



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

May 23, 2000

Ordinance 13857

Proposed No. 2000-0292.2

Sponsors Vance and Nickels

1 AN ORDINANCE relating to the transfer of the downtown
2 Seattle transit tunnel to the Central Puget Sound Regional
3 Transit Authority, and adopting an agreement between King
4 County, the City of Seattle and the Central Puget Sound
5 Regional Transit Authority.

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8 **BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:**

9 **SECTION 1. Findings:**

- 10 A. King County owns the downtown Seattle transit tunnel (tunnel).
- 11 B. King County owns the E-3 busway that connects to the south end of the
12 tunnel.
- 13 C. The city of Seattle owns the right of way for the tunnel and downtown streets.
- 14 D. King County constructed the tunnel to provide additional capacity for buses in
15 downtown Seattle, and provide for the downtown segment of a future rail system.
- 16 E. King County has established the value of its interest in the tunnel at
17 approximately \$195,000,000, comprised of outstanding debt estimated at \$130,000,000,
18 the value of Convention Place station of \$32,000,000 and equity of \$33,000,000

19 forecasted to September 2004.

20 F. The Central Puget Sound Regional Transit Authority (Sound Transit) proposes
21 using the tunnel for exclusive use of its voter-approved Central Link light rail system
22 (light rail), requiring relocation of bus service to downtown surface streets.

23 G. All three parties, which are the city of Seattle, Sound Transit and King
24 County, have been working together to reach agreement on issues regarding use,
25 ownership and operation of the tunnel and on accommodating increased bus traffic on
26 downtown streets.

27 H. The King County council, in Ordinance 11603, passed by the council and
28 approved by the executive December 12, 1994, affirmed that the county would continue
29 to participate in Sound Transit.

30 I. The King County council, in Motion 10448, passed April 27, 1998, authorized
31 the King County executive to enter into a memorandum of understanding establishing a
32 cooperative relationship between Sound Transit and King County. The memorandum of
33 understanding notes that Sound Transit will use the tunnel as an integral part of its light
34 rail program and that King County and Sound Transit will reach agreement on the
35 amount of compensation for any combination of use, operation and ownership, and on the
36 appropriate terms of use for the tunnel.

37 J. The Sound Transit board adopted a locally preferred alternative alignment and
38 budget for the Central Link light rail line on November 18, 1999.

39 K. King County has declared the real property interests appurtenant to the tunnel
40 as surplus, in accordance with K.C.C. 4.56.070.

41 L. The Federal Transit Administration requires that Sound Transit demonstrate

42 continuing control over the tunnel in order for Sound Transit to receive federal funding
43 for the rail project.

44 M. An agreement specifying the terms, conditions and consideration for the sale
45 and transfer of the tunnel must be executed by all three parties.

46 N. King County supports development of the regional transit system with the
47 expectation that all transit users, including light rail, bus, commuter rail, vanpool and
48 rideshare, will benefit from its services. Transfer of the tunnel to Sound Transit for
49 exclusive light rail use furthers the goal of completing the regional transit system. In the
50 interest of implementing light rail, ownership in the tunnel should be transferred to Sound
51 Transit.

52 SECTION 2. King County approves the transfer of the downtown Seattle transit
53 tunnel to Sound Transit under the terms and conditions as substantially in the form of
54 Attachment A to this ordinance, the three-party agreement between King County, the city
55 of Seattle and the Central Puget Sound Regional Transit Authority, and authorizes the
56 execution of the agreement.

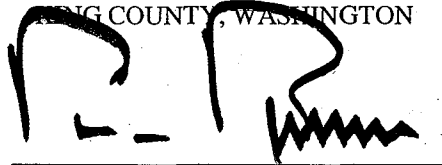
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SECTION 3. The county executive is authorized to execute the necessary documents to convey to Sound Transit the downtown Seattle transit tunnel, substantially in the form attached as listed in Attachment A to this ordinance.

Ordinance 13857 was introduced on 5/8/00 and passed as amended by the Metropolitan King County Council on 5/22/00, by the following vote:

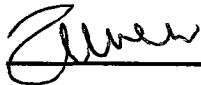
Yes: 10 - Mr. von Reichbauer, Ms. Miller, Ms. Fimia, Mr. Phillips, Mr. Pelz, Ms. Sullivan, Mr. Nickels, Mr. Gossett, Ms. Hague and Mr. Vance
No: 2 - Mr. McKenna and Mr. Pullen
Excused: 1 - Mr. Irons

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON



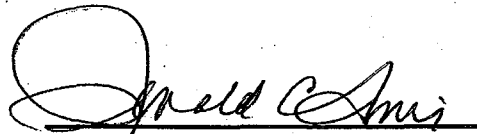
Pete von Reichbauer, Chair

ATTEST:



Anne Noris, Clerk of the Council

APPROVED this 24 day of May, 2000.



Ron Sims, County Executive

Attachments A. Downtown Seattle Tunnel Transit Transfer Agreement dated 5-18-00

DOWNTOWN SEATTLE TRANSIT TUNNEL TRANSFER AGREEMENT

THIS DOWNTOWN SEATTLE TRANSIT TUNNEL TRANSFER AGREEMENT ("Transfer Agreement") is entered into this ____ day of _____, 2000, by the Central Puget Sound Regional Transit Authority ("Sound Transit"), King County ("County"), and The City of Seattle ("City"). Collectively, the agencies are referred to as the "Parties."

RECITALS

A. The County is a home rule charter county with broad powers to provide public transportation within the County's geographic boundaries. The County owns and operates an extensive system of buses, vanpools, accessible services vehicles, park and ride lots, transit centers, transit hubs, and other transportation facilities within the County.

B. Sound Transit is a duly organized regional transit authority existing under Chapters 81.104 and 81.112 RCW and has all powers necessary to implement a high capacity transportation ("HCT") system. On November 5, 1996, central Puget Sound area voters approved local funding for *Sound Move*, Sound Transit's ten-year regional transit plan. The plan includes light rail, commuter rail, and regional express bus/HOV systems that will be integrated with local transit systems and use a single or integrated, regional fare structure.

C. The City is a city of the first class in the State of Washington with its own charter, and as such, has authority co-extensive with the State unless the exercise of a City power would violate the Constitution or a general law of the State, and all of the powers conferred upon incorporated cities and towns by Title 35 RCW and other laws of the state, and all powers that are usually exercised by municipal corporations of like character and degree. The City is responsible for, and has authority over, the laying out and supervision of all transportation public works within the City and on property belonging to or controlled by the City (including but not limited to street rights of way); and the management, construction, repair, maintenance, and control of all streets, gutters, and sidewalks; and the enforcement and implementation of City ordinances, contracts, and rules that relate to matters within the jurisdiction of the City administrative unit responsible therefor, namely Seattle Transportation. The City has specific statutory authority to prescribe the terms and conditions under which any street, avenue, alley, sidewalk, or other public ground may be used and to regulate all such use.

D. This Transfer Agreement is entered into consistent with the principles articulated in the Memorandum of Understanding Establishing a Cooperative Relationship entered into between Sound Transit and the County on May 11, 1998, and the April 20, 1998 Memorandum of Agreement for Intergovernmental Cooperation between Sound Transit and the City regarding Light Rail Development authorized by City Ordinance 118927.

5/18/00

E. The City and Sound Transit entered into a First Supplement to the Memorandum of Agreement for Intergovernmental Cooperation for the Central Light Rail Transit Project as of January 1, 1999, related to design, utility coordination, implementation coordination and mitigation, and expedited permit and approval process ("First Supplemental MOA between the City and Sound Transit").

F. The purpose of this Transfer Agreement is to provide for the transfer of the Downtown Seattle Transit Tunnel (hereinafter "Tunnel"), including but not limited to associated real property interests, fixtures, improvements, contract rights, equipment and other related assets to Sound Transit and to assure that the region's goals of providing quality and efficient transit service are met while at the same time improving and maintaining the flow of public transportation, autos, commercial vehicles, bicycles, and pedestrians in the downtown Seattle area.

G. The environmental impacts relating to this Transfer Agreement have been disclosed and evaluated as part of the Final Environmental Impact Statement for the Central Link Light Rail Transit Project (Oct. 1999).

H. The Municipality of Metropolitan Seattle ("Metro"), now merged with King County, constructed the Tunnel to provide an additional right of way for buses in downtown Seattle. Since 1990 the Tunnel has provided fast, reliable and comfortable service exclusively for bus riders from throughout King County. The Tunnel was built with rails in place, anticipating that light rail could replace or complement the bus operation.

I. Most of the Tunnel is located within the City's right-of-way, under downtown Seattle streets. The City holds its streets and other public rights-of-way, including but not limited to the right of way for the Tunnel, in trust for the convenience of public travel, and has legal authority to regulate and control the use of such streets and public rights-of-way for that purpose. Through the Master Cooperation Agreement between the City and Metro that was authorized by City Ordinance 112462, the City granted Metro (now merged with the County), the right to use the City right-of-way for the Tunnel for so long as it is used for public transportation purposes, subject to the terms and conditions of that Master Cooperation Agreement, future agreements between the City and Metro, and the City's authority over its streets and other public rights-of-way.

J. Pursuant to RCW 81.112.070, RCW 81.112.080, Chapter 39.33 RCW and other applicable laws, the City and County are authorized to convey, lease, or otherwise contract with Sound Transit for the use of their public transportation facilities and properties and Sound Transit may contract with the City and County for the use and acquisition of all rights to the Tunnel and related facilities, structures, lands, interests in land, air rights and rights-of-way of all kinds.

