



Sound Transit/City of Seattle Construction Services Agreement

THIS AGREEMENT, is entered into this ____ day of _____, 2003, between the CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY, a regional transit authority of the state of Washington (“Sound Transit”), and the CITY OF SEATTLE, a municipality of the State of Washington (“the City”), and hereinafter referred to collectively as “Parties” or individually as “Party.”

1.0 GENERAL

1.1 Definitions

- A. “Agreement” – means this Construction Services Agreement (CSA).
- B. “Betterment” – means any improvement to City infrastructure that has been requested or agreed to by the City that is not required to execute the construction of Sound Transit’s Project. Except as otherwise specifically directed in the General Special Provisions of this Project, Work that is mandated by the 2000 edition of "City of Seattle Standard Specifications for Road, Bridge and Municipal Construction" and the 2000 edition of “City of Seattle Standard Plans for Municipal Construction;” Work that is mandated by City building, electrical, plumbing and land use code requirements; Work required by permit conditions or existing City ordinance; or Work required as part of the environmental mitigation of the Project shall not be construed as Betterment. Work on any City infrastructure, which is caused by or attributable to the work of Sound Transit's contractor or any other third party, shall not constitute Betterment. See also Section 2.4.
- C. “Budgeted Scope of Work” – means the budgeted scope of work set forth in Section 2.3 of this Agreement.
- D. “Change Order” – means a contractual agreement, signed by Sound Transit and the City, agreeing to changes in any element of the Work, as planned or as constructed, which materially differs from that specified in a Task Order or Work Order. Change Orders will cover all costs and time of performance related to the change.

- E. “Construction Assistance” – means construction support services, including Quality Assurance field inspection, construction submittal reviews, responses to Requests for Information (RFIs), construction engineering, and the management thereof.
- F. “Construction Services” – means City crew construction work and City design of City systems and facilities. This also includes Fire Department tunnel rescue and Police Department traffic control support services.
- G. “Contract Unit Descriptions (CUDs)” – means baseline documents maintained and controlled by Sound Transit’s Link Project Control group that document the scope of each Link Light Rail construction contract including the Work contemplated in this Agreement.
- H. “Designated Representative” – means the individual(s) authorized by his/her respective governing body to bind that Party in carrying out the construction services under this Agreement.
- I. “Dispute Resolution Board (DRB)” – means the DRB created by a separate agreement, substantially in the form as provided in Exhibit 8, which body will review disputes between the Parties regarding any issue arising under this Agreement, including Betterment, all as more fully described below.
- J. “Eligible Reimbursable Costs” – means those costs incurred by the City in the execution of Work directed by Task and Work Orders issued by Sound Transit and which meet the criteria set forth in Section 4.3 of this Agreement.
- K. “General Special Provisions (GSPs)” – means those written refinements, clarifications, and additions to the 2000 editions of the “City of Seattle Standard Specifications for Road, Bridge and Municipal Construction” and the “City of Seattle Standard Plans for Road, Bridge and Municipal Construction” as developed by the City and provided to Sound Transit and attached to the Project Construction Permit for each Line Section.
- L. “Initial Segment” – means the initial 14-mile segment of the Central Link Light Rail Project that will begin at an interim north terminus at Convention Place with passenger service to be provided through the Downtown Seattle Transit Tunnel and along the E-3 Busway / S. Forest St., in a tunnel under Beacon Hill to S. McClellan Street, through the Rainier Valley via Martin Luther King, Jr. Way South, to Tukwila via a Freeway Route to an interim south terminus at S. 154th Street.
- M. “Line Section” – means a geographical section of the Initial Segment. Also refers to Sound Transit’s Construction Work Breakdown by Line Section Contract. There are five Line Sections covered by the Agreement: 500/520 (Downtown Seattle), 700 (E-3 Busway / Forest Street), 710/720 (Beacon Hill Tunnel / McClellan), 735 (Martin Luther King, Jr. Way South), and 755 (Tukwila).
- N. “Procurement” – means materials furnished by the City and reimbursed by Sound Transit for installation by Sound Transit's contractor, including traffic signs, traffic signal controllers and cabinets and fire hydrants. Excludes materials used by City crews for the performance of Work pursuant to Task and Work Orders,

which shall also be reimbursed by Sound Transit as provided under this Agreement.

- O. “Project” – means the design, management, and construction of the 14-mile Initial Segment, as defined in Sound Transit’s May 8, 2002 Record of Decision and current Contract Unit Descriptions.
- P. “Project Management Manual (PMM)” – means the document to be prepared, revised and maintained by the Parties that delineates the process for issuing and administering Task and Work Orders and prosecution of the Work under this Agreement. The PMM is described in Section 2.9 of this Agreement.
- Q. “Project Schedule” – means the current Sound Transit baseline schedule for the Initial Segment. The baseline schedule for this Agreement is the so-called Working Schedule (W308) with a data date of August 1, 2003.
- R. “Standards/Specifications” when either term is used or when both are used means the 2000 edition of the “City of Seattle Standard Specifications for Road, Bridge and Municipal Construction” or the 2000 edition of the “City of Seattle Standard Plans for Road, Bridge and Municipal Construction” and the General Special Provisions of this Project.
- S. “Task Order” – refers to a separate agreement executed by the Parties under this Agreement, under the authority delegated herein to Sound Transit’s Link Light Rail Director and the SDOT Director, which defines a specific scope of work, the budget and schedule for that scope, and any other specific obligations of the Parties associated with each task. All terms and conditions of this Agreement shall apply to each Task Order.
- T. “Undergrounding Agreement” – means the “Memorandum of Agreement between Sound Transit and the City of Seattle for Undergrounding of Overhead Utilities along Martin Luther King Jr. Way South.”
- U. “Work” – means the construction and inspection work, including Construction Services and Construction Assistance, contemplated to be performed by the City and Sound Transit under the terms of this Agreement.
- V. “Work Order” – refers to a separately authorized portion of a Task Order. Some Task Orders will contain multiple Work Orders where necessary to segregate, separately identify, and authorize specific items of Work. Multiple Work Orders under any Task Order will generally be needed only when there are multiple construction contracts within a particular Line Section, or when there are multiple construction support activities required with different start dates that require separate authorization.

1.2 Background

In order for Sound Transit to construct the Initial Segment, it will be necessary to relocate, remove, adjust, protect, and reconstruct portions of the City-owned and operated utility infrastructure and to widen and relocate and/or rebuild portions of the City streets and sidewalks, hereinafter referred to as “Relocation/Construction Work.”

The Parties have determined that the City shall provide limited procurement, some crew construction, and Quality Assurance field inspection services associated with the Relocation/Construction Work. Sound Transit shall reimburse the City for that work under the terms of this Agreement.

It is further contemplated that the City may desire to upgrade infrastructure in conjunction with the Project in a manner not required by Sound Transit's Project. Such additional work by the City shall be considered as "Betterment." The cost of any Betterment shall be borne by the City. Some Betterment has been identified during the design process and there may be additional Betterment pursued during construction, which will need to be jointly negotiated by the City and Sound Transit as a change order to Sound Transit's contractor.

This Agreement establishes the Budgeted Scope of Work to be performed by the City, rate guidelines for that work, and a budgeted estimate of the total cost of such work described in Section 4.1. The actual work shall be requested by Sound Transit in written Task Orders and Work Orders. The procedure for the issuance of Task Orders/Work Orders and other construction management issues, will be set forth in a separate writing known as the Project Management Manual (PMM).

All disputes between the City and Sound Transit regarding this Agreement or the work hereunder, shall be handled in accordance with Section 7 of this Agreement.

2.0 SCOPE OF THIS AGREEMENT

2.1 Purpose and Goals

- A. The overall purpose of this Agreement is to implement an effective collaborative relationship between the City and Sound Transit in support of the construction of the Initial Segment in order to minimize delay and extra costs to both Parties, while building a quality system which meets Sound Transit's requirements as defined in this Agreement as well as the City permit requirements, Standards, and Specifications. Specific goals include:
 - 1. The Parties understand that they have a reciprocal duty to avoid hindering or delaying each other's efforts.
 - 2. The Parties will work proactively and cooperatively to avoid conflict between the City, Sound Transit, Sound Transit's contractors, and private utilities.
- B. The Parties desire to maximize efficient and cost effective use of resources by both Parties.
- C. The Parties shall comply with applicable statutory and regulatory requirements associated with grants, permits, oversight, or other legal requirements.

2.2 Objectives

- A. The City and Sound Transit will provide timely design, procurement, and Construction Services that will enable the Parties to meet their Project deadlines and contractual requirements.
- B. Sound Transit will effectively manage its contractors to perform on schedule, within budget, and meet the specified construction quality, which shall include applicable City Standards and Specifications.
- C. The City and Sound Transit will coordinate the scheduling and management of City field crews, inspectors, and City contractors with Sound Transit's contractors' and private utilities' construction schedules.
- D. Appropriate representatives of both Parties will participate in weekly construction coordination meetings.
- E. To the extent the City is notified in writing by Sound Transit of grant and oversight requirements, the City will make best efforts to perform in conformance with the applicable Federal Transit Administration grant and oversight requirements.
- F. The City will support Sound Transit's public outreach efforts during construction by providing communications and community relations resources related to utility service connections.

2.3 Budgeted Scope of Work

Generally, the City will furnish the following services in support of the Project:

- A. Construction Assistance, including Quality Assurance (QA) field inspections supporting Sound Transit's QA and Quality Control (QC) program, contractor submittal reviews, responses to Requests for Information (RFI), and construction engineering.
- B. Seattle Fire Department (SFD) tunnel rescue and Seattle Police Department (SPD) traffic control support services;
- C. Design of City systems and facilities for power distribution, signal timing plans for interconnecting signals, testing traffic controllers before installation, and producing all work orders for City crew construction;
- D. City crew construction work (water, sewer, power, and signals) to support the relocation or undergrounding of utilities, including work on charged water mains, cut & cap final connections on charged mains, pressure testing, deactivating existing cathodic protection systems, continuity testing, core tap connections to existing sewers and drains; electrical system installation including service connections and electrical service acceptance for private service connections (assuming weatherhead-to-weatherhead connections); installation and testing of traffic controllers, signal cutovers, including power-down and power-up services;

- E. Seattle City Light (SCL) service planning and design services in preparation for a separate Service Agreement;
- F. Seattle Transportation (SDOT) crew layout of all final traffic channelization, marking, lane identification and striping;
- G. Material, supplies and equipment necessary to support the City's utility connection crews, including wood poles to be relocated by SCL;
- H. SDOT Core Team Management and field construction Line Section Leads who will liaison with Sound Transit's Resident Engineers;
- I. Seattle Department of Design, Construction, and Land Use (DCLU) support during construction for building/mechanical inspection, permit modifications, new permits or other On-Call Services as needed;
- J. Customer Service Representative liaison with SCL and Seattle Public Utilities (SPU) customers primarily to schedule and negotiate outages for water, sewer and power;
- K. Oversight or review of materials certifications, control of materials acceptance, and water quality testing; SPU Materials Lab will perform the role of independent quality assurance by making site visits to fabricators, conducting periodic spot checks by sampling and testing, providing technical assistance on City standards, and reviewing alternative materials as needed;
- L. SPU survey of City permanent monumentation, reestablishing benchmarks and monuments that may have been disturbed or moved by Sound Transit contractors; as-built drawing production of City infrastructure to be archived in the City vault;
- M. Building and tunnel inspections, including fire alarm systems, Emergency Management Panel (EMP) and systems controls, sprinkler and standpipe systems, emergency ventilation systems, and Opticom testing;
- N. Procurement of City standard items, such as fire hydrants, signal controllers and cabinets, and permanent traffic signs to be installed by Sound Transit's contractor. Sound Transit's procurement of these items will be made by Purchase Order issued by Sound Transit to the City, or other mutually agreed process;
- O. Acceptance – When Sound Transit's contractor considers that all work required by a Line Section contract has been completed, including correction of Punch List items from the pre-final inspection, a representative from the City shall accompany Sound Transit's Resident Engineer (RE) on the final inspection. Upon satisfactory conclusion of the final inspection, the RE will prepare a Certificate of Final Acceptance recommending acceptance of the completed work by Sound Transit and will request concurrence by the City for all City infrastructure included in that Line Section contract.

Contingency amounts are also included in the Exhibit 4 Budget and as further described in Exhibit 5 Budget Assumptions.

2.4 Betterment

In addition to the services outlined above, the City has requested that Sound Transit construct certain Betterment to City facilities, not due to direct necessity, but for the long-term impacts to both the newly paved concrete streets and disruption to the public when utilities need to be replaced in the future. These identified Betterments by the City have attempted to match the lifecycle of the underground facilities with the lifecycle of the pavement. The City may request further Betterment during the Project; however, such Betterment will be subject to negotiation between the Parties. The City will reimburse any Betterment cost incurred by Sound Transit in full in accordance with Section 4.7.

Several types of Betterment are anticipated: (1) Extension or replacement of City infrastructure incidental to the transit facilities work to be included in the Sound Transit construction contractors' scopes of work, which will be paid by Sound Transit and reimbursed fully by the City, (2) Services provided by City crews for any Betterment which will not be charged to Sound Transit (or if they are charged, they will be subject to full reimbursement by the City at a later date), and (3) improvements to City infrastructure not shown on Sound Transit construction drawings and not made necessary by Sound Transit's work on the Initial Segment, which in the course of construction the City determines it wants to have Sound Transit's contractor renew or replace. In this latter case, a field change order will be negotiated for extra work, for which the City shall reimburse Sound Transit in full. Sound Transit reserves the right to accept or reject such additional Betterment Work to avoid impacts on the Project Schedule or if agreement cannot be reached on cost reimbursement.

The Budgeted Scope of Work also includes the following Betterment items requested by the City:

- A. Shared Cost of Indirect Waterline Replacement and Spot Sewer Repairs in Rainier Valley: SPU and Sound Transit agree to share the cost of replacing certain waterlines under Martin Luther King, Jr. Way South (MLK) that are indirectly impacted by the Project, including a 110-foot section of the Cedar River Pipelines (CRP) at Beacon Avenue S. Sound Transit could have bridged over the existing CRP without affecting the pipes, but the better long-term solution for both the City and Sound Transit was to replace the portion of the existing pipes under MLK. Likewise, there are other smaller-diameter water distribution lines that are not directly impacted by the Project, but are under MLK, which will be entirely reconstructed from back-of-sidewalk to back-of-sidewalk as part of the Project. SPU has agreed to pay for the replacement of these indirectly impacted water pipes so as to avoid having to dig up the newly reconstructed concrete-paved street in the foreseeable future.

A portion of the cost to be reimbursed by the City is for the City's Construction Assistance and Construction Services under this Agreement. This cost is shown as a credit in Exhibit 4 on separate lines labeled "SPU Betterment (735 Water)." In addition, the City will reimburse Sound Transit for a portion of the work Sound Transit's contractor will perform associated with this Betterment. The budgeted

amount of the City's reimbursement of Sound Transit contractor cost is listed separately on a second sheet of Exhibit 4. Spot sewer repairs along MLK are also budgeted in the category "SPU Betterment – Sewer (735 ST Contractor)."

- B. **Undergrounding of Overhead Power Lines in Commercial Zones along MLK:** In conjunction with the undergrounding of overhead utilities along MLK, which is addressed in a separate Undergrounding Agreement between the City and Sound Transit, the City has agreed to pay Sound Transit for a portion of the undergrounding work in Commercial Zones along MLK. SCL crews will perform the electric power cabling and connection work under a CSA Task Order; the City will reimburse Sound Transit \$3.840 million for the City's Construction Assistance and Construction Services under this Agreement as shown in Exhibit 4, and an additional \$11.159 million reimbursement of Sound Transit contractor cost, design, and construction management (listed separately on a second sheet of Exhibit 4) for total City undergrounding cost of \$14.999 million (in 2002 dollars).
- C. **Upgrading of SCL Power Lines at the West Portal of Beacon Hill Tunnel:** In conjunction with the Project, Seattle City Light must relocate its overhead power lines that are in the way of the West Portal of Sound Transit's proposed Beacon Hill Tunnel. As part of this planned relocation, SCL has requested additional overhead circuits be constructed on the relocated poles in a second phase after the tunnel has been built. This work may be necessitated by Sound Transit service and reliability needs at Beacon Hill and will be subject to future negotiation between the Parties to determine the extent to which it is a Betterment. Subject to this future negotiation, this work has been budgeted as a Betterment in this Agreement, whereby SCL will reimburse Sound Transit \$141,000 for the City's Construction Assistance and Construction Services, as shown in Exhibit 4, and an additional \$72,000 reimbursement of Sound Transit contractor cost (listed separately on a second sheet of Exhibit 4).
- D. **SDOT Reimbursement for contractor paving at 27th and Hanford Streets.**

Exhibit 4 Sheet 2 lists estimated costs of currently known City reimbursements of Sound Transit costs under this Agreement. Any disputes concerning Betterment or the cost thereof shall be resolved as set forth in Section 7 of this Agreement.

2.5 Scope Exclusions

- A. City design review services prior to permit issuance will continue to be authorized and paid for under the Memorandum of Agreement (MOA) Fourth and Fifth (and subsequent) Supplements, not under this Agreement.
- B. Construction support services provided by City departments other than the six departments (SPU, SCL, SDOT, DCLU, SPD and SFD) specifically included in this Agreement (such as Parks Department) will continue to be authorized and paid for under the Fourth and Fifth Supplements to the MOA, not under this Agreement.

