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October 9, 2008

Mr. David Dicks
Executive Director
Puget Sound Partnership
PO Box 40900,
Olympia, WA 98504-0900

Re: Cities' Comments Regarding "Puget Sound Partnership Strategic Priorities and Candidate Partnership Initiatives" (SPCPI) Matrix Presented at the Ecosystem Coordinating Board October 1, 2008.

Dear David,

Thank you and Puget Sound Partnership (PSP) staff for the diligent work in producing the SPCPI draft. I apologize that my schedule did not permit me to attend the October 1 meeting where this material was presented, but appreciate Karen Rogers, AWC President, attending and did a fine job representing the interests of cities. PSP staff has requested comments regarding the SPCPI by Thursday, October 9, and this letter represents our comments. Please note that the time frame for comments does not permit a thorough review by cities and we may have further comments as the process unfolds.

The following ten principles serve as a lens through which cities view the SPCPI. I think it is valuable to preface our comments by identifying these principles.

Guiding Principles for Selection of Partnership Initiatives

1. Washington's cities provide an array of services for residents, the business community, tourists and others. Operating budget revenues are not sufficient for many cities to support the level of services – including environmental services - required to meet federal and state mandates, citizen expectations, and community priorities. The competition for resources within the operating budget is fierce and services are seldom funded to a level that meets community performance benchmarks.

City infrastructure systems are crumbling. These aging systems are inadequate to meet current needs of businesses and residents, as well as those needed to sustain and attract growth and protect the environment. As these systems continue to deteriorate, they become an environmental, safety and public health concern. Further, the backlog of maintenance and capital improvements is putting our cities in danger of losing economic development opportunities to other communities across the country and around the world.

As cities enter a new fiscal year, things are looking even bleaker. In the wake of a recession and revenue caps many cities are faced with budget shortfalls. The result of this financial tug-of-war will result in:

- Further erosion of basic services, including environmental investments, for citizens and businesses; and
- Fewer resources being directed towards capital projects, including wastewater and sewage treatment upgrades, leaving maintenance and construction of city capital assets to be deferred for future years.

2. The costs associated with implementation of any priority initiatives need to be carefully considered, and may in some instances be prohibitive. As you know, cities come in various shapes, sizes and capabilities and initiatives that are expensive and complex to administer will be problematic for cities and ultimately ineffective in cleaning up Puget Sound. We appreciate comments made by you, Bill Ruckelshaus, and staff that recognize and distinguish between the need to develop strategies to clean up Puget Sound and the need to fund these strategies. Cities believe the success or failure of these efforts will depend in large part on the ability to fund the priorities once identified, especially since cities are already overburdened with unfunded mandates emanating from state and federal laws that exceed existing budget capacities, as noted above.

3. The state needs to more fully recognize their role as partners with local governments in addressing Puget Sound clean-up strategies; both in providing technical assistance and funding. In every instance, WRIAs cross multiple jurisdictions (local, state and sometimes tribal) and require coordinated data gathering, monitoring and management efforts. State and local governments are responsible for roads and highways that convey surface water and pollution to receiving waters and ultimately Puget Sound. We believe that in the aggregate, through conservation and storm water utility efforts, local governments are already making multi-million dollar investments in addressing cleanup efforts and the State needs to be a full and equal partner in these effort.

4. Existing landscapes must be recognized in the application of priorities. Many cities have ports and water dependent activities that are by scientific standards, highly disturbed environments, but are recognized in state and federal law as essential and entitled. Railroads and ports are two such examples, and the priorities and strategies to clean up Puget Sound must fully account for these and other activities that are urban in nature. Rather than attempt to restore all land areas associated with Puget Sound, we believe it is more useful and prudent to seek areas that have the greatest restoration potential, and fewer potential conflicts, as targets for strategic prioritization. We believe such efforts will more effectively target limited financial resources towards enhancing, increasing and restoring natural functions and values.

5. We need to be careful in the application of the science for each basin and subarea within them. Not all basins are created equal and not all have been disturbed in the same way or to the same degree. We suggest careful thought be given to establishing clear "baseline assessments" for each basin (WRIA & subareas) and such assessments recognize the knowledge base and gaps that exist in the science. This is critical for understanding the functions and values we may seek to protect as well as establishing the basis for monitoring changes in these functions over time.

