

1 e) Identify all documents that support your contention as stated in Section 1.7.1 of the  
2 FEIS on page 1-3 that SDOT's design process for each alternative route discussed,  
3 reviewed and analyzed in the DEIS and each alternative route, including without limit, the  
4 Preferred Alternative, discussed, reviewed and analyzed in the FEIS complies with and  
5 consistently follows standards and guidelines issued or adopted by SDOT, AASHTO,  
6 NATCO or the FHWA.  
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8 **RESPONSE:**

9 **OBJECTION:** The City objects to the characterization of the questions in  
10 Interrogatory 7, including the presumption regarding the legal weight and  
11 applicability of the above-referenced design guidelines.

12 **OBJECTION:** The City also objects to Interrogatory no. 7 because the question  
13 asks for a legal interpretation of compliance with guidelines that is premature.

14 Without waiving any specific or general objection, the current status of the design  
15 is as shown on the 30% plans, which will be produced in response to the RFPs  
16 below.

17 **INTERROGATORY NO. 8:** Identify what you did "in November and December  
18 2016" to collect "additional intersection and driveway data" in the "study area" as stated on page  
19 1-17 of the FEIS, including;

20 a) Identify each person who contributed to, participated in, managed, or collected  
21 additional intersection and driveway data in the study area; and

<b>Name</b>	<b>Role/contribution</b>
Erinn Ellig (Walter; Parametrix)	Participated in meetings and discussions to determine which driveways and intersections would be studied further; conducted interviews with business/property owners, and managed data collection efforts with IDAX and internal team

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Ryan LeProwse (Parametrix)	Participated in meetings and discussions to determine which driveways and intersections would be studied further and reviewed data collection efforts
Brian Macik (formerly Parametrix)	Conducted interviews with business/property owners
Mark Mazzola (SDOT)	Participated in meetings and discussions to determine which driveways and intersections would be studied further; managed contract with IDAX to conduct study
Art Brochet (SDOT)	Participated in meetings and discussions to determine which driveways and intersections would be studied further
Jill Macik (SDOT)	Participated in meetings and discussions to determine which driveways and intersections would be studied further
Lisa Adolfson (SDOT)	Participated in meetings and discussions to determine which driveways and intersections would be studied further
Cameron Clark, IDAX	Managed data collection for IDAX, delivered data, set up data collection tools, reviewed and summarized data.
Mark Skaggs, IDAX	Managed data collection for IDAX
Ryder Wragg, Ballard Industrial	Provided information on driveway characteristics as included in Appendix B of the Transportation Discipline Report, including information on when to collect traffic counts/classification/video data and what types of vehicles use driveway
Bob Warner, Ballard Insulation	Provided information on driveway characteristics as included in Appendix B of the Transportation Discipline Report, including information on when to collect traffic counts/classification/video data and what types of vehicles use driveway
Dale Newton, Ballard Marine Service	Provided information on driveway characteristics as included in Appendix B of the Transportation Discipline Report, including information on when to collect traffic counts/classification/video data and what types of vehicles use driveway
Will Black, Ballard Mill Marina	Provided information on driveway characteristics as included in Appendix B of the Transportation Discipline Report, including information on when to collect traffic counts/classification/video data and what types of vehicles use driveway

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Warren Aakervik, Ballard Oil	Provided information on driveway characteristics as included in Appendix B of the Transportation Discipline Report, including information on when to collect traffic counts/classification/video data and what types of vehicles use driveway
Dave Miller, Ballard Transfer	Provided information on driveway characteristics as included in Appendix B of the Transportation Discipline Report, including information on when to collect traffic counts/classification/video data and what types of vehicles use driveway
Bob Williams, Covich Williams	Provided information on driveway characteristics as included in Appendix B of the Transportation Discipline Report, including information on when to collect traffic counts/classification/video data and what types of vehicles use driveway
Dave Liebrich, Lieb Marine	Provided information on driveway characteristics as included in Appendix B of the Transportation Discipline Report, including information on when to collect traffic counts/classification/video data and what types of vehicles use driveway
Mike Hall, Magnum Self Storage	Provided information on driveway characteristics as included in Appendix B of the Transportation Discipline Report, including information on when to collect traffic counts/classification/video data and what types of vehicles use driveway
Kate Gill, Sagstad Marina	Provided information on driveway characteristics as included in Appendix B of the Transportation Discipline Report, including information on when to collect traffic counts/classification/video data and what types of vehicles use driveway
Paul Nerdrom, Salmon Bay Sand & Gravel	Provided information on driveway characteristics as included in Appendix B of the Transportation Discipline Report, including information on when to collect traffic counts/classification/video data and what types of vehicles use driveway
Michael Peck, Shilshole West Building	Provided information on driveway characteristics as included in Appendix B of the Transportation Discipline Report, including information on when to collect traffic counts/classification/video data and what types of vehicles use driveway

1	Brett Snow, Snow & Company	Provided information on driveway characteristics as included in Appendix B of the Transportation Discipline Report, including information on when to collect traffic counts/classification/video data and what types of vehicles use driveway
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4	Tom Bayley, Stimson Marina	Provided information on driveway characteristics as included in Appendix B of the Transportation Discipline Report, including information on when to collect traffic counts/classification/video data and what types of vehicles use driveway
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7	Ron Hildebrandt, Trident Seafood	Provided information on driveway characteristics as included in Appendix B of the Transportation Discipline Report, including information on when to collect traffic counts/classification/video data and what types of vehicles use driveway
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10	Matt Wilson, Wilson Bros Automotive	Provided information on driveway characteristics as included in Appendix B of the Transportation Discipline Report, including information on when to collect traffic counts/classification/video data and what types of vehicles use driveway
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14           b)       How you and each person identified above participated in, managed, or collected  
15 additional intersection and driveway data in the study area; and

16 See Response to 8(a).

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18           c)       What collection tools, instruments, types of measurements, data, and equipment  
19 you and each person identified collected additional intersection and driveway data in the  
20 study area; and

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22 **OBJECTION:** The City objects to Interrogatory 8(c) as vague and ambiguous.

23 Without waiving any specific or general objection, the City is interpreting the  
24 question to read “What collection tools, instruments, types of measurements, data,  
25 and equipment did you and each person identified as a person involved in  
collecting additional intersection and driveway data use in collecting that data” and  
responds as follows: Stationary video cameras, road tubes, Microsoft Office Suite,

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phones, vehicle classification (small, medium, large as described in the Transportation Discipline Report), vehicle volumes, pedestrian and bicycle volumes, video data of driveway operations, and interview notes.

d) Identify all documents, including raw data files, related in any way to your and each person identified above collection of additional intersection and driveway data in the study area.

**OBJECTION:** The City objects to Interrogatory 8(d) as overly broad and unduly burdensome. The City is producing the documents and Ballard Coalition may readily identify these documents by subject matter and date.

**RESPONSE:**

Without waiving any objection, the primary responsive material is the video collected by IDAX, which the City has produced on the external hard drive provided by Ballard Coalition. The remainder of the documents related to the collection of additional intersection and driveway data – spreadsheets with traffic volume and classification and interview notes in Microsoft Word – are being produced and the identifying characteristics requested by the interrogatory are readily identifiable based on the document, date and subject matter.

**INTERROGATORY NO. 9:** Identify what you did to complete an AutoTURN analysis to “determine if the design of the Build Alternatives would affect freight access to businesses in the study area” as stated on page 1-17 of the FEIS, including identifying the person or people who gathered the information and data used in the AutoTURN analysis, how they gathered that data and information, what data and information they gathered, how it was used, the number of driveways/businesses for which you completed an AutoTURN analysis, and identify

1 all documents, including raw data files, related in any way to the AutoTURN analyses identified  
2 above.

3 **OBJECTION:** The City objects to Interrogatory 9 as overly broad and unduly  
4 burdensome. The City is producing the documents and Ballard Coalition may  
5 readily identify these documents by subject matter and date.

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7 **RESPONSE:**

8 Without waiving any specific or general objection, the City responds as follows:  
9 Amanda Thom and Brad Phillips, Parametrix, completed the AutoTURN analysis relied  
10 upon in the Missing Link FEIS. Information used to complete the AutoTURN analysis was  
11 gathered using CAD files, interviews with businesses, and traffic data collection (traffic  
12 volume data, traffic classification data, and driveway video data, as identified in response  
13 to Interrogatory No. 8). AASHTO standard vehicles use to complete the AutoTURN  
14 analysis were included as part of the AutoTURN software package. The information  
15 gathered was used to identify a representative vehicle type at driveways and to determine  
16 appropriate widths for driveways. The documents and raw data files used to complete the  
17 AutoTURN analysis is producing and include CAD files, traffic data, and interviews with  
18 businesses, which Ballard Coalition can independently discern by their identifying  
19 characteristics.

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22 **INTERROGATORY NO. 10:** List all of the intersections and driveways not already  
23 listed in the FEIS for which SDOT conducted an AutoTURN analysis, regardless of whether that  
24 analysis was finalized or used in the DEIS or FEIS.

25 **RESPONSE:**

**OBJECTION:** The City objects to Interrogatory 10 as overly broad and unduly  
burdensome.

Without waiving any general or specific objection, the City responds as follows.

**Please Note:** This list may include intersections already identified in the DEIS or  
FEIS, in addition to those that are not.