- C. DCLU inspection services for electrical, elevators, escalators, plumbing/sanitary sewer within building footprint, and special inspections will be covered and paid for under separate permits issued to Sound Transit's contractors.
- D. Any work permitted separately, such as DCLU value-based construction permits or SDOT street-use permits.
- E. Any other work specifically covered under the Fourth or Fifth Supplement to the MOA.
- F. Separate service agreements such as for power or water to Link Light Rail facilities.

2.6 Time of Completion and Schedule

The Initial Segment construction schedule is summarized in Exhibit 1 is further described in the Working Schedule (W308), August 1, 2003, and will be further defined in the Task Orders. Procedures for developing, adopting and changing construction schedules will be set forth in the Project Management Manual (PMM). The City services to be provided shall commence upon the execution of this Agreement and upon the execution of the initial Task Order under this Agreement by contract and by City department (see Exhibit 4). (Prior to the execution of this Agreement, the City's field construction support services for Contract C705 are authorized under an amendment to the Fourth Supplement of the MOA.) This Agreement shall remain in effect until the completion of all Sound Transit Initial Segment construction contracts involving the City's support, which is currently anticipated to be in 2008.

2.7 Responsibilities of the Parties

2.7.1 Sound Transit

Generally, Sound Transit will:

- A. Act as the lead agency for the design and construction of the Project, including bid, award and administration of construction contracts;
- B. Provide construction management, including Resident Engineers, QA/QC inspection, and Sound Transit acceptance of the contractor's Work (with input from the City);
- C. Direct, administer and coordinate the timely performance of Sound Transit's construction contractor and private utility relocations;
- D. Prepare and issue Task Orders and Work Orders specifying and authorizing the support needed from the City, including utility crews and inspectors;
- E. Work with the City's Line Section Leads and Project Manager for Construction (refer to Exhibit 2-2) to schedule and oversee the City's Construction Assistance and Construction Services to verify that they meet the City's and Sound Transit's requirements;
- F. Provide public outreach during construction, coordinated with the City's communications and community relations functions within affected departments;

G. Promptly notify the City of schedule and scope changes to the Project.

2.7.2 City of Seattle

Generally, the City will:

- A. Provide services specified by Task Order or Work Order as defined in the Budgeted Scope of Work.
- B. Attend weekly coordination meetings as required to coordinate the Work.
- C. Provide timely response to RFIs and Change Order proposals.
- D. Accompany Sound Transit's Resident Engineer on the final inspections, and accept the completed work upon its satisfactory completion.

2.8 Designated Representatives

The Designated Representatives for each Party are as follows:

For Sound Transit

Ahmad Fazel, Director, Link Light Rail Project
Sound Transit
401 S. Jackson Street
Seattle, Washington 98104
Phone: (206) 398-5389

For the City of Seattle

Grace Crunican, Director
Seattle Transportation
700 Fifth Avenue, Suite 3900
Seattle, Washington 98104-5043
Phone: 206-684-5000

The Designated Representatives of this Agreement may delegate authority and responsibilities as required by providing written notice of such delegation to the other Party. The individuals identified as the designated representatives in a particular Task Order will be responsible for carrying out the functions of the Task Order.

2.9 Construction Organization and Management

Both Parties have staff and consultant resources working on the Project and desire to work collaboratively to use these resources efficiently and cost effectively to avoid unnecessary duplicative effort. Both Parties have procedures and protocols established for administering contracts and managing design/construction efforts and desire to manage these processes efficiently. Both Parties have statutory and regulatory obligations to fulfill and desire to support each other's efforts to comply with these obligations. Both Parties are stewards of the public trust and public money and desire to uphold the public faith.

Organization charts showing key personnel and reporting relationships between Sound Transit and City staff are shown in Exhibits 2-1 and 2-2.

The Parties will collaborate on developing and implementing a Project Management Manual (PMM) to identify specific means and methods for accomplishing their efforts, including, but not limited to procedures for processing requests for payment, requests for information, shop drawing review, issuance of Task and Work Orders, materials and product approvals, field changes, Procurement, Betterment identified in the field, QA and QC inspections, and customer service support.

The PMM will also include a format for collaboratively developing the Project Schedule and updates thereto, which shall serve as the basis for scheduling City services. The PMM will also describe the responsibilities of both Parties for daily and weekly coordination of field activities. The Project Schedule, the PMM, and other Project documents shall be revised as needed and upon mutual agreement of the Parties.

The Parties accept responsibility for performance of their responsibilities in a timely manner, so as to avoid delays and minimize impacts on contractors and third parties. The Parties will endeavor to give prompt notice to each other, and Sound Transit shall give prompt notice to its contractors of any delay and potential impact observed by that Party in its own Work or the Work of any other Party or contractor. If either Party causes delays or impacts to the Project Schedule, or causes an increase in the Project scope or contract price, each Party shall be responsible for the costs attributable to that Party's impacts to the extent of responsibility. Responsibility for cost overruns and delays shall be determined in accordance with the principles of this Agreement and specific provisions of Work Orders and Task Orders under this Agreement. Any dispute between the Parties about responsibilities for delays and cost overruns arising under this Agreement shall be resolved as provided in Section 7.

2.10 Responsibility for Quality of Work

All services required under this Agreement shall be performed by each Party, its employees, or by consultants, in a satisfactory and competent manner, and appropriate professional standards of performance shall apply to professional services rendered.

Each Party shall be responsible for the quality, technical accuracy and the coordination of all services furnished under this Agreement. Sound Transit shall make available, upon request, to the City departments and their consultants, without cost, copies of reference documents related to the Project that are readily available and on file at Sound Transit. Except as specifically provided herein or in a Task Order, these documents are available solely as additional information to the City or its consultants and do not relieve the City or its consultant of their respective duties and obligations under this Agreement.

2.11 Agreement is subject to FTA Provisions

Sound Transit's Project is partially funded by the Federal Transit Administration ("FTA") and is therefore subject to certain federal provisions. The FTA requires Sound Transit to include applicable FTA provisions in all of its Agreements. The FTA provisions are attached as Exhibit 10 and incorporated herein as though they were set forth in full in the body of the Agreement. Further, the FTA requires that certain terms and conditions of the Contract Documents be included in all third party contracts that are funded under this Agreement. The City shall be responsible for ensuring all applicable

mandatory FTA provisions are included in all third party contracts funded under this Agreement, such as procurement, subcontracts, or third party contracts for construction services. These mandatory FTA provisions are set forth in Exhibit 10. All references to Contractor or Subcontractor in Exhibit 10 shall be construed to mean the City and its third-party contractors (if any).

2.12 Transfer of Ownership of City Facilities

It is the desire of both Sound Transit and the City to transfer ownership of City-related facilities constructed under Sound Transit contracts to City ownership as soon as practical after these facilities have been placed in permanent service. This will allow the City departments to pursue operation and maintenance of their vital service networks.

A final inspection and acceptance of the City-related facilities will be required to allow transfer to City ownership. The following process shall be followed to accomplish transfer:

- A. City staff and Sound Transit's Resident Engineer shall agree on the unit items or increments of work to be transferred.
- B. A standardized list of requirements to be met for final acceptance of each item shall be prepared.
- C. When requirements for each item have been completed, the Resident Engineer shall submit a duplicate request for final inspection and acceptance (standard form).
- D. The City shall verify that its requirements are satisfactorily fulfilled and will countersign and return one form.
- E. City ownership will begin on the date the acceptance form is countersigned.
- F. Roles and responsibilities for the transfer of real property for City right-of-way is covered in a separate ROW transfer agreement entitled "Property Acquisition and Transfer Procedures Agreement Between the City of Seattle and Sound Transit."

3.0 TASK ORDERS & WORK ORDERS

3.1 Sound Transit will request City performance of specific work under this Agreement through written Task Orders and Work Orders issued by Sound Transit. These Task and Work Orders shall define the scope and the obligations of the Parties for the construction of each task or segment of work. All terms and conditions of this Agreement shall apply to each such order. Task Orders may contain multiple Work Orders, where necessary to segregate and separately identify and authorize specific items of work. Multiple Work Orders under any Task Order will only be needed when there are multiple construction contracts within a particular Line Section, or when there are multiple Construction Assistance and Construction Support activities required with different start dates requiring separate authorizations.

3.2 Authority to Execute Task and Work Orders

Sound Transit will prepare and issue Task and Work Orders to the City by Line Segment and/or contract package. All such Task and Work Orders shall be signed by the Designated Representative of Sound Transit and deemed executed when counter-signed by the Designated Representative of the City.

Upon execution of this Agreement and of Task Orders under this Agreement, Construction Assistance and Construction Services provided by the City in support of the Initial Segment will be authorized and paid for under this Agreement. The City’s field Construction Assistance and Construction Services will generally start upon Notice to Proceed for each Sound Transit construction contract and will generally end upon completion and City acceptance of the Work. It is anticipated that Work under this Agreement will commence in September 2003.

3.3 At present, twenty-six (26) Task Orders are anticipated and have been identified under this Agreement, as illustrated in Table 3-1 below.

Table 3-1: List of Currently Identified Task Orders						
Department →	SPU	SCL	SDOT	DCLU	SFD	SPD
Line Sections (Contracts)	Task Order Numbers:					
Downtown Seattle (C500/520)	SPU-1	SCL-1	SDOT-1	DCLU-1 Project-wide services under a single Task Order	SFD-1/2 Project-wide services under two Task Orders, Construction Assistance and Tunnel Rescue	SPD-1
E-3 Busway / Forest St. (700/705)	SPU-2	SCL-2	SDOT-2			SPD-2
Beacon Hill Tunnel / McClellan (C710/720)	SPU-3	SCL-3	SDOT-3			SPD-3
Martin Luther King Jr. Way South (C735)	SPU-4	SCL-4 ⁽¹⁾	SDOT-4			SPD-4
Tukwila (C755)	SPU-5	SCL-5	N/A			N/A
Projectwide Procurement	Note (2)	Note (2)	Note (2)			N/A

Note (1): Task Order SCL-4 will include the Undergrounding of Overhead Utilities described in the Undergrounding Agreement between Sound Transit and the City.

Note (2): Budgets for City procurement of City standard items including fire hydrants, traffic signal controllers and cabinets, and permanent traffic signs. Procurement will be authorized by Purchase Orders issued by Sound Transit or other mutually agreed upon procurement process within the budgetary authority authorized. Task Orders will also be issued for SPU surveying and as-built drawing production and SCL service planning and design. Finally, payment of the IDP, Chief Sealth Trail, and Henderson mitigation will be authorized under separate Task Orders.

3.4 The form of each Task Order shall be substantially similar to the Sample Task Order set forth in Exhibit 3. Work Orders shall be structured in the same way, only they will generally cover a more limited scope of work.

3.5 The designated representatives identified for any Task Order or Work Order are deemed to have the authority to modify the scope, schedule, and budget of the Task Order or Work Order within the parameters of this Agreement.

4.0 PAYMENT

4.1. Sound Transit's Maximum Payment Obligation

Sound Transit's maximum funding obligation under this Agreement for the services described in Section 2.3, Budgeted Scope of Work is \$38.46 million, with a contingency of \$3.3 million, for a total amount not to exceed \$41.77 million. Sound Transit shall not be obligated to reimburse any expenditure in excess of the maximum amount stated in this section, unless Sound Transit has by Task Order or Work Order, requested work from the City in excess of the Budgeted Scope of Work. Sound Transit shall promptly notify the City in writing when the maximum funding obligation has been reached and shall also specify in writing Sound Transit's position regarding any remaining work covered by this Agreement which it believes was contained within the Budgeted Scope of Work. Should its estimated costs on any Task or Work Order exceed the amount authorized, the City shall promptly notify Sound Transit in writing and shall specify in writing the City's position regarding why the estimated cost will or has been exceeded. City payments to the Community Development Fund are not included in these totals, and are treated separately pursuant to the Community Development Fund Agreement.

4.2 Exhibit 4 contains a summary of the budget for the services to be provided by the City under this Agreement, by Line Section and by City department. The budget for City field crew work will be accounted for separately from all other City construction support services. The Total Authorized Amount for each Task Order or Work Order will be negotiated. No expenditures will be authorized in excess of the Total Authorized Cost established in an executed Task Order or Work Order, except by approved Change Order. Reimbursement will not be made for activities that are not covered in a Task Order or Work Order.

The Parties have established a budget contingency that generally varies between 10% and 15% of the estimated cost of the Work. Details of the management and accounting for Task Orders, Work Orders, and contingency administration will be addressed in the Project Management Manual.

Sound Transit shall reimburse the City for services delivered and work performed under this Agreement. The amount set forth above and in the more detailed budget in Exhibit 4 reflects the Parties' best estimates of the amounts that may be required to accomplish the reimbursable tasks under this Agreement. Sound Transit and the City recognize that the cost of delivering such services and performing such work have been estimated based on assumptions stated in Exhibit 5 Budget Assumptions and information from each Party, and the Parties recognize that the reallocation of effort based on actual needs may be necessary should Sound Transit change planned activities or should unanticipated work be required. The City shall endeavor to manage the expenditures of departments and offices engaged in work authorized by Task Orders or Work Orders under this Agreement such that the maximum obligation of Sound Transit is not exceeded.

Provided that the City has requested or consented to the performance of Betterment by Sound Transit's contractors, the City shall reimburse Sound Transit for Betterment work performed by Sound Transit's contractors. Any disputed Betterment shall be resolved as set forth in Section 7 of this Agreement.

4.3 Estimated Labor and Equipment Rates

Estimated labor rates for 2003-2004 are attached in Exhibit 7 and provide the basis for the budget shown in Exhibit 4. Sound Transit has reviewed and approved these rates as a basis for accounting for City indirect and overhead costs. Eligible Reimbursable Costs are only those costs incurred by the City directly attributable to the execution of Work as directed by Task Order or Work Order under this Agreement.

Construction materials shall be invoiced at cost with City standard handling fees allowed, or as mutually agreed by the Parties.

4.4 Invoicing by the City

The City will invoice Sound Transit monthly based on work progress and cost expenditures. Invoices shall reference the Task Order and/or Work Order (as applicable) under which the invoiced services were authorized. Invoices must be signed by an authorized representative of the City who shall verify that the invoice is accurate, the services have been purchased or the work has been performed, and that the costs shown have been reasonably incurred in accordance with this Agreement. The definition for a complete and accurate City invoice will be mutually agreed upon in advance and described in the Project Management Manual.

The City's Designated Representative, or other designated City official, shall coordinate requests for reimbursements by all City Departments and offices and will provide monthly cost reports to Sound Transit.

4.5 Reimbursement by Sound Transit

Monthly progress payments for reimbursable City costs under this Agreement shall be made upon the completion and documentation of the work in support of invoices as described in Section 4.4. Within thirty (30) calendar days after Sound Transit's receipt of any complete and accurate City invoice, Sound Transit shall remit the reimbursement. The Parties will work cooperatively to resolve issues related to the accuracy of these invoices so as to avoid any delay in payment. Any invoiced expenditure unsupported by appropriate documentation shall be identified in writing to the City and not included in the reimbursement; provided, however, that the presence of unsupported items within an invoice shall not delay payment of those items which are supported by appropriate documentation.

In addition, Sound Transit may require other financial documents to verify that the amounts invoiced are included within the Budgeted Scope of this Agreement, including, but not limited to, (1) work statements or payroll records, (2) invoices for materials and supplies, (3) statements from professionals for services rendered, (4) certifications by the City that materials and services are satisfactorily rendered, and (5) itemized listings of the charges supported by copies of original bills, invoices, expense accounts, and

miscellaneous supporting data retained by City. Provided, that any such additional documentation requested by Sound Transit shall not be used as the basis to refuse payment of an invoice, but rather shall be used to adjust by credit or debit, payment of future invoices.

In the event that Sound Transit reimbursement is delayed beyond forty-five (45) calendar days of receipt of a complete and accurate (i.e., approved) City invoice, the City shall have the right to charge interest at a rate of 3.5% annually and compounded monthly, accruing from the closing date of the invoice billing period.

Any dispute regarding the allowable invoices shall be resolved as provided in Section 7 of this Agreement.

4.6 Invoicing by Sound Transit

Except for the Undergrounding Work, which is covered by the Undergrounding Agreement, Sound Transit will invoice the City monthly based on actual expenditures for agreed upon shared or Betterment costs. Sound Transit shall invoice the City for Betterment Work performed by Sound Transit on the City's behalf upon Sound Transit's payment to the contractor for this Work. Invoices shall reference the Task Order and/or Work Order (as applicable) under which the invoiced Work was authorized. Invoices must be signed by an authorized representative of Sound Transit who shall verify that the invoice is accurate, the Work has been performed, and that the costs shown have been reasonably incurred in accordance with this Agreement. The definition for a complete and accurate Sound Transit invoice will be mutually agreed upon in advance and described in the Project Management Manual.

4.7 Reimbursement by the City

Monthly progress payments for reimbursable Sound Transit costs under this Agreement shall be made upon the satisfactory completion and documentation of the work. Sound Transit shall initiate the process for reimbursement of its expenditures by preparing, reviewing and submitting requests for reimbursement to the City in accordance with the procedures in this Subsection and any other applicable procedures provided to the Sound Transit's Designated Representative.

Within thirty (30) calendar days after the City's receipt of a complete and accurate Sound Transit invoice, the City shall remit the reimbursement for the amount of Betterment costs that are properly documented. In the event that City reimbursement is delayed beyond forty-five (45) calendar days of receipt of a complete and accurate Sound Transit invoice, Sound Transit shall have the right to charge interest at a rate of 3.5% annually and compounded monthly, accruing from the closing date of the invoicing period.

