

LYNNWOOD LINK SUPPLEMENT TO THE
MOA FOR INTERGOVERNMENTAL COOPERATION
(APRIL 20, 1998) BETWEEN
CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY
(SOUND TRANSIT) AND THE CITY OF SEATTLE
FOR THE CENTRAL LINK LIGHT RAIL PROJECT

On this _____ day of _____, 2016 this Lynnwood Link Supplement (“Lynnwood Link Supplement”), the tenth supplement to that certain April 20, 1998 Memorandum of Agreement for Intergovernmental Cooperation for the Central Link Light Rail Transit Project, is entered into by and between the Central Puget Sound Regional Transit Authority (“Sound Transit”) and The City of Seattle (“City”), referred to collectively as “Parties” or individually as “Party.”

RECITALS

- A. The City and Sound Transit entered into an agreement titled “Memorandum of Agreement for Intergovernmental Cooperation Regarding Light Rail Development” on April 20, 1998 (“April 20, 1998 MOA”) that sets forth the Parties’ common and individual objectives with respect to the development of a light rail system within The City of Seattle and that established the foundation of their working relationship with common objectives for cooperation.
- B. The Lynnwood Link Extension Project (the “Project”) has been identified as the next priority for extending the light rail system in The City of Seattle, which includes an 8.5 mile light rail extension from the Northgate area of Seattle to the City of Lynnwood. The Project includes a connection to the Northgate Link Extension at the Northgate Station (Northgate Connector), elevated stations at NE 145th, Mountlake Terrace Transit Center and the Lynnwood Transit Center; a retained-cut station at NE 185th St and two parking garages. Sound Transit completed environmental review of the Project in 2015. Services related to the Project are within the scope of the April 20, 1998 MOA which covers light rail within The City of Seattle. City services necessary to support the development and the design of the Project are consistent with the principles and approach of the April 20, 1998 MOA. This Lynnwood Link Supplement will also apply to City of Seattle-owned facilities in the City of Shoreline which may be impacted by the Project.
- C. The Parties’ common and individual objectives set forth in the April 20, 1998 MOA will continue to be observed during the term of this Lynnwood Link Supplement, including the principles of

intergovernmental cooperation; expedited reviews and permit processing; and the process for dispute resolution.

- D. The City recognizes that Sound Transit has responsibility for acquisition and disposition of property for its Project, and that real-estate decisions will be governed by Sound Transit Board approved policies and by state and federal law.
- E. As anticipated by the Parties in §III.E of the April 20, 1998 MOA, Sound Transit desires actions by the City to support the completion of design and initiation of construction of the Central Link Light Rail Project. This Lynnwood Link Supplement, except as otherwise provided herein, shall cover services to be provided by the City in four primary areas: Program and Project Management, Design Review, Permitting, and Utility Engineering. While City permitting services may be covered under this Agreement, permitting fees will not be paid through this Agreement.
- F. Sound Transit recognizes that the City is responsible for administering state and local transportation and land use laws and development regulations that will apply to the development, construction, and operations of the Project within the City limits. In addition, the City is responsible for review and approval of plans, utility relocation, managing the City rights-of-way, and the public health and welfare of citizens.
- G. The City recognizes that the Project will provide numerous benefits to Seattle’s residents, workers, and visitors, and will help the City meet its Comprehensive Plan goals for dense, mixed use urban centers and urban villages connected by high-quality public transit. In recognition of these and other mutual benefits, the City is committed to providing general support and coordination as provided herein to facilitate the timely completion of the Project.
- H. Sound Transit’s Project is partially funded by the Federal Transit Administration (“FTA”) and is therefore required to include applicable FTA contract provisions in all of its third party agreements, including its agreements with the City; and such applicable federal contract provisions must be incorporated by the City in all third party contracts that are funded under this Lynnwood Link Supplement.

1.0 DEFINITION OF TERMS

The terms and abbreviations used in this Lynnwood Link Supplement and its exhibits shall be defined and/or identified as follows:

- 1.1. “Central Link Light Rail Project” means an electric light rail project located in the cities of SeaTac, Tukwila and Seattle that is identified in *Sound Move, Sound Transit’s Ten-Year Regional Transit System Plan*.
- 1.2. “City’s Standard Plans and Specifications, 2017 Edition,” means the contract specifications that

will be used by Sound Transit for improvements that will be owned and maintained by the City.

- 1.3. “Contract Specifications” means the contract-specific modifications to Sound Transit’s Link Design Criteria that Sound Transit may require in contract procurement for construction materials and services.
- 1.4. Lynnwood Link Project or “Project” means the 8.5 mile northern extension of the Central Link light rail project from Northgate to Lynnwood and includes a connection to the Northgate Link Extension at the Northgate Station (Northgate Connector), as defined in the Sound Transit Board Resolution R2015-05 approved on April 23, 2015.
- 1.5. “Link Design Criteria Manual – version 3 (August 2013)” means the Design Criteria that will be used by Sound Transit in its Lynnwood Link light rail construction contracts.
- 1.6.
- 1.7. 1.6. “Working Day” means any calendar day that is not a Saturday, Sunday, or City or Sound Transit=observed holiday.