K. In accordance with *Sound Move*, Sound Transit is proceeding to obtain a full funding grant agreement from the Federal Transit Administration (“FTA”) for the construction of the segment of the Central Link Light Rail system to extend from NE 45th Street in Seattle to a maintenance base located adjacent to South Forest Street (“Minimum Operable Segment”), together with any necessary Sound Transit Board actions to authorize the agreement.

L. On November 18, 1999 the Sound Transit Board of Directors adopted Resolution 99-34 selecting the alignment and profiles, station locations, and vehicle maintenance base site to be built for the Central Link Light Rail Project. The Central Link Light Rail system is planned to travel through downtown Seattle, for which purpose Sound Transit intends to utilize the Tunnel. The Parties recognize that joint use by light rail trains and dual-powered buses is not the preferred long-term transit option. The Parties agree that the regional transportation system can be improved if light rail utilizes the Tunnel, and buses, which currently use the Tunnel, are rerouted onto surface streets.

M. In order to promote effective downtown streets for all users after buses are rerouted to surface streets, significant downtown transit-oriented improvements will be made on the surface streets. Modifications to the downtown transit system will take into consideration the needs of local businesses as well as transit riders, auto users, bicyclists, commercial traffic, and pedestrians.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1.0 TRANSFER AND CONVEYANCE OF TUNNEL ASSETS

1.1 Transfer of Tunnel Assets

The County agrees to transfer and convey, and Sound Transit agrees to accept, title to and ownership of the assets identified in Exhibit 1. Said assets are hereinafter referred to as the “Tunnel Assets.” The transfer and conveyance of title to and ownership of the Tunnel Assets shall be accomplished by the execution of and in accordance with the Tunnel Assets Assignment, Transfer and Conveyance Agreement in the form attached as Exhibit 2 and a quitclaim deed as described therein. The transfer and conveyance shall be completed on the Transfer Date by the County’s delivery to Sound Transit of a fully executed copy of Exhibit 2 and said quitclaim deed.

1.2 Contingencies

The transfer and conveyance of the Tunnel Assets is subject to the following contingencies (hereinafter “Contingencies”). The Contingencies are for the benefit of Sound Transit and the County, and Sound Transit and the County must each deem the

Contingencies satisfied or waived as provided below before the transfer and conveyance of the Tunnel Assets may occur.

- 1) Sound Transit has entered a full funding grant agreement with the FTA for the construction of the Central Link Light Rail system Minimum Operable Segment extending from NE 45th Street to a maintenance base adjacent to South Forest Street in Seattle and its Board has taken every action necessary to authorize the agreement;
- 2) No action has been taken by the Sound Transit Board to stop the planning, construction or operation of the Minimum Operable Segment;
- 3) The scheduled completion or opening for fare service of the Minimum Operable Segment has not been delayed beyond January 1, 2009;
- 4) Sound Transit has obtained the additional legal rights that are needed in order to construct and operate the Minimum Operable Segment;
- 5) The Federal Transit Administration ("FTA") has approved the transfer in writing and Sound Transit has paid or made arrangements to pay all amounts due FTA, if any, as required by Section 20 of this Transfer Agreement;
- 6) The Downtown Seattle Traffic and Street Improvements as identified herein have been satisfactorily completed;
- 7) Sound Transit has timely paid all sums that became due to the County and the City prior to the Transfer Date;
- 8) No bankruptcy, insolvency, rearrangement or similar action involving the County or Sound Transit or the Tunnel Assets, whether voluntary or involuntary, is pending, threatened by a third party, or contemplated by the County or Sound Transit;
- 9) The City, Sound Transit, and County are duly authorized to enter this Transfer Agreement and to make the grants, transfers and assignments and give the consents contemplated herein;
- 10) The County's bond counsel has provided a written opinion that the transfer of the Tunnel Assets in accordance with the Transfer Agreement and the obligations thereunder will not affect the exemption from federal income taxation of the interest on the County's bonds (as such bonds are defined in Section 6.0) or the validity and enforceability of the bonds; and

- 11) At least forty-five (45) days, but not more than ninety (90) days, prior to the Transfer Date, Sound Transit issued written assurance to the County that it will begin light rail construction in the Tunnel within two (2) months after the Transfer Date and diligently prosecute such construction to completion.

1.3 Transfer Date

The Tunnel Assets shall be transferred and conveyed on September 24, 2004 ("Transfer Date"), unless the County and Sound Transit agree in writing that a different date shall be the Transfer Date. FTA shall be notified of any change in the Transfer Date.

1.4 Notice of Satisfaction or Waiver of Contingencies

If the Transfer Date is September 24, 2004, then no later than June 24, 2004, Sound Transit shall provide written notice to the County and FTA of whether or not the Contingencies have been satisfied or waived. If the Transfer Date is a date other than September 24, 2004, such a notice shall be provided ninety (90) days prior to such Transfer Date. If the notice provides that the Contingencies have been satisfied or waived, Sound Transit shall attach a copy of Exhibit 2 executed by Sound Transit and the City to said notice.

1.5 County Determination

If said notice provides that the Contingencies have been satisfied or waived and the County finds that the Contingencies have been satisfied or waived, the Tunnel Assets shall be transferred and conveyed on the Transfer Date by the County's delivery to Sound Transit of a fully executed copy of Exhibit 2 and a quitclaim deed as described therein. If said notice provides otherwise, or the County finds that the Contingencies set forth herein have not been satisfied or waived, the transfer and conveyance shall not proceed on the Transfer Date and said date shall not be considered the Transfer Date for purposes of any other section of this Transfer Agreement. The County and Sound Transit may then designate a new Transfer Date in writing.

1.6 Expiration of Transfer Agreement

If the transfer and conveyance has not occurred as of January 1, 2007, the transfer and conveyance shall not occur pursuant to this Transfer Agreement and this Transfer Agreement shall expire as of that date.

1.7 County Responsibilities Prior to Transfer

At all times after the execution of this Transfer Agreement and prior to the Transfer Date, the County shall: (a) maintain all usual and necessary business records pertaining to the Tunnel, consistent with past practices; (b) except for the reservations, grants and amendments to easements identified in Exhibit 1 that will occur after the effective date of this Transfer Agreement, not create, amend, modify, or change any easement, license, or right of entry (except those licenses and rights of entry granted by the County that expire prior to the Transfer Date) directly affecting any of the Tunnel Assets without Sound Transit's written consent first having been obtained, which consent shall not be unreasonably withheld; (c) obtain Sound Transit's approval prior to making any substantial improvements to the Tunnel Assets, which approval shall not be unreasonably withheld; and (d) maintain the Tunnel in its current condition and state of repair (normal wear and tear and casualty loss excepted).

1.8 Sound Transit Responsibilities Upon Transfer

As of the Transfer Date and except as otherwise provided herein, Sound Transit shall assume sole responsibility and liability for the Tunnel Assets, for all aspects of ownership of the Tunnel Assets, and for complying with all federal, state, and local laws, regulations, ordinances and requirements pertaining to the Tunnel Assets.

1.9 Improvements and Repairs

Sound Transit shall be solely responsible for every improvement it desires to be made to the Tunnel Assets. Except as provided herein, the County shall have no obligations pursuant to this Transfer Agreement to make any improvement, modification, repair or replacement to the Tunnel Assets at any time.

1.10 Tunnel Transition Plan

Sound Transit and the County agree to jointly develop a Tunnel closure and transition plan to facilitate the transition of the Tunnel Assets to Sound Transit's ownership and operation.

2.0 ASSETS RETAINED BY THE COUNTY

2.1 Retained Assets

The County shall retain all right, title, and ownership to the assets that Exhibit 3 indicates the County shall retain. All such assets are hereinafter referred to as "Retained Assets."

2.2 Right to Leave Retained Assets In Place

Some of the Retained Assets are located in, are a part of, run through, or are connected to the Tunnel Assets. The County shall have the irrevocable, perpetual and exclusive right to use the Retained Assets and to leave them in place, regardless of their location. The County shall defend and indemnify Sound Transit and its officers and employees, or any of them, from and against direct physical damage or bodily injury caused by the Retained Assets on or after the Transfer Date, except to the extent such damage or injury is caused by Sound Transit, its officials, contractors, agents and/or employees.

2.3 Right of Entry

The County, its employees, agents, and contractors shall have a perpetual and irrevocable right of entry and access to and through the Tunnel Assets at all times to maintain, remove, update, enhance, repair, operate, replace and modify the Retained Assets. The County shall not disrupt Sound Transit's light rail operations upon such entry without the prior approval of Sound Transit, which approval shall not be unreasonably withheld. Except as otherwise provided in this Transfer Agreement, the County shall be liable to Sound Transit for any physical damage to the Tunnel Assets, disruption of Sound Transit's light rail operations, and for any bodily injury negligently caused by the County, its agents or employees during the exercise of the right of entry provided herein.

At Sound Transit's cost, Sound Transit shall provide the County with all appropriate keys, security codes, identification and other items, information, and privileges necessary for the County's exercise of its rights hereunder.

2.4 Fees, Costs and Payments

No fee, cost, rental payment or other charge of any nature shall be imposed by Sound Transit at any time for the County's right to leave the Retained Assets and their power and utility sources in place or to exercise its right of entry pursuant to this Transfer Agreement.

2.5 Sound Transit's Responsibilities for Retained Assets

Sound Transit shall take reasonable measures to safeguard the Retained Assets including, but not limited to, providing and monitoring a fire detection and suppression system and providing adequate security. Sound Transit shall promptly notify the County of any damage or threatened damage, fire, or security breach affecting or potentially affecting the Retained Assets.

