

**DEVELOPMENT AGREEMENT
FOR THE
DOWNTOWN REDMOND LINK EXTENSION PROJECT
CITY OF REDMOND, WASHINGTON**

GA 0191-18

This DEVELOPMENT AGREEMENT ("Agreement") is entered into by and between the CITY OF REDMOND, a Washington optional municipal code city ("City") and the CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY, a regional transit authority organized under the laws of the State of Washington ("Sound Transit").

RECITALS

- A. The City is a non-charter optional municipal code city incorporated under the laws of the State of Washington, with authority to enact laws and enter into agreements to promote the health, safety, and welfare of its citizens and for other lawful purposes.
- B. Sound Transit is a regional transit authority created pursuant to chapters 81.104 and 81.112 RCW with all powers necessary to implement a high-capacity transit system within its boundaries in King, Pierce, and Snohomish counties.
- C. The City is responsible for administering land-use laws and development regulations that will apply to Sound Transit projects located within the City jurisdiction. The City is also responsible for managing streets and municipal utilities within its jurisdiction and for providing municipal services such as public safety.
- D. The Sound Transit Regional Transit Long-Range Plan identifies the Downtown Redmond Link Extension Project ("Project") within the City's jurisdiction and was funded as part of the 2016 voter-approved regional transit system plan, Sound Transit 3 Plan ("ST3").
- E. The Project will add two new light rail stations beyond the Redmond Technology Station (currently called Overlake Transit Center) with one station and 1,400 parking stalls at Southeast Redmond and the other in Downtown Redmond as shown on the attached **Exhibit A**.
- F. This Agreement is authorized by RCW 36.70B.170 through .210. In addition, the City has adopted regulations governing development agreements, as set forth in Redmond Zoning Code (RZC) 21.76.070(L). Those regulations allow a property owner to apply to the City to enter into a development agreement to address project development standards including design standards, mitigation measures, project phasing, review procedures, vesting, and other appropriate development requirements.
- G. The Growth Management Act (RCW 36.70A) requires that the City plan for and encourage regional high-capacity transit facilities such as East Link (RCW 36.70A.020) and

accommodate within the City such essential public facilities (RCW 36.70A.200). The City has addressed this requirement by classifying light rail as a permitted use throughout the City pursuant to Ordinance 2584 dated April 5, 2011. The Parties agree that the requirements of RCW 36.70A.200 regarding the siting of essential public facilities are applicable to the Project. Sound Transit, as the regional transit authority sponsoring the Project, has the primary authority to make siting and location decisions for the Project; however, the City may impose reasonable permit and mitigation conditions.

- H. On September 27, 2018, the Sound Transit Board selected the alignment and station locations for construction of the expansion of the East Link Project from Overlake Transit Center to downtown Redmond as set forth in Sound Transit Resolution R2018-32, incorporated by reference herein.
- I. Sound Transit is intending to deliver the Project as a design-build procurement (“Design-Build”) and has been coordinating with the City in preparation for Project design and construction. In recognition of the multiple development permits and separate review processes, and the continuing potential for conflict, overlap, and duplication between such processes, the City and Sound Transit desire to consolidate permit and environmental review processes for the benefit of both parties and the public pursuant to the development agreement authority provided in RCW 36.70B.170 *et seq.* and RZC 21.76.070(L). In addition, the City recognizes the public benefits which will accrue to the City and community from development of the property for the Project.
- J. Sound Transit has adopted real property acquisition and relocation procedures and guidelines that comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (PL 91-646, 84 Stat. 1894), as amended by the Uniform Relocation Act Amendments of 1987 (PL 100-17, 101 Stat. 246-256), and as implemented by the United States Department of Transportation (49 CFR 24) (hereinafter, the “Federal Regulations”), all of which establish a uniform policy for the expedient and consistent treatment of owners subjected to land-acquisition practices and provide for the fair and equitable treatment of persons displaced as a result of public works programs or projects of a local public body. Pursuant to these policies and its statutory authority, Sound Transit has acquired or will acquire such real property interests as are necessary to construct, maintain and operate the Project.
- K. Sound Transit has ownership or control of the real property described in **Exhibit B**, attached hereto (the “Property”).
- L. Pursuant to RCW 36.70B.200 and RZC 21.76.060(P), the City held a properly-noticed public hearing, and the City Council finds that the proposed Project is consistent with the development agreement decision criteria contained in RZC 21.76.070(L), and that any deviations from development standards facilitate the design, construction, or operation of high-capacity transit facilities in Redmond. The City Council has authorized the Mayor to enter into this Agreement.

NOW, THEREFORE, for and in consideration of the mutual promises, benefits, and obligations set forth herein, the City and Sound Transit agree as follows regarding the Sound Transit Downtown Redmond Link Light Rail Project.

