</u>	The Table of Contents references all chapters and sections in the SMP with the exception of Chapter 7. For ease of use, <i>Chapter 7 Definitions</i> should be added to the Table of Contents.
2	Ch. 2.D.2.a	Spelling	The Shoreline Residential Limited environment designation recognizes the higher level of ecological function and sensitivity associated with specific islands located in Lake Sawyer, when compared to other shoreline areas that are developed or planned for residential development. This designation also recognizes the presence of existing residential and recreational uses in these areas and is designed to provide for development and/or redevelopment that is compatible with the protection of ecological functions at such time when appropriate facilities are provided, such as potable water, electricity and waste disposal that complies with King County and State Health Department regulations <u>regulations</u> .	Spelling error.
3	Ch. 3.B.5.c.3	Subsection titles	f. <u>a.</u> Unavoidable health or safety hazards to the public exist which cannot be prevented by any practical means; g. <u>b.</u> Inherent security requirements of the proposed development or use cannot be satisfied through the application of alternative design features or other solutions; h. <u>c.</u> The cost of providing the access, easement, or an alternative amenity is unreasonably disproportionate to the total long-term cost of the proposed development or other constitutional or legal limitations preclude public access. i. <u>d.</u> Unacceptable environmental harm will result from the public access which cannot be mitigated; or j. <u>e.</u> Significant undue and unavoidable conflict between the proposed access and adjacent uses would occur and cannot be mitigated.	The section references appear out of order. For consistency and ease of use, consider labeling as indicated.

4	Ch. 4.C.11.b Utilities (Primary)	References	1. New primary utilities should be located outside of the SMA jurisdiction unless no other feasible option exists. Where allowed, they should utilize existing transportation and utility sites, rights-of-way and corridors whenever possible, rather than creating new corridors. Joint use of rights-of-way and corridors should be encouraged.	For ease of use and consistent application, consider the change indicated.
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Flexible Shoreline Setbacks																
5	Ch. 4.B.2 Basic Development Standards -- Table II	Setback Standards	<table border="1"> <tr> <td data-bbox="462 1501 545 2011">DEVELOPMENT STANDARD</td> <td data-bbox="545 1501 627 2011">NATURAL</td> <td data-bbox="627 1501 693 2011">URBAN CONSERVANCY</td> <td data-bbox="627 1008 693 1501">SHORELINE RESIDENTIAL</td> <td data-bbox="627 609 693 1008">SHORELINE RESIDENTIAL LIMITED</td> <td data-bbox="627 384 693 609">AQUATIC</td> </tr> <tr> <td data-bbox="462 882 545 1501">Shoreline Setback (from OHWM) ² Please also see Regulation #2 related to non-conforming single family homes.</td> <td data-bbox="545 882 627 1501">100 ft</td> <td data-bbox="627 882 693 1501">100 ft. (standard) may be reduced to 75 ft. (minimum) with enhancement⁵</td> <td data-bbox="627 609 693 1008">50 ft. (standard) may be reduced to 30 ft. (minimum) with enhancement</td> <td data-bbox="627 384 693 609">50 ft. (standard) may be reduced to 25 ft. (minimum) with enhancement</td> <td data-bbox="627 384 693 609">N/A³</td> </tr> </table>	DEVELOPMENT STANDARD	NATURAL	URBAN CONSERVANCY	SHORELINE RESIDENTIAL	SHORELINE RESIDENTIAL LIMITED	AQUATIC	Shoreline Setback (from OHWM) ² Please also see Regulation #2 related to non-conforming single family homes.	100 ft	100 ft. (standard) may be reduced to 75 ft. (minimum) with enhancement ⁵	50 ft. (standard) may be reduced to 30 ft. (minimum) with enhancement	50 ft. (standard) may be reduced to 25 ft. (minimum) with enhancement	N/A ³	<p>Beginning with early versions of the SMP there has been an incentive based setback reduction system integrated into the SMP. There appears to be strong community support for such a system. The city proposed system was not consistent with Environmental Impact Mitigation (WAC 173-26-201(2)(e)) and No Net Loss (WAC 173-26-186(8)), and was required to be removed by required changes #12-15.</p> <p>This recommended change imbeds the principles of WAC 173-26-201(2)(e) while prioritizing enhancement consistent with the Final Cumulative Impacts Analysis (AHBL 2012) and Final Shoreline Analysis Report (OTAK AHBL, 2010). This recommended change is also consistent with RCW 90.58 and No Net Loss (WAC 173-26-186(8)).</p>
DEVELOPMENT STANDARD	NATURAL	URBAN CONSERVANCY	SHORELINE RESIDENTIAL	SHORELINE RESIDENTIAL LIMITED	AQUATIC											
Shoreline Setback (from OHWM) ² Please also see Regulation #2 related to non-conforming single family homes.	100 ft	100 ft. (standard) may be reduced to 75 ft. (minimum) with enhancement ⁵	50 ft. (standard) may be reduced to 30 ft. (minimum) with enhancement	50 ft. (standard) may be reduced to 25 ft. (minimum) with enhancement	N/A ³											
<p>²The standard setback applies to all permanent and temporary primary and accessory structures unless specifically exempted below. Setbacks are measured landward, on a horizontal plane perpendicular to the shoreline. The setback may be reduced to the minimum setback indicated in Table II where the applicant agrees to implement voluntary enhancements as described in Sections B.3 and B.4 below, and the Shoreline Administrator determines the proposal is consistent with all other requirements of this SMP. Please see zoning regulations for interior lot setbacks and other requirements that apply to specific zones. Development associated with water dependent uses, shoreline access and ecological restoration are not required to meet the minimum setback. However, where such development is approved within the minimum setback, the placement of structures and hard surfaces shall be limited to the minimum necessary for the feasible operation of the use.</p>																

6	Ch. 4.B.3	Off-site mitigation	<p>... Whenever the Shoreline Administrator determines that monitoring has identified a significant adverse deviation from predicted impacts, or that mitigation or maintenance measures have failed, the property owner shall be required to institute corrective action, which shall be subject to further monitoring as necessary to ensure the success of requirement mitigation measures.</p> <p>§Z Please see Chapter 3, Section B.7.C (Vegetation Conservation regulations) for additional requirements, including maintenance, monitoring and criteria for mitigation success.</p> <p>8. <u>Off-Site Mitigation. The City may provide a fund for off-site mitigation. If such a fund is created, the Shoreline Administrator or designee shall assess charges to new development when impacts to shoreline ecological functions cannot be fully mitigated on site. Charges assessed shall be of sufficient value to ensure off-site mitigation results in no net loss of shoreline ecological functions over time. Expenditures from such a fund shall be in accordance with the Black Diamond Restoration Plan.</u></p>	<p>There is both public and city interest in a mitigation fund. A version of a mitigation fund was included in the original submittal but was not kept due to conflicts with WAC 173-26-201(2)(e). Consistent with WAC 173-26-201(2)(e)(i)(b), this recommended change has been incorporated. Numbering changes have been included to ensure consistent application.</p>
7	Ch. 4.C.7.c Recreational Development - Regulations	Setback Standards	<p>1. All structures associated with a recreational use, except water dependent structures, such as docks and appurtenances that provide access to the water for that use, shall maintain a standard setback of fifty (50) feet in the Shoreline Residential Environment, forty (40)-feet in the Shoreline Residential Limited Environment and one-hundred (100) feet in the Urban Conservancy Environment from the OHWM. <u>This setback may be reduced down to 30 feet in the Shoreline Residential, 25 feet in the Shoreline Residential Limited Environment and 75 feet in the Urban Conservancy Environment using setback reduction mechanisms in Table II in this Chapter.</u> Existing structures may be replaced in their current location and configuration to the extent allowed by state and federal agencies with jurisdiction. Any further setback reduction shall require approval of a shoreline variance application.</p>	<p>See rational in #6</p>
8	Ch. 4.B	Flexible Shoreline Setback Regulations	<p>3. Flexible Shoreline Setback Regulations In addition to the specific requirements for particular uses, the following standards shall apply:</p> <p>1. A standard setback shall be established from the ordinary high water mark for all lots within shoreline jurisdiction. The setback shall not apply to docks, piers, bridges and similar water dependent structures.</p> <p>a. <u>The fifty(50) foot standard setback in the Shoreline Residential and Shoreline</u></p>	<p>See rational in #6</p>

	<p><u>Residential Limited Environments may be reduced down to a minimum of thirty (30) and twenty-five (25) feet respectively when setback reduction impacts are mitigated using a combination of the voluntary mitigation options provided in Table III to achieve an equal or greater protection of lake ecological functions.</u></p>	
	<p><u>b. The one-hundred (100) foot setback within the Urban Conservancy environment may be reduced to a minimum of seventy-five (75) feet, when setback reduction impacts are mitigated using a combination of the mitigation options provided in Table III to achieve an equal or greater protection of lake ecological functions.</u></p>	
	<p><u>c. No setback reduction is allowed in the Natural environment, where a one-hundred (100) foot setback shall be required.</u></p>	
	<p><u>d. Reductions are cumulative and must be utilized in the following priority order: 1 or 2, 3, 4, 5, or 6 if a bulkhead is present. After reductions 1-2 and 3-6, then reductions 7-10 may be utilized in any order.</u></p>	
	<p><u>e. Alternative Setback Averaging – In instances of unique lot configurations, the Shoreline Administrator or his/her designee may allow modification either of the standard or mitigated shoreline setback, by allowing a partial reduced setback if a compensating increased setback for other portions of the development is provided. Modified setback averaging may only be allowed where a qualified professional demonstrates that all of the following conditions are met:</u></p>	
	<p><u>i. Alternative setback averaging will not reduce shoreline functions or functional performance;</u></p>	
	<p><u>ii. The total area contained in the setback area after averaging is no less than that which would otherwise be required; and all increases in setback dimension for averaging are generally parallel-parallel to the shoreline edge;</u></p>	
	<p><u>iii. The setback depth at its narrowest point is not reduced to less than twenty-five feet;</u></p>	
	<p><u>iv. Under no circumstances shall a structure encroach more than five feet beyond either the standard or mitigated setback.</u></p>	
	<p><u>2. Please see provisions for Nonconforming Uses and Development in Chapter 6: Administration.</u></p>	
	<p><u>3. All property owners who obtain approval for a reduction in the setback must record the final approved setback and corresponding conditions in a Notice on Title, and provide a copy of the Notice on Title to the Shoreline Administrator.</u></p>	

		<p>4. Setback reductions shall not apply to enforcement actions, after the fact permits or similar actions.</p> <p>5. Mitigation of native vegetation as discussed below shall consist of a mixture of trees, shrubs and groundcover and be designed to improve habitat functions. Preparation of a revegetation plan shall be completed by a qualified professional and include a monitoring and maintenance program that shall, at a minimum, include the following:</p> <ul style="list-style-type: none"> a. The goals and objectives for the mitigation plan; b. The criteria for assessing the mitigation; c. A monitoring plan that includes annual progress reports submitted to the Shoreline Administrator and that lasts for a period sufficient to establish that performance standards have been met as determined by the Shoreline Administrator, but no less than five years; and d. A contingency plan. <p>5. Whenever the Shoreline Administrator determines that monitoring has identified a significant adverse deviation from predicted impacts, or that mitigation or maintenance measures have failed, the property owner shall be required to institute corrective action, which shall be subject to further monitoring as necessary to ensure the success of requirement mitigation measures.</p> <p>6. Please see Chapter 3, Section B.7.C (Vegetation Conservation regulations) for additional requirements, including maintenance, monitoring and criteria for mitigation success.</p>	
9	Ch. 4.B.4 Shoreline Setback Reduction Mechanisms – Table III	Flexible setbacks	See rational in #6
	<p><u>REDUCTION MECHANISM</u></p> <p>1</p>	<p><u>REDUCTION ALLOWANCE</u></p> <p>Restoration of native vegetation (and preservation of existing trees and native vegetation) in at least 75 percent of the reduced (i.e. that portion remaining after reductions are applied) setback area. The remaining 25 percent of the setback area can be comprised of existing non-invasive, non-native vegetation. Up to 10 feet of frontage may be used for improved shoreline access, provided access areas are located to avoid areas of greater sensitivity and habitat value and access areas may not be counted as part of the 75</p>	10 feet

		<p>5</p>	<p>would be improved relative to the existing condition. Existing hard structural stabilization at or near the ordinary high water mark is removed and new soft structural shoreline stabilization measures are setback from the OHWM between 2 ft. to 4 ft. based on feasibility and existing conditions and are sloped a maximum angle of 3 vertical: 1 horizontal to provide dissipation of wave energy and increase the quality or quantity of nearshore shallow-water habitat.</p>	<p>10 feet</p>	
		<p>6</p>	<p>Soft structural shoreline stabilization measures are installed waterward of the OHWM on a site currently containing only hard stabilization. They shall include the use of gravels, cobbles, boulders and/or logs, as well as vegetation. The material shall be of a size and placed to remain stable and accommodate alteration from wind and boat-driven waves and shall be graded to a maximum slope of 1 vertical: 4 horizontal</p>	<p>5 feet</p>	
		<p>7</p>	<p>Installation of a "green" roof in accordance with the standards of the LEED Green Building Rating System.</p>	<p>5 feet</p>	
		<p>8</p>	<p>Reduction of 5 feet for impervious surface 10 percent less than the SMP standard and 10 feet for impervious coverage 20 percent less than the SMP standard</p>	<p>5-10 feet</p>	
		<p>9</p>	<p>Preserving or restoring at least 20 percent of the total lot area outside of the setback area as native vegetation.</p>	<p>5 feet</p>	
		<p>10</p>	<p>Connection to the sanitary sewer system on a property that currently utilizes an onsite septic system.</p>	<p>5 feet</p>	
<p>10</p>	<p>Ch. 4.B</p>	<p>Alternative Setback Systems</p>	<p>5. Shallow lot exception. 1. Where a lot has the following conditions, the setback requirements set forth in Table II shall not apply and the minimum setback between the closet point of building and structures from the ordinary high water line shall be 25 feet. a. The depth of the lot is less than 160 feet; and b. The upland area of the lot is 9,600 square feet or less; and c. Sewer services are provided through an onsite sewer system and public sewer connections cannot be made within 300 feet of the subject property. 2. For the purposes of this provision, the depth of the lot shall be determined by: a. Measuring the distance of a horizontal line drawn midway between the side property lines</p>	<p>Given the number of small lots that lack access to the public sewer system, there is a need to have a streamlined approach to reduce the required setback. The proposed recommended language will allow those constrained lots the ability to develop, while providing mitigation.</p>	

		<p>between the ordinary high water line and the front lot line; and</p> <p>b. if the lot is irregular in shape, or has fewer than two side lot lines, the midway will be determined in the most reasonable manner based on the lot lines that intersect the ordinary high water line.</p> <p>3. Restoration of native vegetation shall be provided (and preservation of existing trees and native vegetation) in at least 50 percent of the reduced setback area. Native vegetation restoration shall be located immediately adjacent to the OHWM and may contain breaks for shoreline access.</p>	
Administration			
11	Ch. 6.J.4 Nonconforming Lots	Nonconforming lot development criteria	<p>a. An undeveloped lot, tract, parcel, site, or division of land located landward of the ordinary high water mark which was established prior to the effective date of the SMA or the SMP, but which does not conform to the present lot size standards, may be developed subject to the requirements of BDMC 18.68.060(AC) and so long as such development conforms to all other requirements of the SMP and the SMA.</p> <p>For ease of use and consistent application, consider the change indicated.</p>

Please publish in the next edition of the Reporter

**CITY OF BLACK DIAMOND
NOTICE OF PUBLIC HEARING**

Notice is hereby given that the Black Diamond City Council will be conducting a public hearing regarding the Department of Ecology's required and recommended changes to the City's Draft Shoreline Master Plan (SMP). The hearing is scheduled for Thursday, August 15, 2013 at 7:00 p.m. at the Black Diamond City Council Chambers, 25510 Lawson Street, Black Diamond, WA. The purpose of the hearing is to hear public testimony on those required and recommended changes received from the Department of Ecology on the City's' Draft SMP. Written comments may be submitted to the Clerk's office at 24301 Roberts Drive, PO Box 599, Black Diamond, WA, 98010 no later than 5:00 p.m. on August 15, 2013, otherwise they must be submitted at the hearing. Information is also available on the City's website www.ci.blackdiamond.wa.us under "Public Notices". For further information please contact Aaron Nix, Natural Resources/Parks Director at 360-886-5700.

Dated this 5th day of August, 2013
Brenda L. Martinez, CMC
Asst. City Admin/City Clerk

CITY COUNCIL AGENDA BILL

City of Black Diamond
Post Office Box 599
Black Diamond, WA 98010

ITEM INFORMATION		
SUBJECT: Resolution No. 13-884, responding to The Department of Ecology’s comment letter on the City’s Draft Shoreline Master Program in order to be in compliance with RCW 90.58.090.	Agenda Date: August 15, 2013	
	AB13-062	
	Department/Committee/Individual	
	Mayor Rebecca Olness	
	City Administrator – Mark Hoppen	X
	City Attorney –Chris Bacha	
	City Clerk – Brenda L. Martinez	
	Finance – May Miller	
	Natural Resources/Parks – Aaron Nix	X
	Economic Devel. – Andy Williamson	
Cost Impact: \$70,000	Police – Jamey Kiblinger	
Fund Source: Ecology Grant	Court – Stephanie Metcalf	
Timeline: N/A	Comm. Dev. – Stacey Welsh	
Agenda Placement: <input checked="" type="checkbox"/> Mayor <input type="checkbox"/> Two Councilmembers <input type="checkbox"/> Committee Chair <input type="checkbox"/> City Administrator		
Attachments: Resolution No. 13-884, Ecology letter dated July 26, 2013 w/attachments and Navigating the Final Steps in SMP Approval document		
<p>SUMMARY STATEMENT: The Black Diamond City Council requested that the Mayor submit the City’s Draft Shoreline Master Program (SMP) to the Department of Ecology for review through Resolution 12-829. The Mayor submitted the Draft Plan via letter on October 3, 2012 and the City received confirmation of a complete submittal package from the Department of Ecology in its October 9, 2013 response. This response also confirmed that Black Diamond’s Draft SMP was ready for formal review by the Department in accordance with WAC 173-26-100 and 110.</p> <p>In a July 26, 2013 letter, received by the Mayor, the Department of Ecology gave conditional approval of Black Diamond Resolution 12-829, contingent that the City responds to both the required and recommended changes as submitted in their July 26, 2013 letter, within 30-days in accordance with RCW 90.58.090.</p> <p>Staff has had the opportunity to review these required and recommended changes, as well as the Planning and Community Development Committee. The committee appears to concur with a majority of required/recommended changes, but has suggested that more work/discussion and/or negotiation occur between the Department and the City of Black Diamond in order to address the committee’s concern in regard to eliminating the need for any property owner within Shoreline jurisdiction to have to go through the costly variance process. The Committee would like to see the regulations modified in order to capture the remaining properties that may fall into a variance scenario and in some cases, make it cost-prohibitive for the development of the site. The Committee has requested a counter proposal, lengthening the criteria for a shallow lot exception from 160’ up to 190’ (Required change #10) be offered in order to accommodate the remaining properties that will be subject to the Variance process based on the current regulations, but is willing to entertain other modifications that might help reduce the potential for property owners to go through a variance process.</p> <p>As submitted previously, to serve as a resource to the Council, staff has included “Navigating the Final Steps in SMP Approval” document prepared by the Department of Ecology in January of 2012.</p>		
COMMITTEE REVIEW AND RECOMMENDATION: Planning and Community Development – August 7, 2013. The Committee agrees with a majority of the required and recommended changes to the		

City of Black Diamond's Draft Shoreline Master Program, but requests that staff identify regulatory modifications that will reduce and/or eliminate the need for property owners to go through a variance process.

RECOMMENDED ACTION: MOTION to adopt Resolution 13-884, concurring to a majority of the required/recommended changes to the City's Draft Shoreline Master Program, submitted to the Department of Ecology through Resolution 12-829, but requesting that the maximum lot length for a shallow lot exception be increased from 160' to 190' in order to reduce and/or eliminate the need for a variance under the Draft Shoreline Master Program for shorelines within the City of Black Diamond.

RECORD OF COUNCIL ACTION

<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
August 15, 2013		

RESOLUTION NO. 13-884

**A RESOLUTION OF THE CITY COUNCIL OF
BLACK DIAMOND, WASHINGTON, CONCURRING
WITH THE DEPARTMENT OF ECOLOGY'S
RECOMMENDED AND REQUIRED CHANGES TO
THE CITY'S DRAFT SHORELINE MASTER
PROGRAM WITH THE EXCEPTION OF
INCREASE OF THE 160' LENGTH CRITERIA FOR
A SHALLOW LOT EXCEPTION, UP TO 190' IN
AND DIRECTING THE MAYOR TO SUBMIT AN
ALTERNATE PROPOSAL**

WHEREAS, the people of the State of Washington enacted the Shoreline Management Act by a vote of the people in 1971; and

WHEREAS, the State of Washington Shoreline Management Act (RCW 90.58), adopted in 1972, recognizes that "shorelines are among the most valuable and fragile" resources of the State, and that to protect the public interest in preserving these shorelines, the State and local governments must establish a coordinated planning program to address the types and effects of development occurring along the State's shorelines; and

WHEREAS, the broad policies of the Shoreline Management Act are to encourage water-dependent uses, protect shoreline natural areas and promote public access; and

WHEREAS, the City of Black Diamond adopted its own version of a Shoreline Master Program in 1978, but did not identify, at the time, Shorelines of Statewide Significance within its corporate borders; and

WHEREAS, the shorelines and outlying areas of Lake Sawyer were incorporated into the City limits of the City of Black Diamond in 1998 and the then established goals, policies and regulations of King County's Shoreline Master Program continue to be implemented in accordance with WAC 173-26-160; and

WHEREAS, the Shoreline Management Act requires all local governments, including the City of Black Diamond, to: 1) develop and inventory the natural characteristics and land use patterns along shorelines covered by the Act; 2) prepare a "Shoreline Master Program" to determine the future of the shorelines; 3) develop specific goals, policies and recommendations for protection of such shoreline resources; 4) develop a permit system with

development standards for all shoreline uses within existing shoreline designations that further the goals and policies of both the Act and the local Shoreline Master Program; and 5) develop a Restoration Plan for the long-term restoration of impaired shoreline ecological functions; and

WHEREAS, the City of Black Diamond received a grant to update its Shoreline Master Program from the Department of Ecology in June, 2008 in the amount of \$60,000 and was further awarded an additional \$10,000 in 2012 in order to complete the preliminary Shoreline Master Program; and

WHEREAS, the City and its Consultant, AHBL Inc., produced a Public Participation Plan that included: 1) a Visioning Workshop that was advertised and held on September 21, 2010, 2) the formation of and receipt of input from a Citizen Advisory Committee over a period of 6 months; 3) significant communication of the process to the public through newsletter articles, postings on the City's webpage, postings on the Lake Sawyer Community Club's website and comprehensive email distribution list, and two mass mailings advising the public of the Shoreline Master Program Update; and 4) phone calls and email outreach by City staff with property owners surrounding the lake; and

WHEREAS, the City's Responsible Official issued a Determination of Non-Significance on the proposed Shoreline Master Program on March 2, 2012; and

WHEREAS, the Black Diamond Planning Commission held four worksessions to discuss the contents of the SMP Update and held two nights of formal public hearings on March 13 and March 27, 2012, where eleven individuals provided public testimony and twenty-four individuals provided written comment; and

WHEREAS, the Black Diamond Planning Commission considered the written and verbal testimony provided, held two additional worksessions on May 8 and June 12, 2012, and made certain modifications to the proposed SMP Update and proposed shoreline regulations to reflect such testimony; and

WHEREAS, on June 12, 2012, the Black Diamond Planning Commission recommended unanimously that the Black Diamond City Council adopt the proposed SMP update; and

WHEREAS, the Black Diamond City Council held one worksession to discuss the contents of the SMP Update on May 31, 2012, and a formal public hearing on June 21, 2012, where one individual provided public testimony and one individual provided written comment; and

WHEREAS, the Black Diamond City Council considered written and verbal testimony provided, held one additional worksession on July 19, 2012, and made certain modifications to the proposed SMP Update and proposed shoreline regulations to reflect such testimony; and

WHEREAS, once the City approved, pursuant to Resolution No. 12-829, the Draft Shoreline Master Program, it was sent by the Mayor, as requested by the City Council at their September 6, 2012 Council meeting, to the Washington State Department of Ecology for review and approval; and

WHEREAS, the Department of Ecology has reviewed the Draft Shoreline Master Program submitted by the City and has notified the City in a letter to Mayor Olness dated July 26, 2013 (the "Notice") that it has determined that those changes to the Draft Shoreline Master Program reflected in Exhibit B attached to the Notice are required in order for the City to obtain Department of Ecology approval of the Shoreline Master Program, and that those changes reflected in Exhibit C attached to the Notice are recommended, but not required, to obtain Department of Ecology approval of the Shoreline Master Program; and

WHEREAS, the City Council has reviewed the revisions as set forth in the Notice and conducted a public hearing on the 15th day of August, 2013 to take public testimony regarding the revisions proposed by the Department of Ecology, and having considered the foregoing and having been in all matters fully advised, concurs with the Department of Ecology's required and recommended changes as set forth in the Notice, with the exception that, the City requests that the Department consider an alternate proposal that modifies the proposed amendments set forth in Exhibit "C", Item No. 10 (Alternate Setback System) by extending the 160 foot lot length criteria for shallow lot exceptions to 190 feet; and

WHEREAS, the City Council requests that the above described alternate proposal be sent to the Department of Ecology by the Mayor within the thirty (30) day response window of the mailing of Ecology's notice, in accordance with RCW 90.58.090; and

WHEREAS, upon Final Department of Ecology approval, the City will make modifications, including revisions to the City's Comprehensive Plan, Municipal Code and any other relevant documents as required; and

WHEREAS, the City of Black Diamond Council understands that the amendments to the Shoreline Master Program become effective in accordance with RCW 90.58.090 (7);

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. That the City Council concurs with the Department of Ecology's required and recommended changes as set forth in the Notice, and attachments thereto, sent on July 26, 2013 to the Mayor, Rebecca Olness, attached hereto as Exhibit "A", with the exception that, the City requests that the Department consider the City's alternate proposal to modify the proposed amendments set forth in Exhibit "C" of the Notice, Item No. 10 (Alternate Setback System) by extending the 160 foot lot length criteria for shallow lot exceptions to 190 feet.

Section 2. That the Mayor is hereby requested to provide notice to the Department of Ecology of the City's alternate proposal to amend the SMP as set forth herein, with further discussion to occur with the Department of Ecology regarding the alternate proposal.

Passed by the City Council on the 15th day of August, 2013.

Mayor Rebecca Olness

ATTEST/AUTHENTICATED:

Brenda L. Martinez, City Clerk

APPROVED AS TO FORM:

Chris Bacha, City Attorney

Published: _____

Posted: _____

Effective Date: _____

attach: Exhibit A

EXHIBIT A

(Notice from Department of Ecology)



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

July 26, 2013

The Honorable Rebecca Olness
City of Black Diamond
24301 Roberts Drive
Black Diamond, WA 98010

Re: City of Black Diamond Comprehensive Shoreline Master Program Update – Conditional Approval, Resolution Number 12-829

Dear Mayor Olness:

I would like to take this opportunity to commend the city of Black Diamond (City) for its efforts in developing the proposed comprehensive Shoreline Master Program (SMP) update. It is obvious that a significant effort was invested in this update by your staff and engaged community. The SMP will provide a framework to guide development and habitat restoration along the City's shorelines.

As we have already discussed with your staff, the Washington State Department of Ecology (Ecology) has identified specific changes necessary to make the proposal approvable. These changes are detailed in Attachment B. Recommended changes are included in Attachment C. Ecology's findings and conclusions related to the City's proposed SMP update are contained in Attachment A.

Pursuant to RCW 90.58.090 (2)(e), at this point, the City may:

- Agree to the proposed changes, or
- Submit an alternative proposal. Ecology will then review the alternative(s) submitted for consistency with the purpose and intent of the changes originally submitted by Ecology and with the Shoreline Management Act.

Final Ecology approval will occur when the City and Ecology agree on language that meets statutory and Guidelines requirements.



The Honorable Rebecca Olness
July 26, 2013
Page 2

Please provide your written response within 30 days to the Director's Office at the following address:

WA State Department of Ecology
Attention: Director's Office
PO Box 47600
Olympia, WA 98504-6700

Ecology appreciates the dedicated work that you, the City Council, Natural Resources staff (Director Aaron Nix), the Planning Commission, and the Shoreline Advisory Committee have put into the Shoreline Master Program update.

Thank you again for your efforts. We look forward to concluding the SMP update process in the near future. If you have any questions or would like to discuss the changes identified by Ecology, please contact our Regional Planner, Anthony Boscolo at Anthony.Boscolo@ecy.wa.gov or (425) 649-7049.

Sincerely,



Maia D. Bellon
Director

Enclosures (3)

By Certified Mail [7012 1010 0003 3028 3348]

cc: Aaron Nix, City of Black Diamond
Anthony Boscolo, Ecology
Peter Skowlund, Ecology
Erik Stockdale, Ecology

**ATTACHMENT A: FINDINGS AND CONCLUSIONS
FOR PROPOSED COMPREHENSIVE UPDATE TO THE CITY OF BLACK DIAMOND
SHORELINE MASTER PROGRAM**

SMP Submittal accepted October 9, 2012, Resolution No.12-829

Prepared by Anthony Boscolo on June 13, 2013

Brief Description of Proposed Amendment:

The City of Black Diamond has submitted to Ecology for approval, a comprehensive update to their Shoreline Master Program (SMP) to comply with Shoreline Management Act (SMA) and SMP Guidelines requirements. The updated master program submittal contains locally tailored shoreline management policies, regulations, environment designation maps, administrative provisions as well as local ordinance # 08-875 adopted by reference as part of the SMP. Additional reports and supporting information and analyses noted below, are included in the submittal.

Black Diamond ordinance #08-875 established the current regulations for critical areas within the city limits. These regulations were updated in 2009 and are adopted by reference in the SMP. The SMP also contains provisions which modify the city's critical area protections to ensure consistency with the SMA and the SMP Guidelines.

FINDINGS OF FACT

Need for amendment:

The proposed amendment is needed to comply with the statutory deadline for a comprehensive update of the City's local Shoreline Master Program pursuant to RCW 90.58.080 and 100. This amendment is also needed for compliance with the policies of the Shoreline Management Act, the applicable guidelines and implementing rules. The original City SMP was approved by Ecology in 1977 and has never been updated. This SMP update is also needed to address land use changes that have occurred along the City's shorelines over the past 36 years and to provide consistency between the updated SMP and the environmental protection and land use management policies and practices provided by the City's Critical Areas Ordinance, Comprehensive Plan, Flood Management Plan. In 1998 the City limits expanded through the annexation of lands around Lake Sawyer. In accordance with WAC 173-26-160, the City has been implementing the 1978 King County SMP for the newly acquired shoreline jurisdiction. This SMP update will bring all shoreline jurisdiction in Black Diamond under the same set of policy and regulations.

SMP provisions to be changed by the amendment as proposed:

This comprehensive SMP update is intended to entirely replace the City's existing SMP. Under the existing SMP no lands qualified as shoreline jurisdiction. Only in 1998, when the City incorporated the lands around Lake Sawyer did the City acquire lands required to be regulated by the SMA. This updated SMP increases, by 100%, the linear extent of shorelines to be covered and regulated by the

City. As a result, this SMP will now regulate approximately .01 miles of river and 6.6 miles of lake shorelines.

Under the existing SMP, there is one environment designation; Rural. In contrast, the updated SMP regulates activities and development along the City’s shorelines using the following five (5) new designations, each containing purpose statements, designation criteria, and management policies. The new designations and their purposes statements are listed below:

- 1) **Natural** – to protect those shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline functions intolerant of human use. These systems require that only very low intensity uses be allowed in order to maintain the ecological functions and ecosystem-wide processes. Consistent with the policies of the designation, include planning for restoration of degraded shoreline within this environment. (Portions of Lake Sawyer Regional Park identified as wetlands)
- 2) **Shoreline Residential** – to provide for residential needs where the necessary facilities for development can be provided. An additional purpose is to provide appropriate public access and recreational uses. (residential areas of Lake Sawyer)
- 3) **Shoreline Residential Limited** – The Shoreline Residential Limited environment designation recognizes the higher level of ecological function and sensitivity associated with specific islands located in Lake Sawyer, when compared to other shoreline areas that are developed or planned for residential development. This designation also recognizes the presence of existing residential and recreational uses in these areas and is designed to provide for development and/or redevelopment that is compatible with the protection of ecological functions at such time when appropriate facilities are provided, such as potable water, electricity and waste disposal that complies with King County and State Health Department regulations. In addition to residential and recreational uses, an additional purpose of this environment is to provide for ecological enhancement.
- 4) **Urban Conservancy** – to protect and restore ecological functions of open space, floodplain and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses. (more heavily used park areas such as Lake Sawyer Boat Launch Park and portions of Lake Sawyer Regional Park)
- 5) **Aquatic** – to protect, restore, and manage the unique characteristics and resources of the areas waterward of the ordinary high-water mark.

The table below is a summarization of the changes in the updated SMP along with a comparison to the existing 1978 SMP.

Proposed Change Topic	Existing 1978 SMP Requirement	Proposed Requirement
Shoreline Stabilization	Precautions to avoid adverse effects. However, no prescriptions for avoiding/minimizing impacts described.	Consistent with Guideline requirements of WAC 173-26. New Stabilization restricted to the minimum size necessary and allowed only with a demonstrated need for protection and proof of

		infeasibility of softer alternatives through a geotechnical analysis.
Critical Area Regulations	No critical area regulations are identified	Incorporated CAO provisions which have been modified for consistency with the SMA and include protections for fish and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous areas, streams, wetlands, and aquifer recharge areas. Stream buffer widths range 25 – 150 feet. Wetland buffers widths range 40 – 225 feet.
Allowed/Prohibited Uses	Use and modification table does not exist. With only one environment designation, uses were generally covered in the body of the SMP	A use and modification matrix is embedded in the SMP which was created to align with the City of Black Diamond's anticipated future land use. The new matrix specifically addresses types of modifications anticipated and their appropriateness in a lacustrine environment.
Environment designations	RURAL	NATURAL, AQUATIC, URBAN CONSERVANCY, SHORELINE RESIDENTIAL LIMITED, SHORELINE RESIDENTIAL.
SMP SETBACKS	All setbacks begin at 25 feet from OHWM. Rear yard setback is 20 feet. Total of 45 foot setback. Lake Sawyer currently regulated by King County SMP which establishes a 20 foot setback.	25-100 Feet
BREAKWATERS, JETTIES, GROINS, WEIRS	Not addressed	Prohibited in all shoreline designations
Moorage Facilities	Allowed	Permitted
Mining	Conservancy: Allowed Natural: Prohibited	Prohibited
Piers, docks	Permitted	Minimum size needed for

		access to watercraft.
Ecological protection	Requirements to avoid and minimize impacts of some projects.	Implementation of the concepts of no net loss of shoreline ecological function and mitigation sequencing.

The SMP changes include more site and use-specific policies and regulations designed to achieve no net loss of ecological function such as:

- Stabilization preference hierarchy from non-structural, to soft, to hard being the least preferred option.
- Geotechnical reports required as specified in WAC 173-26 for shoreline stabilization and the placement of structural flood hazard reduction measures.
- Dredging requires the use of the conditional use permit process. Dredging is prohibited except for public utilities, support of a water-dependent use, and restoration activities and only when authorization has been received by state and federal agencies.
- Mitigation sequencing is applied to all development regulated by the SMP within the shoreline jurisdiction.
- Vegetation conservation is applied throughout shoreline jurisdiction across all shoreline environment designations. Vegetation conservation standards are also applied through the critical area regulations with buffers ranging from 40 to 225 feet.

Amendment History, Review Process: The City indicates the proposed SMP amendments originated from a local planning process that began in June, 2008. In October 2009 the city released the SMP Update Public Participation Plan. The record shows that workshops and public hearings which were open to the public were held on December 6, 2011, January 10, February 7, February 21, March 6, March 13, March 27, April 10, May 8, May 31, June 19 and June 21, 2012. Affidavits of publication provided by the City indicate notice of the hearings was published on March 2 and June 8, 2012.

Pursuant to WAC 173-26-110, as indicated below, the City of Black Diamond has satisfied the submittal requirements for a comprehensive SMP update:

- Pursuant to WAC 173-26-110(1), a signed resolution was provided to the department which indicated that the SMP had been preliminary approved by Resolution No. 12-829, on September 6, 2012.
- As a comprehensive update, Resolution No. 12-829 is consistent with WAC 173-26-100(2).
- Pursuant to WAC 173-26-110(3), amended environment designation maps were submitted to the department.
- Pursuant to WAC 173-26-110(4), materials, minutes, and process summary were provided to the department.

- Pursuant to WAC 173-26-110(5), SEPA was noticed on March 2, 2012. On March 2, 2012, the City issued a SEPA Determination of Non-Significance (DNS) with a comment period ending March 30, 2012. No appeals were filed.
- Pursuant to WAC 173-26-110(7), copies of all public, tribal, and agency comments were submitted to the department.
- Pursuant to WAC 173-26-110(8), a completed SMP checklist was submitted to the department.
- Pursuant to WAC 173-26-110(9), copies of the use analysis, inventory and characterization, cumulative impacts analysis, and restoration plan were submitted to the department.

With passage of Resolution # 12-829, on September 6, 2012, the City authorized staff to forward the proposed amendments to Ecology for approval.

The proposed SMP amendments were received by Ecology for state review and verified as complete on October 9, 2012. Notice of the state comment period was distributed to state task force members and interested parties identified by the City on November 8, 2012, in compliance with the requirements of WAC 173-26-120, and as follows: The state comment period began on November 13 and continued through December 21, 2012. No public comments were received.

Consistency with Chapter 90.58 RCW: The proposed amendment has been reviewed for consistency with the policy of RCW 90.58.020 and the approval criteria of RCW 90.58.090(3), (4) and (5). The City has also provided evidence of its compliance with SMA procedural requirements for amending their SMP contained in RCW 90.58.090(1) and (2).

Consistency with “applicable guidelines” (Chapter 173-26 WAC, Part III): The proposed amendment has been reviewed for compliance with the requirements of the applicable Shoreline Master Program Guidelines (WAC 173-26-171 through 251 and 173-26-020 definitions). This included review of a SMP Submittal Checklist, which was completed by the City.

Ecology staff thoroughly reviewed the SMP goals, policies, regulations, environment designations, maps, administrative provisions, definitions, and legal provisions for consistency with the Guidelines. Ecology staff also thoroughly reviewed and evaluated the City’s SMP inventory, characterization and analysis, public involvement process, and Growth Management Act integration, including critical areas. In addition, Ecology staff reviewed and evaluated the City’s Shoreline Restoration Plan including the background data and documentation.

Consistency with SEPA Requirements: The City submitted evidence of SEPA compliance in the form of a SEPA checklist and issued a Determination of Non-Significance (DNS) for the proposed SMP amendments on March 2, 2012. Notice of the SEPA determination was published in the Covington / Maple Valley / Black Diamond Reporter on March 2, 2012. Ecology did not comment on the DNS.