Sound Transit shall not damage the Retained Assets. Except in cases of emergency, Sound Transit shall not alter, disconnect, move or modify any of the Retained Assets or take any action that will adversely impact the County's ability to use, maintain, update, enhance, remove, repair, operate, replace or modify any portion of the Retained Assets unless approved in advance in writing by the County, which approval shall not be unreasonably withheld. Notwithstanding the existence or non-existence of such approval, Sound Transit shall reimburse the County for any and all damages and costs relating to or arising from the actions, omissions, or activities of Sound Transit, its employees, agents or contractors, that damage, alter, disconnect, move or modify any portion of the Retained Assets or adversely impact the County's ability to use, maintain, update, enhance, remove, repair, operate, replace or modify any portion of said assets.

Sound Transit shall coordinate with the County all activities by or for Sound Transit that may potentially impact any portion of the Retained Assets. Any portion of the Retained Assets may be relocated at the request of Sound Transit upon such terms and conditions as are acceptable to the County and upon the payment by Sound Transit of all costs of such relocation.

Except as otherwise provided in this Transfer Agreement, Sound Transit shall have no obligation to maintain, repair, or replace or improve any of the Retained Assets, said obligations being those of the County.

2.6 Emergency Egress and Utilities

In addition to Sound Transit's utility and electrical supply obligations set forth in Exhibit 3, Sound Transit shall maintain and supply at all times existing ventilation, lighting, emergency egress routes, water supply, sewer, phone lines, electrical power, and other utilities connected to or serving the Retained Assets. Neither Sound Transit nor its contractors shall disrupt, disconnect, or alter emergency egress routes, ventilation, lighting, water supply, sewer, electrical power, or other utilities connected to or serving the Retained Assets without the prior consent of the County, which consent shall not be unreasonably withheld. The County shall be responsible for paying for the electricity, phone service, water and other utilities used by or for the Retained Assets. The County and Sound Transit shall work together to arrange for the separate metering of all such utilities. Sound Transit shall be responsible for all costs associated with installing separate metering.

3.0 CITY CONSENTS TO TRANSFER

The City hereby consents to the transfer of the Tunnel Assets from the County to Sound Transit under the terms and conditions set forth in this Transfer Agreement. In accordance with Exhibit 2, the City shall grant Sound Transit and the County the right to

use the City right of way identified in Exhibit 1 for so long as it is used for public transportation purposes. Upon Sound Transit's request, the City shall execute a copy of Exhibit 2. The Master Cooperation Agreement between the City and Metro (now merged with King County), dated October, 1985 and authorized by City Ordinance 112462, shall terminate as of the Transfer Date.

4.0 SOUND TRANSIT'S RIGHT OF INSPECTION

4.1 Physical Inspection

Prior to the Transfer Date, Sound Transit and Sound Transit's designated representatives, contractors, consultants and agents shall have a right of access to the Tunnel Assets in order to conduct pre-transfer tests, investigations, inspections, and studies. Access to the Tunnel Assets shall be at such times and under such conditions as set forth in a permit or permits issued by the County's Department of Transportation, which permits shall not be unreasonably conditioned or denied.

4.2 Document Inspection

Except for information that is subject to attorney-client privilege or otherwise exempt from disclosure under Chapter 42.17 RCW, within 180 days after the County and Sound Transit have executed this Transfer Agreement, the County shall use its best efforts to provide to Sound Transit the documents and information specified in Exhibit 4. The County shall use its best efforts to provide these documents directly to Sound Transit or to provide an index of such documents and reasonable access to Sound Transit staff for review and copying of such documents at Sound Transit's expense.

5.0 ASSIGNMENT OF AGREEMENTS, LEASES, AND CONTRACTS

The agreements, leases, and contracts identified in Exhibit 1 and Exhibit 5 shall be transferred and assigned to Sound Transit in accordance with the Tunnel Assets Assignment, Transfer and Conveyance Agreement attached as Exhibit 2. Except as otherwise provided herein, from and after the date this Transfer Agreement is executed until the Transfer Date or the expiration or termination of this Transfer Agreement, the County shall not enter into any written or oral contracts or agreements with respect to the Tunnel Assets that cannot be terminated on or before the Transfer Date. On or before the Transfer Date, the County shall terminate all agreements, leases, and contracts, or portions thereof, affecting the Tunnel Assets that are not to be assigned to Sound Transit.

Notwithstanding any failure by the County to locate and provide copies of any contracts for artworks identified in Exhibit 5, section 2, unless otherwise agreed by the creator of an artwork, all artwork transferred under this Transfer Agreement for which a contract is

not so located and provided, shall be subject to the terms and conditions of Contract No. CT/F8-86, a copy of which is included in Exhibit 5. As of the Transfer Date, Sound Transit shall be solely responsible and liable for complying with the terms and conditions of Contract No. CT/F8-86 in relation to all such artworks or such other terms and conditions as have been agreed to between the creator of such artwork and Sound Transit (either as successor in interest to Metro or the County or in its own right). Within 180 days after the execution of this Transfer Agreement, the County shall use its best efforts to provide to Sound Transit information regarding: (a) maintenance criteria set forth in Section 8 of such contracts; and (b) the most recent information provided to the County regarding artists' last known mailing addresses.

The County and Sound Transit recognize that there are other Tunnel-related leases, contracts and agreements that are not included in Exhibit 5 that Sound Transit may wish to have assigned to it upon further review. The County shall provide Sound Transit an opportunity to review such other Tunnel-related leases, contracts and agreements, including those that are entered into by the County after the date of this Transfer Agreement. At any time within ninety (90) days before the Transfer Date, Sound Transit may notify the County of which such other leases, contracts and agreements Sound Transit wishes to assume. Such leases, contracts and agreements shall be added to Exhibit 5 and assigned to Sound Transit by execution of Exhibit 2 to this Transfer Agreement.

Before the Transfer Date, Sound Transit may, in its discretion, seek to obtain signed estoppel statements from parties to contracts, agreements, and leases listed in Exhibit 5.

6.0 BONDS AND TAX COVENANT

6.1 Bonds

Bonds were originally issued in 1989 to fund the Downtown Seattle Transit Project and Tunnel construction. Refunding bonds have been subsequently issued (as authorized by Municipality of Metropolitan Seattle Resolution No. 4937 and 6538 and King County Ordinance No. 13128). The original bonds and any and all refunding bonds are hereinafter referred to as the "Bonds." To facilitate the transfer of the Tunnel Assets for light rail purposes, the County agrees to retain responsibility for making the required debt service payments for the Bonds.

6.2 Tax Covenant

Sound Transit covenants that it will not take or permit to be taken on its behalf any action that would adversely affect the exemption from federal taxation of the interest on the Bonds. Sound Transit will take or require to be taken such acts as may reasonably be

within its ability and as may from time to time be required under applicable law to continue the exemption from federal income taxation of the interest on the Bonds as requested by the County. During all times in which the Bonds remain outstanding, Sound Transit shall provide written notice to the King County Executive of its intent to change the use of the Tunnel from a use for public transportation to some other use, which notice shall be provided at least six (6) months prior to the effective date of such change in use.

7.0 PAYMENT

Sound Transit shall make payments to the County in the amounts and on the dates as set forth in Exhibit 6. In the event the Transfer Date is other than September 24, 2004, the County and Sound Transit agree to convene to review and modify Exhibit 6 to the extent they mutually agree is necessary.

Sound Transit shall be released from its obligations to make payments pursuant to this section if it pays to the County on a date indicated in Exhibit 6 an amount equal to the payment amount due on that date, the amount of the remaining principal as of that date, and all amounts owed pursuant to this section that are past due, if any.

It is the intent of the County to distribute payments received pursuant to this section, less additional operating expense arising from Tunnel closure, for transit service subsidy in accordance with the County's subarea allocation policies or for capital projects supporting that service.

8.0 CONVENTION PLACE STATION ASSETS TRANSFERRED TO THE COUNTY

8.1 Fee Property

At no cost to the County, Sound Transit shall convey or have conveyed to the County in fee simple certain property owned by the Washington State Department of Transportation and existing in the Convention Place Station. The property to be conveyed includes the property identified in Exhibit 7 and all other property associated therewith by virtue of any adjacent street vacations. If this property is not conveyed to the County on or before January 1, 2002, Sound Transit shall make a payment to the County in the amount of \$14.1 million (2004 dollars) (the estimated value of the property) in lieu of providing the property to the County. Such payment shall be made no later than January 1, 2003.

8.2 Street and Alley Vacation

In 1988, in response to the County's petition, the City granted conceptual approval to the vacation of the alley within Block 32, Heirs of Sarah A. Bell's Second Addition to the

City of Seattle according to the plat recorded in Vol. 1 of Plats, page 121, Records of King County, Washington, and that portion of Terry Avenue lying adjacent to Lots 7, 8 and 9 of that same block and Lots 4, 5 and 6 of Block 44 in the same addition. Final vacation of the subject alley and portion of Terry Avenue was conditioned upon the County's providing pedestrian access between Olive and Pine Streets as noted in Comptroller's File No. 295303. To date, the County has not satisfied those conditions so the vacation of the alley and the specified portion of Terry Avenue has not been completed.

After the Transfer Date, the County contemplates utilizing the Convention Place Station property (as described in Exhibit 8) as a site for a transit oriented development. In order to accomplish this development, vacation of Terry Avenue and the alley within the Convention Place Station property is necessary.

The City supports the development of the Convention Place Station in an intensive and transit-oriented manner and the provision of a public pedestrian access through the Convention Place Station property between Olive Way and Pine Street. Accordingly, the City's legislative authority is willing, upon request of the County or its proposed developer and the presentation to the City's legislative authority of a master plan for the redevelopment of Convention Place Station area, to consider modifying the conditions imposed with respect to the County's 1988 petition to vacate such alley and portion of Terry Avenue.

