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BEFORE THE HEARING EXAMINER  
CITY OF SEATTLE

In the Matter of the Appeal of:  
  
**THE BALLARD COALITION**  
  
Of the adequacy of the Final Environmental  
Impact Statement, prepared by the Seattle  
Department of Transportation for the Burke-  
Gilman Trail Missing Link Project,  
  
Appellants.

Hearing Examiner File  
  
W-17-004  
  
DECLARATION OF MATTHEW COHEN IN  
SUPPORT OF CASCADE BICYCLE CLUB'S  
MOTION TO INTERVENE

I, Matthew Cohen, am over the age of 18 and competent to testify herein:

1. I am an attorney with Stoel Rives LLP and represent Cascade Bicycle Club ("Cascade" or "the Club"). I am providing this declaration in support of Cascade's Motion to Intervene. I have personal knowledge of the matters set forth herein and, if called to testify, could and would competently testify thereto.

2. Attached hereto as Exhibit A is a true and correct copy of the June 6, 2012 Prehearing Order granting Cascade Bicycle Club's Motion to Intervene in Seattle Hearing Examiner case W-12-002.

3. Attached hereto as Exhibit B is a true and correct copy of Order on Motion to Intervene, Hearing Examiner File W-11-002 (Mar. 16, 2011).

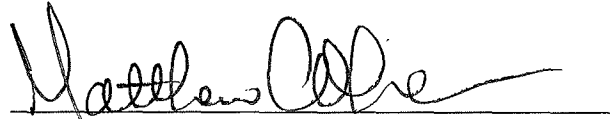
DECLARATION OF MATTHEW COHEN  
W-17-004

1           4.       Attached hereto as Exhibit C is a true and correct copy of Prehearing Order,  
2 Hearing Examiner File W-08-007 (Jan. 16, 2009).

3           5.       Attached hereto as Exhibit D is a true and correct copy of the July 28, 2016 letter  
4 from Cascade Bicycle Club Executive Director Elizabeth Kiker to Seattle Department of  
5 Transportation Director Scott Kubly, commenting on the Draft Environmental Impact Statement  
6 on the Missing Link.

7           I certify under penalty of perjury pursuant to the laws of the State of Washington  
8 that the foregoing is true and correct.

9           Sworn this 19th day of June, 2017, at Seattle Washington.

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11  
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14 Matthew Cohen, WSBA #11232  
15 Stoel Rives LLP  
16 600 University Street, Suite 3600  
17 Seattle, WA 98101  
18 Phone: (206) 386-7569  
19 Fax: (206) 386-7500  
20 Email: [matthew.cohen@stoel.com](mailto:matthew.cohen@stoel.com)

21 Attorney for Intervenor Cascade Bicycle Club  
22  
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24  
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26

DECLARATION OF MATTHEW COHEN  
W-17-004

- 2 -

1 **CERTIFICATE OF SERVICE**

2 I, Judy A. Shore, certify that on this date of June 19, 2017, I filed a copy of the foregoing  
3 document, *Declaration of Matthew Cohen*, with the Seattle Hearing Examiner. I also certify  
4 that on this date I caused to be served a true and correct copy of the foregoing on the following  
5 persons in the manner listed below:  
6

7 Joshua C. Brower  
8 Danielle N. Granatt  
9 Leah B. Silverthorn  
10 Veris Law Group PLLC  
11 1809 Seventh Ave., Suite 1400  
12 Seattle, WA 98101  
13 Tel: 206-829-9590  
14 Fax: 206-829-9245

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- Via E-mail  
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16 The Ballard Coalition

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23 Attorneys for Plaintiff/Petitioner  
24 The Ballard Coalition

25 Erin E. Ferguson  
26 Asst. Seattle City Attorney  
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Tel: 206-684-8200

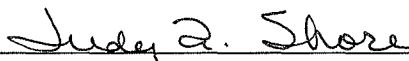
- Via Hand Delivery
- Via E-mail  
[erin.ferguson@seattle.gov](mailto:erin.ferguson@seattle.gov)  
[alicia.reise@seattle.gov](mailto:alicia.reise@seattle.gov)
- Via Fax
- Via Overnight Delivery

27 Attorney for Defendant  
28 City of Seattle Department of Transportation

29 DECLARATION OF MATTHEW COHEN  
30 W-17-004

1 I certify under penalty of perjury under the laws of the state of Washington that the  
2 foregoing is true and correct.

