



INTRLOC_00 *SOUND TRANSIT*

File Location

Vendor Name

Document Type: Interlocal New

Vendor Name: SOUND TRANSIT

PO# Location: INTRLOC-000

Effect Date: 9/24/2012

Term Date: 12/31/2099

CR#: 49243

Related CR#: _____

Ordinance: _____

Resolution: 8452

Leg Date: 9/24/2012

Vendor #: _____

Description: INTERLOCAL AGREEMENT RE: PROVIDING A STAGING AREA FOR CONSTRUCTION OF EAST LINK & COORDINATION & ACQUISITION OF CERTAIN PERMANENT AND TEMPORARY EASEMENTS

SOUND TRANSIT
 12/31/2099

INTRLOC_00
 INTERLOCAL AGREEMENTS
 12/31/2099

 500176854

Notes:

AGREEMENT

This Agreement, effective this ____ day of September, 2012, is entered into by and between the Central Puget Sound Regional Transit Authority ("Sound Transit"), a regional transit authority, the City of Bellevue ("City"), a Washington municipal corporation, HEI Bellevue, LLC ("HEI"), a Delaware limited liability company, and WPPI Bellevue MFS, LLC ("WPPI"), a Washington limited liability corporation (collectively, the "parties").

RECITALS

A. HEI Bellevue, LLC ("HEI") is the owner of a certain parcel of real property commonly known as 200 110th Ave NE, Bellevue, Washington and legally described in Exhibit A attached hereto ("Hotel Property").

B. WPPI is the purchaser of the Hotel Property on which it proposes to build and operate a Marriott Hotel ("Hotel Project"), for which the City has approved with conditions Design Review on April 14, 2011 and Post Issuance Revisions to Previous Design Review on April 5, 2012 (collectively "ADR").

C. Sound Transit proposes an expansion of light rail as approved in the Sound Transit 2 plan ("East Link Project"), a portion of which will be constructed and operated within the City.

D. On July 28, 2011, the Sound Transit Board selected the route, profiles and station locations for the East Link Project, which includes construction of a tunnel on 110th Avenue NE between NE 2nd Street and NE 6th Street that is located on or adjacent to or likely to affect the Hotel Property or Hotel Project ("Sound Transit Project"). The Sound Transit Project is a portion of and included within the East Link Project. The East Link Project selected by the Sound Transit Board contemplated that Sound Transit would acquire all of the Hotel Property as a construction staging area for development of the Sound Transit Project.

E. On November 15, 2011, Sound Transit and the City executed a Memorandum of Understanding (MOU). The MOU provides, in part, that the City may convey to Sound Transit alternative properties to the Hotel Property for providing the staging area contemplated to be located on the Hotel Property, provided that Sound Transit and the City agree that such alternative property is of equal function and value to the Hotel Property.

F. The City and Sound Transit believe that an alternative staging area plan including City streets and parks and private property, other than the Hotel Property (the "Alternative Site"), may be utilized in combination as an alternative staging area for the Sound Transit Project and that such alternative staging area plan is of equal function and value to the Hotel Property consistent with the terms and conditions of the MOU and as provided by the terms and conditions in this Agreement.

G. The parties desire to coordinate future development of the Hotel Project with the Sound Transit Project and to minimize impacts therefrom to the extent possible.

AGREEMENT

NOW, THEREFORE, in consideration of mutual promises and covenants contained herein, the parties agree to the terms and conditions as follows:

1. Use of Hotel Property. Based on and consistent with the MOU, Sound Transit and the City agree to use the Alternative Site for construction staging and agree that the Hotel Property will not be used as a construction staging area for the East Link Project, except as provided in this Agreement. Notwithstanding the foregoing, nothing in this Agreement waives or limits Sound Transit's or the City's authority to acquire any property interests deemed necessary to implement the East Link project. Sound Transit further agrees to withdraw the notice of and process for condemnation of the Hotel Property and discontinue the proceedings provided the City Council approves Council Resolution No. 8452 before September 27, 2012.

1. Acknowledgement of Construction Activities. The parties acknowledge the following:

- a. The Hotel Project will be adjacent to an active construction site for the Sound Transit Project that will generate dust, light, noise, traffic, utility, and other construction impacts for approximately five years.
- b. Construction activities for the East Link Project may occur at night and on weekends, if permitted by the City.
- c. All such construction and construction activities for the East Link Project are subject to environmental, land use and other technical review and approval by local, state and federal governmental agencies, including the City, which has or will result in conditions, requirements, and mitigation on construction of the Sound Transit Project to address dust, light, noise, traffic, utility, and other construction impacts.

2. Compliance with Construction Mitigation. With respect to potential construction impacts on the Hotel Property, Sound Transit will comply with all generally applicable requirements, conditions and mitigation for construction related impacts of the Sound Transit Project on the Hotel Property imposed by local, state and federal agencies with jurisdiction, including those described in environmental review documents and those imposed by the City as part of its review and approval authority over construction of the East Link Project. For purposes of this Section 3 and Section 4 below, the term "generally applicable requirements, conditions and mitigation" means those requirements, conditions and mitigation that the City has or will impose on construction of the Sound Transit Project to address construction-related impacts

to any properties and uses in the immediate vicinity of the Hotel Property or Hotel Project.

3. **Construction Protest Limitations.** So long as Sound Transit complies with all such generally applicable requirements, conditions, and mitigation imposed on the Sound Transit Project by agencies with jurisdiction over the Project, including the City, as set forth in Section 3, WPPI agrees to the following:
 - a. WPPI will not protest, object to, appeal or otherwise oppose any generally applicable requirements, conditions or mitigation imposed by the City as part of its permit review and approval processes to address construction of the Sound Transit Project and impacts therefrom, provided that WPPI may fully participate in any public review process for any City land use approval or permit requested by Sound Transit for construction of the Sound Transit Project;
 - b. WPPI will not request any additional mitigation for construction impacts; and
 - c. WPPI will not file with a governmental agency or court any claim against Sound Transit relating to construction impacts from the Sound Transit Project addressed by government agency approvals.
4. **Hotel Project Modifications.** WPPI agrees to make at its own expense the following design modifications to the Hotel Project approved by the City:
 - a. In the event that WPPI constructs the porte-cochere on the 110th Avenue NE side of the Hotel Property before the Sound Transit Project is underway, WPPI will design it as a removable element and disassemble it at least three days before commencement of construction of the Sound Transit Project. Sound Transit agrees to provide WPPI with at least 120 days written notice of the commencement of construction. The porte-cochere will be re-assembled following the construction period. A new porte-cochere will be designed and constructed to accommodate guest arrival on 111th Avenue NE during construction of the tunnel and closure of 110th Avenue NE and remain as a permanent improvement to accommodate large vehicle arrival and departures. All costs associated with the permits, design, construction, removal, and re-assembly of the porte-cocheres shall be paid by WPPI.
 - b. Prior to construction of the Sound Transit Project, WPPI will install only those improvements on the 110th Ave NE side of the Hotel Property that are necessary for normal operation of the Hotel Project as approved by the City. Any such improvements disturbed or damaged because of construction of the Sound Transit Project shall be restored by Sound Transit to their existing condition. Any improvements required pursuant to the ADR shall be installed by WPPI upon completion of the Sound Transit Project.