5.0 ADMINISTRATION

5.1 Monitoring and Reporting of Progress

The Parties are committed to working cooperatively and efficiently and will closely monitor the time required to complete work products consistent with the scope of work and budget for the Project. The City shall provide clear, accurate and detailed monthly

progress reports to Sound Transit by the 20th of the succeeding month. The format and content of these reports shall be as described in the accompanying Project Management Manual. The Parties shall further refine progress reporting, accounting and program management system as they agree, in order to ensure useful and descriptive information that complements Sound Transit's Project Control system. The City and Sound Transit shall provide active, ongoing oversight to ensure that Sound Transit funds are expended efficiently, in a manner that adds value to the Project.

5.2 Reconciliation

Both Parties agree to monitor and reconcile the actual versus estimated effort on a quarterly basis. Parties will negotiate additional funding or a reduction in services relating to the Project to the extent that such work cannot be performed within the estimate of compensation and expense reimbursement due for the services delivered and work performed. Sound Transit will rely on information contained in the City's progress reports to identify changes in the work as reported on by the City in order to have the opportunity to take corrective action or clarify assumed work efforts. This shall be done on a construction contract basis.

5.3 Availability of Records

All project records in support of all costs incurred and actual expenditures kept by the City shall be maintained in accordance with procedures prescribed by the Washington State Auditor's Office and the applicable Federal funding agencies. The records shall be open to inspection by Sound Transit and the Federal government during normal business hours, and shall be retained and made available for such inspection for a period of not less than six (6) years from the final payment of any federal aid funds to the City. Copies of said records shall be furnished to Sound Transit and/or the Federal government upon request. This requirement shall be included in all third-party contracts related to the work entered into by the City to fulfill the terms of this Agreement.

5.4 Audit

Prior to entering into this Agreement, Sound Transit audited the daily rates and expenses for City work as set forth or referenced in Section 4.3 of this Agreement. If any further audit is requested by Sound Transit or required by any applicable federal agency requirements, the Parties agree to cooperate fully with any such audit and provide documentation as is requested in support of all costs.

6.0 TERMINATION OF AGREEMENT

6.1 Termination for the Convenience by Sound Transit

In the event that Sound Transit loses its funding for the Project, or the Project is significantly delayed, Sound Transit may terminate this Agreement or Task Orders upon written notice. Sound Transit shall reimburse the City for all costs payable under this Agreement that the City incurred prior to termination and all non-cancelable obligations and all work close-out costs. Provided, however, that all work in progress at the time of termination shall be completed to the extent necessary to restore the usefulness of City

infrastructure affected by the Project in accordance with the Standards and Specifications. Such close-out work and non-cancelable obligations shall be invoiced by the City and paid by Sound Transit in accordance with the provisions of Section 4 of the Agreement. After notice of termination, all of the provisions of this Agreement shall remain in force as necessary and until no longer necessary to support the completion of Work under any Task Order that was open and uncompleted or any non-cancelable obligation at the time this Agreement was terminated.

6.2 Termination for Default

If for any cause, either Party does not fulfill in a timely and proper manner its obligations under this Agreement or a Task Order, or if either Party violates any of these terms and conditions, the aggrieved Party will give the other Party written notice of such failure or violation. The responsible Party will be given the opportunity to correct the violation or failure within ten (10) working days. If the failure or violation is not corrected, this Agreement or the Task Order may be terminated in whole or in part immediately by issuance of a written Notice of Termination. In the event of termination by default, the defaulting Party shall be obligated to compensate the other Party for contract closeout costs and the portion of work, which has been satisfactorily rendered to the effective date of the termination.

6.3 Duties of Parties Upon Termination

A termination by either Party shall not extinguish or release either Party from liability, claims or obligations to third parties existing as of the time of termination including contractor claims and costs incurred by the Party in the execution of work under a Task Order. Any costs incurred prior to proper notification of termination will be borne by the Parties in accordance 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 contract closeout costs as provided in Section 6.4.

6.4 Procedures upon Termination

Sound Transit and the City agree to apply the following procedures subsequent to either Party initiating termination:

- A. The Parties to this Agreement shall seek to resolve the status of each cost component of the work at the initiation of termination.
- B. The Parties shall seek consensus on the action to be taken on each component.
- C. The Parties may mutually agree to arrange for the assignment and assumption of obligations of third-party contracts for the performance of work under this Agreement or a Task Order.
- D. The Parties shall agree upon a cost estimate for terminating any third-party contracts that have been executed under this Agreement.
- E. In the event that the Parties cannot agree, they shall submit the matter to the Dispute Resolution process set forth in Section 7 below.

7. DISPUTES

7.1 Dispute Resolution

Sound Transit and the City will work collaboratively to resolve disagreements arising from activities performed under this Agreement. The Parties will enter into a Dispute Resolution Agreement substantially in the form of Exhibit 8, and shall form a Dispute Resolution Board as provided in that agreement.

Sound Transit shall require its contractors performing a substantial amount of work on City infrastructure to agree in writing to be bound by the Dispute Resolution process. Disagreements between the City and Sound Transit will be resolved promptly and at the lowest level of hierarchy as follows:

- 7.1.1** The Parties will endeavor to resolve disputes at the lowest level possible, starting with the field level. The Parties will involve such members of each Party's field and management staff as will support prompt resolution.
- 7.1.2** If the matter cannot be resolved at the project management level, the Parties' respective Designated Representatives will meet to resolve the dispute.
- 7.1.3** In the event the dispute cannot be resolved by the Parties, the Parties will submit the dispute to the Dispute Resolution Board(s) for determination.
- 7.1.4** The City and Sound Transit agree that neither they, nor any contractor obligated by this provision shall have a right to seek relief in a court of law until and unless each of these procedural steps is exhausted.

8.0 LEGAL RELATIONS

8.1 Indemnity

To the maximum extent permitted by law, each Party to this Agreement shall protect, defend, indemnify, and save harmless the other Party, and its officers, officials, employees, and agents, while acting within the scope of their employment, from any and all costs, claims, demands, judgments, damages, or liability of any kind including injuries to persons or damages to property, which arise out of, or in any way result from, or are connected to, or are due to acts or omissions of the indemnifying Party. No Party shall be required to indemnify, defend, or save harmless the other Party if the claim, suit, or action for injuries, death, or damages is caused by the sole negligence of the Party seeking indemnification. If such injury to persons or damages to property are caused by the concurrent negligence of the Parties, each Party shall be responsible to the extent of that Party's negligence. Each Party agrees that its obligations under this indemnification section extend to any claim, demand, and/or cause of action brought by, or on behalf of, any of its employees or agents.

For this purpose, each Party, by mutual negotiation, hereby waives, with respect to the other Party only, any immunity that would otherwise be available against such claims under the industrial insurance provisions of Title 51 RCW.

In the event of any claims, demands, actions and lawsuits, the indemnifying Party upon prompt notice from the other Party shall assume all costs of defense thereof, including

legal fees incurred by the other Party, and of all resulting judgments that may be obtained against the other Party. In the event that any Party incurs attorney fees, costs or other legal expenses to enforce the provisions of this section, all such fees, costs and expenses shall be recoverable by the prevailing Party. This indemnification shall survive the expiration or earlier termination of this Agreement.

8.2 Governing Law and Venue

This Agreement will be governed by, and construed and enforced in accordance with, the laws of the State of Washington. In the event that any Party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this Agreement, the Parties hereto agree that any such action or proceedings shall be brought in a court of competent jurisdiction situated in Seattle, King County, Washington.

8.3 Insurance and Indemnity Provisions of Construction Contracts

- A. Sound Transit has an Owner Controlled Insurance Policy (OCIP) in place for the Central Link Project that provides insurance coverage for all Sound Transit contractors and subcontractors performing Work on the Project. The OCIP policy coverages and the OCIP requirements for Sound Transit contractors are set forth in Exhibit 9. Sound Transit will enroll the City, its public utilities and departments performing work under this Agreement, as a contractor under its OCIP policies. As respects Professional Liability, Sound Transit specifically agrees that the City is covered as an entity performing professional services relating to the engineering, design, construction management or other professional consulting services on this Project. The City shall be responsible for all deductibles and self-insured retentions under the OCIP. Sound Transit will require all Sound Transit contractors to include the City as an additional insured on all contractor-furnished insurance policies, excluding Worker's Compensation Insurance. The City is required to provide Commercial Automobile Liability Insurance and Workers' Compensation Insurance as described in Exhibit 9.
- B. The City shall require in all third-party contracts it enters into in connection with the work described in this Agreement, provisions to include Sound Transit as an Additional Insured in any insurance policies (excluding Worker's Compensation) that City's third-party contractors are required to provide and shall include Sound Transit as an indemnitee in language relating to legal relations with third parties.

8.4 Allocation of Risk by Sound Transit and the City

- 8.4.1** For work performed by the City or its third-party contractors, repair of damage to the Permanent Work is the responsibility of the City.
- 8.4.2** For work performed by Sound Transit or its third-party contractors, repair of damage to the Permanent Work is the responsibility of Sound Transit
- 8.4.3** "Permanent Work", as used in the subparagraphs above refers to an element being constructed within the terms of the applicable contract and which is to be left in place after the contract is completed.

8.4.3 Refer to the Undergrounding Agreement, Section V, Cost Responsibility, paragraph D, Limitations on Cost Responsibility, for the Undergrounding cost limitations.

8.5 No Agency or Employee Relationship

No joint venture or partnership is formed as a result of this Agreement. No employees, agents or subcontractors of one Party shall be deemed, or represent themselves to be, employees of any other Party. In performing work and services pursuant to this Agreement, the City, its, employees, consultants, agents, and representatives shall be acting as agents of the City and shall not be deemed or construed to be employees or agents of Sound Transit in any manner whatsoever. The City shall not hold itself out as, nor claim to be, an officer or employee of Sound Transit and will not make any claim, demand, or application to or for any right or privilege applicable to an officer or employee of Sound Transit. The City shall be solely responsible for any claims for wages or compensation by City's employees, consultants, agents, and representatives, including sub-consultants, or any agency, and shall defend, indemnify and hold Sound Transit harmless therefrom. In performing work and services pursuant to this Agreement, Sound Transit, its, employees, consultants, agents, and representatives shall be acting as agents of the Sound Transit and shall not be deemed or construed to be employees or agents of the City in any manner whatsoever. Sound Transit shall not hold itself out as, nor claim to be, an officer or employee of the City and will not make any claim, demand, or application to or for any right or privilege applicable to an officer or employee of the City. Sound Transit shall be solely responsible for any claims for wages or compensation by Sound Transit's employees, consultants, agents, and representatives, including sub-consultants, or any agency, and shall defend, indemnify and hold the City harmless therefrom.

8.6 Notices

All notices or requests required or permitted under this Agreement or a Task / Work Order shall be in writing, shall be personally delivered or sent by certified mail, return receipt requested, postage prepaid, or by facsimile transmission and shall be deemed to have been duly given if in writing and either delivered personally, by facsimile transmission, or by certified mail, to the Designated Representative of the other Party as named in this Agreement or Task / Work Order.

8.7 Interpretation

This written Agreement and any Task Orders issued hereunder are the result of mutual negotiations between the Parties and any ambiguity herein is not to be construed against any Party but shall be construed according to the fair intent of the language and interpreted in accordance with the laws of the State of Washington.

8.8 Compliance with Existing Laws

Each Party shall comply, and to the best of its ability shall ensure, that its employees, agents, consultants, contractors and representatives comply with all federal, state, and local laws, regulations, and ordinances applicable to the work and services to be performed. The work performed by the City under this Agreement and all Task or Work

Orders shall comply with all applicable public works and procurement laws and regulations.

8.9 Change in Contact Person

A Party may change the contact person or address to which such communications are to be directed by giving written notice to the other Party in the manner provided in the Task or Work Orders.

8.10 Waiver of Rights

In the exercise of its rights and obligations under this Agreement or any Task / Work Order, except as allowed by the provisions of this Agreement or any Task / Work Order, neither Party shall provide, without the consent of the other Party, any contractor with a release that waives or purports to waive any rights such other Party may have to seek relief or redress against such contractor either pursuant to any cause of action that such other Party may have or for violation of any law.

8.11 No Waiver

No act or failure to act on the part of either agency with respect to the exercise or enforcement of any provision of this Agreement shall be deemed to be a waiver on the part of either agency of any provision of this Agreement. No waiver of one provision by either agency shall act as a waiver of any other provision or as a subsequent waiver of the same provision. No waiver shall be effective against either agency except an express waiver in writing.

8.12 Binding on Successors

All of the terms, provisions and conditions of this Agreement will be binding upon and inure to the benefit of the Parties hereto and their respective successors, permitted assigns and legal representatives.

8.13 No Third Party Rights

Nothing in this Agreement, whether express or implied, is intended to (1) confer any rights or remedies under or by reason of this Agreement on any persons other than the Parties to it and their respective successors and permitted assigns; (2) relieve or discharge the obligation or liability of any third party to a Party to this Agreement; nor (3) give any third parties any right of subrogation or action over against the other Party to this Agreement.

8.14 Amendments/Supplements

As necessary the Parties reserve the right to amend this Agreement. No addition or modification to this Agreement shall be binding upon the Parties unless reduced to writing and signed by an authorized representative of each of the Parties.

8.15 Assignment

Neither Party shall assign any interest, obligation, or benefit in this Agreement or transfer any interest in the same, whether by assignment or novation, without prior written consent by the other Party.

8.16 Severability

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 unaffected thereby shall remain in full force and effect. The Parties agree to negotiate in good faith to reform this 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 and/or condition.

8.17 Captions

The captions to this Agreement are for convenience and shall not add to or limit the substance of its provisions.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.

CENTRAL PUGET SOUND
REGIONAL TRANSIT AUTHORITY

CITY OF SEATTLE

By: _____

By: _____

Title: Chief Executive Officer _____

Title: Mayor _____

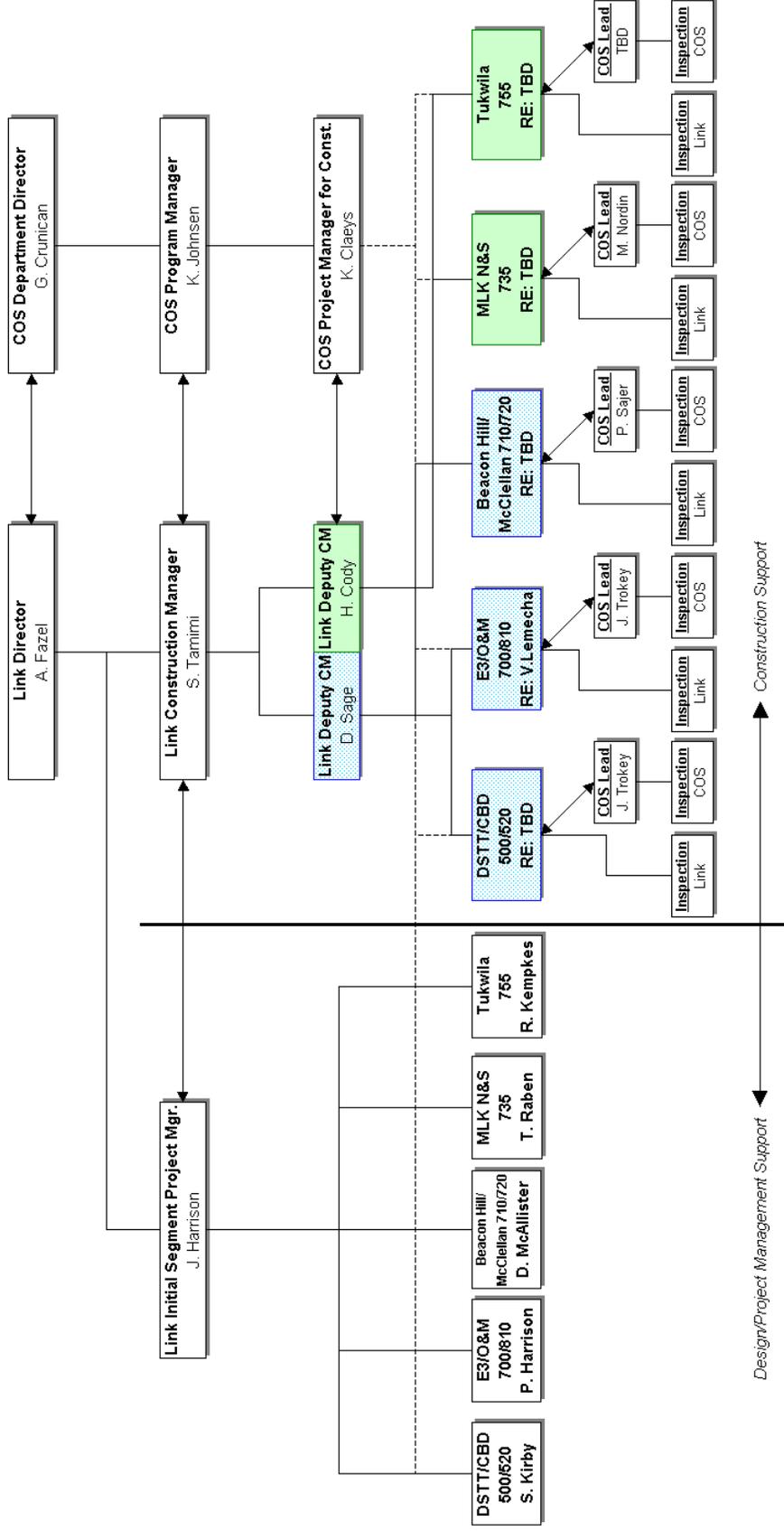
Date: _____

Date: _____

List of Exhibits

- 1 Initial Segment Construction Schedule
- 2-1 Organization Chart for Work Involving City of Seattle Construction Support
- 2-2 City's Project Team
- 3 Sample Task Order
- 4 Construction Services Agreement Budget
- 5 Budget Assumptions
- 6 Acronyms and Abbreviations
- 7 Estimated Labor and Equipment Rates
- 8 Draft Dispute Resolution Agreement
- 9 Owner Controlled Insurance Program
- 10 FTA Provisions

