

**PROJECT ADMINISTRATION AGREEMENT BETWEEN
THE CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY (“SOUND TRANSIT”)
AND THE CITY OF SEATTLE FOR THE
WEST SEATTLE AND BALLARD LINK EXTENSIONS PROJECT
GA 0068-18**

This Project Administration Agreement (“Agreement”) is between the Central Puget Sound Regional Transit Authority, a regional transit authority organized under Chapter 81.112 RCW (“**Sound Transit**”), and The City of Seattle, a Washington municipal corporation (“**City**”), for the purposes set forth below. Sound Transit and the City are collectively referred to hereafter as “the Parties” or, individually, as a “Party.”

RECITALS

- A. The City is responsible for administering state and local transportation and land use laws and development regulations that apply to Sound Transit projects located within the City’s jurisdiction. The City is also responsible for managing streets and municipal utilities within its jurisdiction and for providing certain municipal services, such as public safety.
- B. The Sound Transit Regional Transit Long-Range Plan and Sound Transit 3 Plan identify the West Seattle and Ballard Link Extensions Project (Project) within the City’s jurisdiction.
- C. The City and Sound Transit executed a Partnering Agreement for The West Seattle and Ballard Link Extensions Project (GA 0139-17) on January 5, 2018, “Partnering Agreement”, to document and confirm a mutual understanding of general terms and conditions to advance the implementation of the Project.
- D. This Agreement addresses the commitment in Section 9.1.2 of the Partnering Agreement for the Parties to work cooperatively to negotiate in good faith a funding agreement to provide reimbursement to the City for the costs of certain services and products related to the Project.
- E. The Partnering Agreement guided the development of this Agreement, and the applicable terms and conditions of the Partnering Agreement will also apply to this Agreement as described herein.

1. General

- 1.1. Purpose. Sound Transit’s Project includes facilities to be constructed within the City’s jurisdiction. The City and Sound Transit will work together to prepare, review and approve agreements between one another, and Sound Transit will prepare construction plans and secure property rights, permits, and approvals from the City and other entities for the construction of Sound Transit’s facilities. The intent of this Agreement is to establish a Task Order process for Sound Transit to reimburse the City for certain costs not covered by the City’s land use, permitting, or other fee schedules. It is anticipated that a separate agreement or amendments to this agreement may be needed and developed by the Parties for reimbursement of certain Project-related construction services and assistance.
- 1.2. Incorporation of Recitals. The foregoing recitals are incorporated into this Agreement as if set forth in full.

2. Task Orders for City Services

- 2.1. Principles for Determining Eligible Reimbursable Costs. Sound Transit agrees to pay the City for the costs associated with particular tasks that:
 - a. Are required because of the implementation of Sound Transit’s Project in the City and are not otherwise the City’s responsibility to undertake; or
 - b. Are directly related to the Project, are essential to meeting Project objectives and schedule, and support Project design, permitting, and construction activities, such as documentation of durable and specific Project commitments, public right-of-way review and approval services, documented decisions including permit approvals, and other types of agreements furthering implementation of the Project; or
 - c. Respond to requests made by Sound Transit to provide Project-related technical information such as data, reports, or studies or to provide engineering or design services for City owned utilities or other public works affected by the Project; or
 - d. Sound Transit asks the City to undertake and has negotiated a Task Order as described in Section 2.2, or other written agreement, for payment to the City.
 - e. May include tasks that Sound Transit asks the City to complete on a shorter schedule than the City would otherwise follow.
- 2.2. In general, Sound Transit will not pay the City for the costs associated with the following:

- a. Coordination between Sound Transit and the City normally provided between government agencies.
- b. City services provided in the ordinary course of business and on the City's usual time and schedule for which the City does not ordinarily charge fees.
- c. City services that Sound Transit will pay for under existing land use, permitting, or other fee schedules. An exception to this exclusion would occur if a Task Order or other agreement establishes a different payment structure than the established payments and fees.
- d. City services or costs associated with betterments or other improvements that the Parties agree are not part of the Project scope.

2.3 Task Order Development. Sound Transit will request that the City perform specific work under this Agreement through written Task Orders. This Agreement applies to project work beginning on March 1, 2018 unless otherwise noted in Task Orders. A Task Order will be prepared by Sound Transit, reviewed by the City, and executed by the Parties for each work effort to be covered by this Agreement. Task Orders will be in a format similar to that shown in **Exhibit A**. Each Task Order will include a scope of work, a schedule of work, and a detailed cost estimate which establishes a maximum funding level for the Task Order. Each Task Order will be executed by the authorized designees of Sound Transit and the City and will incorporate by reference the terms and conditions of this Agreement.