6. Existing regulatory frameworks for managing resources are fragmented and complex, and need to be better coordinated if we are to be successful. We need to seek strategies that recognize procedural conflicts and issues, and seek to reduce or eliminate them. Given the number of government players (Federal, State, Tribal and Local), the complexity of the legal structures, and the resources expended at all levels of government, we need to seek efficiencies in our efforts if we are to be successful. Further, new initiatives associated with climate change (CAT and Legislative

initiatives) need to be coordinated with the PSP efforts. We appreciate comments to this end made by a number of Ecosystem Coordination Board members.

7. Some of the Partnership's Candidate Partnership Initiatives obliquely suggest that cities should make changes to their growth management strategies. If the Partnership is suggesting that cities need to manage growth differently, cities need the analysis and rationale and need specifics rather than generalities. Additionally, any changes to the way cities manage growth need to be made through the Legislature and through existing local/regional processes and planning efforts.

8. We need to build on existing efforts. Cities are currently making significant environmental investments for stormwater management, levee repair & maintenance, sewage treatment plant upgrades, habitat restoration and in many other areas and for many other kinds of projects. For instance, cities have made significant fiscal, technical and volunteer investments in WRIA efforts. The Partnership should support and build upon those efforts.

9. We need to build on successes. We must identify successful efforts in restoring areas within Puget Sound and seek to export and replicate them. It is clearly in our interest to understand what works and duplicate these efforts in other areas. Limited resources need to be prioritized towards those projects and programs that work.

10. The Partnership should focus resources and investment on fewer initiatives that have Sound-wide implications, are consensus initiatives, and that will make a measureable impact.

City Priority Initiatives

Based on our previous work and our initial review of the SPCPI matrix, we believe the items below are the most important initiatives for the Partnership to support in the 2009-11 Biennium. The following are what cities need in order to meet our goals for a healthy Sound by 2020.

1. Support Cities' Efforts to Implement the NPDES Phase I & II Municipal Stormwater Permits

The most significant action the Partnership can take to improve stormwater management and stormwater quality in Puget Sound is to support both financially and technically the efforts of cities to implement the Phase I & II permits. The financial and programmatic challenges posed by the requirements of the NPDES municipal stormwater permits are immense and there is no dedicated state funding to meet these environmental objectives. Local stormwater fees alone can not and should not cover the costs of the unfunded federal program. Cities need dedicated state assistance to effectively implement the permits. Seattle and Tacoma are in the midst of implementing the second iteration of their Phase I permit. Ninety-eight Phase II cities are in year two of implementing a phased-in five-year permit. These cities are struggling to make significant organizational and financial changes to the way they do business to meet the requirements of the current permits. No changes should be made to permit requirements during this first cycle of implementation. Let cities fully implement the permits under the current requirements while discussing the contents of the next permits. Additionally, the Partnership needs to more clearly identify source control as a strategy. The Partnership needs to take a leadership role at the state and national level to prevent pollutants from entering our pathways rather than placing the unfunded and massively challenging burden on local governments to solve this collective problem "at the end of the pipe."

2. Support Cities' Efforts to Update Shoreline Master Programs

The Shoreline Master Program (SMP) requirements were updated in 2003 to provide more environmental protections. Specifically, the guidelines include a requirement to achieve “no net loss of ecological functions necessary to sustain shoreline natural resources” as a result of use and development of the shoreline under the new local shoreline master programs. Most cities in the 12 Puget Sound counties impacted by the draft Action Agenda are now or will soon be in the midst of updating local SMPs to meet this new requirement. Cities need fiscal and technical support to meet these new objectives. Additionally, cities, communities and businesses need certainty about what their SMP responsibilities are, not for those responsibilities and timelines to be modified during updates. The legislation requiring SMP updates also requires the Legislature to fully fund these updates; this funding needs to be provided or the updates will not be completed. Even when updated, sensitive and appropriate development on and near shorelines will continue, as allowed and encouraged by the statutes.