3 DATED: June 19, 2017 at Seattle, Washington.  
4

5   
6 \_\_\_\_\_  
7 Judy A. Shore, Practice Assistant  
8 STOEL RIVES LLP  
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DECLARATION OF MATTHEW COHEN  
W-17-004

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**BEFORE THE HEARING EXAMINER  
CITY OF SEATTLE**

ARAMBURU & EUSTIS

In the Matter of the Appeals of

**BALLARD BUSINESS APPELLANTS**

Hearing Examiner file:  
**W-12-002**

From a Determination of Nonsignificance  
Issued by the Director, Seattle Department of  
Transportation (SDOT)

**PREHEARING ORDER**

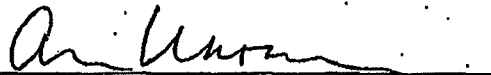
A prehearing conference was held on this matter on June 6, 2012. Represented at the conference were the Appellants, Ballard Business Appellants, by Joshua Brower, Patrick Schneider, and Danielle Granatt, attorneys at law; the Director, by Erin Ferguson, Assistant City Attorney; and the Cascade Bicycle Club, by Jeffrey Eustis, attorney at law.

The Cascade Bicycle Club's Motion to Intervene is granted.

The following schedule in this matter is hereby ordered:

June 15, 2012:	SDOT motion to dismiss certain issues to be filed and served.
June 20, 2012:	Stipulated schedule for disclosure of witnesses and exhibits; absent a stipulation by this date, the Examiner will issue an order setting the schedule.
June 25, 2012:	Responses to motion to be filed and served.
July 2, 2012:	SDOT reply to be filed and served.
July 18, 2012:	Hearing commences at 9:00 a.m.
August 1, 2012	Second day of hearing commences at 9:00 a.m. August 2 has also been reserved for additional hearing time if needed.

Entered this 6<sup>th</sup> day of June, 2012.

  
\_\_\_\_\_  
Anne Watanabe  
Deputy Hearing Examiner  
Office of Hearing Examiner  
P.O. Box 94729  
Seattle, Washington 98124-4729  
(206) 684-0521 FAX: (206) 684-0536

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ARAMBURU & ELLIOTT

**BEFORE THE HEARING EXAMINER  
CITY OF SEATTLE**

**BEFORE THE HEARING EXAMINER  
CITY OF SEATTLE**

In the Matter of the Appeal of

**THE BALLARD BUSINESS APPELLANTS**

Hearing Examiner File:  
**W-11-002**

from a Revised Determination of Non-Significance,  
(DNS) issued by the Director, Seattle Department  
of Transportation, regarding the Burke-Gilman trail

**ORDER ON MOTION  
TO INTERVENE**

On March 15, 2011, the Cascade Bicycle Club, submitted a request for intervention. In  
accord with Hearing Examiner Rule 3.09, the request for intervention is **GRANTED**.

Entered this 16<sup>th</sup> day of March, 2011.



\_\_\_\_\_  
Anne Watanabe, Deputy Hearing Examiner  
Office of Hearing Examiner  
P.O. Box 94729  
Seattle, Washington 98124-4729  
Phone: (206) 684-052  
Fax: (206) 684-0521

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**BEFORE THE HEARING EXAMINER  
CITY OF SEATTLE**

In the Matter of the Appeal of

Hearing Examiner File:  
**W-08-007**

**THE BALLARD BUSINESS APPELLANTS**

from a decision issued by the Director,  
Department of Planning and Development

**PREHEARING  
ORDER**

A prehearing conference was held in this case on January 16, 2009. The Appellant, Ballard Business Appellants, was represented by Joshua C. Allen Brower, attorney-at-law; and the Director, Seattle Department of Transportation (Department), was represented by Judith B. Barbour, Assistant City Attorney. Also present and participating in the conference was Jeffrey M. Eustis, attorney-at-law, on behalf of Cascade Bicycle Club, which has filed a motion to intervene in the case.

