

## **EASTRAIL PARTNERS SERVICE AND FUNDING AGREEMENT**

This EASTRAIL PARTNERS SERVICE AND FUNDING AGREEMENT (“Agreement”) is entered by and between EASTRAIL PARTNERS (EP), a Washington State non-profit corporation, and public entities that are members of the Eastrail Regional Advisory Council including Sound Transit, King County, Snohomish County, the City of Bellevue, the City of Kirkland, the City of Redmond, the City of Renton, and the City of Woodinville. Eastrail Partners and these public entities are referred to herein individually as a “Party” and collectively as the “Parties.” The entities providing funding under this agreement may also be referred to herein as “funding contributors”.

### **RECITALS**

**WHEREAS**, the Parties and additional partners are working together to develop a 42-mile multiple-use corridor in east King and Snohomish counties, with connected and coincident segments commonly referred to as the Eastrail, Centennial Trail South, Cross Kirkland Connector, and Redmond Central Connector and with its northern terminus located in the Town of Snohomish, WA and its southern termini located in the Cities of Renton, WA and Redmond, WA, respectively; and

**WHEREAS**, development of this corridor offers an unparalleled, irreplaceable, once-in-a-generation opportunity for the communities of east King and Snohomish Counties to secure, create, and sustain a public asset that will help shape the future of the region to the benefit of a growing population and economy; and

**WHEREAS**, in King County Council Motion 13801, passed on December 10, 2012, the Council designated the Eastside Rail Corridor as a corridor of regional significance, a designation made in recognition of the extraordinary value of the corridor in connecting and supporting vibrant, livable and healthy communities across east King County and Snohomish County; and

**WHEREAS**, the corridor will provide and support direct, new, and vital connections between four Puget Sound Regional Council-designated regional growth centers and enable and improve connectivity to three additional such centers and to high capacity transit; and

**WHEREAS**, the Eastside Rail Corridor Regional Advisory Council (RAC) was created in December 2012, through King County Council Motion 13801, with the membership of corridor property owners King County, the City of Kirkland, the City of Redmond, Sound Transit, and Puget Sound Energy to coordinate the development of the corridor to meet multiple-use objectives; and

**WHEREAS**, in the RAC’s “Creating Connections” report from 2013 it recommended in Recommendation 8B the establishment of an entity “... composed of local and regional business, civic, community, and philanthropic leaders to support the phased development and the long-term vision...” for the Eastside Rail Corridor; and

**WHEREAS**, early efforts to plan and develop the corridor to achieve the multiple-use vision for it have successfully generated excitement for the corridor and highlighted the need to augment and leverage public funding for corridor development to accelerate the timeline for timely delivering on the vision for the corridor; and

**WHEREAS**, in 2017 the membership of the RAC was expanded by consensus to include Snohomish County and the City of Woodinville, recent acquirers of property interests in the corridor between the Woodinville “Wye” and the Town of Snohomish, and the City of Bellevue, the City of Renton, and the Eastside Greenway Alliance, all of whom are key partners in the development of the corridor; and

**WHEREAS**, to act on Recommendation 8B from the “Creating Connections” report, the RAC in early 2018 created the Eastside Rail Corridor Funding Commission, whose final report to the RAC in January 2019 affirmed the need for an entity as identified in the RAC’s recommendation and provided detail to inform subsequent action by the RAC to create such an entity; and

**WHEREAS**, at its January 25, 2019 meeting the RAC reached consensus that the Eastside Rail Corridor would be renamed the “Eastrail”; and

**WHEREAS**, the Eastrail Partners (EP) is a nonprofit organization incorporated on July 8, 2019 under the Washington Nonprofit Corporation Act, Chapter 24.03 of the Revised Code of Washington (See Exhibit A); and

**WHEREAS**, at its July 12, 2019, meeting the RAC reached consensus supporting the timely formation of the EP entity as the entity to address the need identified in the RAC’s Recommendation 8B and recommended that RAC member entities provide financial support for certain activities by EP; and