Exhibit 2-1: Organization Chart for Work Involving City of Seattle Construction Support



Note: COS Lead for Tukwila will be Samuel Tucker (SCL)

Exhibit 2-2: City's Project Team

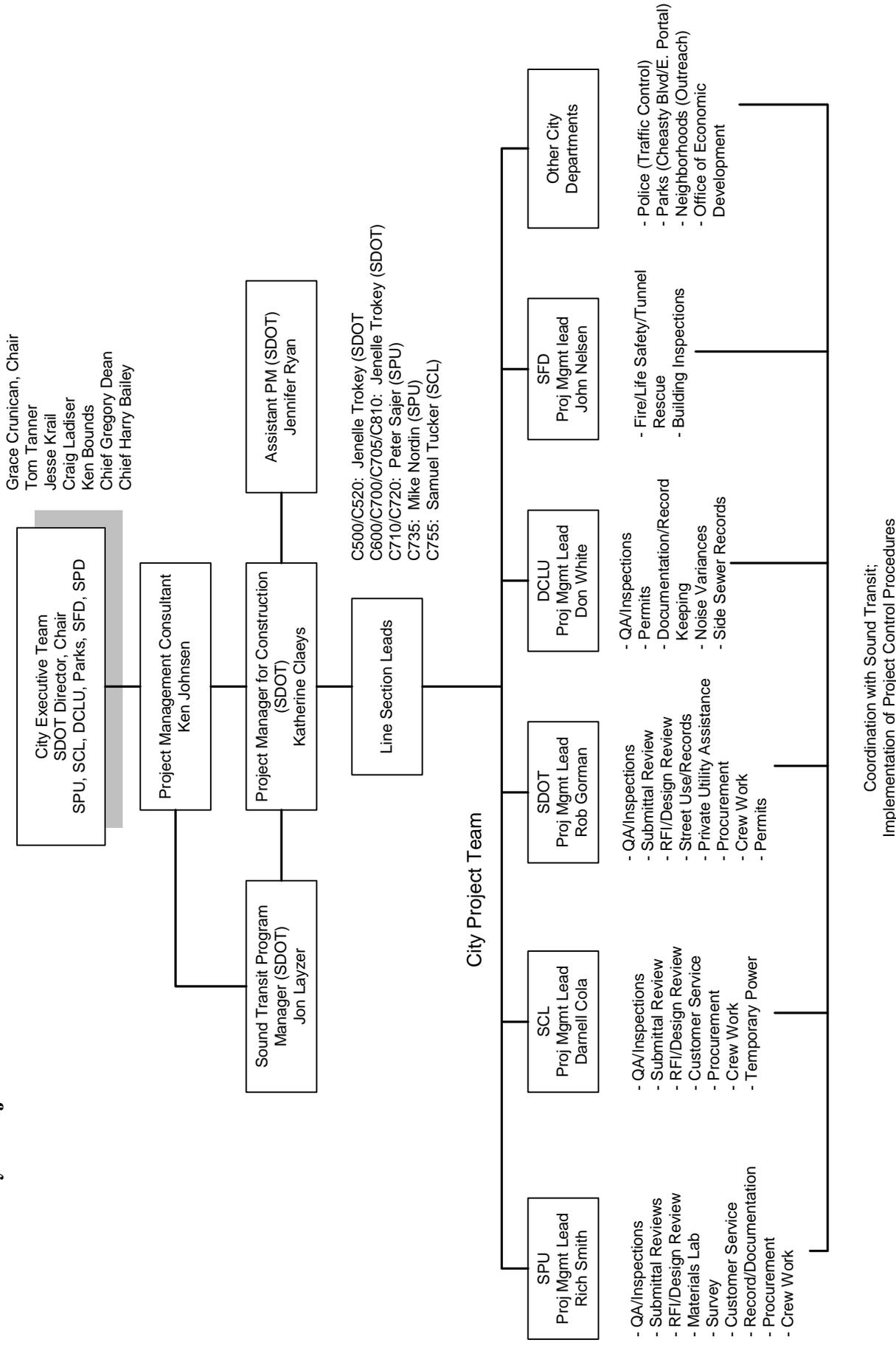


Exhibit 3: Sample Task Order

Task Order SPU-2 SPU Construction Support of Section 700, E-3 Busway/S. Forest St.

THIS Task Order, made and entered into this _____ day of _____, <YEAR>, between the CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY, a regional transit authority of the state of Washington (“Sound Transit”), and the CITY OF SEATTLE, (“the City”), and hereinafter referred to collectively as “parties” or individually as “party.”

RECITALS

WHEREAS, the parties entered into the Sound Transit/City of Seattle Construction Services Agreement (“CSA”) to establish general terms and conditions for governing collaborative ventures between the parties; and

WHEREAS, the CSA provided that the parties would develop separate Task Orders to establish terms and conditions for governing implementation of specific projects; and

WHEREAS, Sound Transit is planning to construct a section of the Central Link Light Rail Project along the E-3 Busway/S. Forest St., hereinafter called Section 700.

WHEREAS, the Project requires the reconstruction of a portion of the City’s water utility and sewer/drainage infrastructure; and

WHEREAS, the parties wish to enter into this Task Order No. SPU-2 to define their responsibilities for implementing Section 700.

NOW THEREFORE, it is mutually agreed as follows:

1.0 GENERAL

1.1 General Terms and Conditions

The general terms and conditions of the Construction Services Agreement shall be applicable to this Task Order unless specifically modified within this Task Order or by written amendment to the Task Order.

1.2 General Roles and Responsibilities

A. Obligations of Sound Transit

Sound Transit shall be the lead agency for the design and construction of the Project. Sound Transit shall incorporate the City’s design requirements for waterline, storm drain and sewer facility reconstruction in the contract documents for the Project.

B. Obligations of the City

Seattle Public Utilities (SPU) shall be the lead agency for all work on active waterlines, including cutting, capping, and connections to live mains. SPU shall also make all cut and tap connections to City sewers and storm drains. SPU shall also provide design support during construction for elements of their water, sewer and drainage infrastructure, on call to Sound Transit.

1.3 Designated Representatives

To provide for consistent and effective communication, the City and Sound Transit have designated formal points of contact and coordination for this Task Order as shown below. (Also refer

to the Project Management Manual accompanying the CSA for a discussion of Organizational roles and responsibilities of the parties.)

All interagency correspondence outlined herein, either from the City or Sound Transit, will be sent through the following designated representatives:

SEATTLE PUBLIC UTILITIES	SOUND TRANSIT.
Rich Smith	Phil Harrison
Project Manager	Line Section Manager
Address: _____	Address: _____
Telephone: _____	Telephone: _____
FAX: _____	FAX: _____

1.4 During construction, all formal contact between Sound Transit’s contractor and the City shall be through Sound Transit’s construction Resident Engineer.

2.0 SCOPE OF WORK

The Scope of Work is as follows:

2.1 Limits of Work: From the north side of Royal Brougham Way, along the E-3 Busway to South Forest Street; along South Forest Street from the E-3 Busway to the west side of Airport Way South; and along the west side of Airport Way South, from South Forest Street to approximately 250 feet to the south.

2.2 Scope Summary

A. Watermain Work Along E-3 Busway at Street Crossings
 SPU field crews will cut and cap main, reconnect main, and conduct bacteriological testing. Work includes water main replacement at E3/Holgate Street, E3/Lander Street, and 6th Avenue S. and S. Forest Street. SPU field crews will install new and relocated water services from the valve near the main to the flange union just past the meter. SPU will install new hydrants on existing water mains, notify affected customers, and reconnect service lines to new mains. SPU will schedule water main field crews to meet the schedule of the Sound Transit contractor.

B. Watermain Work Along South Forest Street
 Sound Transit’s contractor will install a new water main extension along South Forest Street, just west of Airport Way South. SPU field crews will cut and cap main, reconnect main, and conduct bacteriological testing. SPU will schedule water main field crews to meet the schedule of the Sound Transit contractor.

C. Connections To City Sewers And Storm Drains
 SPU field crews will perform all direct connections to active City sewers and storm drains throughout the project. SPU will schedule field crews to meet the schedule of the Sound Transit contractor.

D. Construction Assistance

SPU support during construction will consist of quality assurance (QA) review of SPU facilities material certifications and tests by the City Materials Laboratory; design support for construction, on-call to Sound Transit; and QA of field inspection for SPU facilities.

2.3 SPU Betterment

SPU may request Sound Transit to accomplish additional work during the period of construction that is not required by Sound Transit for its Project. Such Betterment requests shall be in writing and shall describe the additional work requested to be accomplished. SPU shall be solely responsible for all Betterment costs and shall pay all such costs in accordance with the Construction Services Agreement.

3.0 PAYMENT

3.1 Responsibility for Project Section Costs

Sound Transit shall be responsible for all Project Section costs, except for Betterments to SPU infrastructure that are not required to accommodate the Sound Transit light rail system.

3.2 Responsibility for Betterments

SPU shall be responsible for funding the costs of any Betterment Work, including any and all change order work requested by SPU and performed by SPU or Sound Transit’s Contractor.

3.3 Estimate of Costs

The total estimated Project cost is as follows:

Water Facilities Crew Construction	\$169,500
Sewer/Drainage Facilities Crew Construction	\$8,000
Materials Laboratory- Construction Services	\$7,500
Construction Assistance – Water Facilities	\$82,000
Construction Assistance – Sewer and Drainage	\$13,000
Total Task Order	\$280,000

At this time no SPU Betterment costs have been identified in Section 700.

3.4 Payment by Sound Transit

Sound Transit shall reimburse SPU for costs associated with this Task Order. SPU shall invoice Sound Transit monthly. Invoices shall include a summary description of work accomplished, and an estimate of cost-to-complete.

4.0 FINAL INSPECTION AND ACCEPTANCE

4.1 Substantial Completion Inspection

In accordance with its General Provisions, Sound Transit may determine the contract work to be substantially complete. SPU shall be invited to participate in the Substantial Completion Inspection activities, including any formal project tours and any formal meetings or discussions. SPU shall submit to Sound Transit a complete list of concerns or deficiencies within ten (10) working days of the date of the Substantial Completion Inspection for inclusion in the formal punch list.

4.2 Notification of Completion

When Sound Transit determines that Completion has been accomplished, Sound Transit shall notify SPU in writing of its intent to declare Completion. SPU shall respond in writing within seven (7) calendar days indicating agreement or a detailed description of any objection. Failure of SPU to issue such a response within seven (7) calendar days shall constitute SPU concurrence with the declaration of Completion by the Sound Transit. If SPU does express an objection to the intention of the Sound Transit to declare Completion, the parties may pursue the dispute resolution process described in Section IV of the CSA. Both parties agree to act as expeditiously as possible to assure a timely resolution.

5.0 SUSPENSION OF CONTRACT WORK

5.1 Sound Transit's Suspension of Work

Sound Transit may take action allowed by the General Provisions to suspend all or part of its third party contracts. Routine contract actions such as suspension for weather or for critical item delivery may be taken without consultation, other than normal status communication, with SPU. Non-routine suspension actions will be discussed with SPU before they are taken.

6.0 TERMINATION OF TASK ORDER

6.1 Construction Services Agreement Reference

The termination provisions of the Construction Services Agreement, Section 6, shall apply to terminations of the Task Order by either party.

6.2 Life of Task Order

Unless extended by SPU and Sound Transit or otherwise terminated pursuant to Section 6 of the Construction Services Agreement, this Task Order shall terminate upon payment by Sound Transit of the City's final payment request for SPU-2.

6.3 Sound Transit Termination of Contract of Third Party Contracts

Sound Transit shall not terminate its third party contract(s) for construction for convenience or default, without prior written notice to the City.

7.0 OPERATION, MAINTENANCE OF IMPROVEMENTS

7.1 City Acceptance of Improvements

The City will accept its portion of the Work when Sound Transit issues Notice of Final Acceptance to its third party contractor.

IN WITNESS WHEREOF, the parties hereto have executed this Task Order as of the day and year first above written.

CENTRAL PUGET SOUND
REGIONAL TRANSIT AUTHORITY

CITY OF SEATTLE

By: Ahmad Fazel

By: Grace Crunican

Title: Link Director

Title: SDOT Director

Date

Date

Exhibit 4: Construction Services Agreement Budget

	500/520	700/705	710/720	735	755	Projectwide	Total	Contingency	Total
Construction Assistance									
SPU	\$30,000	\$95,000	\$71,000	\$975,000	\$7,000	\$1,178,000	\$1,178,000	\$176,700	\$1,354,700
SDOT	\$406,000	\$394,000	\$475,000	\$1,500,000		\$5,025,500	\$5,025,500	\$416,250	\$5,441,750
SCL	\$300,000	\$30,000	\$12,000	\$50,000	\$400,000	\$792,000	\$792,000	\$118,800	\$910,800
SCL Betterment (710)			(\$3,000)			(\$3,000)	(\$3,000)		(\$3,000)
DCLU (projectwide)						\$527,000	\$527,000	\$79,050	\$606,050
SFD (projectwide)						\$531,000	\$531,000	\$53,100	\$584,100
SFD (tunnel rescue--520/710)						\$1,892,000	\$1,892,000	\$37,840	\$1,929,840
SPD traffic control						\$2,417,000	\$2,417,000	\$241,700	\$2,658,700
SUBTOTAL	\$736,000	\$519,000	\$555,000	\$2,525,000	\$407,000	\$7,617,500	\$12,359,500	\$1,123,440	\$13,482,940
Construction Services (CS)									
SPU	\$175,000	\$185,000	\$857,000	\$3,434,000	\$15,000	\$4,666,000	\$4,666,000	\$699,900	\$5,365,900
SPU Betterment (735 Water)				(\$369,000)		(\$369,000)	(\$369,000)		(\$369,000)
SDOT	\$334,000	\$253,000	\$78,000	\$750,000		\$1,415,000	\$1,415,000	\$212,250	\$1,627,250
SCL	\$1,500,000	\$406,500	\$875,000	\$1,377,000	\$3,830,000	\$7,988,500	\$7,988,500	\$1,198,275	\$9,186,775
SCL Betterment (710)			(\$138,000)			(\$138,000)	(\$138,000)		(\$138,000)
SCL Undergrounding				\$7,080,000		\$7,080,000	\$7,080,000	incl	\$7,080,000
COS Undergrounding Credit				(\$3,840,000)		(\$3,840,000)	(\$3,840,000)		(\$3,840,000)
SUBTOTAL	\$2,009,000	\$844,500	\$1,672,000	\$8,432,000	\$3,845,000	\$0	\$16,802,500	\$2,110,425	\$18,912,925
TOTALS	\$2,745,000	\$1,363,500	\$2,227,000	\$10,957,000	\$4,252,000	\$7,617,500	\$29,162,000	\$3,233,865	\$32,395,865

Projectwide CS and Procurements (incl. 10% markup + 10% contingency + 8.8% sales tax)

SPU (fire hydrants P594)	\$2,000	\$7,500	\$22,500	\$190,000		\$222,000	\$222,000	incl	\$222,000
SPU Surveying, IDP and as builts						\$2,770,000	\$2,770,000	\$70,500	\$2,840,500
SDOT Traffic Signs (P570)	\$3,000	\$8,000	\$11,000	\$187,000		\$209,000	\$209,000	incl	\$209,000
Traffic Signal Equipment (P590)	\$0	\$156,000	\$127,000	\$1,470,500		\$1,753,500	\$1,753,500	incl	\$1,753,500
Traffic Signal Software (P580 Systemwide)						\$1,796,000	\$1,796,000	incl	\$1,796,000
Chief Sealth Trail & Henderson Mitigation						\$2,350,000	\$2,350,000	incl	\$2,350,000
Total SDOT	\$3,000	\$164,000	\$138,000	\$1,657,500		\$4,146,000	\$6,108,500	incl	\$6,108,500
SCL Construction Engineering	\$5,000	\$171,500	\$160,500	\$1,847,500	\$0	\$7,116,000	\$9,300,500	\$70,500	\$9,371,000
GRAND TOTAL	\$2,750,000	\$1,535,000	\$2,387,500	\$12,804,500	\$4,252,000	\$14,733,500	\$38,462,500	\$3,304,365	\$41,766,865

Summary

By Department	CA	Contingency	CA + Cont.	CS	Contingency	CS + Cont.	Credits to ST	Projectwide CS/ Procurements	TOTALS
SPU	\$1,178,000	\$176,700	\$1,354,700	\$4,666,000	\$699,900	\$5,365,900	(\$369,000)	\$3,062,500	\$9,414,100
SDOT	\$5,025,500	\$416,250	\$5,441,750	\$1,415,000	\$212,250	\$1,627,250		\$6,108,500	\$13,177,500
SCL	\$792,000	\$118,800	\$910,800	\$15,068,500	\$1,198,275	\$16,266,775	(\$141,000)	\$200,000	\$17,236,575
DCLU	\$527,000	\$79,050	\$606,050						\$606,050
SFD	\$2,423,000	\$90,940	\$2,513,940						\$2,513,940
SPD	\$2,417,000	\$241,700	\$2,658,700						\$2,658,700
COS				(\$3,840,000)		(\$3,840,000)			(\$3,840,000)
TOTAL	\$12,362,500	\$1,123,440	\$13,485,940	\$21,149,500	\$2,110,425	\$23,259,925	(\$4,350,000)	\$9,371,000	\$41,766,865

Exhibit 4 (Sheet 2)

City of Seattle Reimbursement of Sound Transit's Costs

	700/705	710/720	735	Total
SPU Betterment - Water (735- ST Contractor)			(\$1,189,000)	(\$1,189,000)
SPU Betterment - Sewer (735- ST Contractor)			(\$300,000)	(\$300,000)
SDOT Paving (27th/Hanford - ST Contractor)		(\$70,000)		(\$70,000)
SCL Betterment (705 -ST Contractor)	(\$1,018,580)			(\$1,018,580)
SCL Betterment (705 - SCL Crew Costs in MOA 4th Supplement)	(\$729,000)			(\$729,000)
SCL Betterment (710 ST Contractor)		(\$72,000)		(\$72,000)
COS Undergrounding Credit (735 - ST Contractor)			(\$11,159,000)	(\$11,159,000)
TOTAL	(\$1,747,580)	(\$142,000)	(\$12,648,000)	(\$14,537,580)

Note: Except for the above Undergrounding Credit (expressed in 2002 dollars), which is governed by the Undergrounding Agreement, all cost figures on this sheet are estimates and subject to adjustment based on Sound Transit's actual costs.