Other Studies or Analyses supporting the SMP update: Ecology also reviewed the following reports, studies, map portfolios and data prepared for the City in support of the SMP amendment:

These supporting documents include:

- *a October 29, 2009 public participation plan,*
- *a August 6, 2010 shoreline inventory and characterization,*
- *a September 2012 cumulative impacts analysis, and*
- *a September 2012 restoration plan*

Summary of Issues Raised During The Public Review Process:

The City's SMP amendment drafting/public review process had quality participation with 35 oral and written comments submitted. The city did an exemplary job of addressing the concerns of interested parties. At the conclusion of the process staff was praised for their efforts in making the update a collaborative process. During the public participation period, extensive debate centered on the following topics: Setbacks, incentives for setback reductions, and use of Lake Sawyer.

Setbacks – Citizens expressed concern over the creation of larger setbacks given the existing setback is 20 feet yet the typical development is located much further from the water. This was highlighted in the Final Cumulative Impacts Analysis (CIA) which stated the average setback is 48 feet within the residential areas of Lake Sawyer. Although an incentive base setback scheme was created which allows for setback reductions from the standards setback, concern still remained that particular incentives would not be feasible or would increase the risk of erosion.

The City finally settled on a buffer scheme for residential areas which includes a 40 foot standard setback which could be reduced to 25 feet with a combination of upland related enhancements or use of water related enhancements. Additional setback averaging measures were also integrated into the final buffer system to add additional flexibility.

Ecology also provided written comment within the City provided Checklist which identified deficiencies in the proposed setback system, and indicated that the setback system did not meet the requirements of WAC 173-26-186 (8) for no net loss of shoreline ecological functions. Ecology noted the wide range in existing setbacks and that more equitable solutions should be pursued to give weight to localized circumstances. Given that a nearly identical setback scheme is included in the Final submittal, Ecology is requiring changes as identified in Attachment B.

Vegetation planting and bulkhead removal – As an incentive for a reduced setback, the SMP requires that a landowner choose from a number of site improvements. These range from increasing the amount of impervious surface, to installing a green roof, to bulkhead removal, to installing near shore plantings.

Concern was expressed over setback reduction incentives which require vegetation planting or bulkhead removal. In particular, that this type of incentive would go beyond the requirement of no net loss of shoreline ecological function and could lead to shoreline erosion.

In Ecology's initial review it indicated that incentive measures would need to be prioritized to emphasize near shore improvements. Based on the incentives proposed by the City these would involve some level of either bulkhead removal or near shore native vegetation plantings. This prioritization is consistent with the ecosystem needs identified in the Shoreline Analysis Report and is thus being required change as identified in Attachment B, required changes.

Damage from boat wakes – A number of citizens expressed concern over bulkhead removal standards. It was expressed that erosive forces caused by boat wakes threaten private property, and removal of a bulkhead would increase the risk. The City has standards which limit speed and usage to particular times of the day, yet those efforts seem to have raised the intensity of the use, and have failed to alleviate the concerns of shoreline landowners.

The City took steps to clarify that the SMP doesn't require bulkhead removal. Further, the City clarified that softer methods of stabilization have been show to provide comparable protections while providing ecological benefits and improved shoreline access while meeting the requirements of the SMA.

Public access standards – Concern was raised regarding public access requirements for subdivision creating four lots or greater. Specifically, that requiring public access would devalue the new lots by taking away one of the characteristics unique to typical shoreline landowners.

As a result of this concern, the City inserted new standards into the SMP. The Shoreline Administrator now has the ability to determine if the public access requirement is met by community or visual access rather than public access.

Flooding concerns – Concerns were expressed regarding flooding due the increasing amount of development and impervious surface in the watershed. The City noted that concern and correctly indicated that shoreline jurisdiction only extends two hundred feet from the OHWM.

Summary of Issues Raised by Ecology as Relevant To Its Decision:

Vegetation Conservation – As proposed, the vegetation conservation standards allow for removal of 'unhealthy' trees within the shoreline setback. This is on conflict with WAC 173-26-221(5). Limited vegetation removal is allowable for safety and view protection. Required changes have been included to ensure proper hazardous tree removal consistent with WAC 173-26-221(5).

Additional standards have been incorporated into the proposed SMP when a tree is considered 'significant'. The SMP does not have a definition for significant tree. Rather, it relies on a definition located in city code outside of the SMP. This definition has been incorporated into the SMP as a required change.

Shoreline Setbacks – Setbacks within the SMP vary by environment designation. The most common designation, applied to the majority of residential areas, is the Shoreline Residential environment

designation. As proposed, the Shoreline Residential environment designation requires a standard 40 foot setback from the ordinary high water mark.

This reach contains a wide variety of lot shapes and sizes. An analysis of lots in this designation shows that the majority range in size from less than 1/10th of an acre to greater than 3 acres. The average lot size is roughly ½ acre. More telling is that the standard deviation is greater than .4 acres, which indicates that 68% of the lots are between approximately .15 acres and .95 acres, with the remaining 32% being outside of that range. The minimum lot size that can be achieved through subdivision is 9600 square feet or .22 acres.

Existing setbacks from the ordinary high water mark also vary greatly. The Final Cumulative Impacts Analysis Component for the City of Black Diamond summarizes the residential setbacks as follows:

The Shoreline Analysis Report included an initial analysis of the median setback distance for all structures within the shoreline jurisdiction, which was approximately 57 feet. This analysis has been refined and updated to focus only on primary residential structures. A review of building footprint data and aerial photography indicated that approximately 112 primary structures in Segment A are located within 40 feet of the OHWM, which is the proposed standard setback in the SMP for the Shoreline Residential environment. Of these, 67 structures are located within the proposed 20-foot minimum setback. The remaining 155 structures within Segment A lie more than 40 feet from the shoreline, outside the proposed maximum setback. The median setback is approximately 48.7 feet based on available data. However, the mapped location of the ordinary high water mark does not always correspond well with the apparent shoreline edge in aerial photos and therefore we believe this number may not accurately reflect the true median setback. (AHBL, September 2012, Page 6)

As described, existing setbacks have been difficult to measure with confidence. WAC 173-26-201 (3) (g) requires that when less is known about a particular resource, provisions should be more protective to ensure resource protection. Further, WAC 173-26-201 (2) (e) requires avoidance of impacts as the primary step of resource protection.

Relative to other shoreline reaches, the ecological functions within this reach have been found to be limited (AHBL/Otak, August 6, 2012). However limited, replacing those functions with residential structures and appurtenances is a loss of ecological function.

Flexible Shoreline Setbacks – Flexible setbacks, or reduced setbacks with enhancement, have been incorporated into the Black Diamond SMP. Under the proposed system, up to a 25 foot reduction can be achieved by performing a combination of ‘enhancements’. The minimum achievable setback from the Ordinary High Water Mark is 25 feet.

As proposed, the enhancements listed in SMP Table III can be utilized in any order, regardless of ecological needs. These enhancements range from monetary contributions to a city restoration fund, to bulkhead removal, to connecting to the sanitary sewer system, to written agreement to follow a vegetation management plan.

Although somewhat similar approaches have been used by other jurisdictions, the City of Black Diamond has not provided a rationale of how shoreline ecological functions will be protected under a

reduced setback. Rather, the Final Cumulative Impacts Analysis Component for the City of Black Diamond acknowledges additional impacts, though minimized.

All development in the Shoreline Residential environment would be subject to a standard 40-foot setback from the OHWM. This setback can be reduced to a minimum of 25 feet when approved mitigation or restoration actions are taken, such as bulkhead removal, vegetation preservation, use of LID techniques, or keeping impervious surface significantly below allowances. (SMP 4.B.3 and 4.B.4) Implementation of these techniques will minimize impacts on ecological functions by limiting impervious surface and reducing stormwater runoff to the lake that could contain excess nutrients and toxic materials, as well as increasing the potential for natural filtration by preserving natural vegetation. (AHBL, September 2012, Page 37)

Environment Designations – As drafted, the SMP contains five environment designations; Aquatic, Natural, Urban Conservancy, Shoreline Residential, and Shoreline Residential Limited. Concern was raised early in the drafting stage regarding the broad application of the Shoreline Residential designation. In particular, concern about the application to two large and lots in Shoreline Residential environment designation.

WAC 173-26-211 contains specific criteria for which areas may be considered for each environment designation. The Shoreline Residential designation criteria are as follows.

"Assign a "shoreline residential" environment designation to shoreline areas inside urban growth areas, as defined in RCW 36.70A.110, incorporated municipalities, "rural areas of more intense development," or "master planned resorts," as described in RCW 36.70A.360, if they are predominantly single-family or multifamily residential development or are planned and platted for residential development."

As previously described, residentially zoned lots on Lake Sawyer vary greatly in terms of size. The two lots in question are the largest lots in the designation and are 12.9 and 10 acres respectively. They are spatially diverse being located on the north and south ends of Lake Sawyer. Within the City of Black Diamond Shoreline Analysis Report these two areas were considered distinct enough to be separated for other residential areas.

The City of Black Diamond Shoreline Analysis Report describes the northern 12.9 acre lot as follows.

"The parcel appears to have a road that branches into two roads or driveways that lead to separate homes or outbuildings. There appears to be three significant structures on the parcel, as well as additional outbuildings. Personal communication with neighboring residents and visitors indicates that there is a larger historic house, a caretaker's house and a new cabin or conference building, plus small out buildings located on the site.

....

The property comes to a point out into the lake where there appears to be some very limited areas of armoring (approximately 2% of the total shoreline); however, the majority of the property has a natural shoreline with abundant, overhanging vegetation. There are three docks on the property that are visible in aerial photos." (AHBL/Otak, August 6, 2012, Page 32)

The Southern 10 Acre lot located adjacent to Lake Sawyer Regional Park was not specifically described in the City of Black Diamond Shoreline Analysis Report. In the report it was grouped with the Lake Sawyer Regional Park reach and conditions were analyzed as a whole. The Cumulative Impacts Analysis does provide some specific descriptions of the southern 10 acre lot.

"The residential parcel north of the park, which large enough for subdivision, is anticipated to remain vacant for the foreseeable future until sanitary sewer service is provided to the area. At such time, the parcel may convert to residential use. Although there are no current plans to do so, there is also the potential that this property could be converted to public recreational use as it is adjacent to the current Regional Park."

...

"This property has approximately 1,363 feet of shoreline frontage and, under the minimum lot dimension requirements of the proposed SMP and BDMC 18.30.040, could be subdivided to create up to 22 shoreline frontages." (AHBL, September 2012, Page 29)

Although not providing clear information about the specific properties physical characteristics, the information from the CIA does provide insight into the ecological uniqueness of the property.

CONCLUSIONS OF LAW

After review by Ecology of the complete record submitted and all comments received, Ecology concludes that the City's proposed comprehensive SMP update, subject to and including Ecology's required changes (itemized in Attachment B), is consistent with the policy and standards of RCW 90.58.020 and RCW 90.58.090 and the applicable SMP guidelines (WAC 173-26-171 through 251 and .020 definitions). This includes a conclusion that approval of the proposed SMP, subject to required changes, contains sufficient policies and regulations to assure that no net loss of shoreline ecological functions will result from implementation of the new updated master program (WAC 173-26-201(2)(c)).

Ecology also concludes that a separate set of recommended changes to the submittal (identified during the review process and itemized in Attachment C) would be consistent with SMA policy and the guidelines and would be beneficial to SMP implementation. These changes are not required, but can, if accepted by the City, be included in Ecology's approved SMP amendments.

Consistent with RCW 90.58.090(4), Ecology concludes that those SMP segments relating to critical areas within Shoreline Management Act jurisdiction provide a level of protection at least equal to that provided by the City/County's existing critical areas ordinance.

Ecology concludes that the City has complied with the requirements of RCW 90.58.100 regarding the SMP amendment process and contents.

Ecology concludes that the City has complied with the requirements of RCW 90.58.130 and WAC 173-26-090 regarding public and agency involvement in the SMP update and amendment process.

Ecology concludes that the City has complied with the purpose and intent of the local amendment process requirements contained in WAC 173-26-100, including conducting open houses and public hearings, notice, consultation with parties of interest and solicitation of comments from tribes, government agencies and Ecology.

Ecology concludes that the City has complied with requirements of Chapter 43.21C RCW, the State Environmental Policy Act.

Ecology concludes that the City's comprehensive SMP update submittal to Ecology was complete pursuant to the requirements of WAC 173-26-110 and WAC 173-26-201(3)(a) and (h) requiring a SMP Submittal Checklist.

Ecology concludes that it has complied with the procedural requirements for state review and approval of shoreline master program amendments as set forth in RCW 90.58.090 and WAC 173-26-120.

Ecology concludes that the City has chosen not to exercise its option pursuant to RCW 90.58.030(2)(f)(ii) to increase shoreline jurisdiction to include buffer areas of critical areas within shorelines of the state. Therefore, as required by RCW 36.70A.480(6), for those designated critical areas with buffers that extend beyond SMA jurisdiction, the critical area and its associated buffer shall continue to be regulated by the City's critical areas ordinance. In such cases, the updated SMP shall also continue to apply to the designated critical area, but not the portion of the buffer area that lies outside of SMA jurisdiction. All remaining designated critical areas (with buffers NOT extending beyond SMA jurisdiction) and their buffer areas shall be regulated solely by the SMP.

DECISION AND EFFECTIVE DATE

Based on the preceding, Ecology has determined the proposed amendments comprehensively updating the SMP, are consistent with Shoreline Management Act policy, the applicable guidelines and implementing rules, once required changes set forth in Attachment B are approved by the City. Ecology approval of the proposed amendments with required changes is effective 14 days from Ecology's final action approving the amendment.

As provided in RCW 90.58.090(2)(e)(ii) the City may choose to submit an alternative to the changes required by Ecology. If Ecology determines that the alternative proposal is consistent with the purpose and intent of Ecology's original changes and with RCW 90.58, then the department shall approve the alternative proposal and that action shall be the final. Approval of the updated SMP and proposed alternative/s is effective 14 days from Ecology's final action approving the alternative/s.

Attachment B:

Ecology Required Changes

The following changes are required to comply with the SMA (RCW 90.58) and the SMP Guidelines (WAC 173-26, Part III):

ITEM	DRAFT SMP Submittal PROVISION (Cite)	TOPIC	BILL FORMAT CHANGES (underline = additions; strikethrough = deletions)	RATIONALE
1	Ch. 1.E ¶ 3	Environment Designations	Black Diamond has designated its Lake Sawyer shorelines under four <u>five</u> shoreline environments: Aquatic, Natural, Urban Conservancy, Shoreline Residential Limited and Shoreline Residential.	WAC 173-26-211 requires the application of shoreline environment designations. The Black Diamond SMP contains five designations including Shoreline Residential Limited. Exceptions to public access standards are limited to those found in WAC 173-26-221 (4)(d)(iii).
2	Ch. 3.B.5.c.3	Public Access	h. The cost of providing the access, easement, or an alternative amenity is unreasonably disproportionate to the total long-term cost of the proposed development or other <u>Where</u> constitutional or legal limitations preclude public access.	
Vegetation Conservation				
3	Ch. 3.B.7.c Shoreline Vegetation Conservation Regulations	Vegetation Conservation Standards	3. Any normal and routine maintenance of existing trees shall not be subject to these clearing and grading regulations, provided; that said maintenance does not involve removal of healthy trees and is not detrimental to the health of any trees.	The SMP allows the unmitigated removal of unhealthy non-hazardous trees. This is in conflict with WAC 173-26-221(5)(c), Shoreline vegetation conservation, WAC 173-26-201 (2) (e), Environmental

			<p>impact Mitigation, and the provisions of WAC 173-26-186(8), as they relate to a finding of no net loss of shoreline ecological functions.</p> <p>The importance of vegetation in urban areas is addressed in the guidelines and the City's Inventory and Analysis. The Guidelines highlight the relative importance of vegetation in WAC 173-26-201(3)(d)(viii): While there may be less vegetation remaining in urbanized areas than in rural areas, the importance of this vegetation, in terms of the ecological functions it provides, is often as great or even greater than in rural areas due to its scarcity.</p> <p>Specific to Black Diamond, the City's Inventory and Characterization creates lists of recommendations for shoreline management. Chapter 7.1.2 states:</p> <p>"Conservation of existing native vegetation during land development and ongoing use is critical to maintaining the ecological processes and natural functions of shoreline</p>
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			<p>areas" and "The removal of mature trees and native vegetation should be regulated in a manner that provides protection that is equal to or greater than current Sensitive Area Regulations."</p> <p>The Inventory and Characterization language above is supported by the concept of Mitigation Sequencing, WAC 173-26-201(2) (e), by first avoiding, then minimizing and mitigating for impacts. Further, the SMP itself contains policy language supporting the preservation of existing vegetation. Policy 5 states "Removal of non-hazardous mature trees and native vegetation within the required shoreline setback should be severely restricted regardless of lot size or use." Policy 1 supports the concept of mitigation sequencing. It reads: "Clearing and grading activities in shoreline areas should be limited to the minimum necessary to accommodate shoreline development and should result in the enhancement of vegetation over time to</p>
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4	Ch. 3.B.7.c.5 Shoreline Vegetation Conservation Regulations	Vegetation Conservation Standards	<p>b. Pruning consistent with accepted arboricultural practices that does not involve the removal of healthy trees and is not detrimental to the health of any trees, maintenance of existing ornamental landscapes and other activities allowed pursuant to these regulations, provided that said modification is conducted in a manner consistent with this Master Program and results in no net loss to ecological functions or critical fish and wildlife habitats.</p> <p>b. If the proposed removal of native vegetation is intended for the development of non-native landscaping outside of the required setback area, ornamental species may be used for the revegetation, provided impacts are mitigated by planting native vegetation elsewhere on the property. The required setback area shall be a priority location for mitigation plantings and mitigation plantings shall be subject to Regulation 48-14 below.</p>	<p>provide a greater level of ecological functions, human safety, and property protection." Allowing the unmitigated removal of unhealthy non-hazardous trees cannot be supported based on the analysis provided. Mitigation is required on a project by project basis which will provide equal or greater functions.</p> <p>See rational for required change #3</p>
5	Ch. 3.B.7.c.13 Shoreline Vegetation Conservation Regulations	Maintenance and monitoring	<p>15. Hazardous trees may be removed when determined by a member of the American Society of Consulting Arborists or similar professional organization in accordance with the International Society of Arboriculture method found in "2011 Tree Risk Assessment (part 9)." in its most recent or adopted form. If a hazardous tree is removed it shall be mitigated to result in no net loss of shoreline ecological functions.</p>	<p>Pursuant to WAC 173-26-221(5)(c), vegetation conservation standards required. By referencing 'Regulation 18', which does not exist, this regulation would avoid maintenance and monitoring standards. This appears to be an oversight as previous drafts of the SMP were properly referenced.</p> <p>The SMP doesn't allow tree removal within the shoreline setback except to mitigate hazard. To ensure consistency with WAC 173-26-201(2)(e), the application of hazardous tree standards must be</p>
6	Ch. 3.B.7.c Shoreline Vegetation Conservation Regulations	Hazardous tree removal	<p>15. Hazardous trees may be removed when determined by a member of the American Society of Consulting Arborists or similar professional organization in accordance with the International Society of Arboriculture method found in "2011 Tree Risk Assessment (part 9)." in its most recent or adopted form. If a hazardous tree is removed it shall be mitigated to result in no net loss of shoreline ecological functions.</p>	<p>Pursuant to WAC 173-26-221(5)(c), vegetation conservation standards required. By referencing 'Regulation 18', which does not exist, this regulation would avoid maintenance and monitoring standards. This appears to be an oversight as previous drafts of the SMP were properly referenced.</p> <p>The SMP doesn't allow tree removal within the shoreline setback except to mitigate hazard. To ensure consistency with WAC 173-26-201(2)(e), the application of hazardous tree standards must be</p>

			defined. See also rational for required change #2
7	Ch. 4.C.8.c.3 Residential Development	Vegetation Conservation Standards	See rational for required change #3
8	Ch. 7 Definitions	Significant Tree	WAC 173-26-221 (5) requires vegetation conservation standards in SMP's. This includes definitions. Although the term 'Significant Tree' is defined in BDMC, that section of code could change resulting in unaccounted impacts within Shoreline Jurisdiction. See also rational for required change #3
Shoreline Setbacks			
9	Ch. 4.B.2 Basic Development Standards – Table II	Setback Standards	Ecology has reviewed the City's Cumulative Impact Assessment (AHBL, September 2012), but did not find conclusions or technical references supporting the proposed buffers, and their ability to contain sediment, nitrogen, nitrate or phosphorus from 40-foot down to 25-foot from the lakes edge. Further, the City's Cumulative Impact Assessment provides the following conclusion related to the impact of new
		DEVELOPMENT STANDARD	AQUATIC
		Shoreline Setback (from OHWM) ² Please also see Regulation #2 related to non-conforming single family homes.	RESIDENTIAL LIMITED
		100 ft	50 ft. (standard) may be reduced to 25 ft. (minimum) with enhancement
		NATURAL	RESIDENTIAL
		100 ft (standard) may be reduced to 75 ft. (minimum) with enhancement	4050 ft. (standard) may be reduced to 25ft. (minimum) with enhancement
		URBAN CONSERVANCY	RESIDENTIAL
		100 ft. (standard) may be reduced to 75 ft. (minimum) with enhancement	N/A ³

10	Ch. 4.B.3.1 Flexible Shoreline Setback Regulations	Setback Standards	<p>a. The forty (40) <u>fifty</u> (50) foot standard setback in the Shoreline Residential and the fifty (50) foot Shoreline Residential Limited Environments may be reduced down to a</p>	<p>development: "Development of the 11 existing vacant lots, as well as new lots from subdivision, including associated construction of new overwater structures and shoreline armoring, has the potential to further degrade ecological function. As described in Chapter 2, impervious cover in Segment A is estimated at approximately 25-30%, and construction of new residences and expansion of existing homes could potentially increase this coverage up to the maximum allowed. (AHBL, 2012; 39)" Therefore, Ecology requires the noted change to limit development to a minimum of 50-foot upland of the OHWM to minimize potential impacts related to the decline in buffer effectiveness consistent with Environmental Impact Mitigation (WAC 173-26-201(2)(e)) and No Net Loss (WAC 173-26-186(8)) SMP-Guidelines requirements. See rational for #9</p>
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11	Ch. 4.C.7.c Recreational Development - Regulations	Setback Standards	<p>minimum of twenty-five (25) feet when setback reduction impacts are mitigated using a combination of the voluntary mitigation options provided in Table III to achieve an equal or greater protection of lake ecological functions.</p>	<p>Pursuant to WAC 173-26-020, a boardwalk is not considered a water-dependent use.</p> <p>See also rationale for #9</p>
12	Ch. 4.C.8.c.3 Residential Development	Setback Standards	<p>1. All structures associated with a recreational use, except water dependent structures, such as docks and boardwalks, and appurtenances that provide access to the water for that use, shall maintain a standard setback of fifty (50) feet in the Shoreline Residential Environment, forty (40)-fifty (50) feet in the Shoreline Residential Limited Environment and one-hundred (100) feet in the Urban Conservancy Environment from the OHWM. This setback may be reduced down to 25 feet in the Shoreline Residential, 30 feet in the Shoreline Residential Limited Environment and 75 feet in the Urban Conservancy Environment using setback reduction mechanisms in Table II in this Chapter. Existing structures may be replaced in their current location and configuration to the extent allowed by state and federal agencies with jurisdiction. Any further setback reduction shall require approval of a shoreline variance application.</p>	<p>The Cumulative Impacts Analysis was performed under a development scenario where the minimum rear lot setback is 25 feet and an additional 75 foot public space running parallel to OHWM for large lot subdivision. Given that the 25 foot rear lot setback is only found in BDMC, and not within the SMP, it then becomes essential in terms of meeting no net loss, as required by WAC 173-26-186(8), to include a provision maintaining the setback provided in the</p>
			<p>f. New primary residential structures shall not be located within 100 feet of the Ordinary High Water Mark (OHWM).</p>	

Flexible Shoreline Setback Regulations		Cumulative Impacts Analysis							
13	Ch. 4.B.2 Basic Development Standards -- Table II	Setback Standards	DEVELOPMENT STANDARD	NATURAL	URBAN CONSERVANCY	RESIDENTIAL SHORELINE	RESIDENTIAL SHORELINE LIMITED	AQUATIC	Pursuant to WAC 173-26-201(3)(d)(i) it must be shown that the minimum setback (with buffer enhancement) will adequately protect water quality, habitat, and other shoreline ecological functions. Ecology provided feedback to the City, citing concerns related to impacts and inadequate protection of shoreline ecological functions associated with the proposed flexible shoreline buffer/setbacks in an email sent on 8/19/2011 and the Checklist. Ecology has reviewed the City's Final Shoreline Analysis Report (OTAK AHBL, 2010) and Final Cumulative Impacts Analysis (AHBL 2012), but did not find an analysis supporting small enhanced buffers. The impacts of future development under this scenario have not been shown to meet no net loss of shoreline ecological functions pursuant to WAC 173-26-201(2)(e). The following changes must be
			Shoreline Setback (from OHWM) ² Please also see Regulation #2 related to non-conforming single family homes.	100 ft	100 ft. (standard) may be reduced to 75-ft. (minimum) with enhancement	40 ft. (standard) may be reduced to 25-ft. (minimum) with enhancement	50 ft. (standard) may be reduced to 25-ft. (minimum) with enhancement	N/A	
<p>²The standard setback applies to all permanent and temporary primary and accessory structures unless specifically exempted below. Setbacks are measured landward, on a horizontal plane perpendicular to the shoreline. The setback may be reduced to the minimum setback indicated in Table II where the applicant agrees to implement voluntary enhancements as described in Sections B-3 and B-4 below, and the Shoreline Administrator determines the proposal is consistent with all other requirements of this SMP. Please see zoning regulations for interior lot setbacks and other requirements that apply to specific zones. Development associated with water dependent uses, shoreline access and ecological restoration such as overwater structures, shoreline stabilization, trails, stairs and similar appurtenances are not required to meet the minimum setback. However, where such development is approved within the minimum setback, the placement of structures and hard surfaces shall be limited to the minimum necessary for the feasible operation of the use.</p>									

14	Ch. 4.C.7.c Recreational Development - Regulations	Setback Standards	<p>1. All structures associated with a recreational use, except water dependent structures, such as docks and appurtenances that provide access to the water for that use, shall maintain a standard setback of fifty (50) feet in the Shoreline Residential Environment, forty (40)-feet in the Shoreline Residential Limited Environment and one-hundred (100) feet in the Urban Conservancy Environment from the OHWM. This setback may be reduced down to 25 feet in the Shoreline Residential, 30 feet in the Shoreline Residential Limited Environment and 75 feet in the Urban Conservancy Environment using setback reduction mechanisms in Table II in this Chapter. Existing structures may be replaced in their current location and configuration to the extent allowed by state and federal agencies with jurisdiction. Any further setback reduction shall require approval of a shoreline variance application.</p>	incorporated to ensure adequate protections under the required setbacks. See rational for required change #13
15	Ch. 4.B.3 Flexible Shoreline Setback Regulations	Flexible setbacks	<p>3. Flexible Shoreline Setback Regulations In addition to the specific requirements for particular uses, the following standards shall apply:</p> <p>1. A standard setback shall be established from the ordinary high water mark for all lots within shoreline jurisdiction. The setback shall not apply to docks, piers, bridges and similar water dependent structures.</p> <p>a. The forty (40)-foot standard setback in the Shoreline Residential and the fifty (50)-foot Shoreline Residential Limited Environments may be reduced down to a minimum of twenty-five (25) feet when setback reduction impacts are mitigated using a combination of the voluntary mitigation options provided in Table III to achieve an equal or greater protection of lake ecological functions.</p> <p>b. The one-hundred (100)-foot setback within the Urban Conservancy environment may be reduced to a minimum of seventy-five (75) feet, when setback reduction impacts are mitigated using a combination of the mitigation options provided in Table III to achieve an equal or greater protection of lake ecological functions.</p> <p>c. No setback reduction is allowed in the Natural environment, where a one-hundred (100)-foot setback shall be required.</p> <p>d. At least one Water Related Action or 25 feet of reduction allowance from selected Upland Related reduction mechanisms in Table III must be undertaken in order to achieve the full setback</p>	See rational for required change #13

			<p>reduction-allowed:</p> <p>e.—Alternative Setback Averaging — In instances of unique lot configurations, the Shoreline Administrator or his/her designee may allow modification either of the standard or-mitigated shoreline setback, by allowing a partial reduced setback if a compensating increased setback for other portions of the development is provided. Modified setback averaging may only be allowed where a qualified professional demonstrates that all of the following conditions are met:</p> <ol style="list-style-type: none"> i. Alternative setback averaging will not reduce shoreline functions or functional performance; ii. The total area contained in the setback area after averaging is no less than that which would otherwise be required; and all increases in setback dimension for averaging are generally parallel to the shoreline edge; iii. The setback depth at its narrowest point is not reduced to less than twenty-five feet; iv. Under no circumstances shall a structure encroach more than five feet beyond either the standard or-mitigated setback. <ol style="list-style-type: none"> 2. Please see provisions for Nonconforming Uses and Development in Chapter 6: Administration. 3. All property owners who obtain approval for a reduction in the setback must record the final approved setback and corresponding conditions in a Notice on Title, and provide a copy of the Notice on Title to the Shoreline Administrator. 4. Setback reductions shall not apply to enforcement actions, after the fact permits or similar actions. 5. Mitigation of native vegetation as discussed below shall consist of a mixture of trees, shrubs and groundcover and be designed to improve habitat functions. Preparation of a revegetation plan shall be completed by a qualified professional and include a monitoring and maintenance program that shall, at a minimum, include the following: <ol style="list-style-type: none"> a. The goals and objectives for the mitigation plan; b. The criteria for assessing the mitigation; c. A monitoring plan that includes annual progress reports submitted to the Shoreline Administrator and that lasts for a period sufficient to establish that performance standards have been met as determined by the Shoreline Administrator, but no less than five years; and d. A contingency plan. 5. Whenever the Shoreline Administrator determines that monitoring has identified a significant adverse deviation from predicted impacts, or that mitigation or maintenance measures have failed, the property owner shall be required to institute corrective action, which shall be subject
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16	Ch. 4.B.4 Shoreline Setback Reduction Mechanisms – Table III	Flexible setbacks	<p>to further monitoring as necessary to ensure the success of requirement mitigation measures. 6. Please see Chapter 3, Section B.7.C (Vegetation Conservation regulations) for additional requirements, including maintenance, monitoring and criteria for mitigation success.</p>	See rational for required change #13
REDUCTION MECHANISM			REDUCTION ALLOWANCE	
Water-Related Actions			E	
4	Removal of existing bulkhead located at, below, or within 5 feet landward of the shoreline's ordinary high water mark (OHWM), and subsequent restoration of the shoreline to a natural or semi-natural state, including restoration of topography, beach/substrate composition and stabilization of disturbed soils with native vegetation.	Bulkhead Removal on 75% of shoreline--15 feet 50% of shoreline--10 feet 25% of shoreline--5 feet		
2	Restoration of natural shoreline conditions (e.g. no bulkhead or other unnatural shoreline features such as upland impervious surfaces or other structural alterations allowed) within 10 feet of the OHWM, including restoration of native vegetation. The reduction will only be granted if ecological functions would be improved relative to the existing condition.	10 feet		
3	Existing hard structural stabilization at or near the ordinary high water mark is removed and new hard structural shoreline stabilization measures are setback from the OHWM between 2 ft. to 4 ft. based on feasibility and existing conditions and are sloped a maximum angle of 3 vertical: 1 horizontal to provide dissipation of wave energy and increase the quality or quantity of nearshore shallow water habitat.	5 feet		

			<p>4 Soft structural shoreline stabilization measures are installed waterward of the OHWM on a site currently containing only hard stabilization. They shall include the use of gravels, cobbles, boulders and/or logs, as well as vegetation. The material shall be of a size and placed to remain stable and accommodate alteration from wind and boat-driven waves and shall be graded to a maximum slope of 1 vertical: 4 horizontal</p>	5-foot		
			<p>5 Contribution to a City restoration fund or bank for offsite shoreline restoration and implementation of measures contained in the setback reduction mechanisms of the Water Related Actions, items 1 through 4, of Table III above. Amount shall be determined by the Shoreline Administrator based upon the approximate cost that would be required to accomplish the applicant selected water-related shoreline enhancement at the on-site area of improvement. The City shall establish the fund or bank and more specific operational rules, to make this reduction mechanism available.</p>	5-15 feet		
			<p>6 Contribution to a City restoration fund or bank for offsite shoreline restoration in the City-owned parks on Lake Sawyer. Amount shall be determined based upon the cost per frontage foot shown below times the number of frontage feet on the applicant's parcel as shown in the current King County property tax assessment database. The City shall establish the restoration cost per foot for the three setback reductions below to make this reduction mechanism available. Setback Reduction of 5 ft. = \$XXX per foot of frontage at the on-site location; Setback Reduction of 10 ft. = \$YYY per foot of frontage at the on-site location Setback Reduction of 15 ft. = \$ZZZ per foot of frontage at the on-site location;</p>	5-15 feet		
			<p>Upland Related Actions</p>			
			<p>7 Restoration of native vegetation (and preservation of existing trees and native vegetation) in at least 75 percent of the reduced (i.e. that portion remaining after reductions are applied) setback area. The remaining 25 percent of the setback area can be comprised of existing non-invasive, non-</p>	10-foot		

		<p>1 3 Reduction of 5-foot for impervious surface 10 percent less than the SMP standard and 10-foot for impervious coverage 20 percent less than the SMP standard</p> <p>5-10 feet</p>	
		<p>1 4 For preparation of, and agreement to adhere to, a written shoreline vegetation management plan that includes appropriate limitations on the use of fertilizers, herbicides and pesticides to protect water quality. This plan must be approved by the City prior to implementation of the plan.</p> <p>5 Feet</p>	
		<p>1 5 Preserving or restoring at least 20 percent of the total lot area outside of the setback area as native vegetation.</p> <p>5 feet</p>	
		<p>1 6 Contribution to a City mitigation fund, or bank, for on-site vegetation restoration and implementation of other measures contained in setback reduction mechanisms 6 and 7 of Table III above. Amount shall be determined by the Shoreline Administrator based upon what the approximate cost would be to accomplish the vegetation enhancement work in the on-site setback area. The City shall establish the fund or bank and more specific operational rules, to make this reduction mechanism available.</p> <p>5-10 feet</p>	
		<p>1 7 Connection to the sanitary sewer system on a property that currently utilizes an onsite septic system.</p> <p>5 feet</p>	
17	<p>Environment Designations</p> <p>Figure 1 Shoreline Environment Designation Map</p>	<p>The Environment Designations of the areas depicted on the attached map shall be changed from 'Residential' to 'Urban Conservancy'.</p>	<p>WAC 173-26-211 provides purpose, management policies, and environment designation criteria. The areas depicted on the attached map do not meet the designation criteria for the Residential environment (WAC 173-26-211(5)(f)(iii)), but rather fit the designation criteria for</p>

18	Ch.2.D.3.c Designated Areas	Environment Designations	<p>Urban Conservancy areas include shorelands within Lake Sawyer Boat Launch Park, portions of Lake Sawyer Regional Park that are not designated wetlands and large unplatted lots, as shown in Figure 1. This designation will preserve and enhance the ecological functions of publicly-owned properties and undeveloped portions of the shoreline, while retaining future options for passive and active shoreline recreation, limited residential development and public access. The publicly-owned Lake Sawyer Boat Launch and Lake Sawyer Regional Park offer potential for ecological restoration.</p> <p>7. Native understory vegetation and trees within the Urban-Conservancy and Natural Environment and within shoreline setback areas in all environments shall be retained, unless necessary to provide water access, to provide limited view corridors or to mitigate a hazard to life or property. Where limited removals are allowed pursuant to the conditions provided above, vegetation shall be replaced to assure no net loss is achieved.</p>	Urban Conservancy (WAC 173-26-211(5)(e)(iii). Those areas identified shall be changed to the Urban Conservancy designation. Additional changes are needed throughout the SMP to ensure consistency with the purpose and management policies of WAC 173-26-211(5)(e). See rational for required change #17																																				
19	Ch.3.B.7.c Shoreline Vegetation Conservation Regulations	Environment Designations	<p>Urban Conservancy areas include shorelands within Lake Sawyer Boat Launch Park, portions of Lake Sawyer Regional Park that are not designated wetlands and large unplatted lots, as shown in Figure 1. This designation will preserve and enhance the ecological functions of publicly-owned properties and undeveloped portions of the shoreline, while retaining future options for passive and active shoreline recreation, limited residential development and public access. The publicly-owned Lake Sawyer Boat Launch and Lake Sawyer Regional Park offer potential for ecological restoration.</p> <p>7. Native understory vegetation and trees within the Urban-Conservancy and Natural Environment and within shoreline setback areas in all environments shall be retained, unless necessary to provide water access, to provide limited view corridors or to mitigate a hazard to life or property. Where limited removals are allowed pursuant to the conditions provided above, vegetation shall be replaced to assure no net loss is achieved.</p>	See rational for required change #17																																				
20	Ch.4.B.1 Table I	Environment Designations	<table border="1"> <tr> <td>SHORELINE USES</td> <td>NATURAL</td> <td>URBAN CONSERVANCY</td> <td>SHORELINE RESIDENTIAL</td> <td>SHORELINE RESIDENTIAL LIMITED</td> <td>AQUATIC¹</td> </tr> <tr> <td>Community Pier (Private Shared Use)</td> <td>X</td> <td>X-P</td> <td>P</td> <td>C</td> <td>P</td> </tr> <tr> <td>.....</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Single Family</td> <td>X</td> <td>X-P⁵</td> <td>P</td> <td>C</td> <td>X</td> </tr> <tr> <td>.....</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>New Roads related to Permitted Shoreline Activities</td> <td>X</td> <td>X-C</td> <td>C</td> <td>X</td> <td>X</td> </tr> </table>	SHORELINE USES	NATURAL	URBAN CONSERVANCY	SHORELINE RESIDENTIAL	SHORELINE RESIDENTIAL LIMITED	AQUATIC ¹	Community Pier (Private Shared Use)	X	X-P	P	C	P						Single Family	X	X-P ⁵	P	C	X						New Roads related to Permitted Shoreline Activities	X	X-C	C	X	X	See rational for required change #17
SHORELINE USES	NATURAL	URBAN CONSERVANCY	SHORELINE RESIDENTIAL	SHORELINE RESIDENTIAL LIMITED	AQUATIC ¹																																			
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Single Family	X	X-P ⁵	P	C	X																																			
.....																																								
New Roads related to Permitted Shoreline Activities	X	X-C	C	X	X																																			

¹ Please also see adjacent upland environment. Where a use would be located both in upland and overwater, the more restrictive standards apply.

