Attachment 9

Arboretum Mitigation Memorandum of Understanding

MEMORANDUM OF UNDERSTANDING

WASHINGTON PARK ARBORETUM FOR EFFECTS
SR 520, I-5 TO MEDINA: BRIDGE REPLACEMENT AND HOV PROJECT

BETWEEN WASHINGTON STATE DEPARTMENT OF TRANSPORTATION, MEMBERS OF THE ARBORETUM AND BOTANICAL GARDEN COMMITTEE, ARBORETUM FOUNDATION, SEATTLE PARKS AND RECREATION, SEATTLE DEPARTMENT OF TRANSPORTATION AND UNIVERSITY OF WASHINGTON

3/2/2011

This Memorandum of Understanding (MOU) has been developed by the Washington State Department of Transportation (WSDOT), members of the Arboretum and Botanical Garden Committee (ABGC), Arboretum Foundation, Seattle Parks and Recreation (Seattle Parks), the Seattle Department of Transportation (SDOT), and the University of Washington (UW) (hereinafter the "parties") to memorialize the intent of the parties regarding future actions and respective roles and responsibilities that will assure implementation of the projects identified in the Washington Park Arboretum (Arboretum) Mitigation Plan for the SR 520, I-5 to Medina: Bridge Replacement and HOV Project (I-5 to Medina Project).

This MOU is intended to provide background information and the understanding of the parties regarding the basic terms and progress for the development of a Mitigation Plan for the I-5 to Medina Project and the intended future agreements.

I. Background

1. Program and Project Overview

The SR 520 Bridge Replacement and HOV Program will enhance safety by replacing the aging Evergreen Point Floating Bridge, and keep the region moving with vital transit and roadway improvements throughout the corridor. The SR 520, I-5 to Medina Bridge Replacement and HOV Project, one of four major projects in this program, includes the floating bridge replacement as well as construction of eastbound and westbound HOV lanes, improved interchanges, and landscaped lids at Montlake Boulevard and 10th Avenue East and Delmar Drive East.

In April 2010, WSDOT identified a six-lane Preferred Alternative for the I-5 to Medina Project based on public and agency comments received on the Supplemental Draft Environmental Impact Statement (SDEIS). The Preferred Alternative will, like all the SDEIS options, have significant adverse impacts on the Arboretum by expanding the footprint of SR 520 within the park. As a result, WSDOT is required to develop mitigation measures under federal and state regulations, including the National Environmental Policy Act, the State Environmental Policy Act, and Section 4(f) of the U.S. Department of Transportation Act. In accordance with these regulations and the requirements of Engrossed Substitute Senate Bill 6392, WSDOT has coordinated with the ABGC to develop the Arboretum Mitigation Plan. Attachment A shows the I-5 to Medina project over the Arboretum boundary. Other right of way actions such as Section 6(f) acquisition are addressed outside of the Arboretum Mitigation Plan or this MOU.

2. Management of the Arboretum

The Arboretum is managed cooperatively by Seattle Parks and the UW. The Arboretum Foundation is its major support organization. The City of Seattle owns most of the Arboretum's land, including portions of Foster Island, and buildings, Seattle Parks maintains the park functions, and the UW owns, maintains, and manages the plant collections and associated programs. The UW and the Arboretum Foundation each own a greenhouse.

The ABGC is the legally mandated advisory committee for the Arboretum, established by the Arboretum's enabling legislation in 1934. It is comprised of nine members appointed by the UW, City of Seattle, the Governor and the Arboretum Foundation. ABGC advises the owners and managers of the Arboretum (Seattle Parks and the UW) on important issues such as the 2001 Arboretum Master Plan and mitigation for the SR 520 project. For purposes of implementing the SR 520 mitigation projects agreed to through this MOU, the ABGC will be the body responsible for implementation as outlined in the paragraphs following "Implementation Roles and Responsibilities."

3. Background of Arboretum Mitigation Planning

Through coordination with the city of Seattle, the UW and the Arboretum Foundation, WSDOT identified the AGBC as the appropriate advisory committee for consulting on Arboretum mitigation projects. WSDOT met regularly with the ABGC from May through December of 2010 to discuss regulatory requirements, project impacts, and potential mitigation measures. ABGC members include representatives from the Arboretum Foundation, the city of Seattle, the UW and the Washington State Governor's Office. SDOT also participated in ABGC meetings as needed to discuss traffic calming and traffic management in the Arboretum.

