

March 26, 2025

Aaron Bert Director of Public Works City of Redmond 15670 NE 85th Street Redmond, WA 98073

Re: Letter of Concurrence between Sound Transit and City of Redmond Regarding RCC Trail Improvement Scope Modifications

Mr. Bert,

As you know, pursuant to that certain "Agreement Between City of Redmond and the Central Puget Sound Regional Transit Authority for the Funding, Design, and Construction of Downtown Redmond Link Extension Betterments" dated October 18, 2019 (the "Betterment Agreement"), attached hereto as Attachment 1, Sound Transit agreed to design and construct improvements to the Redmond Central Connector Trail (the "RCC Improvements") subject to certain cost sharing between Sound Transit and the City. Exhibit D to the Betterment Agreement included the conceptual design for the RCC Improvements, including specified plantings and finish levels.

Pursuant to that certain "Light Rail Easement Agreement (Redmond Spur Rail Corridor—Downtown City Segment)" dated April 11, 2012 (the "Sound Transit Easement"), Sound Transit acquired the right to construct, operate, and maintain its light rail transit facilities for the Downtown Redmond Link Extension Project (the "Project") on certain City property. The Sound Transit Easement property includes property upon which Sound Transit is to construct the RCC Improvements under the Betterment Agreement.

PPF AMLI Redmond Way, LLC (AMLI), the owner of property adjacent to the portion of the Sound Transit Easement located between 170th Avenue Northeast and Downtown Redmond Station and upon which a portion of the RCC Improvements are to be constructed, now desires to use a portion of the Sound Transit Easement area (the "Construction Access Area"), referred to as the "License Area" in the AMLI Letter of Agreement referenced below, for construction staging and access and such other purposes as agreed to by the City (the "Permitted Activities") and the City desires to allow same.

Accordingly, the City has requested that a portion of the RCC Improvements be finished to a level appropriate for AMLI's use for completion of the Permitted Activities instead of being finished to the level identified in the Betterment Agreement as set forth in the June 25, 2024 City letter attached hereto as Attachment 2 (the RCC Scope Modification

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Request Letter). Sound Transit agrees to the proposed change in finish level obligations and to amend the Betterment Agreement in the form attached hereto as Attachment 3 to reflect the same, subject to the following conditions:

- 1. The City will be responsible for ensuring compliance with the requirements in this Letter of Concurrence. The City shall ensure that the RCC is restored, at no responsibility or cost to Sound Transit, as described in the RCC Scope Modification Request Letter, attached hereto as Attachment 2, and permit number SITE-2023-02147 as revised on July 22, 2024 to satisfy the requirements of the modified Betterment Agreement within the Construction Access Area.
- 2. Prior to entering the Sound Transit Easement area, AMLI must sign the Letter of Agreement attached hereto as Attachment 4 (the "AMLI Letter of Agreement"), authorizing AMLI's use of the Construction Access Area¹ pursuant to the terms and conditions therein.
- 3. The City accepts the Construction Access Area in the condition described in the RCC Scope Modification Request Letter, attached hereto as Attachment 2, including accepting all work performed in the Construction Access Area by Sound Transit for its light rail transit facilities. The City will communicate acceptance of the Construction Access Area condition when the area is transferred to the City via the closeout of Site Civil Permits for the limits of the Construction Access Area.
- 4. The City will identify and protect, or cause to be identified and protected, all third party facilities including, but not limited to, Puget Sound Energy lines and ductbanks, temporary irrigation, and storm and sewer lines prior to and during the work taking place in the Construction Access Area. The City will be responsible for protection of and damage to all such facilities within the limits of the Construction Access Area.
- 5. The City will take ownership of and responsibility for the concrete modules. Sound Transit will deliver the concrete modules to a mutually agreed upon location in the Construction Access Area.
- 6. The City is responsible for trail and road diversions associated with AMLI's use of the Construction Access Area, including communication and coordination with Sound Transit.
- 7. Upon the City and Sound Transit amending the Betterment Agreement and Sound Transit allowing AMLI to access the Construction Access Area, the City: (1) acknowledges that all of Sound Transit's requirements in the Betterment Agreement relating to the RCC Improvements located within the Construction Access Area shall have been conclusively fulfilled; (2) shall permanently exclude those requirements from any permits required by the City for the DRLE Project; and (3) shall provide a written release or such other documentation of same as Sound Transit may reasonably require.
- 8. The City agrees to defend, indemnify, and hold harmless Sound Transit and its officers, directors, agents, and employees (the "Indemnified Parties") from and against any and all claims, demands, or causes of action and the resulting losses, costs, expenses, reasonable attorney's fees, liabilities, damages, orders, judgments, or decrees ("Claims") arising out of the acts, errors, or omissions of the City or its Contractors related to or in any way arising out of the City's or its Contractors' use of the Construction Access Area or the City's breach of this Letter of Concurrence. To the extent that RCW 4.24.115 applies, the indemnity provisions provided herein shall be valid and enforceable only to the extent of the negligence of the City and/or its Contractors and shall not apply in the event that any Claims arise out of Sound Transit's sole negligence. The City specifically assumes potential liability for any claim, demand, and/or cause of action brought by, or on behalf of, any of its employees or agents against the Indemnified Parties. FOR THIS

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¹ The "Construction Access Area" identified in this Letter of Concurrence is the same area identified in the AMLI Letter of Agreement as the "License Area" (labeled in red in Exhibit A to the AMLI Letter of Agreement as the "Construction Access Area").

PURPOSE, THE CITY, BY MUTUAL NEGOTIATION, HEREBY WAIVES, WITH RESPECT TO THE INDEMNIFIED PARTIES ONLY, ANY IMMUNITY THAT WOULD OTHERWISE BE AVAILABLE TO THE CITY AGAINST SUCH CLAIMS UNDER THE INDUSTRIAL INSURANCE PROVISIONS OF TITLE 51 RCW OR ANY APPLICABLE INDUSTRIAL INSURANCE, DISABILITY, OR EMPLOYEE BENEFIT ACT OF ANY JURISDICTION THAT WOULD BE APPLICABLE IN CASE OF SUCH A CLAIM.

- 9. In addition to the foregoing indemnities, the City agrees to protect, defend, and indemnify and hold the Indemnified Parties harmless for any Claims associated with the presence, removal, or remediation of any Hazardous Substance (including petroleum and gasoline products) that are released onto or from the Construction Access Area, or otherwise come to be located on the Construction Access Area as a result of the City or its Contractors' use of the Construction Access Area. "Hazardous substances," for purposes of this section, include, but are not limited to, those substances included within the definition of "hazardous substances," "hazardous materials," "toxic substances," "hazardous wastes" or solid wastes in any federal, state, or local law, statute, ordinance, regulation, order, or rule pertaining to health, industrial hygiene, environmental conditions, or hazardous substances. "Costs" shall include, but not be limited to, all response or remediation costs, disposal fees, investigation costs, monitoring costs, civil or criminal penalties, attorney's fees, and other litigation costs incurred in connection with such response or remediation.
- 10. Sound Transit agrees that once AMLI has signed the Letter of Agreement pursuant to the terms of Paragraph 2 of this Letter of Concurrence, the conditions of Paragraphs 3(b), 3(d), 4(a), and 8(a)-(b) of the Letter of Agreement are deemed satisfied for the activities permitted under the terms of Redmond SITE-2023-02147 within the Construction Access Area.
- 11. Based on the current understanding of the scope of work included in this Letter of Concurrence, the parties acknowledge that all costs can be addressed under the current betterment agreement and there are no necessary changes to the cost provisions therein.

Should you have any questions, please don't hesitate to contact me at (206) 398-5171. Please sign below and return one of the enclosed originals – please keep the additional copy for your records.

Sincerely,

Tony Raben Executive Project Director, DRLE

Approved as to form:

Sound Transit Senior Legal Counsel

Concurrence:

—Signed by:

A1BE94533257472...

Aaron Bert, Director of Public Works

City of Redmond

Attachments:

- 1. GA 0143-19 Betterment Agreement
- 2. RCC Scope Modification Request Letter
- 3. DRAFT Amendment 1 to GA 0143-19 Betterment Agreement
- 4. Letter of Agreement for AMLI Construction Staging Rights

AGREEMENT BETWEEN CITY OF REDMOND AND THE CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY FOR THE FUNDING, DESIGN, AND CONSTRUCTION OF DOWNTOWN REDMOND LINK EXTENSION BETTERMENTS

GA 0143-19

THIS AGREEMENT, effective upon the date of the latest signature, is entered into by and between the CITY OF REDMOND, a Washington optional municipal code city (the "City") and the CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY, a regional transit authority organized under the laws of the State of Washington ("Sound Transit"), collectively "Parties" and individually "Party."

RECITALS

- A. 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").
- B. 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.
- C. The Parties entered into the Development Agreement for the Downtown Redmond Link Extension Project on Aug. 21, 2019 to address the development standards for the Project ("Development Agreement"). In addition to the development standards, the Development Agreement identified certain public facilities to be included as part of Sound Transit's delivery of the Project.
- D. Sound Transit will deliver the Project as a design-build procurement ("Design Build") and has been coordinating with the City in preparation for Project design and construction. As part of that coordination the City and Sound Transit have identified improvements to City infrastructure that are not required to execute the construction of Project, but would provide a public benefit and promote an efficient use of public funds if included as part Sound Transit's Design Build scope of work ("Betterments").
- E. Sound Transit issued the DRLE Design-Build Request for Proposals ("DRLE RFP") in November 2018. Following the issuance of the DRLE RFP, Sound Transit engaged the City to inform the design of the Betterments. Sound Transit estimates that it will enter into the DRLE Project Design Build Contract ("DRLE Contract") with its Design-Build contractor (the "Design Builder") and issue the Notice to Proceed under that contract in September 2019.
- F. The Parties desire to enter into this Agreement to set forth their respective responsibilities, define the City's funding commitment for the Betterments, develop a protocol for sharing information in a timely manner and at stages appropriate to ensure adequate consideration

of issues raised by the Parties, and decision-making standards that maximize transparency and efficiency in decision-making and build effective cooperation between the Parties.

In consideration of the recitals, terms, conditions, and covenants contained herein:

IT IS MUTUALLY AGREED AS FOLLOWS:

SECTION 1 GENERAL

- 1.1 <u>Incorporation of Recitals</u>. The above recitals are incorporated as part of this Agreement.
- 1.2 Cooperation of the Parties. The provisions contained in this Agreement depend upon timely and open communication and cooperation between the Parties. In this regard, communication of issues, changes, or problems that arise should occur as early as possible in the process. Each Party will work cooperatively and in good faith toward resolution of issues in a manner that ensures adequate time for each Party to consider and address the issues. 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 will provide the necessary resources and work in good faith to develop in a diligent and timely manner the final form and content of such documents, instruments, and permits.

SECTION 2 SCOPE OF WORK

- 2.1 In accordance with the terms of this Agreement, Sound Transit agrees to include in its DRLE Contract and the City agrees to pay all costs to perform the work described below. In instances where the Parties will share costs, the City agrees to pay its pro rata share of all costs associated with that Betterment. The Parties acknowledge that, due to the nature of design-build contracting, the Design Builder will complete the design for the Betterments in a manner consistent with the general scope described below, pursuant to the DRLE Contract.
 - (a) NE 51st Street PRV and Water Main ("PRV"), fully described in Exhibit A. Generally, Sound Transit will design and construct an additional 175 feet of 12" water main along with required appurtenances to support the installation of a new 8" pressure reduction valve (PRV) station and vault for the City.
 - (b) NE 70th Street & State Route 202 ("70th Street"), fully described in Exhibit B. Generally, Sound Transit will design and construct an additional northbound left turn lane on SR 202 at the intersection of SR 202 and NE 70th Street; a widened SR 202 to the northeast to accommodate the additional left turn lane; a realignment of the through lanes along SR 202 east and west of NE 70th Street required because of the additional left turn lane; modified storm water and drainage facilities required to accommodate the additional left turn lane; and modified traffic signals and lighting for the additional left turn lane.

- (c) NE 76th Street & State Route 202 ("76th Street"), fully described in Exhibit C. Generally, Sound Transit will design and construct an additional eastbound left turn lane and northbound receiving/through lane on NE 76th St from SR 202 to the traffic signal serving Fred Meyer and Target; a new curb, gutter, pavement, and lane restriping on NE 76th Street from SR 202 to the Fred Meyer/Target traffic signal, a total distance of about 1,100 feet; remove the sidewalk on the existing SR 202 bridge over Bear Creek; a revised curb taper on SR 202; a new curb and sidewalk on the south side of SR 202 near Creekside Crossing; and a new channelization from the existing SR 202 bridge to the driveway of Creekside Crossing.
- (d) Redmond Central Connector Improvements ("RCCI"), fully described in Exhibit D. Generally, Sound Transit will design and construct improvements to the Redmond Central Connector, which will include improvements to the corridor beyond the scope of this Agreement that are the sole financial responsibility of Sound Transit. The RCCI Betterment will consist of all improvements to the Redmond Central Connector east of 166th Avenue NE, except for landscaping. The Parties will share the costs of the RCCI equally.

2.2 Change Process.

- 2.2.1 <u>City Requested Changes</u>. Sound Transit has selected a design-build project delivery method for the Project. Because of the nature of a design-build contract, changes to the work that occur after contract award are strongly discouraged. If the City has an interest in changing the confirmed Betterment work, Sound Transit will consider such requests based on their anticipated impact to Project scope, schedule, budget, and long-term operations and maintenance costs. After consultation with the City, Sound Transit in its sole discretion will determine whether to approve such a change and the associated adjustments and impacts to Project work, schedule, budget, operations, and costs.
- 2.2.2 Change Orders. Any changes related to design or construction of the Betterments will be provided to the City for review and approval. If the City fails to respond within seven (7) days or other such time as the Parties agree in writing, Sound Transit may proceed with that specific change if Sound Transit determines that it is in the best interest of the Project. The City will not unreasonably withhold approval of any change. Sound Transit may request verbal approval of any change order from the City and may request to proceed with the work immediately in order to avoid delay cost, and the City may grant such verbal approval. Any such action will be documented immediately and written confirmation of approval will be obtained from the City if necessary. If a changed condition is found or the Design Builder requests an adjustment that increases the cost or time of performance, Sound Transit will consult with the City to agree whether a changed condition is present or if a request for adjustment as to time and money is appropriate.

SECTION 3 ROLES AND RESPONSIBILITIES

- 3.1 Roles and Responsibilities Generally. Sound Transit will be solely responsible for all aspects of the DRLE contract, including administering the engineering, design, contracting, and construction process for the Betterments and for communicating with all consultants and its Design Builder. The City will participate in decisions regarding the Betterments as provided in this Section 3 and pay all costs as prescribed in Section 4.
- 3.2 City's Participation in Engineering and Design. The City has dual roles concerning the Project and Betterments, as the land use regulator for the entire DRLE Contract work within city limits, and as the owner of the Betterments. When exercising its rights under this Agreement, the City will participate in design reviews and approvals for work related to the Betterment work. City will expedite reviews and responses to all requests, and shall not unreasonably withhold approval or responses to reasonable requests. The City will respond within 14 calendar days for major design submittals and 7 days for issued for construction submittals, unless otherwise agreed. The City may request a time extension for review. If the City fails to timely respond, Sound Transit may proceed with that specific submittal or review if it has determined that it is in the best interest of the Project. However, all project correspondence and communications with the Design Builder and its designers will be by and through appropriate Sound Transit personnel.
 - 3.2.1 Land Use Oversight. When acting as the Project land use regulator, the City will review and respond to requests as agreed to in the Permitting Framework, approved as part of the Project Administration Agreement executed January 22, 2019.
- the State Environmental Policy Act (SEPA) has been satisfied for the Betterments as currently described in this Agreement. (The Betterments were included in the Downtown Redmond Link Extension 2018 SEPA Addendum to the East Link Project Final Environmental Impact Statement.) Sound Transit will include impacts to critical areas from the Betterments as currently described in this Agreement in the Environmental permit applications for the Project. Sound Transit's Design Builder will include the Betterments as necessary in other Project permit submittals. The City will rely on the SEPA compliance referenced above in issuing City permits for the Betterments and will not require additional environmental review or mitigation. The City will be responsible for any additional environmental review, permitting, or mitigation resulting from any revision to or change in scope of the Betterments as currently described in this Agreement and for any unanticipated costs beyond what Sound Transit would otherwise incur for its own Project permits as a result of including the City's Betterments.
- 3.4 Procurement. Sound Transit has included all City Betterments in its DRLE RFP. The City may participate as an advisor for the Sound Transit DRLE RFP, and will be invited to all discussions with Proposers related to the Betterments to be performed on behalf of the City. The City will be invited to participate in such meetings and negotiations that are related to the City Betterments. Sound Transit will maintain the right, at its sole discretion, to request best and final

offers, and the right to meet or negotiate with the proposers and make all procurement determinations.

- 3.5 <u>Termination of Betterments Prior to Award</u>. One week before the Sound Transit Board authorizes the Sound Transit Chief Executive Officer to execute the DRLE Contract, the City may, at the City's sole discretion, provide a written notice to Sound Transit requesting that Sound Transit remove any or all of the Betterments from the DRLE Contract, and from this Agreement. Sound Transit will give the City as much prior notice as possible before the Board meeting where the DRLE Contract will be acted upon. Upon such timely notice, Sound Transit agrees to withdraw the work from the scope of the DRLE Contract, and this Agreement will be amended in accordance with Section 8.
- 3.6 <u>Utility Relocation</u>. In the event construction of any of the Betterments requires the relocation of any utility which was not otherwise required to be relocated by the Project, the City will bear full responsibility for relocating those utilities.
- 3.7 Observance of Construction Work. The City may observe the performance of any construction work related to the Betterments, and may request through Sound Transit additional quality verification or testing of Betterments work beyond that required by a City code, standard, or permit condition, at the City's expense. The City will request access to observe the Betterments' construction work, and Sound Transit will not unreasonably deny any such requests. By exercising its right to observe or inspect the Betterments work, the City will not be deemed or construed to be in control of the Betterments.
- 3.8 <u>City to Act in Timely Manner.</u> The City will perform its obligations under this Agreement in a timely manner. If the City fails to perform any of its obligations within the express timeframes set forth in this Agreement or a reasonable timeframe where no express timeframe is established and such delay causes Sound Transit to incur additional costs under the DRLE Contract, the City will be liable for all costs owed to the Design Builder by Sound Transit due to the City's failure to timely perform.

SECTION 4 FUNDING

- 4.1 <u>Cost Estimate</u>. The parties have agreed to an "Estimated Total Betterments Amount" that the City will pay to Sound Transit for the Betterments under this Agreement that is attached as Exhibit E. The Parties acknowledge that the Estimated Total Betterments Amount will be replaced with the bid item price in the DRLE Contract after award.
- 4.2 <u>City Pays Actual Costs.</u> This Estimated Total is an estimate of the amount of reimbursement of costs Sound Transit incurs for administering, procuring, designing, acquiring property and completing construction of the Betterments, including applicable taxes. The City acknowledges that it has funding available for the Estimated Total Betterments Amount, and that it will provide funding for any valid increases to this amount in accordance with this Agreement. Sound Transit agrees to notify the City in writing if it anticipates that the total reimbursement amount for all costs the City is required to pay under this Agreement will exceed the then-current Estimated Total Betterments Amount identified in **Exhibit E**, as may be amended in writing by

the Parties. Notwithstanding any estimated cost, the City agrees to pay costs arising out of or related to the Betterments, as defined in this Agreement.

- **4.2.1** City Pays Fixed Administrative Costs. The estimate for the Betterments in Exhibit E includes fixed administrative costs which will cover Sound Transit's administrative costs related to the Betterments established in Section 2.1 and any changes to the Betterments initiated by Sound Transit or the Design Builder. The administrative costs include costs for Sound Transit staff oversight and consultant fees. The City will pay 50% of the administrative costs as a lump sum within 30 days after the execution of this Agreement. The remaining 50% will be paid proportionately based on percentage of completion as described in the Design Builder's payment applications in accordance with Section 4.3.
- 4.3 <u>Invoicing and Payment Schedule</u>. The City will pay Sound Transit for all actual and valid costs incurred by Sound Transit for final design and construction of the Betterments, and related sales tax, pursuant to the following terms:
 - (a) <u>Invoicing.</u> Sound Transit will invoice the City quarterly, and the City will pay within 30 days of receipt of an adequately supported invoice. The City will have access to all support documentation for all invoiced amounts.
 - (b) <u>Invoice Contents</u>. Invoices for the Betterments will include:
 - (i) Actual payments made by Sound Transit to the Design Builder for confirmed progress on activities billed to the Betterments work;
 - (ii) Sound Transit's property acquisition costs associated with the Betterment work;
 - (iii) Sound Transit's administrative costs in accordance with Section 4.2.1;
 - (iv) Any other costs incurred as agreed herein; and
 - (v) Supporting documentation to support the invoice amount.
 - (c) <u>RCCI Payments.</u> The City and Sound Transit will share equally the costs of the RCCI work as described in Exhibit D. Sound Transit will invoice the City for its share of the RCCI work performed during each invoicing period.
- 4.4 Payment for Changes. If the City requests changes to the work (design or construction) and such changes are accepted by Sound Transit pursuant to Section 2.2.1 of this Agreement, the City will pay for all additional costs associated with the changed work scope, including Sound Transit administrative costs. For City initiated change orders, Sound Transit will add an administrative fee of 16% to the total cost of the change as charged by the Design Builder. For all changes orders other than those initiated by the City, the City will pay for all direct costs associated with approved changes to the Betterments, without any additional Sound Transit administrative costs.
- 4.5 <u>Payment for Design Builder Claims</u>. The City will pay that portion of Sound Transit's reasonable defense costs (attorney's fees and consultant's fees, expenses, and costs;

alternative dispute resolution and court costs and expenses), and any settlements, judgments, or awards attributable to the City or to the Betterments (collectively, "Actual Costs") arising out of claims or disputes the Design Builder asserts against Sound Transit related to or arising from the Betterments, provided that Sound Transit includes the City in the claims process and the City approves the settlement; however, the City will not be liable to pay any portion of claims which arise due to the sole negligent acts or omissions of Sound Transit. If such claims result in legal action, including, but not limited to, any alternative dispute resolution processes, Sound Transit will defend, in coordination with the City, against such claims. To the extent such claims were not caused by the negligent acts or omissions of Sound Transit or its Design Builder, the City will pay Sound Transit for its Actual Costs to the extent that the claims or disputes arise from or relate to the Betterments. To the extent that such claims were the result of the concurrent negligence of the Parties, the Parties shall be responsible only to the extent of the Party's own negligence. For claims that relate to the RCCI, the Parties will share the Actual Costs equally.

Sound Transit must demonstrate that a claim arises from or relates at least in part to the Betterments before the City is obligated to pay. In the event claims include both Betterment and other DRLE Contract scope, the City will be liable only for the Betterments' contributions to Sound Transit's Actual Costs as determined by the final value of the claims.

4.6 <u>Late Payments</u>. If the City fails to pay any undisputed invoice amount due hereunder for 30 days after receiving a past due notice from Sound Transit, and if such late payment is not excused by Sound Transit, then the City will pay interest on such undisputed past due amount at an interest rate of 1 percent per month commencing 10 days after the date such undisputed amount is due, until paid. Payment of such default interest will not excuse or cure any default by the City under this Agreement and will not affect Sound Transit's suspension rights under Section 8.1 of this Agreement.

SECTION 5 ACCEPTANCE OF WORK, TRANSFER OF TITLE, & WARRANTIES

Acceptance of Work, Transfer of Title, & Warranties. Following reasonable notice by Sound Transit, the City will attend acceptance walk-through inspections and participate in creating punch-lists for the Betterments, consistent with the terms of the DRLE Contract. If the City fails to attend such inspections, the City waives its right to inspect the Betterments except to the extent such inspections are required by City codes, standards or permits. When all punch-list items are addressed or corrected to the DRLE Contract requirements or the City's satisfaction, the City will issue Sound Transit a letter of acceptance giving final approval for each Betterment. Upon acceptance of the Betterments by the City and Sound Transit, Sound Transit will accept the Betterment from the Design Builder and then convey any and all interest of Sound Transit in the Betterments to the City by an appropriate bill of sale or other conveyance instrument. Sound Transit will also assign any and all warranties relating to the Betterments to the City in order to enable the City to address directly with the Design Builder any defects in workmanship or materials. Acceptance of the Betterments shall occur at upon completion of the Project unless the Parties agree that earlier acceptance would benefit the Parties. As a condition of early acceptance, the City may require that the Design Builder remain responsible for and repair any damage to the Betterment occurring while the Betterment area is under traffic control or similarly under the Design Builder's possession and control. Sound Transit makes no warranties, express or implied, for the Betterments, beyond those set forth in Section 17.2 of this Agreement.

SECTION 6 MAINTENANCE AND OPERATION

6.1 <u>All Betterments</u>. The City will be responsible for all maintenance, repair, and operation of the Betterments upon transfer of title as contemplated in paragraph 5.1 herein, unless the Parties mutually agree in writing that Sound Transit will perform certain maintenance activities. All operation and maintenance will meet City standards and also be consistent with Sound Transit maintenance standards for that Betterment that is located on Sound Transit property and with WSDOT requirements for structures within WSDOT right-of-way.

SECTION 7 PROPERTY RIGHTS

- 7.1 Property Map. Attached to this Agreement as Exhibit F is a drawing showing the various property rights necessary for the construction and operation of the Betterments as referred to in this Section 7.
- 7.2 PRV. The PRV will be constructed within rights-of-way owned either by WSDOT or the City. The City will grant the Design Builder all rights necessary on City property for the construction of the PRV. If the Parties agree that additional property is needed beyond that owned by WSDOT and the City to complete construction of the PRV, Sound Transit agrees to acquire all real property rights necessary for construction and the City will reimburse Sound Transit for the actual costs of acquiring the necessary property. The City will be responsible for acquiring any additional real property necessary for the operation and maintenance of the PRV.
- 7.3 <u>70th Street</u>. The City agrees to acquire and convey to Sound Transit all real property rights necessary for construction of 70th Street in accord with the following:
 - 7.3.1 The City will acquire possession and use of all property identified by the Parties as necessary for 70th Street ("70th Street Property"), as shown in Exhibit F, and convey the necessary access rights to Sound Transit no later than December 31, 2020. If the City has not acquired possession and use of the 70th Street Property by December 31, 2020, the City will liable to the Sound Transit for all costs incurred due to the delay. If the City is unable to deliver possession and use of the 70th Street Property to Sound Transit by January 31, 2022, the 70th Street scope of work will be terminated pursuant to Section 8.2 of this Agreement.
 - **7.3.2** If the Parties agree that additional property is needed beyond that already owned or acquired by the City in accordance with Section 7.3.1 to complete construction of 70th Street, Sound Transit agrees to acquire all real property rights necessary for construction and the City will reimburse Sound Transit for the actual costs of acquiring the necessary property.
- 7.4 76th Street. The Parties have concluded, based on preliminary design, that no additional property rights are needed to construct the 76th Street Betterment. If the Parties agree

that additional property is needed, Sound Transit agrees to acquire and convey to the City all real property rights necessary for construction, operation, and maintenance of 76th Street. In addition to the actual costs for the design and construction of the 76th Street, the City will reimburse Sound Transit for the actual costs of acquiring the necessary property. The parties agree that this sum is full compensation to Sound Transit for all property rights to be conveyed to the City.

7.5 <u>RCCI</u>.

- **7.5.1** Park mitigation. Sound Transit agrees to acquire and convey to City the "Cleveland Street Properties", more clearly denoted as properties RL 190, RL 191, RL 194, and RL 195. These properties or a portion of them will be encumbered with a protective covenant with King County as a replacement for impacts to other City of Redmond park property. The exact area and delineation of the covenant will be determined after the impacts are fully known. The Parties intend to execute a Letter of Concurrence to morefully document this process.
- **7.5.2** RCC Reconfiguration. Sound Transit agrees to acquire and convey to the City a portion of property on the east side of 166th for purposes of the realignment of the RCC. The City agrees to reimburse Sound Transit for half of the cost of the actual ROW purchase costs.