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- NW Market St & 28th Ave NW
- NW Market St & 26th Ave NW
- NW Market St & 24th Ave NW
- NW Market St & 22th Ave NW
- NW Market St & Shilshole Ave NW
- 24th Ave NW & NW 54th St
- Shilshole Ave NW & 24th Ave NW
- Shilshole Ave NW & 22nd Ave NW
- Shilshole Ave NW & 20th Ave NW
- Shilshole Ave NW & 17th Ave NW
- Shilshole Ave NW & NW 46th St
- Shilshole Ave NW & NW Vernon PI
- Shilshole Ave NW & NW Dock PI
- NW 46th St & 15th Ave NW
- NW 46th St & 14th Ave NW
- NW 46th St & 11th Ave NW
- NW 45th St & 11th Ave NW
- NW 56th St & 24th Ave NW
- NW 56th St & 22nd Ave NW
- Ballard Ave NW & 22nd Ave NW
- Ballard Ave NW & 20th Ave NW
- Ballard Ave NW & NW 48th ST
- Ballard Ave NW & 17th Ave NW
- Ballard Ave NW & 15th Ave NW
- Ballard Ave NW & 11th Ave NW
- Leary Ave NW & 20th Ave NW
- Leary Ave NW & NW Vernon PI
- Leary Ave NW & NW Lone PI
- Leary Ave NW & NW Dock PI
- Leary Ave NW & 17th Ave NW
- Leary Ave NW & 15th Ave NW
- Leary Ave NW & 14th Ave NW
- Leary Ave NW & 11th Ave NW
- Leary Ave NW & NW 48th St
- NW 48th St & 17th Ave NW
- NW Market & 54<sup>th</sup> St NW
- Shilshole Ave NW & NW 54<sup>th</sup> St

- 28<sup>th</sup> Ave W & NW 54<sup>th</sup> St
- NW 45<sup>th</sup> St & 14<sup>th</sup> Ave NW
- Shilshole Ave NW – Horizontal curves under Ballard Bridge

Driveways:

- Shilshole Ave NW & Parcel # 1125039027
- Shilshole Ave NW & Parcel # 0467000417
- Shilshole Ave NW & Parcel # 046700418
- Shilshole Ave NW & Parcel # 046700427
- Shilshole Ave NW & Parcel # 0467000421
- Shilshole Ave NW & Parcel # 0467000445
- Shilshole Ave NW & Parcel # 0467000335
- Leary Ave NW & Parcel # 2767702915
- Leary Ave NW & Parcel # 2767702955
- Leary Ave NW & Parcel # 2767703095
- Leary Ave NW & Parcel # 2767703190
- NW 54<sup>th</sup> and the Locks

**INTERROGATORY NO. 11:** Identify and describe with specificity what you did to “better compare and understand the differences among the alternatives as analyzed in the DEIS, and to inform development of the Preferred Alternative presented in the FEIS,” as stated in Section 1.8, page 1-27, including identify each person who aided or assisted you in doing so, what each person did, and how you and each such person examined driveways, intersections, sight line concerns, traffic/roadway changes, and nonmotorized considerations, and identify all documents you and each person relied upon in doing so.

**RESPONSE:**



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**OBJECTION:** The City objects to Interrogatory No. 11 as unduly burdensome, duplicative, unnecessary under the circumstances of the appeal, particularly because it is asking the City to repeat what is already published in the EIS.

**OBJECTION:** The City objects to Interrogatory No. 11 to the extent the question is not formulated or directed toward obtaining facts and effectively demands that the City provide legal briefing before discovery and prehearing preparation have been completed.

Without waiving any specific or general objection, The City responds as follows:

The FEIS speaks for itself and describes “with specificity” what SDOT did to “better compare and understand the differences among the alternatives as analyzed in the DEIS, and to inform development of the Preferred Alternative presented in the FEIS.” Without limiting that analysis or discussion in the document, and as more fully described in the EIS, the project team identified where potential traffic hazards could exist throughout the development of the trail alternatives and the EIS. Traffic hazards include those elements summarized in Table 1-1, namely where trail users may have potential conflicts with either motorized users or stationary objects, or areas—such as those locations with sight distance concerns—that may exacerbate potential conflict points. Traffic and roadway changes were identified by determining what sorts of intersection controls, intersection improvements, or roadway rechannelization would be necessary to accommodate a trail.

The potential traffic hazards and traffic/roadway changes for each alternative are summarized in Table 1-1. Where potential traffic hazards were identified, the people listed above evaluated whether the potential hazard could be removed or avoided and, if not, whether minimization or mitigation measures could be added to the trail design to reduce potential for conflicts. Where traffic and roadway changes were suggested, they evaluated those changes to determine the potential impacts to traffic mobility, parking, and land use. The results of these analyses are fully described in the EIS.

While the process and traffic hazards summarized in Section 1.8 helped inform the decision for the Preferred Alternative, SDOT considered other factors such as, but not limited to, impacts to traffic congestion and parking and distance of travel. Section 1.4.2 summarizes the process we went through to analyze and compare the various alternatives by geographic segment.

Documents relied upon include conceptual design plans/roll plots of the alternative designs, GIS data, Google Earth, knowledge of existing conditions from field visits, interview notes with businesses along the alignments, information, data, and analyses reported in the Draft EIS, along with data collected after the publication of the Draft EIS, such as collected from the additional driveway studies, and various design guidelines such as AASHTO and NACTO, as described in the FEIS.

1 See responses to interrogatory 3(b) and 3(d) above.

2 The following people contributed more specifically to the comparison and  
3 understanding the differences among the alternatives analyzed in the DEIS  
4 related to “driveways, intersections, sight line concerns, traffic/roadway changes,  
5 and nonmotorized considerations”:

<b>Name</b>	<b>Role/Contribution</b>
Erinn Ellig (Walter; Parametrix)	Developed Table 1-1
Ryan LeProwse (Parametrix)	Developed Table 1-1
Brad Phillips (Parametrix)	Contributed to the development of Table
	1-1
Lisa Adolfson (ESA)	Participated in discussions and reviewed
	Table 1-1
Mark Johnson (ESA)	Participated in discussions and reviewed
	Table 1-1
Mark Mazzola (SDOT)	Participated in discussions and reviewed
	Table 1-1
Jill Macik (SDOT)	Attended meetings to discuss
Peter Trihn	Reviewed project plans and attended
	meetings

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15 **INTERROGATORY NO. 12:** Identify and describe with specificity the basis for the  
16 statement in the FEIS in Chapter 4, page 4-22, that “the portion of the Preferred Alternative that  
17 runs along Shilshole Ave NW could cause minor impacts to water-dependent and industrial  
18 uses...” including identifying all documents, data, studies, interviews and other information that  
19 supports and is the basis for this statement and identify all mitigation measures, if any, you propose  
20 to ensure the Preferred Alternative will not cause significant adverse Environmental Impacts to  
21 water-dependent and industrial uses in the study area.  
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23 **RESPONSE:**

24 **OBJECTION:** The City objects to Interrogatory No. 12 as unduly burdensome,  
25 duplicative, unnecessary under the circumstances of the appeal, particularly  
because it is asking the City to repeat what is already published in the EIS.

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**OBJECTION:** The City objects to the characterization of the question in Interrogatory 12, including the characterization of the City’s legal obligations pursuant to SEPA and its various permitting processes.

**OBJECTION:** The City objects to Interrogatory 12 because the question is not formulated or directed toward obtaining facts and effectively demands that the City provide legal briefing before discovery and prehearing preparation have been completed.

The full sentence that is quoted reads: “By increasing access delays for vehicles, the portion of the Preferred Alternative that runs along Shilshole Ave NW could cause minor impacts to water-dependent and industrial uses, which are priority uses in the BINMIC policies.”

Without waiving any specific or general objection, the City responds as follows:

The FEIS speaks for itself and describes “with specificity” the basis for the quoted statement in the FEIS in Chapter 4, page 4-22. Without limiting that analysis or discussion in the document, and as more fully described in Chapter 4 Land Use of the Final EIS, land uses are classified by the King County Assessor for property tax purposes. These include several categories for industrial uses that were consolidated into a single classification for purposes of this EIS. These were mapped along with other land uses using geographic information (GIS) software.

Water dependent uses are defined in the Shoreline Management section of the Land Use Code. Business names and locations were tabulated from King County Assessor’s data for all uses in the study area. Uses on parcels within 200 feet of the water’s edge and therefore expected to be in shoreline jurisdiction were classified as water-dependent, water-related, or non water- dependent or water-related, using business names and aerial photos. For some businesses where the nature of the business was not clear from these sources, the webpage for the business was reviewed to determine which of these categories the use best fit.

Policies reviewed indicated that water-dependent and industrial uses were to be given priority, and supporting policies discussed transportation concerns as among the issues that mattered most to these uses. The transportation analysis was reviewed for transportation impacts that could be expected for water dependent and industrial uses. That analysis found that there could be minor additional delays for businesses on the Shilshole portion of the preferred alternative; hence the conclusion that impacts would be minor. The determination of impact, as described

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in the Final EIS on pages 4-13 and 4-14, was based on a balancing between the consistency/inconsistency with adopted policies and plans.

No significant impacts to land use, as defined in the Final EIS page 4-14, are expected, so no mitigation is necessary to prevent significant impacts. The Final EIS lists mitigation measures that could be included to minimize impacts on pages 4-34 and 4-35.

The statement identified in the Interrogatory was based primarily on, Map 4-2 in the EIS, City GIS data, the Transportation Discipline Report, and the Seattle Comprehensive Plan, as well as the professional judgment of the authors and reviewers.

**INTERROGATORY NO. 13:** For each statement in the FEIS that indicates that an alternative will cause adverse Environmental Impacts to the Ballard Farmers Market or the Ballard Landmarks District, please identify with specificity the type and timing of such impacts, and identify all documents and information supporting such your conclusions.

**RESPONSE:**

**OBJECTION:** The City objects to Interrogatory 13, because the information requested is readily available in the FEIS, which is publicly available.

Without waiving any objection, the type and timing of such impacts are disclosed in Chapter 10: Cultural Resources of the *Burke-Gilman Trail Missing Link Project Final Environmental Impact Statement* (FEIS), as well as the documents and information relied upon for that analysis.