3. Provide Infrastructure Assistance to Help Cities Create Dense, Compact Communities

The Partnership has identified preservation of highly-functioning rural areas and restoration of high priority areas as priorities for saving the Sound. The Partnership has also recognized that one of the greatest challenges facing to these priorities will be accommodating the projected 1.7 million additional people moving into the region by 2040. To accommodate this growth and realize our environmental goals, our urban areas need to become even more dense, attractive, compact and multi-modal. Under the GMA, cities encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner. Although cities are doing their part to encourage and direct growth and development in urban areas, they are discovering that financing adequate infrastructure to support growth remains a significant challenge. Eighty-two percent of cities surveyed in 2007 responded that growth is influencing the city's need to update or expand infrastructure systems.¹ The Partnership needs to assist cities with infrastructure investments – pipes, pumps and parks – to help drive growth in urban rather than rural areas.

4. Cities Need Clear, Effective Relationships with the Partnership for Effective Implementation and Adaptation

Cities appreciate that the condensed timeline and monumental tasks facing the Partnership in development of the Action Agenda required many meetings of many groups. To help ensure successful implementation of the Action Agenda and to improve our chances of reaching our goal of a restored Sound, cities need clearer points of contact at the Partnership and a more clearly-defined ongoing working relationship with the Partnership on the ground.

Specific Comments on SPCPI

We have reviewed the SPCPI matrix from the October 1 meeting. It is my understanding that the matrix will be significantly revised by you and your staff. However, we do not anticipate another draft of the matrix before the comment deadline and so our comments relate to the October 1 matrix. Further, our comments are in addition to those provided at the October 1 ECB meeting.

B. Protect Intact Ecosystem Processes, Structures, and Functions

B 1. Permanently protect intact marine resources....:

1. *Acquire high value habitat*: Agree in principle. However, the costs associated with this effort need to be evaluated in light of overall strategies.

¹ Association of Washington Cities, *Washington's Invisible Backbone*, State of the Cities 2008

2. *MMA*s: This is not a familiar concept for cities. While it appears a reasonable strategy, we need further information including how *MMA*s would be implemented and coordinated with cities vis-à-vis existing obligations (*SMA* and *GMA* etc.), and the costs associated with implementation.

3. *Outstanding Water Resource designations*: We need more information on this strategy before we can comment.

4. *Wilderness designations*: Agree

B 2. Rapidly acquire lands with high ecological value...: Agree – move to funding discussion.

B 3. Implement existing programs ...related to protection:

1. *Complete instream flow setting in basin without adopted rules*: This may be a priority for Puget Sound restoration for some basins and not for others. DOE has the authority to implement. Why has this not been done already? There are potentially significant issues regarding competing water rights and these need to be addressed before this strategy can be implemented.

2. *Implement stream flow protection*: We need to better understand what this may require of cities. Again, there may be issues associated with competing water rights.

3. *Update all SMPs by deadlines*: Agree, with the understanding that deadlines vary, not everyone needs to complete updates by 2011, and funding is not yet sufficient to meet these deadlines. This needs to be discussed in more detail to identify the various timelines and the funding issues.

4. *Assist local govts. in meeting no net loss...*: Agree in principle. Needs to include landscape analysis and move to funding discussion

Cities recommend adding a new element to the agenda related to water conservation. We believe water conservation programs are a viable strategic element to reduce water consumption and may include the re-use of non-potable water for irrigation and other appropriate uses. We would like to have further discussions regarding the viability of this approach, including how to fashion it so it can be appropriate for all cities in the region.

B 4. Reform Regulations Related to Protection:

1. *Strengthen shoreline protection*: Agree in concept; however, the landscape analysis needs to drive this direction. These applications are different in urban settings v. rural ones and the *SMA* specifically protects certain uses, particularly water dependent ones. Cities do not support amending the *SMA* limiting such uses. We are now embarking on updates – to be done again 7 years hence. If there are additional protections needed, use the *SMA* rule amendment process and work through the issues with interests.

2. *Strengthen GMA protections*: This is potentially a point of conflict with cities and we would oppose this direction without further clarification. *CAO* protection standards need to be different for urban areas v. rural areas as urban areas are usually addressing highly disturbed environments. Landscape analysis is essential regarding the application of *CAO* protections in urban areas and function and value assessments are essential as well. Urban settings are frequently poor candidates for

restoration precisely because of the highly disturbed nature of the shoreline environment and the intensity of use.

3. *Modify levee maintenance standards:* Agree in concept, however this notion needs considerable discussion as it would appear to modify flood management strategies with the Corps of Engineers and the associated flood designations and protections. Additionally, many levees are operating well and any proposed maintenance standards need to be tailored to where problems exist.