21	Ch.4.B.2 Table II	Environment Designations	<p>⁵ This use is subject to further zoning restrictions in the Black Diamond Municipal Code.</p> <table border="1" data-bbox="402 420 914 1438"> <tr> <td data-bbox="402 1213 540 1438">DEVELOPMENT STANDARD</td> <td data-bbox="540 1213 589 1438">NATURAL</td> <td data-bbox="589 1213 703 1438">URBAN CONSERVANCY</td> <td data-bbox="703 1213 816 1438">SHORELINE RESIDENTIAL</td> <td data-bbox="816 1213 914 1438">SHORELINE RESIDENTIAL LIMITED</td> <td data-bbox="914 1213 1112 1438">AQUATIC</td> </tr> <tr> <td data-bbox="402 919 540 1213">Minimum lot width and water frontage</td> <td data-bbox="540 919 589 1213">N/A</td> <td data-bbox="589 919 703 1213">N/A-60 ft.²</td> <td data-bbox="703 919 816 1213">60 ft.²</td> <td data-bbox="816 919 914 1213">N/A</td> <td data-bbox="914 919 1112 1213">N/A³</td> </tr> <tr> <td data-bbox="402 420 540 919">Minimum Lot Size</td> <td data-bbox="540 420 589 919">No further subdivision is allowed</td> <td data-bbox="589 420 703 919">No further subdivision is allowed 9,600 sq. ft. Subdivision of unsewered properties is prohibited</td> <td data-bbox="703 420 816 919">9,600 sq. ft.⁶ Subdivision of unsewered properties is prohibited.</td> <td data-bbox="816 420 914 919">No further subdivision is allowed.</td> <td data-bbox="914 420 1112 919">N/A³</td> </tr> </table>						DEVELOPMENT STANDARD	NATURAL	URBAN CONSERVANCY	SHORELINE RESIDENTIAL	SHORELINE RESIDENTIAL LIMITED	AQUATIC	Minimum lot width and water frontage	N/A	N/A-60 ft. ²	60 ft. ²	N/A	N/A ³	Minimum Lot Size	No further subdivision is allowed	No further subdivision is allowed 9,600 sq. ft. Subdivision of unsewered properties is prohibited	9,600 sq. ft. ⁶ Subdivision of unsewered properties is prohibited.	No further subdivision is allowed.	N/A ³	See rational for required change #17
DEVELOPMENT STANDARD	NATURAL	URBAN CONSERVANCY	SHORELINE RESIDENTIAL	SHORELINE RESIDENTIAL LIMITED	AQUATIC																						
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22	Ch. 1.E ¶ 3	Environment Designations	<p>⁷ Subdivision is subject to further zoning restrictions in the Black Diamond Municipal Code. Black Diamond has designated its Lake Sawyer shorelines under four five shoreline environments: Aquatic, Natural, Urban Conservancy, Shoreline Residential Limited and Shoreline Residential.</p>						WAC 173-26-211 requires the application of shoreline environment designations. The Black Diamond SMP contains five designations including Shoreline Residential Limited.																		

⁵Please see Residential Subdivision Standards in Chapter 4, Section C.8.c.

References

- Otak & AHB 2010, Otak Inc. and AHB. August 6, 2012. Shoreline Analysis Report Including Shoreline Inventory and Characterization for City of Black Diamond's Shoreline: Lake Sawyer.
- AHBL & Black Diamond 2012. City of Black Diamond Community Development Department and AHB. September 2012. Final Cumulative Impacts Analysis Component for City of Black Diamond Shoreline: Lake Sawyer.
- Knutson, K. L., and V. L. Naef. 1997. Management recommendations for Washington's priority habitats: riparian. Wash. Dept. Fish and Wildl., Olympia. 181pp.
- Green/Duwamish and Central Puget Sound Watershed Water Resource Inventory Area 9 (WRIA 9) Steering Committee. 2005. Salmon Habitat Plan – Making Our Watershed Fit for a King. Prepared for the WRIA 9 Forum. August 2005
- Department of Ecology. 2011. Shoreline Master Program Handbook; Chapter 11, Vegetation Conservation, Buffers and Setbacks. Accessed at: <http://www.ecy.wa.gov/programs/seah/shorelines/smp/handbook/Chapter11.pdf>
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- Brennan, Jim, Culverwell, Hilary, Gregg, Rachel, Granger, Pete. 2009. Protection of Marine Riparian Functions in Puget Sound, Washington. Washington Department of Fish and Wildlife, Olympia, Washington.
- Brennan, J.S., and H. Culverwell. 2004. Marine Riparian: An Assessment of Riparian Functions in Marine Ecosystems. Published by Washington Sea Grant Program. Copyright 2005, UW Board of Regents. Seattle, WA. 34 p.
- EnviroVision, Herrera Environmental and Aquatic Habitat Guidelines Program. 2007, revised 2010. Protecting Nearshore Habitat and Functions in Puget Sound.
- Knight, K. 2009. Land Use Planning for Salmon, Steelhead and Trout. Washington Department of Fish and Wildlife, Olympia, Washington.
- Knutson, K.C. and V.L. Naef. 1997. Management Recommendations for Washington's Priority Habitats: Riparian. Washington Department of Fish and Wildlife, Olympia, Washington
- Granger, T., T. Hrubby, A. McMillan, D. Peters, J. Rubey, D. Sheldon, S. Stanley, E. Stockdale. April 2005. Wetlands in Washington State - Volume 2: Guidance for Protecting and Managing Wetlands. Washington State Department of Ecology. Publication #05-06-008. Olympia, WA.

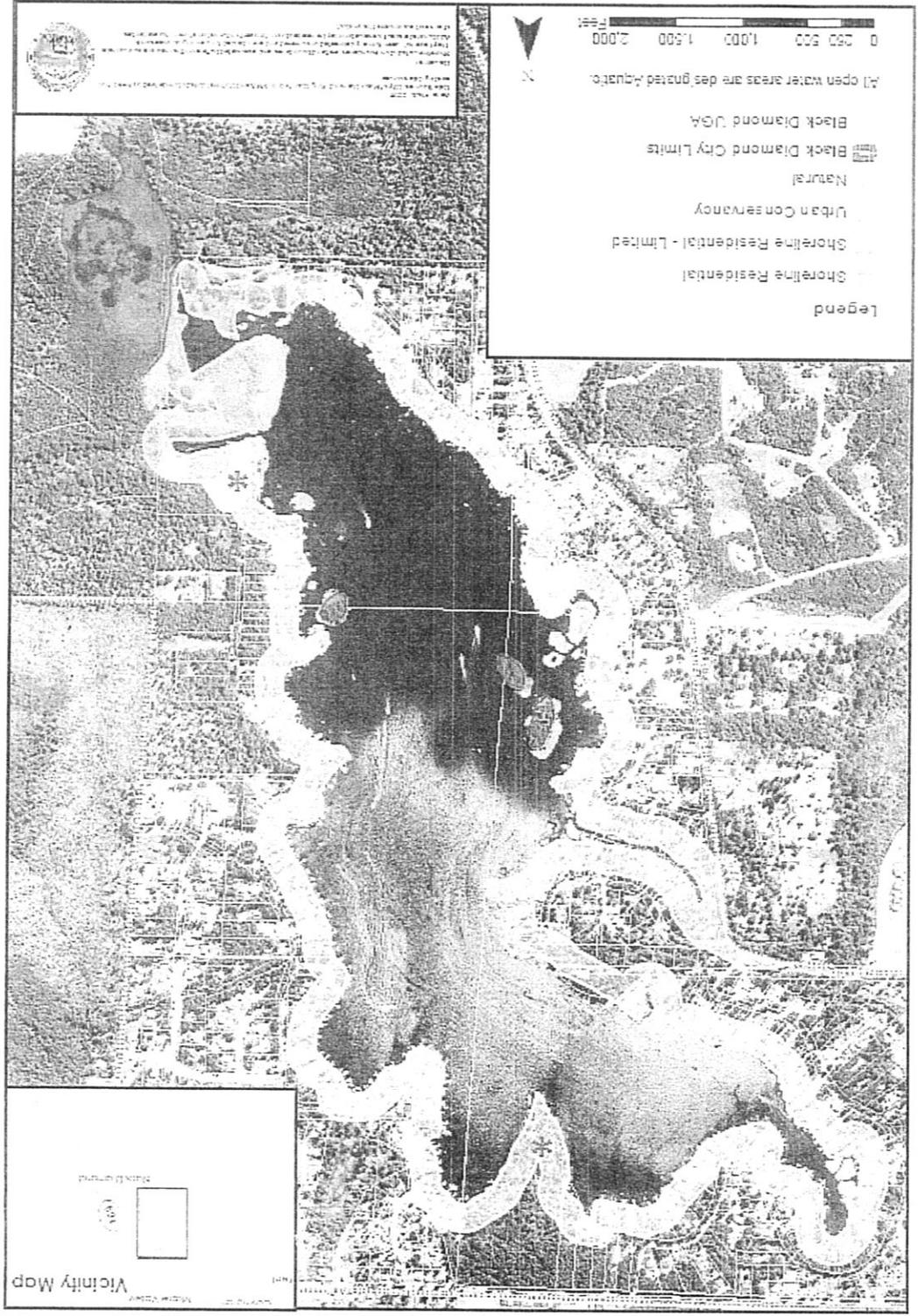


FIGURE 1
 Shoreline Environment Designations

City of Black Diamond
 Shoreline Master Program
 LAKE SAWYER

Required Change # 17
 Parcels noted with Red Asterisk shall be designated Urban Conservancy.

Attachment C:

Ecology Recommended Changes

The following changes are recommended to clarify elements of the City's updated SMP

ITEM	SMP Submittal Provision (Cite)	TOPIC	BILL FORMAT CHANGES (underline = additions; strikethrough = deletions)	RATIONALE
1	Table of Contents	Referencing	<u>Chapter 7 Definitions</u>	The Table of Contents references all chapters and sections in the SMP with the exception of Chapter 7. For ease of use, <i>Chapter 7 Definitions</i> should be added to the Table of Contents.
2	Ch. 2.D.2.a	Spelling	The Shoreline Residential Limited environment designation recognizes the higher level of ecological function and sensitivity associated with specific islands located in Lake Sawyer, when compared to other shoreline areas that are developed or planned for residential development. This designation also recognizes the presence of existing residential and recreational uses in these areas and is designed to provide for development and/or redevelopment that is compatible with the protection of ecological functions at such time when appropriate facilities are provided, such as potable water, electricity and waste disposal that complies with King County and State Health Department regulations <u>regulations</u> .	Spelling error.
3	Ch. 3.B.5.c.3	Subsection titles	f. <u>a</u> Unavoidable health or safety hazards to the public exist which cannot be prevented by any practical means; g- <u>b</u> Inherent security requirements of the proposed development or use cannot be satisfied through the application of alternative design features or other solutions; h- <u>c</u> The cost of providing the access, easement, or an alternative amenity is unreasonably disproportionate to the total long-term cost of the proposed development or other constitutional or legal limitations preclude public access. i- <u>d</u> Unacceptable environmental harm will result from the public access which cannot be mitigated; or j- <u>e</u> Significant undue and unavoidable conflict between the proposed access and adjacent uses would occur and cannot be mitigated.	The section references appear out of order. For consistency and ease of use, consider labeling as indicated.

4	Ch. 4.C.11.b Utilities (Primary)	References	1. New primary utilities should be located outside of the SMA jurisdiction unless no other feasible option exists. Where allowed, they should utilize existing transportation and utility sites, rights-of-way and corridors whenever possible, rather than creating new corridors. Joint use of rights-of-way and corridors should be encouraged.	For ease of use and consistent application, consider the change indicated.
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Flexible Shoreline Setbacks															
5	Ch. 4.B.2 Basic Development Standards – Table II	Setback Standards	<table border="1"> <tr> <td data-bbox="414 1312 698 1522">DEVELOPMENT STANDARD</td> <td data-bbox="414 1207 698 1312">NATURAL</td> <td data-bbox="414 1018 698 1207">URBAN CONSERVANCY</td> <td data-bbox="414 829 698 1018">SHORELINE RESIDENTIAL</td> <td data-bbox="414 640 698 829">SHORELINE RESIDENTIAL LIMITED</td> <td data-bbox="414 535 698 640">AQUATIC</td> </tr> <tr> <td data-bbox="698 1312 933 1522">Shoreline Setback (from OHWM) ² Please also see Regulation #2 related to non-conforming single family homes.</td> <td data-bbox="698 1207 933 1312">100 ft</td> <td data-bbox="698 1018 933 1207">100 ft. (standard) may be reduced to 75 ft. (minimum) with enhancement⁵</td> <td data-bbox="698 829 933 1018">50 ft. (standard) may be reduced to 30 ft. (minimum) with enhancement</td> <td data-bbox="698 640 933 829">50 ft. (standard) may be reduced to 25 ft. (minimum) with enhancement</td> <td data-bbox="698 535 933 640">N/A³</td> </tr> </table> <p data-bbox="933 535 1242 1522">²The standard setback applies to all permanent and temporary primary and accessory structures unless specifically exempted below. Setbacks are measured landward, on a horizontal plane perpendicular to the shoreline. The setback may be reduced to the minimum setback indicated in Table II where the applicant agrees to implement voluntary enhancements as described in Sections B.3 and B.4 below, and the Shoreline Administrator determines the proposal is consistent with all other requirements of this SMP. Please see zoning regulations for interior lot setbacks and other requirements that apply to specific zones. Development associated with water dependent uses, shoreline access and ecological restoration are not required to meet the minimum setback. However, where such development is approved within the minimum setback, the placement of structures and hard surfaces shall be limited to the minimum necessary for the feasible operation of the use.</p> <p data-bbox="933 102 1242 535">Beginning with early versions of the SMP there has been an incentive based setback reduction system integrated into the SMP. There appears to be strong community support for such a system. The city proposed system was not consistent with Environmental Impact Mitigation (WAC 173-26-201(2)(e)) and No Net Loss (WAC 173-26-186(8)), and was required to be removed by required changes #12-15.</p> <p data-bbox="933 535 1242 102">This recommended change imbeds the principles of WAC 173-26-201(2)(e) while prioritizing enhancement consistent with the Final Cumulative Impacts Analysis (AHBL 2012) and Final Shoreline Analysis Report (OTAK AHBL, 2010). This recommended change is also consistent with RCW 90.58 and No Net Loss (WAC 173-26-186(8)).</p>	DEVELOPMENT STANDARD	NATURAL	URBAN CONSERVANCY	SHORELINE RESIDENTIAL	SHORELINE RESIDENTIAL LIMITED	AQUATIC	Shoreline Setback (from OHWM) ² Please also see Regulation #2 related to non-conforming single family homes.	100 ft	100 ft. (standard) may be reduced to 75 ft. (minimum) with enhancement ⁵	50 ft. (standard) may be reduced to 30 ft. (minimum) with enhancement	50 ft. (standard) may be reduced to 25 ft. (minimum) with enhancement	N/A ³
DEVELOPMENT STANDARD	NATURAL	URBAN CONSERVANCY	SHORELINE RESIDENTIAL	SHORELINE RESIDENTIAL LIMITED	AQUATIC										
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6	Ch. 4.B.3	Off-site mitigation	<p>....</p> <p>66. Whenever the Shoreline Administrator determines that monitoring has identified a significant adverse deviation from predicted impacts, or that mitigation or maintenance measures have failed, the property owner shall be required to institute corrective action, which shall be subject to further monitoring as necessary to ensure the success of requirement mitigation measures.</p> <p>67. Please see Chapter 3, Section B.7.C (Vegetation Conservation regulations) for additional requirements, including maintenance, monitoring and criteria for mitigation success.</p> <p>8. <u>Off-Site Mitigation.</u> The City may provide a fund for off-site mitigation. If such a fund is created, the Shoreline Administrator or designee shall assess charges to new development when impacts to shoreline ecological functions cannot be fully mitigated on site. Charges assessed shall be of sufficient value to ensure off-site mitigation results in no net loss of shoreline ecological functions over time. Expenditures from such a fund shall be in accordance with the Black Diamond Restoration Plan.</p>	<p>There is both public and city interest in a mitigation fund. A version of a mitigation fund was included in the original submittal but was not kept due to conflicts with WAC 173-26-201(2)(e). Consistent with WAC 173-26-201(2)(e) (i)(b), this recommended change has been incorporated.</p> <p>Numbering changes have been included to ensure consistent application.</p>
7	Ch. 4.C.7.c Recreational Development - Regulations	Setback Standards	<p>1. All structures associated with a recreational use, except water dependent structures, such as docks and appurtenances that provide access to the water for that use, shall maintain a standard setback of fifty (50) feet in the Shoreline Residential Environment, forty (40)-feet in the Shoreline Residential Limited Environment and one-hundred (100) feet in the Urban Conservancy Environment from the OHWM. This setback may be reduced down to 30 feet in the Shoreline Residential, 25 feet in the Shoreline Residential Limited Environment and 75 feet in the Urban Conservancy Environment using setback reduction mechanisms in <u>Table II in this Chapter.</u> Existing structures may be replaced in their current location and configuration to the extent allowed by state and federal agencies with jurisdiction. <u>Any further setback reduction shall require approval of a shoreline variance application.</u></p>	See rational in #6
8	Ch. 4.B	Flexible Shoreline Setback Regulations	<p>3. Flexible Shoreline Setback Regulations</p> <p>In addition to the specific requirements for particular uses, the following standards shall apply:</p> <p>1. A standard setback shall be established from the ordinary high water mark for all lots within shoreline jurisdiction. The setback shall not apply to docks, piers, bridges and similar water dependent structures.</p> <p>a. The fifty(50) foot standard setback in the Shoreline Residential and Shoreline</p>	See rational in #6

Residential Limited Environments may be reduced down to a minimum of thirty (30) and twenty-five (25) feet respectively when setback reduction impacts are mitigated using a combination of the voluntary mitigation options provided in Table III to achieve an equal or greater protection of lake ecological functions.

b. The one-hundred (100) foot setback within the Urban Conservancy environment may be reduced to a minimum of seventy-five (75) feet, when setback reduction impacts are mitigated using a combination of the mitigation options provided in Table III to achieve an equal or greater protection of lake ecological functions.

c. No setback reduction is allowed in the Natural environment, where a one-hundred (100) foot setback shall be required.

d. Reductions are cumulative and must be utilized in the following priority order: 1 or 2, 3, 4, 5, or 6 if a bulkhead is present. After reductions 1-2 and 3-6, then reductions 7-10 may be utilized in any order.

e. Alternative Setback Averaging – In instances of unique lot configurations, the Shoreline Administrator Administrator or his/her designee may allow modification either of the standard or mitigated shoreline setback, by allowing a partial reduced setback if a compensating increased setback for other portions of the development is provided. Modified setback averaging may only be allowed where a qualified professional demonstrates that all of the following conditions are met:

- i. Alternative setback averaging will not reduce shoreline functions or functional performance;
- ii. The total area contained in the setback area after averaging is no less than that which would otherwise be required; and all increases in setback dimension for averaging are generally parallel to the shoreline edge;
- iii. The setback depth at its narrowest point is not reduced to less than twenty-five feet;
- iv. Under no circumstances shall a structure encroach encroach more than five feet beyond either the standard or mitigated setback.

2. Please see provisions for Nonconforming Uses and Development in Chapter 6: Administration.
3. All property owners who obtain approval for a reduction in the setback must record the final approved setback and corresponding conditions in a Notice on Title, and provide a copy of the Notice on Title to the Shoreline Administrator.

			<p>4. Setback reductions shall not apply to enforcement actions, after the fact permits or similar actions.</p> <p>5. Mitigation of native vegetation as discussed below shall consist of a mixture of trees, shrubs and groundcover and be designed to improve habitat functions. Preparation of a revegetation plan shall be completed by a qualified professional and include a monitoring and maintenance program that shall, at a minimum, include the following:</p> <ol style="list-style-type: none"> The goals and objectives for the mitigation plan; The criteria for assessing the mitigation; A monitoring plan that includes annual progress reports submitted to the Shoreline Administrator and that lasts for a period sufficient to establish that performance standards have been met as determined by the Shoreline Administrator, but no less than five years; and A contingency plan. <p>5. Whenever the Shoreline Administrator determines that monitoring has identified a significant adverse deviation from predicted impacts, or that mitigation or maintenance measures have failed, the property owner shall be required to institute corrective action, which shall be subject to further monitoring as necessary to ensure the success of requirement mitigation measures.</p> <p>6. Please see Chapter 3, Section B.7.C (Vegetation Conservation regulations) for additional requirements, including maintenance, monitoring and criteria for mitigation success.</p>					
9	Ch. 4.B.4 Shoreline Setback Reduction Mechanisms – Table III	Flexible setbacks	<table border="1"> <thead> <tr> <th data-bbox="938 1272 992 1516">REDUCTION MECHANISM</th> <th data-bbox="938 705 992 1272">REDUCTION ALLOWANCE</th> </tr> </thead> <tbody> <tr> <td data-bbox="992 1272 1045 1516">1</td> <td data-bbox="992 705 1250 1272">Restoration of native vegetation (and preservation of existing trees and native vegetation) in at least 75 percent of the reduced (i.e. that portion remaining after reductions are applied) setback area. The remaining 25 percent of the setback area can be comprised of existing non-invasive, non-native vegetation. Up to 10 feet of frontage may be used for improved shoreline access, provided access areas are located to avoid areas of greater sensitivity and habitat value and access areas may not be counted as part of the 75</td> </tr> </tbody> </table>	REDUCTION MECHANISM	REDUCTION ALLOWANCE	1	Restoration of native vegetation (and preservation of existing trees and native vegetation) in at least 75 percent of the reduced (i.e. that portion remaining after reductions are applied) setback area. The remaining 25 percent of the setback area can be comprised of existing non-invasive, non-native vegetation. Up to 10 feet of frontage may be used for improved shoreline access, provided access areas are located to avoid areas of greater sensitivity and habitat value and access areas may not be counted as part of the 75	See rational in #6
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			<p><u>5</u> would be improved relative to the existing condition. Existing hard structural stabilization at or near the ordinary high water mark is removed and new soft structural shoreline stabilization measures are setback from the OHWM between 2 ft. to 4 ft. based on feasibility and existing conditions and are sloped a maximum angle of 3 vertical: 1 horizontal to provide dissipation of wave energy and increase the quality or quantity of nearshore shallow-water habitat.</p>	<p><u>10 feet</u></p>	
			<p><u>6</u> Soft structural shoreline stabilization measures are installed waterward of the OHWM on a site currently containing only hard stabilization. They shall include the use of gravels, cobbles, boulders and/or logs, as well as vegetation. The material shall be of a size and placed to remain stable and accommodate alteration from wind and boat-driven waves and shall be graded to a maximum slope of 1 vertical: 4 horizontal</p>	<p><u>5feet</u></p>	
		<p><u>7</u> Installation of a "green" roof in accordance with the standards of the LEED Green Building Rating System.</p>	<p><u>5 feet</u></p>		
		<p><u>8</u> Reduction of 5 feet for impervious surface 10 percent less than the SMP standard and 10 feet for impervious coverage 20 percent less than the SMP standard</p>	<p><u>5-10 feet</u></p>		
	<p><u>9</u> Preserving or restoring at least 20 percent of the total lot area outside of the setback area as native vegetation.</p>	<p><u>5 feet</u></p>			
	<p><u>10</u> Connection to the sanitary sewer system on a property that currently utilizes an onsite septic system.</p>	<p><u>5 feet</u></p>			
<p>10 Ch. 4.B</p>	<p>Alternative Setback Systems</p>	<p><u>5. Shallow lot exception.</u> <u>1. Where a lot has the following conditions, the setback requirements set forth in Table II shall not apply and the minimum setback between the closet point of building and structures from the ordinary high water line shall be 25 feet.</u> <u>a. The depth of the lot is less than 160 feet; and</u> <u>b. The upland area of the lot is 9,600 square feet or less; and</u> <u>c. Sewer services are provided through an onsite sewer system and public sewer connections cannot be made within 300 feet of the subject property.</u></p> <p><u>2. For the purposes of this provision, the depth of the lot shall be determined by:</u> <u>a. Measuring the distance of a horizontal line drawn midway between the side property lines</u></p>	<p>Given the number of small lots that lack access to the public sewer system, there is a need to have a streamlined approach to reduce the required setback. The proposed recommended language will allow those constrained lots the ability to develop, while providing mitigation.</p>		

			<p>between the ordinary high water line and the front lot line; and</p> <p>b. If the lot is irregular in shape, or has fewer than two side lot lines, the midway will be determined in the most reasonable manner based on the lot lines that intersect the ordinary high water line.</p> <p>3. Restoration of native vegetation shall be provided (and preservation of existing trees and native vegetation) in at least 50 percent of the reduced setback area. Native vegetation restoration shall be located immediately adjacent to the OHWM and may contain breaks for shoreline access.</p>	
<p>Administration</p>				
<p>11</p>	<p>Ch. 6.J.4 Nonconforming Lots</p>	<p>Nonconforming lot development criteria</p>	<p>a. An undeveloped lot, tract, parcel, site, or division of land located landward of the ordinary high water mark which was established prior to the effective date of the SMA or the SMP, but which does not conform to the present lot size standards, may be developed subject to the requirements of BDMC 18.68.060(AG) and so long as such development conforms to all other requirements of the SMP and the SMA.</p>	<p>For ease of use and consistent application, consider the change indicated.</p>

Navigating the “Final Steps” in SMP Approval

1. Please remember: this is NOT GMA - there is no “presumed validity” in shoreline management. Locally submitted SMPs must be approved by Ecology before they become effective and before local statutory deadlines for SMP updates are satisfied. Ecology can either: approve SMP amendments “as submitted”, deny them outright, or require changes.
2. There is a “local” public process as well as a “state” public process required in approving an SMP.
3. Ideally, local staff work closely with Ecology regional staff to prepare a fully (Guidelines) compliant draft SMP, BEFORE it is locally approved and submitted to Ecology. This helps expedite the final approval process.

Serious discussion regarding SMP provisions that Ecology has problems or concerns with, should be clearly identified and resolved before local adoption, and ideally before local government begins the local public review and approval process.

4. For its part, this requires Ecology to be very clear, regarding what is specifically required and what is acceptable, depending on the topic.
5. SMP provisions that Ecology finds unacceptable and which remain unresolved through the process do not go away. They will surface again during Ecology’s formal review and approval process. An example would be Ecology concluding that certain specific policies, regulations, or shoreline environment designations in the SMP must be revised to satisfy SMA and/or guidelines requirements.
6. If changes are necessary, they will show up in Ecology’s Findings and Conclusions as “required” and “recommended” changes. Changes necessary to satisfy SMA policy or guidelines requirements are addressed as required changes. Changes addressing organization, graphics, typos, etc. that add clarity or aid in SMP implementation, are addressed as recommended (not required) changes.
7. Near the end of the state SMP approval process, Ecology required and/or recommended changes will be itemized as attachments to Ecology’s findings and conclusions, with the

actual corrective SMP-specific regulatory language Ecology finds acceptable, presented with rationale in a table or matrix. These documents are transmitted via a cover letter from Ecology's Director to the local government for consideration and action by local government.

8. Local governments have 30 days to respond to Ecology's required changes. They may either (formally, in writing) agree to the proposed changes OR submit an "alternative proposal".
9. If local government agrees to the changes, they must notify Ecology in writing. Please note, that once Ecology receives notice of local agreement to the changes, this is recognized as the local governments' final action regarding the amendment. Ecology promptly notifies the local government and interested parties that the approval incorporates the accepted changes, is final and effective 14 calendar days from Ecology's letter.

The process for determining what changes are acceptable to local government, and who makes that decision is local governments' business. Additional public hearings are not required but may be judged necessary by the local government. Who authorizes the local acceptance is also up the local government. Ecology accepts a letter from the mayor or commission chair, but a resolution or ordinance is ideal.

Remember, once Ecology is notified of the local acceptance of changes, no further changes can occur and the SMP amendment approval is final.

10. If an alternative to Ecology's changes is proposed by local government, Ecology must review the proposal and determine the alternative is consistent with SMA policy and the guidelines. In this case, the effective date of the SMP is 14 calendar days from the date Ecology's Director notifies the local government in writing that the alternative/s have been accepted.
11. In practice, required changes can cover a mix of topics and in some cases can be quite lengthy and complex. Ecology's required changes should not come as a surprise to local government.

12. All verbal approvals amongst staff ultimately need to be formalized in writing. If local government proposes alternatives, rationale must be provided and additional rounds of dialogue and negotiation may be necessary. In some cases required changes are quite acceptable to local government while others, for a variety of reasons, may not be. Ecology can also prepare a counter-proposal with supporting rationale, to locally proposed alternative language. If required changes are numerous, a winnowing process may be needed to focus in on remaining unresolved issues requiring further attention.

This is because, in the end, both local government and Ecology must reach total, formal agreement on ALL changes to the locally approved and submitted SMP before the amendment process is completed. Leaving out a particularly controversial topic in the SMP or only partially approving the SMP is not an option. Approval of an entirely complete “comprehensive” SMP update is required.

Ecology needs to closely track what has been agreed to and what items remain unresolved, so that in the end, it is clear precisely what makes up the complete approved SMP. Again, this is usually done in the form of a matrix.

“A master program or amendment to a master program takes effect when and in such form as approved or adopted by the department”. RCW 90.58.090(7).

13. If complete agreement cannot be reached, then Ecology can deny the SMP. Local government can also request Ecology run the state review and approval process over again with Ecology’s required changes included, OR Ecology can begin rule-making to adopt a compliant SMP for the local government.

14. Please note: the effective date of all SMP amendments is 14 calendar days from Ecology’s final action. This is quite different from the appeal period for the amendment (60 days for GMA jurisdictions; 30 days for non-GMA jurisdictions), which is triggered by Ecology’s subsequent publication of the amendment approval.

CITY COUNCIL AGENDA BILL

City of Black Diamond
Post Office Box 599
Black Diamond, WA 98010

ITEM INFORMATION		
SUBJECT: Resolution No. 13-887, accepting the SE 288th Street Overlay project	Agenda Date: August 15, 2013	
	AB13-065	
	Department/Committee/Individual	
	Mayor Rebecca Olness	
	City Administrator – Mark Hoppen	
	City Attorney – Chris Bacha	
	City Clerk – Brenda L. Martinez	
	Finance – May Miller	
	Natural Resources/Parks – Aaron Nix	
	Economic Devel. – Andy Williamson	X
Cost Impact: 0	Police – Jamey Kiblinger	
Fund Source: TIB Grant	Court – Stephanie Metcalf	
Timeline: 45 days to clear any claims	Comm. Dev. – Stacey Welsh	
Agenda Placement: <input type="checkbox"/> Mayor <input type="checkbox"/> Two Councilmembers <input type="checkbox"/> Committee Chair <input checked="" type="checkbox"/> City Administrator		
Attachments: Resolution No. 13-887		
SUMMARY STATEMENT: Lakeside Industries Inc. completed the required work for the SE 288 th Street Overlay project as outlined in the contract. A retainage bond will be held until release is received by the Dept. of Revenue, Dept. of Labor and Industries, and the Employment Security Dept. The State has established a 45 day period where labor or material providers may make a claim against the project. After 45 days from the date of project acceptance, the City may release the retainage bond.		
COMMITTEE REVIEW AND RECOMMENDATION:		
RECOMMENDED ACTION: MOTION to adopt Resolution No. 13-887, accepting the SE 288th Street Overlay project by Lakeside Industries Inc. according to the contract documents.		
RECORD OF COUNCIL ACTION		
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
August 15, 2013		

RESOLUTION NO. 13-887

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, KING COUNTY, WASHINGTON
REGARDING FINAL ACCEPTANCE OF THE SE 288TH
STREET OVERLAY PROJECT**

WHEREAS, Lakeside Industries Inc. has completed the SE 288th Street Overlay project according to the contract and Council authorization; and

WHEREAS, RCW 60.28.011(2) allows a period of forty-five days to file any liens or claims with the City; and

WHEREAS, RCW 39.08.030 requires acceptance of a Public Works project as complete as a formal, public action in order to begin the forty-five day period;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND,
WASHINGTON, DOES RESOLVE AS FOLLOWS:**

Section 1. The City hereby accepts the SE 288th Street Overlay Project as complete and as set forth in that contract with Lakeside Industries Inc.

**PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND,
WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 15TH DAY OF AUGUST,
2013.**

CITY OF BLACK DIAMOND:

Rebecca Olness, Mayor

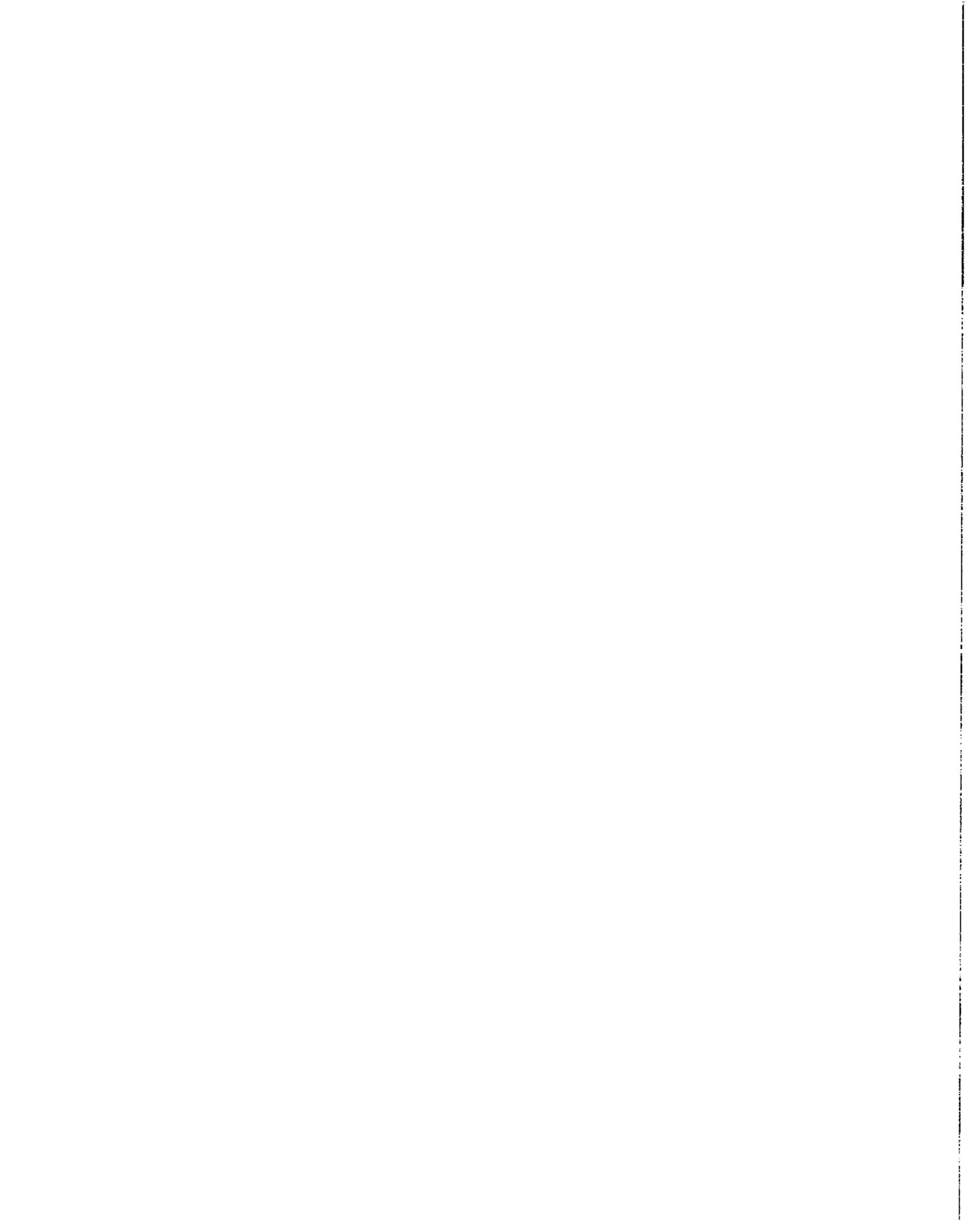
Attest:

Brenda L. Martinez, City Clerk

CITY COUNCIL AGENDA BILL

City of Black Diamond
Post Office Box 599
Black Diamond, WA 98010

ITEM INFORMATION		
SUBJECT: Resolution No. 13-888, authorizing the Mayor to execute an agreement with South County Area Transportation Board .	Agenda Date: August 15, 2013	
	AB13-066	
	Department/Committee/Individual	
	Mayor Rebecca Olness	X
	City Administrator – Mark Hoppen	
	City Attorney –Chris Bacha	
	City Clerk – Brenda L. Martinez	
	Finance – May Miller	
	Natural Resources/Parks – Aaron Nix	
	PW/Ec. Dev. – Andy Williamson	
Police – Jamey Kiblinger		
Court – Stephanie Metcalf		
Comm. Dev. – Stacey Welsh		
Cost Impact:		
Fund Source:		
Timeline:		
Agenda Placement: <input checked="" type="checkbox"/> Mayor <input type="checkbox"/> Two Councilmembers <input type="checkbox"/> Committee Chair <input type="checkbox"/> City Administrator		
Attachments: Resolution No. 13-888, Proposed Agreement; Current Agreement		
SUMMARY STATEMENT: The current agreement with the South County Area Transportation Board (SCATBd) expires at the end of this year. SCATBd approved the proposed agreement on July 16, 2013 to supersede the current agreement. The changes to the agreement are intended to streamline the agreements and the approval process, allow each board to tailor their procedural items as needed, and reflect the reduced King County staffing levels in the adopted 2013-2014 King County budget. Highlights for the proposed changes for the SCATBd Agreement include: <ul style="list-style-type: none"> • Signatories to the Agreement no longer include agencies and organizations, or jurisdictions not in King County • A separate Procedures document adopted by SCATBd identifies agencies, organizations, and other jurisdictions as limited voting members or non-voting members • Language has been simplified and updated • The agreement is for a two-year period with an automatic two-year extension. 		
COMMITTEE REVIEW AND RECOMMENDATION:		
RECOMMENDED ACTION: MOTION to adopt Resolution No. 13-888, authorizing the Mayor to execute an agreement with South County Area Transportation Board for information sharing, consensus building and coordinating to provide advice on regional transportation issues.		
RECORD OF COUNCIL ACTION		
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
August 15, 2013		



RESOLUTION NO. 13-888

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH SOUTH COUNTY AREA TRANSPORTATION BOARD FOR INFORMATION SHARING, CONSENSUS BUILDING AND COORDINATING TO PROVIDE ADVICE ON REGIONAL TRANSPORTATION ISSUES

WHEREAS, the South King County sub-area has been involved in multi-jurisdictional transportation planning to develop coordinated plans for transportation improvements and programs for this area; and

WHEREAS, these plans have been approved and efforts continue to be made to work cooperatively to implement the recommended projects; and

WHEREAS, the South County Area Transportation Board has been an effective forum for information sharing, consensus building and providing valuable input on transportation planning and implementation decisions; and

WHEREAS, the South County Area Transportation Board recognizes the need to coordinate with its regional partners to address issues that cross sub-area and county boundaries; and

WHEREAS, the City of Black Diamond, King County has participated as a member;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The Mayor is authorized to execute an Agreement with South County Area Transportation Board for the years two years with the agreement ending December 31, 2015 as contained in the form attached hereto as Exhibit A.