- c. WPPI will increase the parking capacity of its garage with the addition of a partial lower level 4 (LL4) which aligns with lower level 3. The finished floor elevation for LL4 will be 102.21 feet.
 - d. WPPI will install a temporary fiber glass soil-nailed shoring wall in accordance with the design submitted by WPPI for Shoring Permit No. 12-118837BV. WPPI's design will require all the standard permits and approvals from the City. Sound Transit will be responsible for any alterations to the shoring system from construction of the Sound Transit Project. In the event Sound Transit wishes to install jet grouting and underpinning in support of its construction of the Sound Transit Project, WPPI agrees to convey to Sound Transit an easement for this purpose consistent with and substantially in the form of the easement attached as Exhibit B hereto within a reasonable period of time after Sound Transit or the City requests it. The City will acquire this easement on Sound Transit's behalf.
 - e. WPPI will not locate new or relocate existing utilities for the Hotel Project in the 110th Ave NE right of way.
 - f. WPPI agrees that the Hotel Project will be constructed so as to comply with the City of Bellevue noise requirements, BCC 9.18.045B, specifically 40 dba or lower interior noise levels for sleeping areas and 45dba or lower interior noise levels for non-sleeping areas.
 - g. WPPI shall submit necessary ADR permit revisions and apply for any other required permits to the City prior to commencement of construction of the Hotel Project. Nothing in this Agreement shall be deemed a waiver of the City's permitting authority or an approval of the Hotel Project or any of the specific modifications described herein.
5. City Park Use and Improvements. The City, HEI and WPPI agree to the following terms and conditions regarding the proposed City park on City easement area on the Hotel Property:
- a. Any obligations to make park improvements under the July 14, 2008 Easement Agreement for Open Space, Passive Recreation, Pedestrian and Recreational Use and Access by the Public ("Easement Agreement") between the City and HEI will be deferred until completion of construction of the Sound Transit Project.
 - b. Until completion of such construction, the area subject to the Easement Agreement can be used by Sound Transit for temporary construction staging, provided that such use shall not exceed the load capacity of the property.

commencement of construction. Sound Transit will also provide WPPI with regular notification of other activities through its outreach program.

8. **Conditions During Construction of Hotel Project.** WPPI agrees to the following terms and conditions during construction of the Hotel Project:
 - a. WPPI will provide Sound Transit the opportunity to review, when available, plans, design and as-built data of utilities, street improvements, access points and subsurface wall/foundation locations and elevations for the Hotel Project.
 - b. WPPI will provide to Sound Transit's contractor, when available, the Utility and Shoring as-builts for the Hotel Project.
 - c. WPPI will allow Sound Transit inspectors on the Hotel Project site during the construction.
9. **Sound Transit Project Easements.** WPPI agrees to convey permanent and temporary sub-surface easement rights as shown on the attached Exhibit D on both sides of the Sound Transit Project shoring wall that is no farther east than the line depicted on this Exhibit D. The City will acquire these easements on Sound Transit's behalf and WPPI further agrees to provide such easements substantially in the form of the sample easements attached as Exhibit E (Tunnel Easement) and Exhibit F (Temporary Construction and Demolition Easement) to the Agreement within a reasonable period of time after Sound Transit or the City requests it.
10. **Rights of Entry.** WPPI agrees to provide rights of entry for civil and design services, geotechnical, noise and vibration testing, potholing or any other right of entry needed for design or environmental needs related to the Sound Transit Project substantially in the form of a sample right of entry attached as Exhibit G to the Agreement within 14 days of when Sound Transit or the City requests it.
11. **Term; Termination.** This Agreement shall be effective as of the date the last party signs and shall remain in effect until commencement of revenue service of the Sound Transit Project unless terminated earlier by agreement of the parties; provided, however, that this Agreement is contingent on WPPI's purchase of the Hotel Property by November 15, 2012 and shall terminate if such purchase is not completed on or before that date.
12. **Designated Representatives.**
 - a. Each party shall designate a representative ("Designated Representative") who shall be responsible for coordination of communications among the parties and shall act as the point of contact for each party. The Designated Representatives shall communicate regularly during construction of the Sound Transit Project to discuss construction-related issues and developments, consistent with Section 8 of this Agreement, and to resolve any issues or

disputes related to the Sound Transit Project, consistent with Section 15 of this Agreement.

- b. Communication of issues, changes or problems that may arise with any aspect of the Sound Transit Project should occur as early as possible in the process, and not wait for specific due dates or deadlines. The Designated Representatives shall use reasonable efforts to provide up-to-date and best available information to the other parties after such information is obtained or developed.
- c. Each Designated Representative is also responsible for coordinating the input and work of its agency, consultants, and staff as it relates to the objectives of this Agreement. The parties reserve the right to change Designated Representatives by written notice to the other parties during the term of this Agreement. Each party's Designated Representative is identified in Exhibit H, attached and incorporated herein.

13. Notices.

- a. Unless otherwise provided herein, all notices and communications concerning this Agreement shall be in writing and addressed to the Designated Representatives. Any party at any time by written notice to the other parties may designate a different address or person to which such notice or communication shall be given.
- b. Unless otherwise provided herein, all notices shall be either: (1) delivered in person, (ii) deposited postage prepaid in the certified mails of the United States, return receipt requested, (iii) delivered by a nationally recognized overnight or same-day courier service that obtains receipts, or (iv) delivered electronically to the other parties' Designated Representatives as listed herein.

14. Dispute Resolution.

- a. The parties agree that no party shall take or join any action in any judicial or administrative forum to challenge actions of the other parties associated with this Agreement, except as set forth in the Agreement.
- b. Any disputes or questions of interpretation of this Agreement that may arise among the parties shall be governed under the dispute resolution provisions of this Section. The parties agree that cooperation and communication are essential to resolving issues efficiently. The parties agree to exercise their best efforts to resolve any disputes that may arise through this dispute resolution process.
- c. The parties agree to use their best efforts to prevent and resolve potential sources of conflict at the lowest level.

- d. The parties agree to use their best efforts to resolve disputes arising out of or related to this Agreement using good faith negotiations by engaging in the following dispute escalation process should any such disputes arise:
- (1) Level One – The parties' Designated Representatives shall meet to discuss and attempt to resolve the dispute in a timely manner. If they cannot resolve the dispute within fourteen (14) calendar days after referral of that dispute to Level One, any party may refer the dispute to Level Two.
 - (2) Level Two – Sound Transit's Executive Director of Design, Engineering and Construction Management, or Designee, the City Development Services Director, or Designee, and WPPI's Designee shall meet to discuss and attempt to resolve the dispute in a timely manner. If they cannot resolve the dispute within fourteen (14) calendar days after referral of that dispute to Level Two, any party may refer the dispute to Level Three.
 - (3) Level Three – Sound Transit's Chief Executive Officer or Designee, the City Manager or Designee, and WPPI's Designee shall meet to discuss and attempt to resolve the dispute in a timely manner.
- e. Except as otherwise specified in this Agreement, in the event the dispute is not resolved at Level Three within fourteen (14) calendar days after referral of that dispute to Level Three, the parties are free to file suit, seek any available legal remedy, or agree to alternative dispute resolution methods such as mediation. At all times prior to resolution of the dispute, the parties shall continue to perform any undisputed obligations under this Agreement in the same manner and under the same terms as existed prior to the dispute. Notwithstanding anything in this Agreement to the contrary, no party has an obligation to agree to refer the dispute to mediation or other form of dispute resolution following completion of Level Three of the process described herein. Such agreement may be withheld for any reason or no reason.
15. **Default.** No party shall be in default under this Agreement unless it has failed to perform under this Agreement for a period of thirty (30) calendar days after written notice of default from the other party. Each notice of default shall specify the nature of the alleged default and the manner in which the default may be cured satisfactorily. If the nature of the alleged default is such that it cannot be reasonably cured within the 30-day period, then commencement of the cure within such time period and the diligent prosecution to completion of the cure shall be deemed a cure; provided that in no event shall a cure take longer than ninety (90) days to complete without mutual written consent. Any dispute regarding the existence of a default or appropriate cure shall be handled through dispute resolution.

16. Remedies; Enforcement.

- a. The parties reserve the right to exercise any and all of the following remedies, singly or in combination, and consistent with the dispute resolution and default Sections of the Agreement, in the event the other violates any provision of this Agreement:
- (1) Commencing an action at law for monetary damages;
 - (2) Commencing an action for equitable or other relief;
 - (3) Seeking specific performance of any provision that reasonably lends itself to such remedy;
 - (4) The prevailing party (or substantially prevailing party if no one party prevails entirely) shall be entitled to reasonable attorney fees and costs.
- b. Remedies are cumulative; the exercise of one shall not foreclose the exercise of others.
- c. No party shall be relieved of any of its obligations to comply promptly with any provision of this Agreement by reason of any failure by the other party to prompt compliance, and such failure to enforce shall not constitute a waiver of rights or acquiescence in the other party's conduct.