SECTION 8 ADDITIONAL BETTERMENTS

- 8.1 40th Street Underpass. Sound Transit has also included a pedestrian underpass beneath NE 40th Street adjacent to the light rail guideway to the west of 156th Avenue in the DRLE RFP ("Underpass"). The City will participate in the Underpass in the same capacity as the Betterments. All terms and provisions of this Agreement will apply to the Underpass with the exclusion of Sections 3.3, Permitting and Environmental Review; 3.5, Termination Prior to Award; 3.6, Utility Relocation; 4, Funding; 5, Acceptance of Work, Transfer of Title, & Warranties; 6, Maintenance and Operation; 7, Property Rights; 9, Suspension and Termination; 10, Ownership and Use of Deliverables; and 12.2 Environmental Matters.
- 8.2 Future Agreement Necessary. Sound Transit anticipates it will enter into a betterment funding agreement with Microsoft for the design and construction of the Underpass. While Microsoft has agreed to fund the design and construction of the Underpass, the Parties agree that the Underpass must be owned, operated, and maintained by a public entity due to its integration with the public right-of-way and other public facilities. Because the proper ownership, operation, and maintenance will be driven by final design, the construction of the Underpass is contingent upon a future ownership, operation, and maintenance agreement. The City agrees it will participate in the negotiations of the future ownership, operation, and maintenance agreement for the Underpass and acknowledges it may own and/or have a role in maintaining the Underpass facility after construction. The Parties shall determine the owner of the Underpass prior to the commencement of construction of the Underpass. The Parties will consider addressing those matters that are the subject of the excluded sections in 8.1 above in the future ownership, operation, and maintenance agreement.

SECTION 9 SUSPENSION AND TERMINATION

- 9.1 Suspension for Non-Payment. Sound Transit may suspend or terminate performance of any of the Betterments if the City fails to make timely payment of any invoice from Sound Transit. If Sound Transit has not received payment from the City within thirty (30) days following receipt of invoice, or by any later date specified in such invoice, Sound Transit may suspend performance of all or any part of the work after giving the City twenty-five (25) days' written notice of Sound Transit's intent to suspend. If the City makes payment within the twentyfive (25) day period, the work will not be suspended. If the City fails to make payment, Sound Transit may suspend the work at any time after the twenty-five (25) day period expires. Such suspension will remain in effect until payment is made in full, at which time the suspension will be lifted. The City will pay or reimburse Sound Transit for all amounts Sound Transit is obligated to pay the Design Builder as compensation for any suspension or termination of work caused by the City's non-payment, including all non-cancelable obligations. The City will also be responsible to repay any grant funding for the Betterment, if required by the terms of the grant, and to reimburse Sound Transit for costs associated with redesign of the construction package to the extent, but only to the extent, that such costs are the direct result of the removal of the Betterment as an element of the package.
- 9.2 Termination for Cause. Either Party may terminate this Agreement as to any or all Betterments, for cause in the event that the other Party fails to fulfill its material obligations under this Agreement in a timely manner or breaches any material provision of this Agreement. The Party wishing to terminate this Agreement for cause will provide the other Party with notice of its intent to terminate and will give the other Party an opportunity to correct the failure to perform or breach within thirty (30) days of the notice. If the failure or breach is not corrected or cured, this Agreement may be terminated by the aggrieved Party by giving seven (7) days' written notice to the other Party. If Sound Transit terminates this Agreement for the City's failure or breach, the City will reimburse Sound Transit for all Betterments work satisfactorily completed up to the date of termination and for all construction contract closing costs, and will reimburse Sound Transit for any costs incurred by Sound Transit for redesign of the construction package to the extent, but only to the extent, that such costs are the direct result of the removal of the Betterments as an element of the package.
- Agreement as to any of the Betterments in the event the City determines that the specifications for the Betterment described in the documents produced by the Design Builder, while remaining within the DRLE Contract requirements, materially alter the functionality, design/appearance, or ease or costs of maintenance of the Betterment. Upon termination under this Subsection 8.3, the City will pay for all services provided by the Design Builder prior to termination and will pay all costs incurred by Sound Transit associated with the termination of the Betterment scope of work. Sound Transit will, if the City so requests, (i) assign to the City any and all intellectual property rights that Sound Transit owns specifically relating to the Betterments engineering and design work, and (ii) permit the City to pursue design and construction of the Betterment without Sound Transit's participation. If the City terminates its participation in any Betterment under this Subsection, Sound Transit's participation will also terminate.

- 9.4 Termination by City for Cost Reasons. The City may terminate this Agreement as to any Betterment if the Design Builder encounters a Betterment site condition that will result in construction of that Betterment's scope of work significantly exceeding the bid price amount and a means to reduce the cost through modification of design cannot be satisfactorily achieved, then the City may terminate that Betterment that will significantly exceed the contract amount. The City will pay all costs incurred by Sound Transit associated with the termination of the Betterment scope of work.
- 9.5 Termination by Sound Transit for Cost Reasons. Sound Transit may terminate this Agreement as to any Betterment if the Design Builder encounters a Betterment site condition that will result in construction of any of the Project scope of work significantly exceeding the contract amount and a means to reduce the cost through modification of design cannot be satisfactorily achieved, then Sound Transit may terminate that Betterment that will cause Project scope to significantly exceed the contract amount.
- 9.6 Additional Termination Rights of Sound Transit. Sound Transit may terminate this Agreement if, in the reasonable determination of Sound Transit, any Betterment design or construction would prevent or significantly impair Sound Transit's ability to complete construction of the Project within the project schedule. If any granting agency requires repayment of the grant funding due to Sound Transit's termination under this Section 8.5, Sound Transit will repay the grant funds. Sound Transit will also refund any monies paid by the City for easements or other property rights in the Sound Transit Property that will not be utilized as the result of the termination or convey such property rights to the City.
- 9.7 Procedure Prior to Termination. Prior to Sound Transit termination this Agreement as provided for in Section 9.5 or Section 9.6, Sound Transit shall first notify the City of its intent to terminate and engage the City and Design Builder in good faith efforts to develop a solution that avoids termination. Consistent with Section 1.2 of this Agreement, Sound Transit's notice of intent to terminate shall be as early as possible in the process, and the Parties shall work expeditiously to determine whether a mutually agreeable solution exists. If Sound Transit decides to terminate after such a process, the termination procedures of Section 9.8 apply unchanged.
- 9.8 <u>Termination by Mutual Agreement</u>. This Agreement will also terminate with the mutual consent of both parties.
- 9.9 <u>Procedure upon Termination</u>. If this Agreement is terminated for any of the reasons set forth in above, the Parties will proceed as follows:
 - 9.9.1 Sound Transit will assign to the City any and all intellectual rights that Sound Transit owns specifically related to the Betterments engineering and design work in order to enable the City to proceed with completion of design and construction of the Betterments if the City so desires. The assignment will disclaim all express and implied warranties by Sound Transit including but not limited to, the implied warranties or merchantability, fitness for a particular purpose, and sufficiency and completeness of design.

- **9.9.2** Sound Transit will be reimbursed for any costs or charges incurred by Sound Transit design, engineering, and construction work satisfactorily completed prior to such termination unless otherwise specified in this Agreement.
- **9.9.3** The invoicing provisions in Section 4.3 will continue to apply for all costs incurred related to the Betterments prior to termination.
- 9.10 No Release of Liability. Except as provided in this Section 9, a termination by either Party will not extinguish or release either Party from liability, claims, or indemnity obligations existing as of the date of termination, including consultant and contractor claims and costs incurred by said Party in relation to the Betterments work and any requirement contained in the terms of any grant for repayment of the grant funds. Any costs incurred prior to proper notification of termination will be borne by the Parties in accord with the terms of this Agreement. The Parties agree to work together cooperatively to develop a coordinated plan for termination, including the determination of reasonable redesign and costs associated with the Project work.

SECTION 10 OWNERSHIP AND USE OF DELIVERABLES

Sound Transit will assign its rights to the engineering and design work related to each Betterment prepared and developed under this Agreement to the City upon acceptance of that Betterment by the City and payment by the City in full of all amounts owed under this Agreement for that Betterment, subject to the obligation of Sound Transit to assign its intellectual property rights in that work to the City in the event that this Agreement is terminated as provided in Section 8. This assignment will disclaim all warranties by Sound Transit including but not limited to, the implied warranties of merchantability, fitness for a particular purpose, and sufficiency of design.

SECTION 11 INSURANCE

Sound Transit will ensure that its Design Builder, its subcontractors and consultants will maintain insurance as required by Sound Transit in the DRLE Design Build Contract. Such insurance will be primary and non-contributory and will include, but not be limited to, Commercial General Liability Insurance, Commercial Automobile Liability Insurance, Workers Compensation, Builders Risk, and Professional Liability insurance. Sound Transit will require the City be named as an additional insured for all work and operations associated with the Betterments on any Commercial General Liability Insurance, Commercial Automobile Liability Insurance, and Builders Risk insurance. In addition, Sound Transit shall require its Design Builder and subcontractors to indemnify and hold harmless the City in the same manner and to the same extent as Sound Transit, including the waiver of any industrial insurance immunity, for the Betterment work.

SECTION 12 INDEMNITY

12.1 General Indemnity. Each Party to this Agreement will defend, indemnify and save harmless the other Party, its officers, officials, employees, and agents, while acting within the

scope of their employment as such, from any and all costs, claims, judgments, and/or awards of damages (both to persons and property), arising out of, or in any way resulting from, each Party's negligent acts or omissions. No Party will be required to defend, indemnify or save harmless the other Party if the claim, suit, or action for injuries, death, or damages (both to persons and property) is caused by the sole negligence of the other Party. Where such claims, suits, or actions result from concurrent negligence of the Parties, or involve those actions covered by RCW 4.24.115, the indemnity provisions provided herein will be valid and enforceable only to the extent of the Party's own negligence. Each Party agrees that its obligations under this subparagraph 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.

- 12.1.1 City Inspection Personnel. The City's obligation to indemnify under this paragraph does not extend to claims, demands, and/or causes of action brought by, or on behalf of, City inspection personnel for injuries arising while such inspection personnel are engaged in construction inspection in the normal course of the City's permitting and code compliance process as a regulatory agency. The City acknowledges that the City inspections under this Agreement are not for permitting and code compliance purposes and are undertaken by the City as a participant in the development of the Betterments. The Parties acknowledge that the City's inspections for permitting and code compliance purposes are outside the scope of this Agreement. The City shall not be required to indemnify Sound Transit from claims for injuries to City inspection personnel while engaged in permitting and code compliance inspection and the City's waiver of its immunity under Title 51 RCW shall not apply to such claims.
- 12.2 Environmental Matters. Sound Transit will be responsible for any fines or penalties, and will indemnify the City for reasonable related costs, caused by failure by Sound Transit to obtain or comply with required environmental permits, and for consequences and any required remediation resulting from Sound Transit's failure to handle hazardous substances or waste with due care during the performance of the City Betterment scopes of work. The Parties will each have the right to participate in settlement or abatement discussions related to environmental citations or enforcement actions.

The City will indemnify Sound Transit, its agents, the Design Builder, and employees for any environmental liability of any type, related to existing known or unknown conditions on the site of the Betterments, whether on the City right or way or other property. To the extent allowed by law, the City agrees to release Sound Transit and its agents, employees, and contractors from any continuing obligations, responsibility or liability related to known or unknown environmental conditions that were existing at the time of work performed under this Agreement, provided that this liability is not the result of Sound Transit or the Design Builder's failure to handle new or pre-existing hazardous substances with due care and provided that the negligent actions of Sound Transit, the Design Builder, or their agents, employees, and contractors, do not exacerbate any such pre-existing environmental conditions. To the extent allowed by law, the City will reimburse Sound Transit for the cost of any environmental investigations, disposal, or cleanup activities conducted by Sound Transit to the extent the need for said investigation resulted from hazardous

substances for which the City is responsible. The City will provide Sound Transit with notices of any inspections related to the Betterments during the term of this Agreement.

12.4 <u>Survival</u>. The indemnification obligations provided in this Section 11 will survive termination of this Agreement.

SECTION 13 DISPUTE RESOLUTION

- 13.1 Exclusivity. Neither Party will take or join any action in any judicial or administrative forum to challenge actions of the other Party associated with this Agreement or the Betterments, except as set forth herein.
- 13.2 <u>Scope-Cooperation</u>. Any disputes or questions of interpretation of this Agreement that may arise between the Parties will 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 at the lowest level possible.
- 13.3 <u>Process</u>. The Parties agree to use their best efforts to resolve disputes arising out of or related to this Agreement, and the Designated Representatives will use their best efforts to resolve any conflicts before initiating the dispute escalation process. If the Designated Representatives are unable to resolve the issue, the Parties will undertake good faith negotiations by engaging in the following dispute escalation process should any such disputes arise:
- 13.3.1 Level One Sound Transit's DRLE Executive Project Director and the City's Light Rail Project Director will meet to discuss and attempt to resolve the dispute in a timely manner. If they cannot resolve the dispute within fourteen (14) days after referral of that dispute to Level One, either Party may refer the dispute to Level Two.
- 13.3.2 Level Two Sound Transit's Executive Director of Design, Engineering and Construction Management and the City's Public Works Director will meet to discuss and attempt to resolve the dispute, in a timely manner. If they cannot resolve the dispute within fourteen (14) days after referral of that dispute to Level Two, either Party may refer the dispute to Level Three.
- 13.3.3 Level Three Sound Transit's Chief Executive Officer or Designee and the City Mayor or Designee will meet to discuss and attempt to resolve the dispute in a timely manner.
- 13.4 <u>Legal Action</u>. Except as otherwise specified in this Agreement, in the event the dispute is not resolved at Level Three within twenty-one (21) days after referral of that dispute to Level Three, the Parties are free to file suit, seek any available legal remedy, or agree to alternative dispute resolution methods such as mediation or arbitration. At all times prior to resolution of the dispute, the Parties will continue to perform any undisputed obligations and make any undisputed required payments under this Agreement in the same manner and under the same terms as existed prior to the dispute. Neither Party has any obligation to agree to refer the dispute to mediation,

arbitration, or other form of dispute resolution following completion of Level Three of the process described herein. Such agreement may be withheld for any reason or no reason.

SECTION 14 REMEDIES AND ENFORCEMENT

- 14.1 <u>Reservation of Rights</u>. The Parties reserve the right to exercise any and all of the following remedies, singly or in combination, and consistent with the dispute resolution and default Sections of this Agreement, 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 related to the Betterments;
 - 14.1.3 Seeking specific performance of any provision that reasonably lends itself to such remedy; and/or
 - 14.1.4 The prevailing party (or substantially prevailing party if no one party prevails entirely) will be entitled to reasonable attorney fees and costs.
- 14.2 <u>Remedies Cumulative</u>. All remedies set forth above are cumulative and the exercise of one will not foreclose the exercise of others.
- 14.3 <u>No Waiver</u>. Neither Party will be relieved of its obligations to comply promptly with any provision of this Agreement by reason of any failure by the other Party to enforce prompt compliance, and such failure to enforce will not constitute a waiver of rights or acquiescence in the other Party's conduct.

SECTION 15 CITY'S PERMITTING AND REGULATORY AUTHORITY

15.1 <u>No Waiver of Authority</u>. Nothing in this Agreement will be deemed a waiver of the City's regulatory or permitting authority as to any of the permits required for the Project, nor a predetermination of the compliance of any work with applicable codes and regulations. The City retains the right to approve, disapprove, or condition any City permits required for the Betterments and the Project within the bounds of the City's legal authority.

SECTION 16 DURATION OF AGREEMENT

16.1 <u>Duration</u>. This Agreement will take effect upon the last date of signature by the Parties as set forth below. This Agreement will remain in effect until all obligations of both Parties have been performed, unless this Agreement is sooner terminated as provided in Section 8 above.

SECTION 17 COVENANTS AND WARRANTIES

17.1 The City's Warranties. By execution of this Agreement, the City warrants:

- 17.1.1 That the City has the full right and authority to enter into and perform this Agreement, and that by entering into or performing this Agreement the City is not in violation of any law, regulation or agreement by which it is bound or to which it is bound or to which it is subject; and
- 17.1.2 That the execution, delivery and performance of this Agreement by the City has been duly authorized by all requisite corporate action, that the signatories for the City hereto are authorized to sign this Agreement, and that upon approval by the City, the joinder or consent of any other party, including a court or trustee or referee, is not necessary to make valid and effective the execution, delivery and performance of this Agreement.
- 17.2 <u>Sound Transit's Warranties</u>. By execution of this Agreement, Sound Transit warrants:
 - 17.2.1 That Sound Transit has the full right and authority to enter into and perform this Agreement, and that by entering into or performing this Agreement Sound Transit is not in violation of any law, regulation or agreement by which it is bound or to which it is bound or to which it is subject; and
 - 17.2.2 That the execution, delivery and performance of this Agreement by Sound Transit has been duly authorized by all requisite corporate action, that the signatories for Sound Transit hereto are authorized to sign this Agreement, and that upon approval by Sound Transit, the joinder or consent of any other party, including a court or trustee or referee, is not necessary to make valid and effective the execution, delivery and performance of this Agreement.

SECTION 18 ADMINISTRATION OF AGREEMENT

- **18.1 Joint Administration.** This Agreement will be jointly administered by Sound Transit's Designated Representative and the City's Designated Representative.
 - 18.2 <u>Costs.</u> Each Party will bear its own costs of administering this Agreement.

SECTION 19 ASSIGNMENT AND BENEFICIARIES

- 19.1 <u>Consent Required.</u> Neither Party may assign all or any portion of this Agreement without the express written consent of the other Party.
- 19.2 <u>Successors and Assigns</u>. This Agreement will be binding upon and inure to the benefit of the successors and assigns of the City and Sound Transit.
- 19.3 No Third-Party Beneficiaries. 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 will have any right of action based upon any provision of this Agreement.

SECTION 20 DESIGNATED REPRESENTATIVES

- **20.1 Designated Representatives.** To provide for consistent and effective communication, each Party will designate a representative ("Designated Representative") to be responsible for coordination of communications between the Parties and to be the primary point of contact for each Party. The Designated Representatives will communicate regularly to discuss the status of the Work, identify upcoming decisions and provide any information or input necessary to inform those decisions. All notices and interagency correspondence related to this Agreement will be sent to the following Designated Representatives. The Designated Representatives are identified in **Exhibit G**. Either Party may replace its Designated Representative by providing written notice to the other Party's Designated Representative.
- **20.2** <u>Communication</u>. Communication of issues, changes, or problems that may arise with any aspect of the Betterments should occur as early as possible in the process, and not wait for specific due dates or deadlines. The Designated Representatives will use reasonable efforts to provide up-to-date and best available information to the other party promptly after such information is obtained or developed.
- 20.3 <u>Communication with Design Builder</u>. Any correspondence or communications related to the Betterments except correspondence or communications arising from the City's permitting authority will be made exclusively by and through Sound Transit's Designated Representative.

SECTION 21 NOTICES

- 21.1 <u>Designated Representatives</u>. Unless otherwise provided herein, all notices and communications concerning this Agreement will be in writing and addressed to the Designated Representatives.
- 21.2 <u>Delivery</u>. Unless otherwise provided herein, all notices will be either: (i) delivered in person, (ii) deposited postage prepaid in the certified mails of the United States, 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 as listed herein. However, notice under Section 5, Suspension and Termination, must be delivered in person or by certified mail, return receipt requested.

SECTION 22 AUDITS

Records to be Maintained. Sound Transit will maintain accounts and records, including contract and financial records, which sufficiently and properly reflect all direct and indirect costs of any nature expended for work performed under this Agreement so as to ensure proper accounting for all monies paid by the City to Sound Transit. These records will be maintained for a period of six (6) years after termination or expiration of this Agreement unless permission to destroy the records is granted by the City and the Office of the Archivist pursuant to RCW Chapter 40.14. The City will have the right to inspect, review, and audit Sound Transit's records on the Betterments at all reasonable times during regular business hours.

SECTION 23 GENERAL PROVISIONS

- 23.1 Governing Law and Venue. This Agreement will be interpreted, construed and enforced in accordance with the laws of the State of Washington. Venue for any action under this Agreement will be King County, Washington.
- 23.3 <u>Time</u>. Time is of the essence in every provision of this Agreement. Unless otherwise set forth in this Agreement, the reference to "days" will mean calendar days. If any time for action occurs on a weekend or holiday observed by either Party, then the time period will be extended automatically to the next business day.
- 23.4 <u>No Joint Venture</u>. No joint venture or partnership is formed as a result of this Agreement. No employees, agents or subcontractors of one party will be deemed, or represent themselves to be, employees of any other party.
- 23.5 <u>Construction</u>. This Agreement has been reviewed and revised by legal counsel for all parties and no presumption or rule that ambiguity will be construed against the party drafting the document will apply to the interpretation or enforcement of this Agreement. The Parties intend this Agreement to be interpreted to the full extent authorized by applicable law.
- 23.6 <u>Costs.</u> Each Party will be responsible for its own costs, including legal fees, incurred in negotiating or finalizing this Agreement, unless otherwise agreed in writing by the Parties.
- 23.7 Force Majeure. The Parties will not be deemed in default with provisions of this Agreement where performance was rendered impossible by war or riots, civil disturbances, floods or other natural catastrophes beyond its control; the unforeseeable unavailability of labor or materials; or labor stoppages or slow-downs, or power outages exceeding back-up power supplies. This Agreement will not be revoked or a party penalized for such noncompliance, provided that such party takes immediate and diligent steps to bring itself back into compliance and to comply as soon as practicable under the circumstances without unduly endangering the health, safety, and integrity of both parties' employees or property, or the health, safety, and integrity of the public, public right-of-way, public property, or private property.
- 23.8 Amendments. This Agreement may be amended only by a written instrument executed by each of the Parties hereto. The Designated Representatives may agree upon amendments to the design for the Betterments and such amendments will be binding upon the parties without the need for formal approval by the Sound Transit Board and the Redmond City Council as long as the amendments do not materially alter the functionality or design of the Betterments, do not cause the cost of the Betterments to exceed those set forth in Exhibit E, or materially increase the maintenance costs of the Betterments.
- 23.9 Entire Agreement. This Agreement constitutes the entire agreement of the Parties with respect to the subject matters of this Agreement, and supersedes any and all prior negotiations

(oral and written), understandings and agreements with respect hereto. However, the Parties will negotiate and execute such ancillary agreements as may be required to implement this Agreement.

- 23.10 <u>Headings</u>. Section headings are intended as information only, and will not be construed with the substance of the section they caption.
- 23.11 <u>Grammar</u>. In construction of this Agreement, words used in the singular will include the plural and the plural the singular, and "or" is used in the inclusive sense, in all cases where such meanings would be appropriate.
- **23.12** Exhibits. All exhibits attached to this Agreement are hereby incorporated into this Agreement.
- 23.13 <u>Counterparts</u>. This Agreement may be executed in several counterparts, each of which will be deemed an original, and all counterparts together will constitute but one and the same instrument.

SECTION 24 SEVERABILITY

24.1 <u>Severability</u>. If any of the terms and conditions of this Agreement are determined to be invalid or unenforceable by a court of competent jurisdiction, the remaining terms and conditions thereby will remain in full force and effect. The Parties agree to negotiate in good faith to reform the Agreement to replace any invalid or unenforceable term and/or condition with a valid and enforceable term and/or condition that comes as close as possible to the intention of the stricken term or condition.

CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY (SOUND TRANSIT) By:	THE CITY OF REDMOND By:
Peter M. Rogoff, Chief Executive Officer	John Marchione, Mayor
Date: 19/18/19	Date:
Authorized by Motion No. M2019-13	Authorized by City Council Motion on 1166
Approved as to form:	
- Attende	Approved as to form:
Mattelyn L. Tharpe, Legal Counsel	By: My M
	James E. Haney, City Artorney

EXHIBITS:

Exhibit A: NE 51st St. PRV and Water Main Scope and Conceptual Design

Exhibit B: NE 70th and SR202 Scope and Conceptual Design
Exhibit C: NE 76th St. and SR202 Scope and Conceptual Design
Exhibit D: Redmond Central Connector Scope and Conceptual Design

Exhibit E: Cost Estimate

Exhibit F: Property Rights Map

Exhibit G: Designated Representatives



EXHIBIT A

February 27th, 2019

Kristi Wilson Interim Director of Public Works City of Redmond 15670 NE 85th Street Redmond, WA, 98073

Downtown Redmond Link Extension, Letter of Concurrence
LOC 16 DRLE: NE 51st Street Utility Betterments & CFD Project No. 2 Interface

Purpose

The purpose of this letter is to seek concurrence from the City of Redmond for the NE 51st Street utility betterments and the interface between the Downtown Redmond Link Extension project and the City of Redmond's CFD Project No. 2 – NE 51st Street Improvements project.

NE 51st Street Utility Betterments

The Downtown Redmond Link Extension project will add an additional 175 feet of 12" water main along with required appurtenances (tees, valves, etc.) to support the installation of a new 8" PRV station and vault for the City of Redmond. The new 8" PRV station will replace the existing PRV station located along the northern side of NE 51st St., approximately 210 feet east of the NE 51st St./SR 520 on/off-ramp intersection. This work will also include the installation of a new fire hydrant and lateral to help in set up and testing of the new 8" PRV station. The contractor shall install the PRV vault top elevation to match the grade of the sidewalk and install a gravity drain to the swale north of the PRV. Last, the DRLE Contractor will remove the existing PRV station and vault, then dispose of them as directed by the City of Redmond; this work will also include filling the existing 8" water main with CDF for abandonment by City of Redmond standards. The quantities for this betterment work are listed below:

- 175' 12" main
- 110' 8" main for PRV
- 25' 6" main for FH
- 1 8" PRV and vault per standard details 708, 709A, 709B, 710A, and 710B
- 1 FH
- 28" Gate Valves
- 2 12" Gate Valves
- 1 6" Gate Valve
- 2 cy yds CDF for 8" pipe abandonment
- Removal and dispose of existing 8" PRV

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VICE CHAIRS

Kent Keel University Place Mayor

Paul Roberts

Everett Councilmember

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Kim Roscoe Fife Mayor

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Dave Upthegrove King County Councilmember

Peter von Reichbauer King County Councilmember

Victoria Woodards
Tacoma Mayor

CHIEF EXECUTIVE OFFICER
Peter M. Rogoff

Kristi Wilson February 27th, 2019 Page 2

CFD Project No. 2 – NE 51st Street Improvements

The City of Redmond is in the design phase of the CFD Project No. 2 – NE 51st Street Improvements project which improves the roadway, sidewalks, curb radii, curb ramps, traffic signal, illumination, utilities, and drainage along NE 51st Street at and near the intersection of NE 51st Street and the SR 520 on/off-ramps. The Design-Builder will complete the work shown in the Downtown Redmond Link Extension drawings with concurrence from the City of Redmond. See Attachment 1 for the description of work to be done by Sound Transit and the City of Redmond. The City of Redmond is responsible for completion of their street improvement project up to the interchange ramp terminals. The City of Redmond expects to go to construction in summer 2019, with an anticipated completion of fall 2020.

To facilitate completion of the portion of the City's project at the interface with Sound Transit's project prior to Sound Transit's work beginning at the interface, the City agrees to the following:

- Work in good faith to advertise their project for bid by April 2019.
- Include provisions in their 51st St. construction contract, such as milestones, liquidated damages, or other constraints, that will facilitate substantial completion of work at the interface by July 2020.
- Each month following NTP of the City's CFD Project No. 2, the City will assess the likeliness of substantially completing the work at the Sound Transit interface by July 2020 and take corrective action, if necessary, to ensure the milestone is met.
- In the event the City's project work at the interface is not completed by July 2020 or when Sound Transit's contractor desires to begin work, whichever is later, the City will work with ST to identify options to minimize cost or other impacts to Sound Transit's project.

The reconstruction of the interchange ramp terminal intersection will be completed by Sound Transit using the design concept provided by the City's 90% design submittal of 51st. Should you have any questions, please don't hesitate to contact me at (206) 398-5171. Please sign below and return one of the enclosed originals – please keep the additional copy for your records.