2.0 SCOPE OF THIS LYNNWOOD LINK SUPPLEMENT

2.1. Goals and Objectives

The Parties agree to do the following under the terms of this Lynnwood Supplement:

- A. The Parties agree to work collaboratively on the Project.
- B. The City shall provide timely services as provided herein to support Sound Transit in meeting its Project deadlines.
- C. Sound Transit shall effectively manage the Project to provide a quality light rail system in a cost effective and timely manner.
- D. Sound Transit shall provide clear and complete design drawings and supplementary information in a timely manner that will allow the City departments an adequate review period to facilitate the City’s design review and to allow the Project to proceed on schedule.
- E. The City shall provide clear and complete design reviews from all involved departments and avoid last-minute review comments and the imposition of requirements after the completion of design review. Both Parties shall endeavor to identify and address issues as early as possible during the review process and to communicate clearly with each other.
- F. Both Parties shall participate in interdisciplinary coordination meetings, as needed, to address issues that may affect the Project scope, schedule, budget or the community.
- G. Where appropriate, the City and Sound Transit will document key design-related decisions.

H. To the extent the City is notified of federal grant requirements, the City’s performance under this Lynnwood Link Supplement shall conform to the applicable grant requirements including the Federal Transit Administration grant requirements.

2.2. Summary of Services under this Lynnwood Link Supplement

Sound Transit shall submit to the City its Project designs, plans and specifications for City review in connection with the implementation of the Project. The City shall provide timely reviews as are necessary for the issuance of permits and approvals by the City as further described in **Exhibit A - Scope of Work** of this Lynnwood Link Supplement, which by this reference is incorporated herein. The City may also provide services regarding Seattle City Light (SCL) and Seattle Public Utilities (SPU) facilities outside of the City limits impacted by the Project

2.3. Time of Completion and Schedule

Exhibit B is attached and describes the Project’s anticipated schedule for design and City review of Project contract packages. This Supplement will fund the tasks identified in **Exhibit A** through the date identified in **Exhibit A** unless otherwise agreed by both Parties. Both Parties anticipate that additional City services will be provided for the construction phase of the Project through a separate Construction Services Agreement.

2.4. Designated Representatives

The Designated Representatives for each Party are as follows:

Rod Kempkes, Executive Project Director
Lynnwood Link Light Rail Project
Sound Transit
401 S. Jackson Street
Seattle, Washington 98104
Phone: (206) 398-5141

Michael James, Acting Rail Transit Manager
Seattle Department of Transportation
700 Fifth Avenue, Suite 3900
Seattle WA 98104
Phone: (206) 684-8066

Each of the Parties may change its own Designated Representative in such Party's discretion, and the Party making any such change shall give written notice of such change to the other Party’s Designated Representative.

2.5. Responsibilities of Sound Transit

The following activities shall be performed by Sound Transit under this Lynnwood Link Supplement in support of the Project:

- A. Develop designs, plans and specifications in connection with its construction of the Project.
- B. Submit its designs, plans and specifications to the City for review pursuant to the procedures outlined in this Lynnwood Link Supplement.
- C. Take the lead in coordinating regular Sound Transit/City team communication/meetings, as required or agreed to by the Parties.
- D. Manage and coordinate requests made by its consultants for information from the City.
- E. Assume responsibility for acquiring all necessary property, easements and rights-of-entry for relocation, design and construction activities related to the Project, except as otherwise agreed to by the Parties.
- F. Work with the City to provide notice to private utilities for their relocation.

2.6. Responsibilities of the City

The following services shall be performed by certain City departments and offices assigned such tasks under this Lynnwood Link Supplement in support of the Project:

- A. Organize interdepartmental implementation teams to achieve consensus on policy issues, expedite review of Sound Transit designs, and provide services to Sound Transit in a timely manner.
- B. Review and provide timely unified, coordinated, consistent comments to Sound Transit on Sound Transit's designs, plans, specifications, technical reports, and environmental documents.
- C. Provide a confirmation review through the Seattle Department of Transportation (SDOT) to ensure that all City comments on the 90%-Complete Submittal have been incorporated into the 100%-Complete Submittal, or otherwise resolved by Sound Transit and the City prior to permit approval.
- D. Provide expedited and priority review of Project permit applications through the Seattle Department Transportation (SDOT) consistent with the timeframes described in Section 3.9, as to not delay construction activities by Sound Transit contractors or City crews supporting Sound Transit construction.
- E. Provide design review for the public works components to be designed and constructed by Sound Transit that will be ultimately owned and maintained by the City.
- F. Work with Sound Transit to identify utility service needs and potential conflicts with City owned

utilities, provide location information, and provide cost estimates for service connections and relocations.

- G. Mitigation commitments for Lynnwood Link are specified in the FTA Record of Decision (July 10, 2015) and the FHWA Record of Decision (August 31, 2015). The Final NEPA/SEPA EIS for Lynnwood Link was published in April 2015. The City will work with Sound Transit to refine or update mitigation, if needed, to comply with permitting and other city requirements.
- H. Provide program management and financial management of City resources and services.
- I. When practicable, integrate Sound Transit construction plans and schedules with plans and schedules of other City capital and maintenance projects to minimize the conflicts and maximize efficiencies for both Parties.
- J. Provide Sound Transit with timely access to public City records and plans.
- K. Work with Sound Transit to provide accessible, accurate, and timely information and to promote public involvement in Sound Transit and City decisions related to the Project.
- L. Provide notice to private utilities of any utility facilities that must be relocated and provide for the enforcement of such notices to relocate. Once utilities are notified, ST to coordinate directly with affected utility.
- M. Notify Sound Transit promptly when the City's costs are projected to exceed the budget for any Task due to unforeseen costs or cost increases.

2.7. Specific Tasks to be Performed by Individual City Departments and Offices

The tasks that shall be performed by individual City departments and offices are generally described in **Exhibit A**. Tasks will be performed by the City in accordance with and in support of Sound Transit's schedule for design review as provided in **Exhibit B**.