17. **Binding on Successors.** This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties.
18. **Governing Law.** This Agreement shall be interpreted, construed and enforced in accordance with the laws of the State of Washington. Venue for any action under this Agreement shall be King County, Washington.
19. **Interpretation.** This Agreement has been reviewed and revised by legal counsel for all parties and no presumption or rule that ambiguity shall be construed against the party drafting the document shall apply to the interpretation or enforcement of this Agreement. The parties intend this Agreement to be interpreted to the full extent authorized by applicable law.
20. **Amendment.** This Agreement, including its exhibits, may be amended only by a written instrument executed by each of the parties hereto.
21. **Section Headings.** Section headings are intended as information only, and shall not be construed with the substance of the section they caption.
22. **Exhibits.** Exhibits "A" through "F" are incorporated in the Agreement by this reference as if fully set forth.

23. **Severability.** If any provisions of this Agreement are determined to be unenforceable or invalid by a court of law, then this Agreement shall thereafter be modified to implement the intent of the parties to the maximum extent allowable under law. If a court finds unenforceability or invalidity of any portion of this Agreement, the parties agree to seek diligently to modify the Agreement consistent with the court decision, and no party shall undertake any actions inconsistent with the intent of this Agreement until the modification to this Agreement has been completed. If the parties do not mutually agree to modifications within forty-five (45) days after the court ruling, then any party may initiate the dispute resolution proceedings in Section 15 for determination of the modifications which implement the intent of this Agreement and the court decision.

24. **Covenants and Warranties.**

a. By execution of this Agreement, the City warrants:

- (1) That the City has the full right and authority to enter into and perform this Agreement, and that by entering into or performing this Agreement the City is not knowingly in violation of any law, regulation or agreement by which it is bound or to which it is bound or to which it is subject; and
- (2) That the execution, delivery and performance of this Agreement by the City has been duly authorized by all requisite corporate action, that the signatories for the City hereto are authorized to sign this Agreement, and that, upon approval by the City, the joinder or consent or any other party, including a court of trustee or referee, is not necessary to make valid and effective the execution, delivery and performance of this Agreement.

b. By execution of this Agreement, Sound Transit warrants:

- (1) That Sound Transit has full right and authority to enter into and perform this Agreement in accordance with the terms hereof, and by entering into or performing under this Agreement, Sound Transit is not knowingly in violation of any of its agency governance rules, or any law, regulation or agreement by which it is bound or to which it is subject; and
- (2) That the execution, delivery and performance of this Agreement by Sound Transit has been duly authorized by all requisite Board action, that the signatories for Sound Transit hereto are authorized to sign this Agreement, and that the joinder or consent or any other party, including a court of trustee or referee, is not necessary to make valid and effective the execution, delivery and performance of this Agreement

c. By execution of this Agreement, HEI and WPPI each represent and warrant that they have full power and actual authority to enter into this Agreement and to carry out all actions required of them by this Agreement. All persons executing this Agreement in representative capacities for HEI and WPPI represent and warrant that they have full power and authority to bind their respective corporations.

25. Recording. This Agreement shall be recorded with the King County Department of Records and Elections. If WPPI does not complete the purchase of the Hotel Property on or before November 15, 2012, the parties shall promptly, at the request of HEI, execute and record a notice of termination of this Agreement with the King County Department of Records and Elections.

26. Execution in Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all counterparts together shall constitute but one and the same instrument.

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

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

THE CITY OF BELLEVUE

By: _____
Joan M. Earl, Chief Executive Officer

By: _____
Steven R. Sarkozy, City Manager

Date: _____

Date: _____

Authorized by Motion No. _____

Authorized by Resolution No. _____

Approved as to form

Approved as to form:

By: _____
Stephen G. Sheehy, Legal Counsel

By: _____
Mary Kate Berens,
Deputy City Attorney

EXHIBIT A

HOTEL PROPERTY LEGAL DESCRIPTION

Parcel A

Lots 7, 8 and 9, Summit Ridge, according to the Plat thereof recorded in Volume 47 of Plats, Page(s) 17, Records of King County, Washington;

And that portion of Lot 6, Summit Ridge, according to the Plat thereof recorded in Volume 47 of Plats, Page(s) 17, Records of King County, Washington described as follows:

Beginning at the Northeast corner of Lot 6 as shown on the proposed right of way plans of 110th Avenue N.E. Extension, dated January 2000, on file with the City of Bellevue, Survey Sector (Section);

Thence along the East line thereof South $00^{\circ}10'11''$ West 100.80 feet to the Southeast corner of Lot 6,

Thence along the South line thereof North $88^{\circ}03'52''$ West 33.62 feet;

Thence leaving said South line Northeasterly along a curve, the center of which bears South $82^{\circ}56'17''$ East 1315.50 feet, through a central angle of $2^{\circ}34'27''$, subtended by an arc length of 59.10 feet to a point of reverse curvature of a 1352.50 feet radius curve to the left;

Thence Northeasterly along said curve, through a central angle of $1^{\circ}07'37''$, subtended by an arc length of 26.60 feet to a point of reverse curvature of a 29.50 feet radius curve to the right;

Thence Northeasterly along said curve, through a central angle of $33^{\circ}31'20''$, subtended by an arc length of 17.26 feet to the North line of Lot 6;

Thence along said North line South $88^{\circ}03'52''$ East 13.87 feet to the Point of Beginning.

Parcel B

Lots 8 and 9, Block 1, Jensen's Addition to Bellevue, according to the Plat thereof recorded in Volume 49 of Plats, Page(s) 70, Records of King County, Washington.

Parcel C

Lot 7, Block 1, Jensen's Addition to Bellevue, according to the Plat thereof recorded in Volume 49 of Plats, Page(s) 70, Records of King County, Washington.

Except any portion thereof lying within 110th Avenue Northeast.

When Recorded Return to:
Sound Transit Real Estate
Union Station
401 S. Jackson Street, M/S O4N-4
Seattle, WA 98104-2826

JET GROUTING AND UNDERPINNING EASEMENT

Grantor(s): Insert Last name first, then first name and initials
Grantee: Central Puget Sound Regional Transit Authority
Abbreviated Legal Description: Insert Abbreviated Legal
Assessor's Tax Parcel No.(s): Insert Tax ID No(s)
ROW No.(s): Insert ROW No(s)

THIS INSTRUMENT is made this ____ day of _____, 201_, by and between, **Insert Grantor(s)**, hereinafter called the "Grantor", and the **CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY**, a regional transit authority of the State of Washington, hereinafter called the "Grantee".

WITNESSETH:

Grantor is the owner of real property located in the City of **Insert City**, commonly known as **Insert site address** and more particularly described in the legal description attached as **Exhibit A** (the "Property").

1. **Grant of Easement.** The Grantor, for and in consideration of the public good and other valuable consideration, does by these presents, convey and warrant unto the Grantee a jet grouting and underpinning easement (the "Easement") upon the portion of the Property as described in **Exhibit B** (the "Easement Area") and depicted in **Exhibit C** situated in the County of **Insert County**, State of Washington, for the purpose of installing jet grouting and underpinning in support of Grantee's construction of the **Insert Project**. Grantee is authorized to purchase real property and real property interests under the provisions of RCW 81.112.080, and has the right of eminent domain under the provisions of RCW 81.112.030. By its Resolution No. **Insert Resolution No.**, Grantee's Board of Directors authorized acquisition of the real property interests by negotiation or by exercise of eminent domain.