**WHEREAS**, the RAC membership has a track record of sharing resources to support actions that have added value to the effort to achieve the multiple-use vision for the corridor, including the January 2016 regional Eastside Rail Corridor (Eastrail) Summit in Bellevue and the recently completed project to rebrand the corridor; and

**WHEREAS**, the jurisdictions of King County, Snohomish County, Bellevue, Kirkland, Redmond, Renton, and Woodinville, Puget Sound Energy and Sound Transit wish to promote public and corporate support for the development of the corridor; and

**WHEREAS**, the contribution amounts within this cost sharing framework have been derived through a formula supported by the RAC; and

**WHEREAS**, EP has been formed to play a unique and valuable role in the development of the corridor by fostering, increasing, and sustaining private sector and community support for actions to implement the RAC vision for the corridor; and

**WHEREAS**, it is the RAC’s intent that the public fund contributions made under this Agreement will establish a plan and fundraising apparatus to seek and leverage private funding through contributions from Puget Sound Energy, a RAC member entity from the private sector; the King County Parks Foundation; and individual and corporate contributors; and

**WHEREAS**, it is the intent of the parties to this Agreement that EP and RAC members will establish and maintain a collaborative and complementary approach in their efforts to support development of the corridor.

**NOW, THEREFORE**, in consideration of the promises and commitments made herein, it is agreed as follows:

1. PURPOSE OF FUNDING. EP will complete the following tasks with the funding provided under Section 4 below, consistent with requirements related to the use of public funds, on or before December 1, 2020, based on the Eastrail Partners Final Business Plan (see Exhibit B) presented to the RAC in April 2019.

- Recruit a staff lead;
- Provide regular updates to the RAC Principals Staff Team on the status of performing these tasks;
- Develop and deploy a financial tracking and reporting structure;
- Develop and begin implementation of a communications and stakeholder engagement plan, including creation of communications materials;
- Develop and begin implementation of a plan to fund the EP organization going forward;
- Complete a long range business plan that includes goals, schedules, and estimated staff requirements; and
- Advocate for corporate sponsorship of projects and support for the RAC vision for the corridor; and
- Prior to the end of the term of this Agreement, complete and share a report summarizing the work completed, successes achieved, and any remaining tasks and challenges.

2. PARTIES. All communication, notices, coordination, and other elements of this agreement shall be provided to and managed by:

Eastrail Partners Attn: Katherine Hollis Suite 100 12011 Bel-Red Road Bellevue 98005	King County Parks Attn: Joe Inslee 201 S. Jackson Street - Suite 700, Seattle, WA 98104	Snohomish County Attn: Tom Teigen 6705 Puget Park Dr., Snohomish, WA 98296
City of Bellevue Attn: Lacey Jane Wolfe Transportation Department, City of Bellevue 450 110 <sup>th</sup> Avenue NE Bellevue, WA 98004	City of Kirkland Attn: Kimberly Scrivner Public Works Department, 123 Fifth Avenue Kirkland, Washington 98033	City of Redmond Attn: Jeff Aken MS: 4NPK, 15670 NE 85 <sup>th</sup> St., Redmond, WA 98052
City of Renton Attn: Cailín Hunsaker 1055 S. Grady Way, Renton, WA 98057	City of Woodinville Attn: Diana Hall Woodinville City Hall, 17301 133 <sup>rd</sup> Ave NE, Woodinville WA 98072	Sound Transit Attn: Ariel Taylor 401 S. Jackson Street, Seattle, WA 98104-2826

3. TERM. The Effective Date of this Agreement is January 24, 2020. This Agreement terminates on December 31, 2020. This Agreement may be extended by mutual agreement of the Parties in writing.

4. FUNDING. The amounts to be contributed to EP have been determined by the cost share formula supported by the RAC. These amounts, per funding contributor, are shown in Exhibit C. Such funding will be provided to EP within 45 days of the Effective Date of

this Agreement. The payment of each funding contributor as shown in Exhibit C is fixed, except as provided in Section 9 of this Agreement, and will not increase as a result of the failure of another funding contributor(s) to provide its/their allocated amount(s) without the prior approval of the funding contributor that has provided funding. EP will timely notify the funding contributors if the level of unsecured funding, if any, will significantly impact delivery on the tasks noted and engage the funding contributors to determine any necessary resulting scope and/or funding changes.