1. DEFINITIONS

- 1.1 Agreement. “Agreement” means this Development Agreement approved by appropriate action of the City and Sound Transit.
- 1.2 Administrative Modification. “Administrative Modification” shall mean the process described in Redmond Zoning Code (RZC) 21.76.090, with deviations as described in this agreement.
- 1.3 Alteration of Geologic Hazard Areas. “Alteration of Geologic Hazard Areas” shall mean the process described in Redmond Zoning Code (RZC) 21.76.070, with deviations as described in this agreement.
- 1.4 Approved Building Permit Plans. “Approved Building Permit Plans” means prints showing in detail the proposed construction and specifications of the Project and further described in the building permits approved by the City.
- 1.5 Betterment. “Betterment” means any improvement to City infrastructure that has been requested or agreed to by the Parties that is not required to execute the construction of Sound Transit’s Project. Sound Transit work on any City infrastructure that is part of Sound Transit’s basic scope of work shall not constitute Betterment.
- 1.6 City. “City” means the City of Redmond or any successor or assignee following an assignment that is permitted under this Agreement.
- 1.7 Design/Build Contractor. “Design/Build Contractor” means the entity or entities that will contract with Sound Transit to complete the design of the Project, to obtain all remaining permits for the Project, and to construct the Project, all based upon a design/build procurement method.
- 1.8 Design Review Board. “Design Review Board” shall have the meaning described in chapter 4.23 of the Redmond Municipal Code.
- 1.9 Downtown Redmond Station. “Downtown Redmond Station” means the elevated Light Rail Transit Facility located along the Redmond Central Connector Trail and straddling 166th Avenue NE.
- 1.10 Letters of Concurrence. “Letters of Concurrence” (“LOC”) includes those letters signed by the local official who has the authority to approve specific and limited aspects of the Project.

- 1.11 Light Rail Transit Facility. “Light Rail Transit Facility” means a structure, rail track, equipment, maintenance base, or other improvement of a Light Rail Transit System, including but not limited to ventilation structures, traction power substations, Light Rail Transit stations and related passenger amenities, bus layover and inter-modal passenger transfer facilities, park-and-ride lots, and transit station access facilities.
- 1.12 Light Rail Transit System. “Light Rail Transit System” means a public rail transit line that operates at, above, or below grade level and that provides high-capacity regional transit service owned and operated by a regional transit authority authorized under chapter 81.112 RCW. A Light Rail Transit System may be designed to share a street right-of-way although it may also use a separate right-of-way.
- 1.13 Marymoor Village. That area of the City of Redmond generally bordered by SR 520 on the north, Marymoor Park on the west and south, and the East Lake Sammamish Trail on the east.
- 1.14 NFPA. National Fire Prevention Association: a global, non-profit organization that promotes safety standards, education, training, and advocacy on fire and electrical-related hazards.
- 1.15 Project Administration Agreement. “Project Administration Agreement” means that agreement executed between the Parties on January 22, 2019.
- 1.16 Parties. “Parties” means the City of Redmond and the Central Puget Sound Regional Transit Authority.
- 1.17 Project. The “Project” as used herein means the light rail system as described in the attached **Exhibit C** and as approved by the City pursuant to the approvals described in this Agreement.
- 1.18 Request for Proposals. “Request for Proposals” or “RFP” means the Sound Transit Downtown Redmond Link Extension Request for Proposals No. RTA/CN 0148-18.
- 1.19 Site Plan Entitlement. “Site Plan Entitlement” shall mean the process described in Redmond Zoning Code (RZC) 21.76.070, with deviations as described in this agreement.
- 1.20 Sound Transit. “Sound Transit” means the Central Puget Sound Regional Transit Authority or any successor or assignee following an assignment that is permitted under this Agreement.

- 1.21 Southeast Redmond Parking Structure. "Southeast Redmond Parking Structure" means the 1,400-stall parking structure located adjacent to the Southeast Redmond Station.
- 1.22 Southeast Redmond Station. "Southeast Redmond Station" means the at-grade Light Rail Transit Facility located along SR 520 to the west of SR 202/Redmond Way.
- 1.23 Technical Committee. "Technical Committee" shall have the meaning described in Redmond Municipal Code 4.50.
- 1.24 Third Party. "Third Party" means any person other than the City or an employee of the City and any person other than Sound Transit or an employee of Sound Transit.

- 2. **TERM.** This Agreement shall be effective as of the date the last Party signs (the "Effective Date") and, unless sooner terminated pursuant to the terms hereof, shall remain in effect until December 31, 2026. The City and Sound Transit may agree to extend the term of this Agreement by mutual agreement of the City Council and Sound Transit Board.

3. COOPERATION AND GOOD-FAITH EFFORTS

- 3.1 The Parties executed a Project Administration Agreement on January 22, 2019 that addresses cooperation and good-faith efforts.
- 3.2 The Parties acknowledge that this Agreement contemplates the execution and delivery of a number of future documents, instruments, and permits, the final form and contents of which are not presently determined. The Parties agree to provide the necessary resources and to work in good faith to develop the final form and contents of such documents, instruments and permits, and to execute and deliver the same promptly.
- 3.3 The City may apply for grants available to local agencies to supplement Sound Transit funds for street, sidewalk, or other improvements contemplated by this Agreement. Upon request, Sound Transit will provide letters of support for grant applications made by the City.
- 3.4 Sound Transit will exercise its reasonable best efforts to minimize impacts of construction activities on current and future business operations and pending development opportunities in the Project area including, but not limited to, best efforts to minimize duration of both (a) any temporary closures of Redmond businesses, and (b) any temporary construction easements impacting business operations.

- 3.5 The Parties acknowledge that the scope of work for the Project is identified at the time of issuance of the Request for Proposals ("RFP") for Sound Transit Design Build contract. Because the Project is using the Design Build project delivery method, changes to the scope or adding scope after RFP is discouraged and may have higher costs and impacts. The Parties agree that the scope of the various mitigations, public benefit elements, and Betterments agreed herein will be included in the RFP for the Design Build Contract. If the City requests any change to Project scope after RFP, Sound Transit will determine whether to modify the Design Build Contract to incorporate such requested changes. In making the determination, Sound Transit will consider any potential impacts to the overall project and to the design builder, including but not limited to, impacts to efficiencies, cost, schedule, and long-term operations and maintenance. If agreed, the scope, payment and other terms of such requested change would be memorialized in an agreement signed by both Parties before any such change is incorporated into the Project scope.