Exhibit 5: Budget Assumptions

General:

- Estimates of time and materials required under this Agreement are based on the level of design that currently exists (in the spring of 2003) and the construction schedule (“Working Schedule”) shown in Exhibit 1. Refer to the Level 1 Management Schedule with data dated August 1, 2003 for further schedule detail. The level of design at the time this Agreement was negotiated was as follows: 520 – 30%; 500 – 90%; 700/810 – 100%; 710 – 60%; 720 – 90%; 735 – 95% and 755 – 30%.
- Sound Transit and the City each independently estimated the level of effort required to support the Link Initial Segment construction. The mutually agreed budgets shown in Exhibit 4 are based on specific assumptions delineated below.
- Labor and equipment rates assumed in these estimates are expressed in 2003-2004 dollars except for undergrounding work, which is in 2002 dollars and is fixed by the Undergrounding Agreement. A cost of living adjustment was applied to all Projectwide budgets (i.e., SDOT, DCLU, SFD and SPD).
- “Construction Assistance” includes QA inspection in support of Sound Transit’s QA/QC efforts, RFI/submittal review, engineering during construction, DCLU building/ mechanical inspection, Fire Department inspection and systems testing, SFD tunnel rescue, and SPD traffic control support. Also includes SDOT Core Team of Johnsen/Claeys/Ryan.
- “Construction Services” includes crew work, SCL design in support of crew work, Line Section Leads, SCL and SPU water crew coordinators, survey, materials lab, as-built drawing preparation support, SPU water crew inspections, SDOT signal timing plans for controller installation and SCL/SPU customer service representatives. Water crews will work on all charged water mains, performing all cut-and-caps, fire hydrant connections, and water quality inspection. SDOT crews will do signal cut-overs and controller installation and testing. SCL will relocate overhead wires as required, install underground cabling, and make all service connections. (SPU will provide the Line Section Leads for 710/720 and 735; SDOT will provide the Line Section Lead for 500/520 and 700; SCL will prove the Line Section Lead for 755.)
- “Projectwide CS and Procurements” includes City procurement of fire hydrants (P594), permanent traffic signs (P570), traffic signal equipment (P590), and traffic signal software (P580), SCL electrical service connections for stations and plazas and a \$200,000 allowance for project management/ engineering (through June 2004) for medium voltage service connections (traction power substations), SPU Surveying projectwide (for re-setting monuments), SPU As-Built Drawing production, and ST’s \$2.3 million payment for the Integrated Drainage Plan, the raining authorizations for the Chief Sealth Trail and Henderson Mitigation.
- Budgets for QA Inspection, RFI/submittal review, and engineering during construction assume normal working hours, i.e., there is no allowance for overtime, weekend, or holiday work by QA inspectors or department reviewers. Allowances for overtime are included in each of the crew estimates. City QA will be in support of Sound Transit’s QA/QC efforts and assumes that Sound Transit will provide QA/QC in accordance with City standard practice to relieve the City of having to perform all those duties.
- Budget contingency was calculated as follows: 15% for all Construction Assistance tasks except DCLU’s and SFD’s Projectwide support where 10% contingency is budgeted; 15% for all Construction Services tasks except SCL’s 735 Undergrounding budget, which was negotiated on the basis of 10%, and 2% for SFD’s Tunnel Rescue; and 10% for all procurements and SPD traffic

control services. A 10% mark-up and 8.8% sales tax allowance was also included in the procurement budget figures shown. (No contingency was included for the SDOT Core Team.)

- Potential mitigation efforts to address settlement issues on Beacon Hill have not been included in this Agreement.

Budget Assumptions For SPU

500/520

- SPU's estimate was: Water - \$181,510, (CA - \$26,510; CS - \$155,000); Drainage & Wastewater (DWW) - \$20,000 (CA - \$4,000, CS - \$16,000). Total CA=\$30,510. Total CS=\$171,000 (not including contingency).
- Sound Transit's estimate was Water - \$161,076 (CA - \$19,045; CS - \$142,031) Drainage & Wastewater (DWW) - \$66,534 (CA - \$19,506; CS - \$47,028) Total CA=\$38,552; Total CS=\$169,253.
- Agreed to negotiated budget figures of CA- \$30,000; CS - \$175,000 plus 15% contingency.

700

- Negotiated budget as follows: Water Facilities Crew Construction \$169,500; Sewer/Drainage Facilities Crew Construction \$8,000; Materials Lab (Allowance) \$7,500; Construction Assistance – Water \$82,000; Construction Assistance -- Sewer & Drainage \$13,000; Total Budget \$280,000 plus a 15% contingency.

710/720

- Construction Assistance budget of \$71,000 is based on the following allowances for Construction Engineering (excluding QA Inspection, which is covered in 735) -- \$17,000 for 710 Water, \$31,000 for 720 Water and \$23,000 for DWW.
- Construction Services budget of \$857,000 is based on SPU's estimate -- \$116,000 for 710 Water Crews, \$189,000 for 720 Water Crews, \$37,000 for 710/720 DWW Crews, and \$500,000 for Line Section Lead, Peter Sajer, (0.5 FTE for the first 11 months, 0.75 FTE for the next 24 months, and 0.5 FTE for the final 11 months) (The SPU estimate was based on the full 720 scope, before work was transferred to 735.) After adding an allowance for Material Lab (\$10,000) and Survey (\$5,000), the final agreed-to budget was \$857,000.

735

- Sound Transit's proposed Construction Assistance budget of \$975,000 includes the following: one full-time SPU inspector at \$81.60 per hour for 26 months (4,500 hours each) = \$385,000, plus, \$150,000 for a Corrosion Consultant, \$300,000 for Construction Engineering, \$25,000 for Environmental Monitoring, and \$115,000 for Cedar River Pipeline Support.
- SPU's estimate for Construction Services included \$1,839,000 for Water Crews exclusive of the Cedar River Pipeline Replacement, \$164,000 for CRP Water Crews, \$95,000 for DWW Crews. After adding an allowance for Material Lab (\$90,000), Survey (\$45,000), water quality and service inspection (\$501,000), water and sewer customer service (\$125,000), and Line Section Lead (Mike Nordin) full-time for 34 months at \$97.25 / hour = \$575,000; the final agreed-to budget was \$3.434 million.
- SPU Betterment costs were computed separately. The figures shown are estimated credits Sound Transit expects to receive from SPU for SPU services in conjunction with shared work (\$369,000).

The estimated SPU reimbursement of Sound Transit C735 Contractor costs (shown on Sheet 2 of Exhibit 4) is \$1,189,000 for Water and \$300,000 (estimated full cost of spot repairs) for Sewer. Final figures will be based on actual costs using the logic described in the worksheet used to generate this estimate.

- Sound Transit has agreed in principle to enter into an Integrated Drainage Plan (IDP) agreement with the City of Seattle, Seattle Public Utilities, to provide funds in lieu of construction of storm water treatment facilities for light rail constructed in the City of Seattle south of the Downtown Seattle Transit Tunnel. The value established for Sound Transit's payment to the City under terms of the IDP is \$2.3 million, including the at-grade segments of light rail within the City of Seattle south of the Downtown Seattle Transit Tunnel, but excluding the Sound Transit maintenance base site.

755

- Sound Transit estimated \$7,000 for SPU Construction Assistance and \$15,000 for SPU Construction Services for the short section of SPU facilities in 755. (This may ultimately be combined with 735 when the task Order is issued since it is such a small amount of work that is contiguous with 735.)
- Budget assumes SPU facilities in Tukwila will not be impacted by the Project.

Projectwide

- An allowance of \$270,000 plus 15% contingency has been budgeted for SPU Survey to replace/re-establish City of Seattle benchmarks and monuments in the field upon completion of construction. An allowance of \$200,000 plus 15% contingency has been budgeted for SPU to produce City As-Built drawings. In addition, Sound Transit's payment of \$2.3 million for the Integrated Drainage Plan is budgeted in this line item (without contingency).

Budget Assumptions For SDOT

520

- The negotiated \$406,000 Construction Assistance budget includes 2,479 hours of QA inspection are budgeted -- 1,025 hours for street restoration, 208 hours for signal/lighting/electrical, 32 hours for landscaping, 430 hours for geotechnical and 784 hours for structural. The remaining 1,460 hours budgeted include 610 hours for submittal reviews and 850 hours for RFIs and construction engineering support.
- Crew work consists of temporary signal timing (68 hours), acceptance test and cutover (68 hours) and other construction support (73 hours). The Construction Services budget also includes 2,800 hours for a Line Segment Lead (0.5 FTE for 36 months). (700 will cover 0.4 FTE and C810 will cover the remaining 0.1 FTE.) A reduced overhead rate of 124 percent was used in computing the LSL labor cost of \$294,400, including a 3.0% COLA (reflecting a \$50k reduction from the originally negotiated \$344,400 LSL budget). (SDOT's current overhead rate is higher and street use inspector's rates are established by ordinance [\$123/hour]).

700

- The mutually agreed \$394,000 Construction Assistance budget includes 2,936 hours of QA inspection -- 1,380 hours for street restoration, 850 hours for signal/lighting/electrical, 28 hours for landscaping, 244 hours for geotechnical and 434 hours for structural. Twenty hours are budgeted for private utility relocation assistance. The remaining 998 hours budgeted include 152 hours for submittal reviews and 846 hours for RFIs and construction engineering support.

- Crew work consists of temporary signal timing (208 hours), power up/down signals (40 hours), cutover temporary signals (48 hours), test controller/cabinets and turn on signals (212 hours). Thirty-two hours are budgeted for layout of final channelization. The Construction Services budget also includes 1,840 hours for a Line Segment Lead (0.4 FTE for 115 weeks). A reduced overhead rate of 124 was used in computing the LSL labor cost of \$188,320, including a 3.0% COLA (reflecting a \$38k reduction from the originally negotiated \$226,320 LSL budget).

710/720

- The negotiated \$475,000 Construction Assistance budget includes 3,243 hours of QA inspection -- 874 hours for street restoration, 149 hours for signal/lighting/electrical, 192 hours for landscaping, 860 hours for geotechnical and 1,168 hours for structural. The remaining 1,401 hours budgeted include 268 hours for submittal reviews and 1,133 hours for RFIs and construction engineering support.
- A budget of \$78,000 includes \$18,000 of crew work consisting of temporary signal timing (80 hours, power up/down (35) cutover temporary signals (8 hours), test controller/cabinets and turn on signals (8 hours), and layout of final channelization (8 hours) and \$60,000 for the Rainier Avenue Paving Project.

735

- The negotiated Construction Assistance SDOT budget of \$1,500,000 includes the following: one street use inspector for 4,500 hours at \$123/hour = \$553,500 and one signal/lighting electrical inspector at 4,500 hours at \$85.56/hour = \$385,000 plus \$561,500 for “all other services” including RFI/submittal/shop drawing reviews, engineering during construction (related to streets, signals, and traffic operations), landscaping QA inspection, structural/geotech QA for City owned retaining walls, and reviewing & approving all traffic control plans.

Projectwide

- SDOT Core Team includes Ken Johnsen (Project Management Consultant), Katherine Claeys (Project Manager for Construction) and Jennifer Ryan (SA#1 Assistant PM). The budget figures shown are based on a reduced overhead rate of 124% for SDOT employees Claeys and Ryan.
- Three SDOT Procurements are budgeted: Traffic Signs (P570), Traffic Signal Equipment (P590), and Traffic Signal Software (P580). The P590 cost estimate excludes the video wireless equipment.
- The remaining outstanding budget for Chief Sealth Trail Mitigation is \$870,000 of the total \$1.0 million budget (\$130,000 had been previously authorized under the MOA) and the remaining Henderson Mitigation is \$1.48 million of the total \$1.5 million budget (\$20,000 had been previously authorized under the MOA).
- Budget for 810 is not included in this Agreement and will be funded separately.

Budget Assumptions For SCL

500

- There is no budget included in the Construction Services Agreement for Section 500. The TPSS service connection will involve some SCL Betterment work; however, that will be addressed in the separate Service Agreement between Sound Transit and the City of Seattle.

520

- The Construction Assistance budget includes an allowance for SCL project management and inspection of the civil facilities (duct banks and vaults) by ST’s contractor. The Construction

Services budget is based on relocating both the M-1 and M-5 vaults and providing new connecting duct between them. The \$1.5 million estimate includes both SCL's electrical system design at \$410,000 and \$1.09 million for SCL crew costs, for relocation of five Broad-East primary feeders, and affected secondary circuits, including signal and streetlight connections along Pine Street.

700/705

- SCL crews provide service connections for new signals and streetlights. Also included in this budget line item is the remainder of the SCL work from 705 authorized under the Fourth Supplement to the MOA. (Refer to the C705 Term Sheet. The Sound Transit share of SCL Crew Cost for Non-Betterment Work is \$1,211,000 – 62.4% of the total SCL Crew Cost. ST's Previous Authorization for E-3 Busway work was \$804,465. The balance $\$1,211,000 - \$804,465 = \$406,535$ is budgeted in the Construction Services Agreement. A \$30,000 budget allowance was included for SCL project management for the remaining 705/700 work.

710/720

- The budget covers relocation of the electrical power feeder at the West Beacon Hill Tunnel Portal. The estimate is in two parts—Phase 1 consists of Year 2004 construction work to move the existing feeder and pole replacement, and Phase 2, Year 2006 construction work to replace the existing 600 Amp feeder with two 1200 Amp feeders. Design and purchase of one permanent steel pole and foundation at the east side of I-5 is not included in this budget. (Use of a wood pole in lieu of steel may be possible pending review of the soils reports and design requirements.) SCL crews will also provide service connections for new signals and streetlights.
- The SCL total cost is split in two parts – inspection (Construction Assistance) and crew work and construction design costs (Construction Services). The West Portal SCL crew costs were estimated to be \$745,000. SCL design was estimated at \$130,000 for a total of \$875,000. Inspection was estimated at \$12,000.
- Betterment costs were calculated to be 24% of SCL's costs -- \$210,000 for design and construction and \$3,000. The 24% figure is based on the following SCL cost sharing: 33% of the permanent ductbank, 100% of steel pole and foundation east of I-5, 50% of the new permanent pole west of I-5, 20% of the OH from Forest to west of I-5 (2 circuits); 100% of the permanent second circuit under I-5; 50% of the two permanent circuits east of I-5 and two new wood poles at Beacon Hill, and 20% of the 2 new permanent aerial circuits up Beacon Hill. Note that this is subject to future negotiation to determine if this is a system improvement required by Sound Transit's service and reliability needs or a Betterment.

735

- Per the Undergrounding Agreement, SCL is responsible for removing city-owned overhead wires, furnishing and installing electrical wiring, transformers, meters, and switches associated with undergrounding of SCL-owned electrical utilities, and the necessary rearrangements, modifications, and additions to city owned facilities that will remain overhead to accommodate undergrounding of City-owned utilities.
- SCL shall provide the necessary work force and resources required to support Sound Transit's C735 construction schedule, as set forth in the issued for Construction Contract Documents. SCL shall be responsible for obtaining all street use permits for the purpose of installing electric wire in the Right of Way, and any installations on private property through existing City ordinance or SCL service agreements. COS shall coordinate its work with other facility owners and contractors performing undergrounding of utilities that may connect, compliment or interfere with SCL's work or facilities. Coordination with other third parties shall be through Sound Transit.