Sincerely,

Tony Rabeh'

Executive Project Director, DRLE

Attachments:

1. NE 51st Street Improvements

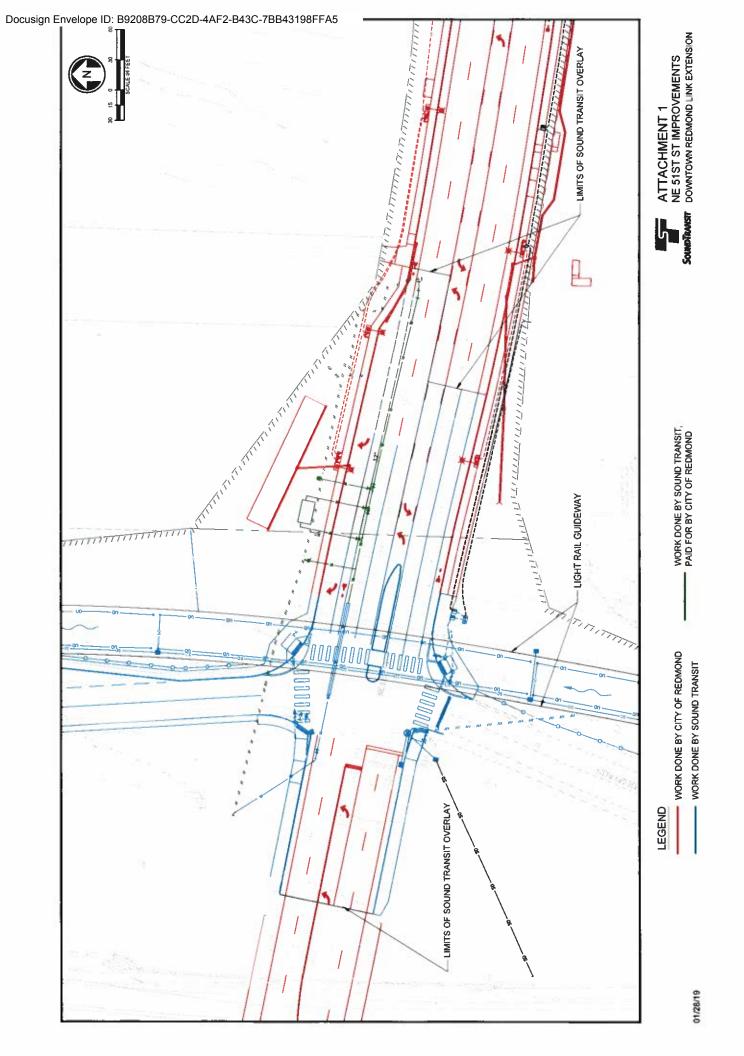
Concurrence:

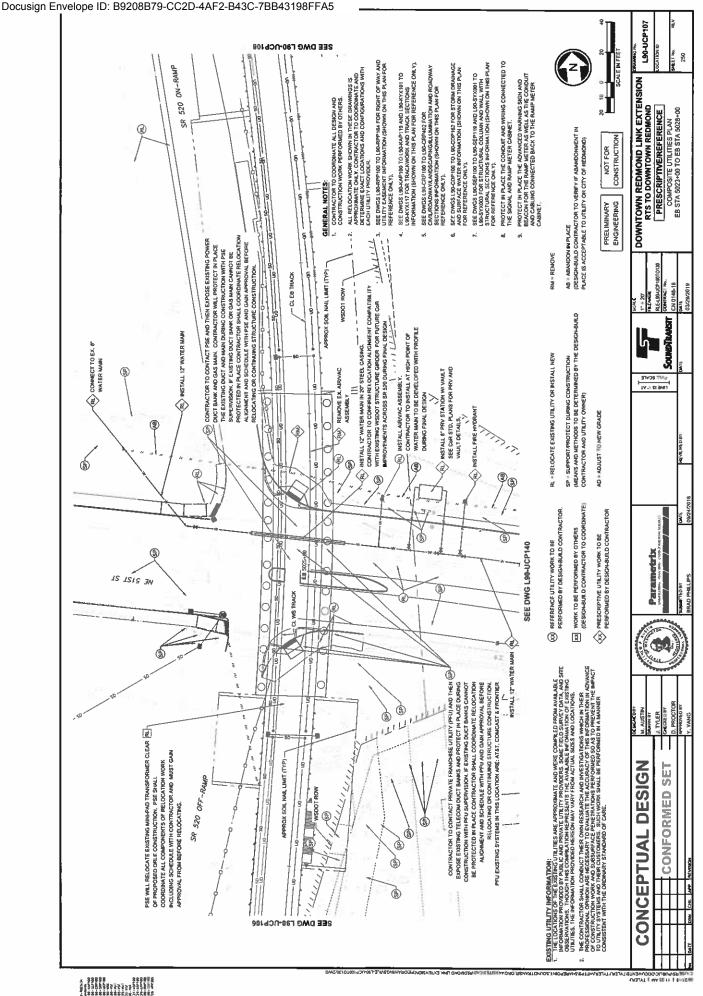
Kristi Wilson, Interim Director of Public Works

City of Redmond

Enclosure (s):

cc: ST Document Control





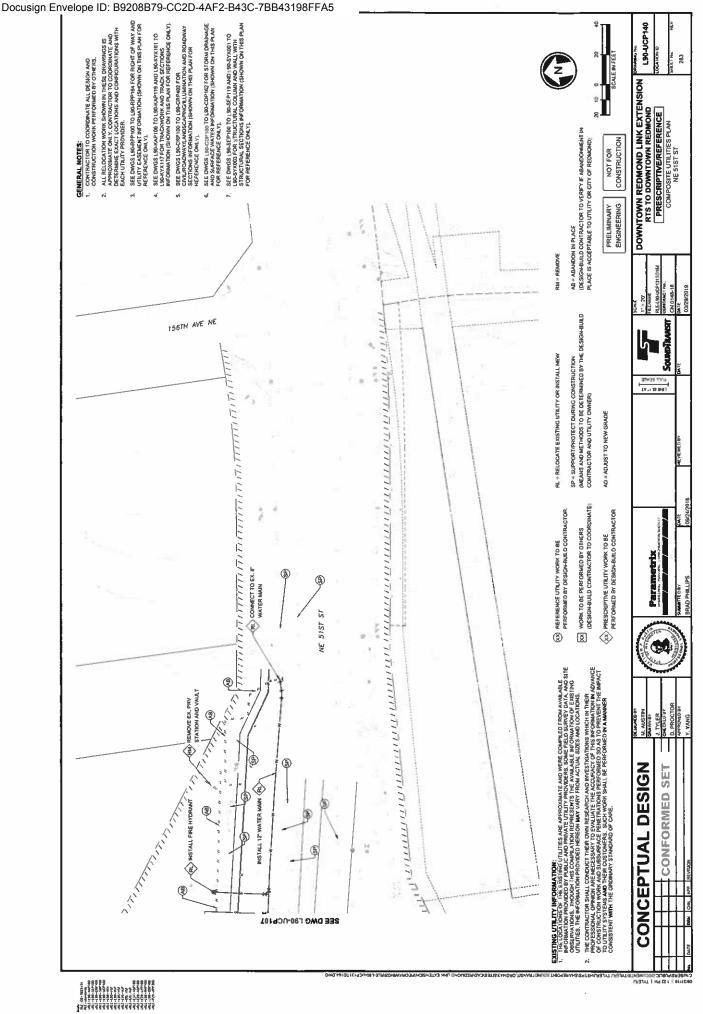


EXHIBIT B



February 5th, 2019

Kristi Wilson Interim Director of Public Works City of Redmond 15670 NE 85th Street Redmond, WA, 98073

Downtown Redmond Link Extension, Letter of Concurrence LOC 18 DRLE: Redmond Way & NE 76th Street Roadway Improvements

Purpose

The purpose of this letter is to seek concurrence from the City of Redmond for the Redmond Way and NE 76th Street roadway improvements and funding responsibilities for betterments, included in the Downtown Redmond Link Extension scope of work. The portions of roadway that are being agreed upon are: 1) Redmond Way from the driveway of Creekside Crossing to the intersection of Redmond Way and NE 76th Street/SR 520 WB On-Ramp, and 2) NE 76th Street from the intersection of Redmond Way to the Fred Meyer/Target traffic signal.

Sound Transit Scope

Sound Transit will be adjusting the grade of the Redmond Way-NE 76th St./SR 520 WB On-Ramp intersection as part of light rail project to accommodate the light rail undercrossing. This scope of work includes paving, striping, adjustment of utilities to grade, retaining walls, signal work, and any additional work associated with completing the grade adjustment. See Attachment 1 which defines the scope of work limits in blue.

City of Redmond Scope

The City of Redmond requests that Sound Transit construct, as a betterment, an additional eastbound left turn lane from Redmond Way to NE 76th Street. This scope includes:

- Design and construction of additional eastbound left turn lane and northbound receiving/thru lane on NE 76th St from Redmond Way to the traffic signal servicing Fred Meyer and Target
- Curb, gutter, pavement and lane restriping on NE 76th St. from Redmond Way to the Fred Meyer/Target traffic signal, a total distance of about 1,100 feet, that would not be required but for the betterment
- The removal of sidewalk on the existing SR 202 bridge over Bear Creek to provide enough space for the eastbound left turn lane

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Kristi Wilson February 5th, 2019 Page 2

- Revised curb taper on Redmond Way given removal of sidewalk
- Construction of new curb and sidewalk on the south side of Redmond Way near Creekside Crossing
- New channelization from the existing SR 202 bridge to the driveway of Creekside Crossing
- Any additional work required solely to complete the betterment

See Attachment 1 for improvements associated with the City of Redmond betterment described above.

Should you have any questions, please don't hesitate to contact me at (206) 398-5171. Please sign below and return one of the enclosed originals – please keep the additional copy for your records. Sincerely,

Tony Raben

Executive Project Director, DRLE

Attachments:

1. SR 202 & NE 76th Street Roadway Improvements

Concurrence:

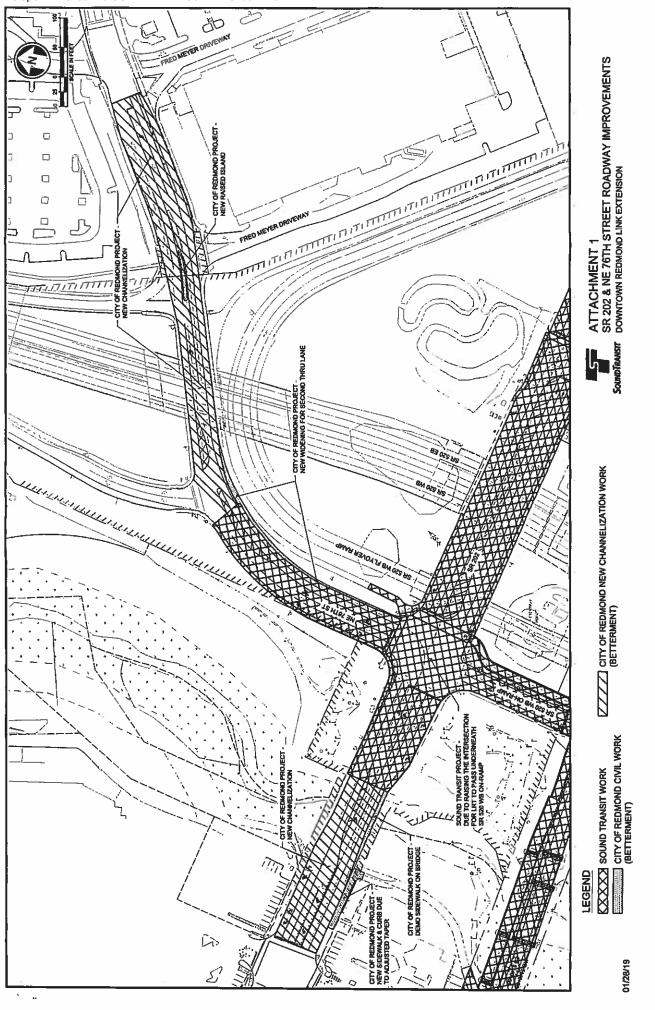
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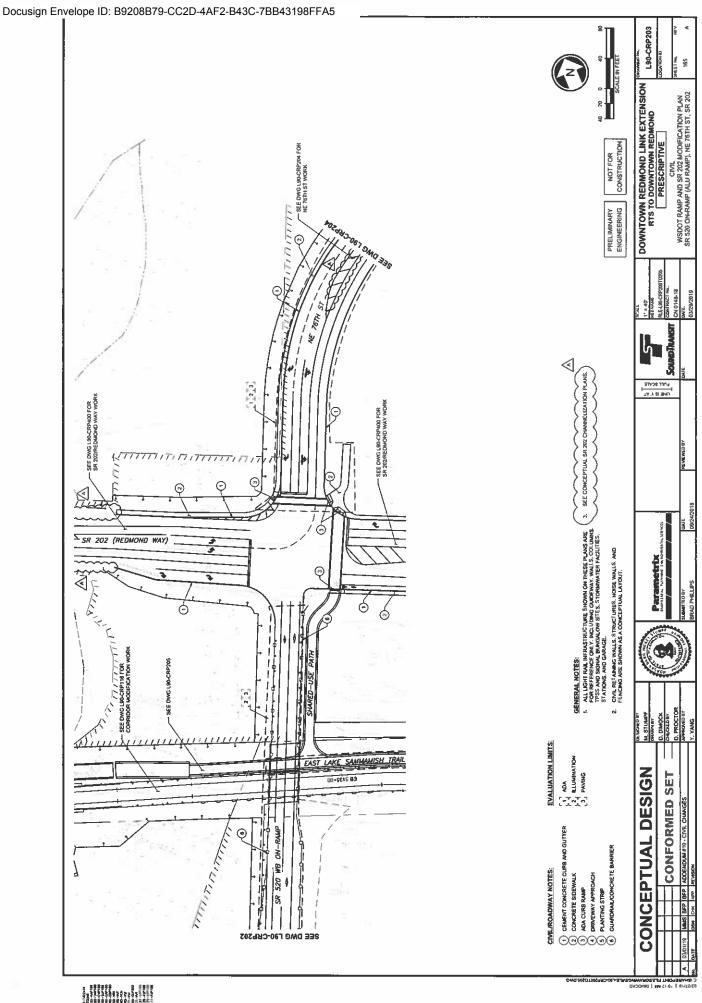
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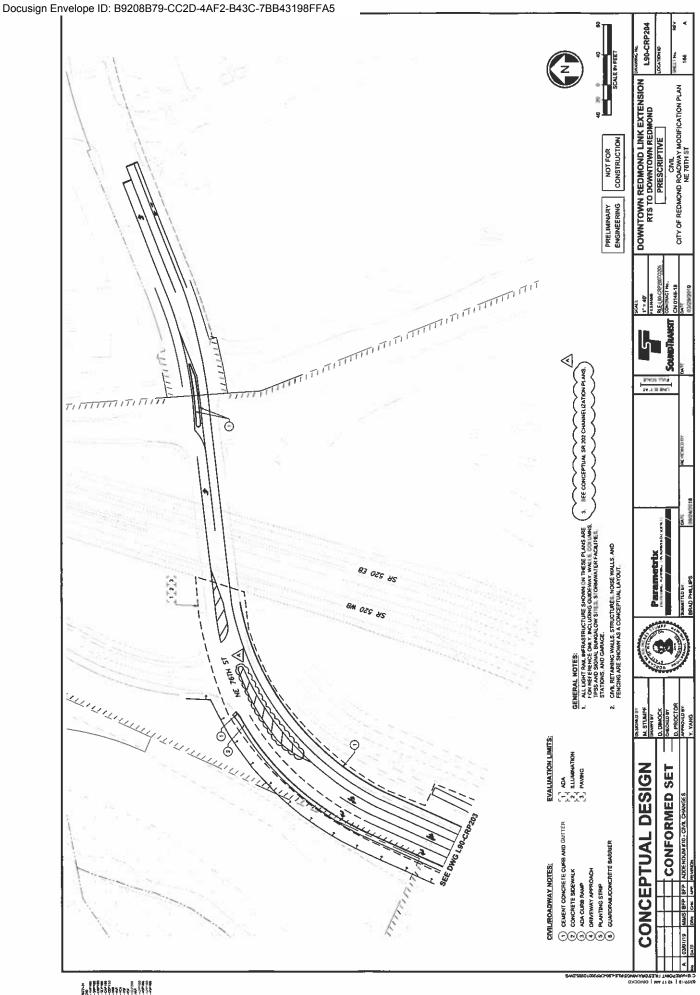
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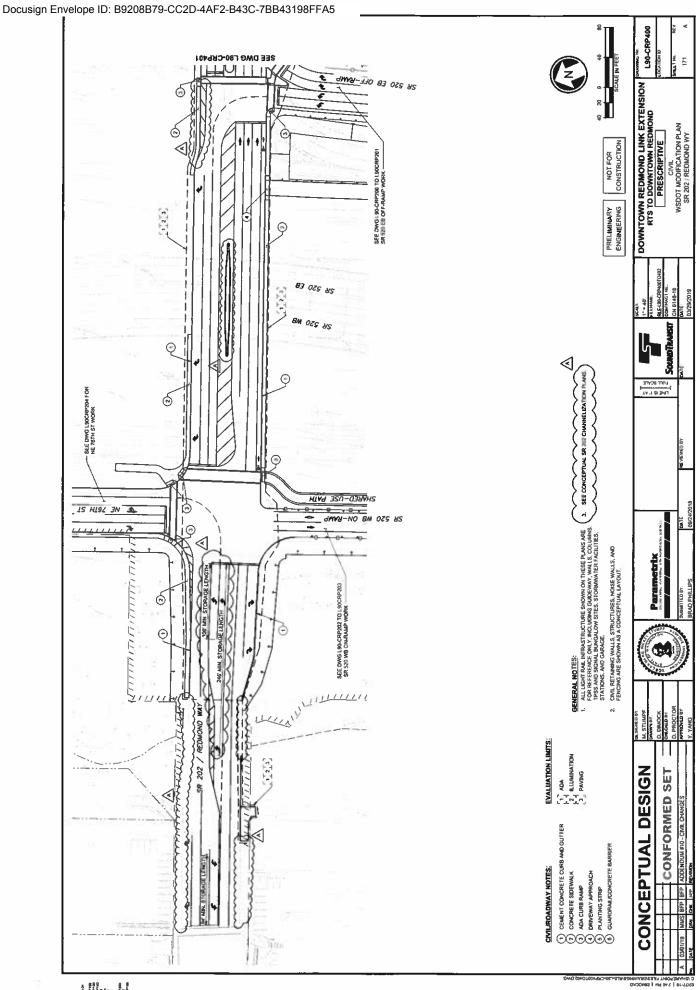
cc: Leonard McGhee (Project Manager, ST)

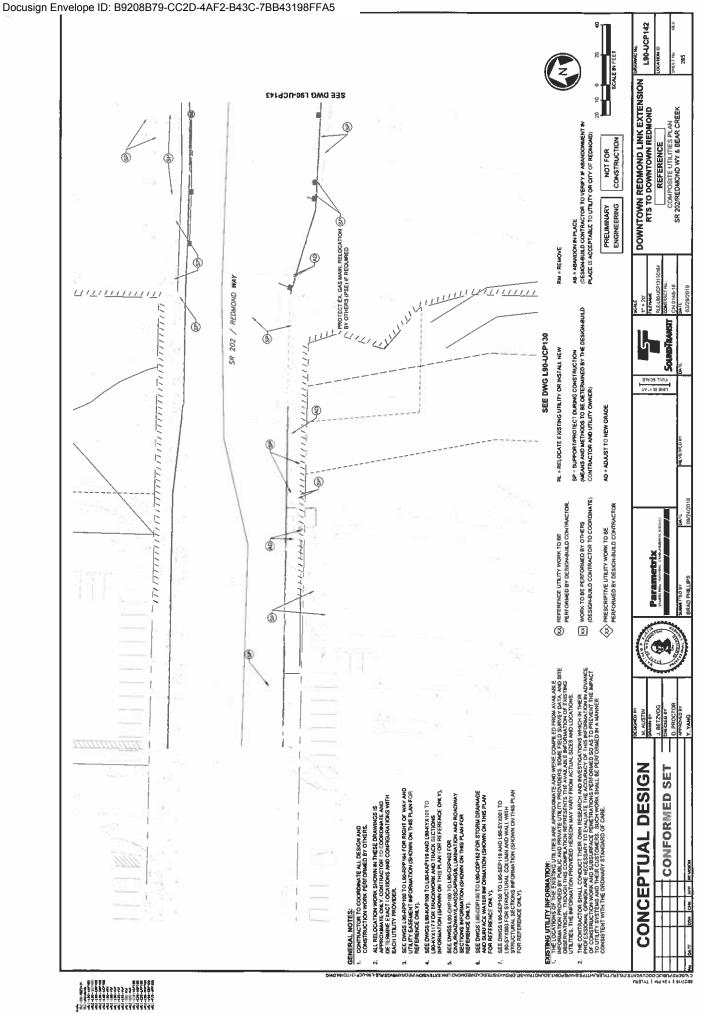
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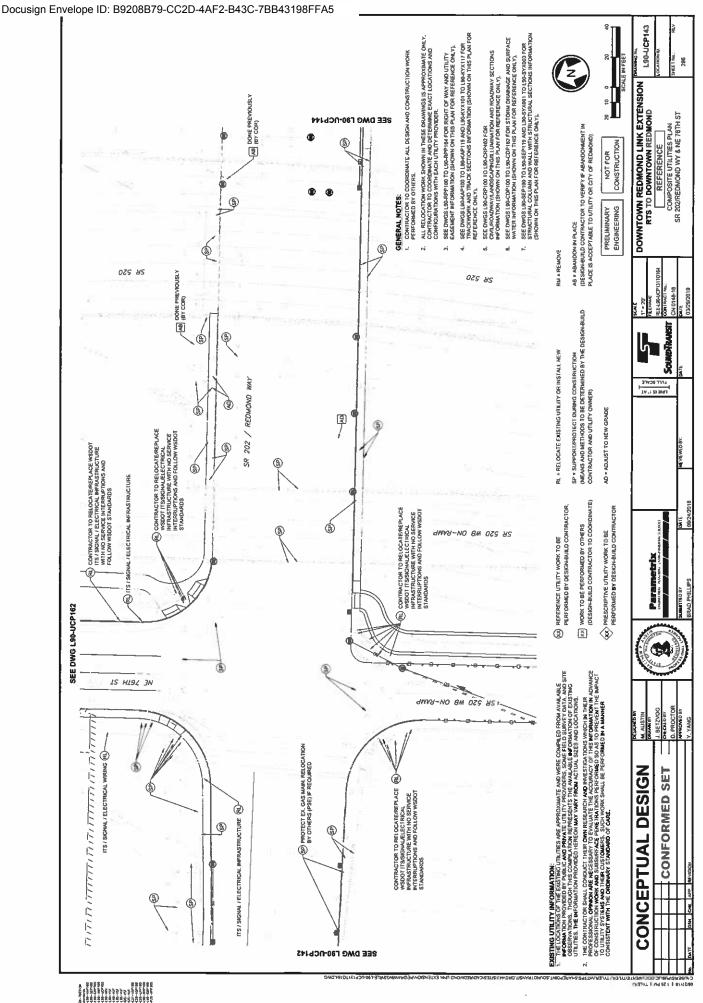