4. DEVELOPMENT STANDARDS

- 4.1 Except as provided in this Agreement, the Project shall be governed by and vested to the City's development regulations or standards as such exist on the Effective Date of this Agreement, or as regulations and standards may be determined inapplicable because of the non-preclusive requirements for essential public facilities provided in RCW 36.70A.200. As provided in RCW 36.70B.170(4), the City shall reserve its authority to adopt new or different regulations to the extent required by a serious threat to public health and safety, after notice and an opportunity to be heard has been provided to Sound Transit, and such regulations shall apply to the Project. As used in this Agreement, "development regulations" shall be deemed to include regulations, policies, procedures and guidelines addressing zoning, environmental review (including SEPA procedures and substantive SEPA policies), building and site design, utilities, stormwater, transportation concurrency and other laws, ordinances, policies, and administrative regulations and guidelines of the City governing land development.

4.1.1 The following are exempt from vesting under this Agreement:

- a) Plan review fees, inspection fees, and connection charges;
- b) Stormwater and utility connection fees and monthly service charges;
- c) Amendments to building, plumbing, fire and other construction codes; and
- d) City enactments that are adopted pursuant to State or federal mandates that preempt the City's authority to vest regulations.

- 4.2 The City regulations or standards contained in the RMC shall prevail unless superseded by the terms of this Agreement. To the extent this Agreement does not establish or define development regulations or standards covering a certain subject, element or condition, the Project shall be governed by the City development standards and regulations in effect as of the Effective Date of this Agreement.
- 4.3 NFPA 130 “Standard for Fixed Guideway Transit and Passenger Rail Systems” shall be used for determining occupant loads and exiting requirements at stations in lieu of the provision related to buildings defined in the IBC Section 1004, consistent with letter from City Building Official dated July 19, 2018.
- 4.4 The Project is a permitted use of all affected property and will be generally consistent with current City development standards and regulations. Certain deviations from development standards are allowed consistent with RZC 21.76.070(L)(4). The City hereby allows deviations as follows:

RZC Citation	Topic	Approved Deviation
21.10.040.C	Setbacks in Anderson Park zone	Setbacks shall be as shown in Exhibit D .
21.10.040.D.9	Parking ratio in Anderson Park zone	Project’s program will provide 6 parking stalls for light rail operations and maintenance
21.13.070.C.9	Parking ratio in MDD1 zone	Project’s program will provide up to 1,400 parking stalls for transit users and 6 parking stalls for light rail operations and maintenance
Table 21.13.120A	Minimum residential component for developments in MDD1 zone; Minimum floor area ratio (FAR) in MMD1; Minimum residential usable space in MDD1 zone	Project is not required to include a residential component and has no minimum floor area.
Table 21.13.070A and Table 21.13.220A	Maximum height in MDD1 zone	The maximum height for the Project parking structure shall not exceed the height shown in Exhibit D . No features in the RZC 21.13.220, MDD Incentive Program, are required to be provided in order to build to the maximum height.

RZC Citation	Topic	Approved Deviation
21.13.140A	Upper-story setbacks in MDD1 zone	In lieu of upper story setbacks (see prescriptive language in Exhibit D), and the design standards checklist for the garage in the Project Administration Agreement will be used to assess aesthetic intent and requirements.
21.72.030	Tree Removal Permit Exemptions	Light Rail Transit Facility infrastructure along SR 520 from NE 40th St. to West Lake Sammamish Parkway shall be treated the same as a public street in an easement or right-of-way for purposes of tree removal permit exemptions. Consistent with this section, tree replacement requirements still apply and will be required consistent with the Tree Mitigation Plan shown in Exhibit E .

4.5 **Procedural Modifications.** In addition to the construction deviations identified in Section 4.4, the following procedural modifications shall apply to the Project consistent with RZC 21.76.070(L)(4):

- (a) **RCZ 21.76.070.E Applicability of Alteration of Geologic Hazard Areas Permit.** Light rail infrastructure is a permissible use within a Landslide Hazard Area. Sound Transit or its designee may apply for, and the City may issue, an Alteration of Geologic Hazard Area permit as if the infrastructure was a qualifying street or utility.
- (b) **RCZ 21.76.070.Y Applicability of Site Plan Entitlement (“SPE”).** SPE review excludes the elements of light rail that are most similar to linear transportation facilities. Therefore, SPE approval is not required for light rail construction between station areas, or for the linear transportation facility elements at each station as described in the Permitting Framework of the DRLE Project Administration Agreement.
- (c) **RCZ 21.76.090.D Applicability of Administrative Modifications.** Modifications to previously approved site plan entitlements that only involve changes to vegetation or landscaping shall not require an

administrative modification. Instead, the Design/Build Contractor will implement the Tree Mitigation Plan shown in **Exhibit E**.

- (d) RZC 21.52.030.G Right-of-Way Dedication. The City may accept right-of-way that is encumbered if the City in its sole determination finds that the easement or other right will not interfere with the City's long-term operation of the right-of-way for transportation, utility, or other customary right-of-way purposes.