5. **STAFF COORDINATION.** All work performed under this Agreement must be coordinated with the appropriate staff person(s) from the respective funding contributors under this Agreement.
6. **ANTI-DISCRIMINATION.** EP shall comply with all applicable federal, state, and local non-discrimination laws.
7. **INDEMNIFICATION AND HOLD HARMLESS.** EP shall indemnify and hold harmless the respective funding contributors, their officers, officials, employees, and agents, from and against any and all suits, claims, actions, losses, costs, penalties and damages of whatsoever kind or nature arising out of, in connection with, or incident to the negligent acts or omissions of EP. This indemnification obligation shall include, but is not limited to, all claims against the respective funding contributors by an employee or former employee of EP. EP, by mutual negotiation, expressly waives all immunity and limitation on liability, as respects the respective funding contributors only, under any industrial insurance act, including Title 51 RCW, other Worker's Compensation act, disability benefit act, or other employee benefit act of any jurisdiction which would otherwise be applicable in the case of such claim. In addition, at the option of the respective funding contributors, EP shall protect and assume the defense of the respective funding contributors and their officers, officials, employees, and agents in all legal or claim proceedings arising out of, in connection with, or incident to the negligent acts or omissions of EP, and shall pay all defense expenses, including reasonable attorney's fees, expert fees and costs incurred by the respective funding contributors on account of such litigation or claims. In the event that the respective funding contributors incur any judgment, award and/or expense or cost, including attorney fees, arising from the provisions of this Section 7, or to enforce the provisions of this Section 7, any such judgment, award, fees, expenses and costs, including attorney fees, shall be recoverable from EP.

The indemnification, hold harmless, protection and defense obligations contained herein shall survive the expiration, abandonment or termination of this Agreement.

EP further agrees that it is financially responsible for and will repay the respective funding contributors any portion of their respective contributions following an audit exception which occurs due to the negligence, intentional act, and/or failure, for any reason, to comply with the terms of this Agreement by EP, its officers, officials, employees, and agents. This duty to repay the respective funding contributors shall not be diminished or extinguished by the expiration or prior termination of the Agreement.

8. **INSURANCE.** Within 30 days of the Effective Date of this Agreement, EP shall procure and maintain for the duration of this Agreement, insurance as determined by Insurance

Coverage Requirements (Exhibit D) against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance or non-performance of work hereunder by EP, its agents, representatives, employees, and/or subcontractors. The costs of such insurance shall be paid by EP or subcontractor. EP may furnish separate certificates of insurance and policy endorsements for each subcontractor as evidence of compliance with the insurance requirements of this Agreement. EP is responsible for ensuring compliance with all of the insurance requirements stated herein. Failure by EP, its agents, employees, officers, and/or subcontractors to comply with the insurance requirements stated herein shall constitute a material breach of this Agreement.

9. **TERMINATION.** Each Party for its convenience and without cause or for any reason whatsoever, may terminate its participation in this Agreement by providing written notice to each other Party not less than thirty (30) calendar days prior to the effective date of termination. A withdrawing funding contributor shall remain responsible for its share of the costs incurred up through the date of its effective withdrawal from this Agreement as provided for in Exhibit C. The withdrawing funding contributor's share of costs incurred shall be based on the prorated amount of the cost share in Exhibit C from the Effective Date of this Agreement through the effective date of the withdrawal, provided that EP can document allowable expenditures during this period up to the prorated amount. If the withdrawing funding contributor has already paid its cost share set forth in Exhibit C, EP shall repay the funding in excess of the prorated amount. In the event of a withdrawal by a funding contributor, the Agreement shall terminate as to that funding contributor but shall continue in effect as to the remaining funding contributors.
10. **COUNTERPARTS.** This Agreement may be executed in any number of counterparts, and by different parties in separate counterparts, each of which, when executed and delivered, shall be deemed to be an original and all of which counterparts taken together shall constitute one and the same instrument. Electronic signatures shall be deemed original for all purposes.