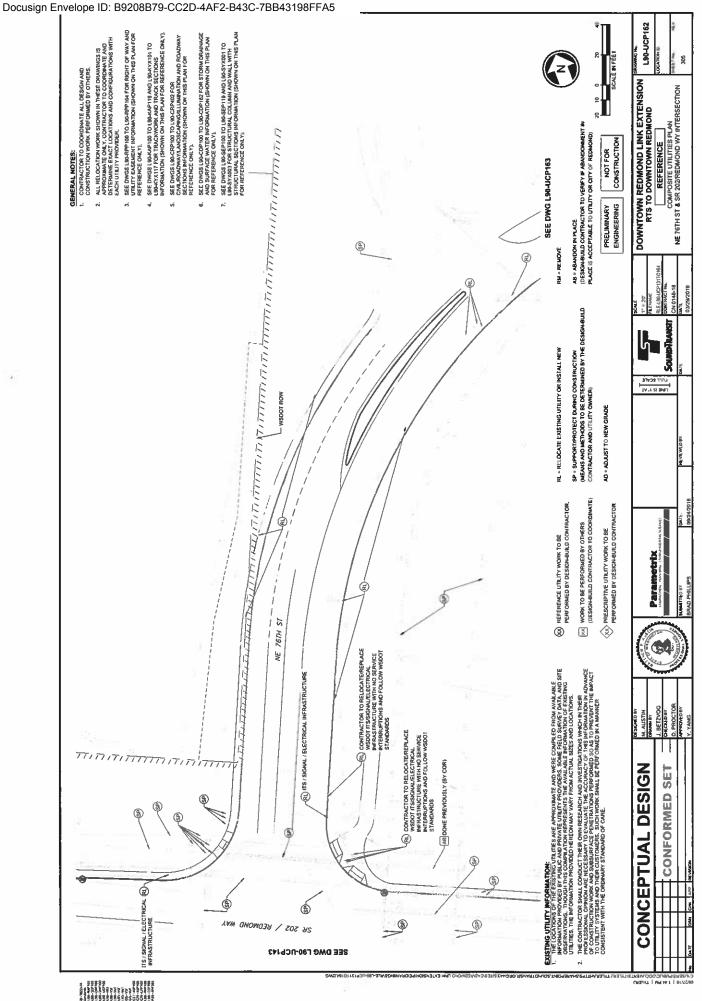


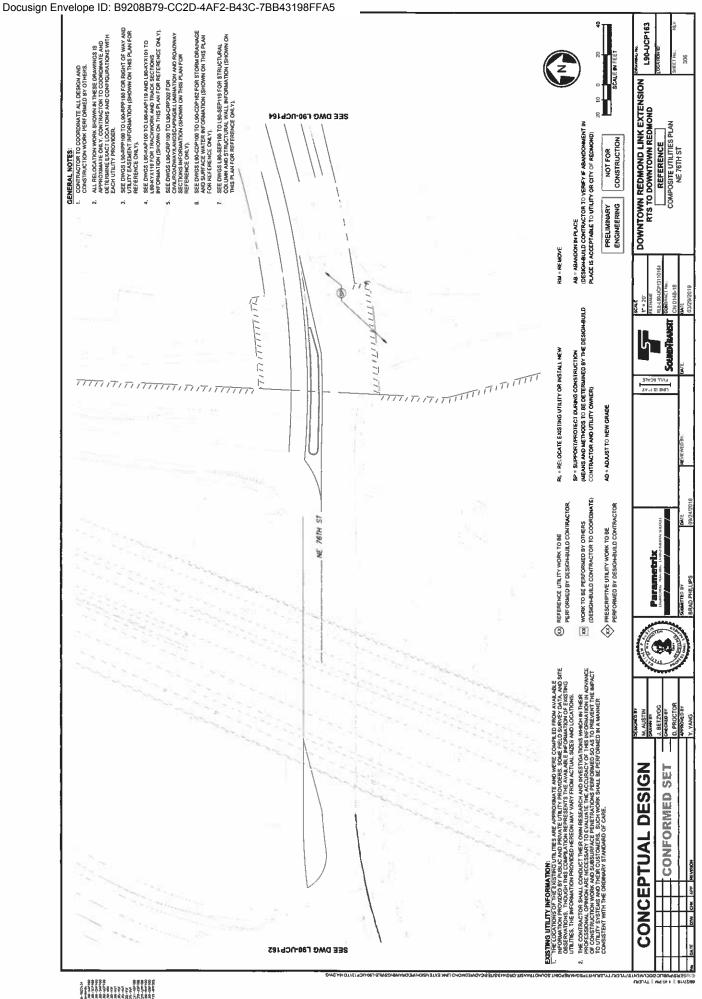


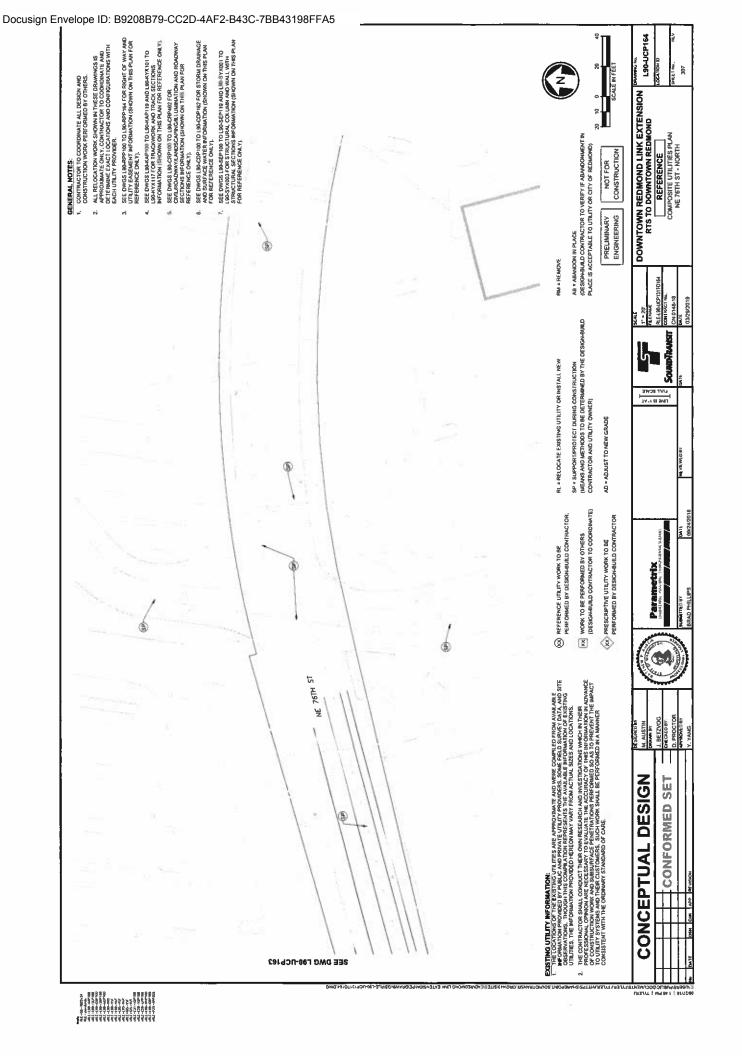


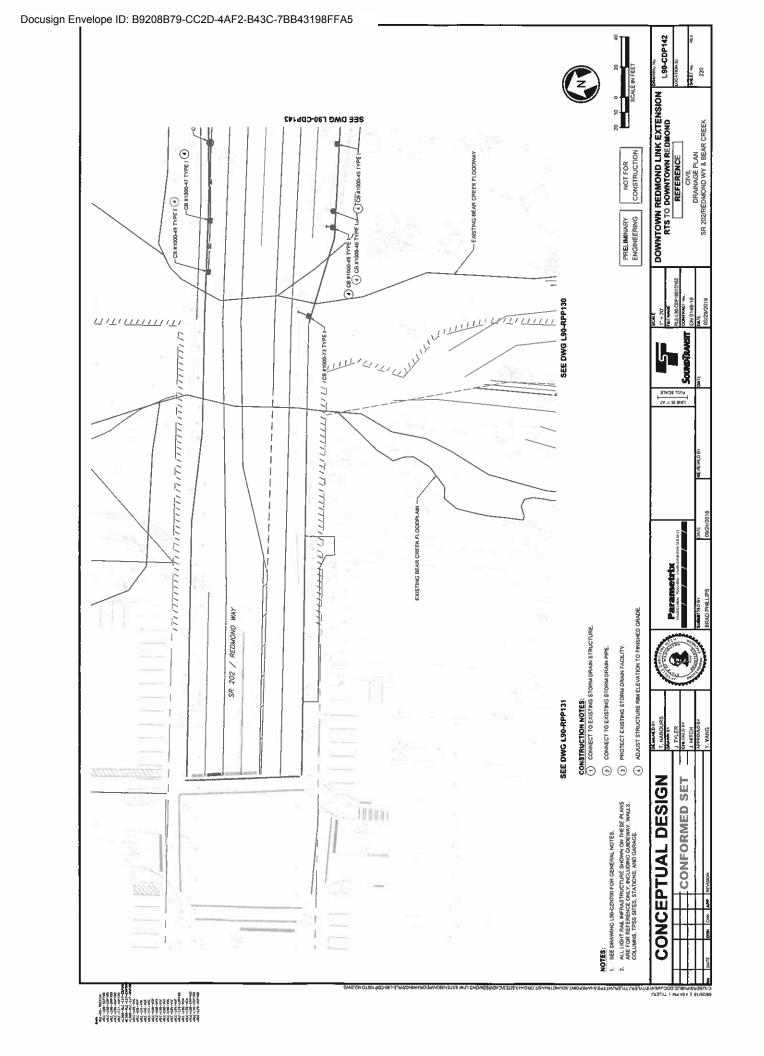


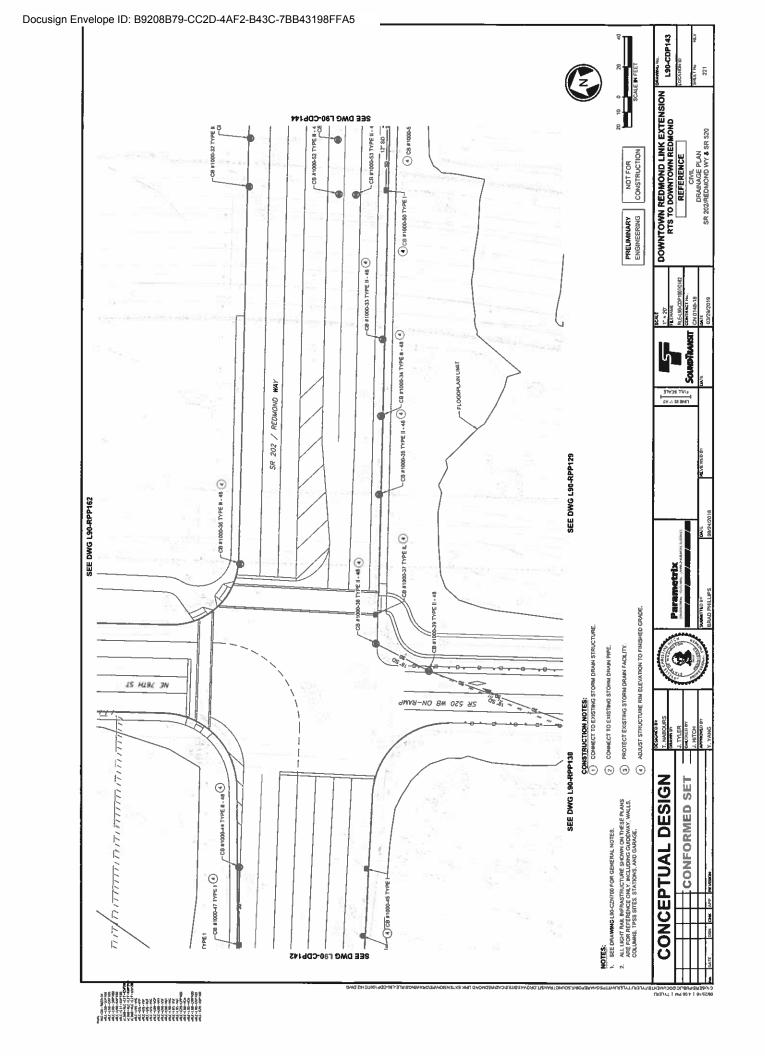












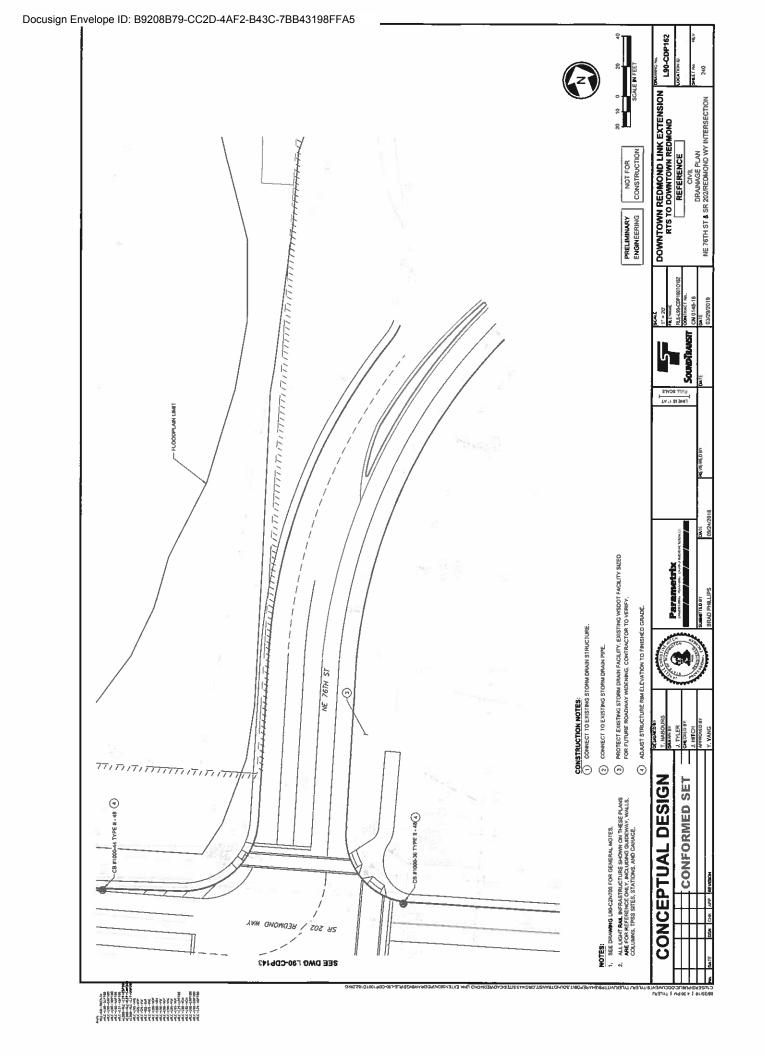




EXHIBIT C

February 5th, 2019

Kristi Wilson Interim Director of Public Works City of Redmond 15670 NE 85th Street Redmond, WA, 98073

Downtown Redmond Link Extension, Letter of Concurrence
LOC 17 DRLE: NE 70th Street & Redmond Way (SR 202) Betterment and Right of
Way (ROW) Acquisition & Schedule

Purpose

The City of Redmond requests that Sound Transit construct, as a betterment, an additional northbound left turn lane at the intersection of Redmond Way and NE 70th Street. The purpose of this letter is to seek concurrence from the City of Redmond on the funding responsibility, civil improvements, and right-of-way (ROW) acquisition associated with this betterment.

Redmond Way Roadway Improvements

The scope of the City betterment at Redmond Way and NE 70th St. is:

- Design and construction of an additional northbound left turn lane at the intersection of SR 202 and NE 70th Street.
- Widening of SR 202 to the northeast to accommodate the additional left turn lane
- Realignment of through lanes along Redmond Way east and west of NE 70th Street required because of the additional left turn lane.
- Modifications to the existing medians within Redmond Way required because of the additional left turn lane
- Stormwater and drainage modifications required to accommodate the additional left turn lane (on-site or modifications to an existing pond, to be determined by Sound Transit's design-build contractor)
- Signal and lighting modifications required because of the additional left turn lane
- Any additional work required solely to complete the betterment

Construction of the additional right turn lane from SB Redmond Way to WB NE 70th St., and any additional work required solely to complete the right turn lane, is excluded from the scope of the betterment. The City of Redmond agrees to pay for improvements related to the betterment. See Attachment 2 for the proposed civil improvements related to the addition of the northbound left turn lane.

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Kristi Wilson February 5th, 2019 Page 2

Roadway Cross Sections

There are two different proposed cross sections for SR 202 in the vicinity of NE 70th Street. The details of the width of the roadway, sidewalks, planters, and bicycle facilities were determined in coordination with the City of Redmond. See Attachment 1 for these proposed cross sections. These sections are subject to final WSDOT channelization plan approval, to be completed by the Contractor.

Right of Way (ROW) Acquisition

The addition of the northbound left turn lane will have impacts on adjacent properties along the north side of SR 202.

Sound Transit agrees to produce the parcel maps and legal descriptions to support the right-of-way acquisitions. The City of Redmond will complete the necessary appraisals and acquire and purchase the property rights, both permanent and temporary. The targeted date for possession and use of the property is **December 31, 2020**, assuming receipt by the City of complete and accurate parcel maps and legal descriptions by April 1, 2019. Any delays past December 31, 2020 may incur additional costs due to change orders from the Contractor for which the City of Redmond will be responsible. If the City of Redmond is unable to provide possession and use by **January 31, 2022**, then Sound Transit will not construct the project.

Should you have any questions, please don't hesitate to contact me at (206) 398-5171. Please sign below and return one of the enclosed originals – please keep the additional copy for your records.

Sincerely,

Tony Raben

Executive Project Director, DRLE

Concurrence:

Kristi Wilson, Interm Director of Public Works

City of Redmond

Attachments:

- 1. SR 202 Cross Sections
- 2. SR 202 Roadway Improvements

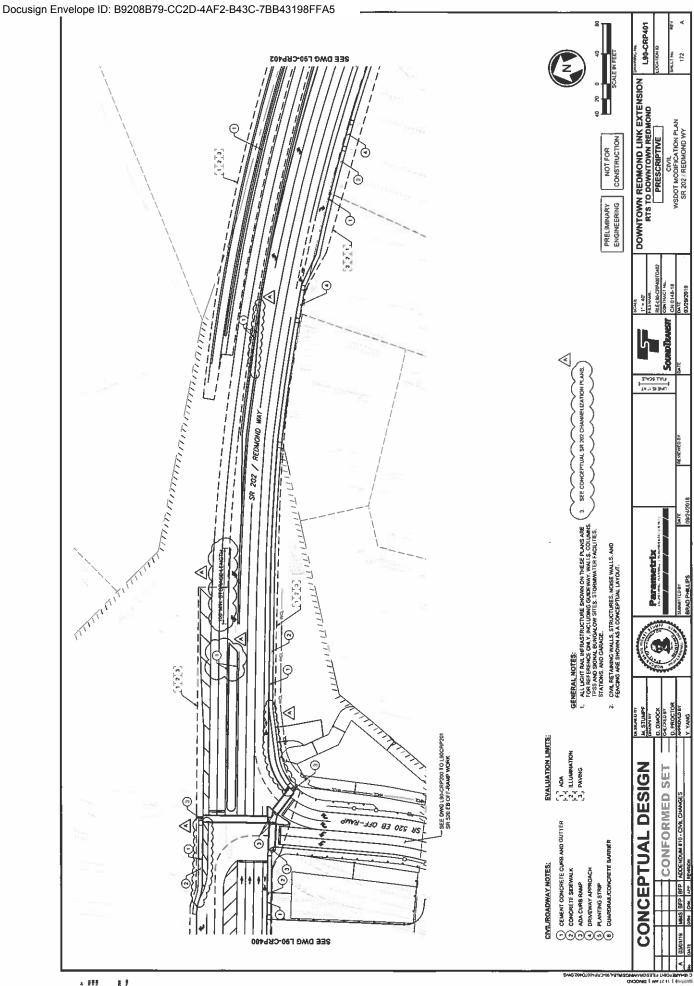
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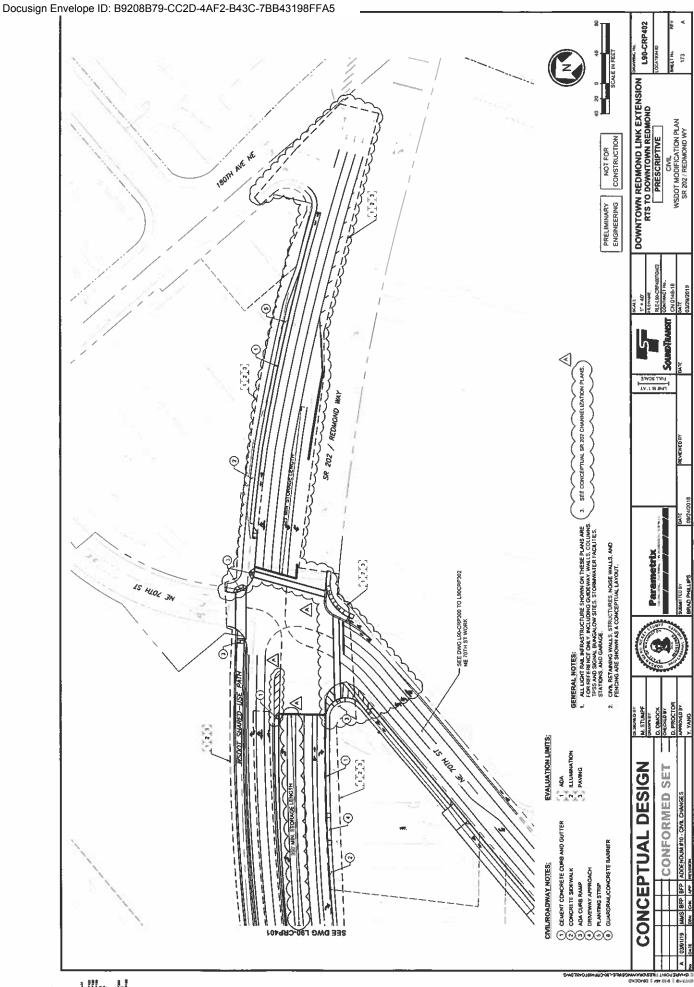
cc: Leonard McGhee (Project Manager, ST)

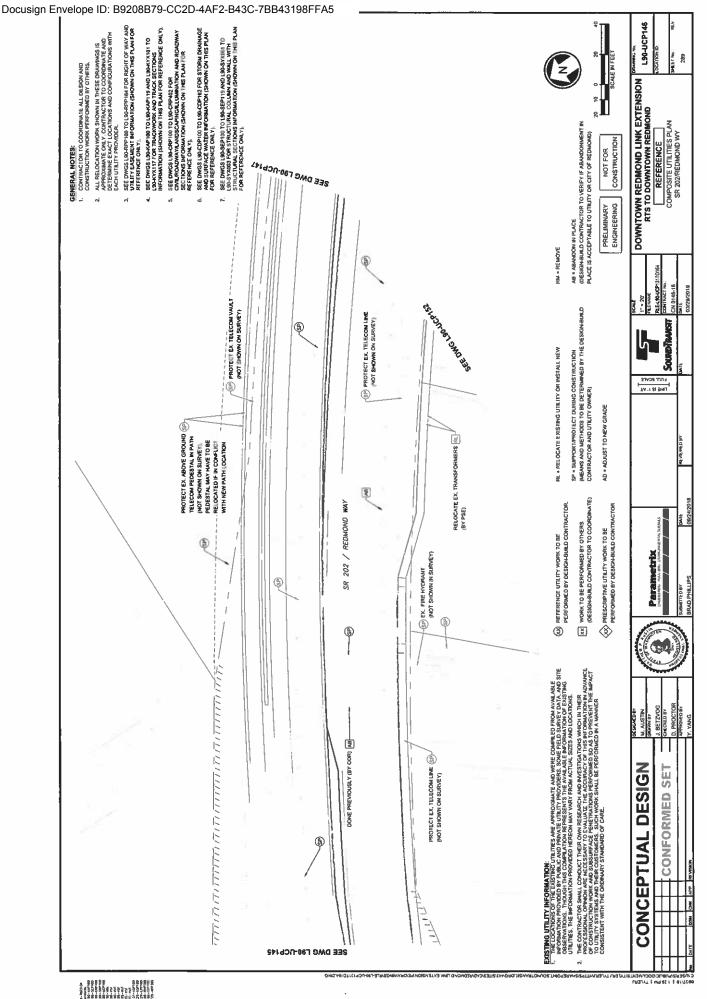
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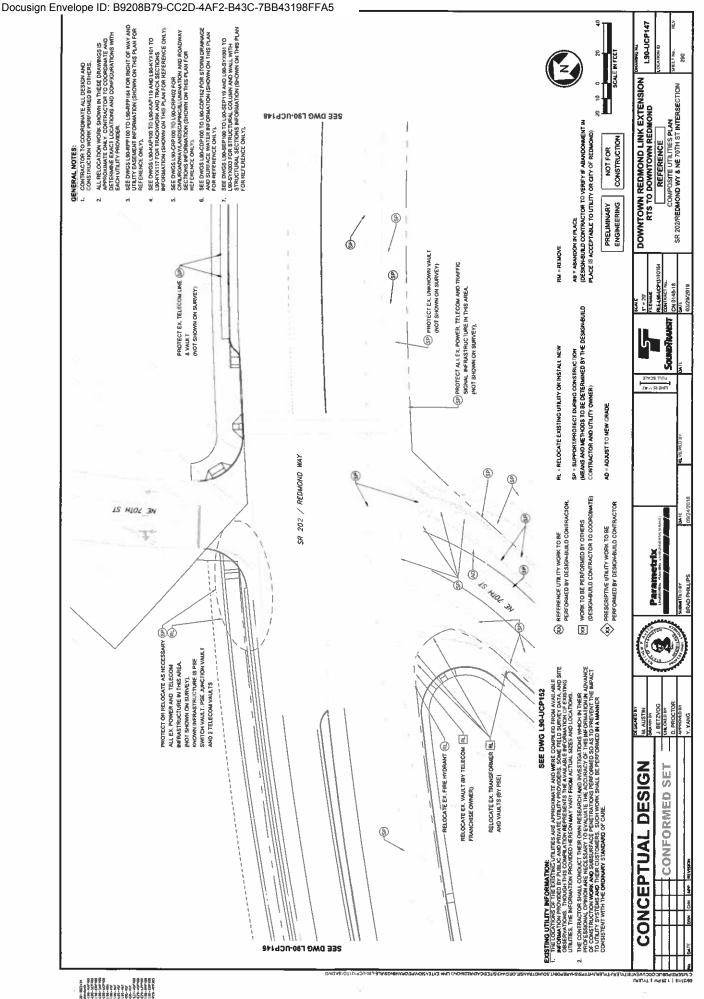


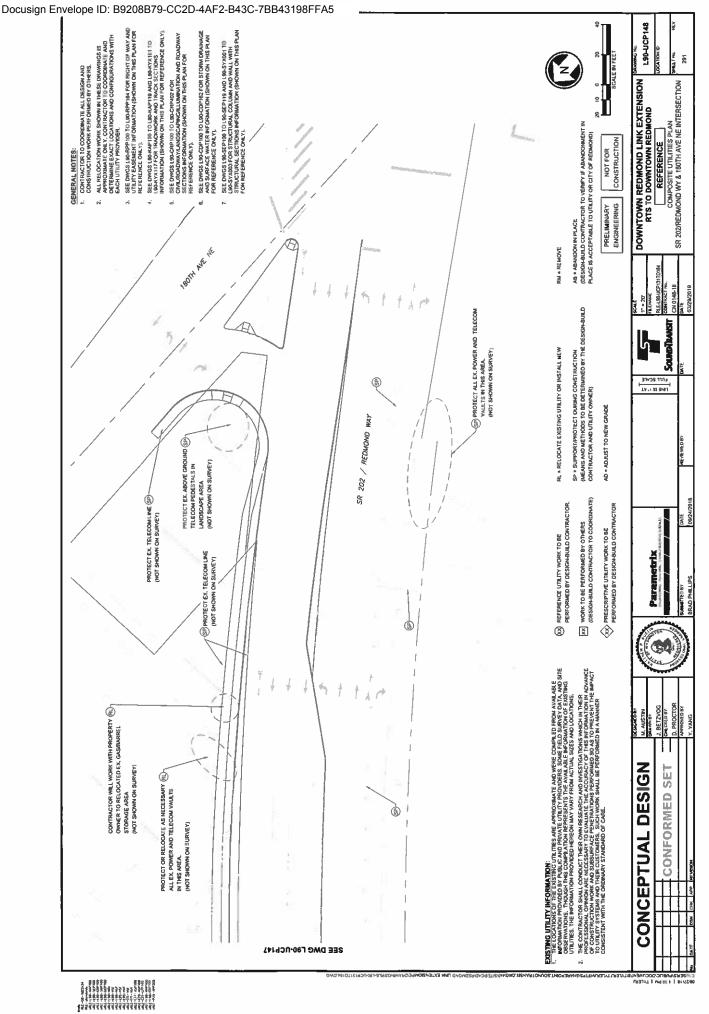
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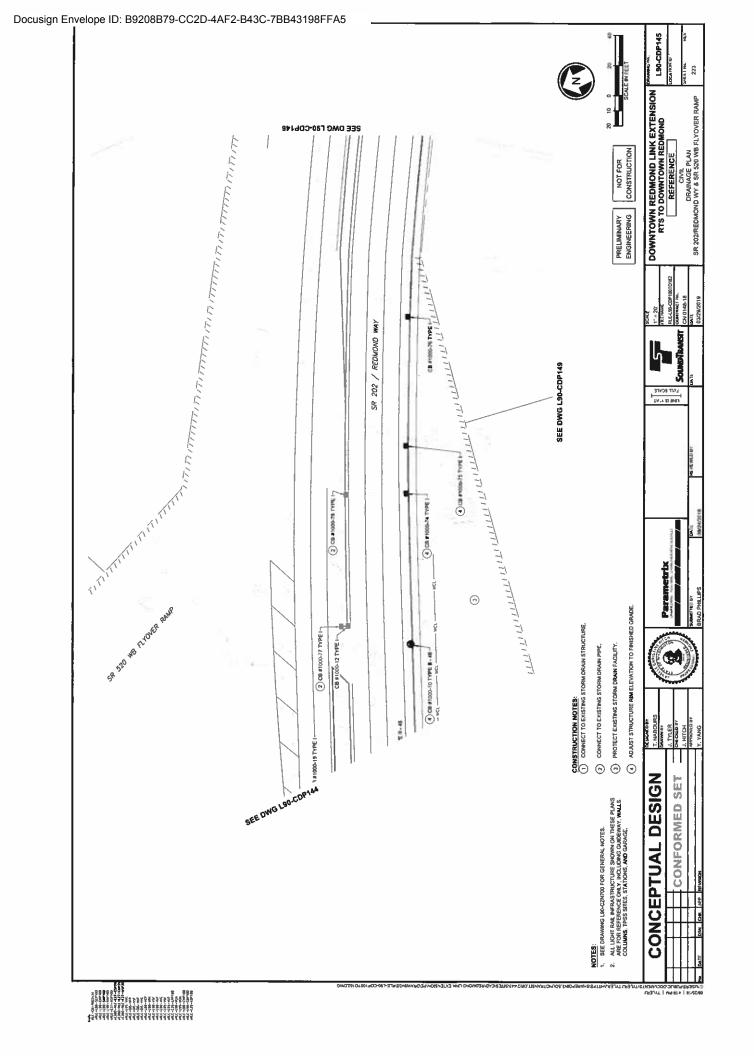