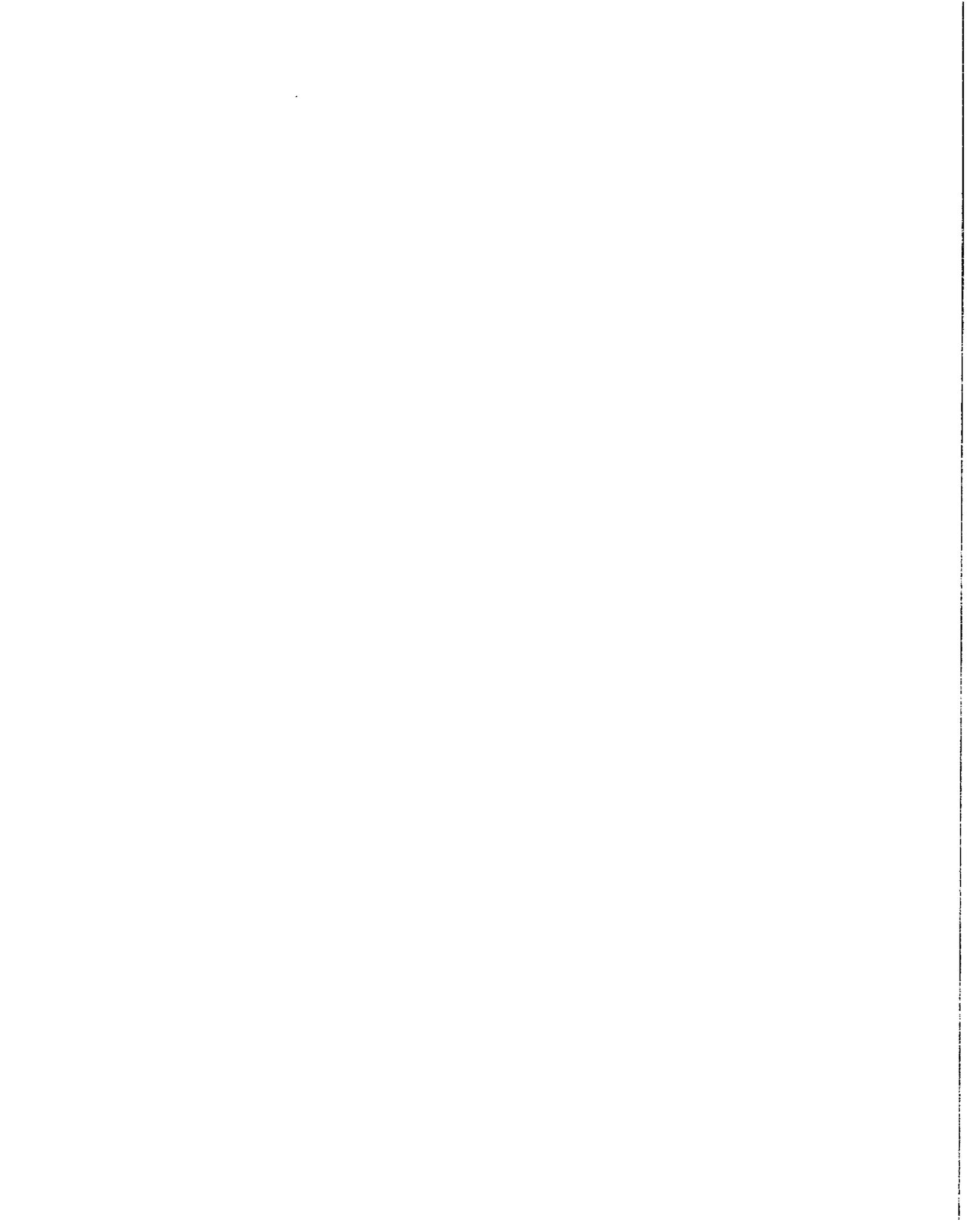
PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 15TH DAY OF AUGUST, 2013.

CITY OF BLACK DIAMOND:

Rebecca Olness, Mayor

Attest:

Brenda L. Martinez, City Clerk



 **South County Area Transportation Board**

MS: KSC-TR-0814
201 South Jackson Street
Seattle, WA 98104-3856

Phone: (206) 684-1417 Fax: (206) 684-2111

July 24, 2013

The Honorable Rebecca Olness
Mayor, City of Black Diamond
PO Box 599
Black Diamond, WA 98010

Dear Mayor Olness:

We are writing to transmit the new South County Area Transportation Board (SCATBd) Agreement and request approval by the Black Diamond City Council. The SCATBd approved this Agreement on July 16, 2013 to supersede the current agreement which will expire at the end of this year. This SCATBd Agreement, as well as the agreements for SeaShore and the Eastside Transportation Partnership, was developed by a joint committee composed of the chairs and vice chairs of all three transportation boards.

The changes are intended to streamline the agreements and the approval process, allow each board to tailor their procedural items as needed, and reflect the reduced King County staffing levels in the adopted 2013-2014 King County budget. Highlights of the proposed changes for the SCATBd Agreement include the following:

- Signatories to the Agreement no longer include agencies and organizations, or jurisdictions not in King County.
- A separate Procedures document adopted by the SCATBd identifies agencies, organizations, and other jurisdictions as limited voting members or non-voting members.
- Language has been simplified and updated.
- The Agreement is for a two-year period with an automatic two-year extension.

We would appreciate your help in seeking prompt consideration and action by the Black Diamond City Council and signature by a designated representative. For the purpose of this Agreement, an authorized electronic signature constitutes an original signature. The Agreement with SCATBd member signatures will accompany the ordinance that will be submitted to the King County Council for final approval. You will receive a fully signed copy of the Agreement for your records when the process is completed. We hope that this can be accomplished before the end of the year when the current agreement expires.

SCATBd Agreement Request Approval
July 24, 2013
Page 2

Following the City of Black Diamond's approval, please notify Paul Takamine, King County Department of Transportation, 201 South Jackson Street, Seattle, WA. 98104. If you have questions, please contact Paul Takamine at 206-684-1417 or paul.takamine@kingcounty.gov.

Thank you very much for your cooperation.

Sincerely,



Pete Lewis
Mayor, City of Auburn
SCATBd Chair



Marcie Palmer
Councilmember, City of Renton
SCATBd Vice-Chair

Attachment: 2013 SCATBd Agreement

cc: Brenda Martinez, Black Diamond City Clerk

South County Area Transportation Board Agreement

Parties to Agreement

City of Algona
City of Auburn
City of Black Diamond
City of Burien
City of Covington
City of Des Moines
City of Enumclaw
City of Federal Way
City of Kent
City of Maple Valley
City of Milton
City of Normandy Park
City of Pacific
City of Renton
City of SeaTac
City of Tukwila
Muckleshoot Indian Tribe
King County

Transmitted to parties for approval and signature on _____.

THIS AGREEMENT is made and entered into by and among the CITY OF ALGONA, hereafter called "Algona"; the CITY OF AUBURN, hereafter called "Auburn"; the CITY OF BLACK DIAMOND, hereafter called "Black Diamond"; the CITY OF BURIEN, hereafter called "Burien"; the CITY OF COVINGTON, hereafter called "Covington"; the CITY OF DES MOINES, hereafter called "Des Moines"; the CITY OF ENUMCLAW, hereafter called "Enumclaw"; the CITY OF FEDERAL WAY, hereafter called "Federal Way"; the CITY OF KENT, hereafter called "Kent"; the CITY OF MAPLE VALLEY, hereafter called "Maple Valley"; the CITY OF MILTON, hereafter called "Milton"; the CITY OF NORMANDY PARK, hereafter called "Normandy Park"; the CITY OF PACIFIC, hereafter called "Pacific"; the CITY OF RENTON, hereafter called "Renton"; the CITY OF SEATAC, hereafter called "SeaTac"; the CITY OF TUKWILA, hereafter called "Tukwila"; the MUCKLESHOOT INDIAN TRIBE; and KING COUNTY, a legal subdivision of the State of Washington, hereafter called "King County" as members of the South County Area Transportation Board.

WHEREAS, the parties to this agreement recognize that multi-jurisdictional transportation planning and coordinated transportation plans benefit their citizens; and

WHEREAS, the South County Area Transportation Board has served as the central forum for information sharing, consensus building, and coordination to develop recommendations for transportation policies, projects and programs for the south King County area;

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

1.0 Purpose of this Agreement

The purpose of this Agreement is to recognize the South County Area Transportation Board as the transportation board for the south King County area to share information, build consensus, and provide advice on plans, programs, policies and priorities for countywide, regional, state and federal transportation decisions.

2.0 Members and Voting

Members shall have full voting rights, limited voting rights or shall be non-voting members, as follows:

2.1 Members with Full Voting Rights: Only jurisdictions which are signatories to this agreement shall have full voting rights on all of the following issues before the South County Area Transportation Board, unless otherwise noted, including:

1. Administrative issues, such additional members and use of dues
2. Recommendations to Sound Transit on policies and capital and service plans and implementation.
3. Recommendations to King County on Metro Transit planning, development and implementation of products and services.
4. Identification of projects for the regional competition, if prescribed by the process approved by the King County caucus of the Transportation Policy Board.
5. Recommendations to WSDOT on policies, programs and projects.
6. Recommendations to the PSRC on plans, policies, programs and projects such as Transportation 2040 updates and regional funding policies, strategies or programs.
7. Input to the State Legislature and committees and commissions established by the Legislature on transportation policy, budget and priorities and legislative proposals and studies.
8. Recommendations to the federal delegation on federal legislation including reauthorization and funding priorities and other transportation-related programs.

2.2 Members with Limited Voting Rights: The South County Area Transportation Board may add members with limited voting rights on the issues such as those listed below by unanimous vote of the parties to this agreement in attendance at a regular meeting.

1. Recommendations to WSDOT on policies, programs and projects.
2. Recommendations to the PSRC on plans, policies, programs and projects such as Transportation 2040 updates and regional funding policies, strategies or programs.
3. Input to the State Legislature and committees and commissions established by the Legislature on transportation policy, budget and priorities and legislative proposals and studies.
4. Recommendations to the federal delegation on federal legislation including reauthorization and funding priorities and other transportation-related programs.

2.2(a) Such members and voting rights, if any, shall be listed in operating procedures to be adopted by the South County Area Transportation Board.

2.3 Non-Voting Members: The South County Area Transportation Board may add non-voting members by unanimous vote of the parties to this agreement in attendance at a regular meeting. The South County Area Transportation Board may remove non-voting members by a unanimous vote of the parties to the agreement at a regular meeting.

2.3(a) Such members shall be included in operating procedures to be adopted by the South County Area Transportation Board.

3.0 Representation and Conduct

3.1 Representation of city and county members shall be as follows:

Full Voting Members	Number of Representatives
City of Algona	1
City of Auburn	1
City of Black Diamond	1
City of Burien	1
City of Covington	1
City of Des Moines	1
City of Enumclaw	1
City of Federal Way	1
City of Kent	1
City of Maple Valley	1
City of Milton	1
City of Normandy Park	1
City of Pacific	
City of Renton	1
City of SeaTac	1
City of Tukwila	1
Muckleshoot Indian Tribe	1
King County	3

3.2 Elected officials shall be appointed to the South County Area Transportation Board by their cities and counties for a one-year term. King County representation shall be a maximum of two Councilmembers and the King County Executive.

3.3 Each city or county participating member may appoint an alternate for a one-year term. Designated alternates may vote in place of designated voting representatives in the absence of the designated representative.

4.0 Operating Procedures

4.1 The South County Area Transportation Board shall adopt operating procedures to specify limited voting members and non-voting members, if any, dues for limited and non-voting members, if any, and operational issues such as election of officers, formation of subcommittees and rules of order. A chair and vice-chair shall be elected per the operating procedures and shall be responsible for setting meeting agenda, running meetings and any other activities identified in the operating procedures.

5.0 Lead Agency

5.1 King County will be the Lead Agency for receipt and disbursement of funds collected through annual dues, and general administrative and program support for the South County Area Transportation Board. King County assumes wage and benefit costs of its staff performing Lead Agency responsibilities to the extent that King County appropriates such funds. The Lead Agency, in its sole discretion, shall determine the level of staffing available based upon funding.

5.2 Lead Agency responsibilities may be limited to: maintaining the South County Area Transportation Board membership rosters and distribution lists; arranging for Board meetings, including scheduling, agendas and rooms; collecting, administering and disbursing Board dues; providing Board meeting support to the chair and vice chair; attending Board meetings; and preparing Board meeting summaries.

6.0 Financing and Cost Sharing Guidelines

6.1 **Yearly Dues:** The South County Area Transportation Board members shall pay a minimum of \$100 per full voting representatives in annual dues to remain members in good standing. The Lead Agency will bill annually at the end of each year, and dues are to be paid within ninety days after receipt of the invoice. Members not in good standing shall lose voting rights until the required dues are paid. Additional dues above \$100, and any dues required by limited or non-voting members, will be determined by the South County Area Transportation Board as prescribed in the operating procedures. Revenue from dues shall be used for special events, public education, or other expenses authorized by the South County Area Transportation Board. The designated Lead Agency shall not be required to pay yearly dues.

6.2 **Annual Review of Financing:** The South County Area Transportation Board shall determine by June 30 of each year whether additional annual dues above \$100 per voting representatives will be required of the South County Area Transportation Board member jurisdictions for the following year.

6.3 **Additional financial contributions:** If additional financial contributions beyond an increase in dues are determined to be necessary, costs shall be shared among all voting members, with an option for King County to recuse itself from further financial obligations. Recused members may not vote on determining the additional financial contribution or uses for the additional funds.

6.4 **Modification to Agreement Required:** If additional funds are determined to be necessary, a modification to this agreement specifying cost-sharing, purpose, scope of work, administration, collection and disbursement of funds and other details is required in order to obligate a member jurisdiction to funding participation.

7.0 Withdrawal of a Party from this Agreement

Each party, for its convenience and without cause or for any reason whatsoever, may withdraw from participation in this Agreement by providing written notice, sent certified mail, return receipt required, to the chair of the South County Area Transportation Board at least thirty (30) days in advance of the effective date of the withdrawal. A withdrawing party shall not be entitled to a refund of any payments to the South County Area Transportation Board and shall pay any dues required to be paid under this Agreement for costs which had been obligated prior to the effective date of the withdrawal. All obligations other than dues cease upon withdrawal.

Each party's funding to perform its obligations under the Agreement, beyond the current appropriation year, is conditional upon appropriation by the party's governing body of sufficient funds. Should such an appropriation not be approved for a future year, a party may exercise its right to withdraw from the Agreement.

8.0 Duration

This Agreement shall take effect upon being duly adopted by the governing bodies of all parties and executed by the authorized representatives of all parties. This Agreement shall remain in effect until December 31, 2015, provided that unless terminated earlier in accordance with Section 9.0, this Agreement shall be automatically extended upon the same terms or conditions for another term commencing January 1, 2016 and ending no later than December 31, 2017.

9.0 Termination

All parties to this Agreement must agree to terminate this Agreement in order for such termination to be effective. If all parties desire to terminate this Agreement, they shall execute a Statement of Termination. Upon termination, no party shall be required to make any additional contributions. Any remaining funds shall be refunded to the parties to this Agreement according to Section 11.0.

10.0 Real and Personal Property

The acquisition of real property is not anticipated under this Agreement. Any personal property acquired pursuant to this Agreement shall be held by the Lead Agency. In the event this Agreement expires or is terminated in accordance with Section 8.0 or 9.0, any personal property other than cash shall remain with the Lead Agency.

11.0 Return of Funds

At such time as this Agreement expires without being extended or revised, or is terminated in accordance with Section 9.0, any unexpended and uncommitted funds shall be distributed proportionately to those parties to this Agreement at the time of termination based on each party's percentage share of the total balance at the time of termination.

12.0 Filing

This Agreement shall be filed with the King County Department of Records and Elections.

13.0 Legal Relations

13.1 The parties shall comply with all applicable state and federal laws and regulations.

13.2 This Agreement is solely for the benefit of the parties hereto and gives no right to any other party. No joint venture or partnership is formed as a result of this Agreement. No employees or agents of one party or any of its contractors or subcontractors shall be deemed, or represent themselves to be, employees of any other party.

13.3 Each party shall defend, indemnify and hold harmless the other party and all of its officials, employees, principals and agents from all claims, demands, suits, actions, and liability of any kind whatsoever which arise out of, are connected with, or are incident to any negligent acts of the first party, its contractor, and/or employees, agents, and representatives in performing the first party's obligations under this Agreement. The parties agree that their obligations under this paragraph extend to claims made against one party by the other party's own employees. For this purpose, the parties, by mutual negotiation, hereby waive any immunity that, as respects the other party only, would otherwise be available against such claims under the industrial insurance provisions of RCW Title 51. In the event either party incurs attorney's fees, costs or other legal expenses to enforce the provisions of this section, against the other party, all such fees, costs and expenses shall be recoverable by the prevailing party.

13.4 The provisions of this Section shall survive and remain applicable to each of the parties notwithstanding any termination or expiration of this Agreement and notwithstanding a party's withdrawal from this Agreement.

14.0 Entirety and Modifications

14.1 This Agreement merges and supersedes all prior negotiations, representations and agreements between the parties relating to the subject matter hereof and constitutes the entire agreement between the parties.

14.2 This Agreement may be modified or extended only by written instrument signed by all the parties hereto.

15.0 Counterparts

The signature pages of this Agreement may be executed in any number of counterparts, each of which shall be an original. For purposes of this Agreement, a duly authorized electronic signature constitutes an original signature.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be signed and delivered by its duly authorized officer or representative as of the date set forth below its signature.

City of Algona

City of Auburn

City of Black Diamond

By: _____

By: _____

By: _____

Date: _____

Date: _____

Date: _____

City of Burien

City of Covington

City of Des Moines

By: _____

By: _____

By: _____

Date: _____

Date: _____

Date: _____

City of Enumclaw

City of Federal Way

City of Kent

By: _____

By: _____

By: _____

Date: _____

Date: _____

Date: _____

City of Maple Valley

City of Milton

City of Normandy Park

By: _____

By: _____

By: _____

Date: _____

Date: _____

Date: _____

City of Pacific

City of Renton

City of SeaTac

By: _____

By: _____

By: _____

Date: _____

Date: _____

Date: _____

City of Tukwila

Muckleshoot Indian Tribe

King County

By: _____

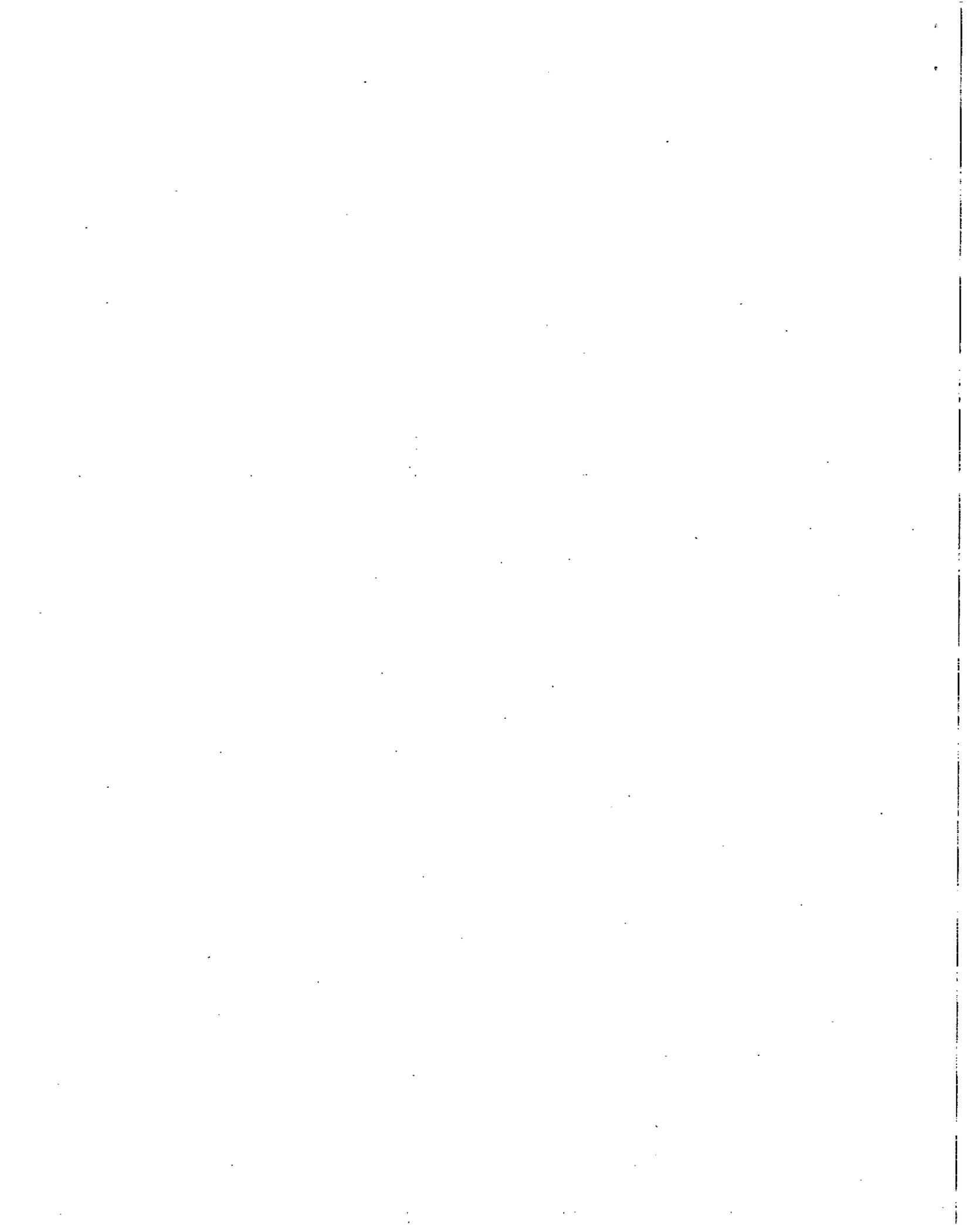
By: _____

By: _____

Date: _____

Date: _____

Date: _____



RESOLUTION NO. 09-577
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, KING COUNTY, WASHINGTON,
AUTHORIZING THE MAYOR TO EXECUTE AN
INTERLOCAL COOPERATION AGREEMENT WITH SOUTH
COUNTY AREA TRANSPORTATION BOARD FOR
INFORMATION SHARING, CONSENSUS BUILDING AND
COORDINATING TO PROVIDE ADVICE ON REGIONAL
TRANSPORTATION ISSUES

WHEREAS, the South King County sub-area has been involved in multi-jurisdictional transportation planning to develop coordinated plans for transportation improvements and programs for this area; and

WHEREAS, these plans have been approved and efforts continue to be made to work cooperatively to implement the recommended projects; and

WHEREAS, the South County Area Transportation Board has been an effective forum for information sharing, consensus building and providing valuable input on transportation planning and implementation decisions; and

WHEREAS, the South County Area Transportation Board recognizes the need to coordinate with its regional partners to address issues that cross sub-area and county boundaries; and

WHEREAS, the City of Black Diamond, King County has participated as a member;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The Mayor is authorized to execute an Interlocal Cooperation Agreement with South County Area Transportation Board for the years 2009-2012 as contained in form attached hereto as Exhibit A.

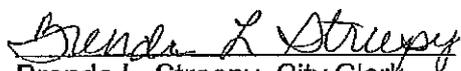
PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 5TH DAY OF FEBRUARY, 2009.

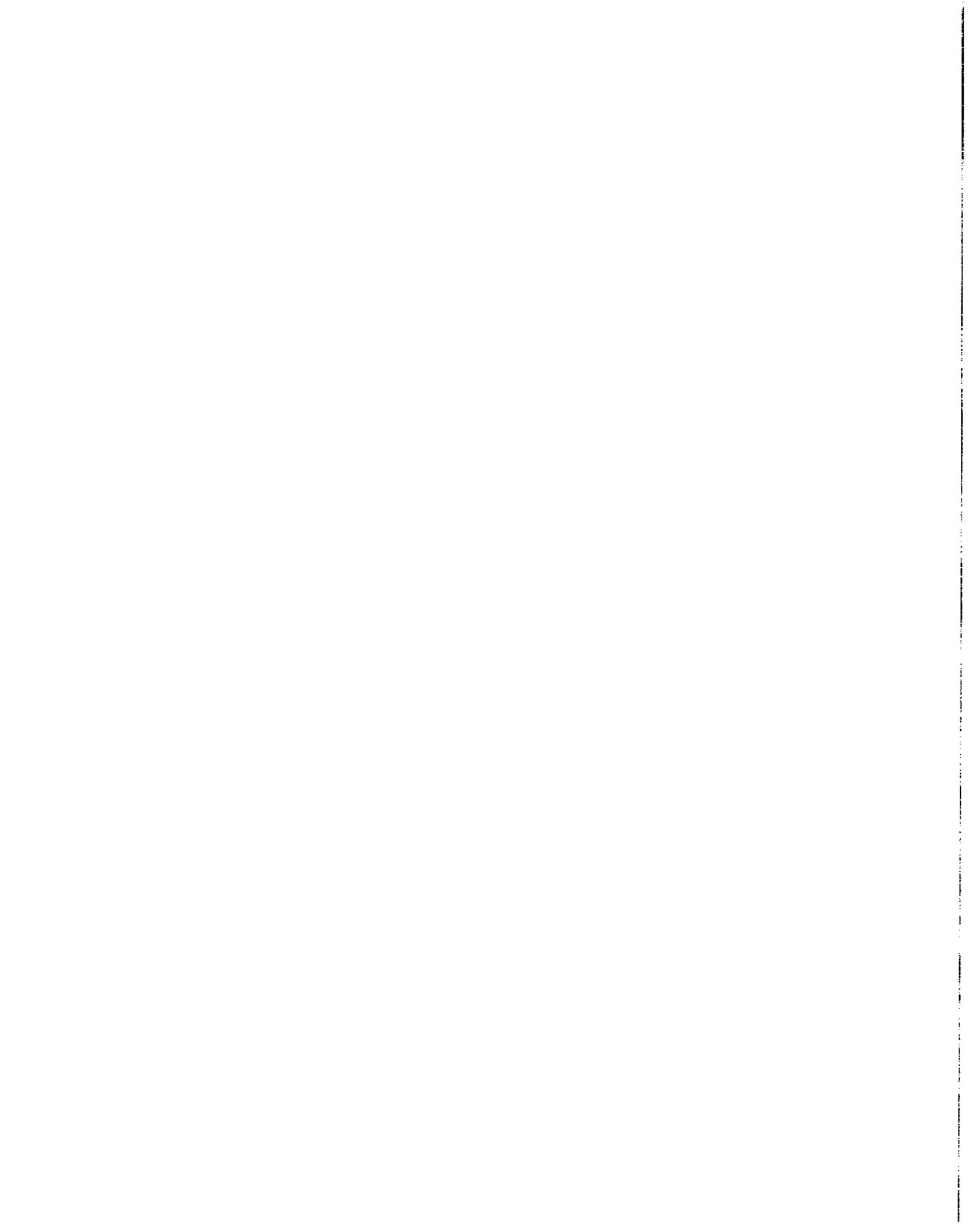
CITY OF BLACK DIAMOND:



Howard Botts, Mayor

Attest:


Brenda L. Streepy, City Clerk



**2009-2012 Agreement
for the
South County Area Transportation Board**

Parties to Agreement

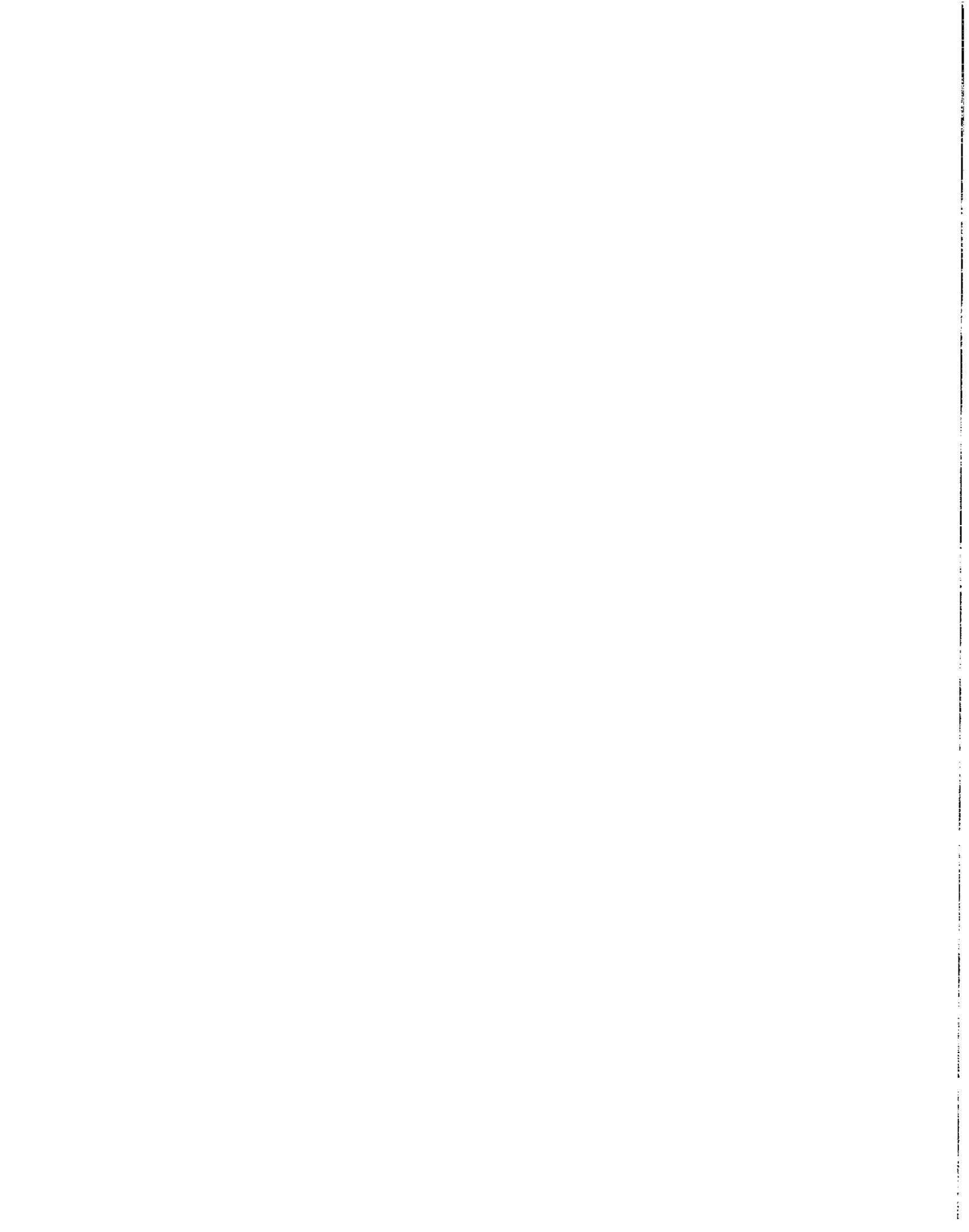
City of Algona	City of Renton
City of Auburn	City of SeaTac
City of Black Diamond	City of Tukwila
City of Burien	King County
City of Covington	Muckleshoot Tribe
City of Des Moines	Pierce County
City of Enumclaw	Pierce Transit
City of Federal Way	Port of Seattle
City of Kent	Puget Sound Regional Council
City of Maple Valley	Sound Transit
City of Milton	Transportation Improvement Board
City of Normandy Park	Washington State Department of Transportation
City of Pacific	Washington State Transportation Commission

Transmittal date to participating members for approval: December 30, 2008

THIS AGREEMENT is made and entered into by and among the CITY OF ALGONA, hereafter called "Algona"; the CITY OF AUBURN, hereafter called "Auburn"; the CITY OF BLACK DIAMOND, hereafter called "Black Diamond"; the CITY OF BURIEN, hereafter called "Burien"; the CITY OF COVINGTON, hereafter called "Covington"; the CITY OF DES MOINES, hereafter called "Des Moines"; the CITY OF ENUMCLAW hereafter called "Enumclaw"; the CITY OF FEDERAL WAY, hereafter called "Federal Way"; the CITY OF KENT, hereafter called "Kent"; the CITY OF MAPLE VALLEY, hereafter called "Maple Valley"; CITY OF MILTON, hereafter called "Milton"; the CITY OF NORMANDY PARK, hereafter called "Normandy Park"; the CITY OF PACIFIC, hereafter called "Pacific"; the CITY OF RENTON, hereafter called "Renton"; the CITY OF SEATAC, hereafter called "SeaTac"; the CITY OF TUKWILA, hereafter called "Tukwila"; the MUCKLESHOOT TRIBE; KING COUNTY, a legal subdivision of the State of Washington, hereafter called "King County"; PIERCE COUNTY, a legal subdivision of the State of Washington, hereafter called "Pierce County"; the PUGET SOUND REGIONAL COUNCIL, hereafter called the "PSRC"; the CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY, hereafter called "Sound Transit"; PIERCE TRANSIT; the WASHINGTON STATE DEPARTMENT OF TRANSPORTATION, hereafter called "WSDOT"; the WASHINGTON STATE TRANSPORTATION COMMISSION, hereafter called the "Transportation Commission"; the TRANSPORTATION IMPROVEMENT BOARD, hereafter called "TIB"; and the PORT OF SEATTLE.

WHEREAS, the parties to this agreement recognize that multi-jurisdictional transportation planning and coordinated transportation plans benefit their citizens; and

WHEREAS, the South County Area Transportation Board (SCATBd) has effectively served as the central forum for information sharing, consensus building, and coordination to develop recommendations for transportation policies, projects and programs for the South King subarea; and



WHEREAS, the King County Comprehensive Plan for Public Transportation - Long Range Policy Framework, adopted in 1993, divided Metro service into three geographic subareas for the purpose of allocating new transit subsidy; and

WHEREAS, the Six-Year Transit Development Plan, adopted in 1995, called for the three subarea transportation boards (the Eastside Transportation Partnership, South County Area Transportation Board, and SeaShore Transportation Forum) to review, refine, and recommend service priorities to the King County Executive; and

WHEREAS, Sound Transit relies on the three subarea transportation boards to review and recommend Sound Transit plans and implementation of projects and services; and

WHEREAS, the geographic subarea boundary area for the South King Subarea is the area represented on the attached map (Exhibit A);

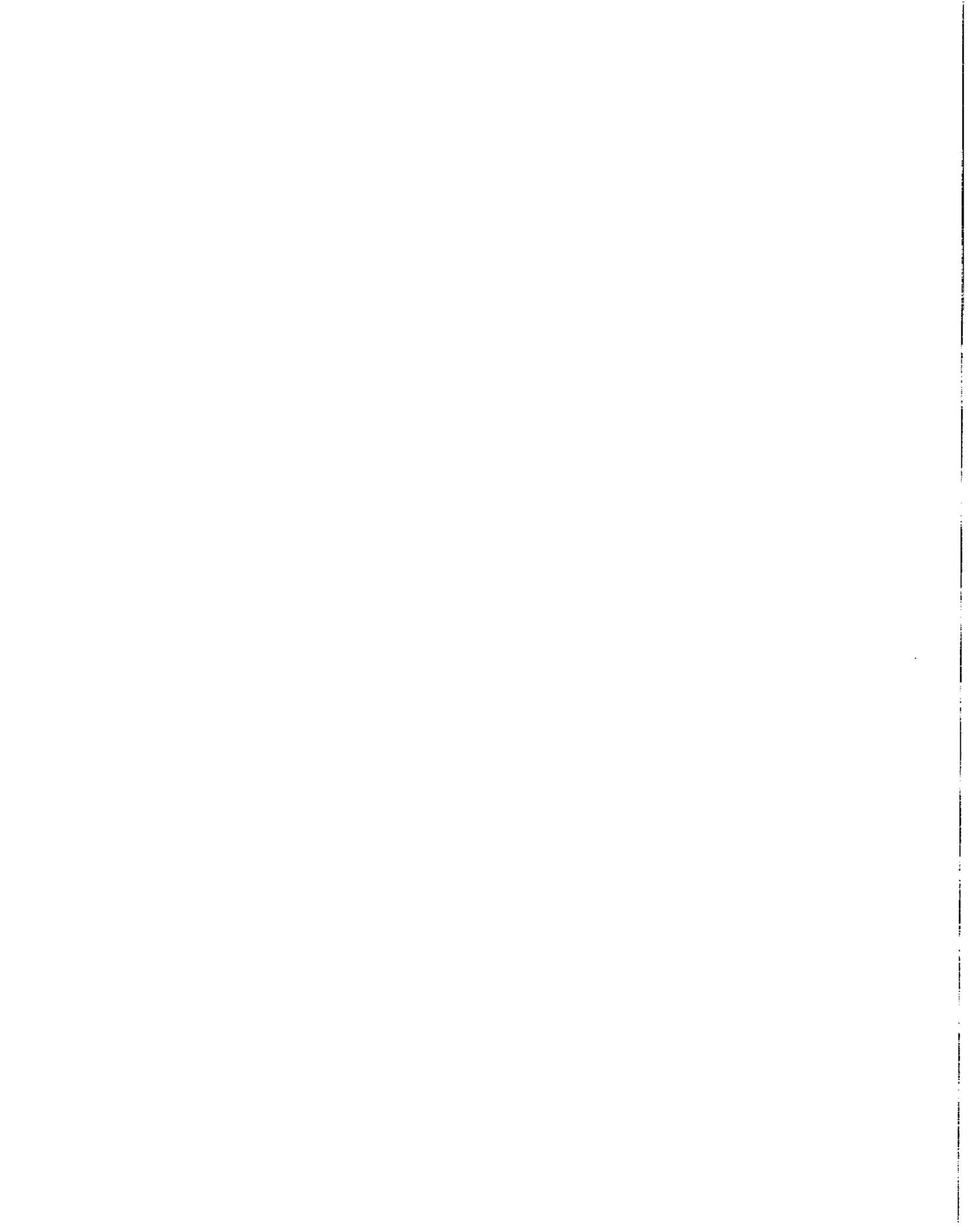
NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

1.0 Purpose of Agreement

The purpose of the Agreement is to provide for the continuation of the South County Area Transportation Board (SCATBd) as the South forum for local governments to share information, build consensus, and coordinate among jurisdictions and agencies with the goal of providing advice on plans, programs, policies and priorities for regional transportation decisions.

2.0 Role of Subarea Transportation Boards

1. The South County Area Transportation Board (SCATBd) is the forum established for the South subarea of King County for elected officials to provide advice into the following decisions:
 - a. The King County Metro six year transit development plan, and implementation of transit service priorities
 - b. Sound Transit plans and implementation of projects and services
2. The SCATBd may also provide input on other countywide and regional transportation issues.
3. The three subarea transportation boards shall hold at least one joint meeting annually to address issues of mutual interest and concern and promote regional decisions.