The Parties have executed this Agreement on the date shown below. The signatories below represent and warrant that they possess the authority to execute this Agreement and bind their respective entities.

**KING COUNTY**

By: \_\_\_\_\_  
Name Date

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Name Date

**CITY OF BELLEVUE**

By: \_\_\_\_\_  
Name Date

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Name Date

**CITY OF REDMOND**

By: \_\_\_\_\_  
Name Date

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Name Date

**CITY OF WOODINVILLE**

By: \_\_\_\_\_  
Name Date

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Name Date

**EASTRAIL PARTNERS**

By: \_\_\_\_\_  
Name Date

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Name Date

**SNOHOMISH COUNTY**

By: \_\_\_\_\_  
Name Date

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Name Date

**CITY OF KIRKLAND**

By: John Lusk 5/5/2020  
Name Date

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Name Date

**CITY OF RENTON**

By: \_\_\_\_\_  
Name Date

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Name Date

**SOUND TRANSIT**

By: \_\_\_\_\_  
Name Date

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Name Date

**Exhibit A**

**Articles of Incorporation for Eastrail Partners**

**ARTICLES OF INCORPORATION**  
**OF**  
**EASTRAIL PARTNERS**

The undersigned, acting as the incorporator of a nonprofit corporation under the Washington Nonprofit Corporation Act, Chapter 24.03 of the Revised Code of Washington, hereby adopts the following Articles of Incorporation for such corporation:

**ARTICLE 1**

**Name**

The name of the corporation is Eastrail Partners.

**ARTICLE II**

**Duration**

The corporation shall have perpetual existence.

**ARTICLE III**

**Purposes**

The corporation is organized and shall be operated exclusively as a charitable organization for the exempt purposes permitted by Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), to support the development, expansion and maintenance of a regional trail system on the Eastside Rail Corridor, together with other transportation, utility and community development projects sustainable on and alongside a multi-use corridor.

**ARTICLE IV**

**Powers**

The corporation shall have all powers granted by the Washington Nonprofit Corporation Act, RCW 24.03, as amended (including any additional powers granted by amendments to said Act after the formation of the corporation) which are consistent with the qualification of the corporation under Section 501(c)(3) of the Code.



## **ARTICLE V**

### **Directors**

A. The management of the corporation shall be vested in a board of directors. The number, qualifications, terms of office, manner of election, time and place of meetings and powers and duties of the directors shall be prescribed in the Bylaws. The number of directors may be increased or decreased from time to time by amendment of the Bylaws, but no decrease shall have the effect of shortening the term of any incumbent director.

B. The initial Board of Directors shall consist of three directors. The initial directors shall hold office for such period as may be provided in the Bylaws. The names and addresses of the initial directors are:

Eugene Duvernoy  
1150 19th Ave E.  
Seattle, WA 98112

Gregory K. Johnson  
Wright Runstad & Company  
1201 Third Avenue, Suite 2700  
Seattle, WA 98101

Stacey Graven  
9321 NE 26th Street  
Clyde Hill, WA 98004

## **ARTICLE VI**

### **Members**

There shall be no members of the Corporation.

## **ARTICLE VII**

### **Limitation on Director Liability**

To the fullest extent permitted by Washington law as now or hereafter in effect, no director shall have any personal liability to the corporation for monetary damages for conduct as a director, provided that this provision shall not be deemed to eliminate or limit the liability of a director for:

- (a) Any breach of the director's duty of loyalty to the corporation;

- (b) Acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law;
- (c) Any unlawful distribution;
- (d) Any transaction from which the director derived an improper personal benefit; or
- (e) Any act or omission in violation of the Washington Nonprofit Corporation Act.

Any amendment to or repeal of this Article shall not adversely affect any right of a director of the corporation hereunder with respect to any acts or omissions of such director occurring prior to such amendment or repeal.

## **ARTICLE VIII**

### **Indemnification of Directors**

To the fullest extent permitted by Washington law as now or hereafter in effect, the corporation is authorized to indemnify any director of the Corporation. The Board of Directors shall be entitled to determine the terms of such indemnification, including advancement of expenses, and to give effect thereto through the adoption of Bylaws, approval of agreements or by any other manner approved by the Board of Directors. Any amendment to or repeal of this Article shall not adversely affect any right of a director of the corporation hereunder with respect to any right to indemnification that arises prior to such amendment or repeal.