1           **INTERROGATORY NO. 14:**       Identify the locations for each alternative at which  
2 you have evaluated or determined that “sight lines may not meet industry standards” and identify  
3 all documents that support this statement.

4           **RESPONSE:**

5           **OBJECTION:** The City objects to Interrogatory 14 as vague and ambiguous.

6           Without waiving any specific or general objection, the City interprets the quoted  
7 language to be an excerpt from page 1-17 of the FEIS, which reads as follows:

8           Sight lines are important for safety and would be considered throughout the  
9 corridor. Trees, vegetation, and other obstructions would be cleared from  
10 intersections and from the back of sidewalks to avoid obstructing sight lines.  
11 Parking would also be restricted near driveways and intersections to  
12 preserve sight lines. Where possible, the trail would be shifted to allow  
13 greater sight distances around buildings adjacent to the property lines.  
14 However, because of the developed nature of the study area, sight lines  
15 may not meet industry standards in all locations, depending on the  
16 alternative.

17           The “industry standards” for sightlines to which the quote refers is the AASHTO  
18 Green Book, which defines different sight distances based on factors like speed,  
19 roadway geometry, etc. Based on analysis, SDOT concluded that the sight lines  
20 at the following locations may not meet industry standards due to the built  
21 environment:

- 22           • Preferred Alternative
  - 23           1. Next to Ballard Inflatable Boats
  - 24           2. Parking lot driveway at Market Street Center
  - 25           3. Garage entrance near Market Street Self Storage
  - 4. Parking lot driveway adjacent to Portlock
  
- Shilshole South Alternative
  - 1. Driveway east of Hatton Marine building
  - 2. Driveway adjacent to CSR Marine building at 4701 Shilshole Ave NW
  - 3. Driveway adjacent to large, blue CSR Marine Building
  - 4. Driveway adjacent to Ballard Mill Storage at 4631 Shilshole Ave NW
  - 5. Driveway adjacent to Bowman Refrigeration

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- 6. Driveway at approximately 1183 NW 45<sup>th</sup> St
- 7. Driveway adjacent (west) to Ballard Insulation
- 8. Driveway adjacent to 1143 NW 45<sup>th</sup> St

- Shilshole North Alternative

- 1. Next to Ballard Inflatable Boats
- 2. Parking lot driveway at Market Street Center
- 3. Garage entrance near Market Street Self Storage
- 4. Parking lot driveway adjacent to Portlock
- 5. Driveways between 28<sup>th</sup> and 26<sup>th</sup> (now Nordic Heritage Museum Site)
- 6. Garage entrance at Kam Gear
- 7. Garage entrance at Shilshole West Building
- 8. Garage entrance at Beacon Automotive Services
- 9. Garage entrance at Rathburn Automotive
- 10. Garage entrance at Wilson Bros Automotive
- 11. Loading Dock D entrance to Magnum Storage
- 12. Loading Dock E entrance to Magnum Storage
- 13. Loading dock entrance to Fifty Four Sixteen
- 14. Loading dock entrance to Salmon Bay Sand and Gravel (at approximately 47.665741, -122.383707)
- 15. Loading dock entrance to Salmon Bay Sand and Gravel (at approximately 47.665667, -122.383594)
- 16. Driveway entrance to Salmon Bay Sand and Gravel (at approximately 47.665476, -122.383367)
- 17. Driveway entrance to Salmon Bay Sand and Gravel (at approximately 47.665244, -122.383109)
- 18. Driveway entrance to Salmon Bay Sand and Gravel (at approximately 47.664848, -122.382698)
- 19. Driveway entrance to Salmon Bay Sand and Gravel (at approximately 47.664771, -122.382545)
- 20. Loading dock at Nebar Hose and Fittings
- 21. Loading dock a Euro Products Inc
- 22. Loading dock at Ballard Marine Services
- 23. Loading dock at Five Axis Industries
- 24. Loading dock at United Electric Motors
- 25. Parking lot driveway adjacent to United Electric Motors

- Ballard Ave Alternative

- 1. Driveway adjacent to King's Hardware
- 2. Driveway adjacent to 5129 Ballard Ave NW

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3. Garage entrance at approximately 47.664894, -122.381559
4. Garage entrance at approximately 47.664777, -122.381402
5. Garage entrance at approximately 47.664694, -122.381357
6. Driveway entrance at approximately 47.664249, -122.380776
7. Garage entrance at approximately 47.664107, -122.380630
8. Parking lot entrance adjacent to Ballard Sheet Metal Works
9. Loading dock entrance adjacent to Ballard Hardware
10. Garage entrance at 4733 Ballard Ave NW
11. Parking lot entrance adjacent to 4733 Ballard Ave NW
12. Garage entrance at approximately 47.663293, -122.379683
13. Garage entrance at approximately 47.663137, -122.379503
14. Parking Lot entrance adjacent to La Marzocco USA
15. Parking lot entrance adjacent to Dyna Contracting
16. Garage entrance at Thermo Sonic Glass
17. Garage entrance at Mr Detail Auto Salon (West)
18. Garage entrance at Mr Detail Auto Salon (east)

- Leary Alternative
  1. Next to Ballard Inflatable Boats
  2. Parking lot driveway at Market Street Center
  3. Garage entrance near Market Street Self Storage
  4. Parking lot driveway adjacent to Portlock
  5. Driveways between 28<sup>th</sup> and 26<sup>th</sup> (now Nordic Heritage Museum Site)
  6. Parking lot driveway adjacent to Porkchop & Co
  7. Driveway entrance to Ballard Landmark
  8. Parking lot entrance adjacent to Caffè Fiore
  9. Driveway to Olympic Athletic Club
  10. Driveway to Carter Subaru
  11. Garage entrance at approximately 47.664390, -122.379678
  12. Garage entrance at approximately 47.664156, -122.379425
  13. Garage entrance at 1535 NW Leary Way
  14. Garage entrance at High Road Automotive
  15. Driveway entrance adjacent to Quest Church

The CAD files were used to identify potential sight distance concerns.

1           **INTERROGATORY NO. 15:**       For each statement in the FEIS that indicates  
2 driveways, businesses, or other operations will need to be delayed, permanently closed, relocated,  
3 or otherwise altered as a result of the operation of the Missing Link along the Preferred Alternative,  
4 please identify with specificity the location, timing, and all information you considered in  
5 determining the need for such closure, relocation, or alteration, and identify all documents that  
6 support your statement and determination.  
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8           **RESPONSE:**

9           **OBJECTION:** The City objects to the characterization of the City’s analysis and  
10 determinations in the FEIS included in Interrogatory 15. The FEIS does not state  
11 that driveways, businesses, or other operations will need to be delayed,  
12 permanently closed, relocated, or otherwise altered as a result of the operation of  
13 the Missing Link along the Preferred Alternative. The FEIS indicates that some  
14 driveways, businesses, or other operations could be delayed, relocated, or  
15 otherwise altered as a result of the operation of the Preferred Alternative. The City  
16 interprets the interrogatory to request information about the statement in the FEIS  
17 that some driveways, businesses, or other operations could be delayed, relocated,  
18 or otherwise altered as a result of the operation of the Preferred Alternative.

19           Additionally, the City objects to the portion of the interrogatory that requests that  
20 the City “identify” characteristics of responsive documents because the request is  
21 unduly burdensome, oppressive, and unnecessary. SDOT is producing the  
22 documents and the Ballard Coalition may readily identify them by subject matter  
23 and date.

24           Without waiving any general or specific objection, the delay that could be  
25 experienced at driveways is summarized at Table 5-5 of the Transportation  
Discipline Report, which shows delay would occur during the PM Peak hour when  
traffic volumes are highest, as described in the FEIS. As described in the FEIS,  
some driveways may be consolidated in order to improve safety and operations,  
but no consolidations were assumed in the evaluation of impacts and no specific  
locations have been identified as locations for consolidation other than the  
potential location identified in the FEIS on NW 54<sup>th</sup> Street/NW Market.

Documents related to delay, closure, relocation or alteration of driveways include  
driveway video data, interview notes with driveway owners, and design drawings.



1           **INTERROGATORY NO. 16:**       Identify all information and documents that you  
2 considered, evaluated, or upon which you otherwise relied for the following statements in the  
3 FEIS:

4           a) “none of the Build Alternatives are expected to displace existing uses or cause changes  
5 that would result in the loss of a business. Impacts are not expected to affect business  
6 operating costs to the extent that they would be unable to operate.”

7           b) “Required adjustments and delays could increase costs for businesses, but are not  
8 expected to cause significant impacts because businesses would likely adjust their practices  
9 around these areas.”

10          c) “While additional delays in access and freight movement may occur, the trail would not  
11 prohibit access to any properties, and impacts from the trail would not be significant.”

12           **RESPONSE:**

13           **OBJECTION:** The City objects to the characterizations of the statements above.

14           The full statement in request 16(a) appears in section 4.3.2 Impacts Common to  
15 All Build Alternatives on page 4-16 of the Final EIS and reads as follows:

16                   “Businesses would likely adapt to the minor delays, loss of parking, and  
17 changes to loading areas along with other changing conditions. These  
18 adaptations could increase operating costs, which could place incremental  
19 economic pressure on some businesses (ECONorthwest, 2016). However,  
20 none of the Build Alternatives are expected to displace existing uses or  
21 cause changes that would result in the loss of a business. Impacts are not  
22 expected to affect business operating costs to the extent that they would be  
23 unable to operate.”