2. **Purpose of Easement.** The Grantee, its contractors, agents, and permittees, shall have the right at such times as may be necessary, to enter upon the Easement Area, including entry for installation of jet grouting and underpinning to be installed from Grantee's adjacent property and/or the surface of Grantor's property to support the **Insert Project** improvements. Grantee shall have the right to install jet grouting and jet grouting and underpinning within the Easement Area, as depicted in **Exhibit C** and may permanently attach underpinning to the foundation of Grantor's improvements.

In the event private improvements in the Easement Area are disturbed or damaged by Grantee's use of the Easement, they shall be restored to the condition existing as of the date of Grantee's use of this Easement.

4. Term of Easement. The term of this Easement shall commence upon written notice from Grantee to Grantor and shall be perpetual. Grantee shall provide seven (7) days written notice to the Grantor prior to commencement of the term of this Easement.

5. Binding Effect. The Easement granted hereby is solely for the benefit of Grantee, and is personal to Grantee, its successors in interest and assigns. Grantee shall have the right to permit third parties to enter upon the Easement Area to accomplish the purposes described herein, provided that all such parties abide by the terms of this Easement. The Easement granted hereby, and the duties, restrictions, limitations and obligations herein created, shall run with the land, shall burden the Property and shall be binding upon and the Grantor and its respective successors, assigns, mortgagees and sublessees and each and every person who shall at any time have a fee, leasehold, mortgage or other interest in any part of the Easement Area. This Easement is granted under the threat of condemnation.

6. Recording. This Easement shall be recorded in the real property records of Insert County County, Washington.

Dated this _____ day of _____, 20 ____.

GRANTOR(S): Insert Grantor(s)

By: _____

Its: _____

(Individual)

STATE OF WASHINGTON

}
} SS.

COUNTY OF KING

}

I certify that I know or have satisfactory evidence that _____
and _____ signed this instrument and acknowledged it to be
(his/her/their) free and voluntary act for the uses and purposes mentioned in the
instrument.

Dated: _____

Signature: _____

Notary Public in and for the State of Washington

Notary (print name): _____

(Corporate)

STATE OF WASHINGTON

}
} SS.
}

COUNTY OF KING

I certify that I know or have satisfactory evidence that _____ and _____ (is/are) the person(s) who appeared before me, and said person(s) acknowledged that (he/she/they) signed this instrument, on oath stated that (he is/she is /they are) authorized to execute the instrument and acknowledged it as the _____ and _____ of _____ to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

Dated: _____

Signature: _____

Notary Public in and for the State of Washington

Notary (print name): _____

Residing at: _____

My appointment expires: _____

EXHIBIT B

EXHIBIT C

NEGOTIATED TIMELINE SCHEDULE

Arne Hall 425-269-9899



DEVELOPMENT SERVICES PROCEDURE

BELLEVUE MARRIOTT HOTEL

Negotiated Timeline Schedule

Issue date: Aug 7, 2012

Project Name: MARRIOTT Address: 200-10th Project No.

Applicant/Contact: WPM CONSTRUCTION, LLC

Project Manager: Review Team:

This negotiated timeline has been agreed to by the above parties. A negotiated timeline will only be successful if both parties (city and applicant) fulfill their obligations for professional level work, complete submittals and revisions requests and responsiveness. See attached NTL Procedure.doc for information on what can void a timeline or cause it to be renegotiated.

| Permit Type (Folder) | Reviewer | Hist. Days | Submit Date | First COB review | Working days for app resubmit | Working days for COB recheck | Max revision cycles * | Issue Date | Comments |
|---------------------------|-----------------------------|------------|--------------------|------------------|-------------------------------|------------------------------|-----------------------|---------------------|---|
| Land Use Action Utilities | Toni Pratt Mark Dewey | | 7-27-12 7-20-12 | 14 45 | 5 15 | 20 20 | 0 3 | N/A 4-19-12 | ISSUANCE DATE TO BE CONSISTENT WITH APPROVAL OF ED & BB. |
| Det. Vault | N/A | | N/A | | | | | N/A | Included in Building Permit. |
| Ctr & Grd Shoring | Jammy Goo Sheri Crawford | | 7-20-12 7-27-12 | 20 15 | 10 5 | 15 15 | 1 1 | 9-20-12 9-20-12 | NESTED UNDER 2008 ADR APPROVAL |
| Right-of-way | Tim Skerter | | 8-3-12 | 30 to 45 | 10 | 15 | 1 | 9-20-12 | |
| Demo | N/A | | N/A | | | | | | |
| Garage/ foundation | Sheri Crawford | | 8-28-12 9-28-12 | 20 20 | 5 5 | 10 20 | 2 2 | 12-19-12 3-15-13 | STRUCTURAL ONLY w/ exceptions Building Permit submittal WILL BE SUBMITTED w/ complete/perm. |
| MEP's | Val G Robert H. | | 10-5-12 | 21 | 5 | 15 10-TOWER | 2 | 1-31-13 | Must include Smoke Control System |

Snake Control Travis Ripley

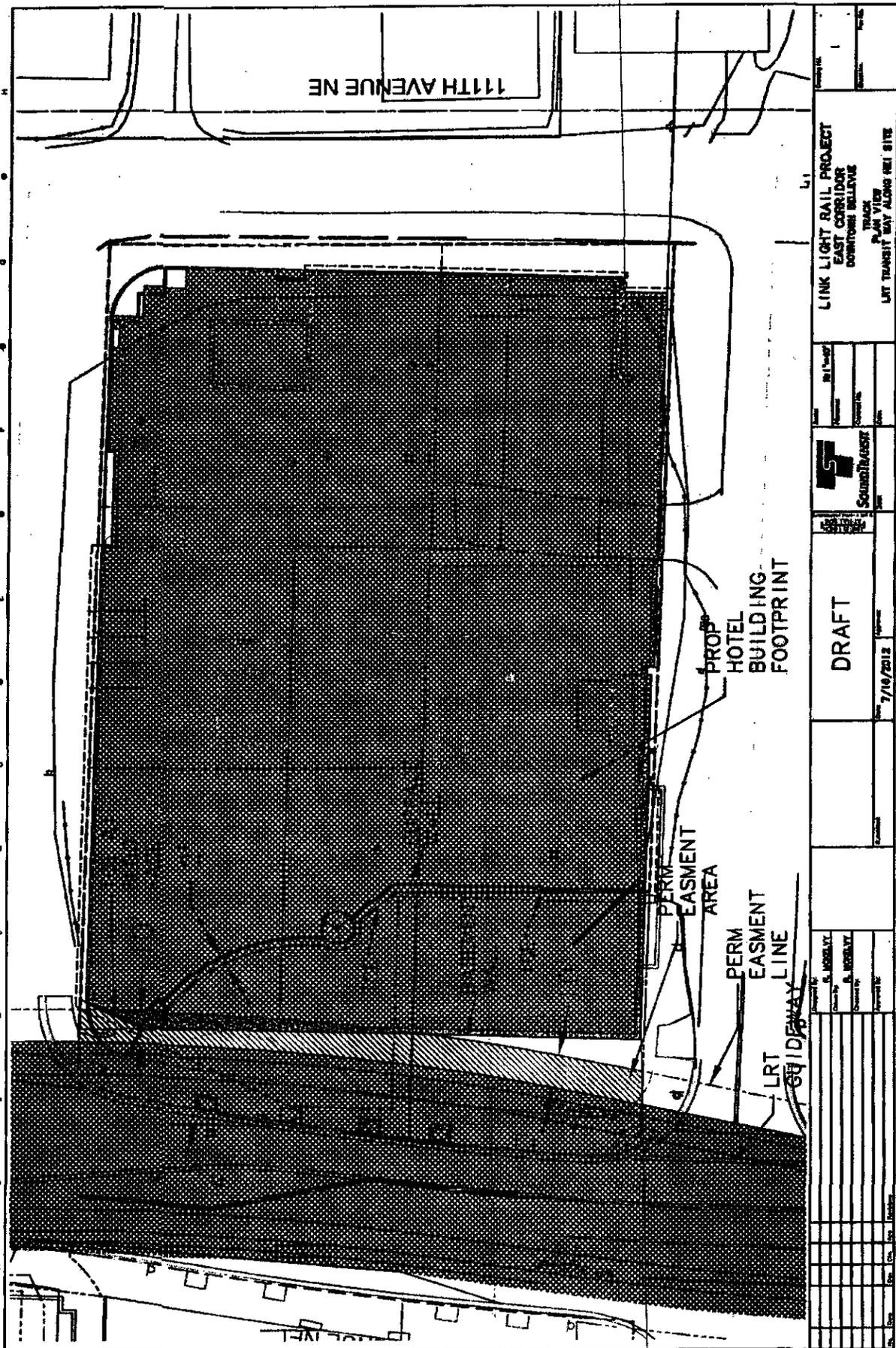
42A 7-27-12 30 5 10 2 9-20-12 42A: CONCEPT