The County shall use its best efforts to ensure that the conditions imposed with respect to the County's 1988 petition or such modified conditions as the City's legislative authority and the County may agree upon are implemented in connection with any redevelopment of the Convention Place Station area. Included in such County efforts shall be the making of one or more presentations to the City's legislative authority to keep such officials fully informed regarding the status of redevelopment efforts with respect to such area. The City agrees to expedite its review of any modification of the conditions associated with such alley and street vacation proposed by the County or its site developer. It is the intent of the County to ensure that in any conveyance of the Convention Place Station site or a substantial portion thereof for redevelopment, the grantee is obligated to provide free, public pedestrian access between Olive Way and Pine Street through such site and to otherwise comply with the design review, development, and other conditions imposed both with respect to the vacation of such alley and portion of Terry Avenue and new construction at the time such development occurs. The County recognizes that additional conditions may be imposed by the City Council pursuant to a request to modify the conditions imposed in response to the County's 1988 petition, including, but not limited to, requiring that the City be named as a third party beneficiary of such obligation, and that the City be granted the right to specifically enforce such obligation.

5/18/00

Any additional fee or cost imposed by the City for the vacation of such alley and portion of Terry Avenue shall be paid by Sound Transit. If such vacation is not granted by the City by January 1, 2002, Sound Transit shall make a payment to the County in the amount of \$2.5 million (2004 dollars). Such payment shall be made no later than January 1, 2003.

8.3 Transfer of FTA Interest in Convention Place Station

Sound Transit consents to all FTA interest and equity in Convention Place Station (including all real property, improvements, equipment, fixtures and systems existing on or in the Convention Place Station property as that property is described in Exhibit 8) being transferred to the Tunnel Assets or property owned by Sound Transit. The County and Sound Transit shall jointly seek FTA approval for such transfer. Upon such transfer and as of the Transfer Date, Sound Transit shall be solely responsible for all requirements and obligations that arise from such FTA interest and equity. If the FTA does not approve such a transfer on or before January 1, 2002, Sound Transit shall make a payment to the County in the amount of \$4.8 million (2004 dollars) in lieu of the transfer, which represents the estimated value of removal of the FTA interest. Such payment shall be made no later than January 1, 2003.

9.0 DISTRIBUTION OF CONVENTION PLACE STATION PROCEEDS

9.1 Payment to Sound Transit

If the County receives a sufficient net return, as defined below, from the sale or development of the Convention Place Station property, the County shall pay to Sound Transit an amount equal to the first two payments Sound Transit makes pursuant to section 12.1 plus \$1 million, which total amount shall be adjusted by the percentage change that occurred in the CPI for the period that most closely corresponds to the period between the date this Transfer Agreement is executed and the time payment is made (which adjusted payment amount is hereinafter referred to as "Payment Amount"). The County shall pay the Payment Amount to Sound Transit only if the net return the County receives from the sale or development of the Convention Place Station property is equal to or exceeds: 1) the Payment Amount; plus 2) \$33.4 million as adjusted by the percentage change in the CPI for the period that mostly closely corresponds to the period between September 2004 and the date of such sale or return (this adjusted value is hereinafter referred to as "Equity Value"). If the County's net return exceeds the Equity Value but is less than the Equity Value plus the Payment Amount, the County shall pay to Sound Transit an amount equal to such excess. In no case shall total payment exceed the Payment Amount.

Payment to Sound Transit pursuant to this section shall be made within six (6) months of the County's receipt of sufficient net return from the sale or development of the property.

5/18/00

Except for information that is subject to attorney-client privilege or otherwise exempt from disclosure under Chapter 42.17 RCW, the County shall provide Sound Transit and the City access at such reasonable times as requested to all County records relating to the development and/or sale of the Convention Place Station property.

9.2 Equity Distribution

Pursuant to this Transfer Agreement, portions of the County's equity in the Tunnel Assets may be provided to the County by the transfer of certain property rights in Convention Place Station property. That property will not produce actual revenue until a later date. In order to provide each County subarea with its share of Tunnel Asset equity, it is the intent of the County to distribute funds acquired from the sale or development of the Convention Place Station property (in amounts up to but not exceeding the Equity Value) for transit service subsidy in accordance with subarea allocation policies.

9.3 Provision of New Services and Facilities

If the net return from the sale or transit oriented development of the Convention Place Station property exceeds the amount of the Equity Value plus Payment Amount, the County intends that those additional funds will be utilized for new transit services or facilities in the Seattle/North King subarea pursuant to a separate agreement to be entered between the City and the County. That agreement may identify City actions to increase the value of the Convention Place Station property and development. It is the intent of the County to invest proceeds from the increased value specifically attributable to such City actions in new transit services or facilities in the Seattle/North King subarea.

9.4 Definition of "CPI"

For the purpose of this Transfer Agreement, the abbreviation "CPI" means the Consumer Price Index for all Urban Consumers (1982-84=100) as published by the U.S. Department of Labor Bureau of Labor Statistics or its successor for the Seattle-Tacoma-Bremerton Metropolitan Statistical Area; Provided, that in the event of any change in the index base (1982-84=100) or other modification of such index, the parties hereto shall apply whatever conversion factor(s) are necessary to establish the true percentage change in the CPI for any period in which such modification(s) occur, and in the event such index is discontinued, the parties hereto shall select and use for such adjustment purposes, another, similar index that reflects consumer price changes.

10.0 LOCAL IMPROVEMENT DISTRICT

A local improvement district encompassing properties specially benefited by the Tunnel and related projects was established by Metro. As successor to Metro, the County has and shall continue to administer the local improvement district and collect and retain the special assessments. The County shall give timely notice to Sound Transit of any public proceeding regarding any proposed reassessment regarding the local improvement district.

Sound Transit shall defend, indemnify and hold harmless the County, its officials and employees from and against any and all claims, damages, costs, expenses (including reasonable attorney fees), demands, defenses, administrative appeals, causes of action, protests, grievances, and lawsuits (collectively referred to as "Claims") in which it is claimed or alleged that the transfer of the Tunnel Assets, the rerouting of buses to surface streets, Sound Transit's activities, or use and/or modification of the Tunnel Assets subsequent to the Transfer Date, or any other action taken pursuant to this Transfer Agreement impacts the validity, lawfulness, or collection of the special assessments and/or requires a refund of said assessments, compensation for the taking of property, and/or other payment. Sound Transit's obligations under this section shall extend but not be limited to indemnifying and compensating the County for any assessments that must be refunded and/or that would have been collected but for such Claims. Sound Transit's obligations under this section shall not extend to Claims based solely on: 1) any procedural defects on the part of the County in the creation of the local improvement district or in reassessing the properties in the district; or 2) County clerical errors in processing assessment payments.

11.0 DOWNTOWN SEATTLE TRAFFIC AND STREET IMPROVEMENTS

11.1 Objectives

In order to mitigate the impacts of dedicating the Tunnel solely to light rail use, the Parties agree that certain surface street and traffic improvements shall be made and be consistent with the project record of decision mitigation measures. These improvements shall be sufficient to allow downtown bus service after closure of the Tunnel to bus use to meet or exceed bus service surface performance levels existing during a selected measurement period immediately prior to the closure of the Tunnel ("Measurement Period") as regards to travel time, convenience, security, safety, and passenger comfort, except to the extent any performance level change is due to a substantial change in bus service operations other than a rerouting of Tunnel traffic to the surface. The Measurement Period shall be agreed upon by the project managers identified in Section 19 hereof, but shall not be less than a sixty (60) day period of time so that the influence of individual irregularities in bus service and other aberrations are

minimized and shall not include any period in which there is a major modification of the downtown bus service schedule or significant downtown street or utility repairs or projects.

In order to facilitate meeting this objective, the Parties agree to create the Monitor and Maintain Committee. The Committee shall be directed to conduct activities to measure downtown Seattle transportation system performance and make recommendations to the Parties as warranted to ensure that downtown Seattle transportation system performance after closure of the Tunnel to buses is maintained. In performing its functions, the Committee shall be directed to consult with and seek the input of downtown Seattle, Seattle neighborhoods, and suburban stakeholders.

11.2 Required Improvements

The 3rd Avenue peak period traffic restrictions, 5th Avenue South transit contra-flow lane, 9th Avenue transit contra-flow lane, Olive Way transit priority improvements, Prefontaine Place South reconfiguration and all other improvements, projects and actions identified in Exhibit 9 shall be constructed, installed, completed, and implemented prior to the Transfer Date. The improvements, projects and actions identified in Exhibit 9 are hereinafter referred to as the "Downtown Seattle Traffic and Street Improvements."

11.3 Amendments to Exhibit 9

Amendments to Exhibit 9 that relate to 3rd Avenue peak period traffic restrictions, 5th Avenue South transit contra-flow lane, 9th Avenue transit contra-flow lane, Olive Way transit priority improvements, or Prefontaine Place South reconfiguration must be approved by the King County Council, Seattle City Council, and Sound Transit Board. Other amendments to Exhibit 9 may be made by written agreement of the Director of the County's Department of Transportation, Executive Director of Sound Transit, and the City Traffic Engineer or their respective designee(s).

11.4 Schedule

The Parties anticipate that the Downtown Seattle Traffic and Street Improvements will be completed and implemented in accordance with the schedule set forth in Exhibit 9.

11.5 Duration of Surface Improvements

In order to adequately mitigate the impacts of Tunnel closure and allow the Parties sufficient time to analyze the subsequent impact of the Tunnel opening for light rail service, the Downtown Seattle Traffic and Street Improvements shall remain in place and

in effect until at least one year after the Tunnel is opened by Sound Transit for fare service light rail.