Coordination between WSDOT, the ABGC, and SDOT resulted in a suite of agreed-upon projects to mitigate for anticipated adverse effects of the I-5 to Medina project on the regulated parks and natural resources within the Arboretum as disclosed in the SDEIS and subsequent analyses to date based on the Preferred Alternative. These projects are described in Section II and in further detail in the Arboretum Mitigation Plan. Some of these projects will be implemented by WSDOT in conjunction with SR 520 construction, and others will be funded by WSDOT and implemented by the ABGC. The ABGC will continue to participate in the design process for these projects. As described in this MOU, the ABGC and WSDOT will continue to clarify the scope of each project, timing of implementation, and implementation responsibility.

WSDOT, SDOT and the ABGC discussed traffic management and traffic calming measures in ABGC meetings. Some traffic calming measures that have been collaboratively identified would be funded by WSDOT and implemented by SDOT in 2011. Implementing these measures in advance of I-5 to Medina project construction will offset some of the temporary impacts to pedestrian mobility during construction. In partnership with WSDOT, SDOT will work collaboratively to evaluate a number of traffic management measures, as described in their Arboretum Traffic Management Plan (December 2010).

Through a series of meetings, ABGC and WSDOT conducted the following activities:

- WSDOT and the ABGC discussed noise, as measures to address noise in the Arboretum are included as part of the I-5 to Medina project.
- ABGC provided WSDOT with a prioritized list of projects from the Arboretum Master Plan that could be funded by WSDOT as mitigation measures.

- WSDOT and the ABGC developed an initial list of mitigation ideas addressing the Arboretum and natural resources effects.
- WSDOT conducted an evaluation to screen the initial list of potential mitigation measures.
- WSDOT, the ABGC and SDOT identified and developed methods to address the ABGC's traffic calming and traffic management concerns.
- WSDOT consulted with ABGC and then determined which projects would meet legislative intent and satisfy regulatory requirements for mitigation.
- WSDOT developed an Arboretum Mitigation Plan in consultation with the ABGC and submitted this plan to the Governor and Legislature in December 2010.

4. Relevant Legislation and Regulations

During the 2010 legislative session, the Washington State Legislature passed, and Governor Gregoire signed, Engrossed Substitute Senate Bill (ESSB) 6392. Among other requirements, this bill directed the WSDOT to "consult with the governing board of the Washington park arboretum, the Seattle city council and mayor, and the UW to identify all mitigation required by state and federal law resulting from the state route number 520 bridge replacement and HOV program's impact on the arboretum, and to develop a project mitigation plan to address these impacts." An Arboretum Mitigation Plan was prepared as a response to the direction of ESSB 6392.

WSDOT must comply with a variety of local, state and federal regulations that require mitigation for the effects of the I-5 to Medina project throughout the project corridor. Documentation of anticipated effects and associated mitigation for the entire project is required through the National Environmental Policy Act (NEPA) and the State Environmental Policy Act (SEPA). WSDOT plans to release a final EIS in spring 2011 to comply with NEPA and SEPA requirements. Anticipated effects and associated mitigation measures for the I-5 to Medina project, including those described in this report, will be memorialized in the final EIS.

This Arboretum Mitigation Plan specifically describes anticipated effects from the I-5 to Medina project, as well as associated mitigation measures, within the Arboretum boundary (see the table included as Attachment B). Construction and operations within the Arboretum will require compliance with the following environmental resources and associated regulations:

- Section 4(f), Department of Transportation Act.
- Section 6(f), Land and Water Conservation Fund Act.
    - The UW, WSDOT, and City of Seattle Parks and Recreation have entered into an MOU addressing their respective roles and responsibilities related to 6(f) conversion
- Section 106, National Historic Preservation Act.
- Sections 401 and 404, Clean Water Act.
- Critical Areas Ordinance (CAO).
- Federal Highway Administration (FHWA) Noise Abatement Criteria.

II. Items of Understanding of the Parties

1. Projects - Through the ESSB 6392 workgroup effort, the following list of projects has been identified for further action:

a. Foster Island improvements.
   i. The Arboretum Master Plan outlines a variety of improvements the ABGC has prioritized on Foster Island. Foster Island, which SR 520 will cross on a new structure, is considered to be a traditional cultural property with ongoing cultural value to Native American tribes. Therefore, implementation of any Foster Island improvements is pending tribal concurrence.

b. Art, aesthetic and landscape enhancements at Foster Island crossing.
   i. WSDOT will continue to work with the tribes and ABGC to identify and implement appropriate art, aesthetic and landscape treatments for the new crossing of Foster Island.

c. WSDOT Peninsula restoration.
   i. As part of the I-5 to Medina project, WSDOT will remove the existing unused freeway ramps as well as the SR 520 off- and on-ramps in the Arboretum. WSDOT would also construct improvements as part of ramp removal and reconstruction of Lake Washington Boulevard, potentially including:
      - Restoration following ramp removal.
      - Restoration of wetlands on the northern portion of property.
      - Rehabilitation of existing wetlands.
      - Establishment of forested buffers around the restored wetland.