3.0 DESIGN SUBMITTALS

To ensure uniformity and consistency in the design and review process the Parties have agreed to the design completion levels defined below (namely, "Early Work Submittals", "60%-Complete Submittals," "90%-Complete Submittals," and "100% -Complete Submittals"), as well as standards and specifications specified in this section. Sound Transit shall work in close cooperation with the City during the preparation of preliminary and final plans for the Project to ensure that, to the greatest extent possible, the objectives identified in the April 20, 1998 MOA and this Lynnwood Link Supplement are achieved.

3.1. Level of Completion Defined.

Each level of design completion as used in this Lynnwood Link Supplement and its Exhibits shall be defined as follows.

3.1.1. Early Work Submittals - Submittals that present design refinements of the preliminary design. The submittals will include drawings and supporting technical information documenting the proposed design.

3.1.2. 60%-Complete Submittals - Submittals that are sufficiently complete to illustrate the entire scope of the work under design so that all reviewers can comment on the overall scope of the Project. These submittals shall also include updated cost estimates and geotechnical data. (These submittals are intended to ensure that new, never-before-seen items of significance do not appear for the first time in the 90%-Complete Submittal, excepting new design generated in response to 60% comments.)

3.1.3. 90%-Complete Submittals - The submittals that include drawings, special provisions, supplemental technical specifications, updated quantity estimates, and order-of-magnitude cost estimates that are essentially complete with only items of insignificance needing detailing or checking. All calculations shall be completed and checked in accordance with established quality control procedures. Drawings shall be nearly complete for bidding purposes and shall have incorporated or resolved all comments made during previous design reviews. Unresolved comments shall be identified and addressed to the satisfaction of both Parties.

3.1.4. 100%-Complete Submittals. The submittals that demonstrate all design review comments have been resolved for the purposes of the City's plan approval as confirmed by the City's Designated Representative or other authorized City official in writing.

3.2. City's Standard Plans and Specifications.

Except as further provided in subsection 3.3, the City's Standard Plans and Specifications, 2017 Edition and SPU's current Design Standards and Guidelines, shall be used for all Project-related work that either (a) affects existing or proposed City infrastructure, or (b) affects, in any way, any utility or other capital facility or asset that is currently owned or controlled by the City or is expected to be maintained by the City. When relevant new code and technical requirements dictate revisions to the City's Standard Plans and Specifications, 2017 Edition, the City will provide Sound Transit with General Special Provisions (GSPs) for incorporation into Sound Transit's contract documents.

3.3. Deviation from City's Standard Specifications.

- 3.3.1. The City’s Designated Representative or other authorized City official, may permit, from time to time, a deviation from the requirements of Subsection 3.2 whenever:
- A. Sound Transit has requested such permission in writing and has provided a justification for such request and an explanation for how Sound Transit intends to address anticipated City concerns if such permission were granted, either in whole or in part, and a commitment to fund additional Project costs as required; and
 - B. The City’s Designated Representative, or other authorized City official, has consulted and reached consensus among the head(s) or designated representative(s) of each City department and office that has an interest in the matter; and
 - C. Sound Transit’s requested deviation from the City’s Standard Plans and Specifications, 2017 Edition and SPU’s Design Standards and Guidelines, is deemed by such City department and office heads or their designated representatives to be acceptable under the circumstances; and
 - D. The City’s Designated Representative, or other authorized City official, has approved deviation from the requirements of subsection 3.2 in writing.
- 3.3.2 Any deviations approved by the City under subsection 3.3.1 shall not be used as a precedent for future actions.
- 3.3.3 If any conflict is discovered between Sound Transit or City work under this Lynnwood Link Supplement and a City ordinance or other law, code or regulation, the City is legally obligated, and reserves the right, notwithstanding any other provision in this Lynnwood Link Supplement, to require changes to bring the Project work into compliance with any applicable ordinance, law, code or regulations; provided that as applied to the work to be completed under this Lynnwood Link Supplement, the City’s Standard Plans and Specifications, 2017 Edition, or a deviation authorized pursuant to Section 3.3 shall control in the event of a conflict between the City’s Standard Plans and Specifications, 2017 Edition, and any subsequent revision to the City Standard Plans and Specifications.

3.4 Sound Transit Link Design Criteria

Sound Transit has developed a set of Link Design Criteria Manual – version 3 (August 2013) to be used on each of the Sound Transit civil facilities construction contracts. Any contract-specific modifications of the Link Design Criteria shall be approved by the Capital Program Control Board (CCB) with copies sent to the City for concurrence. The City shall review each Contract Specification package as part of the Sound Transit contract design submittals. If the City requests modification to the Link Contract Specifications for a particular contract under review, Sound Transit,

in conjunction with the City, shall make a determination whether the proposed modification is acceptable to Sound Transit. Should the Parties be unable to reach consensus, disagreements may be resolved through the Dispute Resolution Process described in Section 8.

3.5 Early Identification and Resolution of Design Issues

- 3.5.1 To expedite design submittal review and to improve product quality, Sound Transit will hold design review and coordination sessions with the Project designers on at least a bi-weekly (every other week) basis throughout the design phase. Sound Transit will meet with the City Designated Representative or other authorized City official(s) to discuss specific items of interest to the City, as necessary.
- 3.5.2 To ensure the development of the highest quality system, and the most cost-effective resolution of problems, all efforts will be made to identify and resolve major design issues at the earliest possible stage of design development.