- The City of Seattle shall have the cost responsibility for the undergrounding project design, civil and ductbank construction, electrical wire and equipment, street light poles, and installation in undergrounding its electrical utility in Commercial zones of the project. SCL shall also be responsible for spare conduit/appurtenances for future use in the Project corridor, in both Commercial and Non-commercial zones.
- SCL shall attend coordination meetings as requested to facilitate coordination and help maintain the project schedule by adjusting its work force and construction sequence to mitigate project delays. A Construction Assistance budget of \$50,000 has been established for project management support of the overhead-to-overhead relocation in C735. Project management for the Undergrounding work is included in the Undergrounding Agreement budget.
- CS Budget is shown in two categories – Undergrounding and all other (principally Overhead-to-Overhead relocation). The Undergrounding budget as agreed in the Undergrounding Agreement is a fixed price of \$7,080,000 for work by SCL forces, including an 8% contingency. The CS Budget for all other work is based on an estimated not to exceed \$1,473,796 for OH-OH south of Barton including a 15% construction contingency, or \$1,317,000 without construction contingency. The CS budget also includes \$60,000 for a SCL Customer Services Representative for a total of \$1,377,000.
- Per the Undergrounding Agreement, the City’s cost responsibility for the MLK Undergrounding is \$14.999 million in 2002 dollars. \$3.840 million of this cost will be paid by the City as a credit under the Construction Services Agreement for the SCL crew work in Commercial zones. The City will pay the balance of \$11.159 million to Sound Transit as reimbursement towards the C735 contractor cost for ductbank construction in the Commercial zones and other City cost responsibilities including design and construction management services.

755

- The Construction Assistance budget is for project management and inspection of the underground duct bank to be constructed by ST’s contractor. The Construction Services budget includes electrical design and SCL Crew work in Tukwila.

Projectwide

- An allowance for \$200,000 is included for project wide construction engineering.

Budget Assumptions For DCLU

- 1) Budget includes building and mechanical inspections.
- 2) Budget values do not include inspections for:
 - Electrical work of any kind
 - Elevators and Escalators
 - Drainage
 - Plumbing/Sanitary Sewer
 - Fire Protection inspected by SFD
 - Lab testing of any kind
 - Side Sewer connections
 - Inspections normally performed by other Agencies
 - Permits issued by DCLU
- 3) Values do not include any unanticipated construction failures, which may require additional support from DCLU.
- 4) Excludes geotechnical and structural inspections performed by SDOT as applicable for work covered under PCP (e.g., for the Beacon Hill Station).

- 5) An average base rate of \$80 per hour in 2003 was escalated by 3.0% per annum for cost of living adjustment.
- 6) Includes a 15% contingency.
- 7) Budget values do not include facilitation of private property modifications. The Parties will jointly monitor the level of DCLU support, and, if necessary, Sound Transit may request additional support by authorizing additional budget.

Budget Assumptions For SFD

Construction Assistance budget includes submittal review for code compliance, and inspection of fire/life safety systems and facilities and tunnel rescue. Admin. Lt. starts mid-year in 2004 to monitor traffic control and coordinate with Fire Stations. Includes a 3.0% COLA each year through 2008.

The Tunnel Rescue budget includes a credit for sale of the new rescue vehicle in 2007.

TUNNEL RESCUE TEAMS: SFD will provide two five-person tunnel rescue teams that are trained to the Technician level and are available to respond 24-hours per day, seven days per week in accordance with WAC 296-155. These teams will be trained and equipped with long-duration breathing apparatus to facilitate protracted response efforts within the tunnel environment.

TUNNEL SAFETY TRAINING: SFD will also provide Awareness and Operations level tunnel safety training to entire Operations Divisions to help ensure safe and effective operations of first due companies on initial response to incidents within the tunnel.

Budget Assumptions For SPD

The Construction Assistance Services budget of \$2,658,700 million was based on an estimated 26,520 hours for SPD traffic control from April 2004 through December 2006 at a base labor rate of \$85 per hour including \$70 per hour for salary and fringes, \$5 per hour for motorcycle and expenses, and \$10 per hour for supervision (i.e., an allocation of the Motorcycle Sergeant's time over a three- to eight-officer force assigned to Link traffic control), escalated at a fixed Cost of Living Allowance per year from 2004 and beyond. Base estimate assumes up to eight FTEs as permanent, assigned on-post positions. This estimate is intended to be a minimum number of billable hours. Additional hours may be requested and would more than likely be handled on overtime, using the same \$85 +COLA hourly rate. (The staffing level may be adjusted by mutual agreement during the life of this Agreement.) SPD will take direction from Link on the timing of assignment of officers in the field through Task Orders to be issued for each Line Section contract.

Exhibit 6: Acronyms and Abbreviations

CA	Construction Assistance
CDF	Community Development Fund
CRP	Cedar River Pipelines
COS	City of Seattle
CSA	Construction Services Agreement
DCLU	Seattle Department of Design, Construction and Land Use
DSTT	Downtown Seattle Transit Tunnel
FTA	Federal Transit Administration
IDP	Integrated Drainage Plan
KCM	King County Metro
M&M	Monitor & Maintain
MLK	Martin Luther King Jr. Way South
MOA	Memorandum of Agreement
OED	Office of Economic Development
O&M	Operations and Maintenance
PM	Project Manager
PMM	Sound Transit / City of Seattle Project Management Manual
QA	Quality Assurance
QC	Quality Control
RE	Resident Engineer
RFI	Contractor Request for Information
ROW	Right-of-Way
SCL	Seattle City Light
SDOT	Seattle Transportation
SFD	Seattle Fire Department
SPD	Seattle Police Department
SPU	Seattle Public Utilities
TO	Task Order
UG	Underground or “Undergrounding” of Overhead Utilities
WBS	Work Breakdown Structure
WO	Work Order

Exhibit 7: Estimated Labor and Equipment Rates

Expense forecasts used to develop the budget were based on the following labor and equipment rate assumptions:

Seattle Fire Department (SFD)

Actual salaries are proposed for Deputy Chief, Fire Lt. Inspector, and Fire Protection Engineer. Firefighters are being proposed per union agreement with 15 years of service. Salaries are adjusted 3% per year throughout the life of the Agreement. Overhead includes fringes and overtime expenses and no administrative overhead expenses. Equipment and vehicles are charged direct.

Labor Description	OH Factor
Deputy Chief	1.10
Fire Lt.	1.25
Fire Fighter	1.26
Fire Protection Engineer	1.37

Seattle Public Utilities (SPU)

Budget is based on published Standard Rates, which are approved by a Committee annually. Standard Rates are at the high end of the labor scale. Labor overhead rate applied is 100%. The Standard Rates do not include equipment, inventory control, or materials. SPU's 2003-2004 rate for Line Section Lead is \$97.25 per hour.

Department of Design Construction and Land Use (DCLU)

DCLU's original estimate was based on \$150 per hour. This was reduced by mutual agreement to prevailing base rates of between \$73.73 and \$84.12 per hour (DCLU's interdepartmental rates) for differing inspector classifications.

Seattle Transportation (SDOT)

Overhead rates are calculated for each division and range from 107.61% to 182.04%. A composite rate for all divisions is 140%. Expenses are categorized as Paid Absence, Fringe Benefits, Divisional Indirect Costs and Departmental Indirect Costs. Departmental Indirect costs are for Budgeting, Accounting, Mayor, etc. The only equipment expense in the overhead is for administrative cars. All other equipment is charged directly to the project. **Overtime is proposed at a composite rate of 62%.**

Street Use Inspectors are charged per Seattle Municipal Code Section 15.04.074 at \$123 per hour. This rate is comprised of \$75 for direct inspector labor and their Overhead and \$48 for other project labor (i.e., Records Management, Department and Line Segment Leads, Strategic Advisor) neighborhood conflict resolution, system upgrades and long term planning. Street Use Inspectors are on call and not assigned to a project full time.

The budget for the SDOT Line Section Lead, Project Manager for Construction, and Assistant PM was based on a reduced (124%) overhead rate. The rationale for this is that the LSL is performing a function similar to SPU's LSLs for Sections 710/720 and Section 735, which will be billed at \$97.25/hour based on SPU's 100% overhead rate. SDOT's Core Team will be dedicated to the Project full-time.

Seattle City Light (SCL)

Seattle City Light is proposing a wrap rate of \$76 per hour. This includes a direct hourly rate of \$31 per Local 77 union agreement and an Overhead Rate of 146%. Advertising expenses were removed per FAR 31.205-1(d). Both the direct rate and the overhead factor are from 2002 financials. The overhead rate is

broken down into the following categories:

	Regular	Overtime
Labor OH	55%	8%
G&A	72%	72%
Equipment	<u>23%</u>	<u>23%</u>
Total	149%	100%

Straight time was assumed at a rate of 149%, and overtime at a rate of 100%. Per Local 77 contract overtime is any time outside 7:00 AM to 3:00 PM and is paid at 2 times the regular hourly rate.

In addition, a material handling charge is assessed to material costs that varies from 15 to 31%. This factor includes expenses associated with purchasing staff, warehousing costs and inventory control.

EQUIPMENT

Project Equipment expenses are direct charges for all the departments except SCL. SCL applies a 23% factor on labor for equipment usage. This factor is supported by actual costs from 2002 for Organization 351. Any other equipment charges (i.e., fleet cars, Mayor Sedans etc.) would be related to Central Administrative Expenses and would be a part of every departments General and Administrative Account.

Seattle Police Department

A base labor rate of \$85 per hour was assumed including \$70 per hour for salary and fringes, \$5 per hour for motorcycle and expenses, and \$10 per hour for supervision (i.e., an allocation of the Motorcycle Sergeant's time over a three- to -eight-officer force assigned to Link traffic control), escalated at a fixed Cost of Living Allowance per year from 2004 and beyond. Overtime will be reimbursed at the same \$85 + COLA hourly rate.

Exhibit 8: Draft Dispute Resolution Agreement

CITY OF SEATTLE *PROJECT***** PROJECT
DISPUTE RESOLUTION BOARD**

This Agreement is entered into this _____ day of _____, 2001, between the CITY OF SEATTLE ("City"), CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY ("Sound Transit") and Dispute Resolution Board Members ***** (the "Board" and "Members").

RECITALS

The City and Sound Transit are engaged in the construction of the initial 14-mile segment ("Initial Segment") of the Central Link Light Rail Project that will begin at an interim north terminus at Convention Place with passenger service to be provided through the Downtown Seattle Transit Tunnel and along the E-3 Busway / S. Forest St., in a tunnel under Beacon Hill to McClellan Ave., through the Rainier Valley via Martin Luther King Jr. Way South, to Tukwila via a Freeway Route to an interim south terminus at S. 154th Street ("Project") as defined in the Sound Transit/City of Seattle Construction Services Agreement ("Contract"). The Contract requires the creation of a Dispute Resolution Board for the timely resolution of contract claims by the City, Sound Transit, its contractors and subcontractors; now therefore

THE PARTIES AGREE AS FOLLOWS:

The Dispute Resolution Board process shall govern the resolution of all contract claims by the Sound Transit, its contractor or subcontractors all as provided in the Contract.

The Board, as provided in the Contract Documents, is hereby formed with the consent of each of the parties to this Agreement and shall function as described herein.

The initial Board shall be composed of the three Members identified above, who shall serve until the completion of the term of this Agreement. Individual Members may be replaced as provided below.

**I
DESCRIPTION OF THE WORK**

The Board shall provide fair, prompt and cost effective consideration of disputes placed before it. The individual Members are not the representative or advocate of the City or Sound Transit or any contractor or subcontractor.

DISPUTE RESOLUTION BOARD GUIDELINES

OBJECTIVES

The principal objective of the Dispute Resolution Board is to assist in the resolution of construction claim disputes between the City, Sound Transit, its contractors and subcontractors without resort to litigation. If this objective is achieved, disputes can be resolved promptly with minimum expense, and with minimum disruption to the administration and performance of the work on this project.

Draft Dispute Resolution Agreement

In matters involving \$50,000.00 or less, Board decisions will be binding. In matters involving more than \$50,000.00, the Board will make written recommendations, which are not binding on any participant to the dispute. All Board decisions and recommendations will be in writing.

By creating this Board, it is not intended that the City, Sound Transit, its contractors and subcontractors, abandon their obligation to amicably and fairly settle their differences without resort to the Board process. The Board will encourage settlement of differences at the job level, and encourage the City and Sound Transit to refer matters to the Board only when they cannot reasonably resolve a dispute.

RESPONSIBILITY OF THE BOARD

In facilitating the prompt and fair resolution of monetary disputes between the Parties arising from performance of the work on this project, the Board shall strive, whenever possible, to act as a mediator, seeking mutual agreement.

The Board shall become familiar with the Contract Documents, be provided access to any documents by the City and Sound Transit that would be helpful in keeping the Board informed about the project. The Board should receive copies of any key written communications between the parties. The Board should visit the job site on a regular basis, accompanied by representatives of the City and Sound Transit.

The Board shall refrain from giving any advice or consulting services to either the City or Sound Transit, its contractors or subcontractors, shall refrain from entering into any business relationship with the City or Sound Transit, its contractors or subcontractors during the course of their service as Members and shall refrain from any act which would create an appearance of unfairness. The Members will act in an independent and neutral manner. As a condition to their selection, each Member hereby affirms that he is free of any conflict of interest.

The Board shall select from its Members a Chairperson who will preside at any meeting of the Board and who shall preside at hearings. The Chairperson, who shall be identified to the City and Sound Transit, may from time-to-time be rotated amongst the Members. Other duties necessary to the function of the Board may be assigned as the Board may agree. Otherwise, the Board may organize itself in any manner it deems reasonably prudent to the accomplishment of its duties.

Regular construction progress meetings among the City, Sound Transit, its contractors and subcontractors will be held during the course of this project at or near the job site. The Board is welcome to attend any of these meetings and may be called upon to participate. Sound Transit will prepare minutes of these meetings. The Board will be on the circulation list for meeting minutes.

GENERAL PROCEDURE GOVERNING DISPUTES

The Board shall determine the procedure for the actual conduct of the appeal. The City and Sound Transit may submit whatever relevant evidence each believes supports its position in the dispute and shall submit any additional evidence or information the Board requests. The City and Sound Transit will furnish copies of all submissions to each other. The Board may elect to hear testimony or oral argument, or may decline to do so. Any party appearing before the Board may be represented by legal counsel.

The Board shall endeavor to resolve each dispute in an expeditious and cost effective manner. The Board shall promptly render its recommendation or decision in writing.

Draft Dispute Resolution Agreement

Within 30 days of the Board's decision in claims involving \$50,000.00 or less, the City and Sound Transit shall confer and reach an agreement regarding implementation of the Board's decision, and if appropriate, enter into a written agreement, which may be a Change Order.

Within 30 days of a Board recommendation in a dispute involving more than \$50,000.00, the City and Sound Transit shall confer and attempt to reach an agreement, which may be reduced to writing if appropriate, or failing to do so may pursue other remedies.

The Board shall decide when to conduct hearings. If the matter is not urgent, the hearing may be scheduled during the time of the Board's next regular visit to the site. For an urgent matter, the Board should convene a hearing at the earliest convenience for all parties, provided, however, in no event shall the hearing commence later than 30 days after delivery of a written appeal to the Board.

The Board may designate any location to conduct the hearing where it deems convenient. However, strong preference should be given to locations at or near the site to minimize impact on the work force and to provide opportunities to timely adjourn to the site to further evaluate the claims.

The City, Sound Transit, its contractor and any subcontractor shall cooperate in the scheduling and conduct of the hearings and may have representatives at any hearing. The Board will determine the order and manner in which information is presented at any hearing. At any time, the Board may ask questions, request clarification, or ask for further data.

The Board's decision/recommendation shall be based on the pertinent contract documents and the relevant facts and circumstances involved in the dispute. The Board is free to conduct its own investigation of any matter presented to it, provided that any such independent investigation and the results thereof shall be detailed in the written decision/recommendation of the Board.

The Board will determine when it has received sufficient information from the parties to the dispute and when to close the evidence. After the hearings are concluded, the Board shall deliberate in private and reach a conclusion, supported by the votes of at least two Members. The decision or recommendation of the Board will be announced in writing, without stating whether the decision was unanimous. There will be no dissenting report filed.

The City, Sound Transit, and Sound Transit's Contractors will be barred from presenting in any subsequent litigation any facts or circumstances giving rise to or supporting the dispute which were not presented to the Board and furnished to all other parties to the dispute, prior to the issuance of the Board's written findings and recommendations.

Any party to a dispute may request reconsideration of a Board decision/recommendation by requesting the same within five business days of the date of receipt of the Board's determination. However, the Board's reconsideration will be limited solely to hearing new argument. No new evidence will be considered.

II OBLIGATIONS OF THE PARTIES

FURNISHING DOCUMENTS

The City will furnish to the Board three copies of the Contract Documents within two weeks of signing this agreement. The City and Sound Transit will make the necessary representatives available to conduct a joint briefing of the Board on the status of the project at a time to be mutually agreed upon. The City

Draft Dispute Resolution Agreement

and Sound Transit will furnish the Board with relevant schedule documents, minutes of relevant meetings and other information the Board may request.

CONSTRUCTION SITE VISITS

The Board Members shall visit the project site to keep abreast of construction activities and to develop a familiarity of the work in progress. The frequency, exact time, and duration of these visits shall be as mutually agreed among the City, Sound Transit and the Board.

BOARD MEMBER REPLACEMENT

Members serve at the mutual consent of the City and Sound Transit, and the services of any Member shall cease on notification that either the City or Sound Transit wishes to withdraw its consent. Should the need arise to appoint a replacement Member, replacement Members shall be appointed with the mutual consent of the City and Sound Transit. In the event that the City and Sound Transit cannot agree, the two remaining Members shall select the third Member. In the event that two Members require replacement, and the City and Sound Transit cannot agree on replacements, the City and Sound Transit shall each select a Member. In the event that the entire Board requires replacement and the City and Sound Transit cannot agree, each shall nominate one Member and the two new Members shall appoint the third Member. The appointment of any replacement Member will begin promptly upon determination of the need for replacement and shall be completed within 21 calendar days.