2.4 Task Order Management. For each Task Order, the City will provide monthly progress reports to Sound Transit indicating the amount spent and estimated cost to complete each scope and budget element included in the Task Order. If actual costs are anticipated to exceed the amount of the Task Order, the Designated Representatives (or designees) will prepare a mutually agreeable cost estimate to complete the work and develop an appropriate course of action, which may include amending the Task Order or executing a new Task Order.

2.5 Eligible Costs. The following types of expenditures will be eligible for reimbursement:

- a. Direct costs including labor and indirect costs, charged at the employees' current rates, or in accordance with the City adopted fee schedule on an hourly basis at the time the charge is incurred.
- b. This Agreement does not cover the City's normal capital and operating expenses such as buildings, office equipment, maintenance, security, utilities, or vehicles, except those expenses normally included in the City's indirect cost calculation for services.

2.6 Performance. If the City does not perform the services described in the Task Orders, and if the failure to perform is solely attributable to the City's actions or inactions, appropriate corrective action will be discussed and agreed to by the Designated Representatives. Should the corrective action not be agreed to or resolve the problem within one (1) week, the Dispute Resolution Process identified in the Partnering Agreement may be commenced and Sound Transit may request specific resolutions including a reduction of reimbursable costs owed by Sound Transit to the City.

3 Invoicing

3.1 The City will submit monthly invoices and supporting documentation for Task Order payments. The invoices must include a signed invoice template, which Sound Transit will provide, a progress report including a description of services provided by the City, Sound Transit purchase order number, and supporting documentation detailing the work completed, associated eligible costs (such as rates, paid invoices of other eligible direct costs, etc.), and an estimated cost to complete each scope and budget element included in the Task Order.

3.2 The City will submit its invoices with the required documentation via email to AccountsPayable@SoundTransit.org. Invoices will be paid within (30) days of Sound Transit's receipt of the invoice and acceptable and complete supporting documentation.

3.3 If Sound Transit determines that an invoice lacks sufficient documentation to support payment, Sound Transit will notify the City of its determination within 30 days and request that the City provide additional documentation. Sound Transit may withhold payment of the disputed portion of the invoice until supporting documentation is provided. However, such approval will not be unreasonably withheld. If the City prefers to receive reimbursement of undisputed items in the invoice before the dispute is resolved, Sound Transit may require that the City submit a new invoice for the undisputed portion to ensure accuracy and facilitate efficient payment.

4 Suspension and Termination

4.1 If the City has not received payment from Sound Transit as provided in Section 3.2, the City may suspend performance of all or any part of the associated work after giving Sound Transit thirty (30) days' notice of the City's intent to do so. Such suspension will remain in effect until payment is made in full, at which time the suspension will be lifted.

4.2 Either Party may terminate this Agreement for cause in the event that the other Party fails to fulfill its material obligations under this Agreement in a timely manner or breaches any material provision of this Agreement and the Dispute Resolution Process

identified in Section 10 of the Partnering Agreement has failed to reach resolution within the timelines described therein. The Party wishing to terminate this Agreement for cause will provide the other Party with notice of its intent to terminate and will give the other Party an opportunity to correct the failure to perform or breach within thirty (30) days of the notice or within such longer period as may be necessary in the event that correction cannot reasonably be accomplished within thirty (30) days. If the failure or breach is not corrected or cured, this Agreement may be terminated by the aggrieved Party by giving ninety (90) days' notice to the other Party.

4.3 This Agreement will also terminate with the mutual consent of the Parties.

4.4 Except as provided in this Section, a termination by either Party will not extinguish or release either Party from liability for costs or obligations existing as of the date of termination. Any costs incurred prior to proper notification of termination will be borne by the Parties in accordance with the terms of this Agreement.

5 Indemnity

5.1 Each Party agrees to hold harmless, indemnify, and defend the other Party, its elected officials, officers, agents, and employees, from and against any and all claims, losses or liability, for injuries, sickness or death of persons, including employees of the indemnifying Party, or damages, arising out of any willful misconduct or negligent act, error, or omission of the indemnifying Party, its officers, agents, or employees, in connection with the services required by this Agreement, provided, however, that:

- a. The indemnifying Party's obligations to indemnify, defend and hold harmless will not extend to injuries, sickness, death, or damage caused by or resulting from the sole willful misconduct or sole negligence of the other Party, its elected officials, officers, agents or employees; and
- b. The indemnifying Party's obligations to indemnify, defend and hold harmless for injuries, sickness, death, or damage caused by or resulting from the concurrent negligence or willful misconduct of the indemnifying Party and the other Party, or of the indemnifying Party and a third party other than an elected official, officer, agent, or employee of the indemnifying Party, will apply only to the extent of the negligence or willful misconduct of the indemnifying Party, its elected officials, officers, agents, or employees.