## **ARTICLE IX**

### **Prohibited Activities**

A. No part of the net earnings of the corporation shall inure to the benefit of, or be distributed to, its directors, officers or other private persons, except that the corporation is authorized to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of its charitable purposes.

B. No substantial part of the activities of the corporation shall be the carrying on of propaganda or otherwise attempting to influence legislation, except as otherwise permitted under Section 501(h) of the Code, and the corporation shall not participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

C. It is intended that the corporation shall have and shall continue to have the status of a corporation exempt from federal income taxation under Section 501(a) of the Code, as an organization described in Section 501(c)(3) of the Code. Notwithstanding any other provision of these Articles, the corporation shall not carry on any activities not permitted to be carried on by a corporation exempt from federal income taxation under Section 501(c)(3) of the Code or the corresponding provision of any future federal tax laws.

## **ARTICLE X**

### **Dissolution**

No director or officer of the corporation will be entitled to share in the distribution of any of the corporation's assets upon dissolution or final liquidation of the corporation or the winding up of its affairs. Upon any dissolution, liquidation or winding up, the remaining net assets of the corporation shall be distributed by the Board of Directors to an organization or organizations selected by the Board of Directors in accordance with the Bylaws, provided that such organization or organizations are qualified as exempt from federal income taxation under Sections 501(a) and 501(c)(3) of the Code.

## **ARTICLE XI**

### **Reserved Rights**

The corporation reserves the right to amend, alter, change or repeal any provision of these Articles of Incorporation in any manner now or hereafter permitted by law not inconsistent with its qualification under Section 501(c)(3) of the Code.

## **ARTICLE XII**

### **Bylaws**

The authority to make, alter, amend or repeal the Bylaws is vested in the Board of Directors, and may be exercised at any meeting of the Board of Directors or in any other manner allowed pursuant to the Washington Nonprofit Corporation Act.

## **ARTICLE XIII**

### **Registered Office and Registered Agent**

The name and address of the initial registered agent and the initial registered office of the corporation in the State of Washington is Matthew Cohen, 600 University Street, Suite 3600, Seattle, Washington 98101.


**ARTICLE XIV**

**Incorporator**

The name and address of the incorporator of the corporation is as follows:

Matthew Cohen  
600 University Street  
Suite 3600  
Seattle, WA 98101

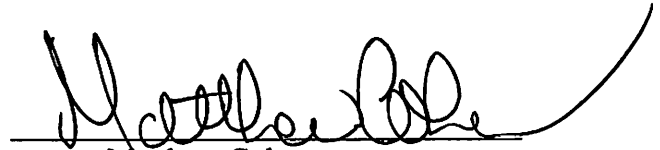
IN WITNESS WHEREOF, the incorporator has hereunto set his hand this 8<sup>th</sup> day of July, 2019.

  
\_\_\_\_\_  
Matthew Cohen, Incorporator

CONSENT TO APPOINTMENT AS REGISTERED AGENT

The undersigned hereby consents to serve as registered agent for Eastrail Partners in the State of Washington.

DATED this 8<sup>th</sup> day of July, 2019.

A handwritten signature in black ink, appearing to read 'Matthew Cohen', is written over a horizontal line.

Matthew Cohen  
600 University Street  
Suite 3600  
Seattle, WA 98101

102237842.4 0203995-00001

**Exhibit B**

**Eastrail Partners Final Business Plan – April 3, 2019**

# Eastside Rail Corridor Funding Commission

*The Eastrail Partnership: FINAL Business Plan (Updated 04/03/2019)*

## About this plan

This plan provides a framework for establishing an independent entity to support development of the Eastside Rail Corridor (ERC). For this business plan, we are calling the entity the Eastrail Partnership, recognizing it is likely to transition to a new name once established.

## Purpose of the Eastrail Partnership

The purpose of the Eastrail Partnership is to maximize the value of the ERC to all King County residents by supporting the Connect, Construct, Complete strategy.