3.6 Transmittal and Review of Design Packages

Sound Transit's transmittal and the City's review of Sound Transit's Design Submittals shall proceed as follows:

- 3.6.1 Sound Transit shall submit Project submittals and specifications to the City's Designated Representative, or other authorized City official, for review and comment by various, appropriate City departments and offices. The Designated Representatives of Sound Transit and the City shall determine the method of transmittal and number of copies required for submitting each plan package to the City. Submittals may include electronic and hard copy submittals. Plans shall be submitted in accordance with the City's CADD (Computer Aided Design/Drafting) standards, unless otherwise agreed to by the City.
- 3.6.2 Submittals will be reviewed by SDOT, Seattle City Light (SCL), Seattle Public Utilities (SPU), and Seattle Fire Department (Fire). No park lands will be impacted, therefore no reviews or involvement by Seattle Parks is anticipated. SDOT will issue Project Construction Permits (PCPs) and associated Street Improvement Permits (SIPs) or Utility Major Permits (UMPs) for the construction contracts following the completion of Project submittals by Sound Transit. SCL and SPU facilities outside of the City limits may be included in the Sound Transit submittals for review by SCL and SPU. If an SDOT permit is not needed for the contract package, then completion of the SCL or SPU review will be signified by issuance of formal written approval by SCL and SPU. For work outside the City, Sound Transit will coordinate the reviews with the applicable

jurisdiction and provide review comments directly to either the SPU or SCL representative.

- 3.6.3 Sound Transit will apply for construction permits through separate applications to the Seattle Department of Construction and Inspections (SDCI) and Office of Planning and Community Development (OPCD) as part of each department’s regular business operations. Fees associated with the review and issuance of these permits, in particular, Master Use Permits, building, Major Public Project Construction Noise Variances, and electrical, will be paid by Sound Transit through the normal permitting application process and will not be invoiced under this Agreement with the exception of the Seattle Fire Department budget as referenced in Task 6 of **Exhibit C**.
- 3.6.4 The City shall complete its review of Sound Transit design submittals at the 60%- and 90%- Complete Submittal stages, as defined by this Lynnwood Link Supplement and set forth in **Exhibit B**.

3.7 Sound Transit-Performed Work

- 3.7.1 Sound Transit or its consultants shall develop the actual design plans and design documents for the Project.
- 3.7.2 Sound Transit shall involve the City and seek input in the early stages of design development and throughout the design process.
- 3.7.3 Sound Transit shall notify the City’s Designated Representative fifteen (15) Working Days prior to anticipated plan submittal dates to ensure that City staff can be reallocated to be dedicated to the expeditious review of Sound Transit documents, consistent with the timelines identified in Section 3.9. The City’s Designated Representative shall notify City departments of the anticipated plan submittal dates.
- 3.7.4 Sound Transit shall provide the City with a complete submittal for the work to be done in each construction contract awarded by Sound Transit. If Sound Transit determines that it cannot or is unlikely to meet its anticipated submittal dates in **Exhibit B**, it will deliver to the City’s Designated Representative Sound Transit’s revised submittal schedule as soon as possible after any delay is known or suspected.

3.8 Immediate Notice of Incomplete or Inadequate Design Submittals

- 3.8.1 Each Party recognizes that the incompleteness or insufficiency of any submittal may result in Project delays and require additional expenditures beyond the budgeted amounts for this Project. To quickly correct incomplete or insufficient submittals, the City’s

Designated Representative or other authorized official shall notify Sound Transit immediately if any plan submittal is incomplete or provides insufficient detail for City review. City reviewers will describe the deficiencies in writing in sufficient detail to enable corrections to be made by Sound Transit in a timely and cost effective manner.

3.9 City Review Schedule

- 3.9.1 City review shall begin with receipt of each complete submittal from Sound Transit. The City shall have thirty (30) calendar days to review the 60%-, and 90%-Complete Submittals. If more than one plan package is submitted during the same review period and the same City reviewer(s) need to review the multiple packages, the City shall have forty-five (45) calendar days to review the packages and Sound Transit shall prioritize these multiple plan packages according to importance to Sound Transit's schedule.
- 3.9.2 If the City's review of any document is a critical path activity on Sound Transit's design schedule, Sound Transit may request that the City complete such review in less time than allowed above. In such cases, Sound Transit shall identify the critical submittal as far in advance as possible, and notify the City of the need for an expedited review. The City's Designated Representative shall allocate sufficient resources to accomplish the review within a mutually agreed upon time period.
- 3.9.3 The City shall return significant comments to Sound Transit for any submittal as soon as they are available, and to the greatest extent possible, will accomplish reviews in fewer working days than provided for in this Lynnwood Link Supplement.

3.10 Resolution of Inconsistencies and Consolidation of City Responses to Design Submittals

- 3.10.1 The City's Designated Representative, or other authorized official designated by the City, shall resolve any inconsistencies among review comments by City departments and offices regarding the Project's design submittals prior to the review comments being consolidated and transmitted, in writing, to Sound Transit.
- 3.10.2 The City recognizes that inconsistent review comments usually cause delay, result in added staff time for review, and may result in unnecessary change orders or additional costs to the Project. The City intends to provide consistent review comments. If inconsistent comments are discovered, the City will resolve the inconsistencies immediately upon written notice from Sound Transit. The City will promptly take corrective action to avoid any added costs to Sound Transit as a result of such inconsistencies and avoid providing similar inconsistent comments on future reviews.