From one (1) year after the Tunnel is opened by Sound Transit for fare service light rail until such time as Sound Transit begins operating light rail service to Northgate or such time as downtown surface street bus volumes return to those levels existing during the Measurement Period, whichever is earlier, the City may modify or remove the Downtown Seattle Traffic and Street Improvements, or any portion thereof, to the extent such modification or removal is within its authority and unless such modification or removal will degrade downtown bus service performance levels as regards to: 1) travel time; or 2) convenience, security, safety, and passenger comfort. During this period of time, prior to implementing or requiring any modification to or removal of the 3rd Avenue peak period traffic restrictions, 5th Avenue South transit contra-flow lane, 9th Avenue transit contra-flow lane, Olive Way transit priority improvements, or Prefontaine Place South reconfiguration that may potentially result in such degradation, the City's Mayor and City Council shall timely confer with the County Executive and County Council and Sound Transit and allow them a full opportunity to review and comment on such proposed change or removal. During this period of time, prior to implementing changes to or removal of any other Downtown Seattle Traffic and Street Improvements that may result in such degradation, the City Traffic Engineer shall timely confer with the Director of the County's Department of Transportation and Executive Director of Sound Transit and allow them a full opportunity to review and comment on such proposed change or removal.

11.6 Agreed Upon Changes To or Removal Of Downtown Traffic and Street Improvements

Notwithstanding any other provision of this Transfer Agreement except Section 16.0, modifications to or removal of the 3rd Avenue peak period traffic restrictions, 5th Avenue South transit contra-flow lane, 9th Avenue transit contra-flow lane, Olive Way transit priority improvements, or Prefontaine Place South reconfiguration may occur at any time upon a mutual agreement approved by the King County Council, Seattle City Council, and Sound Transit's Board. Modification to or removal of other Downtown Seattle Traffic and Street Improvements may occur at any time upon the written agreement of the Director of the County's Department of Transportation, Executive Director of Sound Transit, and the City Traffic Engineer.

11.7 Cost of Downtown Seattle Traffic and Street Improvements

Except for the amounts Exhibit 9 indicates shall be paid by the County or City, Sound Transit shall be responsible for all design, permitting, implementation and construction costs associated with the Downtown Seattle Traffic and Street Improvements. Sound

Transit shall reimburse the City and the County for any and all such costs that either entity incurs, unless an established fee is imposed in lieu of any such cost, in which event Sound Transit shall pay the applicable fee. Estimates of the costs (in year 2000 dollars) to complete the Downtown Seattle Traffic and Street Improvements are set forth in Exhibit 9.

11.8 Permits, Licenses, Easements

The Parties agree that all required licenses, easements, and permits shall be obtained for construction and implementation of the Downtown Seattle Traffic and Street Improvements. Consistent with the April 20, 1998 Memorandum of Agreement for Intergovernmental Cooperation for the Central Light Rail Transit Project and the January 1, 1999, First Supplement to such Memorandum of Agreement between the City and Sound Transit, the City shall expedite the issuance and granting of all City-required licenses, easements and permits in order to facilitate completion of the Downtown Seattle Traffic and Street Improvements in accordance with the schedule set forth in Exhibit 9.

11.9 Completion of Downtown Seattle Traffic and Street Improvements

The party that is responsible for implementing or completing each Downtown Seattle Traffic and Street Improvement as identified in Exhibit 9 shall be responsible for all aspects of designing, constructing, and/or implementing such improvement or contracting for the design, construction or implementation of such improvement.

11.10 Review of Designs and Specifications

Each party shall provide the other parties a timely opportunity to review and comment on the designs, plans, and specifications for the Downtown Seattle Traffic and Street Improvements that it is responsible for constructing and/or implementing.

11.11 Ownership and Maintenance

The party designated as the party to own and maintain a Downtown Seattle Traffic and Street Improvement, as identified in Exhibit 9, shall be solely liable for the ownership, ongoing maintenance, repair, and replacement of said improvement.

12.0 BUS RELATED COSTS ASSUMED BY SOUND TRANSIT

12.1 Increased Operating Costs Arising From Tunnel Closure

In order to compensate the County for additional operating costs of bus routes serving downtown Seattle during the period starting when the Tunnel is closed for buses and

ending when Light Rail service begins, Sound Transit shall pay the County an annual amount of \$ 2.3 million. The first payment due pursuant to this section shall be adjusted by the percentage change that occurred in the CPI for the period that most closely corresponds to the period between the execution of this Transfer Agreement and the first annual payment. Subsequent payment amounts shall be adjusted by the percentage change that occurred in the CPI during the period that most closely corresponds to the period between the date the last payment was due to the date such subsequent payment is made. The payment amount required by this section reflects an adjustment that accounts for the savings to the County of Tunnel operating costs. The first annual payment shall be due on the Transfer Date. Subsequent payments shall be due on that same date each year until the Tunnel is opened for fare service light rail. Payment for any partial year of Tunnel closure shall be pro-rated based upon the portion of the year in which the Tunnel is closed.

12.2 County Activities to Support Light Rail Construction

Sound Transit shall reimburse the County for the costs of completing the bus stop and bus layover removal and relocation, trolley infrastructure work, customer information activities and other work identified in Exhibit 10 in an amount not to exceed the total amount set forth therein, which amount shall be adjusted by the percentage change that occurred in the CPI for the period of time that most closely corresponds to the period between the execution of this Transfer Agreement and the date of payment.

Sound Transit shall also reimburse the County for the actual costs the County incurs to conduct other, work and activities not identified in Exhibit 10 if such work or activity is requested by Sound Transit or its contractor(s).

12.3 Construction-Related Delay of County Buses

Sound Transit shall utilize its best efforts to avoid or minimize delays to normal bus operations as a result of light rail construction activities, both in downtown Seattle and elsewhere. Those best efforts shall include, as a minimum, imposing requirements in contract special provisions upon light rail construction contractors for:

- a. Maintenance of normal bus flows past construction sites by keeping traffic lanes open, providing detour lanes, using flaggers, or similar methods as appropriate at each particular site;
- b. Coordination and advance planning with Sound Transit's construction manager and the County's and City's staff in connection with changes that may be necessary to bus routes, lane usage, bus stop locations, trolley wire relocations, or other changes affecting normal bus operations as a result of construction activities; and

- c. Payment of monetary damages in the amount of actual damages incurred by the County as a result of construction activities. Damages would be based on the actual costs of adding bus travel time (if it resulted in documented increased County operating costs) and/or additional bus trips to the schedule as a result of construction delays, payment of overtime, and/or provision of more than normal street supervision of bus operations.

The County shall be responsible for submitting claims directly to Sound Transit for construction related delay damages arising from the activities of Sound Transit or any of its contractors. Within 45 days of receiving such claim, Sound Transit shall reimburse the County for the County's reasonable and actual costs arising from or related to light rail construction activities in downtown Seattle or elsewhere, regardless of whether Sound Transit receives credit or payment for those costs from its contractor(s).

12.4 Cost of Utilizing Replacement Bus Layover Space

In transferring the Tunnel Assets to Sound Transit, the County will lose critical bus layover space currently provided by the International District Station and other locations. Upon its further review, the City may approve replacement bus layover space as identified in Exhibit 11. In the event such approval is not granted or is only granted in part, Sound Transit shall reimburse the County for increased operating costs, as reasonably determined by the County, arising from utilizing locations other than those identified on Exhibit 11 as bus layover space. Payment for such costs shall be due monthly or as otherwise invoiced by the County. Such payments by Sound Transit to the County shall not exceed \$1.4 million as adjusted by the percentage change in the CPI for the period that most closely corresponds to the period between the date this Transfer Agreement is executed and the date of such payments.

13.0 BUS FACILITY IMPROVEMENTS ASSOCIATED WITH THE LIGHT RAIL PROJECT

13.1 Cost and Completion of Improvements

Except as set forth below, Sound Transit shall be responsible for all design, permitting, right of way acquisition, and construction costs associated with completing the bus facility improvements identified in Exhibit 12 ("Bus Facility Improvements"), including, but not limited to, street and sidewalk improvements at bus zones and between bus zones and light rail station entrances, accessibility features, bus layovers, shelter footings, foundations for on-site trolley poles, and non-County standard shelters and signage. Exhibit 12 may be modified by the written agreement of the Director of Light Rail for Sound Transit and Director of the County's Department of Transportation. Sound Transit shall be responsible for performing to the extent permitted by law, or subcontracting for

the performance of, all design, engineering, community planning, demolition, removal, production, construction, repair, or other work necessary to complete the improvements identified in Exhibit 12.

13.2 Review of Design and Specifications

The County shall have an opportunity to review and comment on all designs, specifications, engineering work, and estimates for completion of Bus-Facility Improvements, but such review shall not in any way relieve Sound Transit of its responsibilities for such work.

13.3 Ownership of Improvements

Except for bus shelters, benches, trolley wires and associated poles and equipment, signage, and litter receptacles installed by the County and any other improvements as agreed to in writing, the improvements identified in Exhibit 12 shall be the property of Sound Transit and Sound Transit shall be solely responsible and liable for the ongoing maintenance, repair, and replacement of said improvements.

13.4 Trolley Wire Extension

The County shall be responsible for the costs of extending bus trolley wire to the boundary of light rail station stops the County determines are to be served by County buses. Sound Transit shall be responsible for the costs of trolley wire relocation and installation at light rail station sites.