At the prehearing conference, the Appellant stated that it did not oppose Cascade Bicycle Club's intervention in this matter. The Department also does not oppose the motion to intervene. Therefore, Cascade Bicycle Club's motion to intervene is **GRANTED**.

The Department moved for dismissal of the Appellant's Issue 4.13 on alternative alignments for the proposal at issue, and the Hearing Examiner granted the motion.

The parties also discussed procedural matters and reached agreement on the following schedule, (all dates are 2009), which is therefore **ORDERED**:

January 23                      The Department shall provide to all other parties copies of all materials considered by the Director in issuing the DNS being appealed.

and

All prehearing motions relating to the issues on appeal shall be filed and served.

January 30                      The Appellant shall file and serve its revised preliminary witness list.\*\*

and


The Appellant shall file and serve its response to any prehearing motions relating to the issues on appeal.

February 6                      Any reply memoranda on motions relating to issues on appeal shall be filed and served.

- February 25            The Appellant shall file and serve its final witness and exhibit lists,\*\* and shall provide the opposing parties with a copy of any reports produced by its expert witnesses.
- March 11              The Department and Intervenor shall file and serve their final witness and exhibit lists\*\* and shall provide the Appellant with a copy of any reports produced by their expert witnesses that were not included in materials provided to the Appellant pursuant to this order.
- March 23  
at 9:00 a.m.          Hearing on the merits of the appeal. (March 24 has also been reserved on the Hearing Examiner's calendar if needed to complete the hearing.)

\*\*Witness lists must include the names of witnesses and a brief summary of their expected testimony. If a witness will be testifying as an expert, a statement of qualifications must be included. Except for purposes of impeachment or rebuttal, only those witnesses and exhibits listed by a party may be offered by that party at hearing.

Entered this 16th day of January, 2009.

  
Sue A. Tanner, Hearing Examiner  
Office of Hearing Examiner  
P.O. Box 94729  
Seattle, Washington 98124-4729  
Phone: (206) 684-0521  
FAX: (206) 684-0536





Improving Lives Through Bicycling  
7787 62nd Avenue NE Seattle, WA 98115-8155  
P (206) 224-9252 • www.cascade.org • info@cascade.org

Facebook: /CascadeBicycleClub Twitter: @cascadebicycle Instagram: @cascadebicycle

July 28, 2016

Scott Kubly, Director  
Seattle Department of Transportation  
c/o Mark Mazzola, Environmental Manager  
P.O. Box 34996  
Seattle, WA, 98124-4996

**RE: Cascade Bicycle Club's comments regarding the DEIS for the Burke-Gilman Trail Missing Link Project.**

Dear Scott,

On behalf of Cascade Bicycle Club (Cascade) and our more than 17,000 members, we appreciate the opportunity to comment on Seattle Department of Transportation (SDOT) Draft Environmental Impact Statement (DEIS) for the Burke-Gilman Trail Missing Link Project.

**The Vision of the Burke-Gilman Trail**

The vision of the Burke-Gilman Trail has been a single, seamless multi-use trail from Bothell to Golden Gardens Park along the historic rail line of Judge Thomas Burke and Daniel Gilman. For more than 40 years, Seattleites and the Seattle City Council have embraced this plan, and it is time to complete the Missing Link of the Burke-Gilman Trail.

The Burke-Gilman Trail has never been just a bicycle route, although it is one of the most important bicycle connectors in the city. It is a place for people to walk their dog, skateboard, rollerblade, push a stroller and so many more ways of getting around. As such, the Missing Link needs to function as a *direct, safe and simple route that connects the trail for all who want to use it.*

The final EIS must address the vision to create a dedicated route that serves all the users of the multi-use trail. Long detours out of direction of travel or multiple delays for intersection crossings aren't realistic for those walking, jogging or using the trail by other means and do not accomplish the goal of completing the Missing Link.