COORDINATION AND SERVICES

The City and Sound Transit will cooperate in the coordination of Board operations. The City will arrange or provide a meeting facility convenient to the project site and will provide secretarial and copying services. If the Board meets at any other site, the Members shall bear any cost of meeting facilities and administrative services.

The City will maintain complete cost records for the City's and Sound Transit's shared expenses of the Board, and these records will be available for inspection. These expenses include the three Members' wages and travel expenses, local lodging and subsistence, and direct costs associated with the Board operations.

III TIME FOR BEGINNING AND COMPLETION

The Board is to be in operation throughout the life of the Initial Segment Project and will cease when notified in writing by the City and Sound Transit that all construction activity has been completed and that there are no pending claims or appeals. The current construction schedule establishes February 2003 as the date for completion. The Board Members agree that they will remain available until that date, or the actual completion date, if later, plus 6 months, unless sooner discharged by written notice from the City and Sound Transit.

IV PAYMENT

The Board shall be paid by the City and Sound Transit for services rendered under this Agreement as provided hereinafter. Neither party shall bill this cost to the other.

Draft Dispute Resolution Agreement

Such payments shall be full compensation for work performed or services rendered, and for all labor, materials, supplies, equipment, and incidentals necessary to the operation of the Board.

ALL INCLUSIVE RATE PAYMENT

Fee - Board Members. Members shall be paid at the rate of \$150 per hour. Subsequent changes in the rate are subject to agreement among the City, Sound Transit and the Member and must be memorialized in a Supplemental Agreement.

Direct Non-Salary Costs Direct non-salary costs will be reimbursed at the actual cost to the Members. Direct non-salary charges may include travel expense from the Member's point-of-origin to the initial local point of arrival, such as Sea-Tac International Airport, local travel, subsistence, lodging, printing, long distance telephone and work related supplies. Automobile mileage will be reimbursed at the rate in effect at the time the trip is taken and shall be supported by the date and time of each trip with origin and destination of such trips. The City and Sound Transit shall reimburse the Members by using the then effective policies and rates for travel, lodging and meal expense in use by the City as of the date the same is incurred. The City publishes these rates and policies on its website. Air travel will be reimbursed for the actual cost, not to exceed Coach class fare, unless a greater expense is incurred at the request of the City and Sound Transit.

The billing for non-salary cost, directly identifiable with the project, shall be an itemized listing of the charges supported by the original bills, invoices, expense accounts, and miscellaneous supporting data retained by each Member. Copies of the original supporting documents shall be supplied to either Party upon request.

PAYMENTS

The Members may submit invoices to the City for payment for work completed not more often than once per month. Such invoices shall include a general description of activities performed during that billing period. The value of the work for payment shall be established by the invoices submitted by the Member who itemize direct payroll for the Member and direct non-salary costs.

INSPECTION OF COSTS RECORDS

The Members shall keep available the cost records and accounts pertaining to this Agreement for inspection by representatives of the City and Sound Transit for a period of six years after final payment. If any litigation, claim, or audit arising out of, in connection with, or related to this Agreement is initiated before the expiration of the six-year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed.

V

ASSIGNMENT OF TASKS OF WORK

The Board shall not assign any of the work of this Agreement without the written consent of the City and Sound Transit.

VI

TERMINATION OF AGREEMENT

The parties to this Agreement mutually agree that this Agreement may be terminated at any time upon not less than 30 calendar days written notice to the other parties.

Draft Dispute Resolution Agreement

VII LEGAL RELATIONSHIP

The parties agree that the Members, in the performance of their duties, are acting as independent contractors and not as agents or employees of either the City or Sound Transit.

VIII DISPUTES

Any dispute regarding the terms of this Agreement which cannot be resolved by negotiation and mutual concurrence among the parties may, at the instance of any party, be referred to the Superior Court of the State of Washington in King County as provided in Section IX, Venue, Applicable Law, and Personal Jurisdiction.

IX VENUE, APPLICABLE LAW, AND PERSONAL JURISDICTION

In the event that any party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this Agreement, such action shall be initiated in the Superior Court of the State of Washington, situated in King County. This Agreement and the rights of the parties hereunder shall be governed by the laws of the State of Washington. For purposes of enforcement of this Agreement, the City, Sound Transit and Members hereby consent to the personal jurisdiction of the Superior Court of the State of Washington, situated in King County.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

BOARD MEMBERS

The undersigned Members of the Dispute Resolution Board for the Project consent to the terms of this agreement and further affirm the following Code of Ethics:

1. I shall uphold the integrity and fairness of the Board process;
2. I shall disclose any interest or relationship likely to affect impartiality or which might create an appearance of partiality or bias;
3. I shall avoid impropriety or the appearance of impropriety in communicating with the City Sound Transit, its contractor or subcontractor;
4. I shall conduct the proceedings fairly and diligently;
5. I shall make decisions in a just, independent and deliberate manner; and
6. I shall be faithful to the relationship of trust and confidentiality inherent as a Member of the Board.

Draft Dispute Resolution Agreement

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

CITY OF SEATTLE

SOUND TRANSIT

By _____

By _____

Title _____

Title _____

***** CONSTRUCTION COMPANY

By _____

Title _____

Exhibit 9: Owner Controlled Insurance Program

A. Introduction and Definitions

Sound Transit has implemented an Owner Controlled Insurance Program (OCIP) to furnish certain insurance coverage as defined herein for Work performed at all Sound Transit Construction Project Sites.

The OCIP provides primary insurance coverage for Sound Transit, its Consultants, Subconsultants, Contractors and Subcontractors of all tiers, but only with respect to their Work performed at all Sound Transit Construction Project Sites.

For purposes of the OCIP, the following definitions apply:

Owner: Sound Transit, Union Station, 401 South Jackson Street, Seattle, Washington 98104-2826.

OCIP: The Owner Controlled Insurance Program under which Commercial General Liability, Excess Liability, Professional Liability, Contractors Pollution Liability, Pollution Legal Liability, Railroad Protective Liability and Builders Risk insurance are purchased and administrated by Sound Transit. The OCIP provides insurance coverage for Sound Transit, its Consultants, Subconsultants, Contractors and Subcontractors while they are performing Work at all Sound Transit Construction Project Sites.

OCIP Manager: Willis of Seattle, Inc., 505 Union Station, Suite, 200, P.O. Box 34201, Seattle, Washington 98124.

Professional Liability Project Manager: Individual assigned responsibility by terms of the Professional Liability policy.

Project Site: The areas that are occupied by or used by the Contractor, Subcontractors, Consultants, Subconsultants during performance of the construction of any Sound Transit Construction Project in the Puget Sound area of Washington, and are indicated in the Contract Documents as being within the project limits. This includes any areas outside the project limits, which are designated in writing by the Contractor and approved in advance by Sound Transit as being part of the Project Site.

Project Safety Coordinator: The individual assigned this responsibility by Sound Transit or its designee.

Consultant: An individual, firm, partnership, or corporation that has a contractual obligation with Sound Transit to perform some part of the Work required for the completion of the Project, and whose principals or employees are actively performing such Work at the Project Site. Such individual, firm, or corporation must complete all forms contained in the OCIP Manual, which is incorporated into the Contract Documents as an attachment hereto, and receive certificates of

insurance from Sound Transit evidencing completion of such enrollment and acceptance of Consultant into the OCIP.

Subconsultant: An individual, firm, partnership, or corporation that has a contractual obligation with a Consultant, Contractor or other Subconsultant, or as defined herein to perform some part of the Work required for the completion of the Project, and whose principals or employees are actively performing such Work at the Project Site. Such individual, firm, partnership, or corporation must complete all forms contained in the OCIP Manual, which is incorporated into the Contract Documents as an attachment hereto, and receive certificates of insurance from Sound Transit evidencing completion of such enrollment and acceptance of the Subconsultant into the OCIP.

Contractor: An individual, firm, partnership, or corporation that has a contractual obligation with Sound Transit to perform some part of the Work or service required for the completion of the Project, and whose principals or employees are actively performing such Work or service at the Project Site.

Such individual, firm, partnership, or corporation must complete all forms contained in the OCIP Manual, which is incorporated into the Contract Documents as an attachment hereto, and receive certificates of insurance from Sound Transit evidencing completion of such enrollment and acceptance of the Contractor into the OCIP.

Subcontractor: An individual, firm, partnership, or corporation that has a contractual obligation with a Consultant, Contractor or other Subcontractor, or as defined herein to perform some part of the Work required for the completion of the Project, and whose principals or employees are actively performing such Work at the Project Site. Such individual, firm, partnership, or corporation must complete all forms contained in the OCIP Manual, which is incorporated into the Contract Documents as an attachment hereto, and receive certificates of insurance from Sound Transit evidencing completion of such enrollment and acceptance of the Subcontractor into the OCIP.

B. Sound Transit Furnished Insurance

Sound Transit is providing insurance coverage for itself, its Consultants, Subconsultants, Contractors and Subcontractors of every tier for Work performed at all Sound Transit Construction Project Sites. The OCIP does not cover Suppliers, vendors, materials dealers, haulers, and transporters whose work location is off the Project Site, and who merely deliver materials, equipment, or supplies to the Project Site. However, should such Suppliers, vendors, or materials dealers install their product on the Project Site, or contract with Consultants, Subconsultants, Contractors and Subcontractors to install their product, they will be enrolled in the OCIP. The OCIP does not include fabrication, manufacturing, or other operations at a location away from the Project Site unless: (1) such fabrication or manufacturing is for the sole purpose of furnishing materials or equipment to all Sound Transit Construction Project Sites, and, (2) such location is designated in writing by Sound Transit as a covered location in the OCIP.

Sound Transit, at its sole expense through the OCIP, is providing insurance coverage as described in Paragraphs B.1. through B.6. for its Consultants, Subconsultants, Contractors and Subcontractors for their Work at all Sound Transit Construction Project Sites:

1. Commercial General Liability

Coverage is written on an “occurrence” basis with the standard Insurance Service Office (ISO) 1998 or equivalent coverage form. The policy includes premises and operations coverage, and completed operations coverage extending for at least three (3) years after the completion of construction and acceptance of the Consultant’s, Subconsultant’s, Contractor’s and Subcontractor’s Work by Sound Transit or its designee. This policy also covers employers’ liability, or Washington “stop-gap” liability, personal injury liability, and contractual coverage for liability assumed under an “insured” contract as defined by the insurance policy. The policy does not contain exclusions for broad form property damage or for the hazards commonly known as “explosion, collapse, and underground (XCU).” Directors, officers and employees are insured under the policy, and policy terms include “Separation of Insureds” as defined by the standard ISO policy form.

Policy limits are:

Not less than \$2,000,000 - each occurrence - bodily injury and property damage

Not less than \$2,000,000 - each occurrence - personal injury

Not less than \$2,000,000 - each occurrence – employers liability

This Commercial General Liability policy will be primary insurance for claims arising from this Contract, and non-contributing with respect to any other insurance carried by the Consultants, Subconsultants, Contractors and Subcontractors for Work performed at the Project Site.

2. Excess Liability

Excess liability insurance consists of a combination of layered placements, which provide excess liability coverage to the Commercial General Liability insurance described in Paragraph B.1.

Policy limits are:

Not less than \$50,000,000 – per occurrence

Not less than \$50,000,000 – annual aggregate

3. Environmental / Pollution Liability

One or more policies provide coverage for claims from third parties for bodily injury, property damage, and for offsite clean up costs caused by “pollution conditions” as defined by the insurance policies including liability arising from the Consultant’s, Subconsultant’s, Contractor’s and Subcontractor’s Work on the Project Site.

Policy limits are:

Not less than \$50,000,000 -- per occurrence

Not less than \$50,000,000 – policy aggregate

4. Professional Liability

Coverage is written on a “Claims Made” basis that includes Professional Liability with an extension for Pollution related specifically to Professional Liability. The policy contains an extended reporting period of ten (10) years. Coverage is provided for those professionals, professional firms, and Consultants, who are under prime or subconsultant agreements with Sound Transit, and who are performing, or will perform professional services on all Sound Transit Construction Projects.

Policy limits are:

Not less than \$50,000,000 - per claim

Not less than \$50,000,000 - policy aggregate

5. Railroad Protective Liability

Coverage is written on an industry standard Railroad Protective Liability (RRP) “occurrence” coverage form, and names the railroad as insured for all construction operations performed by all Consultants, Subconsultants, Contractors and Subcontractors on all Sound Transit Construction Project Sites, who will be designated on this Railroad Protection policy.

Policy limits are:

\$ 5,000,000 - per occurrence

\$10,000,000 - policy aggregate

6. Builders Risk

This insurance provides coverage for physical loss of or damage to the Work, and to the materials, equipment, and supplies to be incorporated into all Sound Transit Construction Projects.

Coverage is provided on an “all-risk” policy form, and names as insureds Sound Transit, its Consultants, Subconsultants, Contractors, and Subcontractors of every tier as their interests appear. Policy limits are the current Total Insured Values (TIV) covered on a replacement cost basis with Earthquake and Flood insurance coverage up to the lesser of the TIV or \$100,000,000.

Coverage for transit and off-site storage of materials, equipment, or supplies to be incorporated into the Work is limited to those exposures for which Sound Transit, or any Consultant, Subconsultant, Contractor or Subcontractor assumes responsibility for the physical loss of or damage to such materials, equipment, or supplies. Sound Transit or its designee must approve in advance the transit of materials or off-site storage location.

This builders risk insurance policy will not cover Consultant’s, Subconsultant’s, Contractor’s and Subcontractor’s owned, hired, or leased property or tools, equipment, or supplies used for construction, and not intended to form a permanent part of the Work.

Consultants, Subconsultants, Contractors and Subcontractors of all tiers will be responsible for damage to or destruction of the work caused by their accidental or negligent acts, subject to a limit of \$10,000 each incident.

7. Sound Transit reserves the right to procure coverage in lesser amounts in the event construction exposures do not warrant \$100,000,000 coverage. In this event, the Contractor will be notified in writing.

C. Contractor Furnished Insurance

Except as otherwise specified, Consultant, Subconsultant, Contractor and Subcontractor will maintain, at its own expense, the following minimum insurance coverage on policy forms and Insurers acceptable to Sound Transit:

1. Automobile Liability Insurance for On Site Activities

\$1,000,000 combined single limit for bodily injury and property damage per occurrence for owned, non-owned, and hired vehicles. Sound Transit will be named as an Additional Insured under this coverage.

2. Workers Compensation

The Consultant, Subconsultant, Contractor and Subcontractor will secure its liability for industrial injury to its employees in accordance with the provisions of Title 51 of the Revised Code of Washington. The Consultant, Subconsultant, Contractor and Subcontractor will be responsible for Workers Compensation insurance for any Subconsultant or Subcontractor who provides Work under Subcontract. If the Consultant, Subconsultant, Contractor and Subcontractor is qualified as a self-insurer under Chapter 51.14 of the Revised Code of Washington, it will so certify to the Owner by submitting a letter signed by a corporate officer, indicating that it is a qualified self-insurer, and setting forth the limits of any policy of excess insurance covering its employees.

3. Other Insurance

Such other insurance as the Consultant, Subconsultant, Contractor and Subcontractor may carry with respect to its normal business operations is at its own expense and risk.

D. Certificates and Policies

Sound Transit will provide Consultants, Subconsultants, Contractors and Subcontractors with appropriate certificates evidencing the insurance coverage described in the OCIP. The actual insurance policies will be available for inspection at Sound Transit's office at Union Station, 401 South Jackson Street, Seattle, WA 98104-2826.

Prior to commencement of Work on all Sound Transit Construction Project Sites, the Consultants, Subconsultants, Contractors and Subcontractors will provide Sound Transit with certificates of insurance showing insurance coverage in compliance with the foregoing Paragraph C. All insurance coverage outlined above shall be written by insurance companies meeting

Sound Transit's financial security requirements, (A.M. Best's Key Rating A-; VII or higher). Such certificates will state that Consultants, Subconsultants, Contractors and Subcontractors will provide thirty (30) days advance written notice to Sound Transit in the event Consultants, Subconsultants, Contractors and Subcontractors insurance policies are cancelled, not renewed, or materially reduced in coverage. Sound Transit may prevent any party from entering the Project Site until the certificates are on file.

E. Consultants, Subconsultants, Contractors and Subcontractors Responsibilities

The Consultants, Subconsultants, Contractors and Subcontractors are required to cooperate with Sound Transit or its authorized representative with regard to administration and operation of the OCIP. The Consultants, Subconsultants, Contractors and Subcontractors responsibilities shall include, but not be limited to:

1. The Consultants, Subconsultants, Contractors and Subcontractors shall complete enrollment in the OCIP within fourteen (14) days after Notice of Award, or prior to commencing Work on the Contract, whichever occurs first. The Consultants, Subconsultants, Contractors and Subcontractors are required to complete enrollment of any other Subconsultants or Subcontractors in the OCIP within fourteen (14) days following award of Subcontract, or prior to the Subconsultant or Subcontractor commencing Work whichever is sooner;
2. Provide necessary contract, operations, and insurance information;
3. Include this OCIP Article in all Subcontracts;
4. Comply with applicable loss control (safety) and claims reporting procedures;
5. Maintain the OSHA 200 Log, a copy of which is to be provided monthly to Sound Transit or Sound Transit's representative.
6. Consultants, Subconsultants, Contractors and Subcontractors agree to remove all applicable insurance costs for coverages provided under the OCIP from their contract price.