3.11 Sound Transit Response to City Review Comments and Resolution of Issues

3.11.1 The City will submit formal written comments consolidated by SDOT to Sound Transit for each of the 60%-, 90%-Complete Submittals within the timeframe specified in Section 3.9. Sound Transit must address and respond to every written comment submitted by the City. Depending on the number and magnitude of comments by the City on the 90%-Complete Submittal, Sound Transit shall work with City staff to resolve all issues through, among other means, conducting one-on-one meetings, making additional plan sheet revisions and obtaining approval by concurrence memos or meeting minutes, conducting a key stakeholder group plan review session, or advancing the issue to the next level of administration to resolve the issues in a timely manner. SDOT shall notify Sound Transit in writing when all outstanding design issues have been resolved based on the 90% - Complete Submittal comments. Both the City and Sound Transit shall work collaboratively to get issues resolved in a timely manner prior to Sound Transit delivering the 100%-Complete Submittal to the City for approval. Approval of the 100%-Complete Submittal is a prerequisite to issuance of the Project Construction Permit by SDOT for the construction contracts necessary to fulfill the permitting requirements of the Agreement Between The City of Seattle and Sound Transit for Grant of Non-Exclusive Use of a Light Rail Transit Way as Related to the Central Link Light Rail Transit Project (authorized by Ordinance 119975, as amended). For guideway structure and other light rail transit facilities within City of Seattle right of way a Project Construction Permit and companion Street Improvement Permit (SIP) will be issued. The City of Seattle (SDOT) will work with Sound Transit through the Street Improvement Permit (SIP) Design Guidance process so that timely issuance of the Street Improvement Permit is achieved.

3.12 Plan Approval and Project Construction Permits

3.12.1 Sound Transit must provide a one-week advance notice prior to submitting the final 100% - Complete Submittal to SDOT. Sound Transit will submit three half-size plan sets for approval. SDOT will coordinate a final check of the submittal and will provide written concurrence within 15 Working Days of receiving the three plan sets if the 100% - Complete Submittal has adequately addressed the City comments.

3.12.2 When written notice of approval of the 100% - Complete Submittal is given to Sound Transit, SDOT will invite Sound Transit to submit drawings with SDOT-assigned vault and serial numbers for signature.

3.12.3 The City’s costs associated with generating the Project Construction Permit are based on time and materials, which are reimbursed by Sound Transit through this Supplement. A final processing/filing fee will be invoiced by the City to Sound Transit for each construction contract’s Project Construction Permit per the Street Use Permit Fee Schedule.

3.13 Plan Approval and the SDOT SIP and UMP Design Guidance Processes

Sound Transit will seek a Street Improvement Permit or Utility Major Permit, as appropriate, from SDOT through the SIP or UMP Design Guidance permit processes for work within City right-of-way. The City will coordinate with Sound Transit to implement a fast-track SIP process by scheduling 30%, 60%, and 90% design guidance meetings as quickly as possible and by scheduling mini-SIP meetings at Sound Transit’s request in order to help expedite and streamline the SIP Design Guidance permit process.

4 SCL and SPU ENGINEERING

Seattle City Light (SCL) and Seattle Public Utilities (SPU) will conduct design reviews for the Project as described in **Exhibit A**. System engineering work will be managed through an amendment to the existing Construction Services Agreement (CSA) between Sound Transit and The City of Seattle and by CSA task order to allow key Project and management decisions to be made, and inform subsequent task orders. SCL and SPU facilities outside of the City limits may be included in the design review and design concepts described in such task orders. Final utility design and SCL or SPU system improvements will be covered by an amendment to the Construction Services Agreement(s).

5 PROJECT DESIGN TO MINIMIZE IMPACTS

Certain principles shall be applied by Sound Transit to the greatest extent practicable to achieve certain goals of the City. These principles are discussed in the following subsections.

5.1 Minimize City Maintenance and Operational Costs

The Project shall be designed to the greatest extent practical to minimize any increase in City maintenance and operation costs directly caused by the Project. Prior to the issuance of construction permits, Sound Transit and the City shall agree in principle on the delineation of ongoing maintenance and operational responsibilities that are likely to be experienced by the City as a direct result of the Project or operation of the resulting light rail system. Such issues and costs include but are not limited to the reconstruction or realignment of any street, sidewalk, bikeway or utility facility or system; the re-timing or other modifications of existing traffic signals; and the installation of new

traffic signals, signage, lane markings, street lighting, sidewalk lighting, or pathway lighting within the construction limits of the Project.

5.2 Project Design to Minimize Travel and Access Disruptions

The Project shall be designed to the greatest extent practicable to minimize disruptions to City businesses and residents during construction. To achieve that result, Sound Transit and the City shall work cooperatively with representatives of businesses and neighborhoods affected by the Project.

The Project shall also be designed to ensure that:

- 5.2.1 The number of streets in contiguous blocks that are closed or permitted to have severely restricted vehicular or pedestrian traffic during the Project's construction phase is minimized, either by construction being undertaken at varying times of day, in geographic stages, or through other means;
- 5.2.2 Emergency vehicle, utility maintenance vehicle, and fire protection vehicle access is preserved to every business and residence directly affected by the Project construction, and pedestrian access to each such residence and business (during its normal business hours) is preserved at all times;
- 5.2.3 Vehicular access for types of vehicles other than those identified in Subsection 5.2.2 to every residence directly affected by the Project construction is preserved except when construction requirements necessitate the complete blockage thereof; and
- 5.2.4 Reasonable prior notice is provided to directly-affected property owners, business tenants and neighborhood residents of any loss or change of access to or from their respective properties, tenancies and residences, indicating the expected duration of such loss or change, and alternatives that are available to those affected by such loss or change.