4. *Update instream flow rules adopted prior to 1986:* This is a potentially controversial matter with possibly limited benefit to Puget Sound and should be carefully examined. As noted, cities are concerned where changes to instream flows may conflict with existing municipal water rights. This recommendation needs to be more specific: where would instream flow rules be updated, for what purpose and with what anticipated impact on the Sound?

5. *Evaluate and implement solutions to water use issues related to exempt wells:* Agree

6. *Assist counties and cities in addressing revenue distribution issues:* We appreciate the Partnership's interest in this issue as it relates to Puget Sound. We would appreciate the Partnership's support for any agreed upon efforts by cities and counties to address related issues and fiscal impacts. Unfortunately, this is less than a "zero sum" game. The presumption is often that counties need to be compensated for loss of tax base and we suggest cities need to be compensated to provide the infrastructure and services necessary to accommodate additional density. Counties will need to redefine their services and business model. The State of Washington must be a player in this discussion.

7. *Evaluate the effectiveness of protection actions:* Agree in concept. The devil is in the "what" and "how" details.

B 5. Protect and support long-term stewardship of working farms, forests and aquatic lands:

1. *Support TDR...:* Agree, however CTED is working on this issue and it is being discussed in the context of GMA and climate change issues. Coordination is advised.

2. *Develop non-regulatory incentives:* Agree.

3. *Purchase development rights...:* Agree. Move to funding discussion.

4. *Transfer of development rights...:* Agree. See comment on B5.1., but why is this limited to the specific sites noted?

5. *Support the Ruckelshaus Center's Critical Area Ordinance Project:* Agree.

6. *Support and implement the Conservation Commission Working Lands Initiative:* Agree in concept, but need more information.

B 6. Create and implement programs to prevent & respond to new invasive species:

Agree. Need more detailed information.

B 7. Implement stewardship programs to assist private landowners with protection actions:
Need more information.

B 8. Maintain acquired parcels to achieve desired outcomes: Need more information.

C. Restore ecosystem processes, structures and functions

C 1. Implement priority restoration projects for marine, marine nearshore, estuary, freshwater riparian, and uplands: Agree in concept. We need to discuss these in more detail including the criteria and funding. In other words, which ones are the most important? Which ones need attention now vs. in the future? Which provide the “biggest bang for the buck?” We don’t have resources to do all needed restoration projects – some prioritization is critical – when will this occur?

1. *Implement projects in the Puget Sound Salmon Recovery Plan and three-year work plans:* Agree in concept, but need more detailed discussion and criteria.

2. *Complete high priority large-scale Estuary and Nearshore Restoration Projects that have a High Probability of Recreating Ecosystem Functions:* Agree – need more details.

3. *Complete high priority large scale Mainstem Riverine Restoration Projects that have a High Probability of Recreating Ecosystem Functions:* Agree – need more details.

4. *Support the Mid-stem Skagit Multi-Party Agreement Incentive System:* Agree – need more details.

5. *Complete high priority barrier removal projects:* Agree.

6. *Develop a region-wide program to remove fish passage barriers:* Agree.

7. *Encourage acceleration of the completion of the Puget Sound Nearshore Ecosystem Partnership’s General Investigation:* Agree

8. *Remove derelict gear...:* Agree

9. *Support USFS Road Decommissioning:* Agree

10: *Conduct habitat restoration at Toxic Clean-up Sites:* Agree – need more details and discussion regarding funding.

C 2. Maintain restoration projects to continue to meet desired outcomes: Need more details.

C 3. Implement stewardship incentives to assist private landowners with restoration actions:
Need more details.

D. Reduce the Sources of Water Pollution

D 1. Prevent pollutants from being introduced into the Puget Sound Ecosystem:

Generally, cities agree with the items under this category but need more detail regarding the specific actions and funding being contemplated for implementation. Providing authority for DOE to inspect vessels may involve other matters of law, including federal maritime law.

D 2. Use an integrated and holistic approach to managing urban stormwater and rural surface water runoff closer to its source and mimicking natural hydrologic conditions when possible.