5. SEWER CONNECTION CHARGE AT SOUTHEAST REDMOND STATION, SOUTHEAST REDMOND PARKING STRUCTURE, AND ASSOCIATED LAND USE RESTRICTIONS

- 5.1 Pursuant to City Council Resolution 1507, the City Council has imposed additional sewer connection charges to support investment in the public sewer system serving the parcels that will be occupied by portions of the Project. In general, the additional connection charges are based on sewer demand assuming development of parcels to their maximum development potential under zoning regulations in effect at the time this Agreement is executed. In light of the reduced sewer demand from the light rail station and associated parking structure to be located on parcel 22, as that parcel is depicted in Resolution 1507 ("Parcel 22"), compared to the amount of demand that would be expected from a development maximizing its potential under zoning regulations in place at the time this Agreement is executed, the City based its additional sewer connection charge for Parcel 22 on the sewer demand expected from the light rail station and associated parking structure use. The amount of the sewer connection charge for Parcel 22 is reflected in Resolution 1507, including any interest or fee escalation stated in the resolution. The additional sewer connection charge must be paid at the same time as the general connection charge, which is when the parcel applies for a side sewer connection.
- 5.2 Prior to the City's issuance of a building permit for the Southeast Redmond Station and/or Southeast Redmond Parking Structure, Sound Transit agrees to record a deed restriction limiting development of Parcel 22 to light rail station, associated parking structure, and appurtenant light rail system uses, in a form to be mutually agreed upon by the Parties. The City may withhold issuance of the building permit until such time as the restriction is agreed upon and recorded. If, at some point in the future, Sound Transit or its successors or assigns desires to develop Parcel 22 in a manner that creates sewer demand in excess of that associated with the light rail station and parking structure, the City shall determine whether sufficient sewer capacity exists to accommodate such additional demand. In determining whether sufficient capacity exists, the City shall assume that all other parcels that are subject to the additional sewer connection charge imposed by Resolution 1507 will be fully built out, and sufficient capacity for Sound Transit's additional development will be deemed to exist only if capacity exists beyond that necessary to serve full buildout of the

other parcels. If the City determines that such capacity exists or can be provided with the construction of sewer system improvements that are consistent with the City's Sewer Plan, the restriction shall be amended as mutually agreed by the Parties to allow the additional development. Provided, however, that to the extent sufficient sewer capacity does not exist to accommodate the additional demand, Sound Transit or its successors or assigns shall construct any improvements to the City sewer system that are necessary to accommodate such additional demand. Sound Transit shall also pay an additional connection fee based on the increased demand from such development, as determined by the City for comparable development under Resolution 1507, and such additional connection fee shall be paid regardless of whether sufficient capacity is deemed to exist or whether it must be provided with the construction of sewer system improvements by Sound Transit.

6. PROJECT PUBLIC BENEFITS

6.1 The City and Sound Transit have collaborated closely on Project scope details and desire to memorialize agreement on Project scope elements. Certain Project scope elements are of particular interest to or benefit the City and the Redmond community. Those are described below as the Project's public benefits to comply with RZC 21.76.070(L)(3)(e).

- (a) 1,400-stall Parking Structure. Sound Transit will construct a 1,400-stall parking structure adjacent to the SE Redmond station, designed consistent with RFP documents. This structure provides direct access to the station platform, includes ground-floor bus facilities to eliminate on-street bus facilities, minimizes commuter traffic circulating in Marymoor Village given its location near Redmond Way, and allows for potential future transit-oriented development elsewhere near the station.
- (b) SE Redmond Construction Staging. Sound Transit will acquire property rights to two parcels immediately south of the west end of the SE Redmond station for construction staging or other Project activities. Sound Transit will acquire property rights to two parcels immediately south of the west end of the SE Redmond station, which will be cleared of existing uses for construction staging or other Project activities. Sound Transit will lease or purchase the sites at its sole discretion.
- (c) 173rd Ave. NE. Sound Transit will construct an interim section of 173rd Ave. NE, connecting NE 70th St. to NE 67th Ct., consistent with RFP documents and LOC 15.
- (d) NE 70th St. Subject to City Council approval of vacating the existing NE 70th St. right-of-way, Sound Transit will realign and construct NE 70th St. consistent with LOC 15. Sound Transit will transfer property rights to the City as described in LOC 22.

- (e) NE 70th St./SR 202 Intersection. Sound Transit and the City will share the responsibility for improvements at the NE 70th St./SR 202 intersection, consistent with RFP documents and LOC 17.
- (f) Downtown Redmond Bus-Rail Integration. Sound Transit will construct concrete bus pads built for active bays and layover spaces on Cleveland St. and NE 76th St. in Downtown Redmond, consistent with RFP documents, to facilitate bus-rail integration at the Downtown Redmond Station.
- (g) Non-Motorized Access Improvements. Sound Transit will construct non-motorized access improvements with the goal of increasing transit ridership and improving convenience and comfort of access. These improvements, as shown in the RFP documents, include: ADA ramps at NE 40th St. to access the Redmond Technology Station; pedestrian and bicycle facilities on NE 70th St. and 173rd Ave NE in Southeast Redmond; a traffic signal with crosswalks at 176th Ave. NE and NE 70th St., which is where the East Lake Sammamish Trail North Extension crosses NE 70th St.; pedestrian facilities along the north side of NE 76th St. near the Downtown Redmond Station; improvements to existing sidewalks on the south side of Cleveland St. near the Downtown Redmond Station; a mid-block crossing of Cleveland St. near the Downtown Redmond Station; and three rectangular rapid flashing beacons: crossing NE 76th St. at 168th Ave. NE, crossing Cleveland St. west of 166th Ave. NE, and crossing NE 70th St. at the SE Redmond Station entrance. Additional non-motorized access improvements are anticipated to include: a pedestrian-bicycle tunnel connecting the Redmond Technology Station to the north side of NE 40th St., if Sound Transit and Microsoft are able to reach an agreement on funding and construction and the extension of the East Lake Sammamish Trail to the Redmond Central Connector, pending a betterment agreement between Sound Transit and King County.
- (h) Downtown Redmond Tail Tracks. Sound Transit will construct an architectural “ending” to the tail tracks west of the Downtown Redmond Station, together with buildings under the end of the tail tracks for use by City or Sound Transit staff, consistent with RFP documents.
- (i) Redmond Central Connector. Sound Transit will reconstruct the Redmond Central Connector between 164th Ave NE and the Bear Creek Trail to implement the Redmond Central Connector Master Plan, consistent with LOC 11.
- (j) Wetland Mitigation/Fee In Lieu. Sound Transit and the City agree that Sound Transit will propose the purchase of mitigation credits from the Keller Farm Mitigation Bank (“the Bank”) to mitigate all permanent