6. REIMBURSEMENTS

6.1 Sound Transit's Maximum Funding Obligation

Sound Transit's maximum funding obligation for the City's services under this Lynnwood Link Supplement is contained in **Exhibit C – Budget**. Sound Transit shall not be obligated to reimburse any expenditure in excess of the maximum amount stated in **Exhibit C**, unless authorization is received from its Board of Directors and upon the execution of a new supplement or an amendment of this Lynnwood Link Supplement upon such terms and conditions as are approved by the Board. If at any time, and for any reason, the City's costs are projected to exceed the amount covered by this Lynnwood Link Supplement, the City shall notify Sound Transit without delay.

6.2 Budget

Sound Transit shall reimburse the City for the costs of services delivered and work performed under the Scope of Work of this Lynnwood Link Supplement. The amount set forth in the Budget provided in **Exhibit C**, which is attached to this Lynnwood Link Supplement and incorporated herein by reference, reflects the Parties’ best estimates of the amounts that may be required to accomplish the tasks under this Lynnwood Link Supplement. Sound Transit and the City recognize that the Budget for delivering such services and performing such work was developed based on assumptions stated in **Exhibit A** and information from each Party, and the Parties recognize that the reallocation of effort based on actual needs may be necessary to meet Project objectives. The City shall endeavor to manage the expenditures of departments and offices engaged in work under this Lynnwood Link Supplement so that the maximum funding obligation of Sound Transit is not exceeded.

6.3 Reimbursement of City Costs

6.3.1 Principles for Determining Eligible Reimbursable Costs

The following principles shall be applied to determine what costs are reimbursable by Sound Transit.

- The costs are directly related to the Project and must be essential to meeting Project objectives and schedule.
- Tasks must clearly add “essential value” to the Project.
- Tasks and the deliverable or product must be clearly described in progress reports and invoices.
- The approach and system used to complete the task should be as efficient and cost-effective as possible (even if it means doing things differently).
- Tasks indirectly related to implementing the Project may be supported by Sound Transit, but will not be funded by Sound Transit.
- Tasks will not duplicate an activity already programmed or covered by Sound Transit, another City department, a third-party or consultant where possible.
- Reimbursement will not be made for activities that are normally performed by the City in conducting business with other entities in connection with public projects, such as provision of information and/or documents, review of Environmental Impact Statements or other environmental documents that the City would normally perform without charge.

6.3.2 Task Order Management

For some elements of City work specifically identified in **Exhibit A**, a task order process may be used to efficiently allocate resources and inform key Project and management decisions in a timely manner. All task orders shall be subject to the terms and conditions of this Lynnwood Link Supplement including its scope and budget provisions, unless a provision is expressly modified by a specific reference to the Supplement section.

6.4 Approval of Additional Funding Above Maximum Funding Obligation

Sound Transit and the City agree to the following rules for increases in task budgets:

- A. The City may expend up to the budget for each Task as delineated in **Exhibit C**.
- B. If at any time, costs are projected to exceed the budget for any Task due to unforeseen costs or cost increases, the City will take all prudent steps to minimize costs and notify Sound Transit as soon as possible.
- C. Before incurring costs in excess of the budget for any of the tasks provided in **Exhibit C**, the City will request Sound Transit's approval for additional budget in writing in a timely fashion. Sound Transit must approve the City's request before the City incurs any excess costs for those costs to be eligible for reimbursement; and until such time as Sound Transit approves the City's request, the City shall not be obligated to continue work on the affected Task.
- D. Upon receipt of the City's notice, Sound Transit shall promptly provide a written response, which may (1) approve or reject the proposed increased expenditure, or (2) reduce the Scope of Work.
- E. Additional budget for any task may be provided by either a.) a reallocation of budget from other tasks, or b.) authorization of the use of contingency amounts budgeted for this Lynnwood Link Supplement.
- F. Any expenditure that exceeds the maximum amount authorized for this Lynnwood Link Supplement shall require further authorization by Sound Transit's Board of Directors.

6.5 Invoicing by City

The City will invoice Sound Transit based on actual expenditures on a monthly basis within 45 days from the date of its month-end closure. The City shall initiate the process for reimbursement of its expenditures by preparing, reviewing and submitting requests for reimbursement to Sound Transit in accordance with the procedures in this Subsection and any other applicable regulations.

- 6.5.1 The City’s invoice shall detail costs incurred for the month by department and Task. Invoices will include a progress report of the work detailed in the invoice, including narrative of the work performed and supporting documentation.
- 6.5.2 The City shall ensure that expenditures invoiced to Sound Transit are eligible for reimbursement under the terms of this Supplement. Sound Transit may require other financial documents to verify that the expenditures are related to the Project work funded by this Agreement, including, but not limited to, (1) work statements or payroll records, (2) invoices for materials and supplies, (3) statements from professionals for services rendered, (4) certifications by the City that materials and services are satisfactorily rendered, and (5) itemized listings of the charges supported by copies of bills, invoices, expense accounts, and miscellaneous supporting data retained by the City.
- 6.5.3 Invoices shall bear the name and address of the City’s Designated Representative and reference this Lynnwood Link Supplement. Invoices shall also reference the appropriate purchase order number, which will be provided by Sound Transit once available. Invoices must be signed by an authorized representative of the City who shall verify that the invoice is accurate, that the services have been purchased or the work has been performed, and that the costs shown have been reasonably incurred in accordance with this Lynnwood Link Supplement.
- 6.5.4 The City shall submit all invoices, required reports, and documentation to AccountsPayable@SoundTransit.org, or Sound Transit Accounts Payable, 401 S. Jackson Street, Seattle, WA 98104, with notice to the Designated Representative of Sound Transit and Sound Transit Project Control.