The Eastrail Partnership will be a trusted partner of the ERC Regional Advisory Council (RAC) and take a supportive and complementary approach to achieving the best possible development of the ERC.

## Key Functions of the Eastrail Partnership

### Communications and stakeholder engagement

- Activate the Eastrail brand
- Supplement public outreach conducted by King County and the Cities of Redmond and Kirkland, including:
  - Implement programs and events to build public support for development of the ERC
  - Publicize progress on developing the ERC trail to inspire private sector and community support

### Fundraising and partnerships

- Establish guidelines for fundraising and joint partnerships according to best practices
- Raise funds from the private sector to implement the ERC
- Work with RAC jurisdictions to help identify and create opportunities for private sector partnership
- Establish partnerships with communities and businesses; for example, facilitate corporate sponsorships and joint ventures

### Advocacy

- Advocate for resources and policies to support Connect-Construct-Complete, including the 2019 Parks Levy (on the ballot in August 2019)
- Conduct public opinion research and analysis for ballot measures
- Assist with trail-supportive policy development



## Eastrail Partnership Leadership Committee

The Leadership Committee—comprised of 12-17 members—will serve as the leadership body of the Eastrail Partnership. Many of the existing Trail Funding Commission members have indicated they are interested in being represented on this committee.

### Membership characteristics:

- Community leaders along the length of the ERC corridor, including and especially representation from historically underserved or under-represented communities
- Major employers and property owners with an interest in or proximity to the ERC trail
- Businesses related to trail usage (such as those providing retail or hospitality services to trail users)
- Community leaders from organizations that support parks, trails, and/or open space

### Types of expertise

- Diversity, equity, and inclusion
- Policy and land use
- Public-private partnerships
- Non-motorized transportation
- Tourism
- Financial management
- Fundraising

## Organizational Structure

### Governance

- The Eastrail Partnership will be a sponsored project by another organization—such as the King County Parks Foundation—to minimize startup costs and enable the Eastrail Partnership to stand up quickly.
- The Leadership Committee will direct the Eastrail Partnership activities, in consultation with the RAC and host organization.
- Over time, if it makes sense, the Eastrail Partnership can spin off from host organization.

### Funding

- Funding would include private sector and philanthropic investments and public funding.
- There would be a clear and documented financial reporting structure to track Eastrail Partnership functions supported by public funding. Publicly supported functions will be finalized with RAC engagement and can include activities such as establishing the Leadership Committee, hiring staff, outreach, fundraising, sponsorships, and policy development. It is expected that functions supported by private funding may include advocacy and ballot measure development and opinion research and analysis.
- RAC members would provide a total public sector commitment of \$100,000 to cover a portion of the cost of functions appropriate for public funding.



- Over the first year of operation the Eastrail Partnership will raise \$100,000 in private sector contributions. We anticipate approximately \$50,000 from the King County Parks Foundation and \$50,000 from other private sector organizations.

### Expected Staffing

- 1 FTE
- Key characteristics of staff lead
  - Strong organizational skills
  - Strong transactional skills
  - Knows ERC-related businesses and key personnel
  - Knows ERC communities
  - Well-reasoned judgement
  - Refined project execution skills

### Budget

\$200,000 for year ONE spending allocations.

### Timeline

The timeline below illustrates the proposed first year activities of the Eastrail Partnership, including those that will be supported solely by private funds.

Month 1	2	3	4	5	6	7	8	9	10	11	12	Percentage of Year 1 budget
<b>Develop</b> financial tracking and reporting structure	<b>Recruit and onboard</b> staff lead											<b>15%</b>
		<b>Develop</b> communications and stakeholder engagement plan and collateral				<b>Implement</b> communications and stakeholder engagement plan						<b>35%</b>
				<b>Develop</b> organizational funding/execution plan								<b>35%</b>
							<b>Secure</b> an exemplary corporate sponsorship and joint venture					<b>15%</b>

## **Exhibit C**

### **Table of Cost Share Allocations for Funding Contributors**

King County	\$25,552.47
Snohomish County	\$18,079.10
City of Bellevue	\$11,299.44
City of Kirkland	\$9,299.16
City of Renton	\$3,766.48
City of Redmond	\$6,307.26
City of Woodinville	\$3,917.14
Sound Transit	\$11,778.97

## **Exhibit D**

### **Insurance Coverage Requirements**

- A. **FOR ALL COVERAGES.** Each insurance policy shall be written on an “occurrence” form. By requiring such minimum insurance, the funding contributors shall not be deemed or construed to have assessed the risks that may be applicable to EP under this Agreement.