wetland and wetland buffer impacts within the City of Redmond. This is consistent with Sound Transit's wetland mitigation analysis contained in its shoreline substantial development permit application to the City. The Bank is anticipated to be certified in the summer of 2019, which would meet the timeframe required by Sound Transit to meet environmental permitting requirements. If the Bank is not certified by September 2019, Sound Transit will need to find an alternate method to mitigate those impacts. In the event that the Bank is not certified by September 2019, the City agrees to allow Sound Transit to mitigate permanent wetland and wetland buffer impacts through the purchase of credits from King County's In-Lieu Fee Program for sites within Redmond city limits.

- 6.2 In addition the public benefits identified above, Sound Transit will contribute funds to the City to facilitate the following public benefits.
- (a) East Lake Sammamish Parkway-SR 202 Intersection. Sound Transit will contribute \$803,375 to the City's planned intersection improvement project, subject to the City's completion of any necessary environmental review (i.e. SEPA) and on a payment schedule shown in **Exhibit F**. The City will be responsible for completing environmental review, permitting, design, construction, operation and maintenance of the improvements and for any and all costs of the project in excess of \$803,375. The City intends to construct this improvement such that it is open to the public when the Southeast Redmond Station begins operation, which is currently anticipated to be December 2024
 - (b) Erratic Art. Sound Transit will pay the City \$576,300 for the City to relocate the Erratic art currently located at the corner of 166th Ave NE and Cleveland St., consistent with LOC 11. Sound Transit's contribution is subject to the City's completion of any necessary environmental review (i.e. SEPA) and will be paid according to the payment schedule shown in Exhibit F. The City will be responsible for permitting, design, construction, operation and maintenance of the improvements and for any and all costs of the project in excess of \$576,300.
 - (c) The City shall submit invoices and supporting progress reports consistent with the payment plan documented in **Exhibit F** for all eligible costs documented in this section. The invoices must include a cover memo including description of the progress made on the public benefits.
 - i. The City shall submit its invoices with the required documentation via email or mail to AccountsPayable@SoundTransit.org, or Sound Transit, Accounts Payable, 401 S. Jackson St., Seattle, WA 98104-2826. Invoices will be paid within thirty days of Sound Transit's receipt of the invoice and acceptable documentation.

- ii. If Sound Transit determines that an invoice lacks sufficient documentation to support payment, Sound Transit will notify the City of its determination and request that the City provide additional documentation. Sound Transit may withhold payment of the invoice until supporting documentation is provided; however, such approval will not be unreasonably withheld.

7. CITY OF REDMOND BETTERMENTS

7.1 The City has identified Betterments that the City believes are desirable to design and construct concurrently with the Project. The Parties have agreed on a preliminary scope of work and a cost estimate of for each of the Betterments described herein, however, notwithstanding any estimate, the City agrees to pay Sound Transit for all costs it incurs related to these Betterments subject to execution of a Construction Services Agreement as described in Section 7.2. Sound Transit agrees to design and construct the Betterments identified below on behalf of the City:

- (a) 51st St. Pressure Reduction Valve. See LOC 16. The Parties agree that the City's estimated cost for the referenced scope of work will be \$550,000.
- (b) NE 76th St./SR 202 Intersection. See LOC 18. The Parties agree that the City's estimated cost for the referenced scope of work will be \$980,000.
- (c) NE 70th St./SR 202 Intersection. See LOC 17. The Parties agree that the City's estimated cost for the referenced scope of work will be \$5,070,000.
- (d) Redmond Central Connector ("RCC"). See LOC 11. The Parties agree that the City's estimated cost for the referenced scope of work will be \$3,080,000.
- (e) East Lake Sammamish Trail North Extension. The City will contribute \$40,000 to Sound Transit toward this Betterment, consistent with the City's commitment in the Transportation Alternatives Program grant application. This contribution is fixed and not subject to future negotiation in the Construction Services Agreement.
 - i. The City will deliver its contribution to the East Lake Sammamish Trail North Extension in a single installment to Sound Transit no more than thirty (30) days after the execution of this Agreement.

7.2 Construction Services Agreement. The Parties intend to enter into a separate agreement(s) to govern completion of the Betterments described in this Section 7. If there is any conflict between this Agreement and any future separate agreement(s) between the Parties regarding the Betterments described in this

Section 7, then that future separate agreement shall control and govern over this Agreement as to the matters addressed in that future agreement.