42B 11-20-12 45 10 15 3 3-15-13 42B: DETAIL

EXHIBIT D

PERMANENT AND TEMPORARY SUB-SURFACE EASEMENT DRAWING

Exhibit D



111TH AVENUE NE

PROP
HOTEL
BUILDING
FOOTPRINT

PERM
EASMENT
AREA

PERM
EASMENT
LINE

LRT
GUIDEWAY
LINE

| | | | | | |
|---|-----------------|--------------------|-----------------|---------------------------------|-----------------|
| | | DRAFT | | 7/18/2012 | |
| LINK LIGHT RAIL PROJECT EAST CORRIDOR DOWNTOWN BELLEVUE | | TRACK PLAN VIEW | | LRT TRANSIT WAY ALONG RAIL SITE | |
| Date: 7/18/12 | By: [Signature] | Date: 7/18/12 | By: [Signature] | Date: 7/18/12 | By: [Signature] |
| Date: 7/18/12 | By: [Signature] | Date: 7/18/12 | By: [Signature] | Date: 7/18/12 | By: [Signature] |

11. 001111

EXHIBIT E
TUNNEL EASEMENT

Exhibit E



WHEN RECORDED RETURN TO:

Real Estate Division
Central Puget Sound Regional Transit Authority
401 South Jackson Street
Seattle, WA 98104-2826

| | |
|--|--|
| Document Title: | Tunnel Easement |
| Reference Number of Related Document: | N/A |
| Grantor(s): | |
| Grantee: | Central Puget Sound Regional Transit Authority |
| Abbreviated Legal Description: | |
| Additional Legal Description is on: | Exhibit "A" |
| Assessor's Tax Parcel Number(s): | |

R/W No. _____

TUNNEL EASEMENT

Grant of Tunnel Easement. _____ ("Grantor"), for and in consideration of Ten Dollars (\$10.00) and other valuable consideration in hand paid, hereby conveys and warrants to the CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY ("Grantee"), a regional transit authority of the State of Washington, for the purposes described below, an exclusive permanent subsurface easement (the "Tunnel Easement") under the surface of and through the property as described in Exhibit "A" and illustrated in Exhibit "B" both attached hereto and incorporated herein by reference, lying between elevation _____ and elevation _____, North American Vertical Datum of 1988 (NAVD88):

Grantee is authorized to purchase real property and real property interests under the provisions of RCW 81.112.080, and has the right of eminent domain under the provisions of RCW 81.112.030. By its Resolution No. _____, Grantee's Board of Directors authorized acquisition of the Tunnel Easement by negotiation or by exercise of eminent domain. In order to carry out its statutory duties and obligations under RCW 81.112, Grantee intends to acquire the Tunnel Easement for public purposes, i.e., for implementation of its Link light-rail project (the "Project") through exercise of its power of eminent domain and has threatened to file a condemnation action unless Grantor agrees to sell the Tunnel Easement to Grantee. Therefore, this Tunnel Easement is granted in lieu of, but under threat and imminence of condemnation.

Purpose of Tunnel Easement. Grantee shall have the right to use the Tunnel Easement area for all purposes necessary or incidental to Grantee's construction, operation, maintenance, use, modification, repair and replacement of underground tunnels and related public transportation facilities, including but not limited to the right to construct, operate, maintain, modify, repair, replace, improve, remove and use said tunnels, tunnel supports, roof, floor, and all utility lines or wires within said tunnels, together with the right to operate light rail trains and other public

Grantor's Use of Tunnel Easement. Grantor may use the property to construct the hotel improvements approved by the City of Bellevue and for other purposes not requiring subsurface rights that would interfere with Grantee's use of the Tunnel Easement area. Grantor shall at all times conduct activities on the property so as not to interfere with, obstruct or endanger the usefulness of any improvements, or other facilities, now or hereafter maintained by Grantee in the Tunnel Easement area; or in any way interfere with, obstruct or endanger the Grantee's use of the Tunnel Easement.

Grantee's Use of Tunnel Easement. Grantee may use the Tunnel Easement area for the purposes and in the manner described herein. Grantee's normal operation of the Project is not anticipated to cause noise or vibration noticeable upon the property. Grantee shall repair any physical damage to the property caused by the exercise of Grantee's easement rights at any time. Grantee shall implement, at its expense, a settlement-monitoring program during construction of the tunnel. Grantee agrees to compensate, pay, indemnify, hold harmless and defend Grantor(s) for, from and against all damages, claims and liabilities to the extent resulting from Grantee's use of the easement, including attorney's fees and costs of suit, including any appeals thereof, except to the extent any of such damages, claims or liabilities result from the negligence or willful act of Grantor(s). Grantor will maintain claims processes substantially similar to those attached thereto as Exhibits "C" and "D" in order to administer claims described in this paragraph.

Binding Effect. This Tunnel Easement is appurtenant to and shall run with all real property now owned or hereafter acquired by Grantee as part of the Link light rail project, which includes underground tunnels and related facilities operated by Grantee for high capacity transportation system purposes and shall inure to the benefit of Grantee, its successors and assigns and shall be binding upon the property and Grantor, and their respective heirs, successors and assigns.

Notices. Any notices required or permitted under this easement shall be given as indicated below:

To Grantee: Sound Transit
Real Estate Division
Union Station
401 S. Jackson St.
Seattle, WA 98104-2826

To Grantor: _____

Parties' Intent. The parties have agreed to certain language in the paragraph of this easement titled "Grantee's Use of the Tunnel Easement" that varies from Grantee's easement form for its Project between downtown Seattle and the University of Washington. These changes are for clarification purpose only and shall not be construed to create ambiguity or difference in meaning between this easement and Grantee's general easement form for residential properties.

Dated this ___ day of _____, 20__.

R/W #: NL 061

STATE OF WASHINGTON }
 } SS.
COUNTY OF KING }

I certify that I know or have satisfactory evidence that _____ and _____ (is/are) the person(s) who appeared before me, and said person(s) acknowledged that (he/she/they) signed this instrument, on oath stated that (he is/she is /they are) authorized to execute the instrument and acknowledged it as the _____ and _____ of _____ to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

Dated: _____

Signature: _____

Notary Public in and for the State of Washington

Notary (print name): _____

Residing at: _____

My appointment expires: _____

R/W #: NL 061

EXHIBIT "A" TO TUNNEL EASEMENT

EXHIBIT "C"
Sound Transit Policy and Procedure
for Claims by Owners of Property
Subject to a Sound Transit Light Rail Tunnel Easement