EP 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 by said policies, 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 Agreement.

B. **MINIMUM SCOPE AND LIMITS OF INSURANCE**

Pursuant to the terms of this Agreement, EP shall maintain coverage and limits for no less than:

1. **General Liability:**

Insurance Services Office form number (CG 00 01 or its substantive equivalent) covering COMMERCIAL GENERAL LIABILITY \$1,000,000 combined single limit per occurrence by bodily injury, personal injury, and property damage, and for those policies with aggregate limits, a \$2,000,000 aggregate limit.

2. **Automobile Liability:**

Insurance Services Office form number (CA 00 01 or its substantive equivalent) covering BUSINESS AUTO COVERAGE, symbol 1 "any auto"; or the appropriate coverage provided by symbols 2, 7, 8, or 9. \$1,000,000 combined single limit per accident for bodily injury and property damage.

3. **Workers' Compensation:**

Workers' Compensation coverage, as required by the Industrial Insurance Act of the State of Washington, as well as any similar coverage required for this work by applicable federal or "Other States" state law. Statutory requirements of the state of residency.

4. **Stop Gap/Employers Liability:**

Coverage shall be at least as broad as 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. Limit: \$1,000,000.

C. **DEDUCTIBLES AND SELF-INSURED RETENTIONS**

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

D. **OTHER INSURANCE PROVISIONS**

The insurance policies required in this Agreement are to contain, or be endorsed to contain, the following provisions:

1. Liability Policies Except Professional and Workers' Compensation

- a. King County, Snohomish County, the City of Bellevue, the City of Kirkland, the City of Renton, the City of Redmond, the City of Woodinville, and Sound Transit, their officers, officials, employees, and agents are to be covered as additional insureds, for full policy limits as respects liability arising out of activities performed by or on behalf of EP in connection with this Agreement. Such endorsement shall include Products-Completed Operations. Such endorsement shall specifically name all entities contributing funding under this Agreement.
- b. EP's insurance coverage shall be primary insurance as respects the funding contributors, their officers, officials, employees, and agents. Any insurance and/or self-insurance maintained by the funding contributors, their officers, officials, employees, or agents shall not contribute with the EP's insurance or benefit EP in any way.
- c. EP's insurance shall apply separately to each insured against whom 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 funding contributors.

- E. ACCEPTABILITY OF INSURERS. Unless otherwise approved by the funding contributors, Insurance is to be placed with insurers with Best's rating of no less than A:VIII, or, if not rated with Bests, with minimum surpluses the equivalent of Bests' surplus size VIII. Any exception must be approved by the funding contributors. If, at any time, the foregoing policies shall fail to meet all requirements noted herein, or if a company issuing any such policy shall be or become unsatisfactory to the funding contributors, EP shall, upon notice to that effect from the funding contributors, promptly obtain a new policy, and shall submit the same to the funding contributors, with appropriate certificates and endorsements, for approval.
- F. VERIFICATION OF COVERAGE. EP shall furnish the funding contributors with certificates of insurance and endorsements required by this Agreement. Such certificates and endorsements, and renewals thereof, shall be attached as exhibits to the 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 funding contributors prior to the commencement of activities associated with the Agreement. The funding contributors reserves the right to require complete, certified copies of all required insurance policies at any time.
- G. SUBCONTRACTORS. EP shall include all subcontractors as insureds under its policies or shall furnish separate certificates of insurance and policy endorsements from each subcontractor. Insurance coverages provided by subcontractors as evidence of compliance with the insurance requirements of this Agreement shall be subject to all of the requirements stated herein.