F. (NOT USED)

G. Termination or Modification of the OCIP and Modification of the Contract

While it is Sound Transit's current intent to maintain the OCIP throughout the term of all Sound Transit Construction Projects, Sound Transit reserves the right to terminate or modify the OCIP or any portion thereof. To exercise this option, Sound Transit will provide 60 days' advance written notice to the Consultants, Subconsultants, Contractors and Subcontractors. Consultants, Subconsultants, Contractors and Subcontractors will immediately notify their Subconsultants or Subcontractors and obtain replacement insurance coverage as required by Sound Transit. The actual auditable cost of such approved replacement insurance will be reimbursed by Sound Transit. Consultants, Subconsultants, Contractors and Subcontractors will provide written evidence of such replacement insurance to Sound Transit prior to the actual termination date of the OCIP. In addition to its right to terminate or modify the OCIP, Sound Transit reserves the

right to modify any provision of this Contract as necessary to conform to the coverage, terms, scope, limitations, or other provisions of the OCIP.

H. Excluded Consultants, Subconsultants, Contractors and Subcontractors

Notwithstanding other provisions of this Section, Sound Transit reserves the right to exclude any Consultants, Subconsultants, Contractors and Subcontractors from the OCIP. Any such exclusion will be at Sound Transit's sole discretion. Following Contract award, any Consultants, Subconsultants, Contractors and Subcontractors excluded from the OCIP will be required to provide insurance coverage as required by Sound Transit. Provided, however, that in such event Sound Transit shall indemnify the City against any loss or cost of defense to the extent that the City would have been protected had the excluded consultant, subconsultant, contractor, or subcontractor been enrolled in the OCIP. The actual auditable cost of such insurance will be reimbursed by Sound Transit.

I. Waiver of Subrogation

Except where prohibited by law, Sound Transit and Consultants, Subconsultants, Contractors and Subcontractors will cause their underwriters of insurance policies described in Paragraphs B. and C. to waive their rights of subrogation arising from the Work performed under this Contract, which one party may have against the other for any loss, including personal injury, bodily injury, death, and property damage, including loss of use thereof, to the extent covered by insurance as described herein, and occurring in the course of or in any way related to the Consultant's, Subconsultant's, Contractor's and Subcontractor's operations under this Contract. Consultants, Subconsultants, Contractors and Subcontractors shall require each of their Subconsultants or Subcontractors to obtain the same waiver of subrogation from their respective insurance underwriters.

Consultants, Subconsultants, Contractors and Subcontractors waive their rights of recovery from Sound Transit for any damage to, or destruction of construction equipment.

J. Consultants, Subconsultants, Contractors and Subcontractors Obligations

The Consultants, Subconsultants, Contractors and Subcontractors shall:

Report immediately and no later than within 30-days: (a) incidents involving injuries to any persons including third parties; (b) damage or destruction to the work, real or personal property including property of third-parties.

1. Not violate or knowingly permit violation of any conditions of the policies of insurance, and shall at all times satisfy the requirements of the insurance companies issuing them.
2. Agree to bind affirmatively each of their respective Subconsultants or Subcontractors to the insurance, indemnity, and hold harmless provisions of the Contract, including the provisions of this OCIP.
3. Notify Sound Transit during the course of design or construction, in advance of their intent to award any Subcontract. It is Sound Transit's intent to enroll all Subconsultants

or Subcontractors, other than those expressly excluded by Paragraph I. above, into the OCIP. Each Subconsultant or Subcontractor shall exclude costs for insurance from its bid or proposal that would duplicate or provide similar coverage to any of the insurance coverages in the OCIP.

4. Be enrolled into the OCIP upon completion of all enrollment requirements contained in these General Provisions, and in the OCIP Insurance Manual, which shall be provided to the Consultants, Subconsultants, Contractors and Subcontractors following award of a Contract. Consultants, Subconsultants, Contractors and Subcontractors shall receive evidence of enrollment upon compliance with those requirements.

K. Miscellaneous Provisions and Requirements

1. The cost of the premiums for insurance provided under the OCIP will be paid by Sound Transit, and Sound Transit will receive and pay, as the case may be, all adjustments in such costs, whether by way of dividends, audits, or otherwise.
2. The Consultants, Subconsultants, Contractors and Subcontractors recognize and agree that, as respects the OCIP coverages provided herein, Willis of Seattle, Inc. is the Broker of Record; that the Consultants, Subconsultants, Contractors and Subcontractors have the affirmative obligation and right to notify and request correction of any insurance deficiencies, omissions or errors to Willis of Seattle, Inc. Any portrayal of insurance policy coverage, terms, and conditions contained in the Contract Documents are not meant to be binding interpretations of coverage or conditions of the actual insurance policies. In the event of conflicts of OCIP coverage and terms between these Contract Documents and the actual OCIP policies, the OCIP will prevail.
3. The OCIP coverage will include coverage for reasonably foreseeable consequential damages, as defined in this Agreement.
4. The City shall be responsible for all deductibles and self-insured retention required under the OCIP.
5. The coverages provided by the Owner Controlled Insurance Program, including associated deductibles or self-insured retentions, shall be primary to any insurance maintained by Consultant, whose policies shall be excess or secondary and non-contributing.

L. Liabilities and Obligations

Except as expressly provided elsewhere in this Agreement, the OCIP provided by Sound Transit is not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by Sound Transit's Consultants, Subconsultants, Contractors and Subcontractors under their Contracts or imposed by applicable laws or regulations.

Exhibit 10: FTA Provisions

10.1 Applicability of Federal Grant Contract

- A. This procurement may be subject to one or more financial assistance contracts between Sound Transit and the U.S. Department of Transportation, which incorporate the current FTA Master Agreement and Circular 4220.1E as amended.
- B. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E, dated June 19, 2003, as amended and the Master Grant Agreement, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any Sound Transit request that would cause Sound Transit to be in violation of the FTA terms and conditions.
- C. The FTA Master Agreement obligates Sound Transit to incorporate certain provisions into this Contract and any lower tier subcontracts at any level and to take appropriate measures to ensure that Contractor and its lower tier Subcontractors at any level comply with certain applicable requirements set forth in the Master Agreement. The following provisions of the FTA Master Agreement are hereby incorporated by reference into this Contract, and Contractor shall comply with all such requirements.
- D. Copies of the FTA Master Agreement are available from Sound Transit.

10.2 Federal Funding Limitation

Contractor understands that a portion of the funds to pay for Contractor's performance under this Contract are anticipated to be made available from the United States Department of Transportation through the Federal Transit Administration (FTA). All such funds must be approved and administered by FTA. Sound Transit's obligation hereunder is, in part, payable from funds that are appropriated and allocated by FTA for the performance of this Contract. If such funds are not allocated, or ultimately are disapproved by FTA, Sound Transit may be required to terminate or suspend Contractor's services. In this event, the Contract will be terminated for convenience in accordance with the General Provisions.

10.3 Recovered Materials

- A. The Contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in subpart B of 40 CFR Part 247.
- B. These requirements flow down to all to all Contractor and Subcontractor tiers.

10.4 Energy Conservation

- A. The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

- B. These requirements extend to all third party contractors and their contracts at every tier and subrecipients and their subagreements at every tier.

10.5 Federal Lobbying Restrictions

- A. This Contract is subject to Section 319, Public Law 101-121 (31 U.S.C. §1352) and U.S. DOT regulations "New Restrictions on Lobbying," 49 CFR Part 20, which prohibits Federal funds from being expended to influence or to attempt to influence an officer or employee of any agency, members of Congress, an office or employee of Congress or an employee of an Member of Congress in connection with the awarding of any federally funded contract, the making of any Federal grant or loan, or entering into any cooperative agreement and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. Contractors and Subcontractors at any time who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or any employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient. The Contractor shall submit the "Certification for Federal Aid Contracts," included in the Bid documents. The Contractor's signature on this certification shall certify that: a) it has not engaged in the prohibited activity and b) the language of the certification shall be included in all lower tier subcontracts, which exceed \$100,000, and that all such Subcontractors shall certify and disclose accordingly. Sound Transit is responsible for keeping the certification form of the Contractor, who is in turn responsible for keeping the certification forms of Subcontractors. Further, by executing the Contract, the Contractor agrees to comply with these laws and regulations.
- B. If the Contractor has engaged in any lobbying activities to influence or attempt to influence the awarding of this Contract, the Contractor must disclose these activities. In such a case, the Contractor shall complete Standard Form SF-LLL, "Disclosure of Lobbying Activities," which is included with the Bid/Proposal documents with instructions for completion. Sound Transit must also receive all disclosure forms.
- C. The Contractor and any Subcontractors shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of a previously filed disclosure form. An event that materially affects the accuracy of the information reported includes:
 - 1. A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence this federally funded Contract; or
 - 2. A change in the person(s) influencing or attempting to influence this federally funded Contract; or

3. A change in the officer(s), employee(s) or member contracted to influence or attempt to influence this federally funded Contract.

10.6 Program Fraud and False or Fraudulent Statements or Related Acts

- A. The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § § 3801 *et seq.* And U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Contract. Upon execution of the underlying contract, the Contractor certifies or affirms, the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that maybe applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.
- B. The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.
- C. The Contractor agrees to include the above two clauses in each Subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the Subcontractor who will be subject to the provisions.

10.7 Anti-Kickback

- A. Sound Transit and contractors are required to comply with the Copeland "Anti-Kickback" Act, 18 USC § 874 and 40 USC § 276(c), as supplemented in U.S. Department of Labor regulations, 29 CFR Part 3. Under state and federal law, it is a violation for Sound Transit employees, proposers, bidders, contractors or subcontractors to accept or offer any money or benefit as a reward for favorable treatment in connection with the award of a contract or the purchase of goods or services.
- B. "Kick-Back" as defined by Federal Acquisition Regulations (FAR), means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind that is provided directly or indirectly to any prime contractor, prime contractor employee, subcontractor or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or in connection with a subcontract relating to a prime contract.

10.8 Civil Rights

In addition to the provisions in Section 00400, Diversity Program, the following requirements pertaining to nondiscrimination and civil rights apply to the underlying contract:

A. Nondiscrimination

In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national original, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

B. Equal Employment Opportunity

The following equal employment opportunity requirements apply to the underlying contract:

1. Race, Color, Creed, National Origin, Sex

In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulation, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 *et seq.*, (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

During the performance of this Contract, the Contractor agrees as follows:

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- b. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
- c. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

- d. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- e. The Contractor will furnish all information and reports required by Executive Order 11246, as amended, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- f. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246, as amended, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246, amended, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- g. The Contractor will include the portion of the sentence immediately preceding paragraph a and the provisions of paragraphs a through g in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246, as amended, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

2. Age

In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §§ 623 and federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

3. Disabilities

In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal employment Provisions of the "Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

- 4. The Contractor also agrees to include these requirements in each Subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

C. Flow Down

The Civil Rights requirements flow down to the Contractor and its subcontractors at every tier.

10.9 Certification Regarding Debarment, Suspension and Other Responsibility Matters

- A. Pursuant to Executive Order 12549 and 12689, “Debarment and Suspension,” 31 USC § 6101 and federal regulations in 49 CFR 29, entities and individuals who are debarred or suspended by the federal government are excluded from obtaining federal assistance funds under this Contract. To assure that such entities and individuals are not involved as participants on this FTA-financed contract, if the contract exceeds \$100,000 each Contractor shall complete and submit, as part of its Bid, the certification form, contained in these documents. The inability of a Contractor to provide a certification will not necessarily result in denial of consideration for contract award. A Contractor that is unable to provide a certification must submit a complete explanation attached to the certification form. Failure to submit a certification or explanation may disqualify the Contractor from participation under this Contract. Sound Transit, in conjunction with FTA, will consider the certification or explanation in determining contract award. No contract will be awarded to a potential third-party contractor submitting a conditioned debarment or suspension certification, unless approved by the FTA.
- B. The certification is a material representation of fact upon which reliance is placed in determination of award of contract. If at any time the Contractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances, it shall immediately provide written notice to Sound Transit. If it is later determined that the Contractor knowingly rendered an erroneous certification, or failed to notify Sound Transit immediately of circumstances which made the original certification no longer valid, Sound Transit may disqualify the Contractor. If it is later determined that the Contractor knowingly rendered an erroneous certification, or failed to notify Sound Transit immediately of circumstances which made the original certification no longer valid, Sound Transit may terminate the contract, in addition to other remedies available including FTA suspension and/or debarment.
- C. Further, the Contractor shall not knowingly enter into any subcontract exceeding \$100,000 with an entity or person who is debarred, suspended, or who has been declared ineligible from obtaining federal assistance funds. As such, the Contractor shall require all subcontractors seeking subcontracts greater than \$100,000 to complete and submit the same certification form contained in these documents before entering into any agreement with said subcontractor.

10.10 Buy America Requirements

- A. Partial funds for this Contract are to be provided from FTA grant funds obligated after January 6, 1983. Therefore, Contractor must comply with Section 165 of the Surface Transportation Assistance Act of 1982, Pub. L. 97-424 (Buy America Provision) and 49 CFR Part 661. Among other things, steel and manufactured products must be produced in the United States.
- B. Whether or not a Bidder certifies that it will comply with the applicable requirement, Bidder will be bound by its original certification and is not permitted to change its certification after the time that the Bid is submitted. A Bidder that certifies that it will

comply with the applicable Buy America requirements may not change its certification at any point, and is not eligible for waiver of those requirements. (Buy America Regulations, 49 CFR Part 661.13(c))

- C. If the Bidder is unable to certify compliance, but believes that it may qualify for an exception to the requirement consistent with Section 165 (b) (2) or (b) (4) of the Surface Transportation Assistance Act, as amended, Sound Transit, on behalf of the Bidder, will tender the request for exception(s) to FTA for review and approval. Sound Transit does not warrant that any such request will be acted upon in accordance with the Bidder's time frame. Failure to achieve an exception will not relieve the Bidder of its responsibilities under this Section.

10.11 Cargo Preference

Pursuant to 46 CFR part 381, the Contractor agrees:

- A. To utilize privately owned United States flag commercial vessels to ship at least fifty percent (50%) of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, materials, or commodities pursuant to this Contract, to the extent such vessels are available at fair and reasonable rates for United States flag commercial vessels.
- B. To furnish within twenty (20) days following the date of loading for shipments originating within the United States, or within thirty (30) working days following the date of loading for shipment originating outside the United States, a legible copy of a rated, commercial ocean bill of lading in English for each shipment of cargo described in Paragraph A above to Sound Transit (through the prime Contractor in the case of Subcontractor bills of lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, 400 Seventh Street, SW, Washington, D.C., 20590, marked with appropriate identification of the Project.
- C. To insert the substance of the provisions of this clause in all subcontracts issued pursuant to this Contract.
- D. The Contractor must properly execute and submit with its Bid "Cargo Preference Certificate" which is included in the Contract Documents.

10.12 Fly America Requirements

The Contractor agrees to comply with 49 U.S.C. § 40018 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal Funds and their contractors are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

10.13 No Obligation by the Federal Government

- A. Sound Transit and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to Sound Transit, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.
- B. The Contractor agrees to include the above clause in each Subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the Subcontractor who will be subject to its provision.

10.14 Clean Water

- A. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to Sound Transit and understands and agrees that Sound Transit will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- B. The Contractor also agrees to include these requirements in each Subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

10.14 Clean Air

- A. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §.§ 7401 et seq. The Contractor agrees to report each violation to Sound Transit and understands and agrees that Sound Transit will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- C. The Contractor also agrees to include these requirements in each Subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

10.15 Seismic Safety

The Contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance to the extent required by the regulation. The contractor also agrees to ensure that all work performed under this contract including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

10.16 Contractor Acquisition and/or Merger

If the Contractor executing this Agreement ceases to exist as an independent business entity by means of acquisition by and/or merger with a successor or otherwise, the Contractor/Consultant shall notify Sound Transit in writing not less than thirty (30) days prior to the effective date of the circumstance causing the cessation of the independent business status. Sound Transit reserves the right to take steps to ensure it has contractual privity with the successor. The

Contractor/Consultant shall cooperate with this effort by agreeing to an assignment, a novation, or other document required to transfer the rights and responsibilities of the Contractor/Consultant to the successor. The successor will be required to enroll in Sound Transit's Owner Controlled Insurance Program, if such is applicable to the Agreement, and otherwise be bound to the same degree that the Contractor/Consultant was bound to the obligations of this Contract.

10.17 Changes In Governmental Regulations

- A. In the event local, state or federal laws or regulations, that were not announced or enacted at the time of the Contract Award are enacted before submission of the Contract Documents to Sound Transit, and such laws or regulations make standards more stringent or compliance more costly under this Contract, the Contractor shall notify Sound Transit in writing of such laws or regulations and their effects on the scope, schedule and budget of the Work promptly after the Contractor first became aware of the laws and regulations and prior to incurring any such expenses.
- B. Sound Transit will make a determination as to whether the Contractor should be reimbursed for any such expenses or any time extensions should be granted in accordance with the General Provisions.
- C. In the event any governmental requirements are removed, relaxed or changed in any way after the date of contract award so as to make the Contractor's Work less expensive, or less difficult, then Sound Transit shall have the option either to require the Contractor to perform pursuant to the more rigorous requirements or issue a change order to incorporate the revised governmental requirements and deduct an appropriate value for the Work not performed. Sound Transit shall give the Contractor notice of Sound Transit's determination.

10.18 Electronic and Information Technology

When providing reports or other information to Sound Transit, or to the Federal Transit Administration (FTA), among others, on behalf of Sound Transit, the Contractor agrees to prepare such reports or information using electronic or information technology capable of assuring that the reports or information delivered will meet the applicable accessibility standards of Section 508 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794d, and U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. Part 1194.