1. When operation of light rail commences in the Sound Transit tunnels (currently expected in 2016), if you believe your property is being damaged by noise, vibration or other impacts from Sound Transit's use of the easement, contact the Sound Transit Risk Management Department at 206-398-5000. Or, consult the Sound Transit website at www.SoundTransit.org for information about how to submit a damages claim. Sound Transit may have a form for you to complete that describes the nature and extent of your damages.
2. Sound Transit will review the information provided and agrees to pay for any decrease in the value of your property if Sound Transit is able to confirm that you are experiencing impacts from Sound Transit's use of the easement. In that event, Sound Transit will engage a qualified appraiser and/or other appropriate professional to evaluate the damage to your property. The evaluation will be conducted pursuant to all requirements and processes ordinarily followed by Sound Transit in the determination and valuation of real property interests to be acquired.
3. Sound Transit will offer to pay you the appraised value of the decrease in your property value in exchange for an amendment to the tunnel easement that reflects Sound Transit's right to cause that additional damage to your property. You will be eligible, up to certain limits, for reimbursement of certain costs (including your own appraiser) which you may incur to evaluate Sound Transit's offer.
4. If you agree with Sound Transit's payment offer, Sound Transit will make payment and record the amended tunnel easement. If we cannot agree on the amount of compensation, the mediation provisions in paragraphs 5 and 6 below will apply.
5. If Sound Transit is unable to confirm noticeable noise, vibration or other damage to your property, Sound Transit will provide you with a summary of the method used to evaluate the noise, vibration or other alleged damage, results of the evaluation, and our conclusions. If you desire to conduct noise, vibration or other tests, Sound Transit will provide reasonable cooperation, including the times when trains run beneath your property to correlate with your test results. If you choose to provide test results to Sound Transit, Sound Transit will review the information and provide further response.
6. If you remain dissatisfied with Sound Transit's conclusions as to either the existence of damage or the amount of compensation, you may participate in mediation with Sound Transit. No attorney is required for mediation. You may suggest a mediator or Sound Transit will provide you with a list of potential mediators. Sound Transit will pay the cost of the mediation and reimburse you, up to certain limits, for other costs you incur to evaluate Sound Transit's offer.
7. If mediation is not successful, you have the right to initiate a lawsuit and have your claim resolved in court. Or, under those circumstances, if Sound Transit agrees your property has been damaged, but we cannot agree on the amount of compensation, Sound Transit

EXHIBIT "D"
**Sound Transit Policy and
Procedure for Resolving Light
Rail Tunnel Damage Claims**

1. Prior to construction, Sound Transit is videotaping/photographing the interiors and exteriors of properties subject to acquisition for the light rail tunnel.
2. Once construction has begun, if you believe your property has been damaged, call Sound Transit's 24-hour hotline at: 1-888-298-2395 to obtain a Damage Claim Form. You can also print the Damage Claim Form from Sound Transit's web site at www.SoundTransit.org, click on "Project & Plans", then "Projects by Service," click "Link Light Rail" and then on the name of the light rail tunnel project you believe has caused damage.
3. Fill out the Damage Claim Form and submit it to:

Risk Manager
Sound Transit
401 S. Jackson Street
Seattle, WA 98104-2826

Within 10 business days of receipt of your Damage Claim Form, Sound Transit will contact you to arrange for an inspection and videotaping/photography of your property.

4. Sound Transit will compare its videotape/photography of your property before construction began with its videotape/photography following your damage claim and may require your cooperation in investigating other potential causes of the damage (e.g., information about construction conducted within the structure or in the vicinity). For a period of one (1) year after substantial completion of the tunnel construction if the inspection/photography show property damage, Sound Transit will presume, absent evidence to the contrary, that the damage was caused by the construction of the tunnel. Sound Transit will arrange for the repair of the damage to your property and pay for the repairs. Sound Transit will notify property owners in writing when substantial completion of the tunnel construction has been reached.
5. If you bring your damage claim more than one (1) year after the substantial completion of the tunnel construction, Sound Transit may require you to demonstrate that the property damage, if any, was caused by the construction of the tunnel. If Sound Transit agrees that the property damage was caused by the construction of the tunnel, Sound Transit will arrange for the repair of the damage to your property and pay for the repairs. If Sound Transit does not agree that the property damage was caused by the construction of the tunnel, you may mediate your claim with Sound Transit. No attorney is required for mediation. You may suggest a mediator or Sound Transit will provide you with a list of potential mediators. Sound Transit will pay the cost of mediation. If the mediation is unsuccessful, you are free to pursue all available legal remedies.

Please contact the Risk Manager at 206-398-5096 if you have any questions about this policy.

EXHIBIT F

TEMPORARY CONSTRUCTION AND DEMOLITION EASEMENT

When Recorded Return to:

Sound Transit Real Estate
Union Station
401 S. Jackson Street
Seattle, WA 98104-2826
Attn: Real Estate

**TEMPORARY CONSTRUCTION AND
DEMOLITION EASEMENT**

Grantor(s): _____

Grantee: Central Puget Sound Regional Transit Authority

Abbreviated Legal Description: _____
Assessor's Property Tax Parcel Account Number: _____

Reference Numbers of Documents Assigned or Released, if applicable: N/A

THIS INSTRUMENT is made this ____ day of _____, 20__, by and between, _____ hereinafter called the "Grantor", and the CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY, a Washington regional transit authority, hereinafter called the "Grantee".

WITNESSETH:

_____, (the "Grantor") is the owner of real property located in the City of Seattle commonly known as _____, and more particularly described in the legal description attached as **Exhibit A** (the "Property").

1. Grant of Easement. The Grantor, for and in consideration of the public good and other valuable consideration, does by these presents, convey and warrant unto the Grantee a temporary construction easement (the "Easement") for access over, through, across and upon the portion of the Property depicted in **Exhibit B** (the "Easement Area") situated in the County of King, State of Washington, for demolition and/or construction of improvements with necessary appurtenances, including placement of fencing and public and private utilities, within the adjoining public right of way. Grantee is authorized to purchase real property and real property interests under the provisions of RCW 81.112.080, and has the right of eminent domain under the provisions of RCW 81.112.030. By its Resolution No. _____, Grantee's Board of Directors authorized acquisition of the real property interests by negotiation or by exercise of eminent domain.

2. **Purpose of Easement.** The Grantee, its contractors, agents, and permittees, shall have the right at such times as may be necessary, to enter upon the Easement Area, including entry into private improvements located in the Easement Area for the purpose of constructing adjacent Light Rail Station improvements, demolition of adjacent and encroaching structures or making any connections therewith, including utility connections. Grantee shall have the right to re-grade slopes and/or make cuts and fills to match street grade and retaining walls. Grantee shall have the right to fence all or a portion of the Easement Area from time to time during the Term. Grantee's right to use the Easement Area shall be exclusive at such times and for such durations, as Grantee's construction requires, in Grantee's discretion. At all other times, Grantee's right to use the Easement Area shall be non-exclusive.

In the event Grantee's utility connection work requires access to portions of the Property in addition to that depicted in Exhibit B, Grantee shall have the right to enter into such additional property for the purpose of reconnecting utilities that serve the Property and such entry shall be governed by the terms of this Easement.

The Grantee shall exercise due care to avoid damaging the property in any manner that is not consistent with the purpose for which the easement is issued. Grantee will maintain such easement in a state of good repair and efficiency so as to avoid unnecessary damage. Grantor shall remove the porte cochere upon notice from Grantee as provided in the Agreement. In the event any existing improvements in the Easement Area are disturbed or damaged by Grantee's use of the Easement, on or before the end of the Term, they shall be restored to their existing condition. Disturbed or damaged fences shall be replaced with chain-link or wood fence. During the Term, Grantee may on an interim basis, restore the Easement Area to a reasonably safe and convenient condition.

3. **Grantor's Right to Use Easement Area.** Except for those times when Grantee is making exclusive use of the Easement Area, the Grantor shall retain the right to use and enjoy the Easement Area, including the right to use existing private improvements located in the Easement Area so long as such use does not interfere with Grantee's construction of the public improvements described in this Easement. Grantor may fully use and enjoy the property encumbered by said easement, except such use and enjoyment shall not interfere with the exercise of Grantee's rights hereunder. Grantee shall make reasonable efforts to minimize interference with Grantor's use of the property.