5.2 Each Party agrees to bear full responsibility for any and all tax liabilities owed that may arise in relation to this Agreement, and each Party will fully indemnify and hold the other Party, its officers, agents and employees harmless from any tax liability owed by the other Party arising from or related to the transactions set forth herein, including,

but not limited to, any taxes, penalties, fines, and/or interest that are assessed by any tax authority against the indemnifying Party and further including all attorneys' fees and costs incurred in response to any claims or assessments by any tax authority against indemnifying Party, its officers, agents and employees.

5.3 The obligations in this Section will survive termination or completion of this Agreement as to any claim, loss or liability arising from events occurring prior to such termination or completion.

6 Audits

6.1 Each Party will maintain accounts and records, including contract and financial records that sufficiently and properly reflect all direct and indirect costs of any nature expended for work performed under this Agreement so as to ensure proper accounting for all monies paid to the City by Sound Transit. These records will be maintained for a period of six (6) years after termination or expiration of this Agreement unless permission to destroy the records is granted by the Office of the Archivist pursuant to RCW Chapter 40.14 and agreed to by the Parties.

6.2 The City will make all Project records available for Sound Transit inspection upon prior reasonable request. Audits may be performed by Sound Transit or its independent public accountants to ensure compliance with and enforcement of this Agreement. Should the audit determine that funds from Sound Transit have been used for expenses that were ineligible, the City will reimburse Sound Transit the amounts found to have been ineligible.

7 General Provisions

7.1 Neither Party will be relieved of its obligations to comply promptly with any provision of this Agreement by reason of any failure by the other Party to enforce prompt compliance, and such failure to enforce will not constitute a waiver of rights or acquiescence in the other Party's conduct.

7.2 Each Party will be responsible for its own costs, including legal fees, incurred in negotiating or finalizing this Agreement, unless otherwise agreed in writing by the Parties. If either Party brings any claim or lawsuit arising from this Agreement, each Party will pay all its legal costs and attorney's fees and expenses incurred in defending or bringing such claim or lawsuit, including all appeals, in addition to any other recovery or award provided by law; however, nothing in this paragraph will be construed to limit the Parties' rights to indemnification.

7.3 The following terms and conditions of the Partnering Agreement are incorporated by reference into this agreement: 1. Project Management, 10. Dispute Resolution, 15.

Att 1 – Project Administration Agreement
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Notices, 16. Federal Provisions, 17. General Provisions, 18. Amendments, and 19. Severability.

IN WITNESS WHEREOF, each Party has executed this Agreement by having its authorized representative affix his/her name in the appropriate space below:

SOUND TRANSIT

THE CITY OF SEATTLE

By: _____
Peter M. Rogoff, Chief Executive Officer

By: _____
name, position

Date: _____

Date: _____

Authorized by Motion No. M2018-XX

Authorized by City Council
Ordinance on _____, 2018.

Approved as to form:

By: _____
Stephen G. Sheehy, Senior Legal Counsel

Exhibits

A. Task Order Format

Exhibit A
Task Order Format

Task Order __
to the
PROJECT ADMINISTRATION AGREEMENT
BETWEEN THE CITY OF SEATTLE AND SOUND TRANSIT
FOR THE WEST SEATTLE AND BALLARD LINK EXTENSIONS PROJECT

This Task Order is issued under the Project Administration Agreement between the City of Seattle and Sound Transit executed on _____, 2018 (GA 0068-18) "Project Administration Agreement." This Task Order establishes the scope, schedule, and budget for the services (Services) provided by the City for the Sound Transit PROJECT/PHASE. The City agrees to perform the Services in the manner set forth in this Task Order. The terms and conditions of the Project Administration Agreement are incorporated by reference into this Task Order.

The effective date of this Task Order is _____, 20__.

The end date of this Task Order is _____, 20__, or as otherwise agreed to in writing by the Designated Representatives of both Parties.

Task Order Description. *General Description of the work to be performed. May also include definitions if helpful/appropriate.*

- The Scope of Work is included as Attachment 1.
- The Schedule is included as Attachment 2.
- The Cost Estimate is included as Attachment 3.

Each of the Parties has executed this Task Order by having its authorized representative affix his/her name in the appropriate space below:

<u>For the City</u>	<u>For Sound Transit</u>
_____ Signature	_____ Signature
_____ Printed Name	_____ Printed Name
_____ Title	_____ Title
_____ Date	_____ Date

Att 1 – Project Administration Agreement

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Ordinance: _____	Approved as to Form: _____
Name, City Attorney	Name, Sound Transit Legal Counsel

Attachment 1: Scope of Work.

The Scope should be fully developed and provide a detailed description of work to be provided under each Task Order.

Attachment 2: Estimated Schedule.

The schedule should match the tasks included in the Project Scope.

Task	Start Month	End Month

Attachment 3. Cost Estimate.

Spreadsheet to be inserted. Use tasks and schedule to develop cost estimate based on labor rate and expenses.