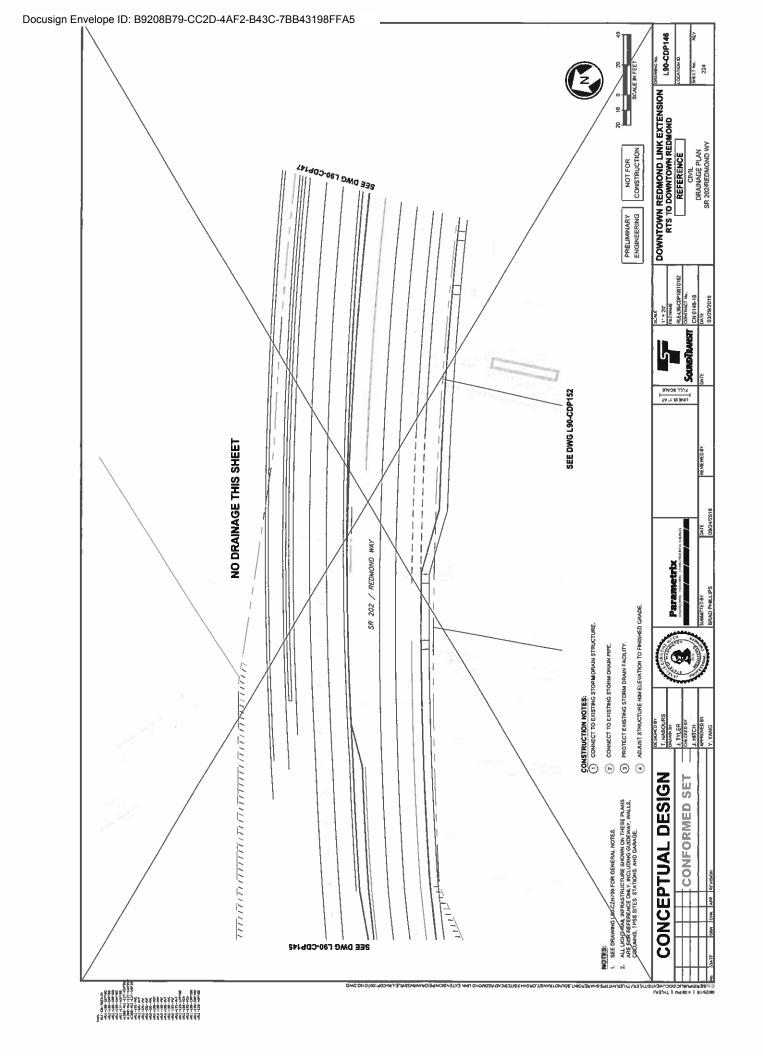


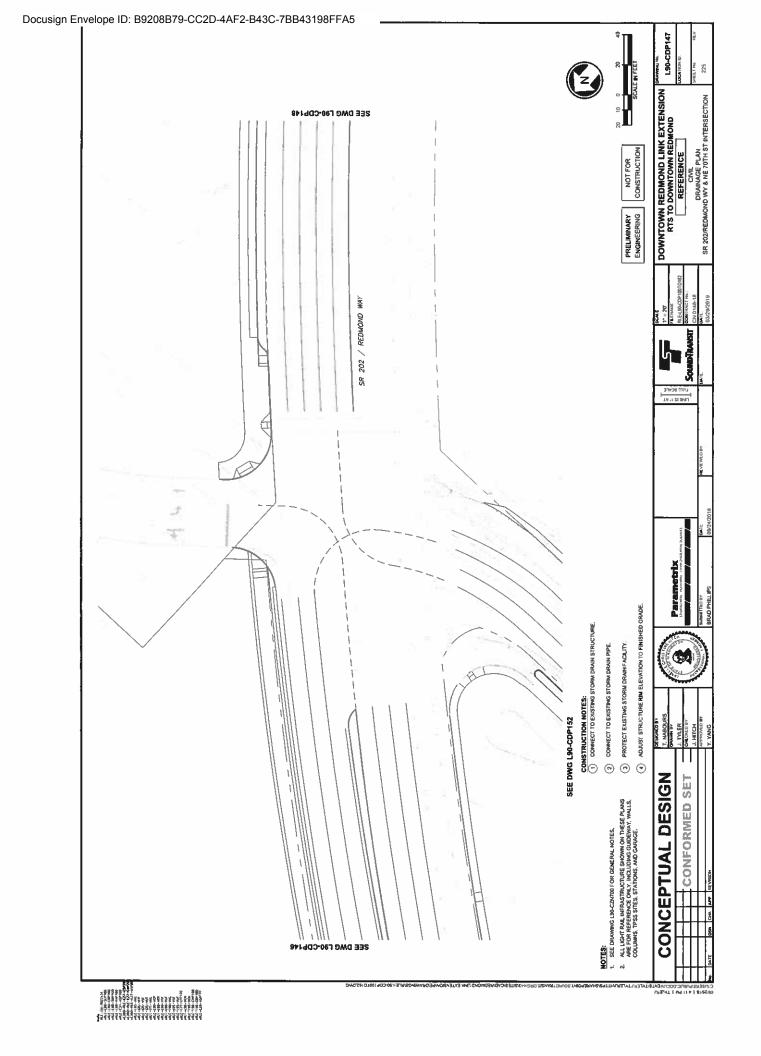












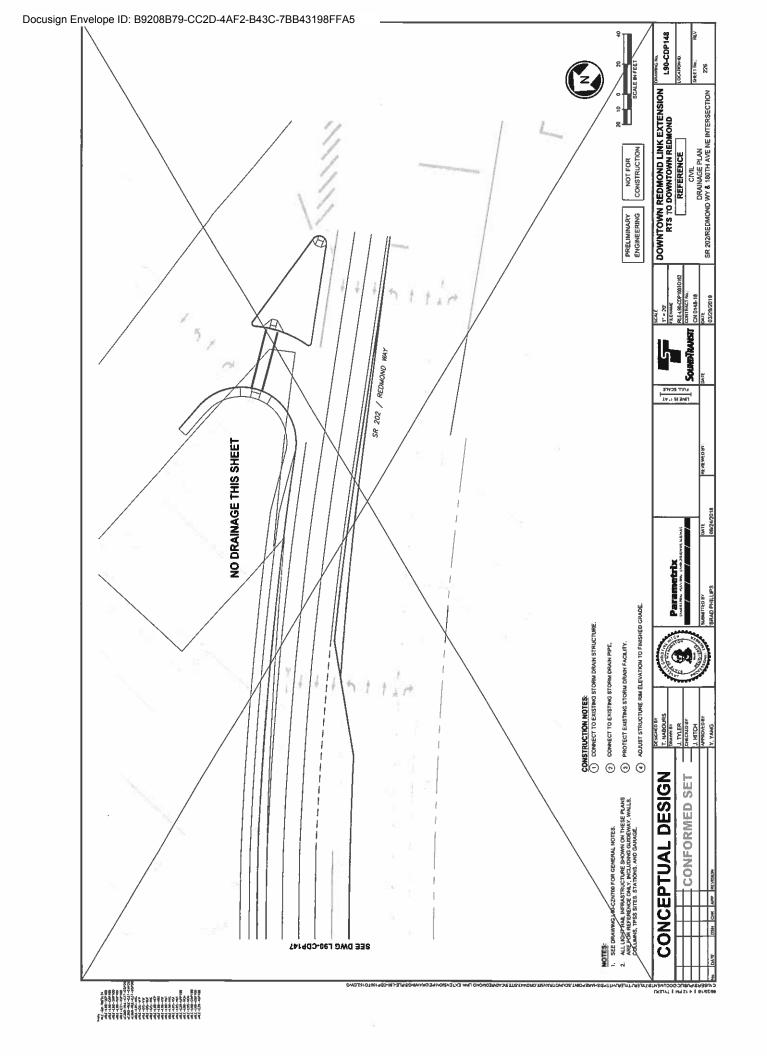




EXHIBIT D

March 6th, 2019

Kristi Wilson Interim Director of Public Works City of Redmond 15670 NE 85th Street Redmond, WA, 98073

Downtown Redmond Link Extension, Letter of Concurrence

LOC 011 DRLE: Redmond Central Connector Trail and Stormwater Trunk Line
from 164th Avenue to Bear Creek Trail, and Erratic Relocation

Purpose

The purpose of this letter is to seek concurrence from the City of Redmond on the Redmond Central Connector (RCC) Trail alignment and stormwater relocation from $164^{\rm th}$ Avenue NE to the existingBear Creek Trail, relocation of the Erratic, and cost sharing for RCC corridor improvements.

Redmond Central Connector

The City of Redmond has provided Sound Transit a 30% trail alignment for the relocated trail alignment from $164^{\rm th}$ Avenue NE to the Bear Creek Trail (attached). The revised alignment has been incorporated into the civil sheets of the RFP Conceptual Design Drawings. At parcel no. 1225059019, it is assumed that the RCC corridor is 100' wide. If RCC right of way adjancent to this parcel is reduced, the City of Redmond and Sound Transit will reevaluate the trail alignment and property acquisition at that time.

City of Redmond also provided guidance to the Contractor for required finishing, bands, mixing zones, and other treatements per the RCC Design Guidance (attached).

The Contractor shall use the following pavement depths west of 170th Ave NE to accommodate stormwater trunkline maintenance needs:

Pavement Type Material	
Asphalt	4.5" HMA over 4" crushed rock
Concrete	6" unreinforced concrete over 4" crushed rock

Modifications to the 30% trail alignment may be suggested by the final design team based on changes to other disciplines such as; column locations, curb line adjustments, or station design. Changes to the trail alignment must be approved by the City of Remond.

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Kristi Wilson March 6th, 2019 Page 2

Stormwater Trunk Line

The existing City of Redmond stormwater trunk line will be relocated due to station/column impacts from 164^{th} Avenue NE to the east end of the Downtown Redmond Station, as well as where in conflict with the traction power substation near 170^{th} Avenue NE. The center of pipe of the relocated stormwater trunk line will be located at a minimum 10' from the edge of guidway shaft or station building. Manholes must be located within 10' from the edge of the Redmond Central Connector trail, and where possible will not be located within the trail.

The City's standard is no increase in HGL. As part of PE, the City reviewed the reference design (see attachment) and found it to be an acceptable design solution with a small increase in HGL. The design builder will have to apply for a deviation if the standard cannot be met in final design.

Similar to the RCC trail alignment at parcel no. 1225059019, the stormwater trunk alignment may be reconsidered by Sound Transit and City of Redmond should right-of-way not be available.

Erratic Relocation

The City owns an art piece called the Erratic, located near the southwest corner of 166th Ave NE and Cleveland St. The art must be relocated because its current location conflicts with the conceptual designs for the Downtown Redmond station area. The City and Sound Transit agree that the Erratic will be relocated to Gilman Landing consistent with the attached conceptual drawings. The City agrees to conduct the site preparation and relocation work under separate contract(s) so that the Erratic is removed from its existing location by March 31, 2020.

Funding of RCC Corridor Improvements

Subject to City Council and Sound Transit Board approval, City and Sound Transit staff have agreed to share in the funding of RCC corridor improvements as follows:

- Sound Transit will pay the City to relocate the Erratic and complete site preparation at Gilman Landing (finish design, permitting, construction) in the amount of \$576,300.
- Sound Transit will take full funding responsibility for RCC elements west of 166th
- Sound Transit will take full funding responsibility for signal improvements at Cleaveland/166th
- Sound Transit will take full funding responsibility for RCC corridor landscaping, and will be allowed to count this as part of the tree mitigation plan
- The City and Sound Transit will evenly split funding responsibility for all other RCC elements east of 166th, including but not limited to:
 - The trail itself, including appropriate pavement depths to support stormwater maintenance requirements
 - Braids/ties/benches
 - Landings (apart from landscaping)
 - Conduit
 - o Lighting
 - Any additional right-of-way costs at the SE corner of 166th Ave NE and Cleveland St
 - Storm water management facilities specifically required for the RCC trail (bioswales, raingardens, etc.)

Kristi Wilson March 6th, 2019 Page 3

Should you have any questions, please don't hesitate to contact me at (206) 398-5171. Please sign below and return one of the enclosed originals – please keep the additional copy for your records.

Sincerely,

Tony Rabén

Executive Project Director, DRLE

Concurrence:

Date Kristi Wilson, Interim Director of Public Works

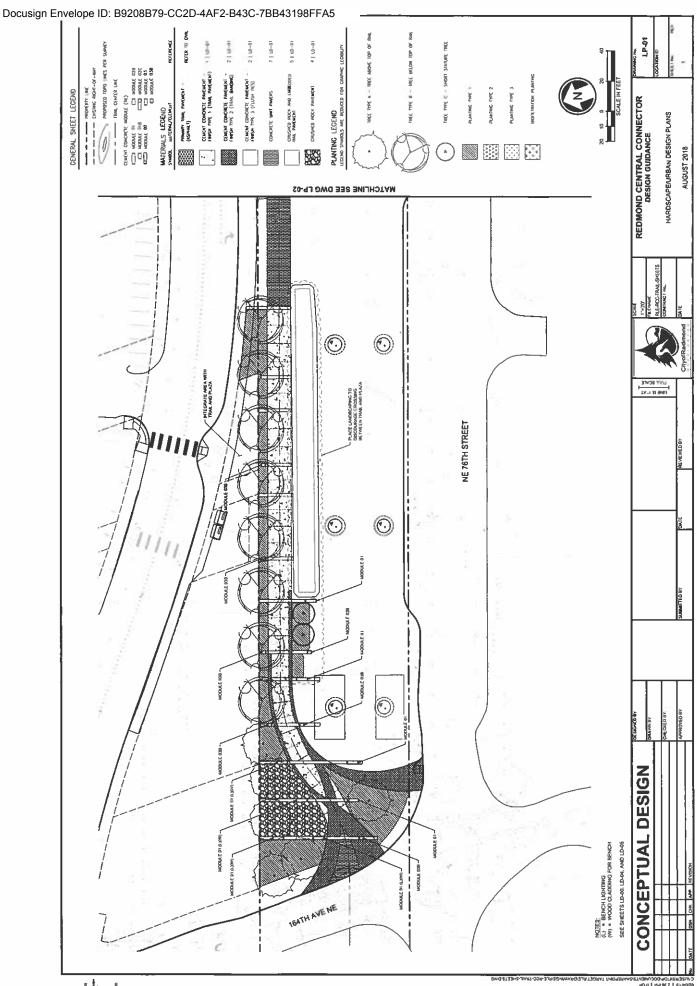
City of Redmond

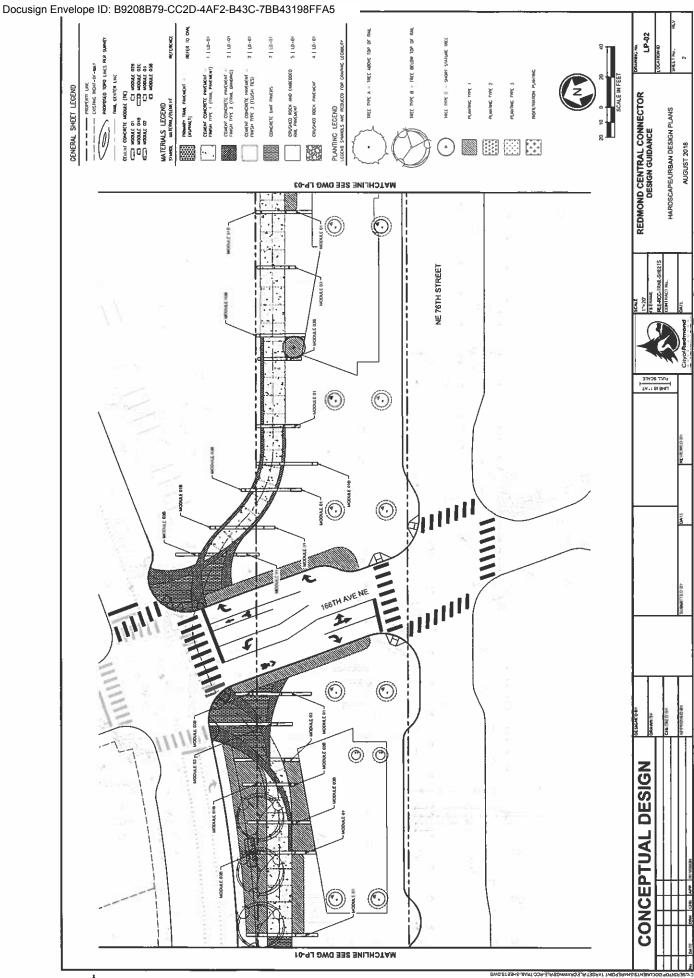
Attachments:

RCC Design Guidance drawings Gilman Landing Conceptual drawings PE Stormwater Trunkline design

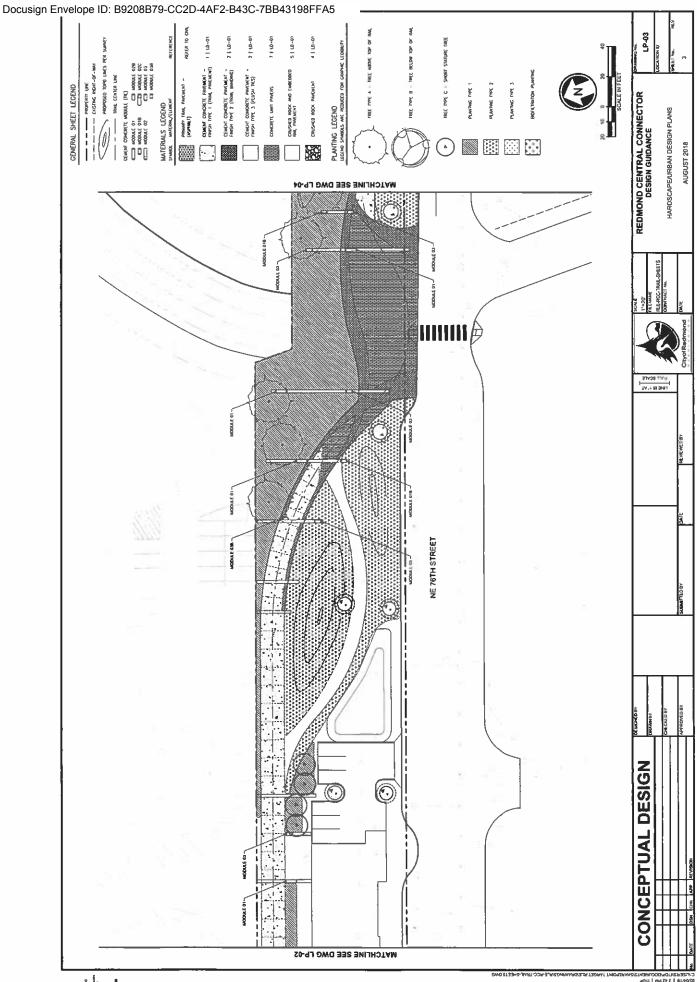
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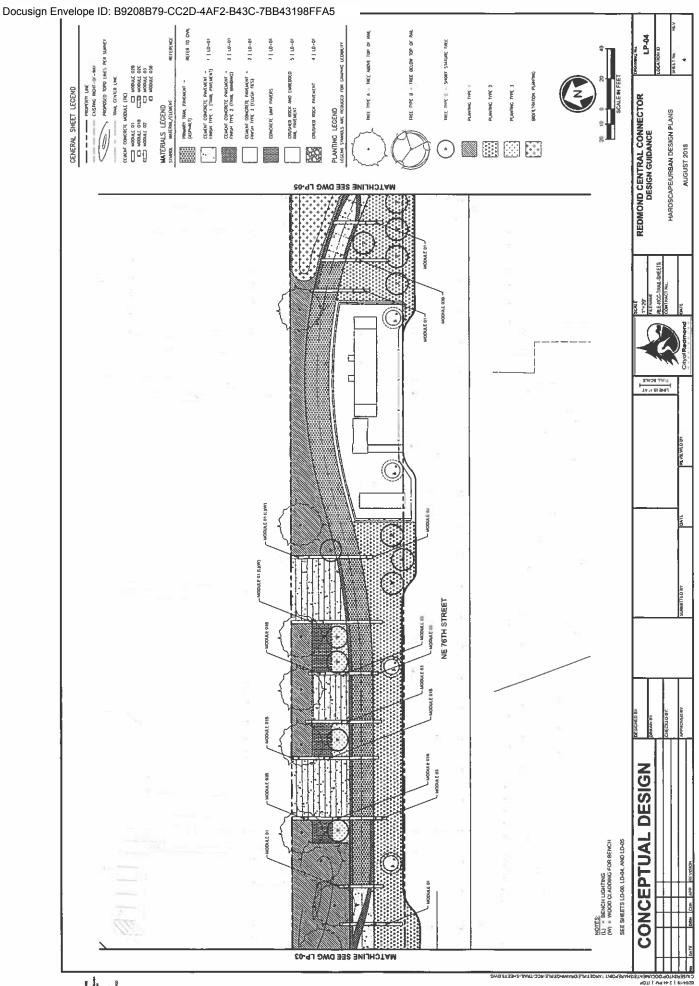
cc: Leonard McGhee (Project Manager, ST) ST Document Control





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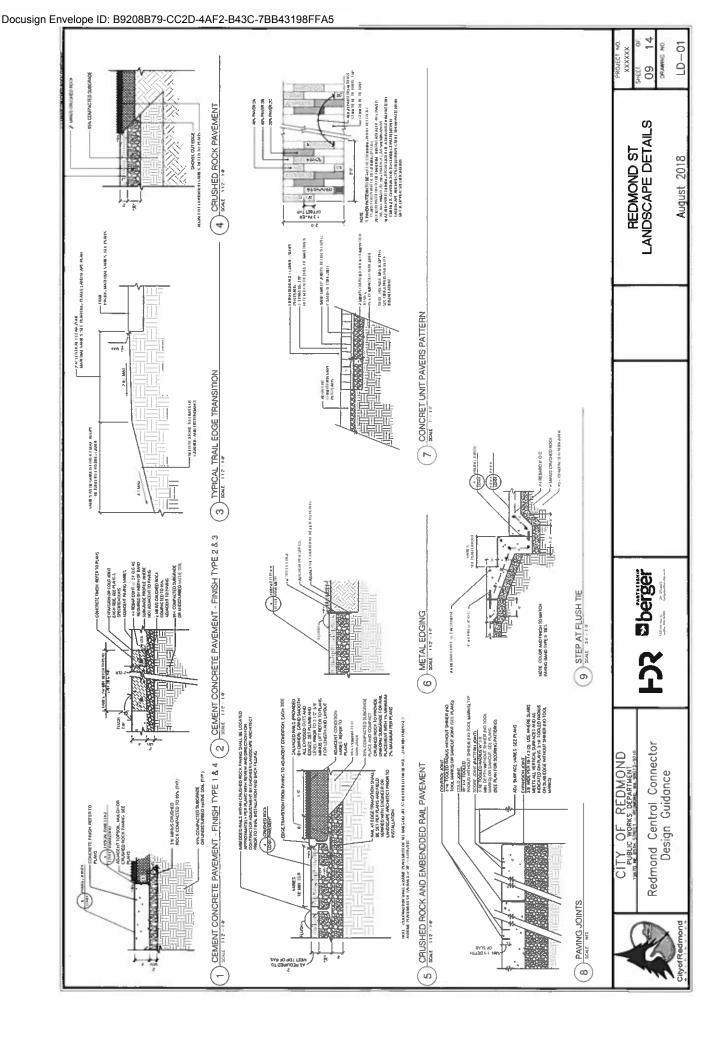
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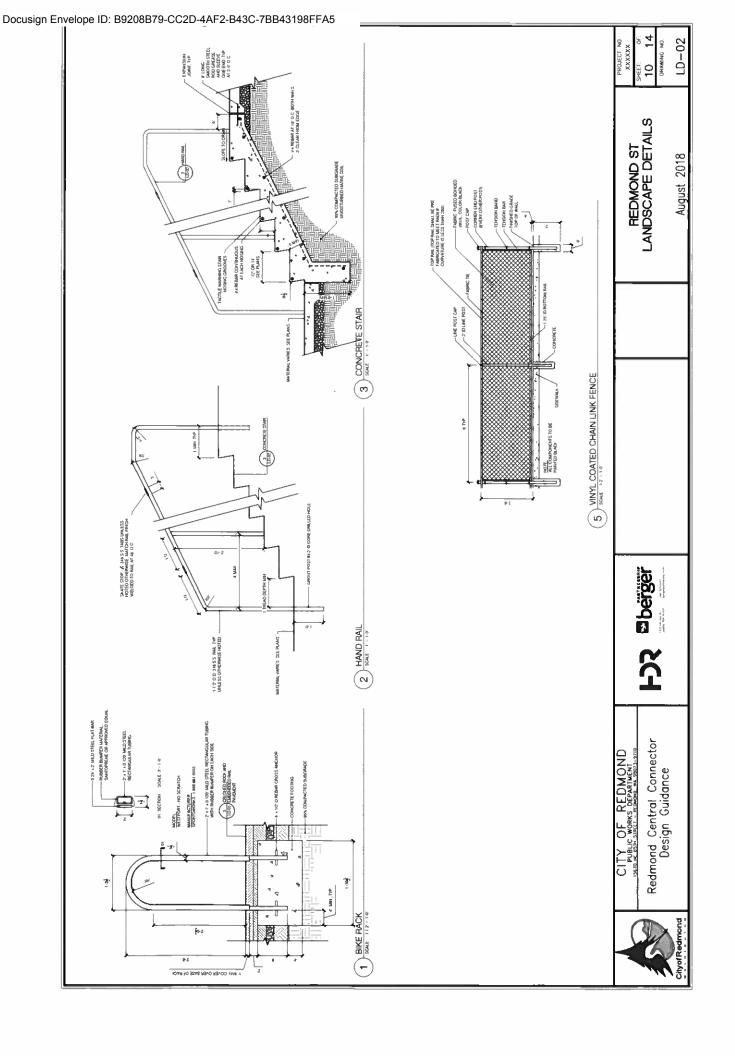
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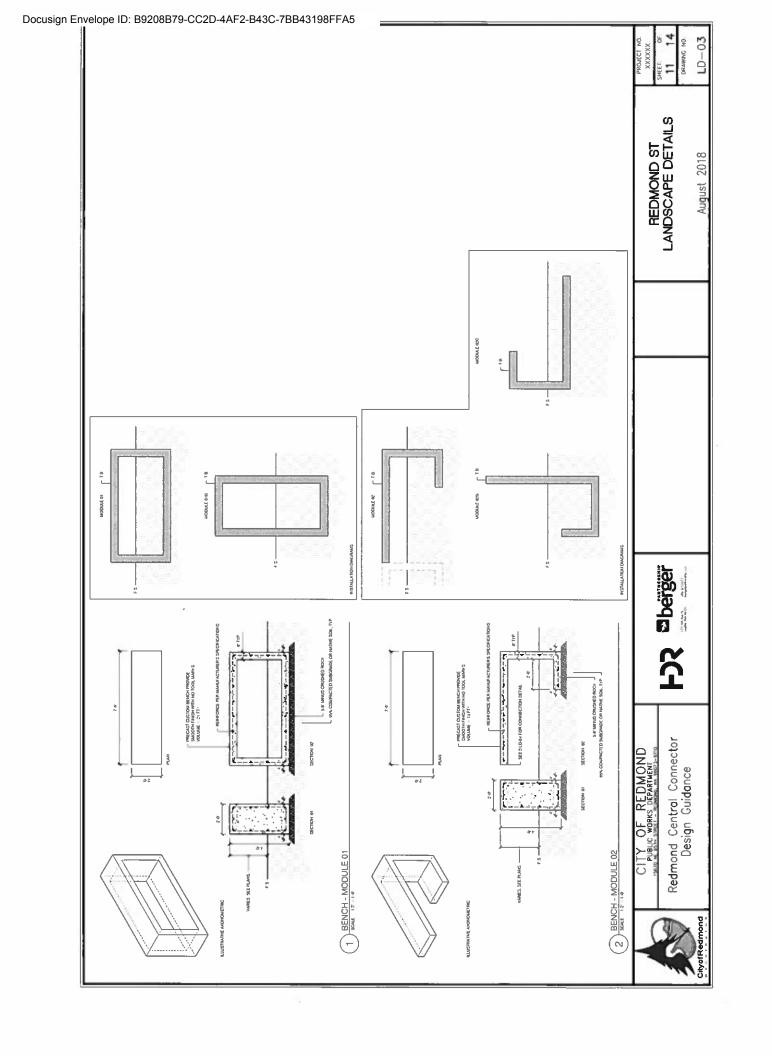
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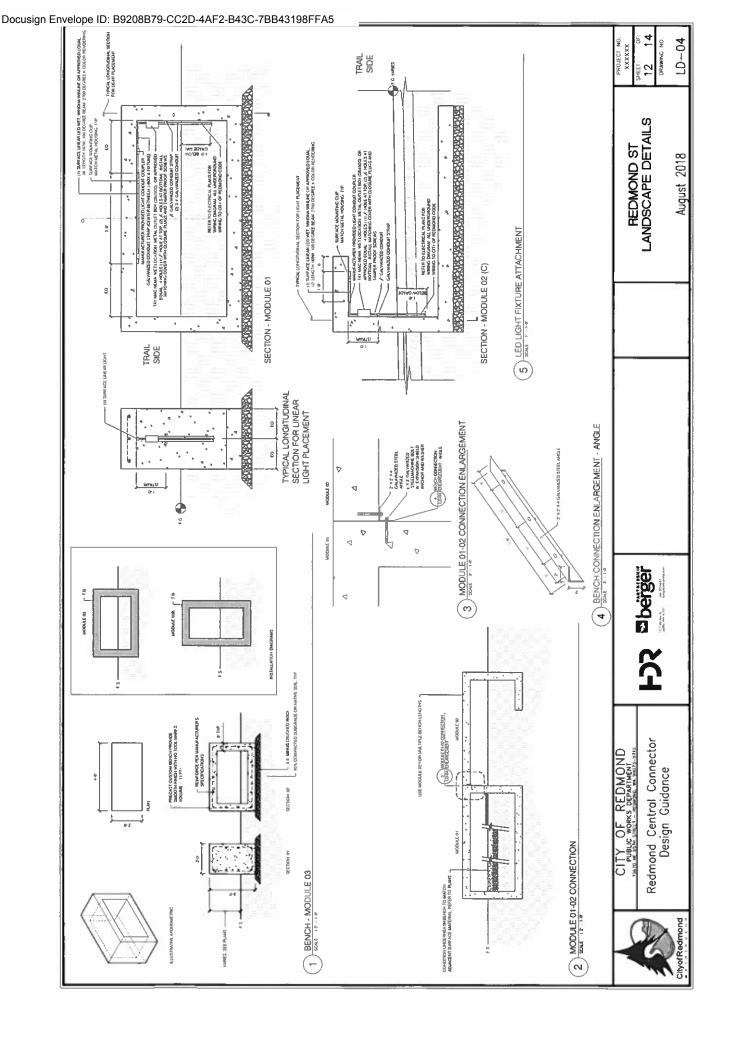
Redmond Central Connector Design Guidance CITY OF REDMOND