4. **Term of Easement.** The term of this Easement shall commence upon initiation of Grantee's construction within the easement area, but no sooner than _____, and shall remain in force for _____ months (the "Term") or until completion of construction and restoration of the property, whichever occurs first. Grantee shall provide seven (7) days written notice to the Grantor prior to commencement of construction. This Easement may be extended unilaterally by the Grantee past the initial term for up to four (4) months at the monthly rate identified in Paragraph 5 below. Grantee shall notify Grantor if it unilaterally extends the easement.

6. Binding Effect. The Easement granted hereby is solely for the benefit of Grantee, and is personal to Grantee, its successors in interest and assigns. Grantee shall have the right to permit third parties to enter upon the Easement Area to accomplish the purposes described herein, provided that all such parties abide by the terms of this Easement. The Easement granted hereby, and the duties, restrictions, limitations and obligations herein created, shall run with the land, shall burden the Property and shall be binding upon and the Grantor and its respective successors, assigns, mortgagees and sublessees and each and every person who shall at any time have a fee, leasehold, mortgage or other interest in any part of the Easement Area. This Easement is granted under the threat of condemnation.

7. Indemnification. The Grantee shall indemnify and hold Grantor harmless from and against any and all claims, liabilities or damages of any kind, direct or consequential, including, without limitation, damage or loss of property and bodily or personal injury, arising from or related to the entry and performance of work on the property by Grantee or its agents, contractors or permittees.

8. Limited Easement. The Easement shall not convey any right or interest in the property to Grantee other than as stated herein.

9. Cooperation. Grantee shall at all times cooperate with Grantor and comply with reasonable requests that are not inconsistent with the purpose for which the easement is issued.

10. Recording. This Easement shall be recorded in the real property records of King County, Washington.

Dated this _____ day of _____, 20____.

Grantor

STATE OF WASHINGTON }
 } SS.
COUNTY OF KING }

I certify that I know or have satisfactory evidence that _____ is the person(s) who appeared before me, and said person(s) acknowledged that (he/she/they) signed this instrument, on oath stated that (he is/she is /they are) authorized to execute the instrument and acknowledged it as the _____ of Bonney-Watson Co. to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

Dated: _____

Signature: _____

Notary Public in and for the State of Washington

Notary (print name): _____

Residing at: _____

My appointment expires: _____

EXHIBIT G
RIGHT OF ENTRY EASEMENT

Exhibit G

ENTRY AGREEMENT

This Entry Agreement ("Agreement") is made effective on the date below between the **CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY ("SOUND TRANSIT")**, a regional transit authority of the State of Washington and _____ ("Owner").

RECITALS

Owner owns certain real property ("Property") described below. Sound Transit wishes to gain access to the Property for the purpose described below. Owner is willing to grant Sound Transit access to the Property on the terms and conditions of this Agreement. The Property is described as follows:

Parcel Address(es):

Parcel Number(s):

1. Grant of License.

Owner grants to Sound Transit a non-exclusive license of reasonable access to the Property for a period of one (1) year from the date below, for the purpose of completing Soil Borings, Phase I and II Environmental and Civil Survey activities. Before commencing any Phase I and II testing or soil borings, Sound Transit will coordinate with the Contact Person(s) listed below and will provide the permittor with a description and duration of the testing to be done, accompanied by a sketch of where the testing will take place. Sound Transit will not permit any other party, except Sound Transit's duly authorized representatives, employees, agents and independent contractors (collectively "Representatives") to enter or use the Property.

2. Contacts.

Prior to access, Sound Transit and/or its designated Representatives shall contact the following representatives of the owner to arrange for access to the Property:

Property Access:

Name: _____

Title: _____

Telephone #: _____

3. Liability.

While on the Property, Sound Transit will comply and will cause all Representatives to comply with all applicable government laws and regulations. Sound Transit and its Representatives will be responsible for any damage done to the Property by Sound Transit or its Representatives and will pay the cost of repairing and restoring the Property to as good condition as existed before Sound Transit's or its Representative's entry onto the Property.

4. Governing Law/Captions.

The validity, meaning, and effect of this Agreement shall be determined in accordance with the laws of the State of Washington.

5. No Third Party Rights/Assignment.

Nothing in this Agreement, express or implied, is intended to confer any rights or remedies upon any person, other than the parties and their respective employees and representatives.

Central Puget Sound Regional Transit Authority:

Owner(s):

Kent Melton
Senior Real Property Agent

Date

Signature and Date

EXHIBIT H
DESIGNATED REPRESENTATIVES

Exhibit H

GR# 49244 DATE 10-4-12 LOG E12-46

LES 8452

When Recorded Return to:
Sound Transit Real Estate
Union Station
401 S. Jackson Street
Seattle, WA 98104-2826
Attn: Real Estate

**TEMPORARY CONSTRUCTION AND
DEMOLITION EASEMENT**

Grantor(s): City of Bellevue

Grantee: Central Puget Sound Regional Transit Authority

Abbreviated Legal Description: _____
Assessor's Property Tax Parcel Account Number: _____

Reference Numbers of Documents Assigned or Released, if applicable: N/A

Comment (C02) Utility easement would apply to the properties with Parcel Numbers 369940-0029, 369940-0030, 369940-0075 and 369940-0080 based on Council approval 9/24/12. A separate easement would be issued for each parcel.

THIS INSTRUMENT is made this ____ day of _____, 20__, by and between, the CITY OF BELLEVUE, a Washington municipal corporation, hereinafter called the "Grantor", and the CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY, a Washington regional transit authority, hereinafter called the "Grantee".

WITNESSETH:

The City of Bellevue, (the "Grantor") is the owner of real property located in the City of Seattle commonly known as _____, and more particularly described in the legal description attached as **Exhibit A** (the "Property").

1. Grant of Temporary Easement. The Grantor, for and in consideration of the public good and other valuable consideration, does by these presents grant unto the Grantee a temporary construction easement (the "Easement") for occupation, use, and access over, through, across and upon the Property described in **Exhibit A** (the "Easement Area") situated in the County of King, State of Washington, for the purposes set forth herein.

2. Purpose of Easement. The Grantee, its contractors, agents, and permittees, shall have the right during the term of the Easement to enter upon, use and occupy the Easement Area for the purpose of construction staging for the East Link Light Rail project, including but not limited to constructing adjacent Light Rail Station improvements, storage of materials, equipment and vehicles, and other activities in support of construction of the East Link Light Rail project. Grantee shall have the right to fence all or a portion of the Easement Area from time to time during

the Term or throughout the Term, in Grantee's discretion. Grantee's right to use the Easement Area shall be exclusive at such times and for such durations, as Grantee's construction requires, in Grantee's discretion. At each such time, Grantee shall provide notice to Grantor [] days in advance indicating and defining Grantee's need for exclusive access. At all other times, Grantee's right to use the Easement Area shall be non-exclusive.

The Grantee shall exercise due care to avoid damaging the Property in any manner that is not consistent with the purpose for which the Easement is issued. Grantee will maintain such Easement Area in a state of good repair and efficiency so as to avoid unnecessary damage. In the event private improvements in the Easement Area (other than encroaching structures, which are to be demolished) are disturbed or damaged by Grantee's use of the Easement, on or before the end of the Term, they shall be restored to the condition existing as of the date of this Easement [Additional clause to add to those easements covering property that may include or be adjacent to station entrance; provided that restoration will be designed "in consultation with the Grantor as a public plaza if a station entrance is located on or adjacent to the Easement Area."] Disturbed or damaged fences shall be replaced with fences of the same material as existed prior to Grantee's entry into the Easement Area. During the Term, Grantee may on an interim basis, restore the Easement Area to a reasonably safe and convenient condition.

3. Grantor's Right to Use Easement Area. Except for those times when Grantee is making exclusive use of the Easement Area, as established by the notice requirements outlined above, the Grantor shall retain the right to use and enjoy the Easement Area, including the right to use existing private improvements located in the Easement Area so long as such use does not interfere with Grantee's construction of the public improvements described in this Easement. Grantor may fully use and enjoy the property encumbered by said easement, except such use and enjoyment shall not interfere with the exercise of Grantee's rights hereunder. Grantee shall make reasonable efforts to minimize interference with Grantor's use of the property.