**Cascade wants the preferred alternative of the Missing Link of the Burke-Gilman Trail to be safe, simple and connected.** The four alternatives presented in the DEIS were reviewed using these criteria to ensure the chosen alternative worked for all users regardless of whether people were walking or rolling down the trail.

## **Safe**

The proposed alternative must be safe for people of all ages and abilities who walk, pedal or roll on the trail. In the EIS Scoping process, safety was the overwhelming concern of the vast majority of respondents, and creating a safe multi-use trail is one of the project's main objectives. Current conditions do not create predictability for drivers and trail users and do not provide separation and delineation of the corridor.

### **No Build Alternative**

This alternative is not currently safe, with on average more than one person per month being hospitalized due to injuries incurred along the Missing Link. The rate of injuries will rise with the expected increase in population and employment in the study area. Additionally, a no-build alternative does not continue the Burke-Gilman Trail experience for those who are walking or using other non-motorized transportation. It fails to accommodate users of all ages and abilities given the road conditions, lack of separation from vehicles and lack of intersection improvements. The DEIS safety data highlights the high incidence of non-motorized incidents along Shilshole that would not be addressed if any of the non-Shilshole alternatives are chosen. The DEIS also states that bicycle volumes are expected to increase at a higher rate than motor vehicles, and therefore there is a real threat that motor vehicle-bicycle collisions could occur at a higher rate in the no-build alternative. Page 5-7 of the Transportation Discipline Report states, **"If dedicated bicycle facilities are not provided to allow cyclists to avoid or safely traverse areas with obstacles such as railroad tracks, the number of nonmotorized incidents is expected to increase as nonmotorized volumes increase in the study area."**

### **Shilshole South**

The Shilshole South alternative will improve safety for all users, including drivers of trucks, and it provides a separated place for trail users so they do not have to use the general purpose lanes on Shilshole Ave. Additionally it will improve driveway crossing to maximize sightlines and will greatly reduce the number of people riding or walking in/near the street to connect the two existing sections of the Burke-Gilman Trail. The Shilshole South alternative will likely generate the most use, as it is the shortest and most direct of the proposed alternatives. In addition, it is the desired line of many trail users since it follows the historic rail line. Shilshole South also has the fewest intersections, which are often a conflict zone in terms of nonmotorized and motorized uses. Fewer intersections result in a safer trail experience. Although it has 41 driveway crossings, the DEIS also noted that this option has the fewest driveways with sight distance concerns, which should improve safety for freight and trail users. This will increase safety of both motorists and trail users with improved sightlines, making it much easier and safer for trucks and other users to cross the trail.

### **Shilshole North**

The Shilshole North alternative will also improve safety for all users, but crosses many more roadways (14) than the Shilshole South option. The DEIS has also determined that Shilshole North has the most driveways with sight distance concerns. Additionally, many users may have safety concerns about riding on the trail on NW Market, depending on ultimate design that is used. NW 46th St and 14th Ave NW was identified in the DEIS as an intersection with five or

more collisions in the three-year period, which would need to be addressed in the design of the Missing Link if that route is chosen.

### **Both Shilshole Alternatives**

If a non-Shilshole alternative is chosen, Seattle Department of Transportation (SDOT) will still need to make much needed safety improvements to Shilshole. As stated earlier, without improvements, the DEIS expects bicycle crashes to continue to rise due to increased traffic and more people choosing to bicycle.

### **Ballard Avenue**

While the Ballard Avenue alternative would improve safety over current conditions, it would likely be less safe than the Shilshole South or North alternatives. It crosses 16 roadway intersections (four times as many as Shilshole South) and has a similar number of driveway/load zone crossings as Shilshole South (42). These intersection crossings all impact safety, comfort and convenience of the trail. An additional safety concern on the Ballard Avenue alternative is conflict between pedestrians and bicyclists or other wheeled users along the Ballard Avenue stretch, especially when the Farmer's Market is operating on Sundays. As presented, the potential delay of crossing NW Market twice in short succession (three blocks) would most likely result in many users not crossing and using either the sidewalk or roadway along NW Market to rejoin this alternative at 28th Ave NW if heading west, creating worse conditions for people walking on the sidewalk along Market. Both NW Market St and Leary Ave NW were identified in the DEIS as an intersection with five or more collisions in the three-year period, which would need to be carefully addressed in the design of the Missing Link if that route is chosen.