14.0 CONSIDERATION

In exchange for the transfer and conveyance of the Tunnel Assets and the City's consent to such transfer and conveyance and its grant to Sound Transit to use the street right-of-way, Sound Transit is providing the County with the full value of said assets and is reimbursing the City for certain costs or paying City fees imposed by applicable law, ordinance, rule or regulation. The value provided by Sound Transit includes, but is not limited to, payments to the County as required herein, delivery to the County of Convention Place Station assets or certain payments in lieu thereof, consenting to transfer of FTA interests in Convention Place Station, remittance of certain payments in lieu of the vacation of Terry Avenue as contemplated in Subsection 8.3, assumption of responsibility for the maintenance and operation of the Tunnel Assets, assumption of liability for the Tunnel Assets, assumption of certain costs associated with the Downtown Seattle Traffic and Street Improvements, reimbursement of County costs related to light rail construction activities, assumption of the costs of constructing certain bus facility improvements near light rail stations, provision of compensation for increased operating costs associated with use of replacement bus layover space, and assumption of the obligation to pay the FTA and the State for certain amounts that may be owed as a result

of this Transfer Agreement. The mutual benefits and satisfaction of the promises set forth in this Transfer Agreement constitute adequate consideration and full value for the transfer and conveyance of the Tunnel Assets.

15.0 SUBAREA FINANCING

Consistent with Sound Transit Resolution 99-34, Sound Transit agrees that subareas and annexed areas connecting to Phase I of the light rail system after the Transfer Date shall not be required to contribute a portion of the capital cost for obtaining the Tunnel Assets or constructing the Downtown Seattle Traffic and Street Improvements.

16.0 COUNTY REACQUISITION OF TUNNEL ASSETS

If, after the Transfer Date, Sound Transit's Board abandons the construction of the Minimum Operable Segment, the County may terminate Sound Transit's ownership of the Tunnel Assets and re-enter and repossess the Tunnel Assets upon notice to Sound Transit of such termination. Within ninety (90) days of such notice, Sound Transit shall execute and record all documents necessary to reconvey all rights of use and ownership of the Tunnel Assets to the County. If the Tunnel Assets are repossessed by the County pursuant to this paragraph, Sound Transit shall pay to the County all sums necessary to restore the Tunnel Assets to a condition that allows them to be utilized for bus transit operations of the same level of functionality, safety, security, convenience, efficiency, aesthetics, and passenger comfort that existed immediately prior to the Transfer Date. Upon the County's repossession of the Tunnel Assets and the payment by Sound Transit of any sums due under this Transfer Agreement, Sound Transit shall be released from its obligation to continue to make payments pursuant to Section 7 of this Transfer Agreement; in addition, any restrictions in Subsections 11.3, 11.5 and 11.6 on the City's authority to modify the Downtown Seattle Traffic and Street Improvements shall be inapplicable as of the earliest of the alternative dates set forth in those subsections or the date that the Tunnel is again generally used for downtown bus traffic. If at any time Sound Transit provides written notice to the County that it has abandoned construction of the Minimum Operable Segment, the County must exercise its right of repossession under this paragraph within ninety (90) days of its receipt of such notice or such right shall expire.

If, after the Minimum Operable Segment is utilized for regularly scheduled fare service light rail, Sound Transit discontinues or fails to use substantially all of the Tunnel for public transportation purposes, the County shall have the right of first opportunity to reacquire the Tunnel Assets. This right shall be exercisable upon (a) receipt of notice from Sound Transit that it intends to discontinue its use of the Tunnel or (b) a finding by a court of competent jurisdiction that Sound Transit has discontinued use of substantially all of the Tunnel Assets. Within 60 days after the County's right becomes exercisable, the County shall provide written notice to Sound Transit if it intends to reacquire the Tunnel Assets. In such event, the Parties shall negotiate in good faith to accomplish the transfer. For purposes of such reacquisition, the value of the Tunnel Assets shall be established by a method comparable to that used to value the Tunnel Assets for purposes of this Transfer Agreement. If the parties cannot agree as to the value of the Tunnel Assets or other terms and conditions of the County's reacquisition within a period of 120 days, the matter shall be submitted to an independent mediator. Such mediation shall be non-binding and shall be completed within a period of no greater than 90 days. Upon any such reacquisition of the Tunnel Assets by the County, notwithstanding any other provision in this Transfer Agreement, Subsections 11.1 through 11.6 shall no longer have any force or effect.

17.0 E-3 BUSWAY

Sound Transit desires to use a portion of the E-3 Busway and adjacent County-owned property for operation of its light rail system. The County may grant Sound Transit a limited right to use the E-3 Busway and adjacent property by separate agreement on such terms and conditions as are agreeable to the County and Sound Transit. The parties acknowledge that Sound Transit's use of the Busway and adjacent property may eliminate the ability of the County to utilize a portion of the Busway and County-owned property for employee parking as planned. At a minimum, any agreement granting Sound Transit the right to use the E-3 Busway shall require Sound Transit to replace any employee parking so eliminated with employee parking space of the same quality, capacity, and convenience as would have been provided by the Busway and adjacent property. Such agreement shall also require Sound Transit to make any payments due in exchange for the State's authorization of Sound Transit's use of the E3 Busway, if any such authorization or payments are required.

18.0 TAXES AND COSTS

Sound Transit shall be responsible for any and all sales, transfer, excise, title insurance, documentary and other taxes, fees, penalties, costs and charges (not including staff time) arising out of or related to the transfer and conveyance to it of the Tunnel Assets.

19.0 PROJECT MANAGERS

Except as otherwise provided herein, any notice provided to a party under this Transfer Agreement shall be provided to the project manager for such party as designated below.

King County hereby designates as its project manager:
 Jim Jacobson, Manager, Department of Transportation
 201 S. Jackson Street, M.S. KSC-TR-0426
 Seattle, WA 98104
 (206) 684-1614

Sound Transit hereby designates as its project manager:
 Paul Bay
 Director, Light Rail
 401 S. Jackson Street
 Seattle, WA 98104-2826
 206-398-5000

The City of Seattle designates as its project manager:
 Gerry Willhelm
 City Traffic Engineer
 Seattle Transportation
 The City of Seattle
 7th Floor - Municipal Building
 600 4th Ave.
 Seattle, WA 98104
 206-684-5097

Any party may designate a different project manager on a temporary or permanent basis by notice to the other parties.

20.0 FEDERAL TRANSIT ADMINISTRATION REQUIREMENTS

Sound Transit and the County shall jointly identify applicable FTA grant restrictions and requirements, if any, pertaining to this Transfer Agreement and shall jointly seek written FTA consent for the transfer of the Tunnel Assets to Sound Transit.

Sound Transit shall be responsible for all costs, repayments, charges, audit findings, penalties, interest, reimbursements or other payments required to be paid to the United States, FTA, or State of Washington arising from or related to this Transfer Agreement, the transfer and conveyance of the Tunnel Assets, Sound Transit's destruction or

modification of any portion of the Tunnel Assets, re-routing of buses to the surface streets, or Sound Transit's use of the Tunnel Assets. As of the Transfer Date, Sound Transit shall assume all statutory, regulatory and contractual obligations pertaining to the Tunnel Assets that arise from the use of FTA or Urban Mass Transit Administration financial assistance, including but not limited to compliance with federal statutes, regulations and guidelines on continuing control, management or disposition of a federally funded asset.

21.0 INVOICING AND PAYMENT

Sound Transit shall remit payment to the County and the City for any amounts owed under this Transfer Agreement within 30 days after receipt of an invoice from the County or City. The City and County may invoice Sound Transit as often as monthly for reimbursable costs incurred or for any payment, fee or charge due or payable.

22.0 DISPUTE RESOLUTION

In the event of a contractual dispute between or among any of the parties regarding this Transfer Agreement, the affected parties shall attempt to resolve the matter informally. If the parties are unable to resolve the matter informally, the matter shall be forwarded for discussions by the Executive Director of Sound Transit, the Director of the County's Department of Transportation and/or the City's Director of Transportation or their respective designee(s). If this process fails to resolve the dispute within thirty (30) days after referral, the parties agree to forward the dispute to the County Executive, Chair of Sound Transit's Board of Directors, and/or the City's Mayor or their respective designee(s). If this process fails to resolve the dispute within thirty (30) after such referral, a party may pursue any legal remedy available or the parties may agree to submit the matter to mediation. If the parties submit the matter to mediation and the matter is not resolved, a party shall be entitled to pursue any legal remedy available.

23.0 RECORDS

Each party shall maintain records that accurately reflect all actions taken and services provided pursuant to this Transfer Agreement, and all direct and indirect costs incurred in the performance of this Transfer Agreement. Such records shall be subject to inspection or audit by any of the other parties at the requesting party's sole expense. Such records shall be made available for inspection during the record-keeper's regular business hours within a reasonable time after the record-keeper's receipt of a request for inspection of the same.

24.0 INDEMNIFICATION FOR ENVIRONMENTAL PROBLEMS

24.1. To the maximum extent allowed by law and except to the extent caused by the negligence or intentional misconduct of the County, Sound Transit agrees, for itself, its successors and assigns, to defend, indemnify and hold the County harmless from and against any and all environmental problems that exist on, emanate from, or have emanated from the Tunnel Assets as of and/or after the Transfer Date and from and against any claims, complaints, demands, actions, causes of action, suits, losses, contribution actions, actions by an instrumentality of a federal, state or local government, costs, damages, fines, penalties, expenses, judgments or liability of any kind related to such environmental problems.

24.2 For purposes of this section, the term "environmental problems" includes, but is not limited to, anything that directly or indirectly relates to noise, vibration, natural resource damage or the existence, use, release, threatened release, leakage, spillage, discharge, disturbance, dispersal, movement, uncovering, treatment, handling, storage, transport, or disposal of

Hazardous Substance(s), whether in, on, into, onto or from soil, surfaces, improvements, air, surface water, or ground water.