6.6 Reimbursement by Sound Transit

Within thirty (30) calendar days after Sound Transit’s receipt of any complete and accurate City invoice, Sound Transit shall remit payment to the City.

All reimbursements shall be made under the following procedures:

- 6.6.1 Reimbursement of the eligible costs shall be made upon approval by Sound Transit. All work performed under this Supplement shall be reasonably certified as acceptable by Sound Transit before payment.
- 6.6.2 To be entitled to reimbursement for the satisfactory performance of the work identified in this Supplement, the City must provide documentation of all eligible expenses as required by subsection 6.6 or by the applicable federal requirements. Sound Transit reserves the

right to withhold payments pending timely delivery and proper completion of the reports or documents as may be required under this Lynnwood Link Supplement.

- 6.6.3 Sound Transit shall review the invoice within thirty (30) calendar days after receipt and shall notify the City in writing of any amount rejected and/or request for additional information. Sound Transit shall not transfer nor be obligated to transfer any funds in advance of receipt of a complete and accurate invoice.
- 6.6.4 In the event that Sound Transit reimbursement is delayed beyond forty-five (45) calendar days of receipt of a complete and accurate City invoice, the City shall have the right to charge interest at a rate of 3.5% annually and compounded monthly, accruing from the closing date of the invoice.
- 6.6.5 Reimbursements will be paid to the City to the attention of the Seattle Department of Transportation Accounts Receivable, with notice to the Designated Representative of the City.

7. ADMINISTRATION

7.1 Monitoring and Reporting of Progress

The City is committed to work efficiently and will closely monitor the time required to complete work products consistent with the Scope of Work and budget for the Project. The City shall provide clear, accurate and detailed progress reports to Sound Transit as part of the City's monthly invoice. The City shall work with Sound Transit to further refine its progress reporting, accounting and program management system to ensure useful and descriptive information that complements Sound Transit's project control system. The City and Sound Transit shall provide active, ongoing oversight to ensure that Sound Transit funds are expended efficiently, in a manner that adds value to the Project.

7.2 Monitoring and Reporting of Costs

- 7.2.1 The City's Designated Representative, or other designated City official, will provide detailed cost reports to Sound Transit on a quarterly basis for the purposes of reconciliation as described in subsection 7.3.
- 7.2.2 The City shall provide any plans, specifications, accounting records or other documents needed to satisfy requests from federal funding agencies for information to comply with Sound Transit's funding requirements.

7.3 Quarterly Review

Both Parties agree to monitor and review the actual versus estimated effort on a quarterly basis. The Parties will negotiate additional funding or a reduction in services relating to the Project to the extent that such services cannot be performed within the budget specified by Task. Sound Transit will rely on information contained in the City's progress reports to identify changes in the work as reported on by the City in order to have the opportunity to take corrective action or clarify assumed work efforts.

7.4 Availability of Records

All Project records in support of all costs incurred and actual expenditures kept by the City shall be maintained in accordance with procedures prescribed by the Washington State Auditor's Office and the applicable Federal funding agencies. The records shall be open to inspection by Sound Transit and the Federal government during normal business hours, and shall be retained and made available for such inspection for a period of not less than three years from the final payment of any federal aid funds to the City. Copies of said records shall be furnished to Sound Transit and/or the Federal government upon request. This requirement shall be included in all subcontracts entered into by the City related to the work to fulfill the terms of this Lynnwood Link Supplement.

7.5 Audit

If an audit is requested by Sound Transit or required by any applicable federal agency requirements, the City agrees to cooperate fully with Sound Transit's auditor, any independent auditor chosen and retained by Sound Transit for auditing expenditures under this Lynnwood Link Supplement or previous Supplements, or any audit required by the federal funding agency, if applicable. At the time of a federal audit, if required, the City will provide documentation of all costs incurred under this Lynnwood Link Supplement subject to the availability of records as described in subsection 7.4.

7.6 Third Party Contract Administration

Each Party shall be solely responsible for the administration of and the completion and quality of work performed under any contracts executed by the Party. In no event shall any contract executed by a Party be construed as obligating the other Party to this Lynnwood Link Supplement. All contracts shall comply with all applicable public works and procurement laws and regulations, including, but not limited to, bonding, prevailing wage, nondiscrimination, retainage, insurance, and workers compensation requirements.

8. DISPUTE RESOLUTION PROCESS

The Parties remain committed to resolving issues cooperatively, expeditiously, and at the lowest possible staff level. However, as provided for in the April 20, 1998 MOA, the following is the agreed upon process for dispute resolution:

8.1 General

The Designated Representatives will use their best efforts to resolve disputes and issues arising out of or related to the tasks covered by this Lynnwood Link Supplement. The Designated Representatives will communicate regularly to discuss the status of the tasks to be performed and to resolve any issues or disputes related to the successful performance of this Lynnwood Link Supplement. The Designated Representatives will cooperate in providing staff support to facilitate the performance of this Lynnwood Link Supplement and the resolution of any issues or disputes arising during the term of this Lynnwood Link Supplement.

8.2 Notice of Problem or Dispute and Meeting of Designated Representatives

Each Designated Representative will notify the other in writing of any problem or dispute that the Designated Representative believes should be resolved. The Designated Representatives shall meet within three (3) Working Days of receiving the written notice in an attempt to resolve the dispute.