24           Statement b) appears in section 4.3.3 Preferred Alternative on page 4-20 of the  
25 Final EIS. The full paragraph reads:

                  “With the Preferred Alternative, there would be a net reduction of up to four  
loading zone spaces. Generally, the City prioritizes the retention of loading  
zone spaces and would work with adjacent businesses to retain or replace  
loading zones as needed; thus, not all four would necessarily be lost. The  
Preferred Alternative could also potentially remove some informal loading  
areas that are within the City right-of-way. However, it is not possible to

1 quantify these areas because they are unpermitted and the City does not  
2 recognize them as loading zones (see Chapter 8, Parking, and the Parking  
3 Discipline Report [Parametrix, 2017b]). Several commercial and industrial  
4 uses have high truck loading, unloading, and delivery activity at driveway  
5 locations relative to other uses. Because uses are highly industrial along  
6 this alignment, the loss of loading zone spaces and delays during loading  
7 and unloading activities could negatively impact industrial uses. Some  
8 loading activities that currently occur within the City right-of-way would need  
9 to be relocated or the business would need to otherwise adapt because  
10 vehicles would not be allowed to block the trail while loading and unloading.  
11 Required adjustments and delays could increase costs for businesses, but  
12 are not expected to cause significant impacts because businesses would  
13 likely adjust their practices around these areas (ECONorthwest, 2016).”

9 Statement c) appears in section 4.3.3 Preferred Alternative on page 4-21 of the  
10 Final EIS. The full paragraph (one sentence) reads:

11 “While additional delays in access and freight movement may occur, the  
12 trail would not prohibit access to any properties, and impacts from the trail  
13 would not be significant. Increasing delays in access, however, could  
14 contribute to increased operational costs for some businesses  
15 (ECONorthwest, 2016).”

14 Additionally, the City objects to the portion of the interrogatory that requests that  
15 the City “identify” characteristics of responsive documents because the request is  
16 unduly burdensome, oppressive, and unnecessary. The City is producing the  
17 documents and the Ballard Coalition may readily identify them by subject matter  
18 and date.

17 Without waiving any objection, the City interprets the statements quoted in the  
18 request to refer to their full text and context. As clarified, the statements are based  
19 on Map 4-2 in the EIS, the Transportation Discipline Report, the Parking Discipline  
20 Report, Economics Considerations Report, and the sources identified within those  
21 reports.

22 **INTERROGATORY NO. 17:** Identify all information and documents you  
23 considered, evaluated, or relied upon to determine driveway operations, vehicle types, driveway  
24 usage by time of day, week and year, frequently of driveway users, number of driveways, and  
25

1 estimated vehicle volumes along the Preferred Alternative, the Shilshole South Alternative and the  
2 Leary Alternative evaluated in the DEIS or FEIS as the case may be.

3 **RESPONSE:**

4 **OBJECTION:** The City objects to Interrogatory 17 as unduly burdensome and  
5 unnecessary under the circumstances of this appeal. The information requested is  
6 readily available in the DEIS and FEIS, which is publicly available. Additionally, the  
7 City objects to the portion of the interrogatory that requests that the City “identify”  
8 characteristics of responsive documents because the request is unduly  
9 burdensome, oppressive, and unnecessary. The City is producing the documents  
10 and the Ballard Coalition may readily identify them by subject matter and date

11 Without waiving any objection, the “information and documents considered,  
12 evaluated, or relied upon to determine driveway operations, vehicle types,  
13 driveway usage by time of day, week and year, frequently(sic) of driveway users,  
14 number of driveways, and estimated volumes along the Preferred Alternative, the  
15 Shilshole South Alternative and the Leary Alternative evaluated in the DEIS or  
16 FEIS” include: Vehicle classification data, vehicle volume data, driveway video  
17 data, and interviews with driveway owners, as described in response to  
18 Interrogatory No. 8.

19 **INTERROGATORY NO. 18:** Will you obtain a Shoreline Substantial Development for  
20 the Preferred Alternative for the Missing Link evaluated in the FEIS or do you contend it is exempt  
21 from such a permit requirement? If your answer that it is exempt, please identify the basis for your  
22 answer and all documents and information that support it.

23 **RESPONSE:**

24 **OBJECTION:** The City objects on the grounds that it seeks information that it  
25 seeks information not in the City’s possession.

Without waiving any specific or general objection, the project will undergo review  
under the City’s Shoreline Master Program at the time SDOT submits an

1 application. To date, no determination has been made whether that will be  
2 through an exemption or a permit.

3  
4 **INTERROGATORY NO. 19:** Identify what you did “in 2016 and 2017” to collect  
5 additional traffic and parking data in the study area as stated on page 7-2 of the FEIS, including  
6 identifying each person who contributed to, participated in, managed, or collected such additional  
7 data, how you and each person identified above participated in, managed, or collected such  
8 additional data, what collection tools, instruments, types of measurements, data, and equipment  
9 you and each person identified used to collect such additional data, and identify all documents,  
10 including raw data files, related in any way to your and each person identified above collection of  
11 additional data.  
12

13 **RESPONSE:**

14 **OBJECTION:** The City objects to Interrogatory 18 as unduly burdensome,  
15 duplicative, and unnecessary under the circumstances of this appeal. Much of the  
16 information requested is included in the FEIS, which is publicly available.

17 Additionally, the City objects to the portion of the interrogatory that requests that  
18 the City “identify” characteristics of responsive documents because the request is  
19 unduly burdensome, oppressive, and unnecessary. The City is producing  
20 responsive documents and the Ballard Coalition may readily identify them by  
21 subject matter and date

22 Without waiving any specific or general objection, please see response to  
23 Interrogatory No. 8 for the vehicle data collection information.

24 Additional parking utilization data (both on-street and off-street) was collected in  
25 February 2017. As summarized in the FEIS, parking utilization data was collected  
between 7-10 PM on a weekday and at 8 AM, 9 AM, 12 PM, and 3-10 PM on a  
Saturday. Ryan LeProwse managed the parking data collection that was  
completed by IDAX. Cameron Clark from IDAX managed and completed the  
parking data collection for IDAX. Parking utilization data is captured by individuals  
counting the number of vehicles parked during physical site visits. The documents

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and data files related to the collection of additional parking data include spreadsheets with parking utilization counts and maps identifying the locations where parking counts were completed. In the parking spreadsheets, parking supply represents the number of available parking spaces and demand/utilization/UT represents the amount of parking spaces being used.

**B. FIRST SET OF REQUESTS FOR PRODUCTION**

**REQUEST FOR PRODUCTION NO. 1:** Produce all documents that you consulted, considered, relied upon, were identified or otherwise support your Response to Interrogatory No.

1.

**RESPONSE:**

No responsive documents.

**REQUEST FOR PRODUCTION NO. 2:** Produce all documents that you consulted, considered, relied upon, were identified or otherwise support your Response to Interrogatory No.

2.

**RESPONSE:**

The City incorporates specific objections to interrogatory 2. Without waiving any specific or general objection, the City is producing responsive documents.

**REQUEST FOR PRODUCTION NO. 3:** Produce all documents that you consulted, considered, relied upon, were identified or otherwise support your Response to Interrogatory No.

3.

**RESPONSE:**

The City incorporates specific objections to interrogatory 3. Without waiving any specific or general objection, the City is producing responsive documents.

1                   **REQUEST FOR PRODUCTION NO. 4:** Produce all documents that you consulted,  
2 considered, relied upon, were identified or otherwise support your Response to Interrogatory No.  
3 4.

4                   **RESPONSE:**

5                   The City incorporates specific objections to interrogatory 4. Without waiving any  
6 specific or general objection, the City is producing responsive documents.

7  
8                   **REQUEST FOR PRODUCTION NO. 5:** Produce all documents that you consulted,  
9 considered, relied upon, were identified or otherwise support your Response to Interrogatory No.  
10 5.

11                   **RESPONSE:**

12                   The City incorporates specific objections to interrogatory 5. Without waiving any  
13 specific or general objection, the City is producing responsive documents.

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16                   **REQUEST FOR PRODUCTION NO. 6:** Produce all documents that you consulted,  
17 considered, relied upon, were identified or otherwise support your Response to Interrogatory No.  
18 6.

19                   **RESPONSE:**

20                   The City incorporates specific objections to interrogatory 2. Without waiving any  
21 specific or general objection, the City is producing responsive documents.

22  
23                   **REQUEST FOR PRODUCTION NO. 7:** Produce all documents that you identified,  
24 consulted, considered, relied upon or otherwise support your Response to Interrogatory No. 7.

25                   **RESPONSE:**

1 The City incorporates specific objections to interrogatory 7. Without waiving any  
2 specific or general objection, the City is producing responsive documents.

3  
4 **REQUEST FOR PRODUCTION NO. 8:** Produce all documents that you identified,  
5 including raw data files, in your Response to Interrogatory No. 8.

6 **RESPONSE:**

7 The City incorporates specific objections to interrogatory 8. Without waiving any  
8 specific or general objection, the City is producing responsive documents.

9  
10 **REQUEST FOR PRODUCTION NO. 9:** Produce all AutoTURN documents, CAD  
11 files, raw data files, surveys and any other documents prepared between January 2013 to May 2017  
12 related in any way to your Response to Interrogatory No. 9, the DEIS and the FEIS.

13 **RESPONSE:**

14 The City incorporates specific objections to interrogatory 9. Without waiving any  
15 specific or general objection, the City is producing responsive documents.

16 **REQUEST FOR PRODUCTION NO. 10:** Produce all documents that you identified,  
17 consulted, considered, relied upon or otherwise support your Response to Interrogatory No. 11.

18 **RESPONSE:**

19  
20 The City incorporates specific objections to interrogatory 11. Without waiving any  
21 specific or general objection, the City is producing responsive documents.

1           **REQUEST FOR PRODUCTION NO. 11:** Produce all documents that you identified,  
2 consulted, considered, relied upon or otherwise support your Response to Interrogatory No. 12.

3           **RESPONSE:**

4  
5           The City incorporates specific objections to interrogatory 12. Without waiving any  
6 specific or general objection, the City is producing responsive documents.

7  
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9           **REQUEST FOR PRODUCTION NO. 12:** Produce all documents that you identified,  
10 consulted, considered, relied upon or otherwise support your Response to Interrogatory No. 13.