3.0 Voting and Non-voting Members

3.1 The voting members of SCATBd and their voting rights shall be as follows:

Voting Members	Number of Reps.	Voting Rights			
		Sound Transit ¹	Metro Transit ²	Regional Competition ³	Other ⁴
Algona	1	Yes	Yes	Yes	Yes
Auburn	1	Yes	Yes	Yes	Yes
Black Diamond	1	No	Yes	Yes	Yes
Burien	1	Yes	Yes	Yes	Yes
Covington	1	No	Yes	Yes	Yes
Des Moines	1	Yes	Yes	Yes	Yes
Enumclaw	1	No	Yes	Yes	Yes
Federal Way	1	Yes	Yes	Yes	Yes
King County	3	Yes	Yes	Yes	Yes
Kent	1	Yes	Yes	Yes	Yes
Maple Valley	1	No	Yes	Yes	Yes
Milton	1	Yes	Yes	Yes	Yes
Muckleshoot Tribe	1	Yes	Yes	Yes	Yes
Normandy Park	1	Yes	Yes	Yes	Yes
Pacific	1	Yes	Yes	Yes	Yes
Renton	1	No	Yes	Yes*	Yes
SeaTac	1	Yes	Yes	Yes	Yes
Tukwila	1	Yes	Yes	Yes	Yes
Pierce County	1	No	No	No	Yes

3.2 The non-voting members of SCATBd shall be as follows:

Non-Voting Member	Number of Representatives
Sound Transit	1
PSRC	1
WSDOT	1
TIB	1
Pierce Transit	1
Port of Seattle	1
Washington State Transportation Commission	1
Private sector representation (if approved by SCATBd)	1

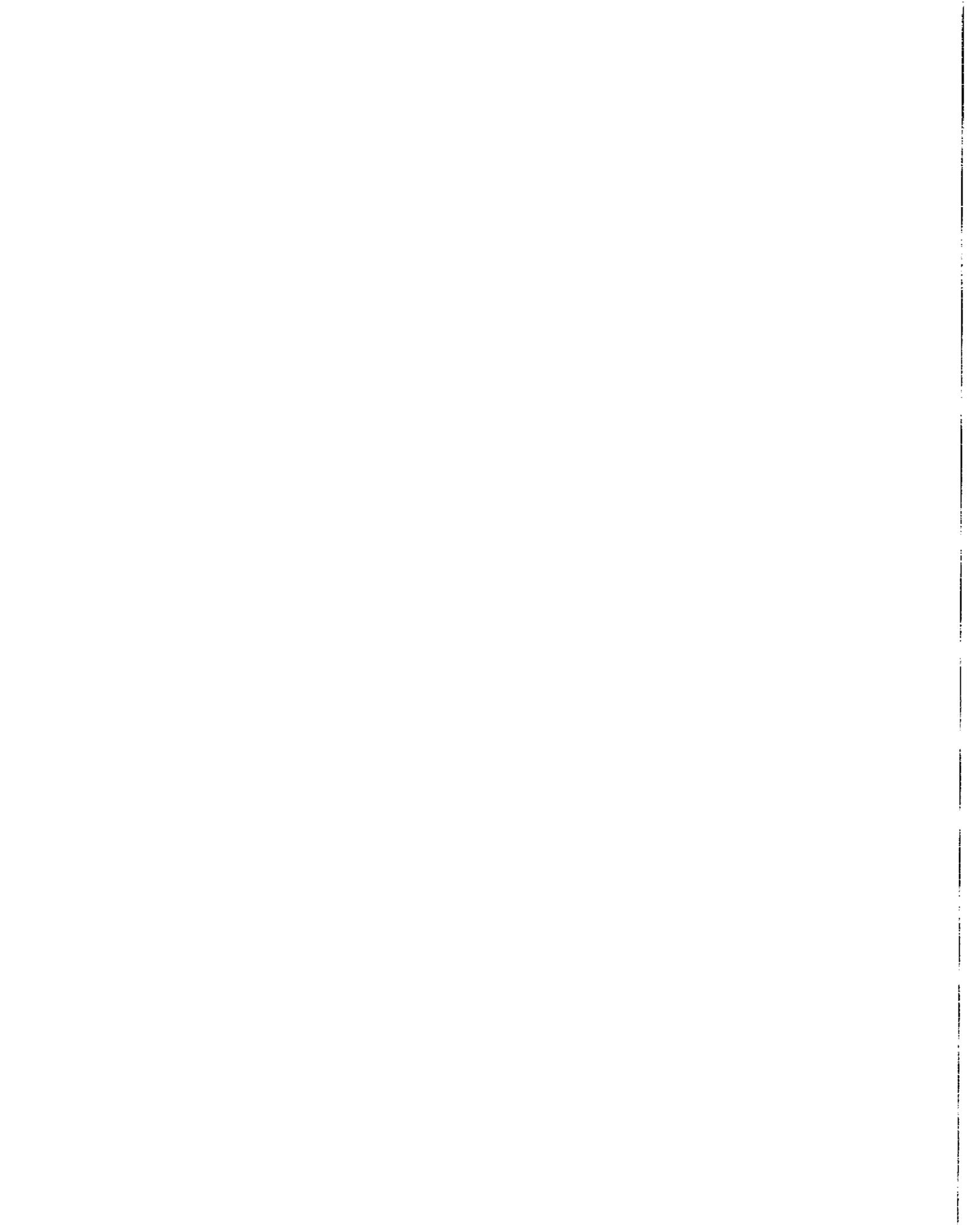
¹ Recommendations on Sound Transit capital and service plans and implementation

² Recommendations on Metro Transit service plans

³ Identification of projects for the regional competition, if prescribed by the process approved by the King County members of the Transportation Policy Board (*projects in Renton south of the Cedar River)

⁴ Other recommendations including:

- Recommendations to the PSRC on plans, policies and programs, such as input on alternatives, policies and criteria for the regional transportation plan, on studies and analyses conducted, on criteria, on funding policies, and on regional priorities.
- Recommendations to the State Legislature, committees and commissions established by the Legislature, such as input on proposed legislation, on recommendations from commissions, and on transportation budgets and priorities.
- Recommendations to WSDOT on projects, policies, programs, priorities and funding, such as input on alternatives, funding, and priorities for major corridors, on tolling, on transportation demand management, on Commute Trip Reduction, on active traffic management, and on state transportation plans
- Recommendations to the State Transportation Commission, such as input on policies regarding tolling, preservation, capacity improvements and funding.
- Recommendations to the federal delegation on federal legislation, such as input on reauthorization, and on funding priorities



3.3 A roll call vote shall be taken on recommendations from the subarea board regarding Sound Transit capital and service plans and implementation, Metro Transit service plans, and identification of projects for the regional competition, if prescribed by the process approved by the King County caucus of the Transportation Policy Board. The results shall be recorded by jurisdiction.

4.0 Representation and Conduct

4.1 The representation on the South County Area Transportation Board (SCATBd) shall be as follows:

1. Elected officials appointed for a one-year term from each of the participating counties and cities, in the number specified above. King County representation shall be a maximum of two Councilmembers and the King County Executive or his designee.
2. High level staff from WSDOT, Pierce Transit, the Port of Seattle and the PSRC; a South King subarea board member of Sound Transit; the Director of the TIB; and a representative designated by the Washington Transportation Commission.
3. A representative of a private sector group or groups as determined by SCATBd.

4.2 Each participating member shall appoint an alternate. Designated alternates may vote in place of designated voting representatives in the absence of the designated representative.

4.3 On an annual basis, member jurisdictions shall inform the Lead Agency in writing of its representatives and alternates and provide the appropriate contact information for each.

4.4 The SCATBd will be responsible for overall program direction, approving Technical Advisory Committee recommendations and providing direction for input on transportation decisions

4.5 The SCATBd may establish its own bylaws and rules of procedures and may modify these as appropriate. Such bylaws and rules shall be consistent with the provisions of this Agreement and modifications to such bylaws and rules will not alter this Agreement.

4.6 The SCATBd may establish subcommittees as it determines appropriate.

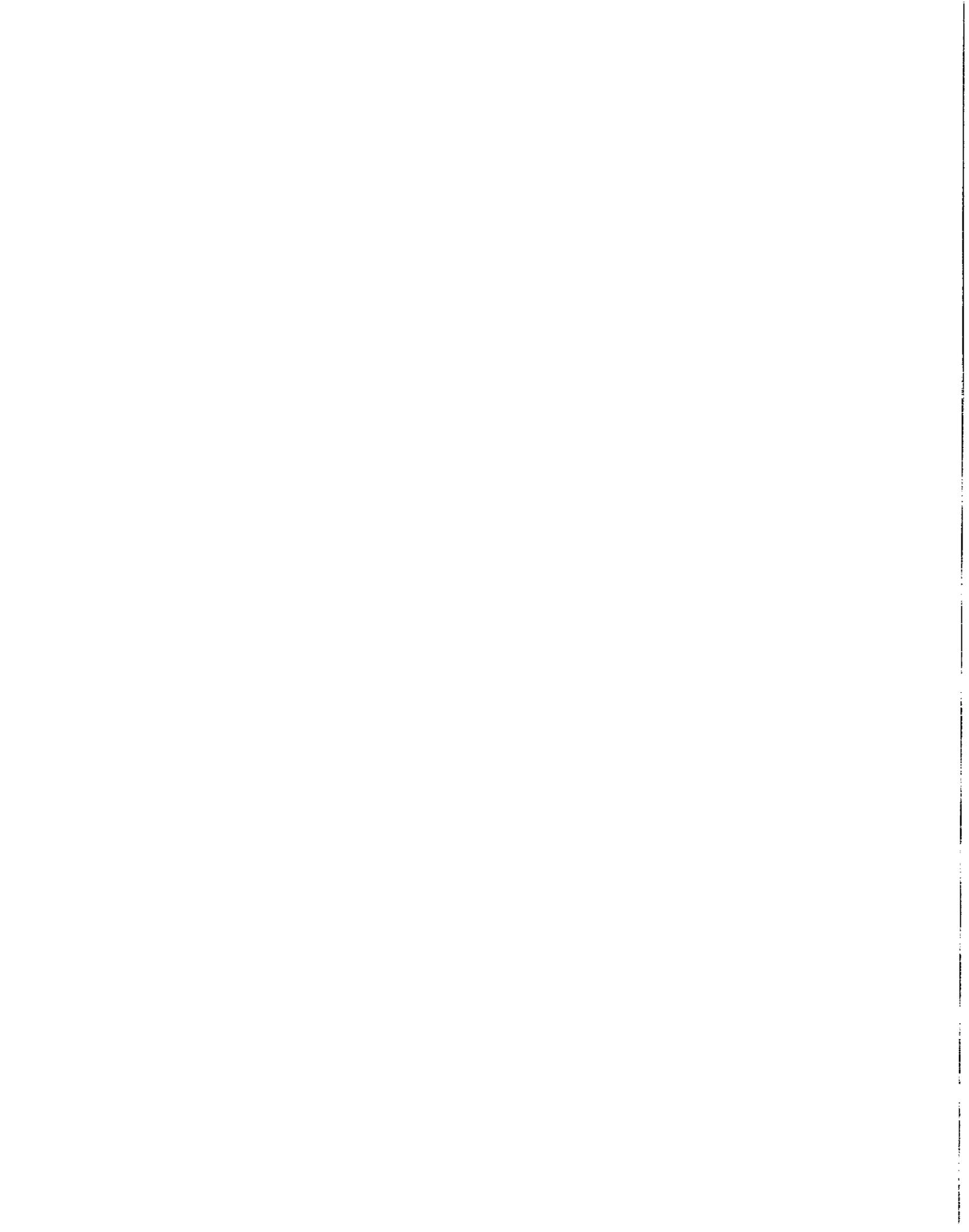
4.7 With a simple majority of voting members as shown in Section 3.1, the SCATBd can adopt resolutions, authorize correspondence, request studies, or provide other advisory input to member jurisdictions or regional and state activities, including plans policies, programs, projects or legislative issues.

4.8 Any voting member may request that a minority statement be included in communications or otherwise distributed with the adopted majority position.

5.0 Chair and Vice Chair

5.1 The chair and vice chair of SCATBd shall be representatives of a member county or city located within the subarea's geographic boundaries. The chair and vice chair shall be elected by a majority of the voting representatives from jurisdictions within the subarea's geographic boundaries.

5.2 The chair and vice chair shall be nominated by a nominating committee established in November of each year, and nominated in December of each year.



5.3 The chair and vice chair shall serve a term of one year from February 1 through January 31 of the following year.

5.4 The chair and the vice chair shall conduct the SCATBd activities within adopted procedures and guidelines. The chair and vice chair are responsible for setting meeting agendas, ensuring fair opportunity for discussion, signing correspondence, and speaking on behalf of the SCATBd.

6.0 Technical Advisory Committee (TAC)

6.1 Each member jurisdiction or agency shall appoint at least one planning, public works and/or intergovernmental staff person to the Technical Advisory Committee (TAC). Private sector groups shall not participate in TAC activities. Each member jurisdiction and agency is expected to contribute such staff as is necessary to accomplish the work program adopted by the SCATBd.

6.2 The TAC shall provide technical assistance as requested by the SCATBd and shall advise the SCATBd and their respective members on emergent transportation issues, and be responsible for overall program development including drafting of the work program. The TAC shall also review consultant work, and coordinate its activities with adjacent jurisdictions, including the other subarea transportation forums.

6.3 When appropriate, the TAC will make recommendations for consideration of the SCATBd. The TAC's recommendations shall be arrived at by consensus of a majority of the TAC members present. If the Technical Advisory Committee is unable to reach consensus on a particular issue, TAC members may present discussion questions or a dissenting opinion to the SCATBd for consideration.

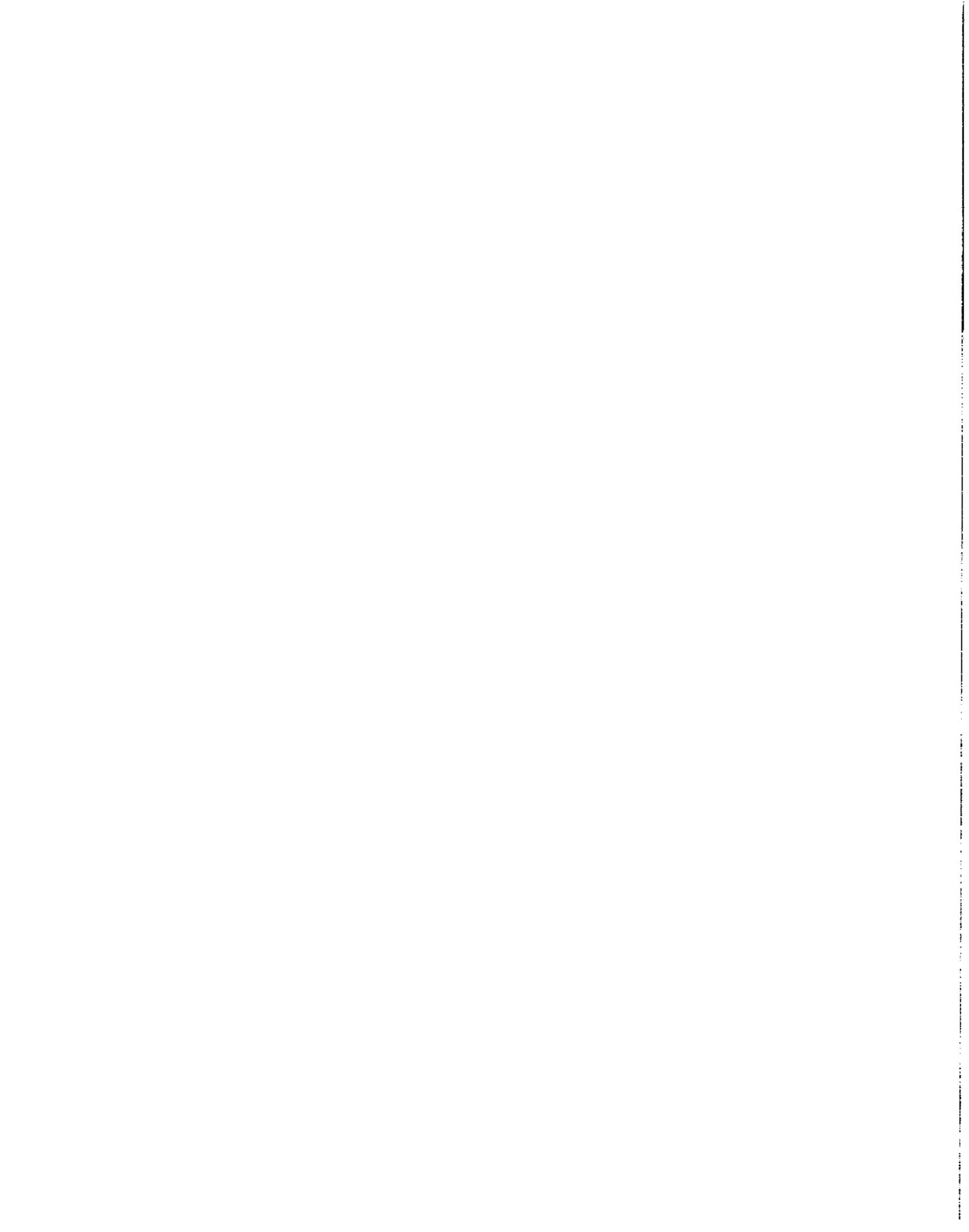
7.0 Lead Agency

7.1 King County will be the lead agency for the purposes of receipt of funds, contract administration, and disbursement of funds associated with consultant contracts and study-related expenses. King County shall appoint a staff member to serve as Project Manager for special projects. King County shall also provide general administrative and program support for the SCATBd. King County assumes wage and benefits cost of its staff performing Lead Agency responsibilities.

7.2 Lead Agency responsibilities include administrative and technical support for meetings and ongoing operations; collection, administration and distribution of dues; support to the chair and vice chair; preparation of correspondence and other materials; development and monitoring of work program; and coordination of consultant services or other special projects as directed by the SCATBd.

8.0 Annual Work Program

The SCATBd may undertake activities consistent with its purposes and shall prepare an annual progress report and work program for the following year for submittal to its members.



9.0 Financing and Cost Sharing Guidelines

9.1 **Yearly Dues** -- Each member city will contribute \$100.00 annually per vote awarded to remain members in good standing. The designated Lead Agency shall not be required to pay yearly dues. This revenue shall be used for special events, including an annual joint meeting of the subarea transportation boards, public education, or other expenses authorized by the SCATBd.

9.2 The following guidelines shall generally apply:

1. **Annual Review of Financing:** The SCATBd shall determine by June 30 of each year whether an additional financial contribution will be requested of the SCATBd jurisdictions.
2. **Voting Members:** If additional financial contributions are determined to be necessary, costs shall be shared among member jurisdictions other than King County by a method as determined by action of the SCATBd. Unless agreed to otherwise, King County's share shall be limited to the costs of providing staff support.
3. **Non-voting Members:** The member agencies shall not be expected to make a direct funding contribution.
4. **Modification to Agreement Required:** A modification to this agreement specifying cost-sharing, purpose, scope of work and other details is required to obligate a member jurisdiction to funding participation.

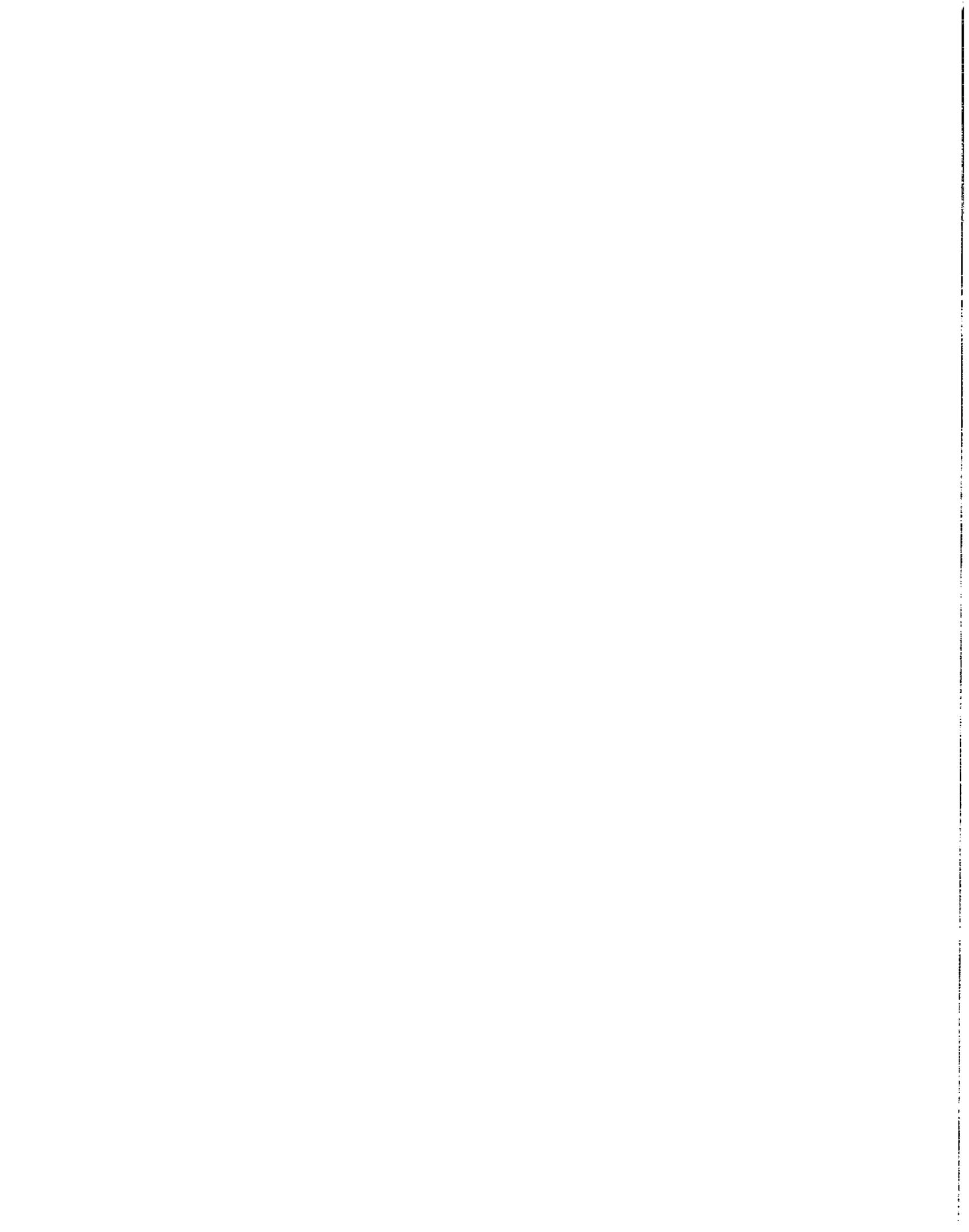
10.0 Withdrawal of a Party from this Agreement

Each party, for its convenience and without cause or for any reason whatsoever, may withdraw from participation in this Agreement by providing written notice, sent certified mail, return receipt required, to all of the other parties at least thirty (30) days in advance of the effective date of the withdrawal. A withdrawing party shall not be entitled to a refund of any payments to SCATBd but shall make any contributions required to be paid to other parties under this Agreement for costs which had been obligated prior to the effective date of the withdrawal. In the event a party withdraws, the remaining parties shall amend this Agreement as necessary to reflect changes in the named parties and cost and revenue allocations. In the event of withdrawal by a party, this Agreement shall terminate as to that party but shall continue in effect with respect to the remaining parties. However, the termination of this Agreement with respect to one or more parties shall not affect any of the parties' rights or obligations, including any rights or obligations of a withdrawing party, that are expressly intended to survive termination.

Each party's funding to perform its obligations under the Agreement, beyond the current appropriation year, is conditional upon appropriation by the party's governing body of sufficient funds to support said obligations. Should such an appropriation not be approved for a future year, a party may exercise its right to withdraw as provided herein.

11.0 Duration

This Agreement shall take effect upon being duly adopted by the governing bodies of all parties and executed by the authorized representatives of all parties. This Agreement shall remain in effect until all the tasks have been completed to the satisfaction of the SCATBd or until such time as the participating members choose to conclude the program for other reasons, but in no case shall the program extend beyond December 31, 2012, unless terminated earlier or extended in accordance with Section 11.0. If all parties desire to extend this Agreement beyond December 31, 2012, they shall



execute a Statement of Extension. In no event shall the Agreement be extended beyond December 31, 2014.

12.0 Termination

All parties to this Agreement must agree to terminate this Agreement in order for such termination to be effective. If all parties desire to terminate this Agreement, they shall execute a Statement of Termination. Upon termination, no party shall be required to make any additional contributions. Any remaining funds shall be refunded to the parties to this Agreement according to Section 13.0.

13.0 Real and Personal Property

The acquisition of real property is not anticipated under this Agreement. Any personal property acquired pursuant to this Agreement shall be held by the Lead Agency. In the event this Agreement expires or is terminated in accordance with Section 11.0, any personal property other than cash shall remain with the Lead Agency.

14.0 Return of Funds

At such time as this Agreement expires or is terminated in accordance with Section 11.0, any unexpended and uncommitted funds shall be distributed proportionately to those parties to this Agreement at the time of termination based on each party's percentage share of the original contribution.

15.0 Filing

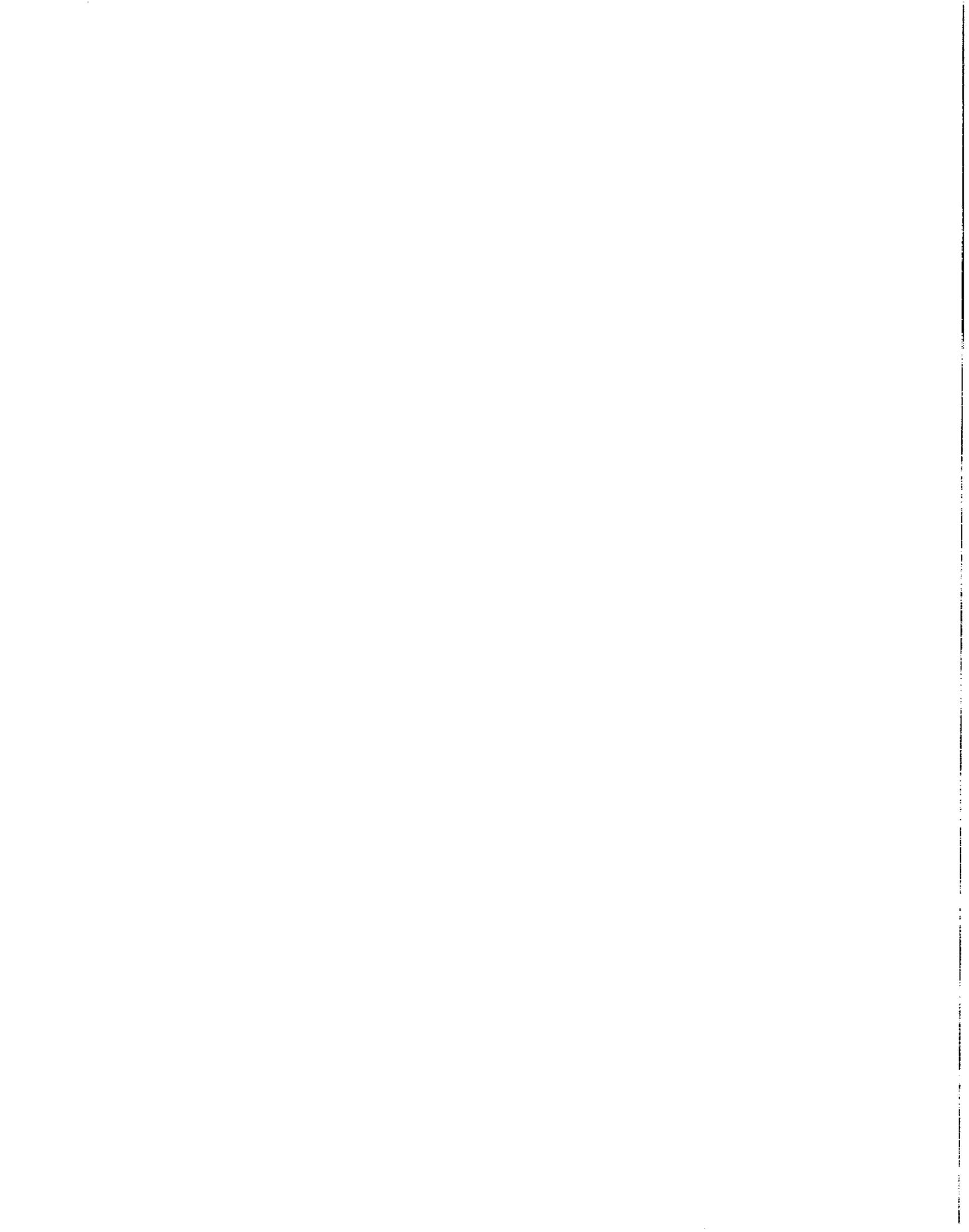
This Agreement shall be filed with the King County Department of Records and Elections.

16.0 Legal Relations

16.1 The parties shall comply with all applicable state and federal laws and regulations.

16.2 This Agreement is solely for the benefit of the parties hereto and gives no right to any other party. No joint venture or partnership is formed as a result of this Agreement. No employees or agents of one party or any of its contractors or subcontractors shall be deemed, or represent themselves to be, employees of any other party.

16.3 Each party shall defend, indemnify and hold harmless the other party and all of its officials, employees, principals and agents from all claims, demands, suits, actions, and liability of any kind whatsoever which arise out of, are connected with, or are incident to any negligent acts of the first party, its contractor, and/or employees, agents, and representatives in performing the first party's obligations under this Agreement. The parties agree that their obligations under this paragraph extend to claims made against one party by the other party's own employees. For this purpose, the parties, by mutual negotiation, hereby waive any immunity that, as respects the other party only, would otherwise be available against such claims under the industrial insurance provisions of RCW Title 51. In the event either party incurs attorney's fees, costs or other legal expenses to enforce the provisions of this section, against the other party, all such fees, costs and expenses shall be recoverable by the prevailing party.



16.4 The provisions of this Section 16 shall survive and remain applicable to each of the parties notwithstanding any termination or expiration of this Agreement and notwithstanding a party's withdrawal from this Agreement.

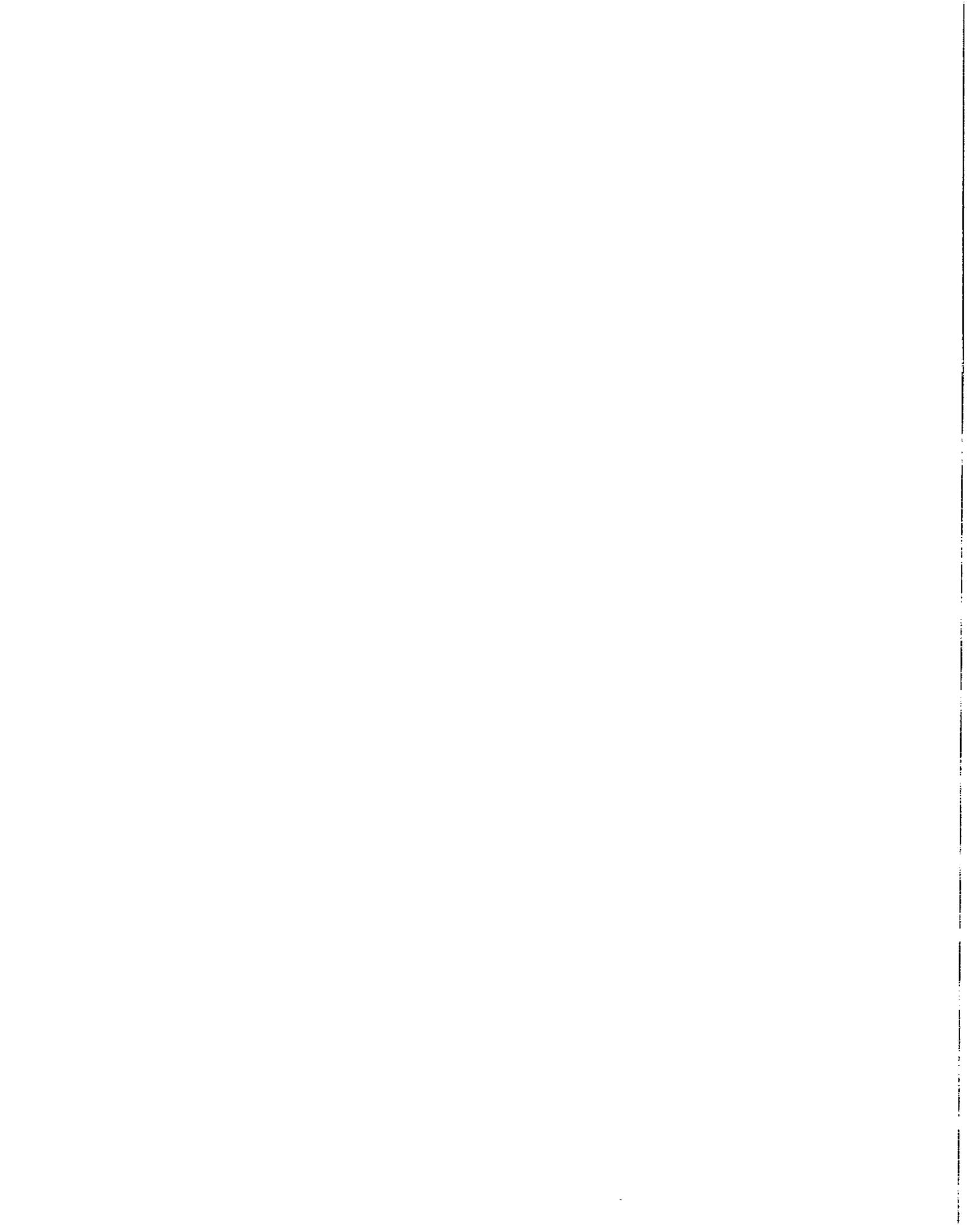
17.0 Entirety and Modifications

17.1 This Agreement merges and supersedes all prior negotiations, representations and agreements between the parties relating to the subject matter hereof and constitutes the entire agreement between the parties.

17.2 This Agreement may be modified or extended only by written instrument signed by all the parties hereto.

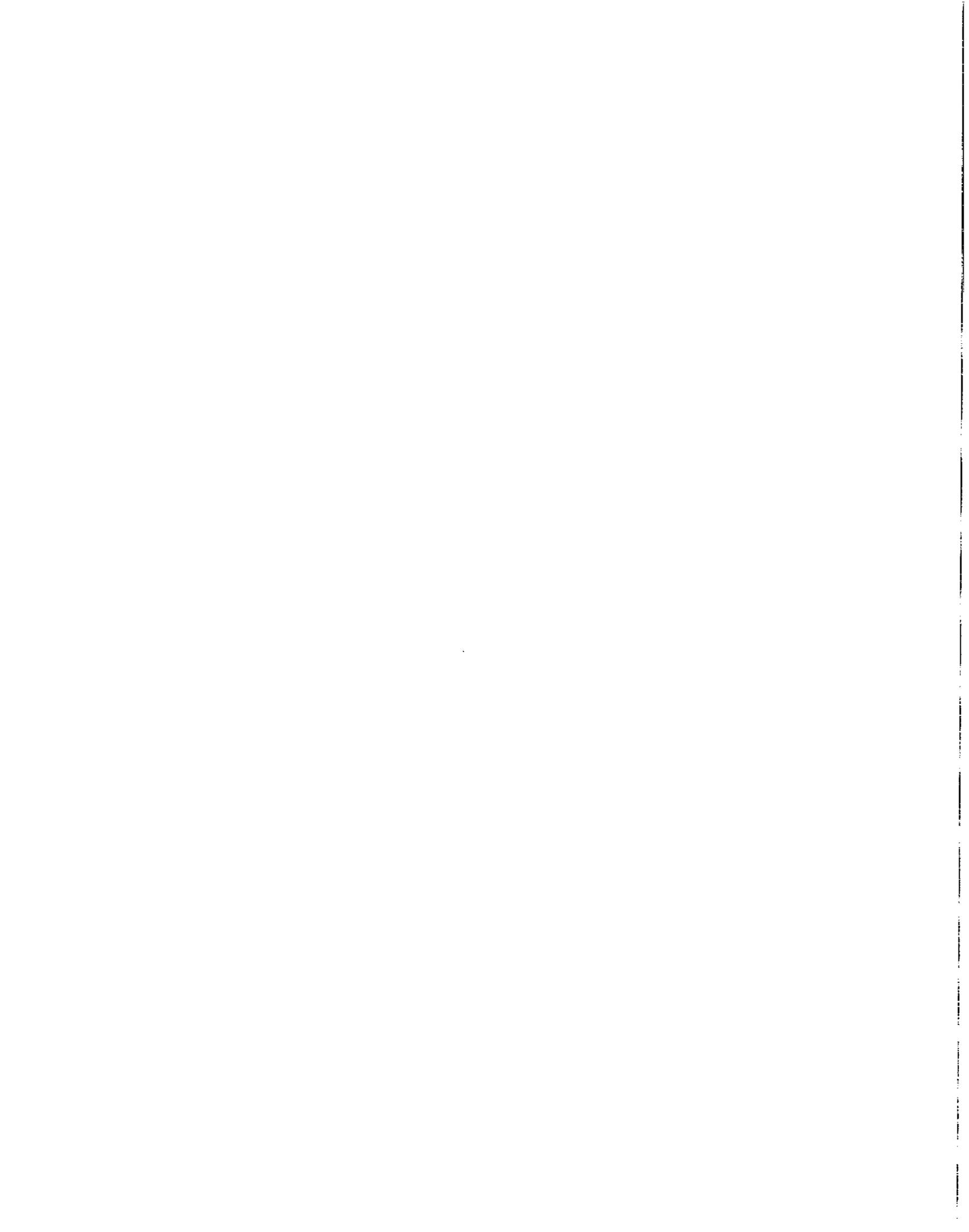
18.0 Counterparts

The signature pages of this Agreement may be executed in any number of counterparts, each of which shall be an original.

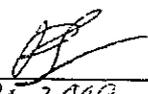


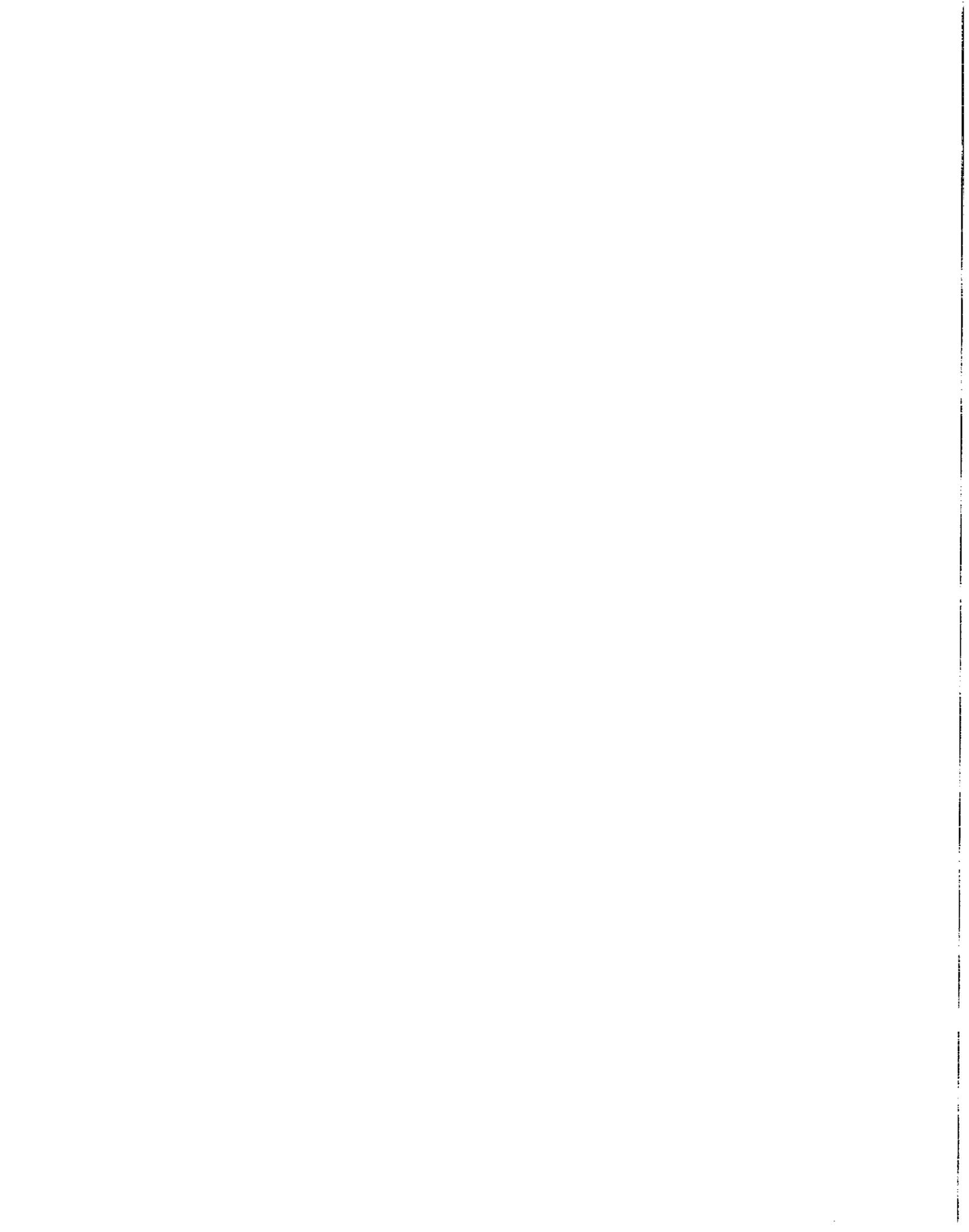
IN WITNESS WHEREOF, the Parties have caused this Agreement to be signed and delivered by its duly authorized officer or representative as of the date set forth below its signature.