24.3 For purposes of this section, the term "Hazardous Substance(s)" shall include without limitation:

a. Any toxic substance or waste, sewage, storm water, asbestos, polychlorinated biphenyl, petroleum products, radioactive substances, medicinal, bacteriological, or disease-producing substances.

b. Any toxic substance, hazardous substance, hazardous material solid waste, dangerous waste, or hazardous waste as defined in:

(i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as now or hereinafter amended (42 U.S.C. Section 9601 et seq.);

(ii) the Resource Conservation and Recovery Act, as now or hereafter amended (42 U.S.C. Section 6901 et seq.);

(iii) the Hazardous Materials Transportation Act, as now or hereafter amended (49 U.S.C. Section 1801 et seq.);

(iv) the Clean Water Act of 1977, as now or hereafter amended (33 U.S.C. Section 1251 et seq.);

(v) the Toxic Substances Control Act, as now or hereafter amended (15 U.S.C. 2601 et seq.);

(vi) the Water Pollution Control Act, as now or hereafter amended (RCW 90.48.010 et seq.);

(vii) the Hazardous Waste Management Statute, as now or hereafter amended (RCW 70.105 et seq. and RCW 70.105A);

(viii) the Model Toxics Control Act, as now or hereafter amended (RCW 70.105D et seq.);

(ix) any regulations and administrative agency rulings or direction which implement these statutes; or

c. Any other pollutants, contaminants, substances, or materials posing a danger or threat to public health or welfare, or to the environment, that is regulated or controlled by any federal, state or local laws or regulation, as now or hereafter amended.

25.0 INDEMNIFICATION AND HOLD HARMLESS

25.1 To the maximum extent allowed by law and except as otherwise provided herein, Sound Transit shall defend, indemnify, and hold harmless the City and the County and their elected officials, officers, agents and employees, or any of them, from and against any and all claims, demands, damages, injuries, liabilities, actions, fines, penalties, costs and expenses (including reasonable attorney fees) that arise out of any of the Tunnel Assets or any activity thereon or associated therewith on or after the Transfer Date.

25.2 Without limiting Sound Transit's obligations pursuant to Section 24 or subsections 1.8 or 25.1, the County, the City and Sound Transit agree to defend, indemnify and hold harmless each other, their respective officials, agents and employees, from and against any and all claims, damages, injuries, liabilities, actions, fines, penalties, costs and expenses (including reasonable attorney fees) that arise out of or are related to the negligent acts or omissions of the indemnifying party (and its officials, agents, employees acting within the course and scope of their employment and contractors (hereinafter "actors")) in performing said party's obligations under this Transfer Agreement. In the event any such liability arises from the concurrent

negligence of the indemnifying party and one or both of the other parties, or any of their respective actors, the indemnity obligation of this section shall apply only to the extent of the negligence of the indemnifying party and its actors.

25.3 The foregoing provisions specifically and expressly intend to constitute a waiver of each party's immunity under industrial insurance, Title 51 RCW, as respects the other parties only, and only to the extent necessary to provide the indemnified party with a full and complete indemnity of claims made by the indemnitor's employees. This waiver has been mutually negotiated.

25.4 Each Party to this Transfer Agreement shall immediately notify the others of any and all claims, actions, losses or damages that arise or are brought against that party relating to or pertaining to this Transfer Agreement or the Tunnel Assets.

26.0 INSURANCE

26.1 Insurance

By the date of execution of this Transfer Agreement, Sound Transit shall procure and maintain for the duration of this Transfer Agreement insurance against claims for injuries to persons or damages to property which may arise from, or in connection with the Tunnel Assets after the Transfer Date or with the obligations, activities and performance of work hereunder by Sound Transit, its agents, representatives, employees, and/or contractors. The cost of such insurance shall be paid by the Sound Transit. Each insurance policy shall be written on an "Occurrence" form; excepting that insurance for Professional Liability, Errors and Omissions when required, may be acceptable on a "claims made" form.

If coverage is approved and purchased on a "claims made" basis, Sound Transit warrants continuation of coverage, either through policy renewals or the purchase of an extended discovery period, if such extended coverage is available, for not less than three years from the date of completion of the work that is the subject of this Transfer Agreement.

By requiring such minimum insurance coverage, the County shall not be deemed or construed to have assessed the risks that may be applicable to Sound Transit under this Transfer Agreement. Sound Transit shall assess its own risks and, if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage.

Nothing contained within these insurance requirements shall be deemed to limit the scope, application and/or limits of the coverage afforded, which coverage will apply to each insured to the full extent provided by the terms and conditions of the policy(s).

Nothing contained within this provision shall affect and/or alter the application of any other provision contained within this Transfer Agreement.

26.2 Minimum Scope Of Insurance

Coverage shall be at least as broad as:

1. General Liability:

Insurance Services Office form number (CG 00 01 Ed. 11-88) covering COMMERCIAL GENERAL LIABILITY.

2. Professional Liability:

Professional Liability, Errors and Omissions coverage.

In the event that services delivered pursuant to this agreement either directly or indirectly involve or require professional services, Professional Liability, Errors and Omissions coverage shall be provided. "Professional Services", for the purpose of this Transfer Agreement shall mean any services provided by a licensed professional.

3. Automobile Liability:

Insurance Services Office form number (CA 00 01 Ed. 12-90) covering BUSINESS AUTO COVERAGE, symbol 1 "any auto"; or the combination of symbols 2, 8, and 9.

4. Workers' Compensation:

Workers' Compensation coverage, as required by the Industrial Insurance Act of the State of Washington.

5. Employers Liability or "Stop-Gap":

The protection provided by the Workers Compensation policy Part 2 (Employers Liability) or, in states with monopolistic state funds, the protection provided by the "Stop Gap" endorsement to the General Liability policy.

26.3 Minimum Limits Of Insurance

Sound Transit shall maintain limits no less than, for:

1. General Liability: \$5,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage, and for those policies with aggregate limits, a \$5,000,000 aggregate limit.
2. Professional Liability, Errors and Omissions: \$ 5,000,000
3. Automobile Liability: \$ 5,000,000 combined single limit per accident for bodily injury and property damage.
4. Workers' Compensation: Statutory requirements of the State of residency.
5. Employers Liability or "Stop Gap" coverage: \$ 5,000,000

26.4 Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to, and approved by, the County. The deductible and/or self-insured retention of the policies shall not limit or apply to Sound Transit's liability to the County and shall be the sole responsibility of Sound Transit.

26.5 Other Insurance Provisions

The insurance coverage(s) required in this agreement are to contain, or be endorsed to contain the following provisions:

1. General and Automobile Liability Policy(s):
 - a. The County, its officers, officials, employees and agents are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of Sound Transit in connection with this Transfer Agreement.

- b. To the extent of Sound Transit's negligence, Sound Transit's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees and agents. Any insurance and/or self-insurance maintained by the County, its officers, officials, employees or agents shall not contribute with Sound Transit's insurance or benefit Sound Transit in any way.
- c. Sound Transit's insurance coverage shall apply separately to each insured against whom a claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.

2. All Policies:

Coverage shall not be suspended, voided, canceled, reduced in coverage or in limits, except by the reduction of the applicable aggregate limit by claims paid, until after forty-five (45) days prior written notice has been given to the County.

26.6 Acceptability of Insurers

Unless otherwise accepted by the County, Insurance coverage is to be placed with insurers with a Bests' rating of no less than A:VIII, or, if not rated with Bests', with minimum surpluses the equivalent of Bests' surplus size VIII.

Professional Liability, Errors and Omissions insurance coverage may be placed with insurers with a Bests' rating of B+:VII. Any exceptions must be approved by the County.

If at any time, any of the foregoing policies fail to meet the above stated rating requirements, Sound Transit shall, upon notice to that effect from the County, promptly obtain a new policy, and shall submit the same to the County, with the appropriate certificates and endorsements, for approval.

26.7 Verification of Coverage

Sound Transit shall furnish the County with certificates of insurance and endorsements required by this Transfer Agreement. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements for each insurance policy are to be on forms approved by the County and are to be received and approved by the County prior to the commencement of activities associated with the Transfer Agreement. The

County reserves the right to require complete, certified copies of all required insurance policies at any time.

26.8 Contractors

Sound Transit shall include all of its contractors and subcontractors as insureds under its policies, or shall furnish separate certificates of insurance and policy endorsements from each contractor and subcontractor. Insurance coverages provided by Contractors and Subcontractors as evidence of compliance with the insurance requirements of this Transfer Agreement shall be subject to all of the requirements stated herein.

26.9 Municipal or State Agency Provisions

Sound Transit may self-insure for any of the above insurance requirements, a certification of self-insurance delivered to the County shall constitute compliance with this section.

27.0 ASSIGNMENT

None of the Parties will assign this Transfer Agreement or any part thereof without the written consent of the others. Any attempted assignment without said consent shall be void. This Transfer Agreement shall inure to the benefit of and be binding upon the Parties hereto and their successors and permitted assigns.

28.0 AMENDMENTS

This Transfer Agreement and its exhibits may be amended only by a written instrument signed by the Parties. Except as otherwise provided herein, material amendments or modifications impacting the policies and intent of this Transfer Agreement must be approved by the Sound Transit Board, the King County Council, and the Seattle City Council. Other amendments may be approved by the Executive Director for Sound Transit, the Director of Transportation for the County, and Director of Seattle Transportation for the City

29.0 NO THIRD PARTY RIGHTS

Nothing contained herein is intended to, nor shall be construed to, create any rights in any party not a signatory to the Transfer Agreement, or to form the basis for any liability on

the part of the City, County, Sound Transit or their officials, employees, agents or representatives, to any party not a signatory to this Transfer Agreement.