1. *Assist local governments to implement the NPDES Phase II Stormwater Permits:* Agree and appreciate this element. We believe there is much work to be done here and, while LID is an important tool, it needs to be more fully developed. Moreover, various source controls need to be examined to account for, and respond to the full range of pollutants, pathways and strategies identified in the water quality discussion paper.

2. *Assist cities and counties in adopting the now required LID stormwater codes for development and redevelopment:* LID stormwater codes for development and redevelopment are now only required "where feasible" in Phase I jurisdictions. That said, it is not just policy issues that needed to be "coordinated," but how LID standards can be applied in a variety of urban development and redevelopment scenarios. Cost/benefit issues need much more discussion and analysis. There are significant policy issues that need to be coordinated between state and local regulators and the private sector. Assistance is needed per comment above (D 2(1)). Items (1) and (2) need to be coordinated with DOE, and with discussion associated with the Phase I and Phase II stormwater rule litigation, as well as the various climate change discussions.

3. *Develop and implement LID Incentives:* Agree per (1) and (2) comments.

4. *Evaluate the use of funds currently programmed for CSO improvements for stormwater control actions:* Agree. The Partnership should work with the U.S. Environmental Protection Agency, Washington state Department of Ecology, cities, and others as appropriate to determine to what extent and in what circumstances have major CSO plans succeeded in achieving, by themselves, water quality standards; whether storm water programs are adequately funded; what is the promise of low impact development treatments, especially when combined with CSO improvements; what sort of study, pilots, etc., would be useful to test an optimized investment strategy; can this effort proceed in parallel with current regulatory requirements, and how.

5. *Prioritize and fund stormwater retrofits in urban areas:* Agree with this concept, appreciate it's inclusion on the agenda and we want to have further discussions regarding details. Stormwater systems vary widely from one jurisdiction to the next, as do the circumstances for each jurisdiction and the sub-basin WRIA where they exist. How we address retrofitting jurisdictions, and how we prioritize the funding for retrofitting, is a complex issue requiring further discussion.

6. *Respond to Hood Canal dissolve oxygen study findings:* Agree

D 3. Upgrade Sewage Treatment Plants with priority for areas with demonstrated nutrient and pathogen loading.

1. *Provide state assistance grants for modernizing wastewater treatment starting in key areas:* This idea has merit. However, there are significant funding, policy and criteria matters that need further discussion. What areas are primary candidates for these upgrades, why and how have they been chosen? What are the costs for upgrading their systems? What technology would be used to upgrade

and does the responsible utility have the capacity to manage newer technologies? Where would funding come from and would there be ongoing funds for operations?

2. *Provide technical assistance for treatment plant project development in key areas:* Agree only if funding is available and we are clear on the directives and operational considerations per comment in (1) above.

3. *Align Public Works Trust Fund and Clean Water State Revolving Trust Fund with Action Agenda priorities:* Current law recognizes that applicants deemed a “Puget Sound Partner” get preference above other applicants from Puget Sound jurisdictions who aren’t a “Puget Sound Partner.” We don’t yet know what it takes to be a “Partner,” so should see how this evolves before calling for some other “alignment” of these funding sources. We do not agree or disagree – this recommendation seems premature and not defined.

D 4. Repair or Replace Poorly Functioning Onsite Sewage Systems in Key Shoreline Areas, particularly where nutrient and pathogen loadings are known issues. Agree with these elements in principle – the question remains, where are these “systems,” how many and impacting the Sound how? Are these private systems? What is the public’s role in helping repair or replace them? At what cost? To what benefit? Might be a good idea – need more information.

D 5. Support efforts to reclaim and reuse water: Creating incentives and removing barriers to voluntary reclaimed water generation and use is an important issue to cities. In some areas of Puget Sound, the generation and use of reclaimed water can result in multiple benefits and opportunities, including reduced wastewater discharges, stretching of potable water supplies, and opportunities for flow restoration in impaired water bodies. Focusing assistance to communities that discharge wastewater effluent directly to marine waters can help avoid some of the existing legal barriers. We support cost-effective reclaimed water and are open to exploring any legal barriers to encouraging reclaimed water that might exist; but we cannot support an effort that leads to mandating reclaimed water.

D 6. Prioritize and implement remediation and clean up projects to incorporate the results from the toxics loading study, likelihood and recontamination and vulnerability of receiving waters: Agree in concept. More details needed.