8. POTENTIAL TRANSIT-ORIENTED DEVELOPMENT (“TOD”)

- 8.1 Sound Transit has acquired or will acquire such real property interests as are necessary to construct, maintain and operate the Project. After the Project is completed, Sound Transit may have surplus property that could be used to support the transit investment by creating TOD. The ST3 Plan established TOD as a programmatic component of implementing Sound Transit’s mission to plan, build and operate regional mass transit. The ST3 Plan and Sound Transit’s enabling statute also direct the agency to implement a regional equitable TOD strategy for diverse, vibrant, mixed-use and mixed-income communities adjacent to Sound Transit stations and in disposition of surplus property. Sound Transit and the City will work together to define a process for exploring and defining outcomes on any future surplus property.

9. APPLICABILITY OF AGREEMENT

- 9.1 The Agreement initially applies to the Property described in **Exhibit B**.
- 9.2 As Sound Transit acquires additional property rights to construct the Project, as generally shown in **Exhibit I**, the Designated Representatives may, by mutual agreement, amend **Exhibit B** to incorporate additional real property, making such property subject to the Agreement. At such times that **Exhibit B** is amended, a Memorandum of this Agreement shall be recorded against such property added to **Exhibit B**.

10. LETTERS OF CONCURRENCE (“LOC”)

- 10.1 The Parties have executed a series of LOCs memorializing certain aspects of the Project, as identified in **Exhibit G** and are incorporated herein by reference. The Designated Representatives shall have the authority, by mutual agreement, to amend **Exhibit G** to add, revise, or revoke any LOC issued after the execution of this Agreement. If there is any conflict between this Agreement and any LOC between the Parties, then this Agreement shall control and govern over the LOC.

11. LIABILITY, INDEMNIFICATION

- 11.1 Sound Transit hereby agrees to indemnify, defend, and hold the City harmless from any and all claims, demands, suits, actions, damages, recoveries, judgments, costs, or expenses, including, without limitation, reasonable attorney fees, paid by the City and arising or growing out of or in connection with or resulting from, either directly or indirectly, the construction, maintenance, operation, repair, removal, occupancy, and use of the Project by Sound Transit, unless such claims arise from the sole or partial negligence, actions or inaction of the City, its

employees, servants, agents, contractors, subcontractors, or persons using the Project with permission of the City.

- 11.2 The City shall give Sound Transit prompt notice of any claims directly affecting Sound Transit about which it is aware. Sound Transit shall promptly assume responsibility for the claim or undertake the defense of any litigation on behalf of the City. The City shall cooperate fully with Sound Transit in the defense of any claim. The City shall not settle any claim directly affecting Sound Transit without the prior written consent of Sound Transit, which consent shall not be unreasonably withheld.
- 11.3 Sound Transit expressly assumes potential liability for actions brought by Sound Transit's employees and agents against the City and, solely for the purpose of this indemnification, expressly waives any immunity under the Industrial Insurance Law, Title 51 RCW. Sound Transit acknowledges that this waiver was entered into pursuant to the provisions of RCW 4.24.1 I 5 and was the subject of mutual negotiation.

12. INSURANCE

- 12.1 Sound Transit shall, at its sole expense, obtain and maintain during the entire term of this Agreement an appropriate program of commercial insurance, self-insurance, or any combination thereof in amounts and types sufficient to satisfy its liabilities. When commercial insurance is utilized, Sound Transit shall name the City as an Additional Insured in accordance with insurer underwriting practices, and Sound Transit insurance policies shall be primary and non-contributory to any coverage maintained by the City. Sound Transit waives all rights of subrogation against the City for claims by third-parties arising under this Agreement, other than for damages, claims or liabilities arising from negligent acts or omissions of the City and its officers, employees, and agents. The limits of Sound Transit's selected coverage program in no way diminish Sound Transit's obligations to the City as set forth in this Agreement. Sound Transit shall maintain this coverage program throughout the term of this Agreement, and for six (6) years after its termination, to protect the City against claims that may arise as a result of the construction, operation, or maintenance of the Project. When commercial insurance is used, coverage shall include: (i) comprehensive general liability insurance; (ii) property damage liability insurance, including coverage for explosion, collapse, and instability; (iii) workers' compensation insurance, to the extent required by law; (iv) employer's liability insurance; and (v) comprehensive auto liability coverage, including owned, hired, and non-owned vehicles.
- 12.2 When commercial insurance is used, Sound Transit shall carry such commercial insurance with responsible insurers, or self-insure or participate in an insurance pool or pools, at levels of coverage or with reserves adequate, in the reasonable judgment of Sound Transit, to protect Sound Transit and the City against loss, and as are ordinarily carried by municipal or privately-owned entities engaged in the operation of facilities comparable to the Project.

- 12.3 Sound Transit shall file with the City's Risk Manager a formal letter of self-insured status, or when commercial insurance is used, Certificates of Insurance reflecting evidence of the required insurance and naming the City as an additional insured where appropriate. The coverage maintained by Sound Transit under this Agreement shall not be canceled until at least thirty (30) days' prior written notice has been given to the City.
- 12.4 If Sound Transit fails to maintain the appropriate program of commercial insurance, self-insurance or any combination thereof in amounts and types sufficient to satisfy its liabilities, the City may order Sound Transit to stop operating the Project until the appropriate insurance coverage program is obtained.