      A portion of the WSDOT Peninsula will be graded and planted to restore and expand wetland areas.

d. North Entry.
   i. The ABGC has identified potential improvements to the Arboretum North Entry in their Arboretum Master Plan. Additional project scoping is needed to identify and prioritize project elements.

e. Arboretum Creek wetland improvements.
   i. The Arboretum Master Plan describes a variety of modifications to Arboretum Creek that could enhance the creek's natural appearance and ecological function. WSDOT proposes to:
      - Restore the forest through buffer enhancement and native planting at mouth of Arboretum Creek.
      - Convert piped sections of the stream to natural open channel and remove/reconfigure the parking lots to restore the stream channel and riparian forest.
      - Add stream bends and wood habitat structures at north end of creek and excavate the middle section of Arboretum creek to establish wetland hydrology along the creek margins.
      - Rebuild the creek bed and restore the riparian zone.
   ii. Potential Arboretum Creek flow enhancements would be considered separate from the identified SR 520, I-5 to Medina project mitigation measures.

f. Azalea Way Pond.
    i. Improvements to the Azalea Way Pond have also been described in the Arboretum Master Plan. WSDOT proposes to:
        - Restore the hillside seep wetland above the pond and revegetate.
        - Remove the pipe drain and restore an open channel from the pond to Arboretum Creek.

g. Develop multi-use trail.
    i. The ABGC has also identified potential improvements to a multi-use trail in their Arboretum Master Plan. Additional project scoping is needed to identify and prioritize project elements.

h. Traffic calming (see Attachment C)
    i. To offset construction traffic impacts, WSDOT plans to contribute up to $200,000 to SDOT for implementation of traffic demand management strategies, specifically traffic calming measures, in advance of construction of the I-5 to Medina project.
    ii. SDOT recommends the following potential safety and traffic calming improvements:
        - Marked crosswalks on Lake Washington Boulevard at areas frequently used by pedestrians.
        - Radar speed signs
        - Raised crosswalks
        - Speed cushions
        - Landscaped curb bulbs
        - Sign improvements
        - Pedestrian-activated signals

i. Traffic management (see Attachment D)
Parties to the MOU agree that traffic management is an ongoing process that requires continued support and modification as conditions in the region change and people modify their behavior. As such, it is the intent of the parties to coordinate on developing sound traffic management plans, measuring their successes, and making adjustments as necessary to meet the goals set forth in the plans. Traffic management strategies and measures under evaluation include:
    i. SDOT, in coordination with WSDOT, will develop local traffic management plans to manage traffic on the local arterials, including evaluation of the following:
        - Signing improvements
        - Traffic signal modifications
        - Traffic calming treatments
        - Turn restrictions
        - Traffic restrictions
        - Tolling of local streets
    ii. WSDOT and SDOT will coordinate to ensure integration of traffic management strategies between the two agencies that use smarter highway tools such as variable speed limits on the highways, closed circuit television for monitoring, ramp metering, variable message signs, highway advisory radios, and the emergency response program.

iii. WSDOT will coordinate with the SDOT to review and develop intersection signal timing plans at the ramp termini that would affect traffic in both the Arboretum and on SR 520 and SR 513 (Montlake Boulevard).

j. Interpretive and Wayfinding Plan.

i. Development of an Interpretive and Wayfinding Plan in areas being improved as part of the I-5 to Medina project. The ABGC 2004 Interpretive and Wayfinding Plan will be used as guidance during development of the plan.

2. Roles and responsibilities - The parties will continue to work collaboratively to advance the projects identified in Section 2. Specific roles and responsibilities of each party are identified below:

a. WSDOT

i. WSDOT will continue working with the parties and tribes to further define the mitigation necessary on Foster Island (Sections II.1(a) and II.1(b)).

ii. WSDOT will fund the scoping of the mitigation measures described in Sections II.1(d) and II.1(g).

iii. WSDOT will develop the design for, ensure environmental compliance for, and implement the mitigation measures described in Sections II.1(b) (pending tribal concurrence), II.1(c), II.1(e) and II.1(f) through continued coordination with the ABGC.

iv. WSDOT will continue coordination with the ABGC and SDOT to fund and implement the traffic calming measures described in Sections II.1(h).

v. WSDOT will continue coordination with the ABGC and SDOT to further evaluate the traffic management measures described in Sections II.1(i).

vi. WSDOT will coordinate with the ABGC to implement the mitigation measures described in Section II.1(j) as part of the I-5 to Medina Project.

vii. WSDOT will be the lead agency for development of formal agreements identified as being necessary for Arboretum mitigation implementation.

viii. WSDOT will continue to coordinate with the ABGC throughout project design and into construction, to ensure communication regarding project changes that would affect the Arboretum or proposed mitigation measures.