11           **RESPONSE:**

12           The City incorporates specific objections to interrogatory 13. Without waiving any  
13 specific or general objection, the City is producing produce responsive documents.

14  
15           **REQUEST FOR PRODUCTION NO. 13:** Produce all documents that you identified,  
16 consulted, considered, relied upon or otherwise support your Response to Interrogatory No. 14.

17           **RESPONSE:**

18           The City incorporates specific objections to interrogatory 2. Without waiving any  
19 specific or general objection, the City is producing responsive documents.

20  
21  
22           **REQUEST FOR PRODUCTION NO. 14:** Produce all documents that you identified,  
23 consulted, considered, relied upon or otherwise support your Response to Interrogatory No. 15.

24           **RESPONSE:**

25           The City incorporates specific objections to interrogatory 15. Without waiving any  
specific or general objection, the City is producing responsive documents.



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3 **REQUEST FOR PRODUCTION NO. 15:** Produce all documents that you identified,  
4 consulted, considered, relied upon or otherwise support your Response to Interrogatory No. 16.

5 **RESPONSE:**

6 The City incorporates specific objections to interrogatory 16. Without waiving any  
7 specific or general objection, the City is producing responsive documents.

8 **REQUEST FOR PRODUCTION NO. 16:** Produce all documents that you identified,  
9 consulted, considered, relied upon or otherwise support your Response to Interrogatory No. 17.

10 **RESPONSE:**

11 The City incorporates specific objections to interrogatory 17. Without waiving any  
12 specific or general objection, the City is producing responsive documents.

13  
14  
15 **REQUEST FOR PRODUCTION NO. 17:** Produce all documents that you identified,  
16 consulted, considered, relied upon or otherwise support your Response to Interrogatory No. 18.

17 **RESPONSE:**

18 The City incorporates specific objections to interrogatory 18. No responsive  
19 documents exist.

20  
21 **REQUEST FOR PRODUCTION NO. 18:** Produce all documents, including raw data  
22 files, that you identified, consulted, considered, relied upon or otherwise support your Response  
23 to Interrogatory No. 19.

24 **RESPONSE:**

25 The City incorporates specific objections to interrogatory 19. Without waiving any  
specific or general objection, the City is producing responsive documents.

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**REQUEST FOR PRODUCTION NO. 19:** Produce all drafts of the DEIS and all of its Technical Appendices prepared between January 2013 and June 2016.

**RESPONSE:**

**OBJECTION:** The City objects to Request for Production No. 19 as unduly burdensome and unnecessary under the circumstances of this appeal. Without waiving any specific or general objection, the City is producing any responsive documents.

**REQUEST FOR PRODUCTION NO. 20:** Produce all drafts of the FEIS and all of its Technical Appendices prepared between June 2016 and May 2017.

**RESPONSE:**

**OBJECTION:** The City objects to Request for Production No. 20 as unduly burdensome and unnecessary under the circumstances of this appeal. Without waiving any specific or general objection, the City is producing responsive documents.

**REQUEST FOR PRODUCTION NO. 21:** To the extent not otherwise produced in response to Requests for Production 1- 20 above, produce all drafts of all evaluations, data collections, studies, or other reports that you considered, evaluated, or relied upon that relate to the Environmental Impacts of the Missing Link, whether or not they are referenced in the DEIS or FEIS and were prepared between January 2013 and May 2017.

**RESPONSE:**

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**OBJECTION:** The City objects to Request for Production No. 21 as unduly burdensome and unnecessary under the circumstances of this appeal. Without waiving any specific or general objection, the City is producing responsive documents.

**REQUEST FOR PRODUCTION NO. 22:** Produce all documents that relate to or that you relied upon for your analysis of Environmental Impacts of the New Segment of the Preferred Alternative discussed and described in the FEIS.

**RESPONSE:**

**OBJECTION:** The City objects to Request for Production No. 22 as unduly burdensome and unnecessary under the circumstances of this appeal. Without waiving any specific or general objection, the City is producing responsive documents.

**REQUEST FOR PRODUCTION NO. 23:** Produce all computer-aided design (CAD), base design, or similar drawings, figures, tables, and other data, in native format, that you consulted, evaluated, or referenced in connection with the preparing the AutoTURN analysis or your evaluation of Environmental Impacts in the DEIS and the FEIS.

**RESPONSE:**

**OBJECTION:** The City objects to Request for Production No. 23 as unduly burdensome and unnecessary under the circumstances of this appeal. Without waiving any specific or general objection, the City is producing responsive documents.

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3           **REQUEST FOR PRODUCTION NO. 24:** Produce all documents that relate to  
4 communication between SDOT and the Seattle Department of Construction and Inspections  
5 (previously the Seattle Department of Planning and Development) related to the Missing Link  
6 from January 2013 to the present including, without limit, any communication, permit application  
7 or other documents related to compliance with or exemption from the requirement to obtain a  
8 Shoreline Substantial Development permit for the Missing Link.  
9

10           **RESPONSE:**

11  
12           **OBJECTION:** The City objects to Request for Production No. 24 on the grounds  
13 that the information requested is outside the scope of discovery because it seeks  
14 information irrelevant to this appeal of the FEIS and is not reasonably calculated  
15 to lead to discoverable evidence. The permitting process has not yet initiated and  
16 is not relevant to the adequacy of the FEIS.

17           Without waiving any general or specific objection, the City is producing responsive  
18 documents.

19           **REQUEST FOR PRODUCTION NO. 25:** Produce all documents that relate to  
20 communications between you and any member or representative of the Cascade Bicycle Club  
21 related to the Missing Link from January 2013 to the present.  
22

23           **RESPONSE:**

24           **OBJECTION:** The City objects on the grounds that the information requested is  
25 privileged and subject to a common interest agreement.

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Without waiving any general or specific objection, the City is producing responsive documents.

**REQUEST FOR PRODUCTION NO. 26:** Produce all documents that relate to all communications between the office of the Seattle City Attorney and attorneys for or other representatives of the Cascade Bicycle Club related to the Missing Link from December 2012 to the present.

**RESPONSE:**

**OBJECTION:** The City objects on the grounds that the information requested is privileged and subject to a common interest agreement.

**REQUEST FOR PRODUCTION NO. 27:** Produce all documents related to the Burke-Gilman Trail Missing Link Design Advisory Committee prepared since September 1, 2016 to the present.

**RESPONSE:**

**OBJECTION:** The City objects to Request for Production No. 27 as unduly burdensome and unnecessary under the circumstances of this appeal and on the grounds that the information requested is outside the scope of discovery because it seeks information irrelevant to this appeal of the FEIS and is not reasonably calculated to lead to discoverable evidence.

Without waiving any specific or general objection, the City is producing responsive documents.

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**REQUEST FOR PRODUCTION NO. 28:** Produce all documents that relate to any analysis, evaluation, consideration, or discussion of alternatives for completing the Missing Link considered but not included in the DEIS or the FEIS.

**RESPONSE:**

**OBJECTION:** The City objects to Request for Production No. 28 as unduly burdensome and duplicative.

Without waiving any specific or general objection, the City is producing responsive documents.

**REQUEST FOR PRODUCTION NO. 29:** To the extent not otherwise included in the FEIS, produce all documents, including without limit, unpublished drafts, working copies, notes, memoranda, and any other document prepared between January 2013 and May 2017 with regard to the following:

- a) ECONorthwest, Economic Considerations report for the Burke-Gilman Trail Missing Link;
- b) ESA, Land Use Discipline Report for the Burke-Gilman Trail Missing Link;
- c) Parametrix, Transportation Discipline Report for the Burke-Gilman Trail Missing Link;
- d) Parametrix, Parking Discipline Report for the Burke-Gilman Trail Missing Link;

- 1 e) Cole, Byron, January 28, 2016 telephone interview;
- 2 f) Fehr & Peers and SvR Design Company, 2011, University of Washington Burke-
- 3 Gilman Trail Corridor Study;
- 4 g) IDAX, 2015 and 2017 Burke-Gilman Trail Missing Link EIS Transportation Data
- 5 Collection;
- 6 h) SDOT, Burke-Gilman Trail Missing Link EIS Turning Movement Data;
- 7 i) SDOT, Burke-Gilman Trail EIS Daily Vehicle Count Traffic Data;
- 8 j) SDOT, Burke-Gilman Trail EIS Bicycle Volume Data; and
- 9 k) IDAX, Burke-Gilman Trail Missing Link EIS Parking Study.

11 **RESPONSE:**

12  
13  
14 **OBJECTION:** The City objects to Request for Production No. 29 as unduly burdensome and duplicative.

15 Without waiving any specific or general objection, the City is producing responsive  
16 documents.

17  
18 **REQUEST FOR PRODUCTION NO. 30:** Other than as reproduced in their entirety in  
19 the FEIS, produce all documents that relate to traffic collisions or near-misses between traffic,  
20 pedestrians, and cyclists in the study area, as defined in Chapter 7 of the FEIS.

21 **RESPONSE:**

22 **OBJECTION:** The City objects to Request for Production No. 30 as unduly  
23 burdensome and duplicative.

24 Without waiving any specific or general objection, the City is producing responsive  
25 documents.

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**REQUEST FOR PRODUCTION NO. 31:** Produce all documents prepared between January 2013 and May 2017 that relate in any way to the discussion and evaluation of “safety” as that term is used throughout the DEIS and the FEIS.

**RESPONSE:**

**OBJECTION:** The City objects to Request for Production No. 31 as overly broad, unduly burdensome and duplicative.

Without waiving any specific or general objection, the City is producing responsive documents.