8.3 Meeting of Directors

In the event the Designated Representatives cannot resolve a dispute (and that dispute is not subject to some other formal appeal process), the Sound Transit Chief Executive Officer or his/her designee and the Director of the Seattle Department of Transportation or his/her designee shall meet within seven (7) Working Days of receiving notice from a Designated Representative and engage in good faith negotiations to resolve the dispute.

8.4 Prerequisites to Litigation

Neither Sound Transit nor the City shall have the right to seek relief under this Lynnwood Link Supplement in a court of law until and unless each of the procedural steps specified in Subsections 8.1, 8.2, and 8.3 have been completed.

9. COMPLIANCE WITH FEDERAL FUNDING REQUIREMENTS

Sound Transit’s Project is partially funded by the FTA and is therefore required to include applicable FTA provisions in all of its agreements. The FTA provisions attached as **Exhibit D**, Federal Funding Requirements, are incorporated herein as though they were set forth in full in the body of this Lynnwood Link Supplement. The City agrees to comply with the federal funding requirements in Exhibit D, and the City shall include all applicable FTA provisions described in Exhibit D in all third-party contracts that are funded under this Lynnwood Link Supplement, such as procurement, subcontracts or third-party contracts for design and construction services. All references to “Consultant” in Exhibit D shall be construed to mean the City and its third-party consultants or contractors (if any). Exhibit D may be modified or revised by Sound Transit from time to time to comply with revised federal requirements or to conform to the nature of the work performed under this Lynnwood Link Supplement. Sound Transit will provide the City with timely notification of any changes to Federal provisions as currently described in Exhibit D.

10. EXERCISE OF CITY’S POLICE POWER

Sound Transit recognizes the right vested in the City pursuant to general law to exercise its police power for the protection of the health, safety, and welfare of its citizens and their properties. Nothing in this Lynnwood Link Supplement shall be construed as precluding the City from exercising such power in connection with Sound Transit’s light rail system except as specifically provided in this Lynnwood Link Supplement, and then, only to the extent this Lynnwood Link Supplement expressly precludes such exercise.

11. EXTENSION FOR STATE OF EMERGENCY SITUATIONS

Notwithstanding subsection 2.3, the time period required for performance of services under this Lynnwood Link Supplement, other than due dates for payments for services rendered or work performed by the City, shall be extended to include the length of any delay caused by or resulting from the prohibition or restriction of such action by the State or Federal government, or any fire, earthquake, flood, storm, power failure, major equipment breakdown, war, labor trouble, accident, riot, act of Nature, or other event beyond the reasonable control of the Party obligated to perform such services; provided, that the Party adversely affected by such condition shall promptly advise the other Party, in writing, of the occurrence of an event of force majeure and make a reasonable attempt to satisfy its obligations hereunder notwithstanding the event of force majeure.

12. LEGAL RELATIONS

12.1 Indemnification

To the extent permitted by law, each Party to this Agreement shall protect, defend, indemnify, and save harmless the other Party, and its officers, officials, employees, and agents, while acting within the scope of their employment, from any and all costs, claims, demands, judgments, damages, or liability of any kind including injuries to persons or damages to property, which arise out of, or in any way result from, or are connected to, or are due to any negligent acts or omissions of the indemnifying Party. No Party shall be required to indemnify, defend, or save harmless the other Party if the claim, suit, or action for injuries, death, or damages is caused by the sole negligence of the Party seeking indemnification. Where such claims, suits, or actions result from concurrent negligence of the Parties; the indemnity provisions provided herein shall be valid and enforceable only to the extent of the Party's own negligence. Each Party agrees that its obligations under this indemnification section extend to any claim, demand, and/or cause of action brought by, or on behalf of, any of its employees or agents. For this purpose, each Party, by mutual negotiation, hereby waives, with respect to the other Party only, any immunity that would otherwise be available against such claims under the industrial insurance provisions of Title 51 RCW. In the event of any claims, demands, actions and lawsuits, the indemnifying Party upon prompt notice from the other Party shall assume all costs of defense thereof, including legal fees incurred by the other Party, and of all resulting judgments that may be obtained against the other Party. In the event that any Party incurs attorney fees, costs or other legal expenses to enforce the provisions of this section, all such fees, costs and expenses shall be recoverable by the prevailing Party. This indemnification shall survive the expiration or earlier termination of this Agreement.

12.2 Venue

In the event that any Party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this Lynnwood Link Supplement, the Parties hereto agree that any such action or proceedings shall be brought in a court of competent jurisdiction situated in Seattle, King County, Washington.

12.3 Effective Date

This Lynnwood Link Supplement shall be effective as of the later date as signed below.

IN WITNESS WHEREOF, each of the Parties hereto has executed this Lynnwood Link Supplement by having its authorized representative affix his/her name in the appropriate space below:

**CENTRAL PUGET SOUND
REGIONAL TRANSIT AUTHORITY
(SOUND TRANSIT)**

THE CITY OF SEATTLE

Peter Rogoff
Chief Executive Officer
Sound Transit

Scott Kubly
Director
Seattle Department of Transportation

Date:

Date:

Approved as to form:

Authorized by Ordinance _____

By:

Sound Transit Legal Counsel

Authorized by Motion:

Exhibits: **Exhibit A - Scope of Work**
 Exhibit B - Schedule
 Exhibit C - Budget
 Exhibit D - Federal Funding Requirements