ix. WSDOT will coordinate with the ABGC on potential water flow enhancements in Arboretum Creek as appropriate.

b. ABGC

i. The ABGC will review all Arboretum mitigation-related documents in a timely manner.

ii. The ABGC will actively support the timely development, review, and execution of the formal agreements identified as being necessary for implementation of Arboretum mitigation measures.

iii. The ABGC will develop the design for, ensure environmental compliance for, and implement the mitigation measures described in Sections II.1(a) (pending tribal concurrence), II.1(d) and II.1(g) through continued coordination with WSDOT.

iv. The ABGC will support the mitigation elements identified in this report and not seek further mitigation as a result of the I-5 to Medina project effects unless effects are significantly different than described within the Arboretum Mitigation Plan and SR 520, I-5 to Medina project final environmental impact statement.

v. To provide for efficient and effective implementation of the mitigation projects identified in this agreement, the ABGC will operate in accordance with the 2004 Washington Park Arboretum Master Plan Implementation Plan.
vi. Management of the implementation process for the mitigation projects included in this agreement will be delegated to the Master Plan Implementation Group (MPIG), a subcommittee of the ABGC. The MPIG will be responsible for planning, and recommending to the ABGC for approval, the sequencing, timing, scope, schedule and budget for each mitigation project included in this agreement.

c. Seattle Parks
   i. Seattle Parks will actively support the timely development, review, and execution of the formal agreements identified as being necessary for implementation of Arboretum mitigation measures.
   ii. Seattle Parks will continue participating in the Arboretum mitigation planning process by being represented on the ABGC.

d. SDOT
   i. SDOT will advance activities necessary to implement traffic calming measures defined in II.1(h) starting in 2011.
   ii. SDOT will continue to evaluate, identify funding for, and implement the traffic management measures identified in II.1(i) as feasible through continued coordination with WSDOT and the ABGC.
   iii. SDOT will provide updates to the ABGC on the progress and results of traffic calming measures and traffic management evaluations.

e. UW
   i. The UW will actively support the timely development, review, and execution of the formal agreements identified as being necessary for implementation of Arboretum mitigation measures.
   ii. The UW will continue participating in the Arboretum mitigation planning process by being represented on the ABGC.

f. Arboretum Foundation
   i. The Arboretum Foundation will actively support the timely development, review, and execution of the formal agreements identified as being necessary for implementation of Arboretum mitigation measures.
   ii. The Arboretum Foundation will continue participating in the Arboretum mitigation planning process by being represented on the ABGC.

3. Future agreements for project implementation – The agreements listed below are those that are known at the present time. As the projects are more fully defined and additional details are known, agreements will be developed as required.

a. Memorandum of agreement (MOA), which may be between WSDOT and the city of Seattle, UW and the ABGC for development of scopes of work for identified mitigation measures.
b. MOA between WSDOT and SDOT regarding funding and implementation of traffic calming measures identified in II.1(h).

4. **Process and schedule**

This MOU is intended to guide the parties in the development of formal agreements for the implementation of specific Arboretum mitigation measures. The parties anticipate executing these agreements as soon as is practical. Scoping for the North Entry and multi-use trail projects is anticipated to begin in spring 2011 and implementation of traffic calming measures is anticipated to begin as early as spring 2011.

Concurrence

Washington State Department of Transportation

for _____ Date: 4/28/11
David L. Dye, Deputy Secretary

Arboretum and Botanical Garden Committee

_____ Date: 3/9/11
Theresa Doherty, University of Washington, Director of Regional and Community Relations and ABGC Chair

_____ Date: 3/9/11
Della Balick, Arboretum Foundation President

_____ Date: 3/9/11
Paige R. Miller, Arboretum Foundation Executive Director

_____ Date: 3/9/11
John B. Collins, City of Seattle Mayoral Appointee

_____ Date: 3/10/11
Donald Harris, City of Seattle, Parks and Recreation Planning and Development Manager

_____ Date: 3/9/11
Kjristine Lund, City of Seattle Mayoral Appointee

_____ Date: 3-9-11
Fred C. Hoyt, University of Washington Botanic Gardens Associate Director

_____ Date: 9 March 11
Iain Robertson, University of Washington Associate Professor, Department of Landscape Architecture

_____ Date: 4/13/11
David L. Towne, Washington State Governor's Appointee

Seattle Parks and Recreation

_____ Date: 4/13/11
Christopher Williams, Seattle Parks and Recreation Acting Superintendent

Seattle Department of Transportation

_____ Date: 4.15.11
Peter Hahn, Director

University of Washington

Lisa Graumlich Date: 4/20/11

Dr. Lisa Graumlich, Dean, College of the Environment

Arboretum Foundation

Della Balick Date: 3/9/11

Della Balick, Foundation President