VERIS LAW GROUP PLLC and  
FOSTER PEPPER PLLC

/s/ Joshua Brower

Patrick J. Schneider, WSBA No. 11957  
Joshua C. Allen Brower, WSBA No. 25092  
Leah B. Silverthorn, WSBA No. 51730  
Danielle Granatt, WSBA No. 44182  
Attorneys for the Ballard Coalition





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**ATTORNEY CERTIFICATION**

The undersigned attorneys for Respondent the City of Seattle have read the foregoing **PETITIONERS’ FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION TO RESPONDENT, THE CITY OF SEATTLE, AND RESPONSES THERETO**, know and hereby certify that they are in compliance with CR 26(g).

DATED this 10th day of August, 2017.

CITY OF SEATTLE

s/ Erin E. Ferguson, WSBA #39535

Erin Ferguson

Assistant City Attorney, City of Seattle

4830-6943-2906, v. 2

# EXHIBIT F

---

**From:** Ferguson, Erin <Erin.Ferguson@seattle.gov>  
**Sent:** Friday, August 11, 2017 1:40 PM  
**To:** Josh Brower; Tadas Kisielius  
**Cc:** Leah Silverthorn; 'Pat Schnieder' (SchnP@foster.com); Menzel, Laurie; Megan Manion; Danielle Granatt; Dale N. Johnson  
**Subject:** RE: discovery response

Josh,

We believe we have been diligent and forthcoming with our efforts to respond to your incredibly broad and burdensome discovery request, which was not at all tailored narrowly. You asked us to essentially lay out our case for you on several issues and request nearly every document related in any way to the Missing Link over a multi-year period of time, not just documents related to the issues raised in the appeal, the adequacy of the EIS. We disagree with your characterization that our response has been "lackadaisical" or that it in any way prejudices your ability to properly prepare for hearing.

We produced an initial installment on July 31<sup>st</sup>, a second installment – a majority of the City's responsive documents – on August 4<sup>th</sup>, and our objections and responses to your interrogatories on August 10<sup>th</sup>, and this is in addition to numerous documents that have been previously provided in response to your public disclosure requests to the City over the past few months. We are doing our best and, again, you bear the affirmative burden here.

We see no reason to delay the September 8<sup>th</sup> deadline to disclose preliminary witness and exhibit lists and do not agree to do so. A final round of responsive documents will be sent out today and only email will remain for production, hopefully very early next week. Again, if you let us know what you are particularly interested in, we may be able to narrow the scope of responsive documents and speed up production. Let us know.

Regardless, why don't we plan a time to meet and confer on Monday. Let us know a few times you are available and we can schedule a time to give you a call.

Best,  
Erin



**Erin E. Ferguson**  
Assistant City Attorney  
Land Use Section

Seattle City Attorney's Office  
Civil Division  
701 Fifth Avenue, Suite 2050  
Seattle, WA 98104-7097  
Phone: 206-684-8615  
FAX: 206-684-8284  
[Erin.Ferguson@seattle.gov](mailto:Erin.Ferguson@seattle.gov)

*\*\*\* Please be aware that I am out of the office on Fridays.*

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or distribution of its contents is prohibited. If you receive this message in error, please contact me at the telephone number or e-mail address listed above and delete this message without printing, copying, or forwarding it. Thank you.

**From:** Josh Brower [mailto:josh@verislawgroup.com]

**Sent:** Friday, August 11, 2017 9:10 AM

**To:** Ferguson, Erin ; tak (tak@vnf.com)

**Cc:** Leah Silverthorn ; 'Pat Schnieder' (SchnP@foster.com) ; Menzel, Laurie ; Megan Manion ; Danielle Granatt ; Dale N. Johnson

**Subject:** Re: discovery response

Erin and Tadas, thank you for your response and for delivering the City's objections and written responses to the discovery requests yesterday.

With all respect, we profoundly disagree with the City's lackadaisical approach to discovery and its mischaracterization of our discovery requests. The City's failure to comply with the Civil Rules is prejudicing our ability to properly prepare for hearing.

We understood the City's indication that it would respond in installments to mean that it would still nominally comply with the 30-day discovery deadline. The City's Responses are now nearly two weeks late, which is a material delay.

Deadlines are still deadlines even though we are before the City's Hearing Examiner. Without question, the City will hold us to the deadlines imposed in this case.

We, as do you, have to meet the September 8 witness and exhibit disclosure deadline. To do so, we needed to receive the City's Responses to our discovery on July 30 pursuant to the deadlines established by the Civil Rules, which still apply in this forum. The City's failure to meet that deadline is prejudicing our clients because we have now lost nearly two weeks or more during which we would have been reviewing the City's Responses and preparing for hearing. We were very thoughtful and deliberate in propounding discovery when we did so that we would have enough time to complete this task and meet the deadlines set by the Examiner. The City's delay means we have less time to do so, which is unfair and prejudicial.

Once we receive complete discovery responses (including all requested documents), we will evaluate whether we need more time to prepare and file our witness and exhibit list. Since the City caused this problem, we would appreciate its cooperation (if needed) in adjusting the schedule to eliminate the prejudice created by your delay.

Lastly, we were also very thoughtful in drafting and propounding our discovery. I personally spent over five hours working on it. Our questions and requests go directly to many assertions and statements in the FEIS, which we are entitled to explore at hearing. Our interrogatories and requests for production are intended to obtain information we plan to use in our case in chief, not just any rebuttal as you assert. Regardless, all information we intend to offer at hearing must be disclosed by the deadlines so your claim is a distinction without a difference since it all has to be disclosed timely, not at some later date.

Please confirm when we will receive complete discovery responses and all documents from the City. If we do not hear from you today, please let us know when you are available for a meet and confer.

Best regards, Josh

Joshua C. Allen Brower

**Veris Law Group PLLC**

1809 Seventh Avenue, Suite 1400

Seattle, WA 98101

**206.829.8233** direct

**206.829.9590** office

[josh@verislawgroup.com](mailto:josh@verislawgroup.com)

[www.verislawgroup.com](http://www.verislawgroup.com)

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---

**From:** Erin' 'Ferguson <[Erin.Ferguson@seattle.gov](mailto:Erin.Ferguson@seattle.gov)>

**Date:** Wednesday, August 9, 2017 at 2:27 PM

**To:** Josh Brower <[josh@verislawgroup.com](mailto:josh@verislawgroup.com)>

**Cc:** Leah Silverthorn <[leah@verislawgroup.com](mailto:leah@verislawgroup.com)>, Patrick Schneider <[SchnP@foster.com](mailto:SchnP@foster.com)>, "Menzel, Laurie" <[Laurie.Menzel@seattle.gov](mailto:Laurie.Menzel@seattle.gov)>, Megan Manion <[megan@verislawgroup.com](mailto:megan@verislawgroup.com)>, Danielle Granatt <[danielle@verislawgroup.com](mailto:danielle@verislawgroup.com)>, "tak ([tak@vnf.com](mailto:tak@vnf.com))" <[tak@vnf.com](mailto:tak@vnf.com)>, "Dale N. Johnson" <[dnj@vnf.com](mailto:dnj@vnf.com)>

**Subject:** RE: discovery response

Josh,

The City and its consultants have been working diligently to respond to your discovery request, which was served just before a holiday weekend, prior to the prehearing conference and discussions about allowing discovery at all, and before outside counsel was retained to assist the City. The City has a number of well-founded objections to your discovery request. However, rather than make those objections and stop our efforts to respond, we took a reasonable approach to cooperate, without waiving our objections. On July 31<sup>st</sup>, we notified you that the City intended to respond in installments because of the extensive and burdensome nature of the requests and provided that the responses would be expressly subject to the City's objections.

Even before we received your email, we were planning to provide responses to the interrogatories this week, as well as additional production of documents, so those are forthcoming. On that note, you should have received TWO productions so far. One on July 31<sup>st</sup>, and a second on August 4<sup>th</sup>. The first installment consisted of 290 *documents*, not pages. The second installment was 2,318 documents. Can you please confirm you received both? Also, we have put the driveway video data, as well as GIS and data used for the economics considerations report on the external hard drive you provided and it will be delivered by tomorrow via ABC. In addition, we produced the CAD files and AutoTURN analysis in the FEIS separately on July 24<sup>th</sup>, as a courtesy well before any discovery due date. The production so far is a significant portion of the City's response.

Also, I think it is important to note that this is a proceeding before the Hearing Examiner and not Superior Court, with a truncated schedule and typically more limited discovery. The broad nature of your requests exceed what is necessary and is not targeted at obtaining the information most relevant to the key disputed issues, which is creating a huge burden on the City.

Moreover, you bear the burden of proof in this appeal. While the information the City provides may be relevant to your rebuttal, you should not need to wait for discovery responses to decide what evidence you will present to make an affirmative case on the issues you raise in your appeal. The City's minor delay in responding fully to your discovery request is not a basis for delaying any other deadlines.

With the exception of email, we expect to be able to produce the remaining responsive documents by late this week or early next. The City has identified over 15,000 potentially responsive emails and associated attachments that need to be reviewed. I am happy to talk with you to see if there are subjects you would like to focus on within that 15,000 to help expedite production; otherwise we will continue to review them and produce them as quickly as we can.

And a final note: Please include Tadas on future communications.