### **Leary**

Leary crosses the fewest driveways (33) of the four alternatives, but crosses 13 roadway intersections that have the potential to decrease safety and comfort. Leary impacts pedestrians with sidewalk reductions planned for NW Market Street that could lead to potential conflicts and a less safe experience on this portion of the route. **Four of the five intersections with the highest concentrations of collisions in a three-year period involved Leary.** They are 15th Ave NW northbound and NW Leary Way; NW Market St and Leary Ave NW; NW Leary Way and 14th Ave NW; and NW Leary Way and 11th Ave NW. These facts from the DEIS suggest that a Leary alternative would need to carefully address safety concerns for all users in order to make it a comfortable experience. The Transportation Discipline Report also shows Leary as having the highest traffic volumes and the highest daily truck volumes of any of the streets on the four alternatives studied.

### **Simple**

The route of the Burke-Gilman Trail from the the Sammamish River Trail in Bothell to Ballard is simple and intuitive to navigate. One needs limited wayfinding unless they are leaving the trail for adjacent destinations and it follows an extremely obvious route. A map is not necessary, and the feel of the trail is mostly consistent. The word "direct" is used in the project objectives, and Cascade wants to see a route that is both direct and convenient for trail users. The final preferred alternative for the Missing Link also needs to be extremely simple and straightforward with limited out-of-direction travel, which is especially a concern for those not traveling by bicycle.

### **Shilshole South**

Shilshole South is the most direct route and is the historic railbed route with the least roadway intersections. These characteristics make it the most simple of the four alternatives studied in the DEIS to navigate. The directness of the route is important for those who bicycle, but even more important for people walking or running. Shilshole South is also simplest in terms of utility relocation according to the DEIS, with the other alternatives needing more extensive utility work. In addition, it requires no removal of loading zones and has the fewest driveways with sight concerns. The DEIS also states this route is likely to be the preferred route for commuters since there are no signalized intersections.

### **Shilshole North**

Shilshole North is relatively simple but includes more turns to connect the two existing sections of the Burke-Gilman Trail. It also has many more roadway intersections to navigate, which make it less intuitive and increase delay for those using the trail, and driveways with sight concerns also make this a more complicated option relative to Shilshole South. Shilshole North also includes potential impacts to transit that Shilshole South does not.

### **Ballard Avenue**

As presented in the DEIS, the Ballard Avenue alternative is the least intuitive of all the routes. It crosses NW Market twice, which is a street with over 24,000 trips a day on it. Crossing a busy roadway like this will result in delay and attract minimal use from either commuters or people just using the trail for recreation. As presented, this is the least intuitive and simple of the routes for creating an all ages multi-use trail experience. This alternative also includes five signalized intersections that would further hinder the function of this alternative and introduce longer travel times for trail users.

### **Leary**

Leary Avenue NW also lacks simplicity. It would require a trail user to navigate 13 intersections including multiple turns, and it introduces potential for conflict along NW Market with other street users. This route also increases transit delay along the route. Overall, the route has the potential to delay transit and motor vehicle traffic, and it lacks benefits for trail users looking to maintain the Burke-Gilman Trail experience. It includes eight signalized intersections, which is the most of any of the alternatives. This would most likely make it much less used than other choices and not be a suitable substitute for the Missing Link.

### **Connected**

The Missing Link of the Burke-Gilman Trail needs to not only make connections through the Ballard neighborhood, but it needs to function as part of the larger region. It completes the connection from the Sammamish River Trail in Bothell to Seattle's Golden Gardens park. In addition, this area provides important regional connections for freight and transit including those dependent on water access.

### **Shilshole South**

Shilshole South follows the historic route of the railroad and maintains the most consistent trail experience of the four options. It is also the shortest connection between the two existing

sections of trail. It also results in zero loss of designated loading zones that could impact freight negatively. The DEIS states that the Shilshole South alternative would maintain or improve traffic flow along this trail segment, which contributes to connectivity. This alternative also addresses the needs of current users who will continue to follow the historic route through Ballard along Shilshole. This alignment also maintains connections; the trail would not prohibit access to any properties. While Shilshole South does not connect directly to the local business district, it is an easy connection from this route. Additionally, Shilshole South has no impacts to transit connections.