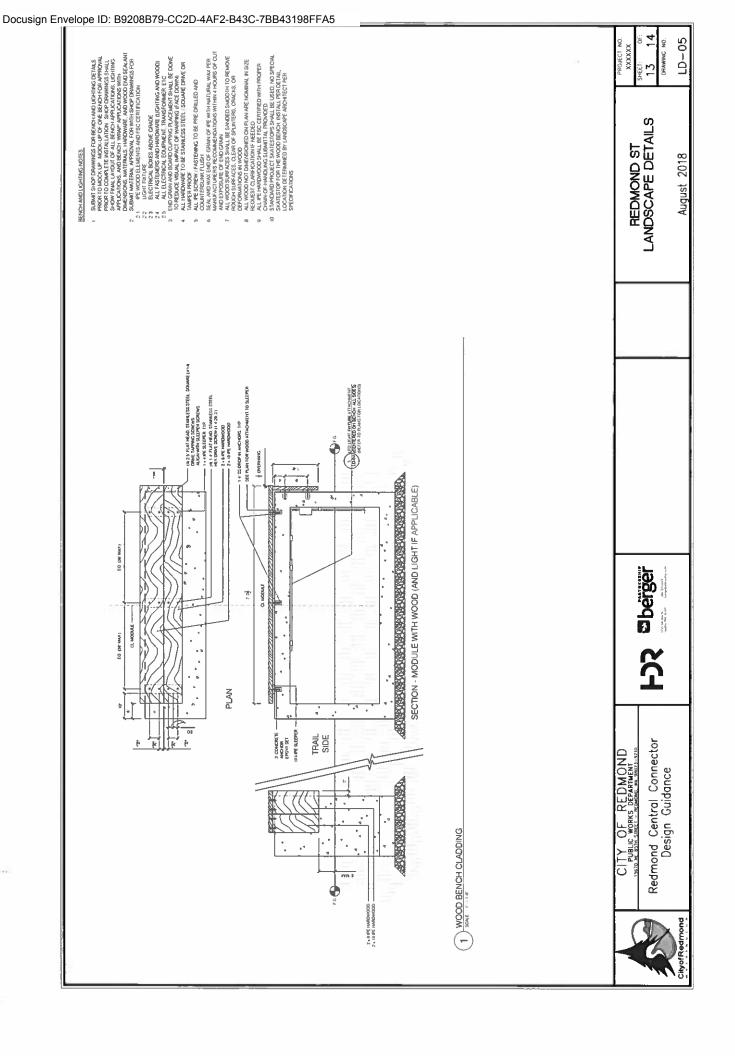
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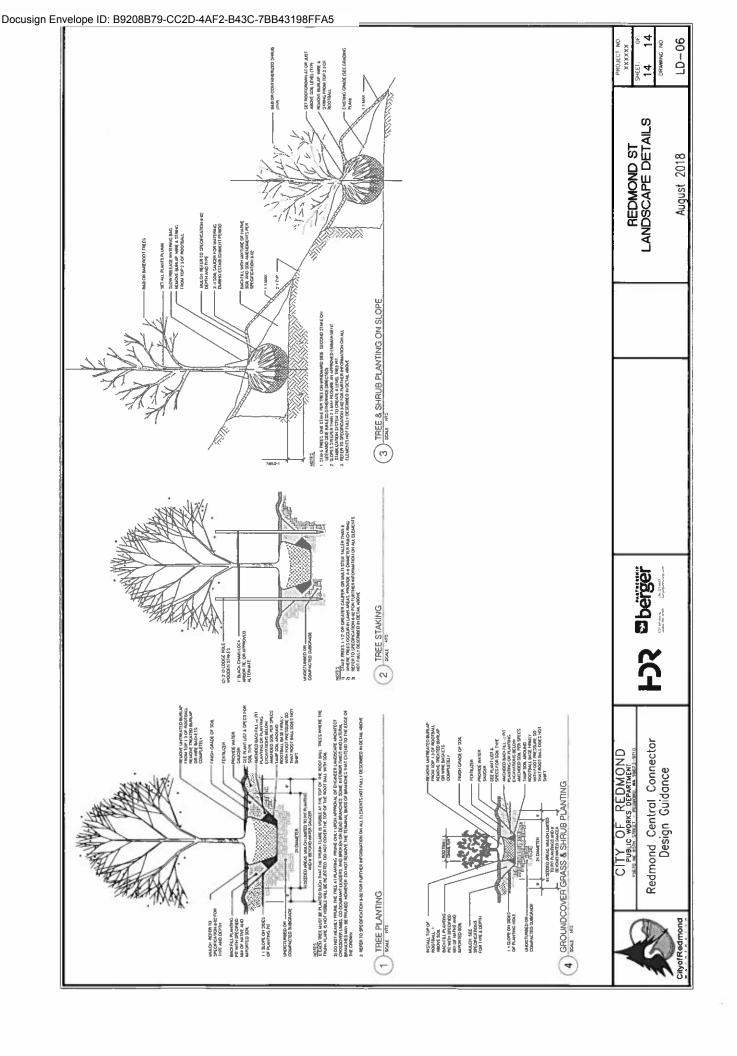


















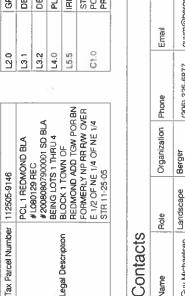
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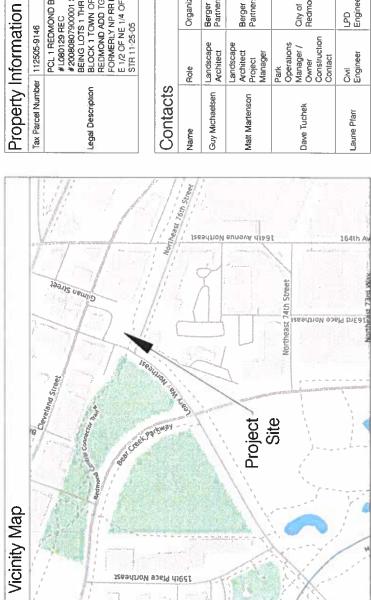
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Contacts				
Name	Role	Organization	Phone	Email
Guy Michaelsen	Landscape Architect	Berger Partnership	(206) 325-6877	guym@bergerpartnership.com
Matt Martenson	Landscape Architect Project Manager	Berger Partnership	(206) 325-6877	mattm@bergerparnership.com
Dave Tuchek	Park Operations Manager / Owner Construction Contact	Gity of Redmond	(425) 556-2318	dtuchek@redmond.gov
Laurie Pfarr	Civil Engineer	LPD Engineering	(206) 725-1211	into@lpdengineering.com



Legal Description

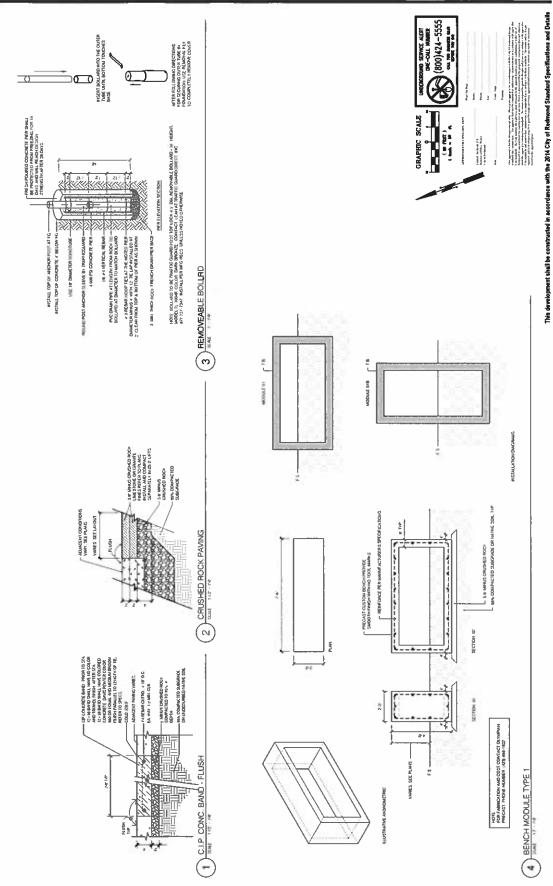


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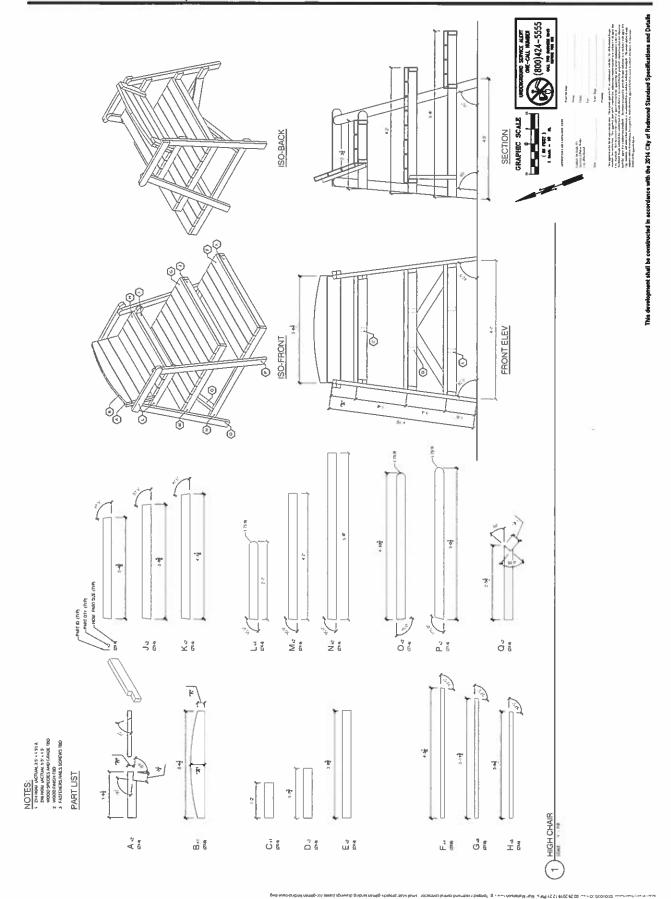


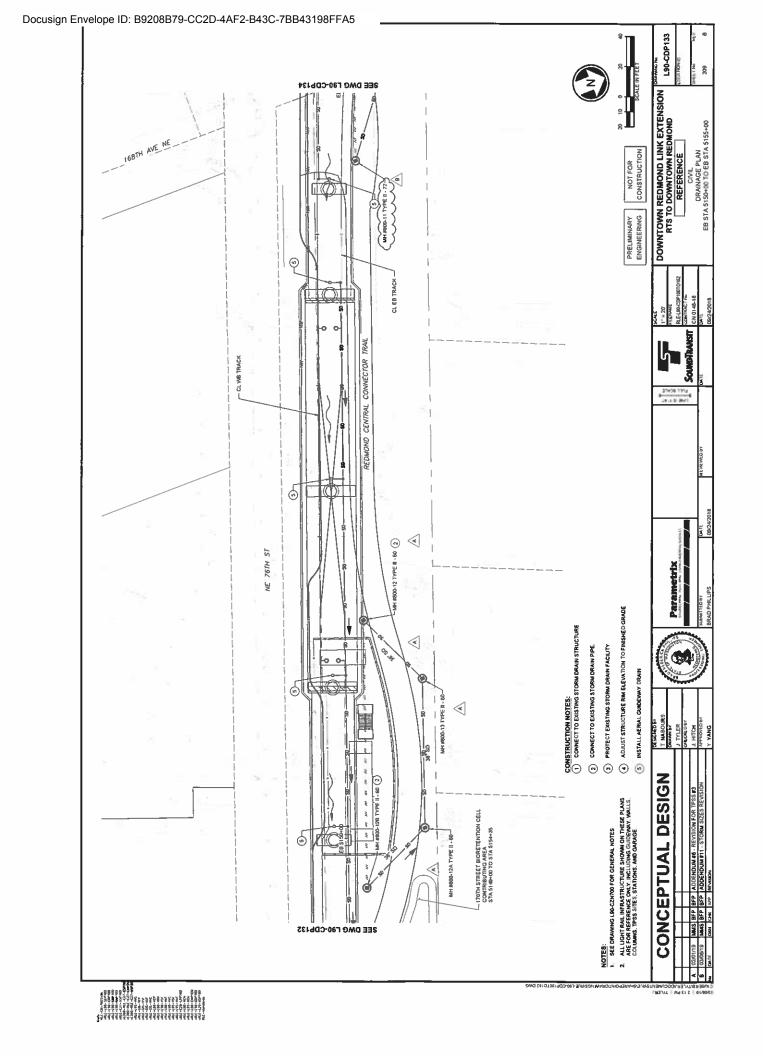


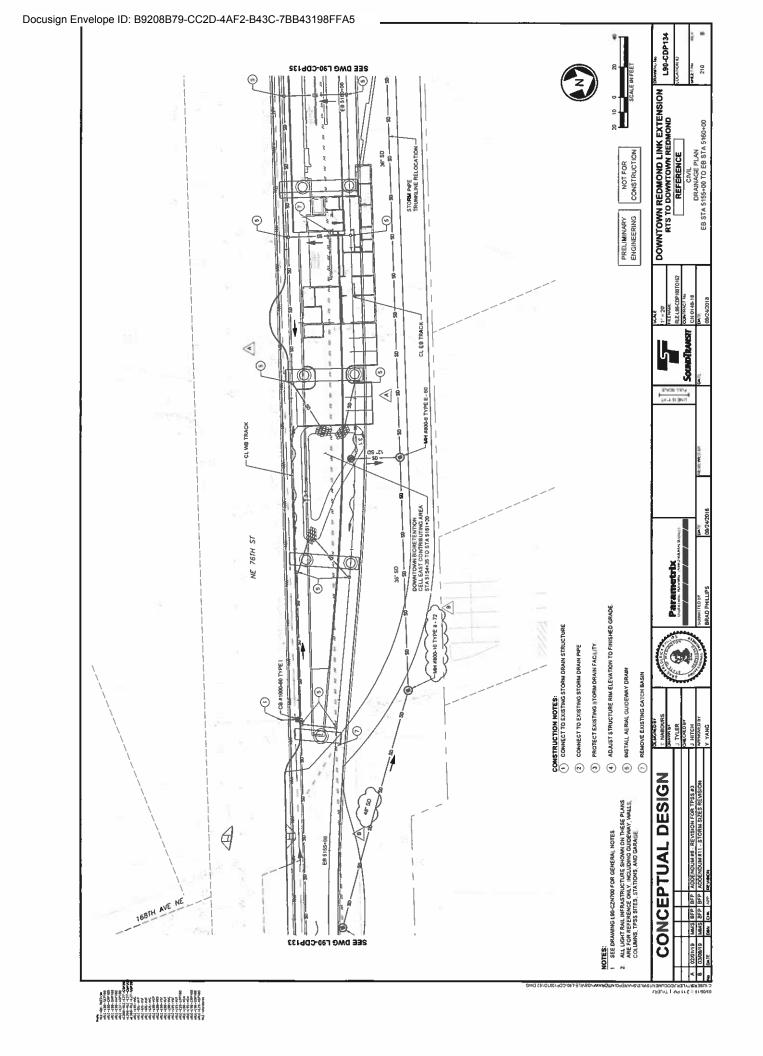


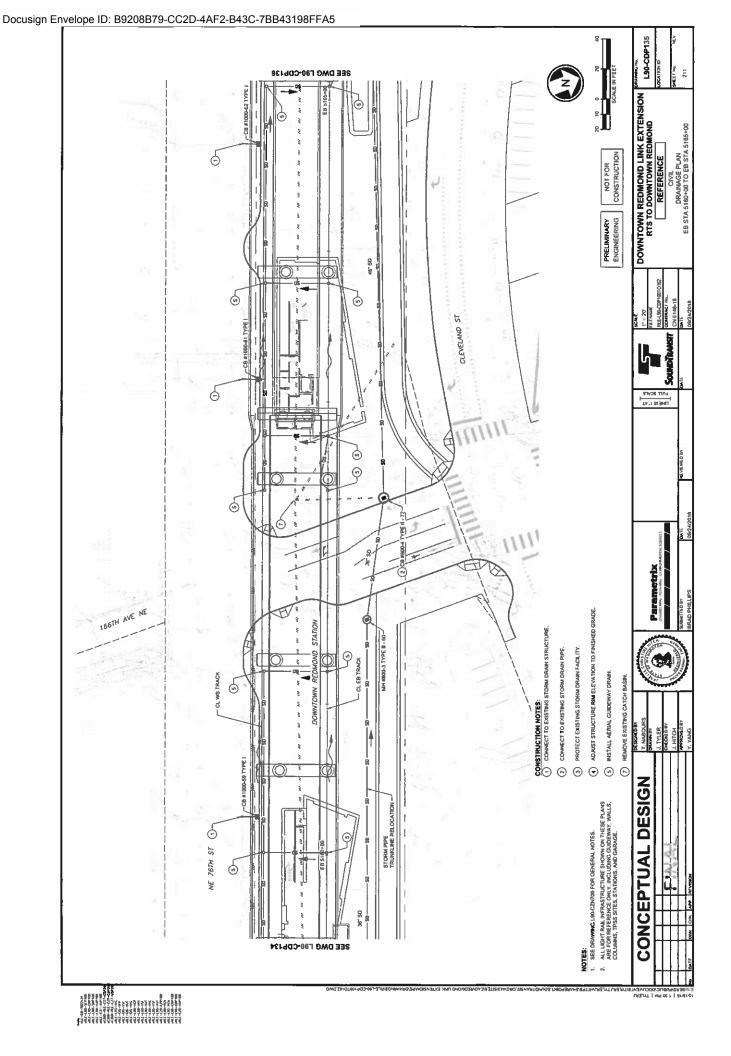






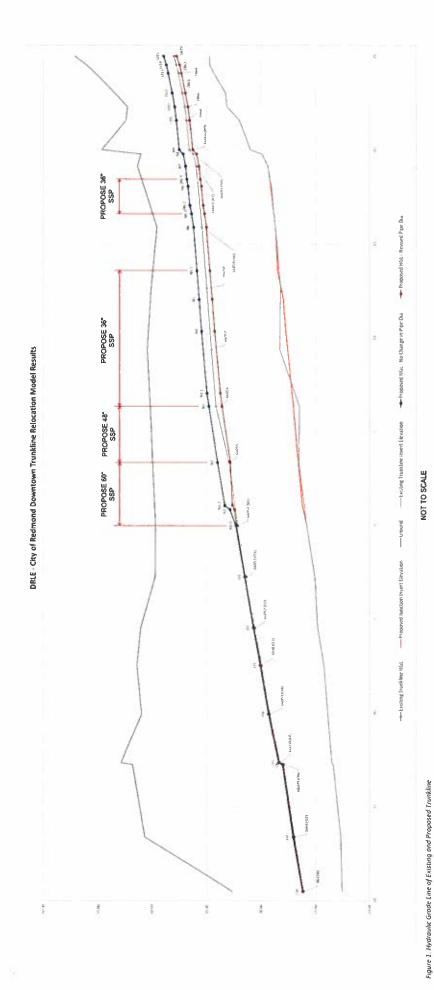


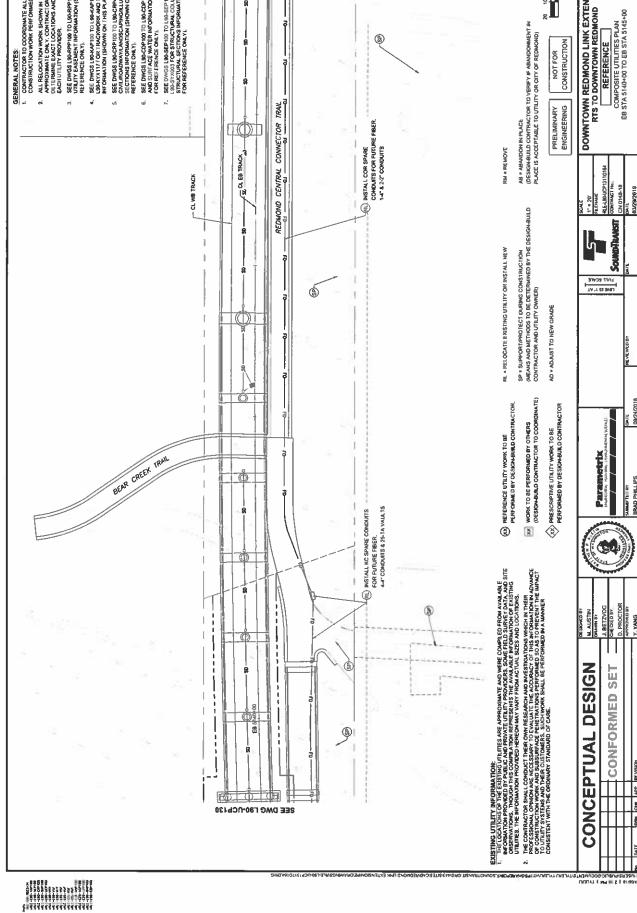




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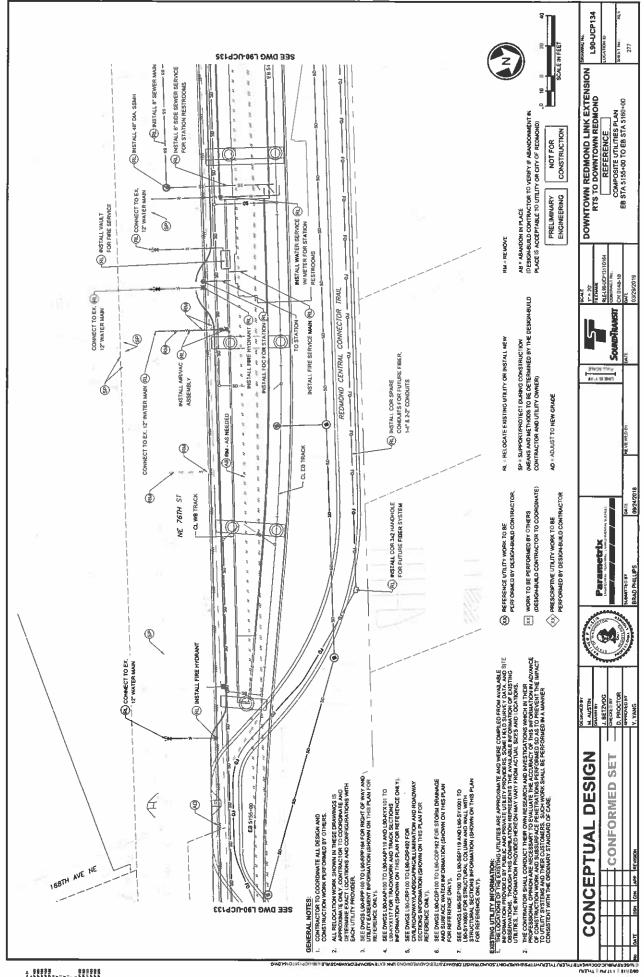


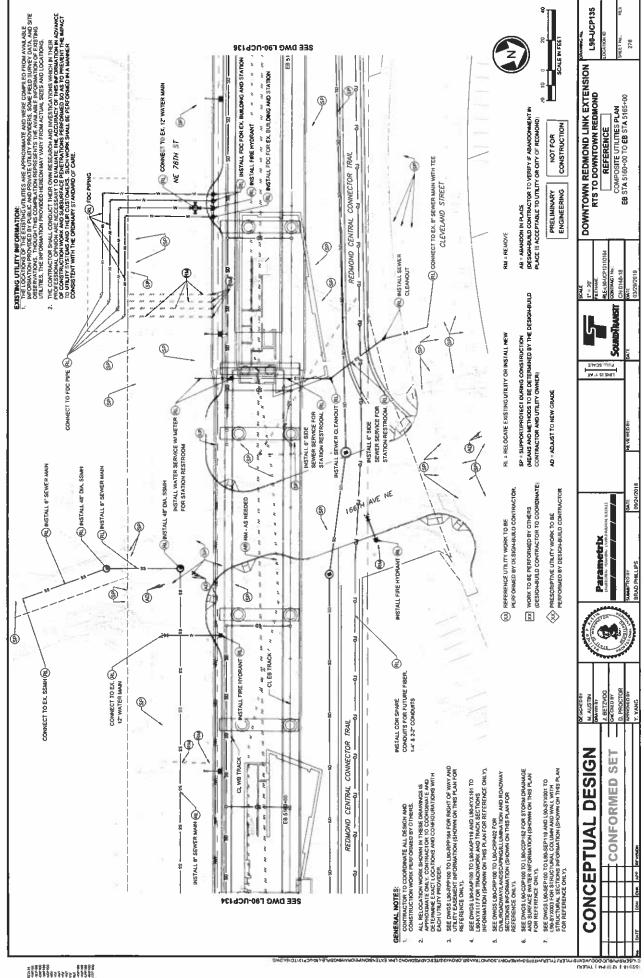


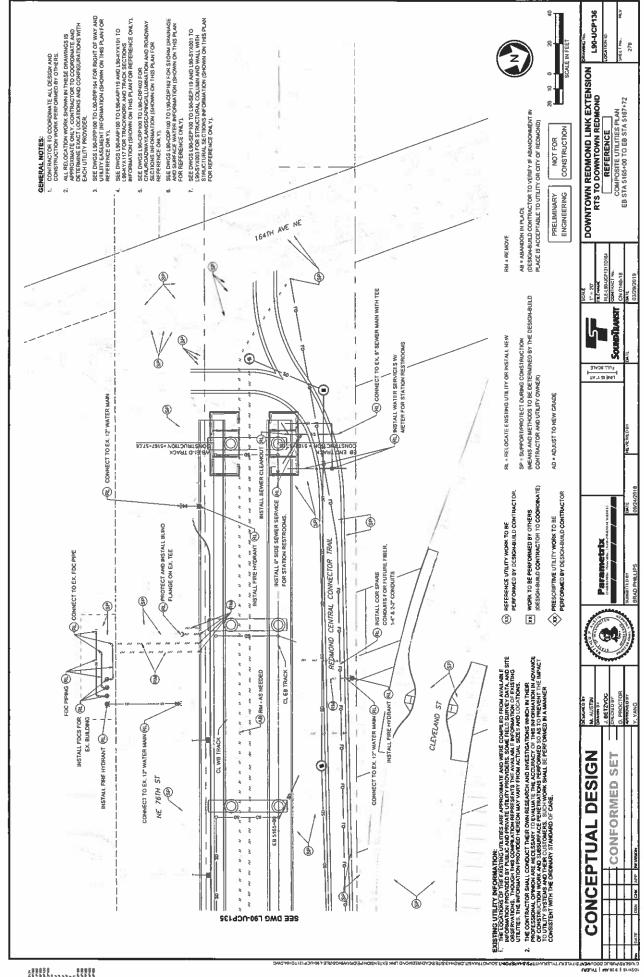








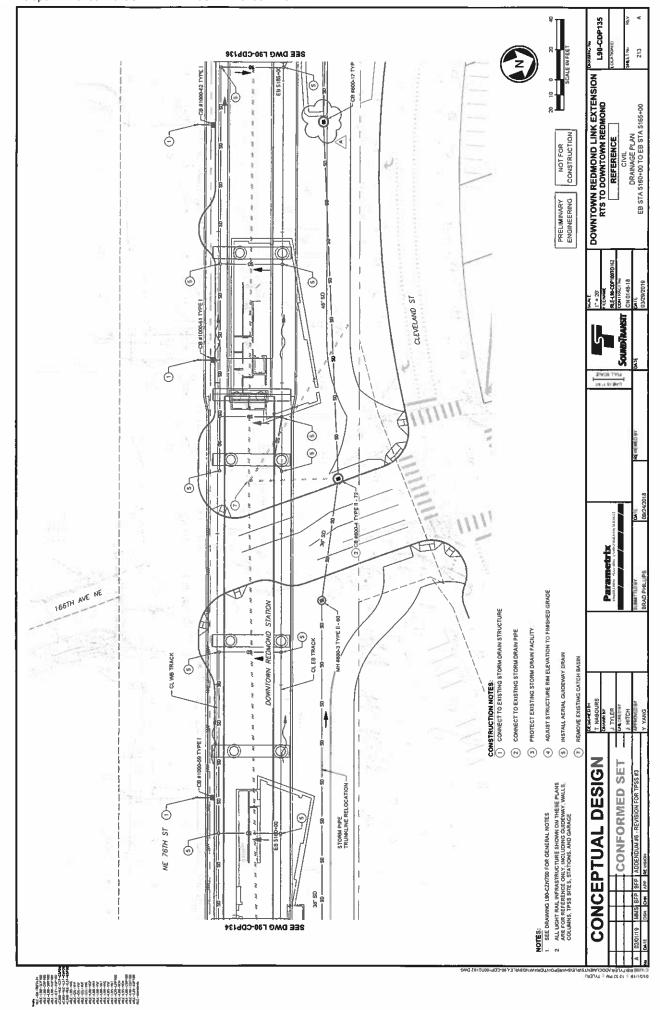




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SEE DMC F80-CD5434

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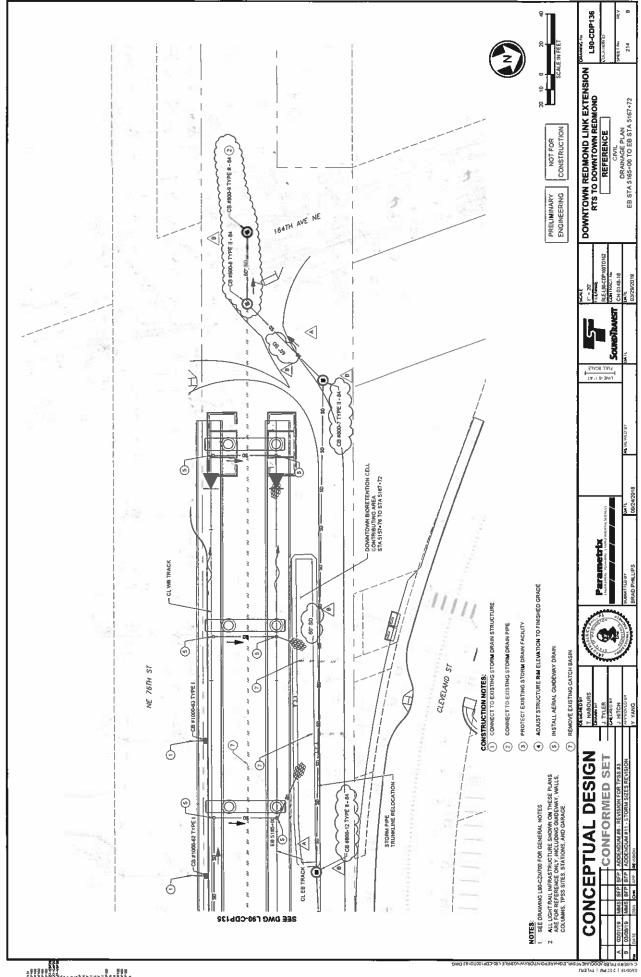