30.0 WAIVER

Waiver of any breach of this Transfer Agreement shall not be deemed to be waiver of any prior or subsequent breach and shall not be construed to be a modification of the terms of this Transfer Agreement.

31.0 AUTHORITY

This Transfer Agreement is entered into by the Parties pursuant to the authority granted by Chapter 39.33 RCW, Chapter 39.34 RCW and other applicable law.

32.0 TERMINATION

If any party fails to comply with any material provisions of this Transfer Agreement, any other party may terminate this Transfer Agreement for default prior to the Transfer Date upon 90 days prior written notice to the other parties. The notice shall set forth the manner in which the party is in default. The defaulting party shall have ninety (90) days to cure the default; provided, however, that if the nature of the obligation of the party in default is such that more than ninety (90) days are reasonably necessary for a cure of the default, then such party shall not be in default if it commences such cure or performance within such ninety (90) day period and thereafter diligently prosecutes the same to completion.

33.0 EXHIBITS

Exhibits 1 through 12 are attached hereto and incorporated herein by reference.

34.0 SURVIVAL OF TERMS

The following Sections and subsections shall survive the expiration or termination of this Transfer Agreement: 11.7, 11.9, 11.11, 21.0, 24.0, 25.0 and 26.0.

35.0 ENTIRE AGREEMENT

This Transfer Agreement and its exhibits contain the entire agreement of the Parties and any representations or understanding, whether oral or written, not incorporated herein are excluded.

36.0 TIME IS OF THE ESSENCE

Time is of the essence as to each and every provision of the Transfer Agreement.

37.0 RECORDING OF TRANSFER AGREEMENT

Upon execution, a copy of this Transfer Agreement shall be recorded in the real property records of King County, Washington.

38.0 FORCE MAJEUR

A party shall not be considered in default under this Transfer Agreement to the extent that the party's performance is delayed or prevented due to force majeure. "Force majeure" shall mean acts of nature, strikes, lockouts, labor troubles, inability to procure materials, casualty, orders or directives of any judicial body, inability to obtain any governmental permits, licenses, permissions or authorizations, (despite reasonable and diligent pursuit of such permits, licenses, permissions or authorizations), and other similar or dissimilar causes beyond a party's reasonable control.

39.0 COUNTERPARTS

This Transfer Agreement may be executed in any number of counterparts, and each such counterpart shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement.

40.0 SEVERABILITY

If any portion of this Transfer Agreement is found to be unenforceable by a court of competent jurisdiction, the remaining terms and provisions unaffected thereby shall remain in full force and effect.

IN WITNESS WHEREOF, each party has caused this Transfer Agreement to be signed by its duly authorized officer or representative as of the date set forth below its signature.

KING COUNTY

THE CITY OF SEATTLE

BY: _____

BY: _____

ITS: _____

ITS: _____

CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY

BY: _____

ITS: _____

State of Washington)
) ss
 County of King)

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

Dated: _____, _____.

 (Signature)

 (Name printed or stamped)

(Seal Stamp)

Notary Public in and for the State of Washington, residing
 at _____.
 My commission expires: _____.

State of Washington)
) ss
County of King)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the _____ of the **Central Puget Sound Regional Transit Authority** to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

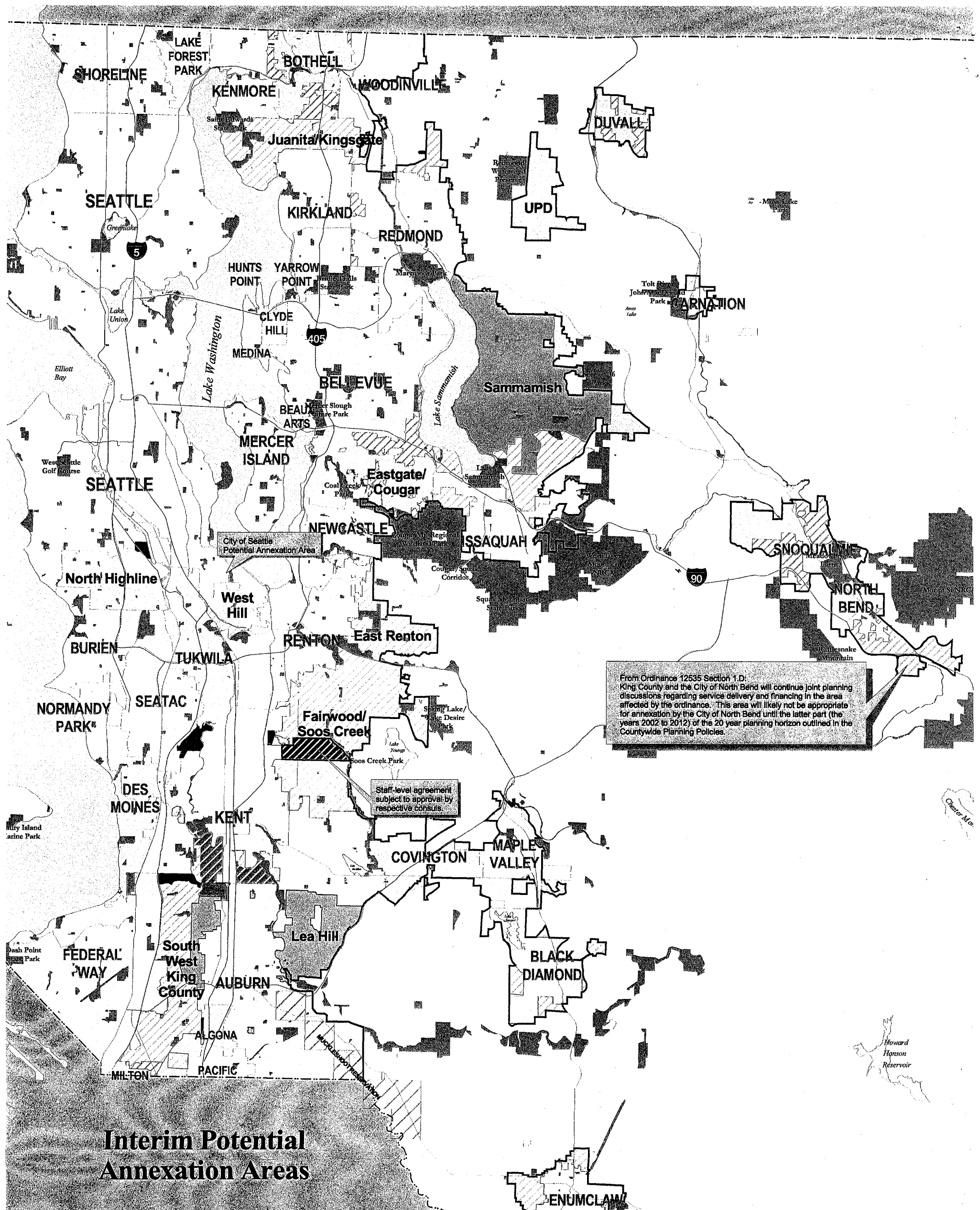
Dated: _____, _____.

(Signature)

(Name printed or stamped)

(Seal Stamp)

Notary Public in and for the State of Washington, residing
at _____
My commission expires: _____.



From Ordinance 12535 Section 1.D:
 King County and the City of North Bend will continue joint planning discussions regarding service delivery and financing in the area affected by the ordinance. This area will likely not be appropriate for annexation by the City of North Bend until the latter part (the years 2002 to 2012) of the 20 year planning horizon outlined in the Countywide Planning Policies.

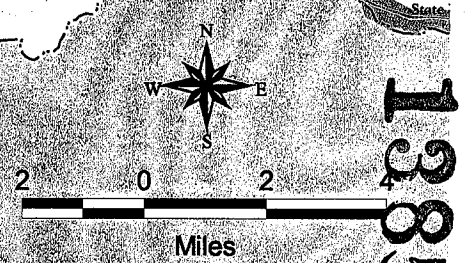
Staff-level agreement subject to approval by respective councils.

Interim Potential Annexation Areas

- Urban Areas which are within the designated PAA of two or more cities - "OVERLAPS"
- Urban Areas which are not within the designated PAA of any city - "GAPS"
- Green River Agricultural Districts
- Pending Annexation
- Voter Approved Incorporation
- Potential Annexation Area Recognized by City-County Intercal Agreement
- Interim Potential Annexation Areas
- Cities
- Parks
- Urban Growth Area Boundary

- Potential Annexation Areas Sources:**
- City Comprehensive Plans:
 - Algona, August 1995
 - Bothell, December 1994
 - Federal Way, November 1995
 - Issaquah, September 1997
 - Kent, April 1995
 - Milton, December 1995
 - Comprehensive Plan Amendment, November 1997
 - Newcastle, June 1997
 - Pacific, July 1995
 - Redmond, December 1997
 - Renton, December 1997
 - SeaTac, December 1995
 - Seattle, December 1995
 - Tukwila, December 1995

- Countywide Planning Policy Map Rural City Urban Growth Areas:**
- Carnation, Black Diamond, Duvall, Enumclaw, North Bend (North Bend Potential Annexation Area reflects resolution of a joint planning area, see Ordinance 12535 Section 1.D), Skykomish (not shown), and Snoqualmie.
- Intercal Agreement:**
- Auburn, March 1999



King County
 Department of Development and Environmental
DDES Geographic Information System

This map is intended for planning purposes only and is not guaranteed to show accurate measurements.

13858

ORDINANCE 13857

**Downtown Seattle Transit Tunnel Transfer
Agreement**

ATTACHMENT(S) AVAILABLE IN ARCHIVES