City of Algona By: <u>[Signature]</u> Date: <u>1-22-09</u>	City of Auburn By: _____ Date: _____	City of Black Diamond By: _____ Date: _____
City of Burien By: _____ Date: _____	City of Covington By: _____ Date: _____	City of Des Moines By: _____ Date: _____
City of Enumclaw By: _____ Date: _____	City of Federal Way By: _____ Date: _____	City of Kent By: _____ Date: _____
City of Maple Valley By: _____ Date: _____	City of Milton By: _____ Date: _____	City of Normandy Park By: _____ Date: _____
City of Pacific By: _____ Date: _____	City of Renton By: _____ Date: _____	City of Sea Tac By: _____ Date: _____
City of Tukwila By: _____ Date: _____	King County By: _____ Date: _____	Muckleshoot Tribe By: _____ Date: _____
Pierce County By: _____ Date: _____	Pierce Transit By: _____ Date: _____	Port of Seattle By: _____ Date: _____
Puget Sound Regional Council By: _____ Date: _____	Sound Transit By: _____ Date: _____	Transportation Improvement Board By: _____ Date: _____
Washington State Department of Transportation By: _____ Date: _____	Washington State Transportation Commission By: _____ Date: _____	

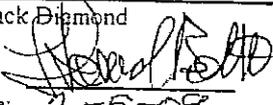


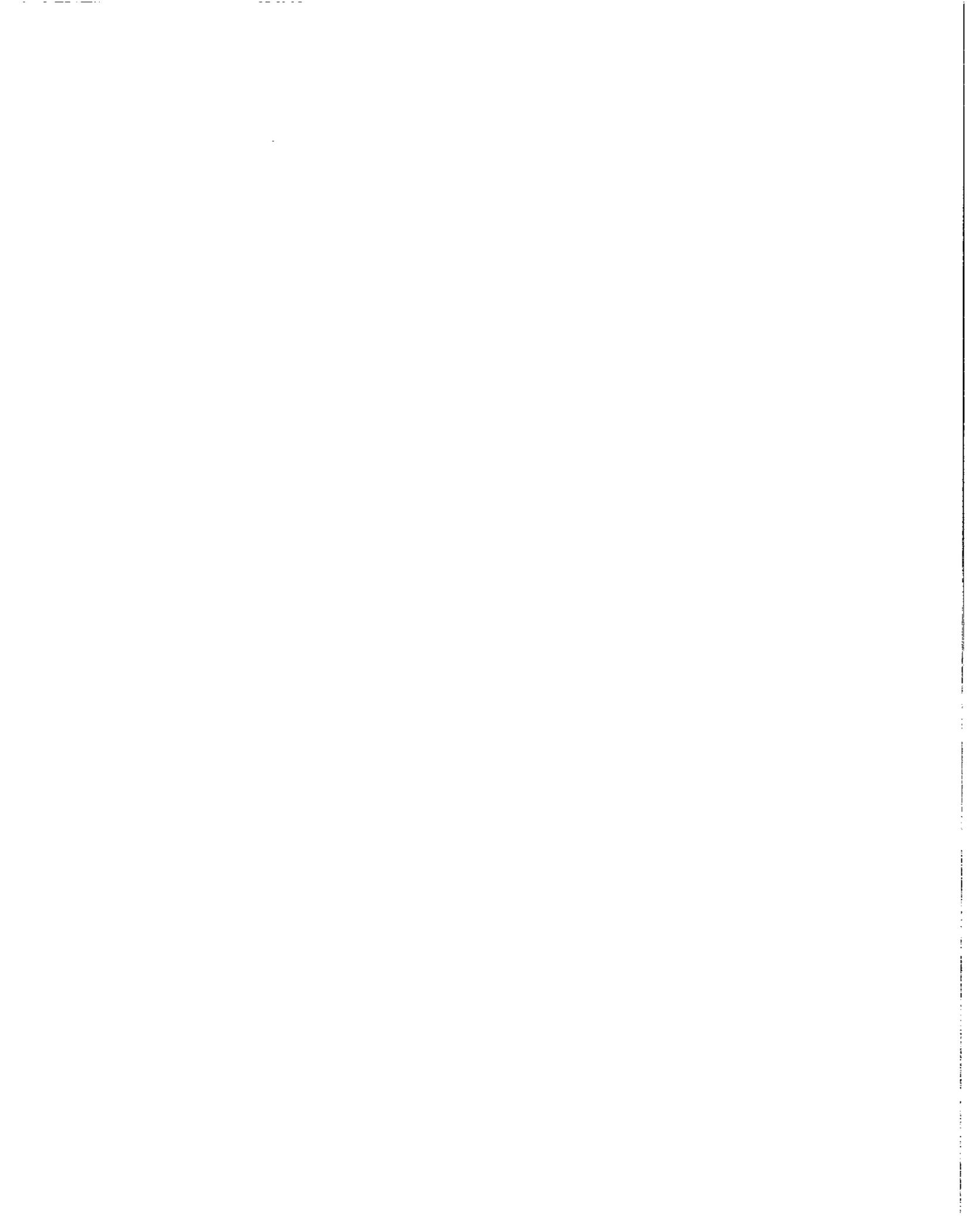
IN WITNESS WHEREOF, the Parties have caused this Agreement to be signed and delivered by its duly authorized officer or representative as of the date set forth below its signature.

City of Algona By: _____ Date: _____	City of Auburn By:  Date: <u>1-20-2009</u>	City of Black Diamond By: _____ Date: _____
City of Burien By: _____ Date: _____	City of Covington By: _____ Date: _____	City of Des Moines By: _____ Date: _____
City of Enumclaw By: _____ Date: _____	City of Federal Way By: _____ Date: _____	City of Kent By: _____ Date: _____
City of Maple Valley By: _____ Date: _____	City of Milton By: _____ Date: _____	City of Normandy Park By: _____ Date: _____
City of Pacific By: _____ Date: _____	City of Renton By: _____ Date: _____	City of Sea Tac By: _____ Date: _____
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Puget Sound Regional Council By: _____ Date: _____	Sound Transit By: _____ Date: _____	Transportation Improvement Board By: _____ Date: _____
Washington State Department of Transportation By: _____ Date: _____	Washington State Transportation Commission By: _____ Date: _____	



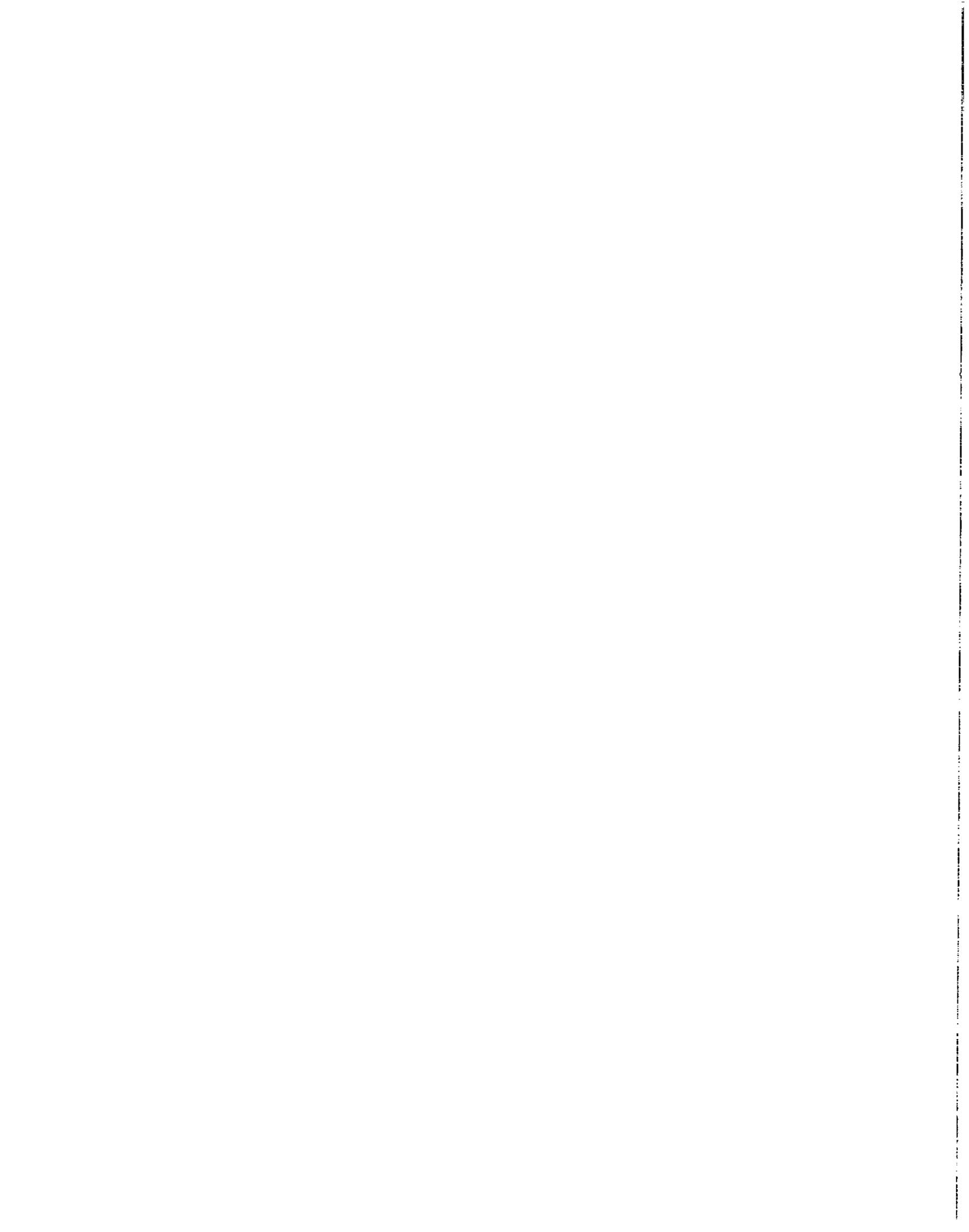
IN WITNESS WHEREOF, the Parties have caused this Agreement to be signed and delivered by its duly authorized officer or representative as of the date set forth below its signature.

City of Algona By: _____ Date: _____	City of Auburn By: _____ Date: _____	City of Black Diamond By:  Date: <u>2-5-09</u>
City of Burien By: _____ Date: _____	City of Covington By: _____ Date: _____	City of Des Moines By: _____ Date: _____
City of Enumbleaw By: _____ Date: _____	City of Federal Way By: _____ Date: _____	City of Kent By: _____ Date: _____
City of Maple Valley By: _____ Date: _____	City of Milton By: _____ Date: _____	City of Normandy Park By: _____ Date: _____
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City of Tukwila By: _____ Date: _____	King County By: _____ Date: _____	Muckleshoot Tribe By: _____ Date: _____
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Puget Sound Regional Council By: _____ Date: _____	Sound Transit By: _____ Date: _____	Transportation Improvement Board By: _____ Date: _____
Washington State Department of Transportation By: _____ Date: _____	Washington State Transportation Commission By: _____ Date: _____	

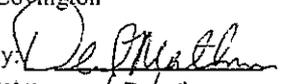


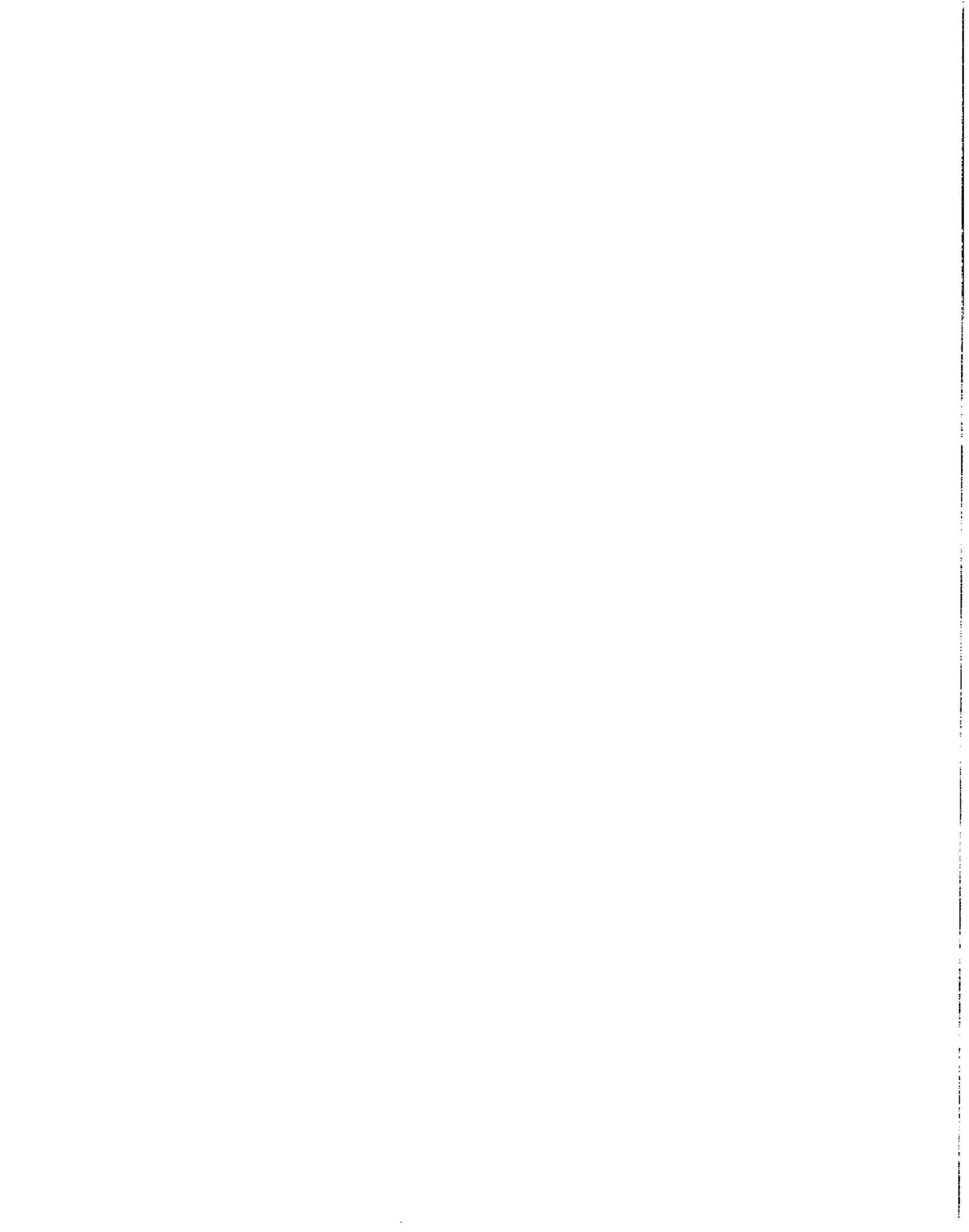
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City of Algona By: _____ Date: _____	City of Auburn By: _____ Date: _____	City of Black Diamond By: _____ Date: _____
City of Burien By: <i>Rose Clark</i> Date: <i>2/5/2009</i>	City of Covington By: _____ Date: _____	City of Des Moines By: _____ Date: _____
City of Enumclaw By: _____ Date: _____	City of Federal Way By: _____ Date: _____	City of Kent By: _____ Date: _____
City of Maple Valley By: _____ Date: _____	City of Milton By: _____ Date: _____	City of Normandy Park By: _____ Date: _____
City of Pacific By: _____ Date: _____	City of Renton By: _____ Date: _____	City of Sea Tac By: _____ Date: _____
City of Tukwila By: _____ Date: _____	King County By: _____ Date: _____	Muckleshoot Tribe By: _____ Date: _____
Pierce County By: _____ Date: _____	Pierce Transit By: _____ Date: _____	Port of Seattle By: _____ Date: _____
Puget Sound Regional Council By: _____ Date: _____	Sound Transit By: _____ Date: _____	Transportation Improvement Board By: _____ Date: _____
Washington State Department of Transportation By: _____ Date: _____	Washington State Transportation Commission By: _____ Date: _____	



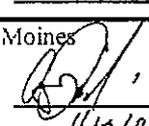
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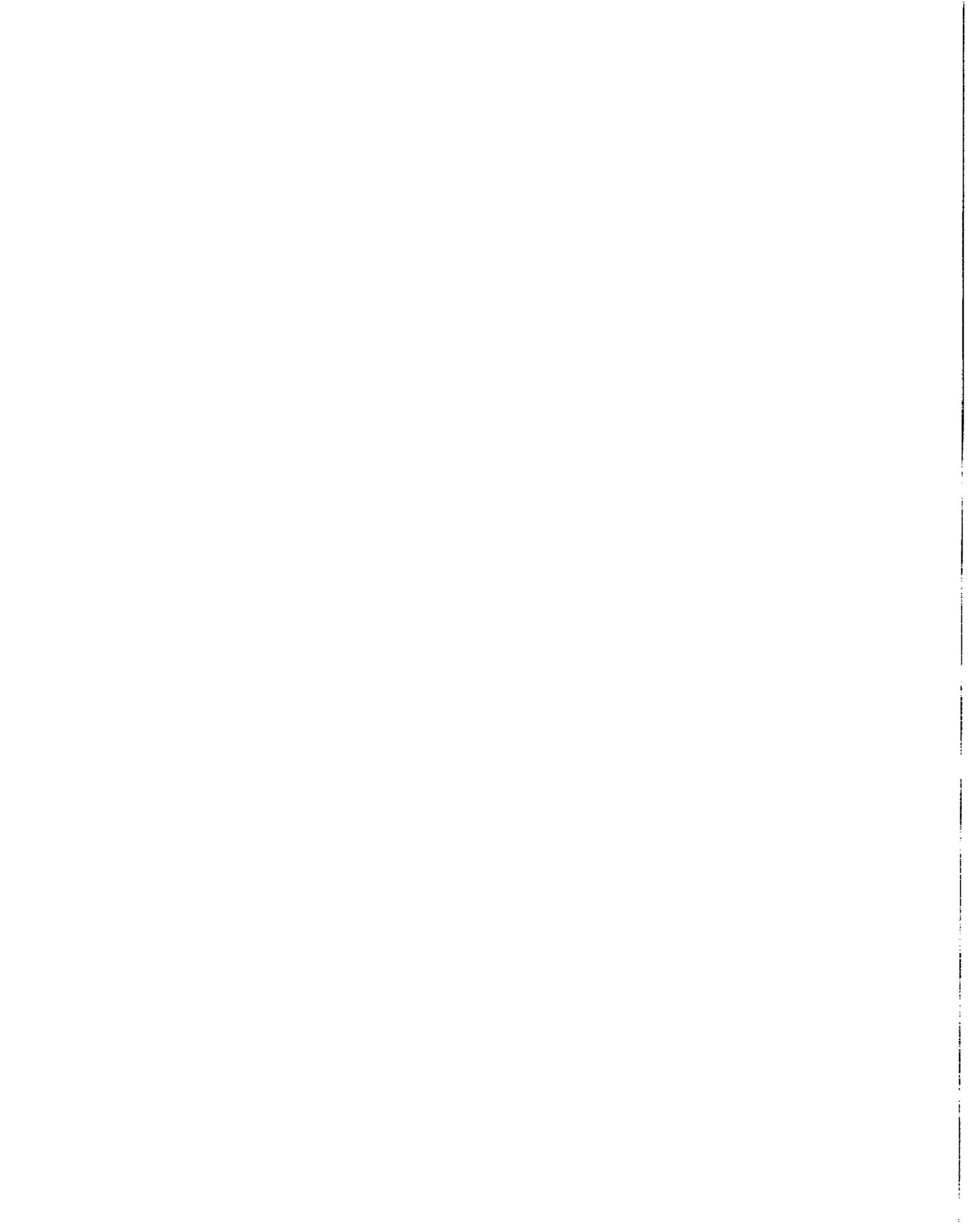
City of Algona By: _____ Date: _____	City of Auburn By: _____ Date: _____	City of Black Diamond By: _____ Date: _____
City of Burien By: _____ Date: _____	City of Covington By:  Date: 2/17/09	City of Des Moines By: _____ Date: _____
City of Enumclaw By: _____ Date: _____	City of Federal Way By: _____ Date: _____	City of Kent By: _____ Date: _____
City of Maple Valley By: _____ Date: _____	City of Milton By: _____ Date: _____	City of Normandy Park By: _____ Date: _____
City of Pacific By: _____ Date: _____	City of Renton By: _____ Date: _____	City of Sea Tac By: _____ Date: _____
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Pierce County By: _____ Date: _____	Pierce Transit By: _____ Date: _____	Port of Seattle By: _____ Date: _____
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Washington State Department of Transportation By: _____ Date: _____	Washington State Transportation Commission By: _____ Date: _____	



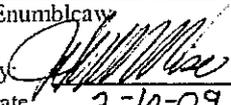
The signature pages of this Agreement may be executed in any number of counterparts, each of which shall be an original.

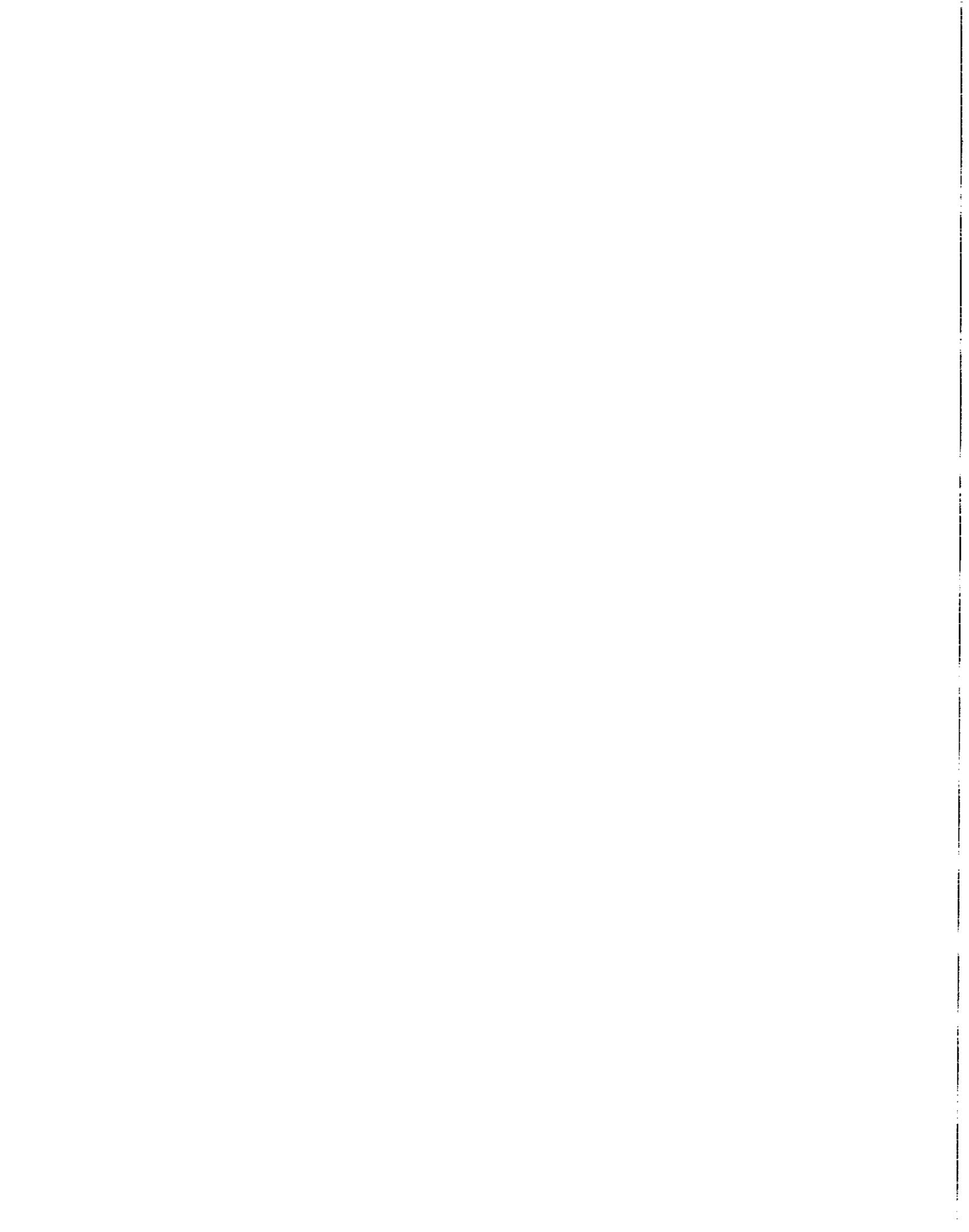
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City of Algona By: _____ Date: _____	City of Auburn By: _____ Date: _____	City of Black Diamond By: _____ Date: _____
City of Burien By: _____ Date: _____	City of Covington By: _____ Date: _____	City of Des Moines By:  Date: 11/12/09
City of Enumblaw By: _____ Date: _____	City of Federal Way By: _____ Date: _____	City of Kent By: _____ Date: _____
City of Maple Valley By: _____ Date: _____	City of Milton By: _____ Date: _____	City of Normandy Park By: _____ Date: _____
City of Pacific By: _____ Date: _____	City of Renton By: _____ Date: _____	City of Sea Tac By: _____ Date: _____
City of Tukwila By: _____ Date: _____	King County By: _____ Date: _____	Muckleshoot Tribe By: _____ Date: _____
Pierce County By: _____ Date: _____	Pierce Transit By: _____ Date: _____	Port of Seattle By: _____ Date: _____
Puget Sound Regional Council By: _____ Date: _____	Sound Transit By: _____ Date: _____	Transportation Improvement Board By: _____ Date: _____
Washington State Department of Transportation By: _____ Date: _____	Washington State Transportation Commission By: _____ Date: _____	



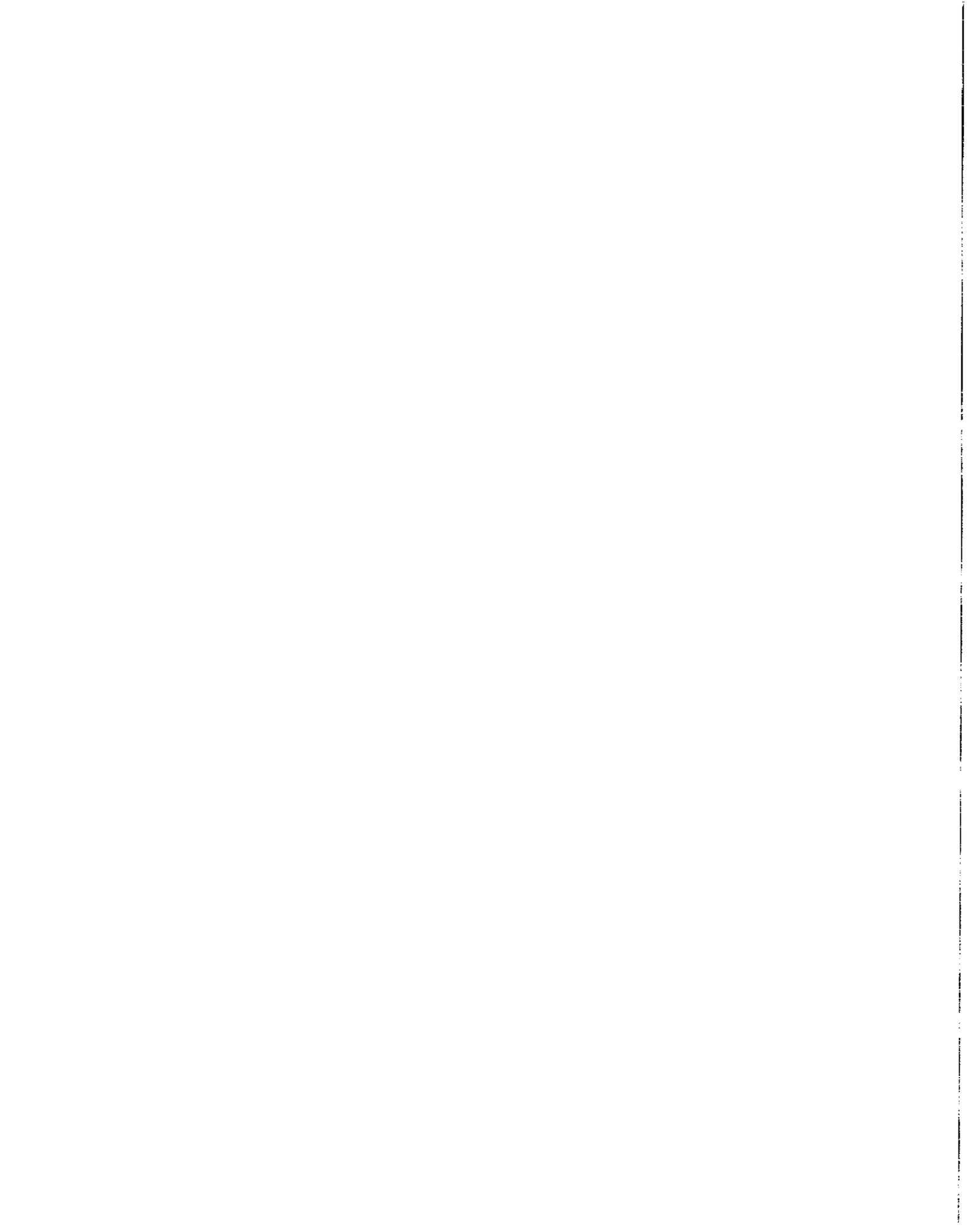
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City of Burien By: _____ Date: _____	City of Covington By: _____ Date: _____	City of Des Moines By: _____ Date: _____
City of Enumclaw By:  Date: <u>2-10-09</u>	City of Federal Way By: _____ Date: _____	City of Kent By: _____ Date: _____
City of Maple Valley By: _____ Date: _____	City of Milton By: _____ Date: _____	City of Normandy Park By: _____ Date: _____
City of Pacific By: _____ Date: _____	City of Renton By: _____ Date: _____	City of Sea Tac By: _____ Date: _____
City of Tukwila By: _____ Date: _____	King County By: _____ Date: _____	Muckleshoot Tribe By: _____ Date: _____
Pierce County By: _____ Date: _____	Pierce Transit By: _____ Date: _____	Port of Seattle By: _____ Date: _____
Puget Sound Regional Council By: _____ Date: _____	Sound Transit By: _____ Date: _____	Transportation Improvement Board By: _____ Date: _____
Washington State Department of Transportation By: _____ Date: _____	Washington State Transportation Commission By: _____ Date: _____	



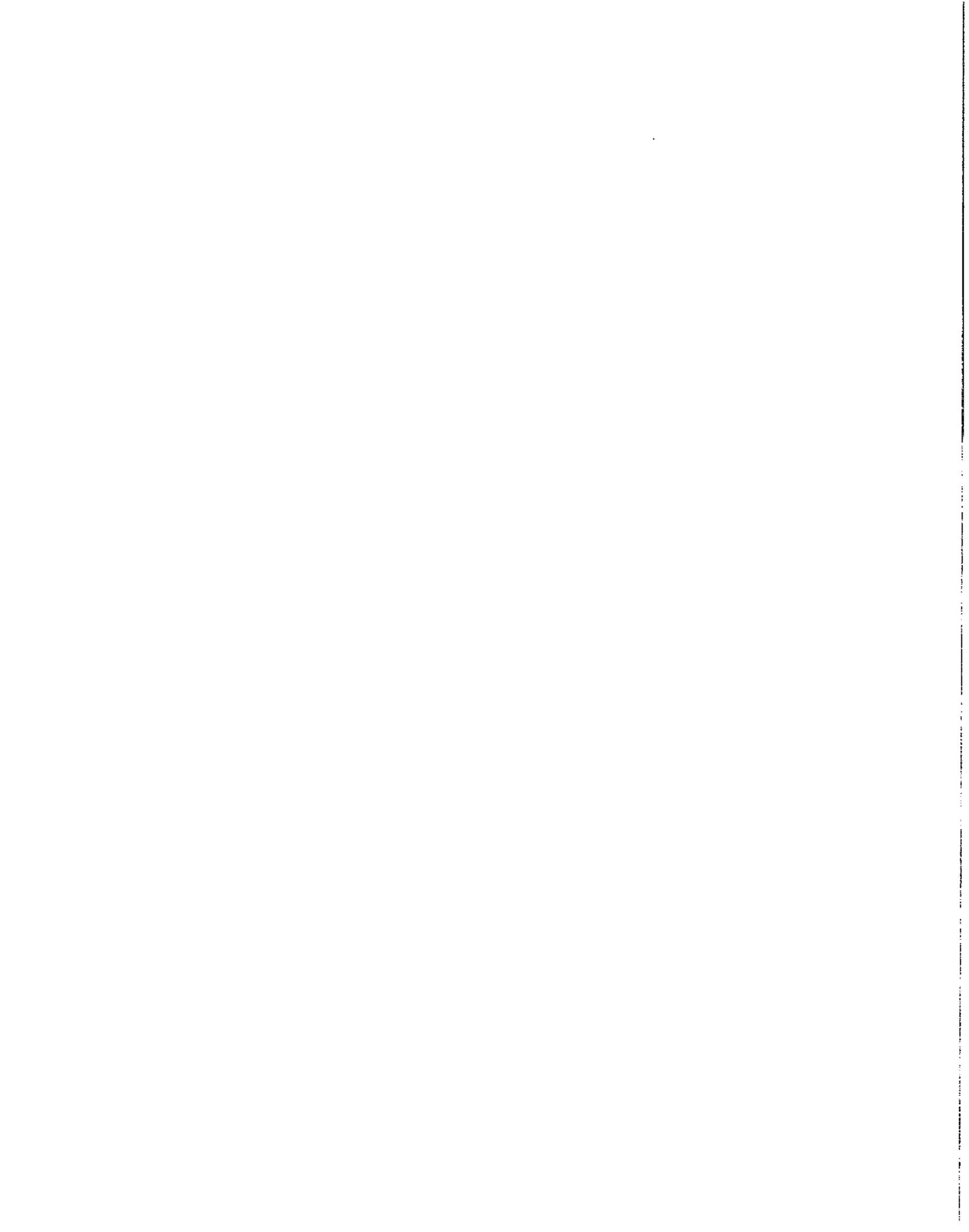
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City of Burien By: _____ Date: _____	City of Covington By: _____ Date: _____	City of Des Moines By: _____ Date: _____
City of Enumblaw By: _____ Date: _____	City of Federal Way By: <i>Casandra</i> Date: <u>3/10/09</u>	City of Kent By: _____ Date: _____
City of Maple Valley By: _____ Date: _____	City of Milton By: _____ Date: _____	City of Normandy Park By: _____ Date: _____
City of Pacific By: _____ Date: _____	City of Renton By: _____ Date: _____	City of Sea Tac By: _____ Date: _____
City of Tukwila By: _____ Date: _____	King County By: _____ Date: _____	Muckleshoot Tribe By: _____ Date: _____
Pierce County By: _____ Date: _____	Pierce Transit By: _____ Date: _____	Port of Seattle By: _____ Date: _____
Puget Sound Regional Council By: _____ Date: _____	Sound Transit By: _____ Date: _____	Transportation Improvement Board By: _____ Date: _____
Washington State Department of Transportation By: _____ Date: _____	Washington State Transportation Commission By: _____ Date: _____	



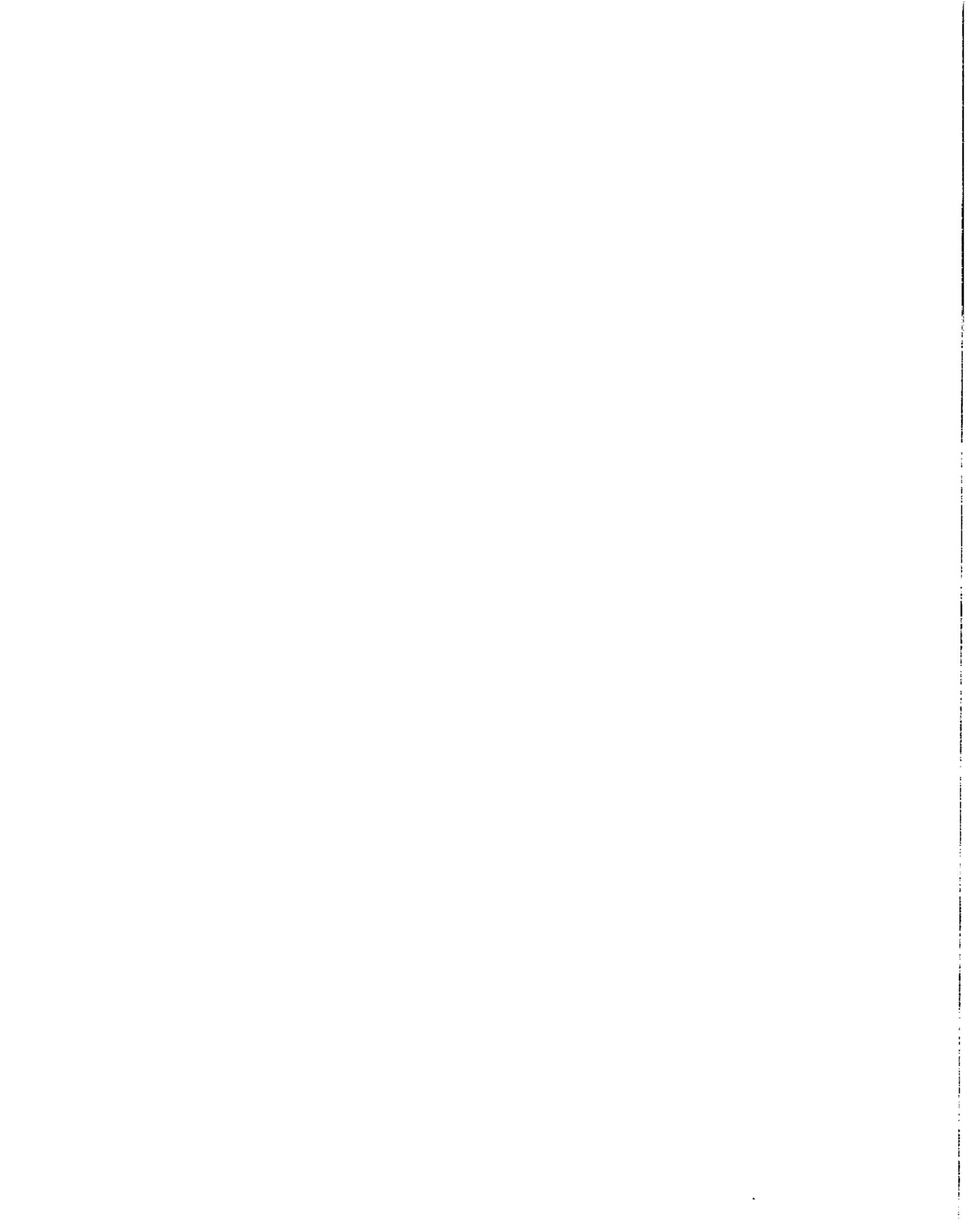
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City of Burien By: _____ Date: _____	City of Covington By: _____ Date: _____	City of Des Moines By: _____ Date: _____
City of Enumclaw By: _____ Date: _____	City of Federal Way By: _____ Date: _____	City of Kent By: <i>Suzette Cooke</i> Date: <i>2/13/09</i>
City of Maple Valley By: _____ Date: _____	City of Milton By: _____ Date: _____	City of Normandy Park By: _____ Date: _____
City of Pacific By: _____ Date: _____	City of Renton By: _____ Date: _____	City of Sea Tac By: _____ Date: _____
City of Tukwila By: _____ Date: _____	King County By: _____ Date: _____	Muckleshoot Tribe By: _____ Date: _____
Pierce County By: _____ Date: _____	Pierce Transit By: _____ Date: _____	Port of Seattle By: _____ Date: _____
Puget Sound Regional Council By: _____ Date: _____	Sound Transit By: _____ Date: _____	Transportation Improvement Board By: _____ Date: _____
Washington State Department of Transportation By: _____ Date: _____	Washington State Transportation Commission By: _____ Date: _____	