13. LIENS

- 13.1 The Project Facilities are not subject to a claim of lien. In the event that any City property becomes subject to any claims for mechanics', artisans' or materialmen's liens, or other encumbrances chargeable to or through Sound Transit that Sound Transit does not contest in good faith, Sound Transit shall promptly, and in any event within thirty (30) days, cause such lien claim or encumbrance to be discharged or released of record, by payment, posting of bond, court deposit or other means, without cost to the City, and shall indemnify the City against all costs and expenses, including attorney fees, incurred in discharging and releasing such claim of lien or encumbrance. If any such claim or encumbrance is not so discharged and released, the City may pay or secure the release or discharge thereof at the expense of Sound Transit after first giving Sound Transit five (5) business days' advance notice of its intention to do so. The City shall use its reasonable best efforts to keep Sound Transit's facilities free of all liens that may adversely affect the Project.
- 13.2 Nothing herein shall preclude Sound Transit's or the City's contest of a claim for lien or other encumbrance chargeable to or through Sound Transit or the City, or of a contract or action upon which the same arose.
- 13.3 Nothing in this Agreement shall be deemed to give, and the City hereby expressly waives, any claim of ownership in and to any part or the whole of the Project except as may be otherwise provided herein.

14. DISPUTE RESOLUTION

- 14.1 Any disputes or questions of interpretation of this Agreement that may arise between Sound Transit and the City shall be governed under the Dispute Resolution provisions in this Section. The Parties agree that cooperation and communication are essential to resolving issues efficiently. The Parties agree to exercise their best efforts to resolve any disputes that may arise through this dispute resolution process, rather than in the media or through other external means.

- 14.2 The Parties agree to use their best efforts to prevent and resolve potential sources of conflict at the lowest level.
- 14.3 The Parties agree to use their best efforts to resolve disputes arising out of or related to this Agreement using good faith negotiations by engaging in the following dispute escalation process should any such disputes arise:
- 14.3.1 Level One – Sound Transit’s Project Director or equivalent and the City Engineer shall meet to discuss and attempt to resolve the dispute in a timely manner. If they cannot resolve the dispute within fourteen (14) calendar days after referral of that dispute to Level One, either Party may refer the dispute to Level Two.
- 14.3.2 Level Two – Sound Transit’s Executive Director of Design, Engineering, and Construction Management and the City’s Public Works Director shall meet to discuss and attempt to resolve the dispute in a timely manner. If they cannot resolve the dispute within fourteen (14) calendar days after referral of that dispute to Level Two, either Party may refer the dispute to Level Three.
- 14.3.3 Level Three – Sound Transit’s Chief Executive Officer or Designee and the Mayor or Designee shall meet to discuss and attempt to resolve the dispute in a timely manner.
- 14.4 Except as otherwise specified in this Agreement, in the event a dispute is not resolved at Level Three within fourteen (14) calendar days after referral of that dispute to Level Three, the Parties are free to file suit or agree to alternative dispute resolution methods such as mediation. At all times prior to resolution of the dispute, the Parties shall continue to perform and make any required payments under this Agreement in the same manner and under the same terms as existed prior to the dispute.

15. DEFAULT

- 15.1 No Party shall be in default under this Agreement unless it has failed to perform under this Agreement for a period of thirty (30) calendar days after written notice of default from the other Party. Each notice of default shall specify the nature of the alleged default and the manner in which the default may be cured satisfactorily. If the nature of the alleged default is such that it cannot reasonably be cured within the thirty (30) day period, then commencement of the cure within such time period and the diligent prosecution to completion of the cure shall be deemed a cure. Any Party not in default under this Agreement shall have all rights and remedies provided by law including, without limitations, damages, specific performance or writs to compel performance or require action consistent with this Agreement.

16. REMEDIES; ENFORCEMENT

- 16.1 The Parties reserve the right to exercise any and all of the following remedies, singly or in combination, in the event the other violates any provision of this Agreement:
 - 14.1.1 Commencing an action at law for monetary damages;
 - 14.1.2 Commencing an action for equitable or other relief; and
 - 14.1.3 Seeking specific performance of any provision that reasonably lends itself to such remedy.
- 16.2 In determining which remedy or remedies for violation are appropriate, a court may take into consideration the nature and extent of the violation, the remedy needed to prevent such violations in the future, whether the breaching party has a history of previous violations of the same or similar kind, and such other considerations as are appropriate under the circumstances. Remedies are cumulative in that the exercise of one shall not foreclose the exercise of others.
- 16.3 Neither Party shall be relieved of any of its obligations to promptly comply with any provision of this Agreement by reason of any failure by the other Party to enforce prompt compliance, and such failure to enforce shall not constitute a waiver of rights or acquiescence in the other party's conduct.

17. ASSIGNABILITY; BENEFICIARY

- 17.1 This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns. No assignment hereof or sublease shall be valid for any purpose without the prior written consent of the other Party, and any attempt by one Party to assign or license the rights or obligations hereunder without prior written consent will give the other Party the right, at its written election, immediately to terminate this Agreement or take any other lesser action with respect thereto. The above requirement for consent shall not apply to (i) any disposition of all or substantially all of the assets of a party, (ii) any governmental entity merger, consolidation, or reorganization, whether voluntary or involuntary, (iii) a sublease or assignment of this Agreement, in whole or in part, to a governmental entity, or (iv) a sale, lease, or other conveyance subject to those requirements set forth in this Agreement.
- 17.2 Neither this Agreement nor any term or provision hereof, or any inclusion by reference, shall be construed as being for the benefit of any party not a signatory hereto.