### **Shilshole North**

While Shilshole North shares the same general corridor as the south option, it is not as connected from a variety of perspectives. Shilshole North has the highest number of uses that are dependent on loading zones and would remove the most loading zone access points (24) of any of the options. The alternative would impact up to six access points to accommodate the trail in the City's right of way, which would have the potential to affect how businesses operate along this alignment. It is the second shortest connection of any of the routes. Shilshole North has the potential to delay transit, which does not help with neighborhood and regional transit connections.

### **Ballard Avenue**

The Ballard Avenue route connects the two existing ends of the Burke-Gilman Trail, but does little to advance connectivity in the neighborhood. As mentioned above, this route as presented in the DEIS lacks any intuitive connectivity. It is also the longest route at 1.65 miles of any of the studied alternatives. As presented, it will be hard to replicate the trail experience with two crossings of NW Market and much out of direction travel. This route also will conflict with the longstanding Ballard Farmer's Market, which would result in either a disconnect of the trail or closing the trail for the market every Sunday, neither of which are acceptable options for the completion of the Missing Link.

### **Leary**

Leary Avenue is the second longest (1.54 miles) of the alternatives presented. It lacks connectivity due to out-of-direction travel on the east end. It would also have a different feeling than the majority of the trail due to higher traffic volumes on Leary and NW Market. It also does not improve transit reliability, with the potential delays on both NW Market St and Leary Ave NW. Leary includes impacts to freight operations as well, with increased delays at four intersections including the 15th Ave NW/NW Leary northbound and southbound off-ramps, which is an issue since it carries the most freight traffic.

### **Other Alternatives**

Cascade appreciates other stakeholder alternatives that include protected bike lanes and other accommodations for trail users through the study area. While a protected bike lane alternative on Leary would be an improvement for street safety including people riding bikes, it is not the Burke-Gilman Trail, nor is it a route that would work for those walking, skateboarding or scootering. It doesn't allow families to roll walk, bike and scooter together. It does not meet the needs of current and future Burke-Gilman Trail users who use the Burke-Gilman Trail for transportation, recreation and linear open space.

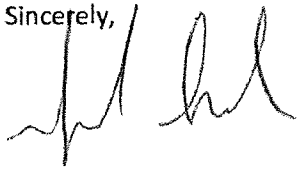
**Additions**

The DEIS does not detail what proposed fixes to Shilshole Ave would need to occur if another alternative is chosen. A no-build option is in direct conflict with Seattle's goals to achieve Vision Zero and in conflict with SDOT's core value of safety. While the analysis states the assumption that "bicycle users would shift to the trail corridor proposed under each Build Alternative," for the non-Shilshole alternatives the majority may shift, but many would continue to ride Shilshole, given that is the historic route of the Burke-Gilman Trail, and the most direct route. It will be imperative that the safety conditions be addressed on Shilshole if Ballard Avenue or Leary is chosen as the preferred alternative.

The DEIS also does not look at the impact on travel time for non-motorized users. Many of the alternatives result in a much greater travel distances for trail users and increase delay with multiple intersection crossings and traffic signals. Delay is discussed in regards to other motorized users, but the alternatives put forward have the potential to substantially increase delay over the historic route, which is the desire line for many trail users.

While all four alternatives offer safety and connectivity improvements over the no-build option, **Cascade believes that Shilshole South is the alternative that best meets the criteria of safe, simple and connected.** It is the shortest distance, it follows the historic path of the trail, and it has the fewest intersection crossings and the best sightlines. The DEIS shows that it will improve safety, predictability and comfort for trail users and freight. Please do not hesitate to contact me with any questions or concerns.

Sincerely,



Elizabeth Kiker  
Executive Director, Cascade Bicycle Club

CC:

Mayor Ed Murray  
Scott Kubly, SDOT Director  
Members of Seattle City Council