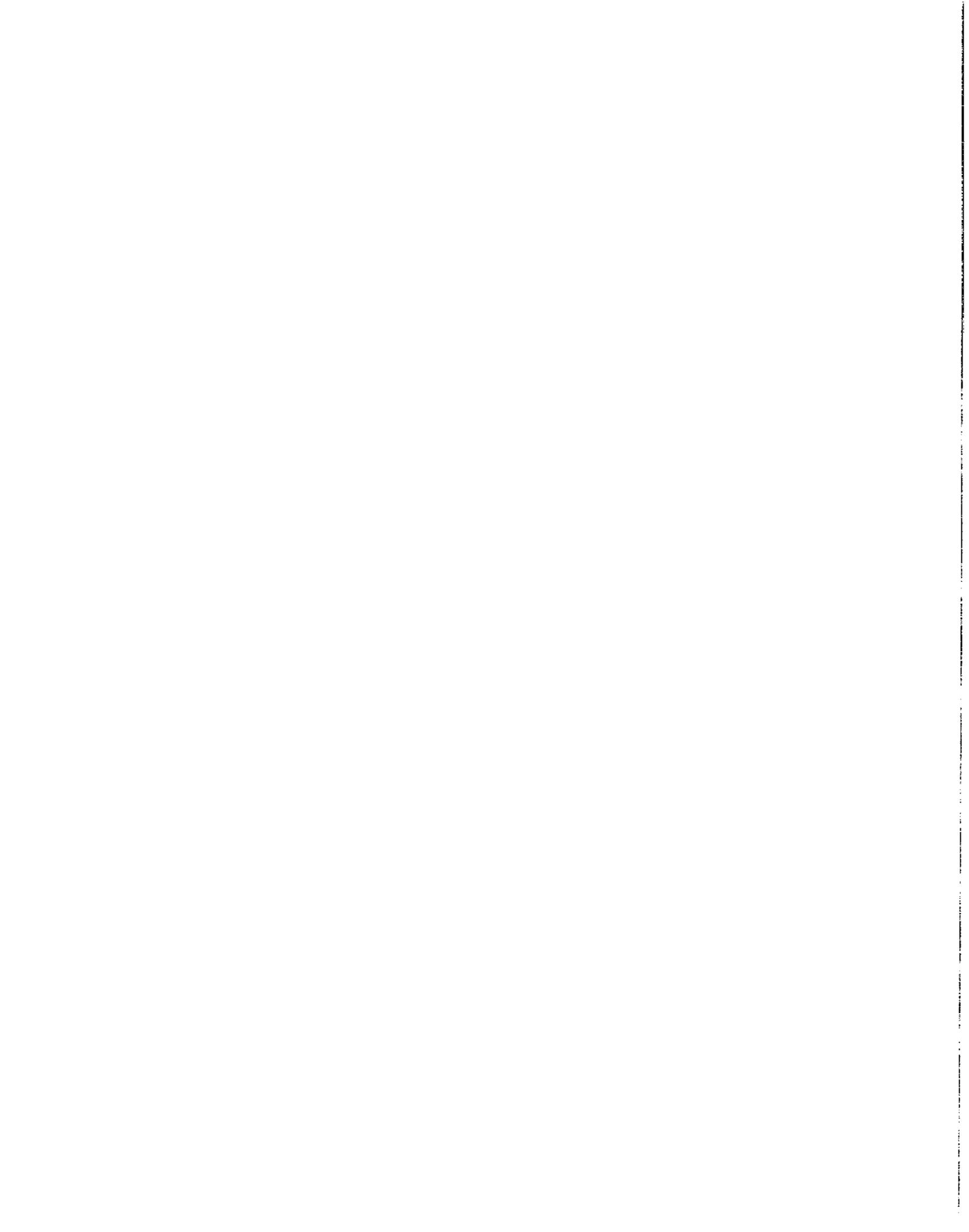
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City of Algona By: _____ Date: _____	City of Auburn By: _____ Date: _____	City of Black Diamond By: _____ Date: _____
City of Burien By: _____ Date: _____	City of Covington By: _____ Date: _____	City of Des Moines By: _____ Date: _____
City of Enumclaw By: _____ Date: _____	City of Federal Way By: _____ Date: _____	City of Kent By: _____ Date: _____
City of Maple Valley By: <u>Christy A. Todd</u> Date: <u>1-21-09</u>	City of Milton By: _____ Date: _____	City of Normandy Park By: _____ Date: _____
City of Pacific By: _____ Date: _____	City of Renton By: _____ Date: _____	City of Sea Tac By: _____ Date: _____
City of Tukwila By: _____ Date: _____	King County By: _____ Date: _____	Muckleshoot Tribe By: _____ Date: _____
Pierce County By: _____ Date: _____	Pierce Transit By: _____ Date: _____	Port of Seattle By: _____ Date: _____
Puget Sound Regional Council By: _____ Date: _____	Sound Transit By: _____ Date: _____	Transportation Improvement Board By: _____ Date: _____
Washington State Department of Transportation By: _____ Date: _____	Washington State Transportation Commission By: _____ Date: _____	

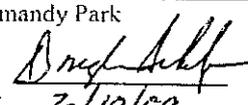


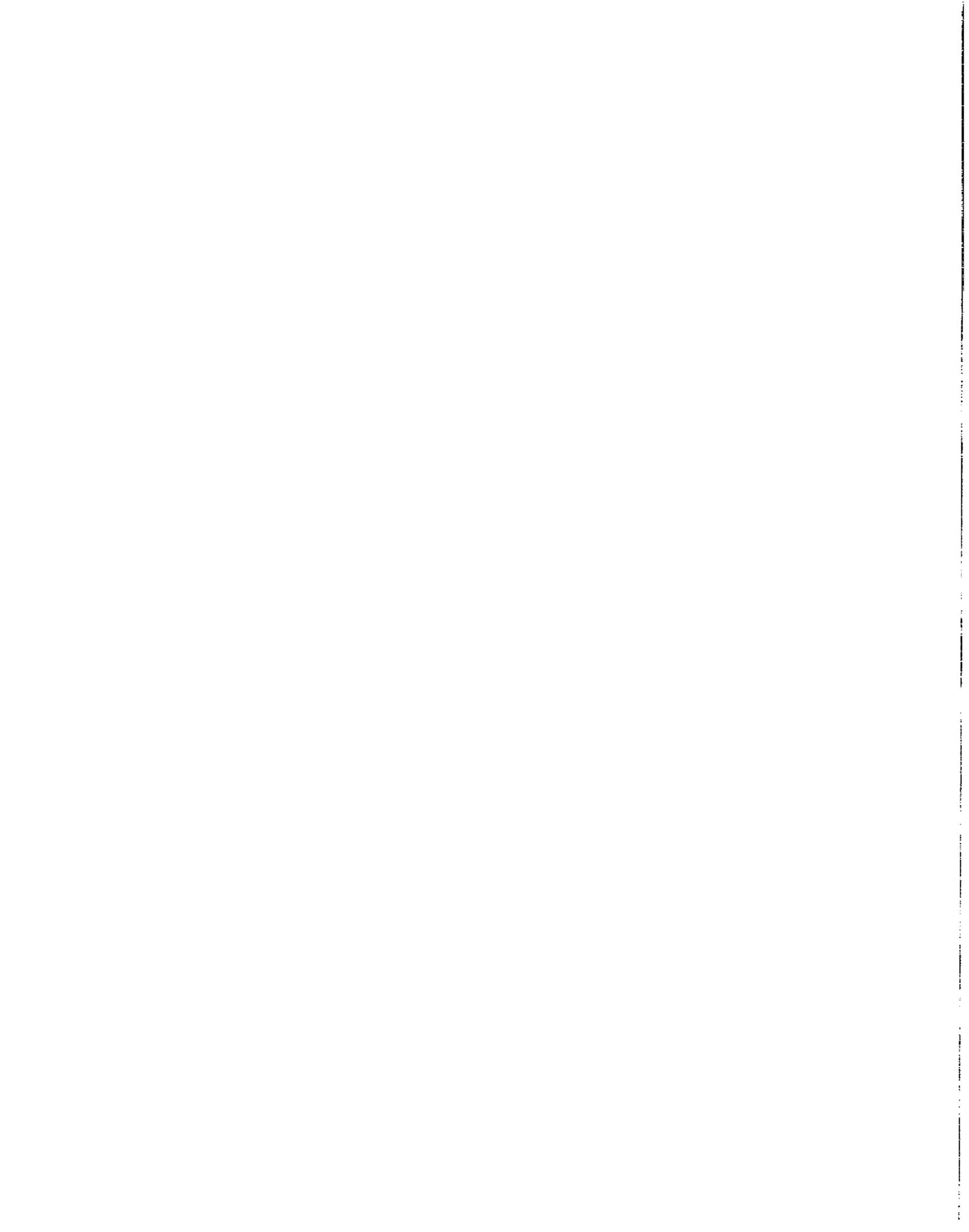
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City of Burien By: _____ Date: _____	City of Covington By: _____ Date: _____	City of Des Moines By: _____ Date: _____
City of Enumbleaw By: _____ Date: _____	City of Federal Way By: _____ Date: _____	City of Kent By: _____ Date: _____
City of Maple Valley By: _____ Date: _____	City of Milton By: <i>Katrina A. [Signature]</i> Date: <i>4/20/2009</i>	City of Normandy Park By: _____ Date: _____
City of Pacific By: _____ Date: _____	City of Renton By: _____ Date: _____	City of Sea Tac By: _____ Date: _____
City of Tukwila By: _____ Date: _____	King County By: _____ Date: _____	Muckleshoot Tribe By: _____ Date: _____
Pierce County By: _____ Date: _____	Pierce Transit By: _____ Date: _____	Port of Seattle By: _____ Date: _____
Puget Sound Regional Council By: _____ Date: _____	Sound Transit By: _____ Date: _____	Transportation Improvement Board By: _____ Date: _____
Washington State Department of Transportation By: _____ Date: _____	Washington State Transportation Commission By: _____ Date: _____	

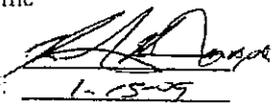


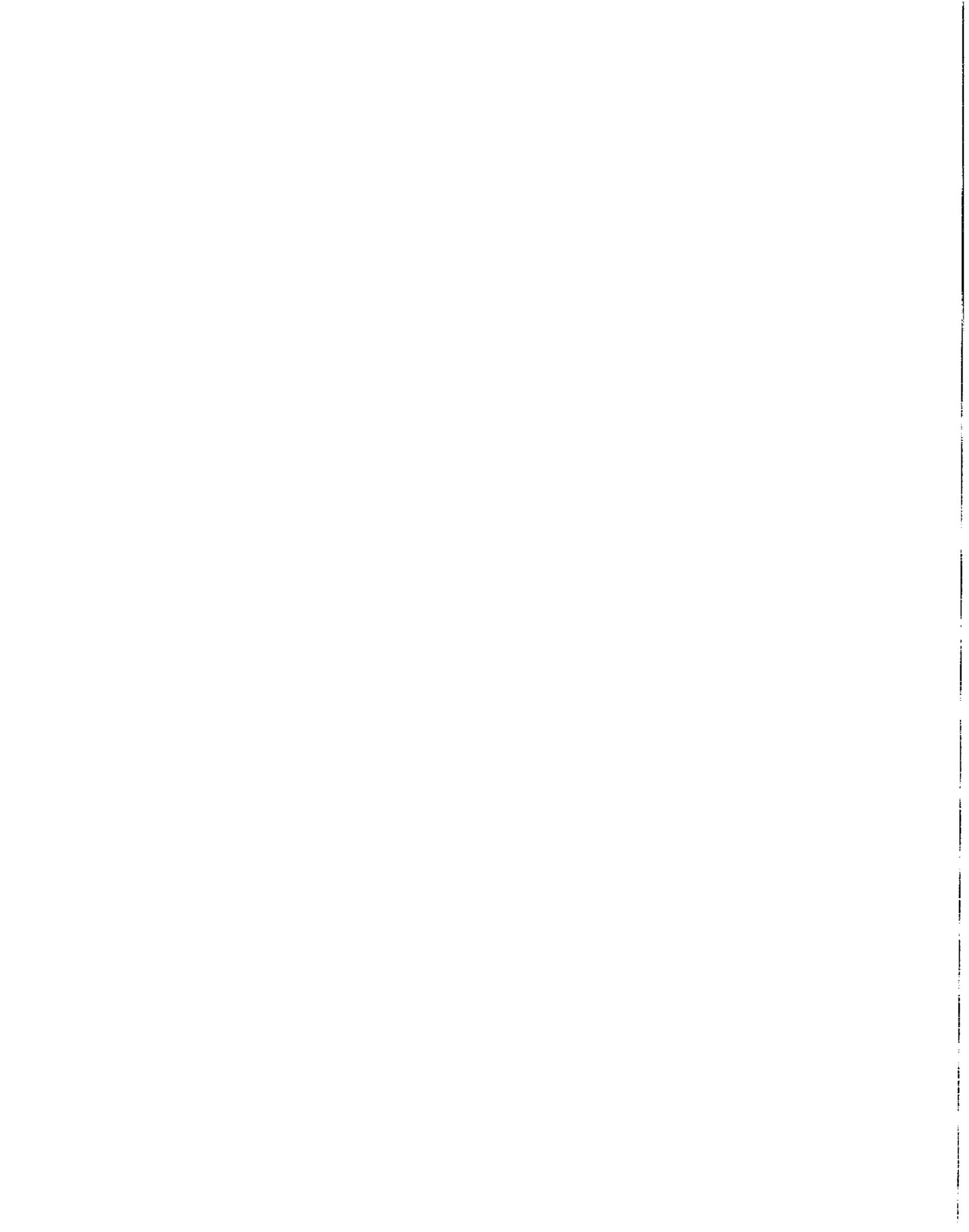
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City of Burien By: _____ Date: _____	City of Covington By: _____ Date: _____	City of Des Moines By: _____ Date: _____
City of Enumclaw By: _____ Date: _____	City of Federal Way By: _____ Date: _____	City of Kent By: _____ Date: _____
City of Maple Valley By: _____ Date: _____	City of Milton By: _____ Date: _____	City of Normandy Park By:  Date: <u>2/10/09</u>
City of Pacific By: _____ Date: _____	City of Renton By: _____ Date: _____	City of Sea Tac By: _____ Date: _____
City of Tukwila By: _____ Date: _____	King County By: _____ Date: _____	Muckleshoot Tribe By: _____ Date: _____
Pierce County By: _____ Date: _____	Pierce Transit By: _____ Date: _____	Port of Seattle By: _____ Date: _____
Puget Sound Regional Council By: _____ Date: _____	Sound Transit By: _____ Date: _____	Transportation Improvement Board By: _____ Date: _____
Washington State Department of Transportation By: _____ Date: _____	Washington State Transportation Commission By: _____ Date: _____	



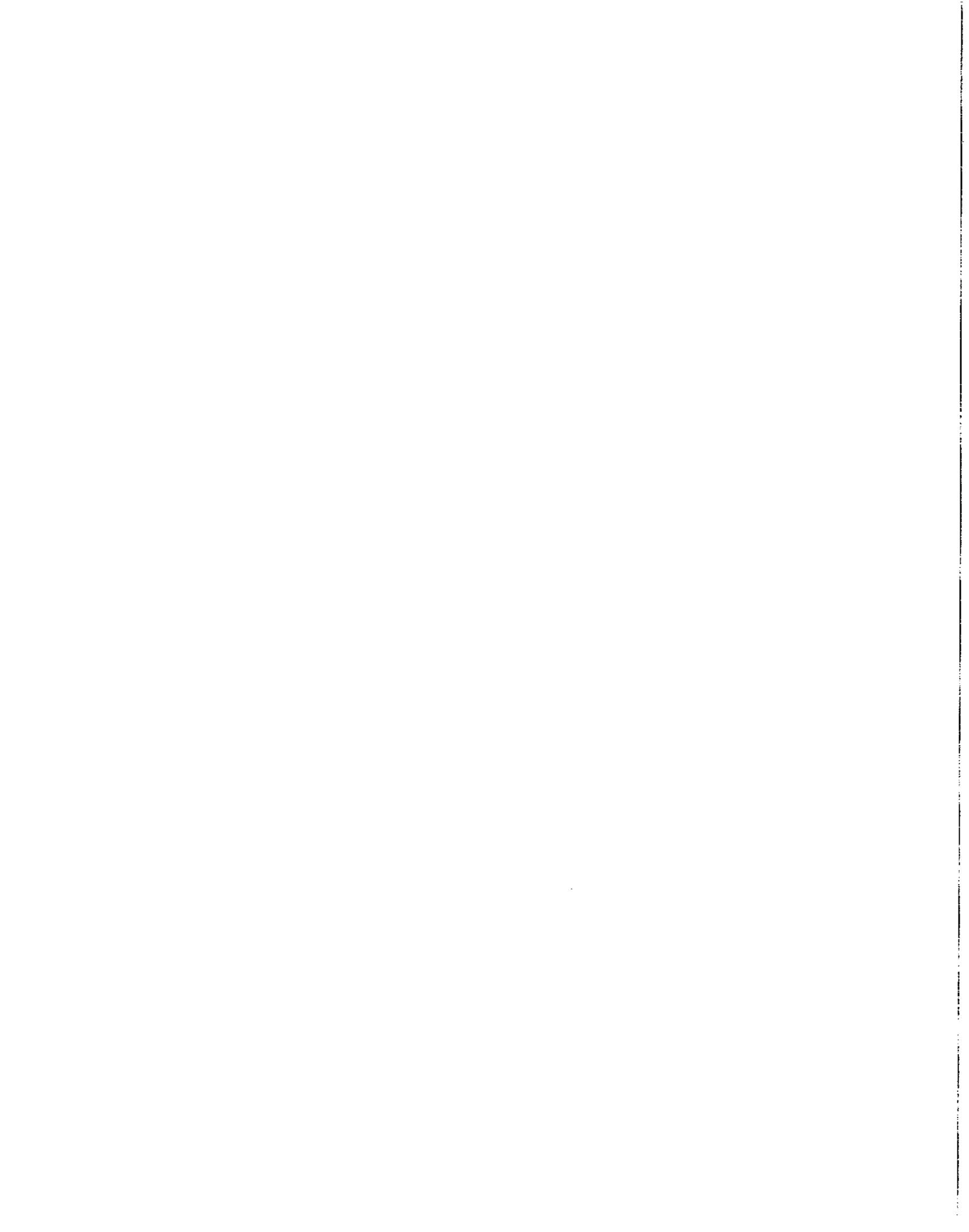
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City of Burien By: _____ Date: _____	City of Covington By: _____ Date: _____	City of Des Moines By: _____ Date: _____
City of Enumclaw By: _____ Date: _____	City of Federal Way By: _____ Date: _____	City of Kent By: _____ Date: _____
City of Maple Valley By: _____ Date: _____	City of Milton By: _____ Date: _____	City of Normandy Park By: _____ Date: _____
City of Pacific By:  Date: <u>1-15-09</u>	City of Renton By: _____ Date: _____	City of Sea Tac By: _____ Date: _____
City of Tukwila By: _____ Date: _____	King County By: _____ Date: _____	Muckleshoot Tribe By: _____ Date: _____
Pierce County By: _____ Date: _____	Pierce Transit By: _____ Date: _____	Port of Seattle By: _____ Date: _____
Puget Sound Regional Council By: _____ Date: _____	Sound Transit By: _____ Date: _____	Transportation Improvement Board By: _____ Date: _____
Washington State Department of Transportation By: _____ Date: _____	Washington State Transportation Commission By: _____ Date: _____	



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City of Algona By: _____ Date: _____	City of Auburn By: _____ Date: _____	City of Black Diamond By: _____ Date: _____
City of Burien By: _____ Date: _____	City of Covington By: _____ Date: _____	City of Des Moines By: _____ Date: _____
City of Enumbleaw By: _____ Date: _____	City of Federal Way By: _____ Date: _____	City of Kent By: _____ Date: _____
City of Maple Valley By: _____ Date: _____	City of Milton By: _____ Date: _____	City of Normandy Park By: _____ Date: _____
City of Pacific By: _____ Date: _____	City of Renton Denis Law Mayor By: <i>Denis Law</i> Date: <i>2/2/09</i>	City of Sea Tac By: _____ Date: _____
City of Tukwila By: _____ Date: _____	King County By: _____ Date: _____	Muckleshoot Tribe By: _____ Date: _____
Pierce County By: _____ Date: _____	Pierce Transit By: _____ Date: _____	Port of Seattle By: _____ Date: _____
Puget Sound Regional Council By: _____ Date: _____	Sound Transit By: _____ Date: _____	Transportation Improvement Board By: _____ Date: _____
Washington State Department of Transportation By: _____ Date: _____	Washington State Transportation Commission By: _____ Date: _____	CITY OF RENTON ATTEST: <i>Bonnie I. Walton</i> Bonnie I. Walton, <i>2/2/09</i> City Clerk

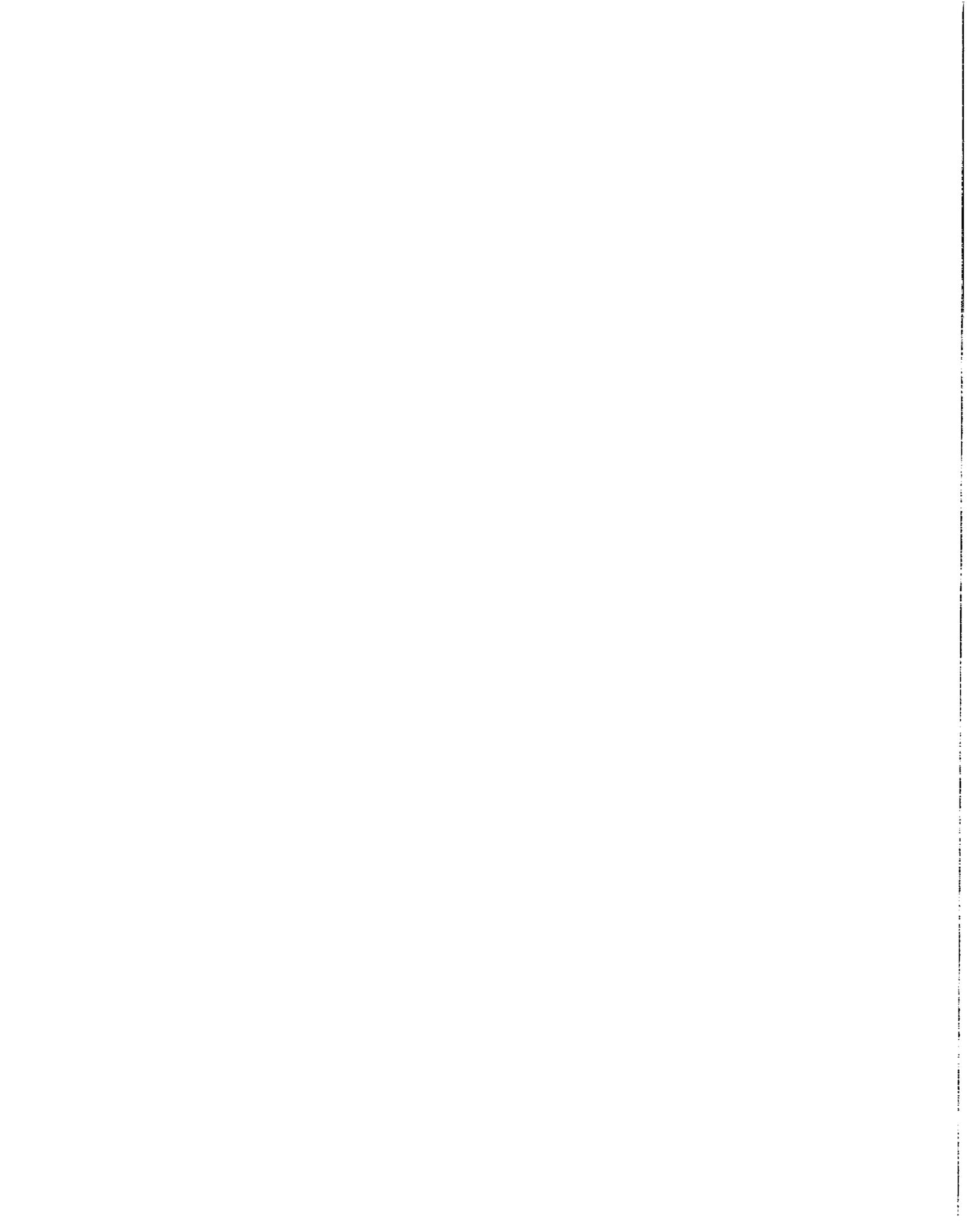


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City of Algona By: _____ Date: _____	City of Auburn By: _____ Date: _____	City of Black Diamond By: _____ Date: _____
City of Burien By: _____ Date: _____	City of Covington By: _____ Date: _____	City of Des Moines By: _____ Date: _____
City of Enumclaw By: _____ Date: _____	City of Federal Way By: _____ Date: _____	City of Kent By: _____ Date: _____
City of Maple Valley By: _____ Date: _____	City of Milton By: _____ Date: _____	City of Normandy Park By: _____ Date: _____
City of Pacific By: _____ Date: _____	City of Renton By: _____ Date: _____	City of Sea Tac By: <u>[Signature]</u> Date: <u>1/23/09</u>
City of Tukwila By: _____ Date: _____	King County By: _____ Date: _____	Muckleshoot Tribe By: _____ Date: _____
Pierce County By: _____ Date: _____	Pierce Transit By: _____ Date: _____	Port of Seattle By: _____ Date: _____
Puget Sound Regional Council By: _____ Date: _____	Sound Transit By: _____ Date: _____	Transportation Improvement Board By: _____ Date: _____
Washington State Department of Transportation By: _____ Date: _____	Washington State Transportation Commission By: _____ Date: _____	

Approved as to Form:

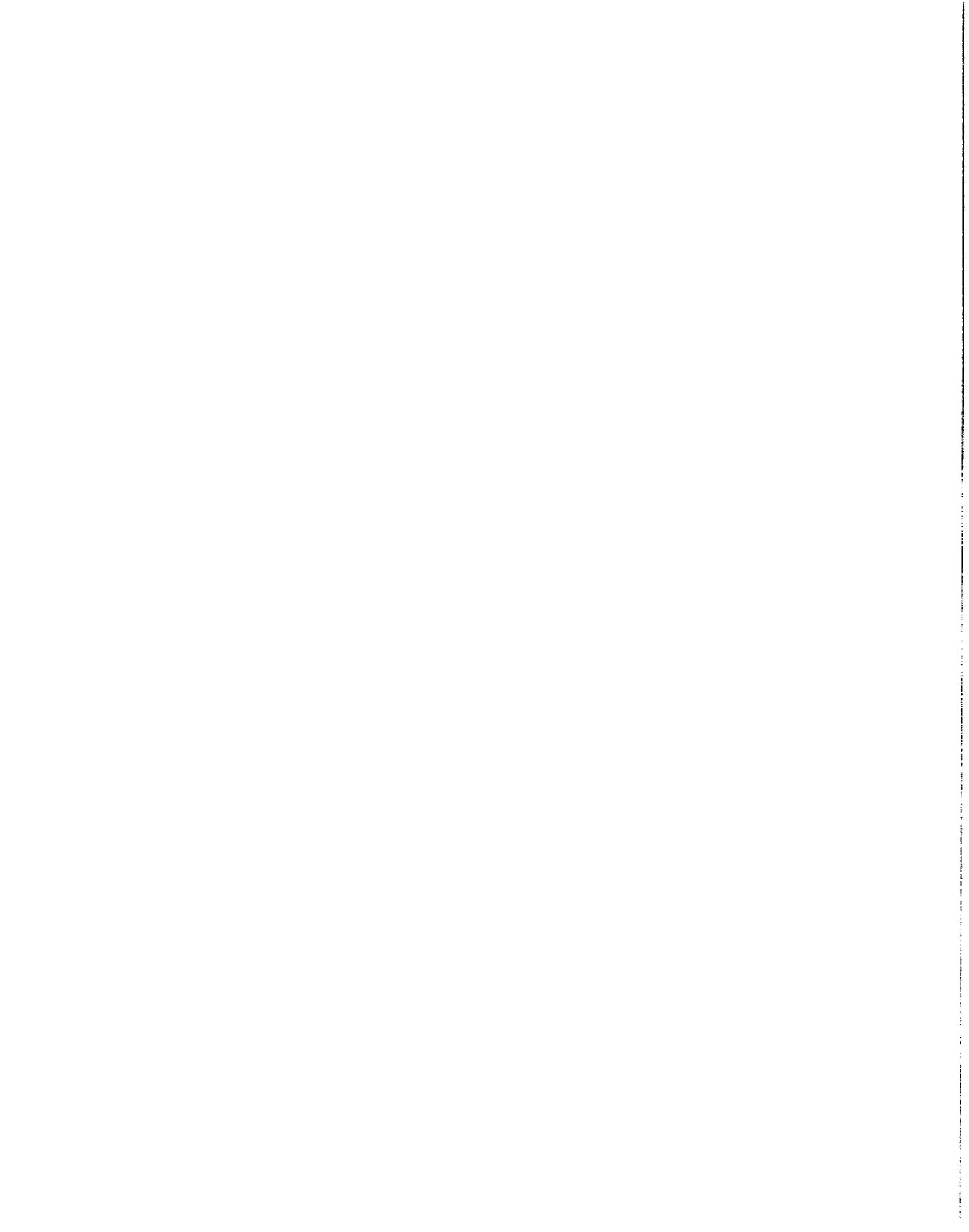
Mary Mirante Bartolo
City Attorney for Seattle



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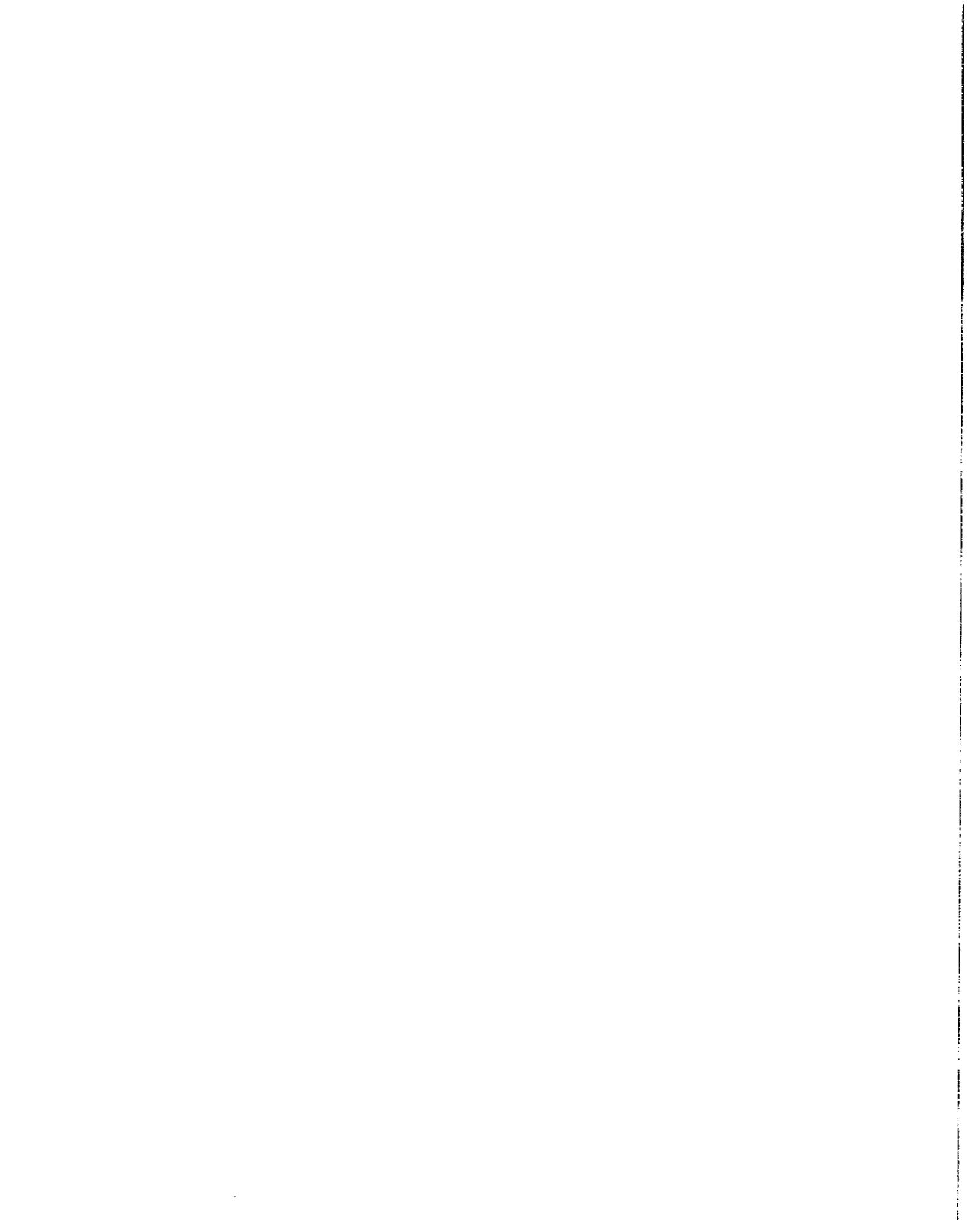
City of Algona By: _____ Date: _____	City of Auburn By: _____ Date: _____	City of Black Diamond By: _____ Date: _____
City of Burien By: _____ Date: _____	City of Covington By: _____ Date: _____	City of Des Moines By: _____ Date: _____
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City of Maple Valley By: _____ Date: _____	City of Milton By: _____ Date: _____	City of Normandy Park By: _____ Date: _____
City of Pacific By: _____ Date: _____	City of Renton By: _____ Date: _____	City of Sea Tac By: _____ Date: _____
City of Tukwila By: <i>Janis Haggart</i> Date: <i>8/19/99</i>	King County By: _____ Date: _____	Muckleshoot Tribe By: _____ Date: _____
Pierce County By: _____ Date: _____	Pierce Transit By: _____ Date: _____	Port of Seattle By: _____ Date: _____
Puget Sound Regional Council By: _____ Date: _____	Sound Transit By: _____ Date: _____	Transportation Improvement Board By: _____ Date: _____
Washington State Department of Transportation By: _____ Date: _____	Washington State Transportation Commission By: _____ Date: _____	

*1st of 2 ORIGINALS
City of Tukwila*



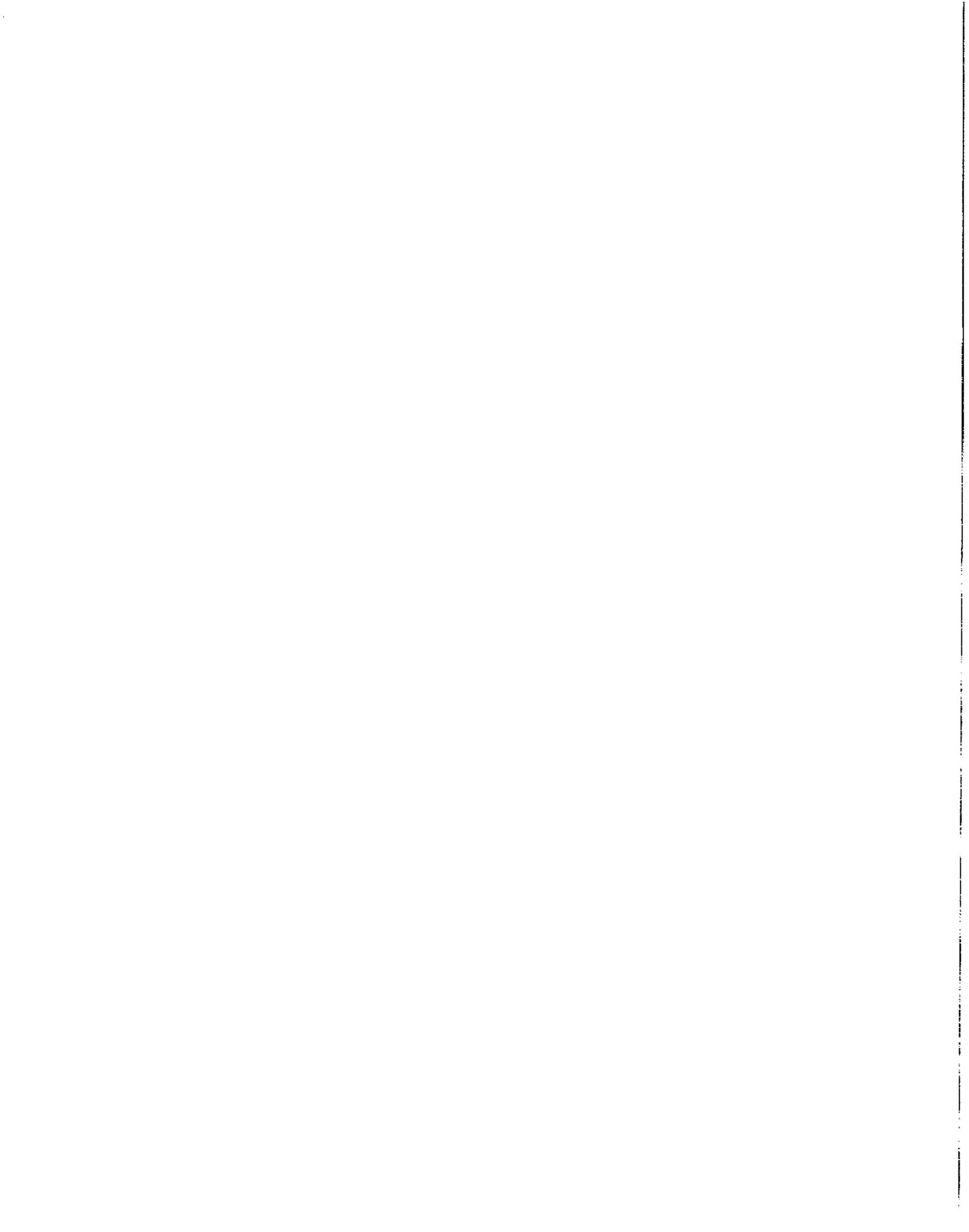
IN WITNESS WHEREOF, the Parties have caused this Agreement to be signed and delivered by its duly authorized officer or representative as of the date set forth below its signature.