18. DESIGNATED REPRESENTATIVES

- 18.1 To promote effective intergovernmental cooperation and efficiencies, the Parties each shall designate a representative (each a "Designated Representative") who shall be responsible for coordinating communication between the Parties and shall act as the point of contact for each Party. The Designated Representative will be responsible for the performance of the objectives of this Agreement.
- 18.2 Each Designated Representative is also responsible for coordinating the input and work of its agency, consultants, and staff as it relates to the objectives of this Agreement. The Parties reserve the right to change Designated Representatives by written notice to the other Party during the term of this Agreement. Each Party's Designated Representative is set forth in **Exhibit H**.

19. NOTICE

- 19.1 Unless otherwise provided herein, all notices and communications concerning this Agreement shall be in writing and addressed to the Designated Representative. Either Party may at any time designate by written notice a different address or person to which such notice or communication shall be given, and such notice shall take effect seven (7) days after when it is given.
- 19.2 Unless otherwise provided herein, all notices shall be (i) delivered in person, (ii) deposited with the U.S. postal service, postage prepaid, certified, return receipt requested, (iii) delivered by a nationally recognized overnight or same-day courier service that obtains receipts, or (iv) delivered electronically to the other Party's Designated Representative.

20. GENERAL PROVISIONS

- 20.1 All citations and references to the Revised Code of Washington, the Redmond Zoning Code, and the Redmond Municipal Code in this Agreement shall refer to those provisions in force as of the date of this Agreement, unless express reference is made to future amendments.
- 20.2 This Agreement or a recordable notice hereof will be recorded in the real property records of King County pursuant to the requirements of RCW 36.70B.190. Sound Transit shall pay all transfer taxes, documentary stamps, recording costs or fees, or any similar expenses in connection with the recordings or filing of any permits that may be granted hereunder.
- 20.3 Any amendment to this Agreement shall require approval by the City Council and the Sound Transit Board of Directors, unless administrative approval is specifically authorized by this Agreement.

- 20.4 The Parties specifically agree that money damages is not an adequate remedy for breach of this Agreement and the Parties are entitled to compel specific performance of all terms of this Agreement by the Party in default.
- 20.5 Time is of the essence in every provision of this Agreement. Unless otherwise set forth in this Agreement, the reference to "days" shall mean calendar days. If any time for action occurs on a weekend or legal holiday, then the time period shall be extended automatically to the next business day.
- 20.6 This Agreement is made and entered into for the sole protection and benefit of the parties hereto and their successors and assigns. No other person shall have any right of action based upon any provision of this Agreement.
- 20.7 No joint venture or partnership is formed as a result of this Agreement. No employees, agents or subcontractors of one party shall be deemed, or represent themselves to be, employees of any other party.
- 20.8 Section headings are intended as information only, and shall not be construed with the substance of the section they caption.
- 20.9 In the event of a dispute concerning this Agreement, the substantially prevailing Party shall be entitled to receive its reasonable attorneys' fees and costs at trial, at any alternative dispute resolution, or on appeal.
- 20.10 In the event that any section, sentence, clause or phrase of this Agreement is determined to be invalid or unconstitutional by any court of competent jurisdiction, the remaining sections, sentences, clauses, and phrases shall remain viable and in full force and effect.
- 20.11 This Agreement may be signed in counterparts and when fully executed shall be effective as the original document.
- 20.12 The Parties have participated and have had an equal opportunity to participate in the drafting of this Agreement. No ambiguity shall be construed against any Party based upon a claim that such Party drafted the ambiguous language.
- 20.13 This Agreement constitutes the final and complete expression of the Parties with respect to the subject matter hereof.
- 20.14 The design and construction of the Project is subject to a financial assistance contract between Sound Transit and the United States Department of Transportation, and the Federal Transit Administration ("FTA"). Both parties recognize that the FTA may request a change to this Agreement to comply with its funding requirements.

IN WITNESS WHEREOF, each of the Parties have executed this Agreement by its authorized representative as of the later date written below:

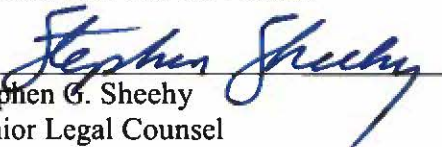
**CENTRAL PUGET SOUND REGIONAL
TRANSIT AUTHORITY (SOUND
TRANSIT)**

By: 
Peter M. Rogoff, Chief Executive Officer

Date: 8-21-19

Authorized by Motion No. M2019-63

APPROVED AS TO FORM:


Stephen G. Sheehy
Senior Legal Counsel

THE CITY OF REDMOND

By: 
John Marchione, Mayor

Date: July 16, 2019

Authorized by City Council Resolution on
June 18, 2019

ATTEST:


Cheryl Kautzor
City Clerk

APPROVED AS TO FORM:

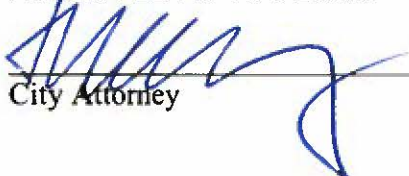

City Attorney

Exhibit List:

- Exhibit A – Project Map
- Exhibit B – Legal Description of Real Property Subject to Agreement
- Exhibit C – ST3 Project Template for Downtown Redmond Link Extension
- Exhibit D – Development Standard Deviations
- Exhibit E – Tree Mitigation Plan
- Exhibit F – Payment Plan for Eligible Costs
- Exhibit G – Letters of Concurrence
- Exhibit H – Designated Representatives
- Exhibit I – General Description of Property Subject to Agreement