4. Term of Easement. The term of this Easement shall commence upon initiation of Grantee's construction within the Easement Area, but no sooner than _____, and shall remain in force until commencement of revenue service for East Link light rail, unless sooner terminated by mutual agreement of the parties. Grantee shall provide seven (7) days written notice to the Grantor prior to commencement of construction.

5. INTENTIONALLY DELETED

6. Binding Effect. The Easement granted hereby is solely for the benefit of Grantee, its successors in interest and assigns. The Easement is personal to Grantee and not transferable. Grantee shall have the right to permit third parties to enter upon the Easement Area to accomplish the purposes described herein, provided that all such parties abide by the terms of this Easement. Until its relinquishment, the Easement granted hereby, and the duties, restrictions, limitations and obligations herein created, shall run with the land, shall burden the Property and shall be binding upon the Grantor and its respective successors, assigns, mortgagees and sublessees and each and every person who shall at any time have a fee, leasehold, mortgage or other interest in any part of the Easement Area.

7. Indemnification. Grantee does hereby release, indemnify and promise to defend and save Grantor harmless from and against any and all liability, loss, damage, expense, actions and claims, including costs and reasonable attorney's fees incurred by the Grantor in defense thereof, resulting or arising directly or indirectly on account of or out of acts or omissions of the Grantee or its servants, agents, employees or contractors in the exercise of the rights granted herein; provided, however, this paragraph does not indemnify Grantor against liability for damages arising out of bodily injury to persons or damage to property to the extent caused by or to the extent resulting from the negligence of Grantor or the Grantor's agents or employees.

8. Limited Easement. The Easement shall not convey any right or interest in the property to Grantee other than as stated herein.

9. Cooperation. Grantee shall at all times cooperate with Grantor and comply with reasonable requests that are not inconsistent with the purpose for which the easement is issued.

10. Recording. This Easement shall be recorded in the real property records of King County, Washington. At the end of the Easement Term Grantee shall cause to be recorded a release of easement.

11. Non-Waiver. Nothing in this Easement shall be deemed a waiver of Grantor's permitting authority over the East Link Project and other activities of Grantee within the City, including activities within the Easement Area nor shall anything in this Easement be deemed an approval of the East Link Project or any of Grantee's activities within the City.

Dated this _____ day of _____, 20 _____

Grantor

STATE OF WASHINGTON }
 } SS.
COUNTY OF KING }

I certify that I know or have satisfactory evidence that _____ is the person(s) who appeared before me, and said person(s) acknowledged that (he/she/they) signed this instrument, on oath stated that (he is/she is /they are) authorized to execute the instrument and acknowledged it as the _____ of CITY OF BELLEVUE to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

Dated: _____

Signature: _____

Notary Public in and for the State of Washington

Notary (print name): _____

Residing at: _____

My appointment expires: _____

EXHIBIT A
LEGAL DESCRIPTION

Note: To be inserted for each of the following tax parcel numbers: 808760-0029; 369980-0030; 369980-0075; and 369980-0080. Authority granted by Proposed Resolution No. 8452 would authorize execution of easements for each of these parcels and allows completion of blanks in the form document to tailor the easement for each such parcel.

2709-RES
9/20/2012

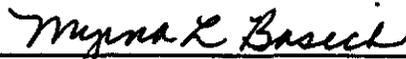
Passed by the City Council this 24th day of September, 2012,
and signed in authentication of its passage this 24th day of September,
2012.

(SEAL)



Conrad Lee, Mayor

Attest:



Myrna L. Basich, City Clerk



Memorandum

Date: September 24, 2012

To: Mayor Lee; Members of the Bellevue City Council

From: Mary Kate Berens, Deputy City Attorney

RE: Revised Language for Agreement with Sound Transit (Item 3(b))

On the reverse side of this Memorandum are minor changes to the language of the proposed Agreement between the City, Sound Transit, HEI and WPPI related to the alternative staging area. The modifications impact terms of the Agreement between WPPI and Sound Transit, and do not modify the City's commitments in the Agreement. If these changes are acceptable to the Council, below is draft motion language for your consideration.

Explanation of Changes:

Briefly, there are three changes, each shown in strike draft on the reverse:

- Change to Section 4.d. of the Agreement making clear that Sound Transit will be responsible for any cost associated with cutting through the soil nails installed by WPPI in the right-of-way as part of WPPI's shoring system. WPPI is agreeing to use fiber glass shoring nails. No City role in this section of the Agreement;
- Change to Exhibit B (Jet Grouting and Underpinning Easement), adding an indemnification provision between Sound Transit (grantee) and WPPI (grantor). This indemnification provision is the same as included in other agreed forms of easement and was inadvertently left out of this form. No City role in this easement or in the indemnification;
- Change to Exhibit F (Temporary Construction Easement), clarifying which improvements that Sound Transit would be responsible for restoring on the WPPI site. In other sections of the Agreement, WPPI is agreeing to delay installation of permanent improvements until after construction of East Link, in order to minimize restoration costs.

Suggested Motion Language:

A minor addition to the motion language included in the Council package will ensure incorporation of the language on the reverse into the Agreement approved by the Council:

Move to approve Resolution No. 8452 authorizing execution of documents related to providing a staging area for construction of East Link, including 1) an Agreement, as modified by the language included in the Council's desk packet tonight, by and between the City, Sound Transit, HEI Bellevue, LLC and WPPI Bellevue MFS, LLC regarding construction coordination and acquisition of certain permanent and temporary easements; 2) Temporary Construction Easements over certain properties owned by the City of Bellevue for Sound Transit's use as a staging area for the entire period of construction of East Link; and 3) authorizing the City Manager or his designee to take all steps necessary to implement the terms of the Agreement, including obtaining easements over the Hotel Property (as defined in the Agreement) in the form provided in the Agreement.

Proposed Changes to Agreement (Strike Draft)

Agreement, Section 4.d (p. 4):

- d. WPPI will install a temporary fiber glass soil-nailed as part of its shoring wall system in accordance with the design submitted by WPPI for Shoring Permit No. 12-118837BV.. WPPI's design will require all the standard permits and approvals from the City. Sound Transit will be responsible for any alterations to the shoring wall from cutting through the fiber glass soil nails for construction of the Sound Transit Project. In the event Sound Transit wishes to install jet grouting and underpinning in support of its construction of the Sound Transit Project, WPPI agrees to convey to Sound Transit an easement for this purpose consistent with and substantially in the form of the easement attached as Exhibit g hereto within a reasonable period of time after Sound Transit or the City requests it. The City will acquire this easement on Sound Transit's behalf.

Exhibit B (Jet Grouting and Underpinning Easement), Add new Section 5:

5. Indemnification. The Grantee shall indemnify and hold Grantor harmless from and against any and all claims, liabilities or damages of any kind, direct or consequential, including, without limitation, damage or loss of property and bodily or personal injury, arising from or related to the entry and performance of work on the property by Grantee or its agents, contractors or permittees.

Exhibit F (Temporary Construction Easement), 3rd full paragraph of Section 2:

The Grantee shall exercise due care to avoid damaging the property in any manner that is not consistent with the purpose for which the easement is issued. Grantee will maintain such easement in a state of good repair and efficiency so as to avoid unnecessary damage. Grantor shall remove the porte cochere upon notice from Grantee as provided in the Agreement. In the event any existing improvements in the Easement Area existing at the time of construction of Grantee's project are disturbed or damaged by Grantee's use of the Easement, on or before the end of the Term, they shall be restored to their existing condition. Disturbed or damaged fences shall be replaced with chain-link or wood fence. During the Term, Grantee may on an interim basis, restore the Easement Area to a reasonably safe and convenient condition.