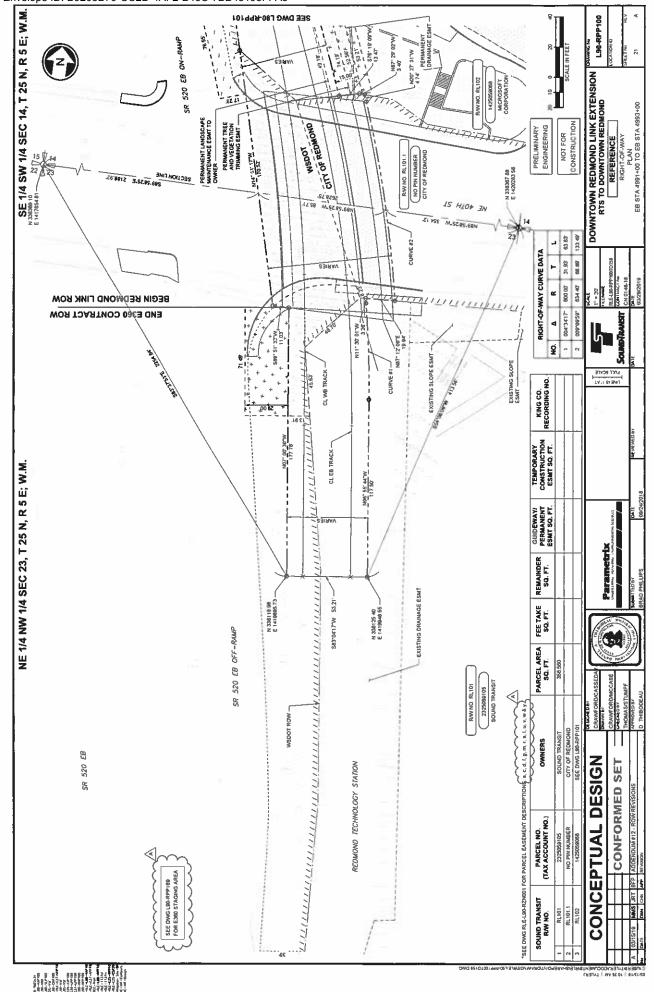
Exhibit E

Cost Estimates

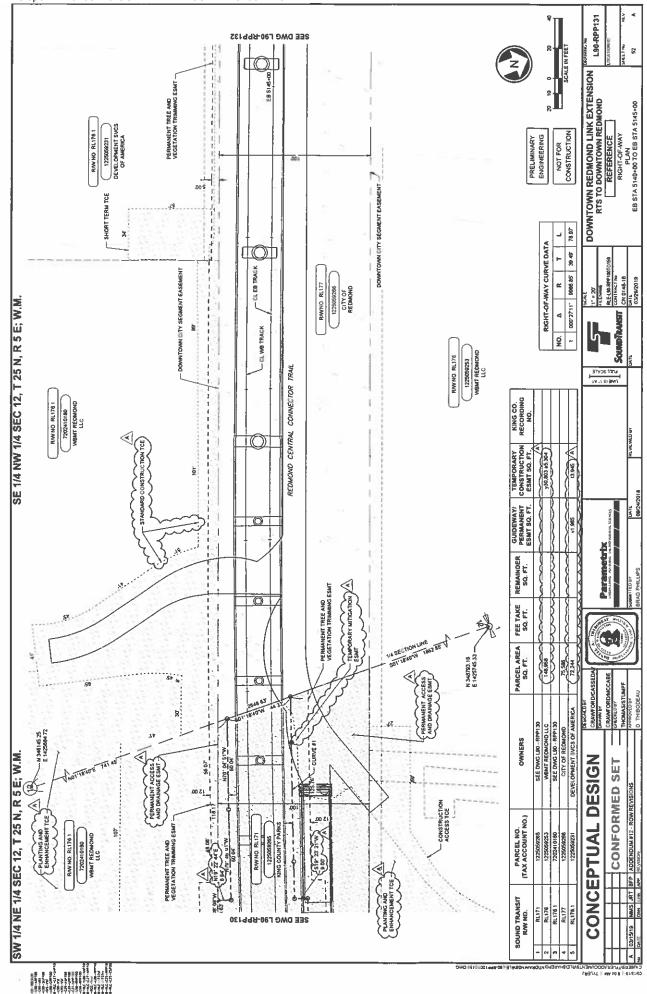
Betterment	DB Bid	ST Fixed Costs	RoW		Private Utility	City	Total Coata
betterment	טופ פוט	31 Fixed Costs	KUW		Relocations	Contingency	Total Costs
51 ST PRV	\$ 430,000	\$ 61,052				\$ 97,500	\$ 588,552
70th St & 202	\$ 1,800,000	\$ 564,962		\$	458,612	\$ 465,000	\$ 3,288,574
76th & 202	\$ 290,000	\$ 118,246				\$ 112,500	\$ 520,746
City RCC Portion	\$ 855,000	\$ 222,453	\$ 325,095	422.00		\$ 212,625	\$ 1,615,173
TOTAL	\$ 3,375,000	\$ 966,713	\$ 325,095	\$	458,612	\$ 887,625	\$ 6,013,045

EXHIBIT F

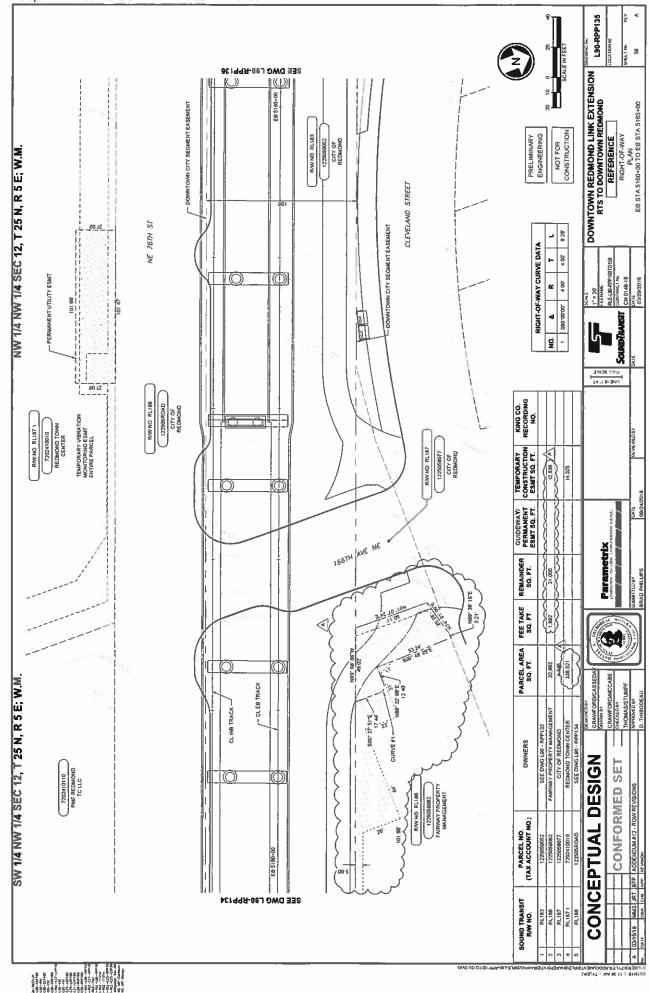
NE 40th Street Undercrossing ROW

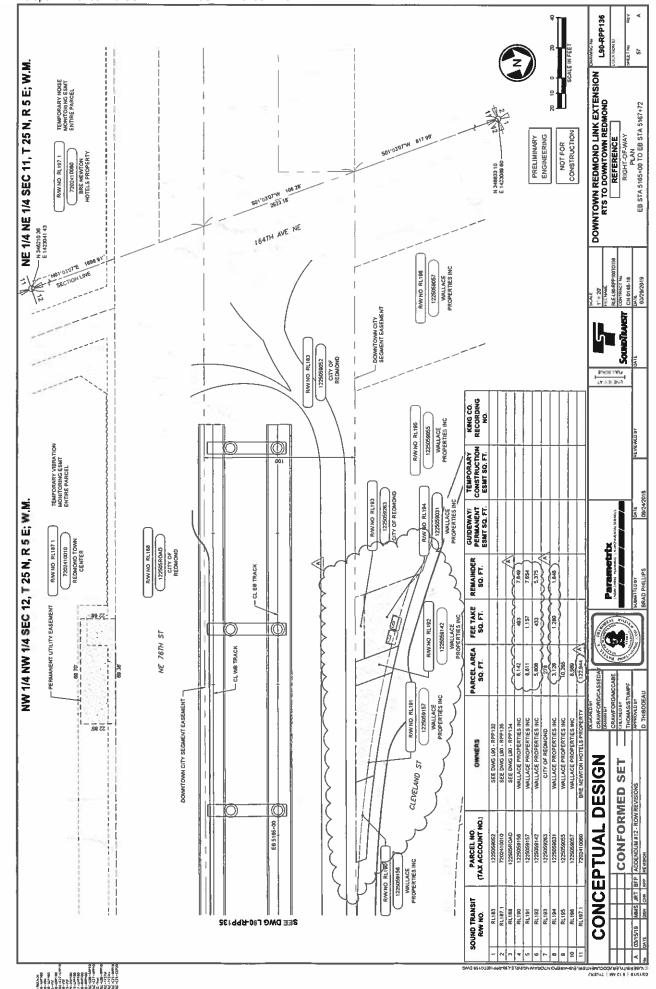


Redmond Central Connector ROW



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NE 70th ST & SR 202 BETTERMENT

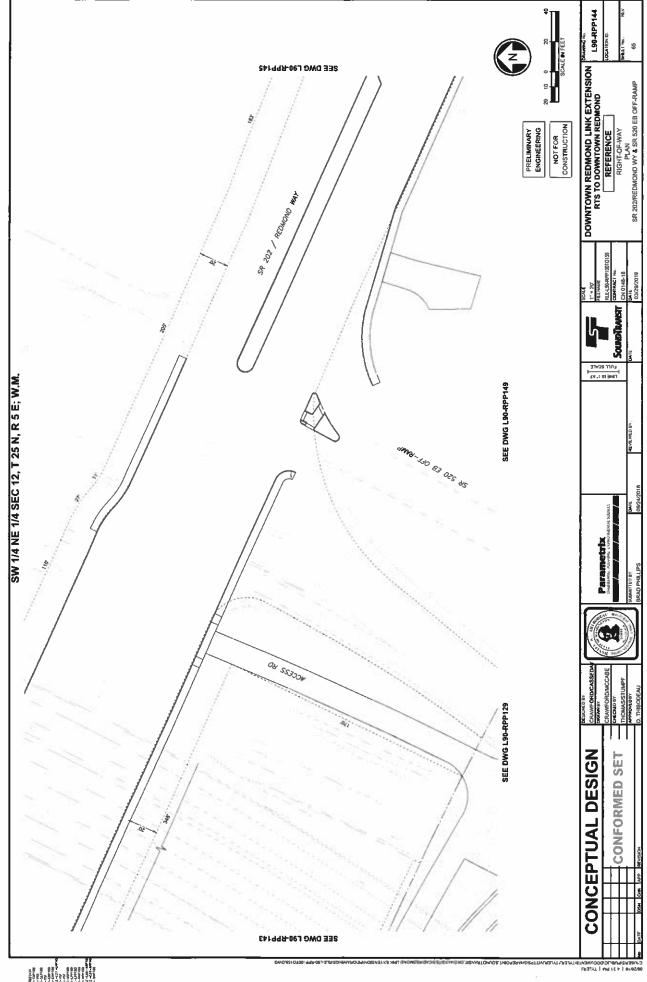
Page 10

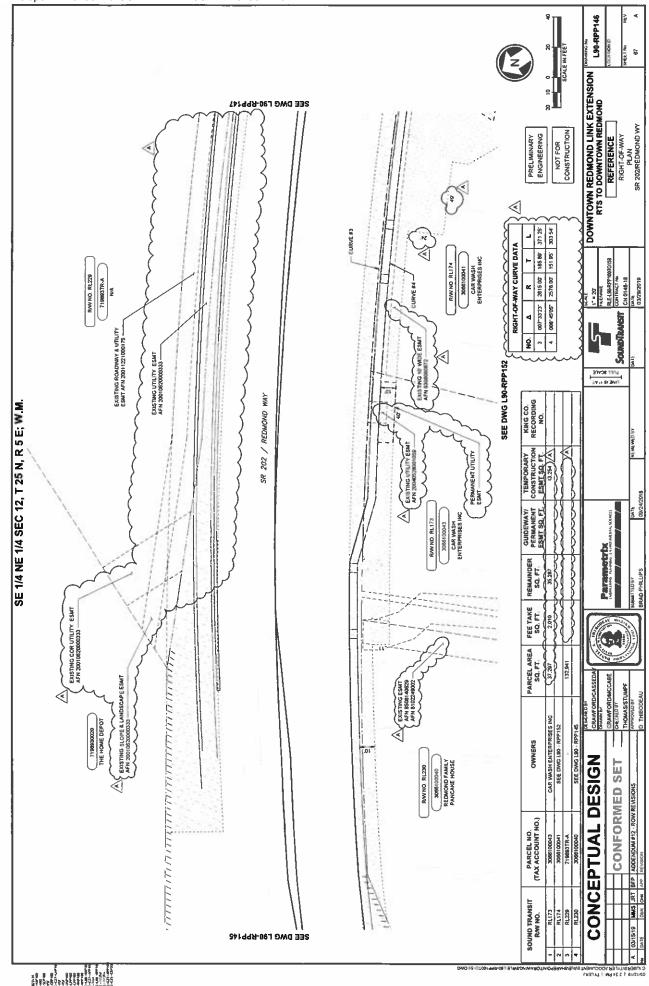
ATTACHMENT 2 SR 202 ROADWAY IMPROVEMENTS DOWNTOWN REDMOND LINK EXTENSION



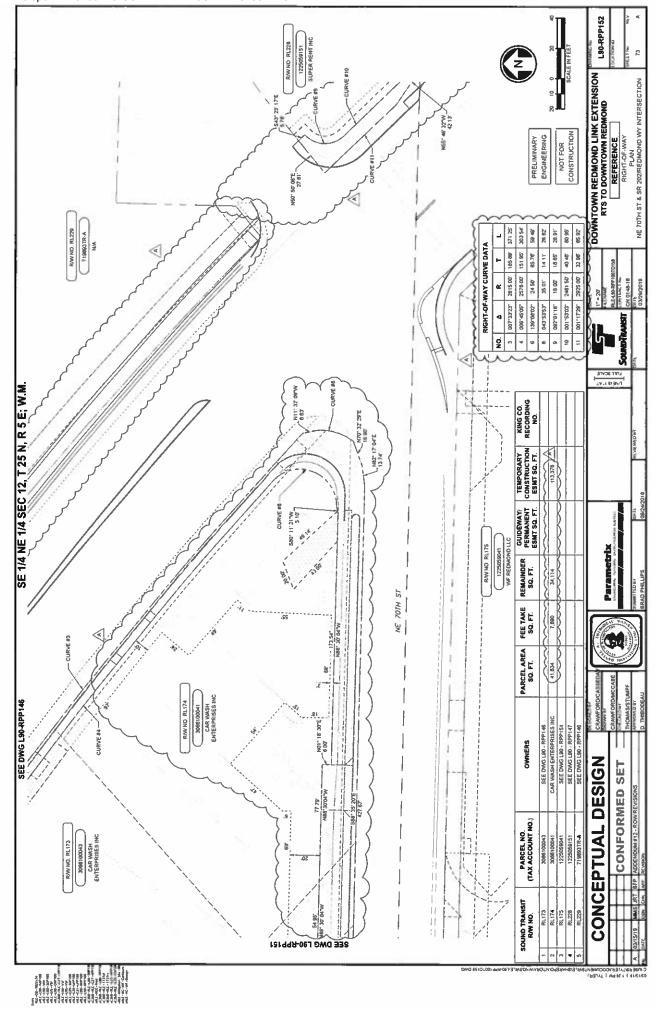
CITY OF REDMOND NEW CHANNELIZATION WORK

CITY OF REDMOND CIVIL WORK

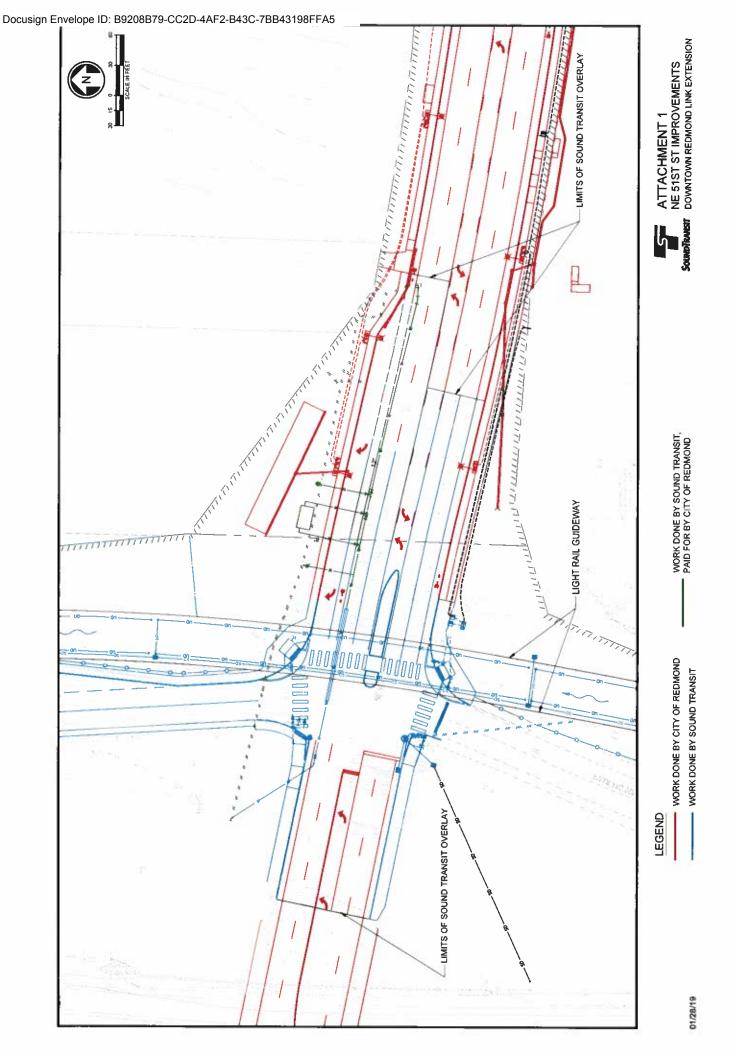


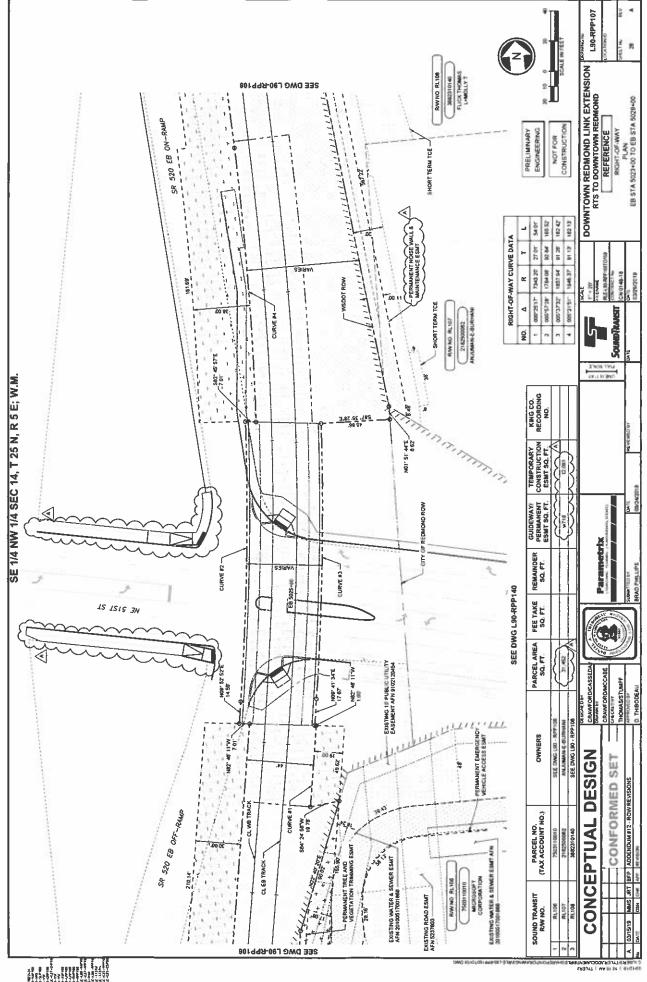


SEE DWG L90-RPP146



NE 51st ST WATER MAIN BETTERMENT





SR 202 & NE 76th ST BETTERMENT

Docusign Envelope ID: B9208B79-CC2D-4AF2-B43C-7BB43198FFA5 L90-RPP162 2 DOWNTOWN REDMOND LINK EXTENSION PART RTS TO DOWNTOWN REDMOND REFERENCE RIGHT (DE-WAY PLAN IN THE SECTION NET TO SER ZOZIFEDMOND WY INTERSECTION NOT FOR CONSTRUCTION PRELIMINARY ENGINEERING SEE DWG L90-RPP163 Մ 37906 T/Nd TV (LS) 3997 EXISTING SLOPE ESMT PER WSDOT PLAN SR 520 MP 12 05 TO MP 12 80 SAMMAMISH RIVER TO JCT SR 202 SW 1/4 NE 1/4 SEC 12, T 25 N, R 5 E; W.M. REMAINDER SQ. FT. FEE TAKE SQ. FT. NE 76TH ST PARCEL AREA CITY OF REDMO OWNERS **CONCEPTUAL DESIGN** CONFORMED SET à. PARCEL NO. (TAX ACCOUNT NO.) TRI SAMA SOUND TRANSIT R/W NO. SR 202 / REDMOND WAY SEE DMC F80-Bbb143

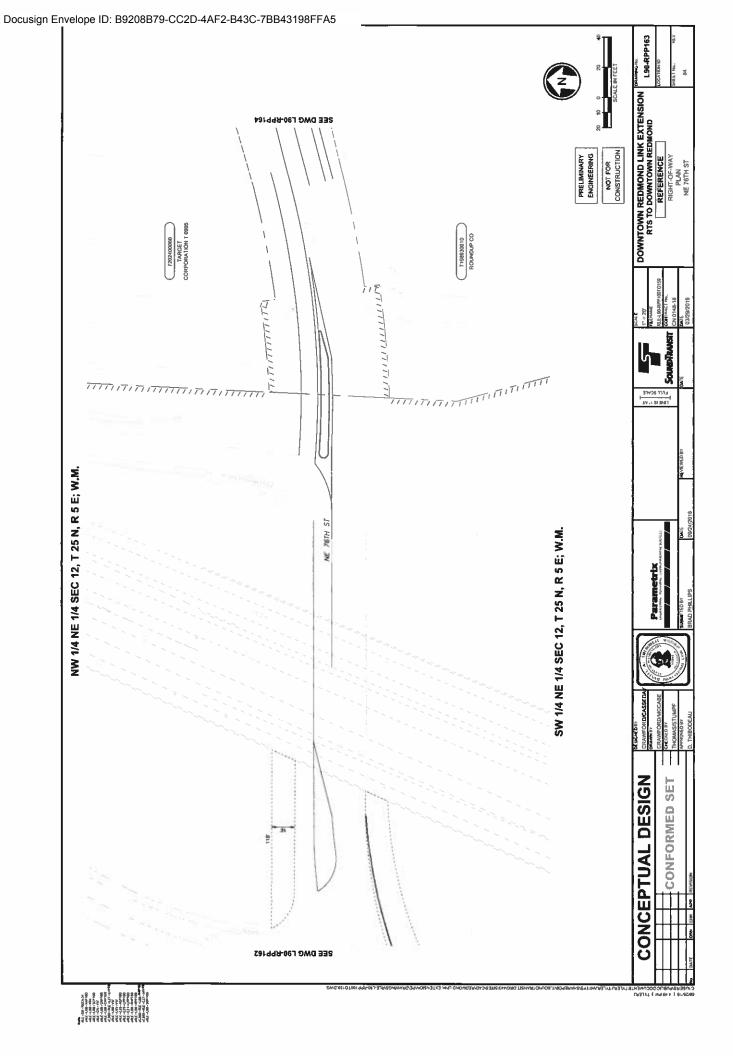


EXHIBIT G

DESIGNATED REPRESENTATIVES

SOUND TRANSIT:

Brian Holloway
East Corridor Design Manager
401 South Jackson Street
Seattle, Washington 98104
Phone: 206-903-7421

Email: brian.holloway@soundtransit.org

CITY OF REDMOND:

Patty Criddle Senior Engineer PO Box 97010 Redmond, WA 98073-9710 Telephone: 425-556-2736

Email: pscriddle@redmond.gov



Connected Community Enhanced Livability Environmental Sustainability

June 25, 2024

Tony Raben
Project Director
Sound Transit
201 South Jackson ST.
Seattle, WA 98105

Re: Redmond Central Connector (RCC) See Loc 11

Change to Project Scope Request -Rev1

Dear Mr. Raben:

To facilitate development adjacent to the RCC Betterment project the City is requesting the following revisions to the Project scope:

Changes to the Project scope are shown the attached plan sheets markups.