City of Algona By: _____ Date: _____	City of Auburn By: _____ Date: _____	City of Black Diamond By: _____ Date: _____
City of Burien By: _____ Date: _____	City of Covington By: _____ Date: _____	City of Des Moines By: _____ Date: _____
City of Enumblcaw By: _____ Date: _____	City of Federal Way By: _____ Date: _____	City of Kent By: _____ Date: _____
City of Maple Valley By: _____ Date: _____	City of Milton By: _____ Date: _____	City of Normandy Park By: _____ Date: _____
City of Pacific By: _____ Date: _____	City of Renton By: _____ Date: _____	City of Sea Tac By: _____ Date: _____
City of Tukwila By: _____ Date: _____	King County By: <i>[Signature]</i> Date: <i>9/9/09</i>	Muckleshoot Tribe By: _____ Date: _____
Pierce County By: _____ Date: _____	Pierce Transit By: _____ Date: _____	Port of Seattle By: _____ Date: _____
Puget Sound Regional Council By: _____ Date: _____	Sound Transit By: _____ Date: _____	Transportation Improvement Board By: _____ Date: _____
Washington State Department of Transportation By: _____ Date: _____	Washington State Transportation Commission By: _____ Date: _____	



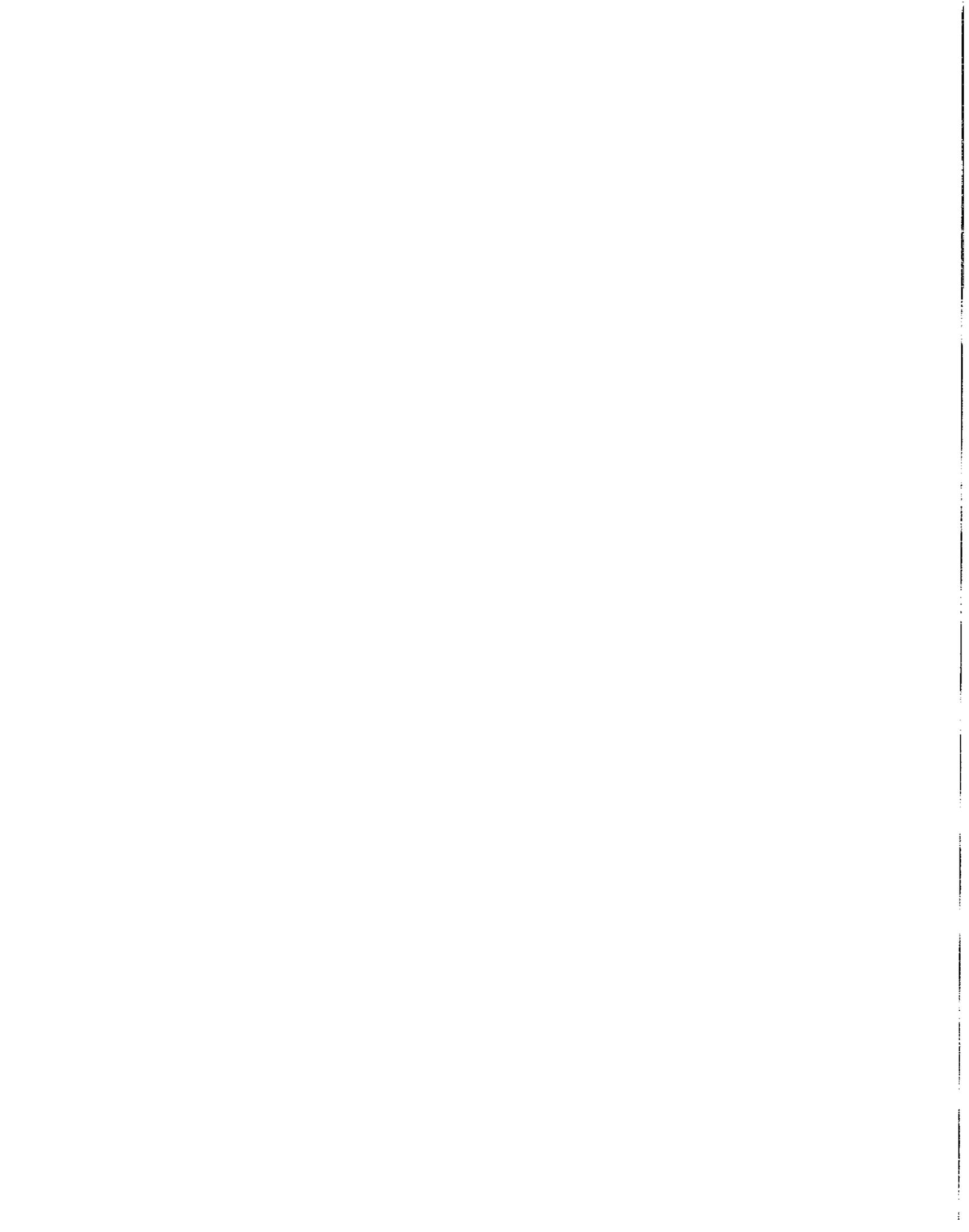
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City of Burien By: _____ Date: _____	City of Covington By: _____ Date: _____	City of Des Moines By: _____ Date: _____
City of Enumclaw By: _____ Date: _____	City of Federal Way By: _____ Date: _____	City of Kent By: _____ Date: _____
City of Maple Valley By: _____ Date: _____	City of Milton By: _____ Date: _____	City of Normandy Park By: _____ Date: _____
City of Pacific By: _____ Date: _____	City of Renton By: _____ Date: _____	City of Sea Tac By: _____ Date: _____
City of Tukwila By: _____ Date: _____	King County By: _____ Date: _____	Muckleshoot Tribe By: <i>Charlotte Williams</i> Date: <i>02-13-09</i>
Pierce County By: _____ Date: _____	Pierce Transit By: _____ Date: _____	Port of Seattle By: _____ Date: _____
Puget Sound Regional Council By: _____ Date: _____	Sound Transit By: _____ Date: _____	Transportation Improvement Board By: _____ Date: _____
Washington State Department of Transportation By: _____ Date: _____	Washington State Transportation Commission By: _____ Date: _____	

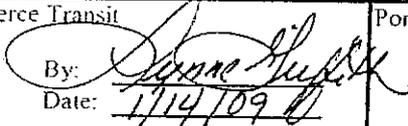


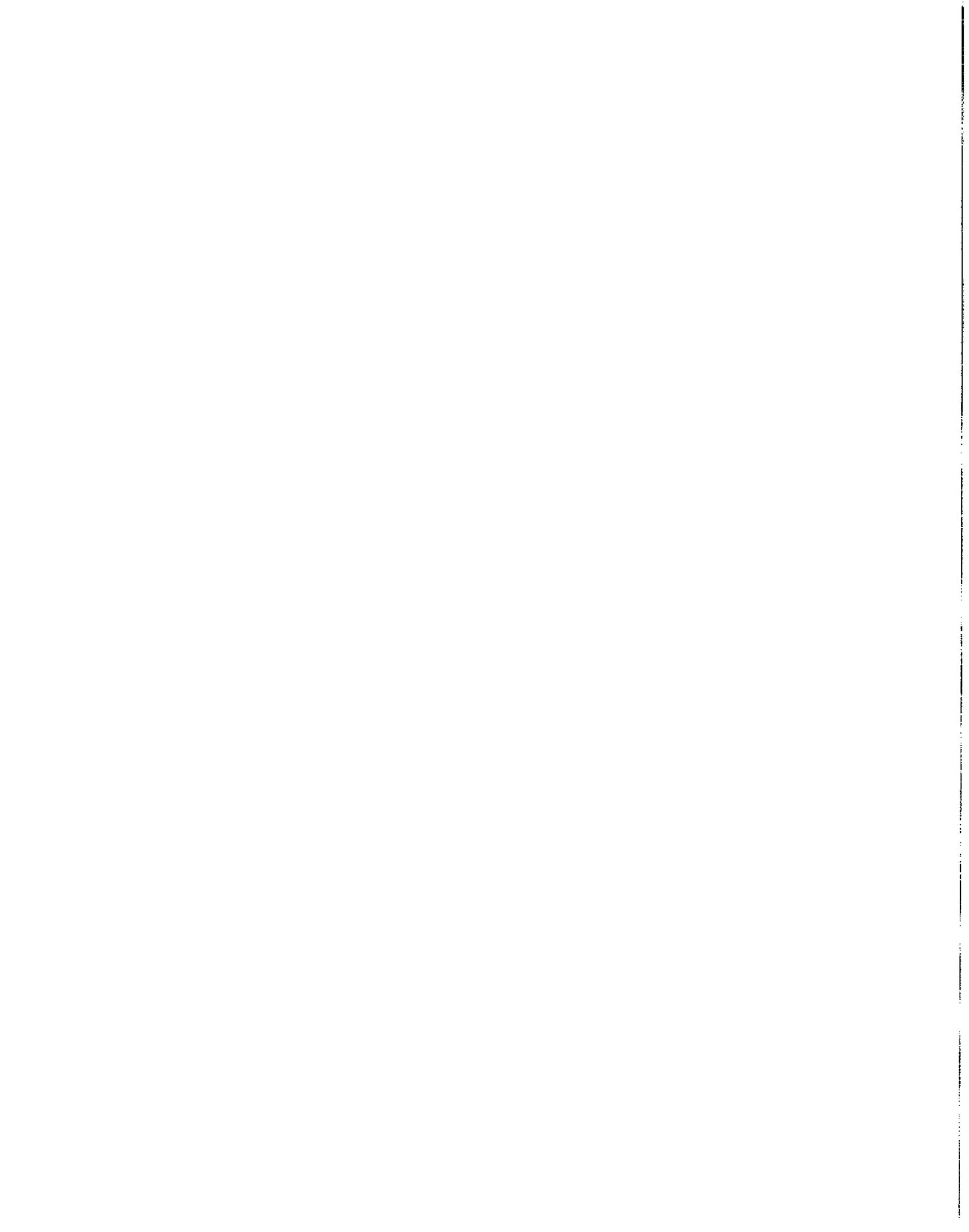
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City of Burien By: _____ Date: _____	City of Covington By: _____ Date: _____	City of Des Moines By: _____ Date: _____
City of Enumclaw By: _____ Date: _____	City of Federal Way By: _____ Date: _____	City of Kent By: _____ Date: _____
City of Maple Valley By: _____ Date: _____	City of Milton By: _____ Date: _____	City of Normandy Park By: _____ Date: _____
City of Pacific By: _____ Date: _____	City of Renton By: _____ Date: _____	City of Sea Tac By: _____ Date: _____
City of Tukwila By: _____ Date: _____	King County By: _____ Date: _____	Muckleshoot Tribe By: _____ Date: _____
Pierce County By: <u>Pat McLaughlin</u> Date: <u>3/24/09</u>	Pierce Transit By: _____ Date: _____	Port of Seattle By: _____ Date: _____
Puget Sound Regional Council By: _____ Date: _____	Sound Transit By: _____ Date: _____	Transportation Improvement Board By: _____ Date: _____
Washington State Department of Transportation By: _____ Date: _____	Washington State Transportation Commission By: _____ Date: _____	



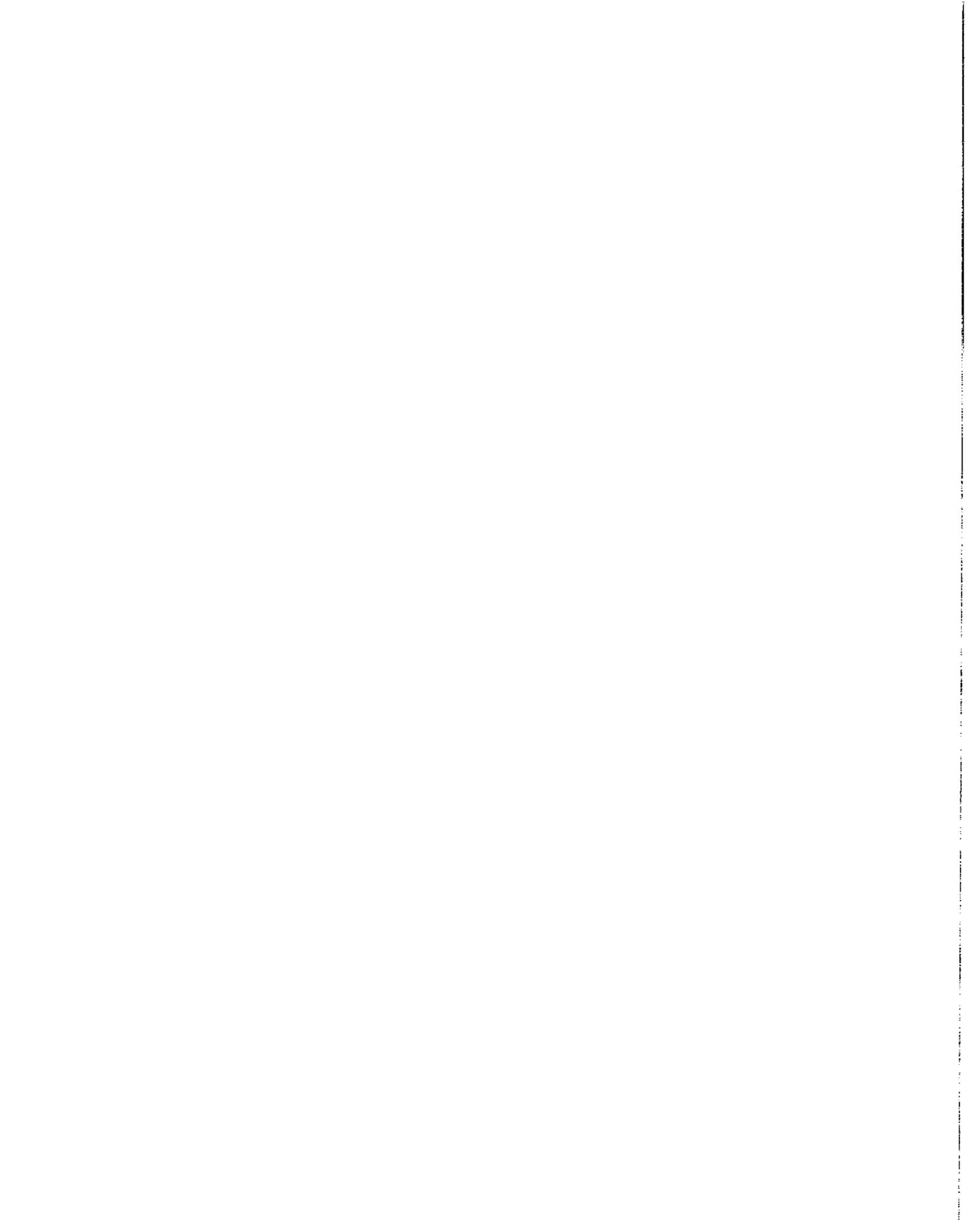
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City of Burien By: _____ Date: _____	City of Covington By: _____ Date: _____	City of Des Moines By: _____ Date: _____
City of Enumclaw By: _____ Date: _____	City of Federal Way By: _____ Date: _____	City of Kent By: _____ Date: _____
City of Maple Valley By: _____ Date: _____	City of Milton By: _____ Date: _____	City of Normandy Park By: _____ Date: _____
City of Pacific By: _____ Date: _____	City of Renton By: _____ Date: _____	City of Sea Tac By: _____ Date: _____
City of Tukwila By: _____ Date: _____	King County By: _____ Date: _____	Muckleshoot Tribe By: _____ Date: _____
Pierce County By: _____ Date: _____	Pierce Transit By:  Date: 1/14/09	Port of Seattle By: _____ Date: _____
Puget Sound Regional Council By: _____ Date: _____	Sound Transit By: _____ Date: _____	Transportation Improvement Board By: _____ Date: _____
Washington State Department of Transportation By: _____ Date: _____	Washington State Transportation Commission By: _____ Date: _____	

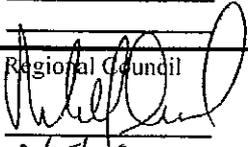


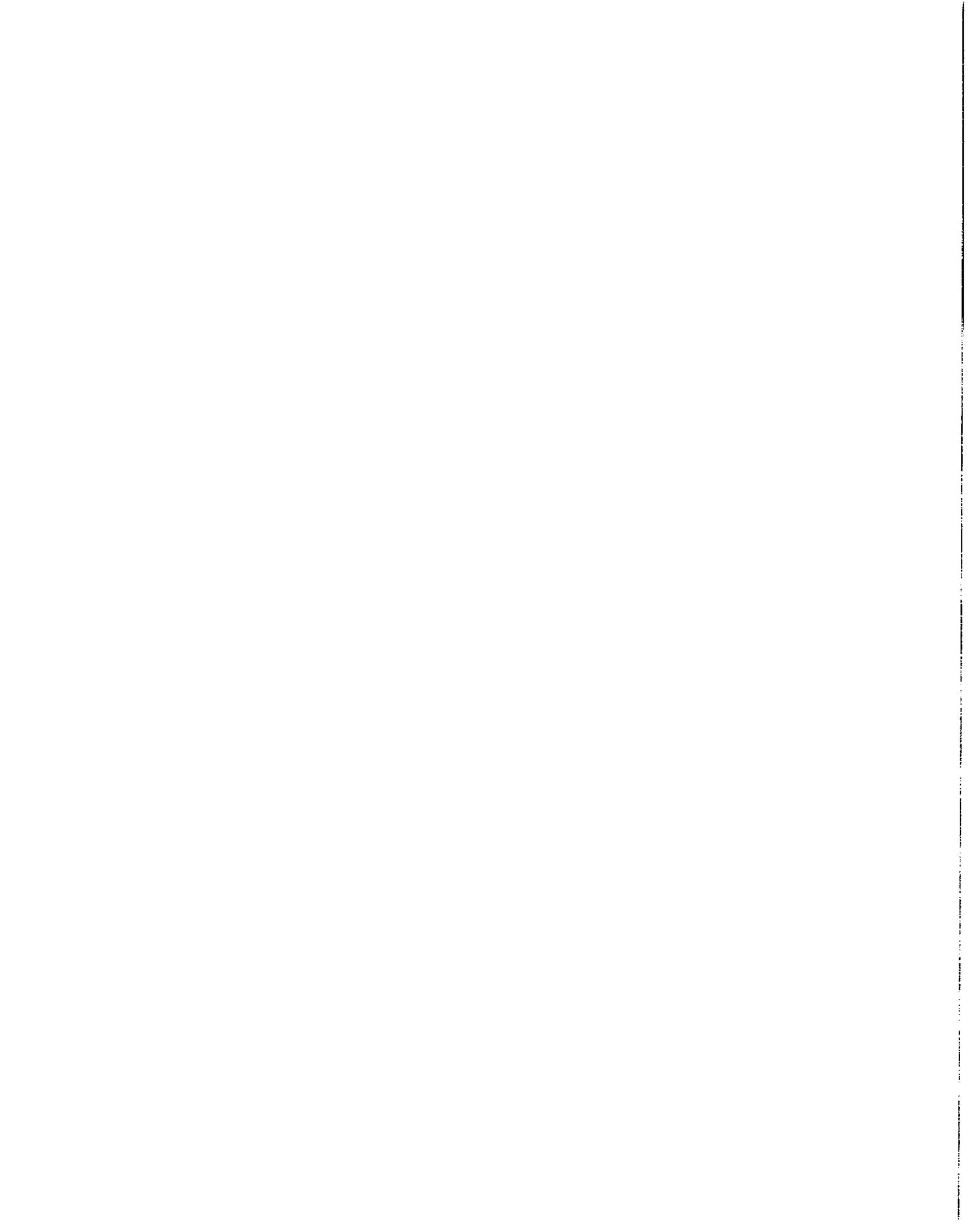
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City of Enumblecaw By: _____ Date: _____	City of Federal Way By: _____ Date: _____	City of Kent By: _____ Date: _____
City of Maple Valley By: _____ Date: _____	City of Milton By: _____ Date: _____	City of Normandy Park By: _____ Date: _____
City of Pacific By: _____ Date: _____	City of Renton By: _____ Date: _____	City of Sea Tac By: _____ Date: _____
City of Tukwila By: _____ Date: _____	King County By: _____ Date: _____	Muckleshoot Tribe By: _____ Date: _____
Pierce County By: _____ Date: _____	Pierce Transit By: _____ Date: _____	Port of Seattle By: <i>[Signature]</i> Date: <i>12/16/09</i>
Puget Sound Regional Council By: _____ Date: _____	Sound Transit By: _____ Date: _____	Transportation Improvement Board By: _____ Date: _____
Washington State Department of Transportation By: _____ Date: _____	Washington State Transportation Commission By: _____ Date: _____	



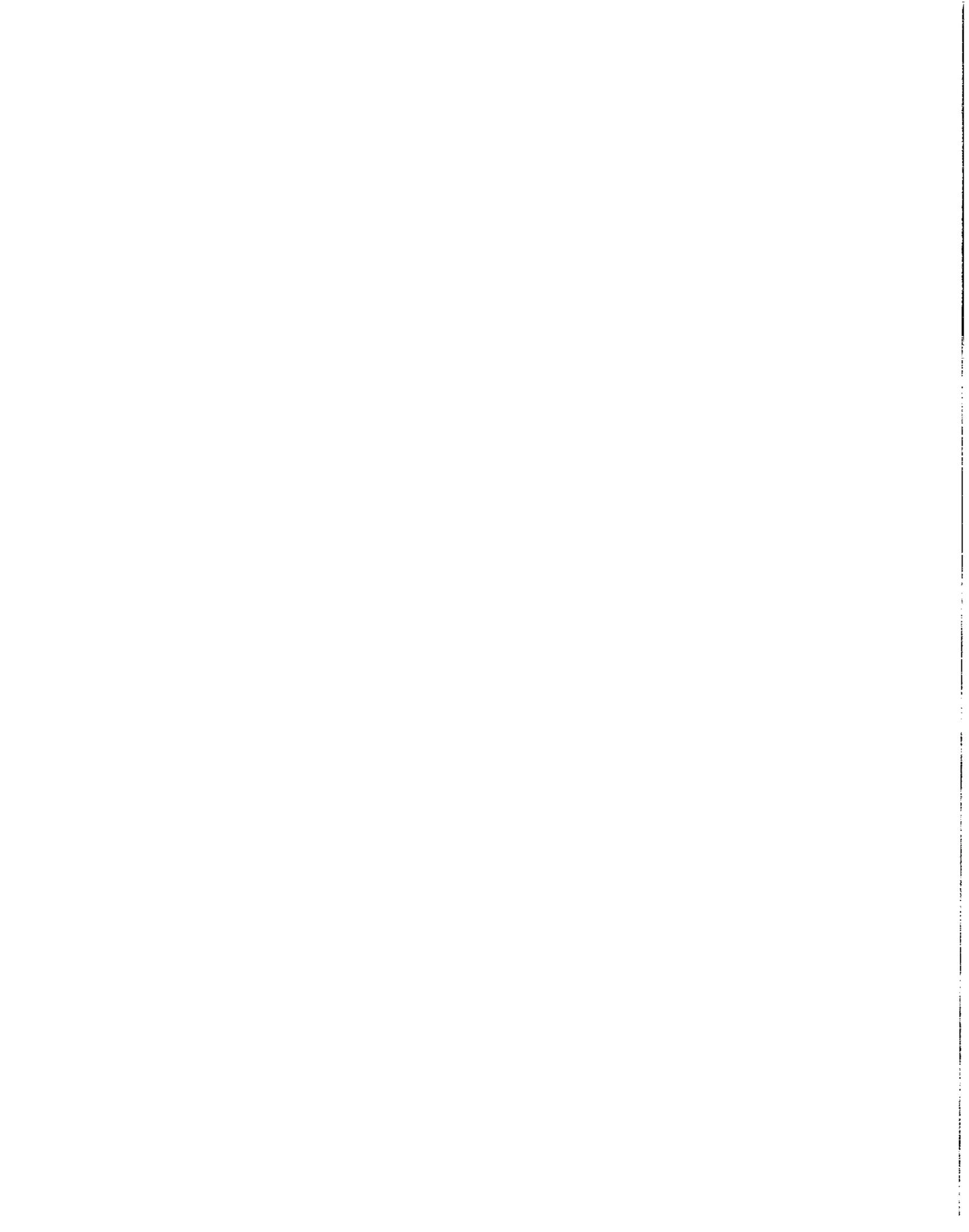
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City of Pacific By: _____ Date: _____	City of Renton By: _____ Date: _____	City of Sea Tac By: _____ Date: _____
City of Tukwila By: _____ Date: _____	King County By: _____ Date: _____	Muckleshoot Tribe By: _____ Date: _____
Pierce County By: _____ Date: _____	Pierce Transit By: _____ Date: _____	Port of Seattle By: _____ Date: _____
Puget Sound Regional Council By:  Date: 7/17/09	Sound Transit By: _____ Date: _____	Transportation Improvement Board By: _____ Date: _____
Washington State Department of Transportation By: _____ Date: _____	Washington State Transportation Commission By: _____ Date: _____	

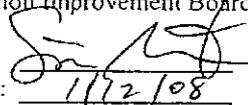


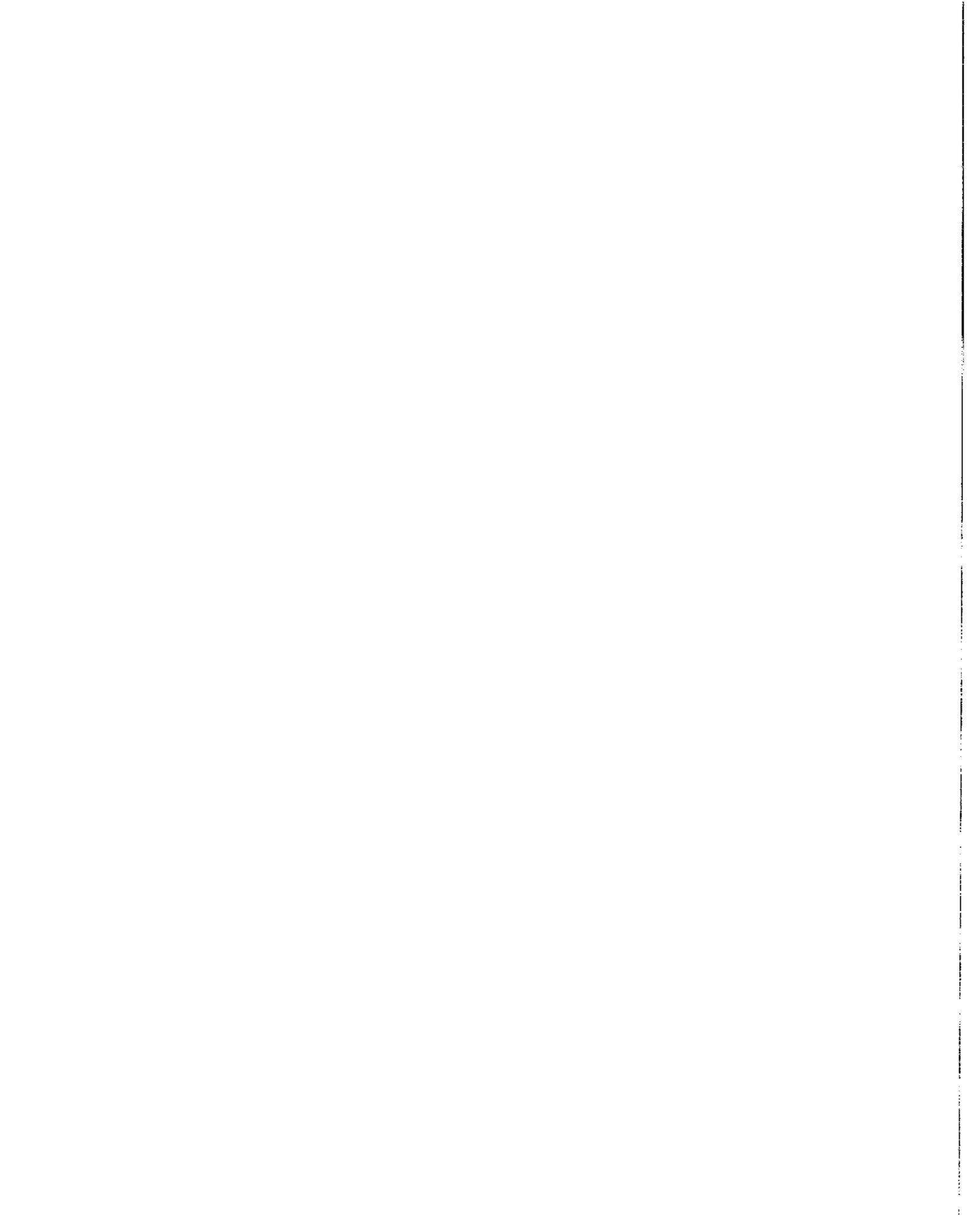
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City of Maple Valley By: _____ Date: _____	City of Milton By: _____ Date: _____	City of Normandy Park By: _____ Date: _____
City of Pacific By: _____ Date: _____	City of Renton By: _____ Date: _____	City of Sea Tac By: _____ Date: _____
City of Tukwila By: _____ Date: _____	King County By: _____ Date: _____	Muckleshoot Tribe By: _____ Date: _____
Pierce County By: _____ Date: _____	Pierce Transit By: _____ Date: _____	Port of Seattle By: _____ Date: _____
Puget Sound Regional Council By: _____ Date: _____	Sound Transit By: <i>Jim Earl</i> Date: <i>12-1-09</i>	Transportation Improvement Board By: _____ Date: _____
Washington State Department of Transportation By: _____ Date: _____	Washington State Transportation Commission By: _____ Date: _____	

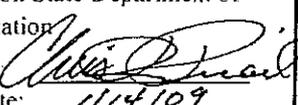


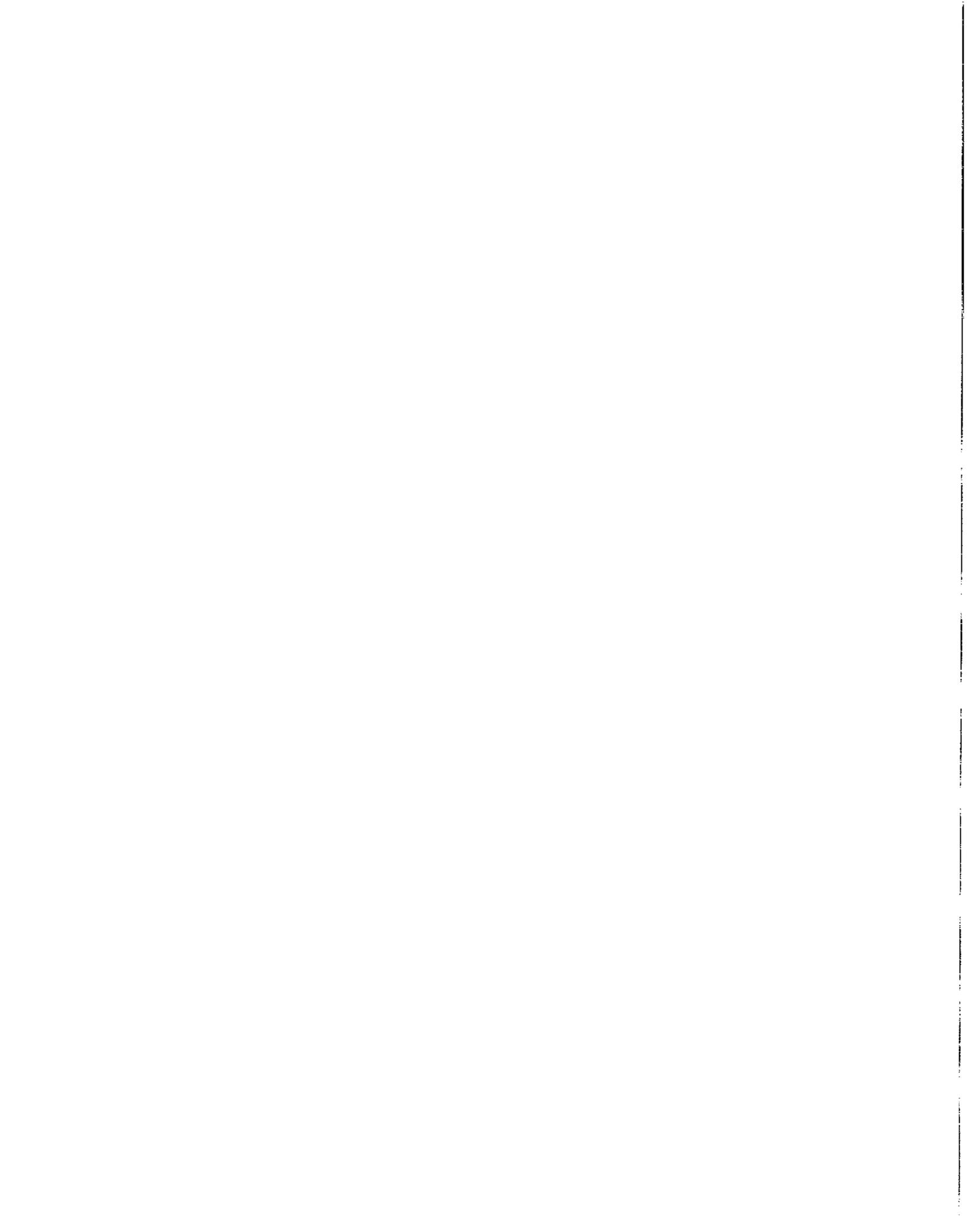
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City of Enumclaw By: _____ Date: _____	City of Federal Way By: _____ Date: _____	City of Kent By: _____ Date: _____
City of Maple Valley By: _____ Date: _____	City of Milton By: _____ Date: _____	City of Normandy Park By: _____ Date: _____
City of Pacific By: _____ Date: _____	City of Renton By: _____ Date: _____	City of Sea Tac By: _____ Date: _____
City of Tukwila By: _____ Date: _____	King County By: _____ Date: _____	Muckleshoot Tribe By: _____ Date: _____
Pierce County By: _____ Date: _____	Pierce Transit By: _____ Date: _____	Port of Seattle By: _____ Date: _____
Puget Sound Regional Council By: _____ Date: _____	Sound Transit By: _____ Date: _____	Transportation Improvement Board By:  Date: 1/12/08
Washington State Department of Transportation By: _____ Date: _____	Washington State Transportation Commission By: _____ Date: _____	

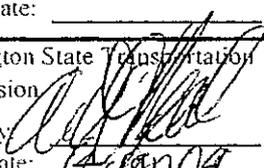


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City of Maple Valley By: _____ Date: _____	City of Milton By: _____ Date: _____	City of Normandy Park By: _____ Date: _____
City of Pacific By: _____ Date: _____	City of Renton By: _____ Date: _____	City of Sea Tac By: _____ Date: _____
City of Tukwila By: _____ Date: _____	King County By: _____ Date: _____	Muckleshoot Tribe By: _____ Date: _____
Pierce County By: _____ Date: _____	Pierce Transit By: _____ Date: _____	Port of Seattle By: _____ Date: _____
Puget Sound Regional Council By: _____ Date: _____	Sound Transit By: _____ Date: _____	Transportation Improvement Board By: _____ Date: _____
Washington State Department of Transportation By:  Date: <u>1/14/09</u>	Washington State Transportation Commission By: _____ Date: _____	



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Pierce County By: _____ Date: _____	Pierce Transit By: _____ Date: _____	Port of Seattle By: _____ Date: _____
Puget Sound Regional Council By: _____ Date: _____	Sound Transit By: _____ Date: _____	Transportation Improvement Board By: _____ Date: _____
Washington State Department of Transportation By: _____ Date: _____	Washington State Transportation Commission By:  Date: 7/26/09	

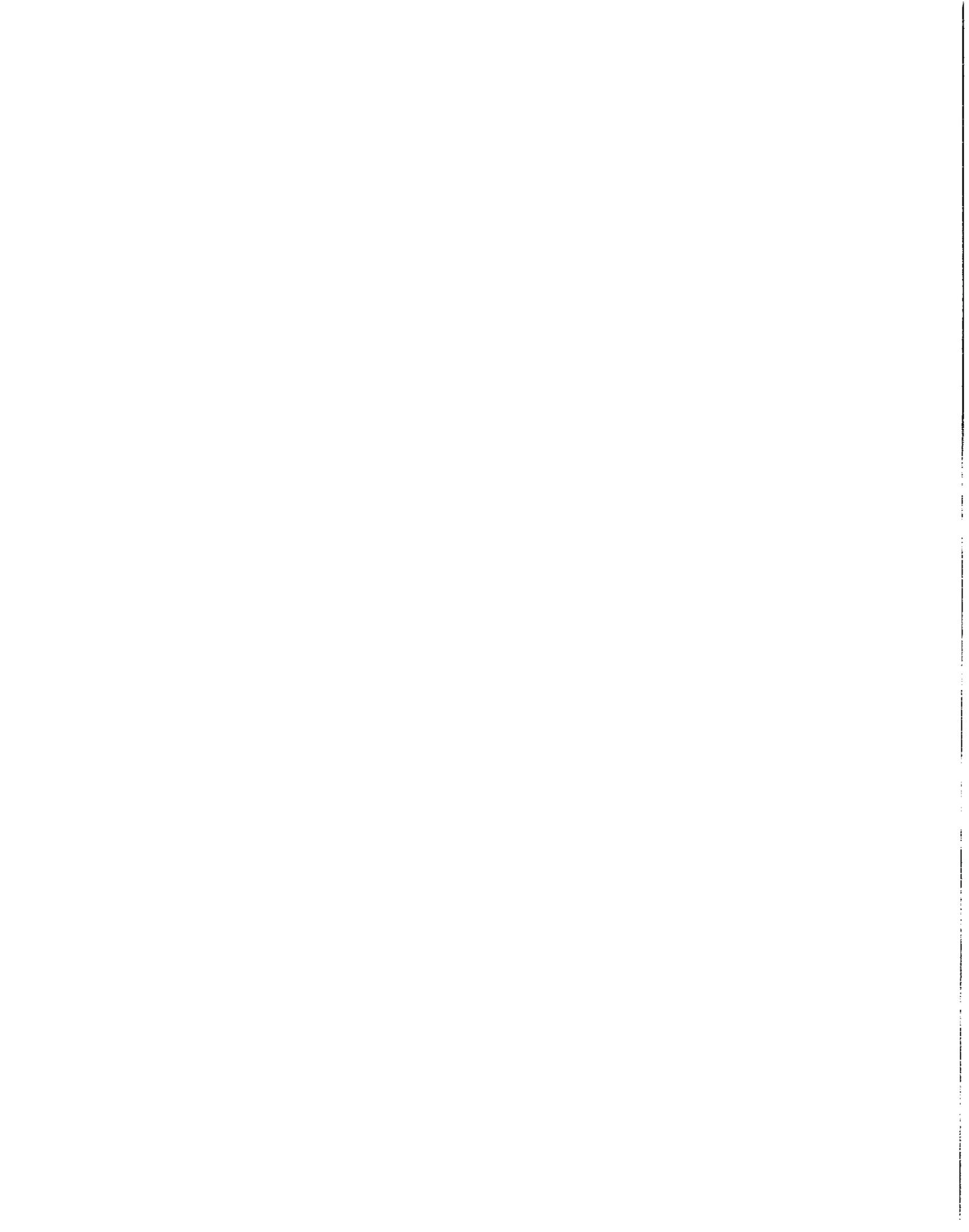


Exhibit A



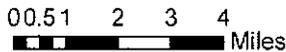
South King County Subarea 2008 South County Area Transportation Board (SCATBd)

-  SCATBd
-  SCATBD and ETP

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King County



-  Cedar River
-  Roads