Best,  
Erin



**Erin E. Ferguson**  
Assistant City Attorney  
Land Use Section

Seattle City Attorney's Office  
Civil Division  
701 Fifth Avenue, Suite 2050  
Seattle, WA 98104-7097  
Phone: 206-684-8615  
FAX: 206-684-8284  
[Erin.Ferguson@seattle.gov](mailto:Erin.Ferguson@seattle.gov)

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**From:** Josh Brower [<mailto:josh@verislawgroup.com>]  
**Sent:** Tuesday, August 08, 2017 4:28 PM  
**To:** Ferguson, Erin <[Erin.Ferguson@seattle.gov](mailto:Erin.Ferguson@seattle.gov)>  
**Cc:** Leah Silverthorn <[leah@verislawgroup.com](mailto:leah@verislawgroup.com)>; 'Pat Schnieder' ([SchnP@foster.com](mailto:SchnP@foster.com)) <[SchnP@foster.com](mailto:SchnP@foster.com)>; Menzel, Laurie <[Laurie.Menzel@seattle.gov](mailto:Laurie.Menzel@seattle.gov)>; Megan Manion <[megan@verislawgroup.com](mailto:megan@verislawgroup.com)>; Danielle Granatt <[danielle@verislawgroup.com](mailto:danielle@verislawgroup.com)>  
**Subject:** Re: discovery response

Erin, I am writing regarding the City's Responses to the Coalition's First Set of Interrogatories and Requests for Production. The City's Responses are now very overdue—they were due on July 30. To date, we have received only one partial production, consisting of approximately 290-pages of unorganized materials.

Unless we are missing something, we have not yet received the City's written Responses to the Interrogatories or the documents requested pursuant to the Requests for Production of documents, which must be organized to respond to the RFP and cannot just be "batch dumped" on a disk.

Since the City did not ask nor obtain an extension, it has waived any objections to the outstanding discovery.

Please confirm that the City will immediately and fully respond to the discovery. Lacking that, please let me know when you are available to conduct a "meet and confer."

Unless we receive the City's responses this week we will file a motion to compel and for sanctions, including asking to reschedule the hearing until the City complies with the discovery requests.

Regards, Josh

Joshua C. Allen Brower  
**Veris Law Group PLLC**  
1809 Seventh Avenue, Suite 1400  
Seattle, WA 98101  
**206.829.8233** direct  
**206.829.9590** office  
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**From:** Erin' 'Ferguson <[erin.ferguson@seattle.gov](mailto:erin.ferguson@seattle.gov)>  
**Date:** Tuesday, July 25, 2017 at 3:59 PM  
**To:** Josh Brower <[josh@verislawgroup.com](mailto:josh@verislawgroup.com)>, Danielle Granatt <[danielle@verislawgroup.com](mailto:danielle@verislawgroup.com)>, Megan Manion <[megan@verislawgroup.com](mailto:megan@verislawgroup.com)>, Leah Silverthorn <[leah@verislawgroup.com](mailto:leah@verislawgroup.com)>  
**Cc:** Patrick Schneider <[SchnP@foster.com](mailto:SchnP@foster.com)>, "Menzel, Laurie" <[Laurie.Menzel@seattle.gov](mailto:Laurie.Menzel@seattle.gov)>  
**Subject:** discovery response

Hi All,

The City is working to compile our response to your discovery request and I have a few questions. First, I assume all electronic v. hard copies of all the responsive documents is acceptable – correct? And what document management software do you use? If you let me know, we can try to save our production in a format that will work with your software, such as summation, concordance, etc.

Please let me know.

Thanks,  
Erin





**Erin E. Ferguson**  
Assistant City Attorney  
Land Use Section

Seattle City Attorney's Office

Civil Division

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# EXHIBIT G

---

**From:** Ferguson, Erin <Erin.Ferguson@seattle.gov>  
**Sent:** Wednesday, August 09, 2017 2:28 PM  
**To:** 'Josh Brower'  
**Cc:** 'Leah Silverthorn'; 'Pat Schnieder' (SchnP@foster.com); Menzel, Laurie; 'Megan Manion'; 'Danielle Granatt'; Tadas Kisielius; Dale N. Johnson  
**Subject:** RE: discovery response

Josh,

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And a final note: Please include Tadas on future communications.

Best,  
Erin



**Erin E. Ferguson**  
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Land Use Section

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**From:** Josh Brower [mailto:josh@verislawgroup.com]  
**Sent:** Tuesday, August 08, 2017 4:28 PM  
**To:** Ferguson, Erin  
**Cc:** Leah Silverthorn ; 'Pat Schnieder' (SchnP@foster.com) ; Menzel, Laurie ; Megan Manion ; Danielle Granatt  
**Subject:** Re: discovery response

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Unless we receive the City's responses this week we will file a motion to compel and for sanctions, including asking to reschedule the hearing until the City complies with the discovery requests.

Regards, Josh

Joshua C. Allen Brower  
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---

**From:** Erin' 'Ferguson <[erin.ferguson@seattle.gov](mailto:erin.ferguson@seattle.gov)>  
**Date:** Tuesday, July 25, 2017 at 3:59 PM  
**To:** Josh Brower <[josh@verislawgroup.com](mailto:josh@verislawgroup.com)>, Danielle Granatt <[danielle@verislawgroup.com](mailto:danielle@verislawgroup.com)>, Megan Manion <[megan@verislawgroup.com](mailto:megan@verislawgroup.com)>, Leah Silverthorn <[leah@verislawgroup.com](mailto:leah@verislawgroup.com)>  
**Cc:** Patrick Schneider <[SchnP@foster.com](mailto:SchnP@foster.com)>, "Menzel, Laurie" <[Laurie.Menzel@seattle.gov](mailto:Laurie.Menzel@seattle.gov)>  
**Subject:** discovery response

Hi All,

The City is working to compile our response to your discovery request and I have a few questions. First, I assume all electronic v. hard copies of all the responsive documents is acceptable – correct? And what document management software do you use? If you let me know, we can try to save our production in a format that will work with your software, such as summation, concordance, etc.

Please let me know.

Thanks,  
Erin



**Erin E. Ferguson**  
Assistant City Attorney  
Land Use Section  
Seattle City Attorney's Office  
Civil Division  
701 Fifth Avenue, Suite 2050  
Seattle, WA 98104-7097  
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# EXHIBIT H

---

**From:** Ferguson, Erin <Erin.Ferguson@seattle.gov>  
**Sent:** Tuesday, September 12, 2017 11:57 AM  
**To:** Brower, Josh (josh@verislawgroup.com); Danielle Granatt <danielle@verislawgroup.com> (danielle@verislawgroup.com); 'Leah Silverthorn'; 'Pat Schneider'  
**Cc:** Tadas Kisielius; Dale N. Johnson; Clara Park; Menzel, Laurie; 'Megan Manion'; Reise, Alicia L  
**Subject:** RE: supplemental discovery response

Josh,

A small additional supplemental discovery response is being delivered to your office today. In preparing our preliminary exhibit list, we discovered the approximately 50 documents from ESA being produced today, which were not included in our original response. It consists primarily of technical data, much of which is duplicative of parking and transportation data from Parametrix that was already produced, but it also includes additional land use data.

Best,  
Erin



**Erin E. Ferguson**  
Assistant City Attorney  
Land Use Section

Seattle City Attorney's Office  
Civil Division  
701 Fifth Avenue, Suite 2050  
Seattle, WA 98104-7097  
Phone: 206-684-8615  
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**From:** Ferguson, Erin  
**Sent:** Wednesday, August 16, 2017 11:29 AM  
**To:** Brower, Josh ([josh@verislawgroup.com](mailto:josh@verislawgroup.com)) ; Danielle Granatt ([danielle@verislawgroup.com](mailto:danielle@verislawgroup.com)) ; Leah Silverthorn ; Pat Schneider  
**Cc:** tak ([tak@vnf.com](mailto:tak@vnf.com)) ; Dale N. Johnson ; Clara Park ; Menzel, Laurie ; Megan Manion ; Reise, Alicia L  
**Subject:** supplemental discovery response

Josh,



We have discovered a small number of additional documents that we will be providing to supplement our original response - primarily photographs from ESA, as well as some hard copy documents from SDOT. We are sending over a CD today with the documents/photographs from ESA, but others are not in a format that is easy to transmit and so we would instead like to make those available for your review at SDOT's offices. The documents available for review consist of the hard-copy files of Mark Mazzola and Jill Macik at SDOT, much of which are just duplicates of drafts or meeting agendas that have already been produced, although some with additional hand written notes, as well as roll plots with some hand written notes on them. Please let me know if and when you would like to come review those and we will arrange it.

Also, we are still working on reviewing and producing potentially responsive email. Since you have not responded to our inquiry about narrowing the scope or providing guidance on the specific communications you are interested in, we are proceeding to interpret the requests broadly, in light of our objections. We believe many of the emails have already been produced in response to public disclosure requests, but we will nonetheless provide them as soon as possible.

Best,  
Erin



**Erin E. Ferguson**  
Assistant City Attorney  
Land Use Section

Seattle City Attorney's Office

Civil Division

701 Fifth Avenue, Suite 2050

Seattle, WA 98104-7097

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# EXHIBIT I

---

**From:** Danielle Granatt <danielle@verislawgroup.com>  
**Sent:** Friday, September 08, 2017 11:24 AM  
**To:** Ferguson, Erin; Josh Brower  
**Cc:** Tadas Kisielius; Pat Schneider; Leah Silverthorn  
**Subject:** RE: FEIS - Land Use Chapter Author

Erin:

Thank you for getting back to me and clarifying this issue. Despite her departure from Parametrix, we still plan to depose Jennifer—please let us know if you can accept service for her or whether we need to send her a SDT.

Regarding depositions, yes, we plan to take a number of them and plan to do so in the following order:

1. Ben Perkowski
2. Scott Kubly
3. Mark Mazzola
4. Morgan Shook
5. Claire Hoffman
6. Mark Johnson
7. Brian Surratt
8. Jennifer Hagenow

We may identify other deponents as we work through the large volume of documents we received from the City and CBC.

We would like to take these depositions between Monday, September 18<sup>th</sup> to Thursday, September 21<sup>st</sup> and between Tuesday, September 26<sup>th</sup> to Friday, September 29<sup>th</sup>.

Thank you for working with us to schedule the depositions during these time periods.

Please let us know whether you are planning to schedule depositions in this matter, and if so, who you are considering and when. We will work with you to get the depositions scheduled.