- Red areas

o DELETED SCOPE:

- Remove all work related to surface improvements including irrigation installation, plantings, soil amendments, and concrete modules from the project scope.
- Sound Transit will not be held responsible for damage to facilities already installed (such as the storm system) by construction activities performed after the transfer of responsibility.
- Pedestrian lighting is not included in this change to the project Scope.

O ADDED SCOPE:

 Install a minimum of 3" of Crushed Surfacing Top Course. The City will consider this area fully stabilized for purposes related to City Municipal NPDES Permit.

- Blue area

ADDED SCOPE

- Install a temporary irrigation main, valves to the planter areas and connect to the City irrigation system.
- Sound Transit will not be responsible for the maintenance of this temporary irrigation main. Any plantings damaged due to failure to maintain the temporary water main will be removed from the one-year warranty.

City Hall

15670 NE 85th Street PO Box 97010 Redmond, WA 98073-9710 June 25, 2024 Page 2

- Orange and Grey Areas
 - o DELETED SCOPE:
 - Do not install pavers.
 - Exact limits of the scope revision to be identified by the City.
 - This area will not be included in the one-year warranty.
 - o ADDED SCOPE:
 - Install (2) 2'X10" Concrete Bands across the RCC.
 - Install 6-inch thick concrete base slab
 - Install 3.65 inches of HMA PG CL58H-22 over concrete with a bond breaker.
- Plantings removed from the Red Area will be considered as installed for the purposes related to the Tree Mitigation Plan.
- The transfer of responsibility for the area will take place once the RCC Project is Physically Complete but not before 2025. The transfer can happen earlier if Sound Transit determines work is complete in the area.
- 3rd Party facilities, such as the PSE duct bank, are known and will be identified and protected prior to future work in the area taking place.
- The areas will be restored by others in a manner consistent with City Standards.
- The City does not request or expect that the requested scope changes will result in any financial credit or expense for described scope revisions to the RCC project.

If you have any questions, please contact Aaron Noble, the City's Project Manager at (425) 556-2792, abnoble@redmond.gov.

Sincerely,

Vangie Garcia, PE, PMP
Deputy Director - Infrastructure and Mobility

Vangie Garcia 6/25/2024

Attachments:

Attachment A- Plan Sheet Markups

FIRST AMENDMENT

TO

AGREEMENT BETWEEN CITY OF REDMOND AND THE CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY FOR THE FUNDING, DESIGN, AND CONSTRUCTION OF DOWNTOWN REDMOND LINK EXTENSION BETTERMENTS

This First Amendment to Agreement Between City of Redmond and the Central Puget Sound Regional Transit Authority for the Funding, Design, and Construction of Downtown Redmond Link Extension Betterments (the "First Amendment") is made effective as of the date of latest signature, below, by and between the Central Puget Sound Regional Transit Authority, a regional transit authority of the State of Washington ("Sound Transit") and the City of Redmond, a Washington municipal corporation (the "City") (each, individually, a "Party" and, together, the "Parties").

RECITALS

- A. Pursuant to that certain "Agreement Between City of Redmond and the Central Puget Sound Regional Transit Authority for the Funding, Design, and Construction of Downtown Redmond Link Extension Betterments" dated October 18, 2019 (GA 0143-19) (the "Betterment Agreement"), Sound Transit agreed to design and construct improvements to the City's Redmond Central Connector Trail (the "RCC Improvements"), subject to certain cost sharing between the Parties.
- B. Exhibit D to the Betterment Agreement included the conceptual design for the RCC Improvements, including specified plantings and finish levels.
- C. Pursuant to that certain "Light Rail Easement Agreement (Redmond Spur Rail Corridor—Downtown City Segment)" dated April 11, 2012 (the "Sound Transit Easement"), Sound Transit acquired the right to construct, operate, and maintain its light rail transit facilities for the Downtown Redmond Link Extension Project on certain City property, including property upon which Sound Transit is to construct the RCC Improvements under the Betterment Agreement.
- D. The owner and developer of property located adjacent to the portion of the Sound Transit Easement between 170th Avenue Northeast and Downtown Redmond Station and upon which a portion of the RCC Improvements are to be constructed. The developer desires to use a portion of the Sound Transit Easement area adjacent to its property for construction staging (the "Construction Staging Area"), and the City desires to allow same.

- E. The City has requested that a portion of the RCC Improvements be finished to a level appropriate for the developer's use for construction staging instead of being finished to the level identified in the Betterment Agreement, and Sound Transit agrees to same.
- F. Accordingly, the Parties desire to amend the Betterment Agreement to reflect the above-described scope change.

AGREEMENT

NOW, THEREFORE, the Parties agree as follows:

- 1. Exhibit D: Redmond Central Connector Scope and Conceptual Design, is hereby supplemented with the attached Exhibit D.1.
- 2. All other provisions of the Betterment Agreement share remain in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this First Amendment as of the date of latest signature, below.

CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY	CITY
Ву	Ву
Title	Title
Date:	Date:
Approved as to form:	Approved as to form:
By:	By:
Natalie Moore, Senior Legal Counsel	

Attachments:

Exhibit D.1: Scope Revision at RCC Betterment



February 3, 2025

Scott A. Koppelman PPF AMLI Redmond Way, LLC 141 W Jackson Blvd, STE 300 Chicago, IL, 60604-2992

Subject: Letter of Agreement RE: 16771 Redmond Way, Redmond WA - Access and Surface Improvements

Dear Scott Koppelman:

By this Letter of Agreement ("<u>Agreement</u>"), Sound Transit approves PPF AMLI Redmond Way, LLC, a Delaware limited liability company ("<u>Licensee</u>")'s application to access and install surface improvements on property occupied by the Sound Transit Link Light Rail System ("<u>Link System</u>") in the public right of way in the vicinity of 16771 Redmond Way, WA 98052 (the "<u>License Area</u>," as depicted on **Exhibit A**) for the purposes described and pursuant to the conditions set forth in this Agreement.

The City of Redmond (the "City") owns the License Area and Sound Transit has the non-exclusive right to construct, operate, maintain, and own its Link light rail transit system for the Downtown Redmond Link Extension project (the "Project") thereon pursuant to that certain "Transit Way Agreement for the Downtown Redmond Link Extension Project City of Redmond, Washington," authorized by the Redmond City Council on July 16, 2019, as amended (the "Transit Way Agreement") and that certain "Light Rail Easement Agreement (Redmond Spur Rail Corridor—Downtown City Segment)" recorded in King County under Recording Number 20120411001176, as amended (the "Easement"). The City has issued permit no. SITE-2023-02147, dated December 7, 2023, to Licensee (the "City Permit") for the purpose of installing Licensee's Facilities, as defined below in this Agreement.

Pursuant to the April 2019 "Intergovernmental Agreement between Sound Transit and King County for the Operations and Maintenance of the Link Light Rail System," King County, through its Metro Transit Department (the "County"), operates and maintains the Link System on Sound Transit's behalf.

Consistent with the foregoing, Sound Transit and Licensee agree as follows:

- 1. <u>Use of License Area</u>. Licensee may use the License Area as a construction access "haul route" and to install fire safety, landscaping, pedestrian pathway, and other surface improvements (the "Facilities") as further depicted and described on **Exhibit B** (the "Permitted Activities") for as long as this Agreement remains in effect. Licensee agrees that its use of the License Area shall not interfere with the normal operations of the License Area, Sound Transit, or any portion of the Link System. Without limiting the foregoing, Licensee shall, at no time during its use of the License Area, interfere with general purpose vehicular ingress and egress to and from the License Area. Licensee agrees that its use of the License Area shall not interfere with electrically controlled light rail signals, telephone, or other circuits of the Link System, or with any telephone or other company or person operating circuits on the License Area or along the tracks. All of Licensee's activities within the License Area under this Agreement shall comply with any standards imposed on those activities by the City.
- 2. <u>Term; Termination</u>. The rights and obligations conferred by this Agreement shall commence on the effective date of the City Permit and shall terminate immediately upon the earlier of: (1) termination of the City Permit; or (2) Licensee's removal of the Facilities from the License Area. Notwithstanding the foregoing, Sound Transit may terminate this Agreement upon 30 days' advance written notice to

Licensee.

3. Conditions of Use.

- a. Licensee (including Licensee's duly authorized representatives, employees, and agents) will not permit any other party, except Licensee's independent contractors performing the Permitted Activities on the License Area ("Contractors") to enter or use the License Area. Licensee will be responsible for its Contractors' compliance with the terms of this Agreement and shall provide such Contractors with written notice of the requirements contained in this Agreement prior to their entry onto the License Area. Licensee shall be responsible for its Contractors' compliance with all terms and conditions of this Agreement.
- b. Licensee shall coordinate the proposed work schedule with Sound Transit Property Management at propertymanagement@soundtransit.org and, if the License Area is being used for Link operations at the time of the request, Sound Transit's Link Control Center ("LCC") at LinkTrackAccess@soundtransit.org or 206.205.8177 to avoid any conflicts with Sound Transit's construction and/or operations.
- c. Licensee shall not, and shall prohibit its Contractors from, parking any vehicles, placing any equipment, or storing any materials on the License Area within 10 feet of the track.
- d. Licensee shall not, and shall prohibit its Contractors from, parking any vehicles, placing any equipment, or storing any materials on the License Area without first obtaining Sound Transit's prior written approval, which approval Licensee shall obtain by contacting Sound Transit Property Management at propertymanagement@soundtransit.org and, if the License Area is being used for Link operations at the time of the request, LCC at LinkTrackAccess@soundtransit.org or 206.205.8177.
- e. Licensee shall contact the applicable one-number locator service and Sound Transit Facilities at 206.553.3789 or LinkFacilitiesST@soundtransit.org to locate existing underground utilities, transmission lines, and private fiber optics communications lines. Licensee shall be responsible for any damage to any utility caused by Licensee or its Contractors in violation of Chapter 19.122 RCW.
- f. Licensee shall be responsible for the proper removal and disposal of any debris and trash resulting from its or its Contractors' use of the License Area. Materials such as mud, soils, cutting slurry, etc. shall be collected and disposed of at an appropriate disposal site. Neither Licensee nor its Contractors shall dispose of hazardous materials on the ground surface of the License Area. Licensee shall be responsible for cleaning and remediating damage to the Licensee arising from any source arising out of its use of the License Area.
- g. Licensee will not engage in, and shall prohibit its Contractors from engaging in, any loud or objectionable behavior in the License Area.
- h. All activities on the License Area pursuant to this Agreement shall comply with all federal, state, and local laws and all Sound Transit rules and regulations. Illegal activities are prohibited under this License.
- i. Licensee shall be responsible for any damage done to the License Area by Licensee or its Contractors. Prior to commencing and while performing the Permitted Activities, Licensee shall identify and protect all existing improvements within the License Area.
- j. Neither Licensee nor its Contractors will interfere with Sound Transit, the County, or those entities' authorized representatives' access to the License Area.

- k. Licensee accepts the License Area in an "as-is" condition. Sound Transit has no obligation to provide HVAC, water, sewer, or other utilities. Sound Transit has no obligation to provide restroom facilities or restroom supplies.
- 1. Licensee and its Contractors are not permitted to block any fire safety system component, emergency exits, security cameras, maintenance access points, ticket vending machines, information boards or emergency call boxes. Licensee must conduct the Permitted Activities a minimum of 15 feet from any stairway, escalator, elevator, entrance, or customer service counter.
- m. Licensee will keep the License Area secured at all times when not in use to prevent access by anyone other than Licensee.
- 4. <u>Contractor Approval / Track Access</u>. Prior to Licensee's exercise of any rights under this License, Licensee must, and shall require its Contractors to:
 - a. If the License Area is in the care, custody and control of Sound Transit's contractor: Obtain written approval from Stacy and Witbeck/Kuney by contacting Gavino Rodriguez at grodriguez@stacywitbeck.com, or such other contact as Sound Transit may hereinafter designate (the "Sound Transit Contractor"). Licensee shall coordinate with the Sound Transit Contractor to schedule Licensee's access to the License Area and shall comply with any reasonable conditions imposed by the Sound Transit Contractor on Licensee's performance of the Permitted Activities in the License Area.
 - b. <u>If the License Area is being used for Link light rail operations</u>: Apply for a Link track access permit by contacting LinkTrackAccess@soundtransit.org.
- 5. <u>Construction of Facilities</u>. The Facilities shall be constructed by a licensed contractor in accordance with drawings approved in advance by Sound Transit and in accordance with all laws, rules, regulations, ordinances, and requirements of governmental agencies, offices, and boards having jurisdiction.
- 6. <u>As-Builts</u>. An engineered plan including the project location, applicable notes, survey control, and the full extent of work, including sections and applicable details shall be submitted to propertymanagement@soundtransit.org prior to engaging in any of the Permitted Activities on the License Area. Plans not readable as determined by Sound Transit shall be rejected.

Within 90 days of work completion, "as-built" documents based on the plans earlier provided, shall be submitted to propertymanagement@soundtransit.org that show the Facilities as constructed.

The as-built documents shall:

- a. Include, at a minimum:
 - i. Project Cover Sheet.
 - ii. Plans, profiles, and details.
 - iii. Abbreviations and symbols sheet.
 - iv. Horizontal and vertical control notes and plans. (Note: For substantial projects occurring primarily within Sound Transit Right-of-Way, Licensee shall coordinate with a Sound Transit utility engineer regarding use of Sound Transit datum standards.)
 - v. Northing and Easting calls on each drawing sheet. Indicate Northing and Easting calls for all angle points, 3 points on any curve and a minimum of two calls on a sheet with a straight line.

- vi. Combined conversion factors to convert as-built data to Washington State Plan Coordinate system (US. Foot Coordinates).
- vii. Identification of size, material, quantity, and type (water, sewer, storm power, fiber optics) of facility.
- b. Be submitted as full-size, single sheet PDFs, at 300dpi min. and in the current version AutoCAD format and include all files needed to reproduce the drawings from CAD.
- 7. Permits and Licensee. Licensee is solely responsible for securing, and for requiring its Contractors to secure, any and all required permits, franchises, and licenses ("Permits") at Licensee's expense. Consistent with Licensee's indemnity obligations in this License, Licensee shall be solely responsible for and any costs, damages, or liabilities arising from Licensee or its Contractors' failure to obtain any Permits.

8. Entry by Licensee.

- a. At least three days prior to commencing any Permitted Activities on the Property, Licensee shall notify Sound Transit's Property Management Department at propertymanagement@soundtransit.org to coordinate its work schedule with Sound Transit and to submit a copy of any required Link Track Access Permit(s).
- b. After the initial entry during any period of construction, Licensee shall notify Property Management at propertymanagement@soundtransit.org each morning prior to its or its Contractors' entry onto the Property, or at other such interval as may be mutually agreed upon by the Parties.
- c. After initial construction of the Facilities, when Licensee or its Contractors perform non-emergency work on the Facilities, Licensee shall notify Sound Transit Property Management at propertymanagement@soundtransit.org at least 48 hours in advance of the desired access and shall coordinate its work schedule with Sound Transit. If Licensee must make emergency repairs to its Facilities, Licensee shall contact LCC at 206-205-8177 to obtain immediate access and to initiate coordination with Sound Transit in response to the emergency. Licensee may make emergency repairs to its Facilities as described herein only in instances when there is immediate danger to human health and safety.
- d. Sound Transit may implement other reasonable conditions for Licensee's and its Contractors' access to the License Area.
- 9. <u>Safety</u>. Licensee shall conduct, and require its Contractors to conduct, their activities in the License Area in a safe manner. Licensee shall be solely responsible for the safety of all persons and property during its and its Contractors' use of the License Area. Licensee shall maintain the Facilities in conformity with all applicable laws and regulations.
- 10. <u>Restoration and Removal</u>. Licensee shall, after any installation, construction, maintenance, repair, relocation, Permitted Activities, or removal of the Facilities, promptly restore the License Area to as good or better condition than that which existed prior to the commencement of such work and consistent with any additional City or Sound Transit standards hereinafter identified by those entities. Upon termination of this License, or if Licensee abandons the Facilities, Licensee shall remove the Facilities at its own expense. If Licensee fails to remove the Facilities consistent with its obligations contained herein, Sound Transit may remove the Facilities and charge Licensee for the cost of same.
- 11. <u>Reservation of Rights; Relocation and Removal of Facilities</u>. Sound Transit reserves unto itself the right to license, lease, or otherwise grant rights within the License Area to others and this Agreement shall not prohibit or prevent Sound Transit from using the License Area. Licensee agrees that Sound Transit may, for any reason, including, but not limited to, its own proposed use of the License Area, require Licensee to relocate or remove the Facilities upon 30 days' advance written notice. Such relocation or removal shall be

conducted at Licensee's sole expense and shall be subject to the restoration provisions of the foregoing section.

12. Indemnification. Licensee agrees to defend, indemnify, and hold harmless Sound Transit and its officers, directors, agents, and employees and the County and its officers, directors, agents, and employees (the "Indemnified Parties") from and against any and all claims, demands, or causes of action and the resulting losses, costs, expenses, reasonable attorney's fees, liabilities, damages, orders, judgments, or decrees ("Claims") arising out of the acts, errors, or omissions of Licensee or its Contractors related to or in any way arising out of the Permitted Activities; the installation, operation, maintenance, repair, or removal of the Facilities; Licensee's or its Contractors' failure to obtain necessary property rights and/or permission to install, operate, or maintain the Facilities or to use the License Area; or Licensee's breach of this License. To the extent that RCW 4.24.115 applies, the indemnity provisions provided herein shall be valid and enforceable only to the extent of the negligence of Licensee and/or its Contractors and shall not apply in the event that any Claims arise out of Sound Transit's sole negligence. Licensee specifically assumes potential liability for any claim, demand, and/or cause of action brought by, or on behalf of, any of its employees or agents against the Indemnified Parties. FOR THIS PURPOSE, LICENSEE, BY MUTUAL NEGOTIATION, HEREBY WAIVES, WITH RESPECT TO THE INDEMNIFIED PARTIES ONLY, ANY IMMUNITY THAT WOULD OTHERWISE BE AVAILABLE TO LICENSEE AGAINST SUCH CLAIMS UNDER THE INDUSTRIAL INSURANCE PROVISIONS OF TITLE 51 RCW OR ANY APPLICABLE INDUSTRIAL INSURANCE, DISABILITY, OR EMPLOYEE BENEFIT ACT OF ANY JURISDICTION THAT WOULD BE APPLICABLE IN CASE OF SUCH A CLAIM.

In addition to all other indemnities provided in this License, Licensee agrees to protect, defend, and indemnify and hold the Indemnified Parties harmless for any Claims associated with the presence, removal, or remediation of any Hazardous Substance (including petroleum and gasoline products) that are released onto or from the License Area, or otherwise come to be located on the License Area as a result of Licensee's or its Contractors' use of the License Area, including the construction, reconstruction, alteration, maintenance, operation, repair, removal, or relocation of Licensee's Facilities, whether such Claims are made, commenced, or incurred during the term of this Agreement or after the expiration or termination of this Agreement as a result of events occurring during the term of this License. "Hazardous substances," for purposes of this section, include, but are not limited to, those substances included within the definition of "hazardous substances," "hazardous materials," "toxic substances," "hazardous wastes" or solid wastes in any federal, state, or local law, statute, ordinance, regulation, order, or rule pertaining to health, industrial hygiene, environmental conditions, or hazardous substances. "Costs" shall include, but not be limited to, all response or remediation costs, disposal fees, investigation costs, monitoring costs, civil or criminal penalties, attorney's fees, and other litigation costs incurred in connection with such response or remediation.

This indemnification section shall survive the expiration or earlier termination of this License.

13. Insurance.

- a. Licensee shall procure and maintain, and shall require its Contractors to procure and maintain, at their respective expense, applicable to all activities of Licensee and its Contractors during the Term of this License, and provide proof to Sound Transit that Licensee and its Contractors have secured, the following insurance policies or their equivalent by means of self insurance:
 - i. Commercial Liability insurance in amounts of not less than a combined single limit of \$2,000,000 or in such other amounts as Sound Transit may from time to time reasonably require, insuring Licensee and its officers, directors, agents, and employees; Licensee's Contractors and their officers, directors, agents, and employees; Sound Transit and its officers, directors, agents, and employees; and the County and its officers, directors, agents, and employees against all liability for injury to or death of a person or persons or damage to property arising from the use and occupancy of the License Area, and including coverage for

- Bodily Injury and Property Damage Liability, Personal Injury Liability, and containing endorsements covering Contractual Liability, Fire Legal Liability, and Stop-Gap coverage endorsements sufficient to cover Licensee's indemnity obligations hereunder.
- ii. Automobile Liability insurance in amounts of not less than a combined single limit of \$1,000,000 covering Licensee's and its Contractors' owned, non-owned, leased or rented vehicles and naming Sound Transit and its officers, directors, agents, and employees and the County and its officers, directors, agents, and employees as additional insureds.
- iii. All-risk Property insurance covering the full value of Licensee's and its Contractors' property and improvements (including all initial improvements), and other property (including property of others), in the License Area.
- iv. Workers' Compensation and Employers' Liability in accordance with the provisions of Title 51 of the Revised Code of Washington and covering Licensee's employees' industrial accidents and injuries.
- v. Railroad Protective Liability coverage either by: (1) endorsing the General Liability policy with an ISO form CG 24 27 10 01 Contractual Liability Railroads endorsement, of equivalent; or (2) obtaining a separate Railroad Protective Liability policy. This insurance shall name Sound Transit and its officers, directors, agents, and employees and the County and its officers, directors, agents, and employees as additional insureds with coverage of at least \$2,000,000 per occurrence and \$6,000,000 in the aggregate. The policy shall be issued on a standard ISO form CG 00 35 10 93, or equivalent.
- c. Unless approved by Sound Transit in advance and in writing, the insurance coverages required herein shall not be subject to any deductible or self-insured retentions of liability greater than \$25,000 per occurrence. The payment of any such deductible or self-insured retention of liability amounts remains the sole responsibility of Licensee.
- d. Prior to entering the License Area, Licensee shall furnish Sound Transit with certificates of insurance executed by a duly authorized representative of each insurer or, if Licensee is self-insuring pursuant to subsection (i), below, other acceptable evidence of insurance as determined by Sound Transit, in its sole discretion, showing compliance with the insurance requirements set forth above and naming Sound Transit and the County as additional insureds, consistent with above-described requirements. Insurance coverage shall be primary with respect to Sound Transit and the County, and any other insurance maintained by Sound Transit and the County shall be excess and not contributing. Licensee and its Contractors and their respective insurers shall require that the applicable insurance policies be endorsed to waive their right of subrogation against Sound Transit and the County. A copy of the Additional Insured Endorsements, Primary and Non-Contributory Endorsements and Waiver of Subrogation Endorsements for both General Liability and Auto Liability must be attached to the required Certificates of Insurance.
- e. Licensee may otherwise meet the insurance requirements herein if Sound Transit determines, in its sole discretion, that Licensee's financial condition is adequate to meet the insurance obligations contained in this Section. If Sound Transit approves Licensee's self insured status for purposes of this License, Licensee shall submit a letter signed by a corporate officer stating that Licensee is a qualified self-insurer, and setting forth the limits of any policy of excess insurance.
- f. Sound Transit reserves the right to reasonably modify the required insurance coverage to reflect the then-current risk management practices and underwriting practices in the insurance industry.

14. Federal Interest.

- a. Notwithstanding anything to the contrary contained in this License, Licensee acknowledges that Sound Transit is the recipient of Federal Transit Administration (FTA) grants which, in part, funded the Project. Licensee further acknowledges that pursuant to FTA grant requirements, Sound Transit must demonstrate and retain "satisfactory continuing control" over the use of the Project property, which is defined as the legal assurance that FTA-funded property will remain available to be used for its originally authorized purpose throughout its useful life or until disposition. Licensee agrees that it will not exercise any right under this License in a manner that compromises or otherwise diminishes the federal interest in the Project property or Sound Transit's satisfactory continuing control over Project property.
- b. Licensee further acknowledges that Sound Transit must comply with all applicable federal statutes, regulations, orders, certification and assurances, or other federal law including, but not limited to, those set forth in the current FTA Master Agreement governing transit projects supported with federal assistance awarded through the FTA.
- 15. <u>Liens.</u> Licensee shall pay for all materials and labor used in the License Area and shall not allow any liens to attach to the License Area. In the event that the License Area becomes subject to any lien arising out of Licensee's use of the License Area under this License, Licensee shall promptly, and in any event within 30 days, cause such lien to be discharged or released of record (by payment, posting of bond, court deposit, or other means), without cost to Sound Transit, and shall indemnify Sound Transit against all costs and expenses (including attorney's fees) incurred in discharging and releasing such lien. If any such lien is not so discharged and released, Sound Transit may pay or secure the release or discharge thereof at Licensee's expense.
- 16. <u>Attorney's Fees</u>. In the event that either Party commence litigation or arbitration proceedings against the other Party relating to the performance or alleged breach of this License, the prevailing Party shall be entitled to all costs, including reasonable attorney's fees incurred, relating to such litigation, including those incurred in the event of any appeal.
- 17. <u>Jurisdiction and Venue</u>. Any litigation filed by either Party arising out of or relating to this Agreement shall be filed in King County Superior Court, except as to matters that are exclusively within the jurisdiction of the federal courts and, as to such matters, venue shall be in the Western District of the United States District Court at Seattle, Washington.
- 18. Notice. Unless expressly otherwise agreed between the Parties, every notice or response required by this Agreement to be served upon Sound Transit or Licensee shall be in writing and shall be deemed to have been duly given to the required Party: (a) five business days after being posted in a properly sealed and correctly addressed envelope when sent by mail, postage prepaid; (b) upon receipt when sent by overnight delivery through a nationally recognized courier service that provides a receipt of delivery; (c) upon receipt when hand delivered; or (d) upon delivery when sent by email with delivery receipts enabled. The notices or responses to Sound Transit shall be addressed as follows:

Sound Transit Union Station 401 S. Jackson Street Seattle, WA 98104 Attn: Property Management Manager propertymanagement@soundtransit.org

The notices or responses to Licensee shall be addressed as follows:

AMLI Development Co 425 Pontius Ave N #400 Seattle, WA 98109 Attn: Matt Ellay melley@amli.com

Either Party may, from time to time, replace the notice addresses contained herein with alternative notice addresses by giving written notice of same to the other Party, but in no event shall notice be required to be delivered to more than one address.

- 19. <u>Assignment</u>. This Agreement and the rights, duties and obligations given hereunder may not be assigned, transferred, or otherwise conveyed by Licensee
- 20. <u>Reservation of Rights</u>. Nothing in this Agreement is intended to modify the provisions of the Transit Way Agreement or to in any way limit Sound Transit's rights thereunder.

Please acknowledge your agreement with the foregoing terms by signing in the space provided below and returning one copy of this Agreement to my attention.

Sincerely,

	ACCEPTED AND AGREED: PPF AMLI Redmond Way, LLC	
Clint Dameron Acting: Director-Real Property	By:	
	Its:	
	Date:	
	Approved as to form:	
		
	Sound Transit Legal Counsel	

EXHIBIT A LICENSE AREA

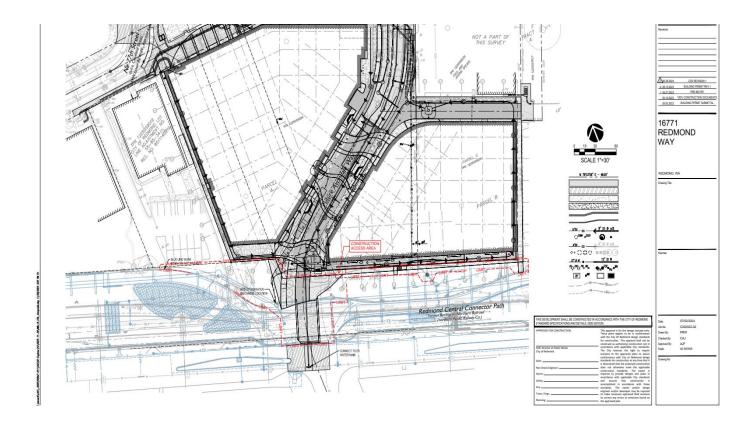


EXHIBIT B FACILITIES