D 7. Continue efforts to understand and respond to biotoxins and harmful algae blooms and other human health related water quality concerns: Agree.

A 1. Use the Action Agenda as the strategic, ecosystem based guide for action in Puget Sound. This issue needs more discussion. Local governments operate under a number of mandates from state and federal government, not the least of which is the accommodation of population and employment under GMA. More discussion is needed.

A 2. Reform environmental regulatory system to focus on desired outcomes:

1. *Streamline and coordinate the environmental permit review process:* Agree with the concept. However, the details are complex. We need to get into the details as most of the permit requirements are associated directly or indirectly with state and federal mandates, as well as substantive and

procedural laws. What is more, local governments all have independent land use and environmental legal structures.

2. *Develop and implement an in-lieu-fee mitigation program:* Agree in concept and we are currently working at a staff level to explore what such a program may look like and how such a program may be implemented. However, cities have concerns that such a program not evolve into an unfunded mandate or a rigid process that limits their ability to meet other policy obligations.

3. *Streamline the permitting process for capital restoration projects:* Agree in concept. More discussion is needed to address the details including procedural law.

A 3. Improve compliance with rules and regulations:

1. *Improve permit field compliance monitoring programs:* Agree, with funding.

2. *Provide funding for cities and counties to conduct compliance monitoring:* Agree

3. *Improve toxic compliance programs:* Agree.

4. *Support the DOE Water Quality Compliance Program:* Agree

5. *Support Shoreline Compliance Monitoring:* Agree.

6. *Improve HPA enforcement:* Agree.

7. *Educate and certify designers and contractors:* Agree with education. The certification process needs more discussions and details. This process could add unnecessarily to the cost of operations for public and private sectors.

8. *Establish "Watermasters" to increase water code compliance and enforcement:* This notion needs more detail and to be more fully developed.

A 4. Build long term capacity to implement the Action Agenda: We agree with the concepts expressed here, but need to address the details and the funding options in more detail.

A 5. Provide sufficient, stable funding and ensure funding is focused on priority actions: Agree.

A 6. Increase and sustain coordinated efforts for communication, outreach and education to increase public awareness and encourage individual stewardship: Agree with the elements under this heading.

A 7. Build and use a performance management system that is unformed by science to account for on-the-ground results in the ecosystem and implementation of actions: Agree with the concept of all elements under this heading. However, these elements are important, but potentially expensive. They are worthy of further discussion so we can address expectations, procedures, funding and other details.

A 8. Develop a coordinated and prioritized ecosystem based strategy for growth, protection and restoration that accounts for a changing climate: This kind of work needs to be coordinated

within existing regulatory frameworks and with emerging potential changes to that framework from the CAT, Legislative initiatives on GMA and climate change and related efforts. There are elements of mitigation and adaptation strategies that will need to be coordinated and we need a cooperative federal partner in this effort. CTED and DOE are obviously in lead positions at the state level.

A 9. Use an ecological and economic perspective when making decisions about harvest, human production of resources, and human disturbance of species:

1. Implement the priority recommendations of the Hatchery Scientific Review Group: We are not sure what is included in the recommendations of the review group and need more time to review them.

A 10: Implement a focused, well-balanced science program that improves regional capacity to understand the ecosystem, threats to it, the effectiveness of actions, as well as make decisions using scientific information: This element needs more study. Clearly we need to rely on solid scientific information to inform our decisions and to establish a baseline from which to measure our progress or lack of progress. However, how this information is applied and how we address competing policy objectives is a critical element for local governments, and particularly cities that are responsible for meeting obligations under GMA, SMA and other mandates.

A 11. Support climate change programs and prepare adaptation strategies: Agree and so noted earlier. Again, we want to see a coordinated strategy emerge on these matters with other efforts as previously noted.

We look forward to continuing our efforts to forge an effective and workable strategy for the betterment of Puget Sound. Please free to call on AWC staff (Dave Williams and Tim Gugerty) with any questions you may have.

Sincerely,

Jeanne Burbidge
Member and City Representative, Ecosystem Coordination Board

cc Karen Rogers, President, Association of Washington Cities
Bill Ruckelshaus, Chair, Puget Sound Partnership
Dave Williams
Tim Gugerty
Martha Neuman
Chris Townsend