All the best,

Danielle

Danielle N. Granatt  
**Veris Law Group PLLC**  
1809 Seventh Avenue, Suite 1400  
Seattle, WA 98101  
Direct: 206.535.6007  
Main: 206.829.9590  
Fax: 206.829.9245  
[danielle@verislawgroup.com](mailto:danielle@verislawgroup.com)  
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---

**From:** Ferguson, Erin [mailto:Erin.Ferguson@seattle.gov]  
**Sent:** Tuesday, September 05, 2017 4:07 PM  
**To:** Danielle Granatt; Josh Brower; Pat Schneider  
**Cc:** tak (tak@vnf.com)  
**Subject:** RE: FEIS - Land Use Chapter Author

Hi Danielle,

Mark Johnson, who is identified as the reviewer of the land use chapter, would be the correct person at ESA on that topic. Jennifer is no longer with ESA and my understanding is that Claire and Mark worked hand-in-hand on that chapter, with Mark being the lead.

Also, are you considering other depositions? If you let us know who you are considering or on what subject matters, as well as when you would prefer to schedule any depositions, we would be willing to work with you to identify the appropriate person and set up an appropriate schedule.

Best,  
Erin



**Erin E. Ferguson**  
Assistant City Attorney  
Land Use Section

Seattle City Attorney's Office  
Civil Division  
701 Fifth Avenue, Suite 2050  
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**From:** Danielle Granatt [mailto:[danielle@verislawgroup.com](mailto:danielle@verislawgroup.com)]  
**Sent:** Tuesday, September 05, 2017 12:24 PM  
**To:** Ferguson, Erin <[Erin.Ferguson@seattle.gov](mailto:Erin.Ferguson@seattle.gov)>  
**Subject:** FEIS - Land Use Chapter Author

Hi Erin -

I hope you had a great holiday weekend. Jennifer Hagenow and Claire Hoffman are both listed as authors of the land use chapter of the FEIS. Can you please let us know whether Jennifer or Claire was the principal author of the chapter? We are thinking about a deposition schedule and would like to make sure we note the correct person at ESA.

Many thanks,

Danielle

Danielle N. Granatt  
**Veris Law Group PLLC**  
1809 Seventh Avenue, Suite 1400  
Seattle, WA 98101  
Direct: 206.535.6007  
Main: 206.829.9590  
Fax: 206.829.9245  
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# EXHIBIT J

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**From:** Leah Silverthorn <leah@verislawgroup.com>  
**Sent:** Monday, September 18, 2017 4:07 PM  
**To:** Ferguson, Erin; Josh Brower; Pat Schneider; Danielle Granatt  
**Cc:** Tadas Kisielius; Cohen, Matthew; Cox, Rachel H. (rachel.cox@stoel.com); Dale N. Johnson  
**Subject:** RE: Deposition schedule

Hi Erin,

I think it will be more efficient to discuss scheduling on the call tomorrow.

Thanks,  
Leah

Leah B. Silverthorn  
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**From:** Ferguson, Erin [mailto:Erin.Ferguson@seattle.gov]  
**Sent:** Monday, September 18, 2017 1:01 PM  
**To:** Leah Silverthorn; Josh Brower; Pat Schneider; Danielle Granatt  
**Cc:** tak (tak@vnf.com); Cohen, Matthew; Cox, Rachel H. (rachel.cox@stoel.com); Dale N. Johnson  
**Subject:** RE: Deposition schedule

Leah,

We have not seen notices of deposition for Morgan, Mark M. and Mark J. Can you please confirm the proposed deposition schedule:

September 21<sup>st</sup>, 10-2: Morgan Shook  
September 27<sup>th</sup>, 8-noon: Mark Johnson  
September 27<sup>th</sup>, 1-5: Mark Mazzola

Since the 21<sup>st</sup> is quickly approaching, we can make Morgan available on September 27<sup>th</sup> from 12-4pm, as an alternative to this Thursday, but we would appreciate confirmation by the end of today regarding all three.

We would also appreciate confirmation of the deposition schedule for Victor Bishop, Claudia Hirschey, Barry Knight, and Scott Kuznicki during the following times:

September 25, 8-noon and 1-5  
September 26, 8-noon  
September 28, between 10 and 4

We would prefer to coordinate with you informally to schedule these at a time that works well for everyone involved, but if we do not receive confirmation by tomorrow morning, we will likely proceed with subpoenas for deposition.

We look forward to hearing from you.

Best,  
Erin



**Erin E. Ferguson**  
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*\*\*\* Please be aware that I am out of the office on Fridays.*

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**From:** Leah Silverthorn [<mailto:leah@verislawgroup.com>]

**Sent:** Thursday, September 14, 2017 3:41 PM

**To:** Ferguson, Erin <[Erin.Ferguson@seattle.gov](mailto:Erin.Ferguson@seattle.gov)>; Josh Brower <[josh@verislawgroup.com](mailto:josh@verislawgroup.com)>; Pat Schneider <[pat.schneider@foster.com](mailto:pat.schneider@foster.com)>; Danielle Granatt <[danielle@verislawgroup.com](mailto:danielle@verislawgroup.com)>

**Cc:** tak ([tak@vnf.com](mailto:tak@vnf.com)) <[tak@vnf.com](mailto:tak@vnf.com)>; Cohen, Matthew <[matthew.cohen@stoel.com](mailto:matthew.cohen@stoel.com)>; Cox, Rachel H. ([rachel.cox@stoel.com](mailto:rachel.cox@stoel.com)) <[rachel.cox@stoel.com](mailto:rachel.cox@stoel.com)>; Dale N. Johnson <[dnj@vnf.com](mailto:dnj@vnf.com)>

**Subject:** RE: Deposition schedule

Erin,

We appreciate your willingness to voluntarily produce Morgan Shook, Mark Johnson, and Mark Mazzola. I was going to suggest a half a day for each, so I think your 4 hour time slot is appropriate, with the understanding that we will



continue the deposition and proceed at an additional date or time if the depositions necessitate more than four hours. We will confirm these times and issue notices of depositions for each.

Respectfully, the Ballard Coalition intends to depose the witnesses Danielle listed below, despite the City's objections. The Hearing Examiner did not limit discovery, and the Ballard Coalition has reason to believe that these witnesses possess information that is either relevant, or will lead to the discovery of admissible evidence. The Coalition is entitled to depose both fact witnesses and expert witnesses, and discovery is not limited by the City's Motion to Dismiss. Nor can the City unilaterally decide that some issues raised by the Ballard Coalition in its Petition are discoverable or not. Discovery in this matter is governed by the civil rules and the hearing examiner rules, none of which impose the restrictions you suggest in your email response to Danielle. In any matter, the witnesses for whom you object are directly linked to the EIS and SEPA compliance, examples of which are below:

- As you admit below, Claire, Mark, and Jennifer all contributed to the analysis in the EIS. In addition, all are listed in the EIS as authors. Each possesses information that is directly relevant to the analysis in the EIS;
- Scott Kubly is the director of SDOT, and is listed as the SEPA responsible official in the EIS. His testimony is directly relevant to SEPA compliance;
- Brian Surrat is the director of the Office of Economic Development (OED). The EIS states that SDOT worked "in partnership" with OED in the consideration of alternatives and selection of the preferred alternative for the Missing Link in the EIS process; and
- Ben Perkowski is a land use planner at the Seattle Department of Construction and Inspection, responsible for land use and shoreline development. The EIS specifically references compliance with the Shoreline Master Program (See, e.g. Chpt. 4 of the EIS). The City's Motion to Dismiss does not alter the relevancy standard under the civil rules, and there is no timeline for when the Hearing Examiner will rule on the pending motions, nor whether it will rule prior to hearing.

If the City does not agree to voluntarily produce these witnesses, the Ballard Coalition will have no choice but to subpoena these witnesses for deposition at a time and place of its choosing. Our hope, however, is to work cooperatively with the City to ensure that the discovery is efficient. Please let us know by 5pm on Friday, September 15 whether the City will voluntarily produce Claire Hoffman, Jennifer Hagenow, Scott Kubly, Brian Surrat, and Ben Perkowski for depositions. Otherwise, we will proceed with issuing subpoenas under the civil and hearing examiner rules.

Finally, thank you for providing dates and times for your proposed depositions of our four experts. We'll check with them on their availability and get back to you as soon as possible.

I look forward to your response and to cooperatively completing discovery in this matter.

Thanks,  
Leah

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**From:** Ferguson, Erin [<mailto:Erin.Ferguson@seattle.gov>]  
**Sent:** Thursday, September 14, 2017 3:19 PM  
**To:** Leah Silverthorn; Josh Brower; Pat Schneider; Danielle Granatt  
**Cc:** tak ([tak@vnf.com](mailto:tak@vnf.com)); Cohen, Matthew; Cox, Rachel H. ([rachel.cox@stoel.com](mailto:rachel.cox@stoel.com)); Dale N. Johnson  
**Subject:** Deposition schedule

As indicated, we are willing to make Mark Mazzola, Mark Johnson, and Morgan Shook available during the dates you provided. Since you did not respond to either of our inquiries regarding the amount of time you anticipate needing for these depositions, we are proposing to set aside 4 hours, with the hope we may not need all that time.

September 21<sup>st</sup>, 10-2: Morgan Shook  
September 27<sup>th</sup>, 8-noon: Mark Johnson  
September 27<sup>th</sup>, 1-5: Mark Mazzola

Similarly, we indicated that we would like to depose your four expert witnesses and proposed scheduling those the week of September 25<sup>th</sup>. Since you didn't respond, we propose setting depositions of Victor Bishop, Claudia Hirschey, Barry Knight, and Scott Kuznicki during the following times:

September 25, 8-noon and 1-5  
September 26, 8-noon  
September 28, between 10 and 4

Please let us know which of your witnesses will be available to be deposed at which time as soon as possible.

Thanks,  
Erin



**Erin E. Ferguson**  
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