

CITY COUNCIL AGENDA ITEM

CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: Authorizing the City Manager to Execute a Project Agreement with the Central Puget Sound Regional Transit Authority (Sound Transit) for the 148th Street Non-Motorized Bridge Project

DEPARTMENT: Public Works

PRESENTED BY: Tricia Juhnke, City Engineer

ACTION: ☐ Ordinance ☐ Resolution ☒ Motion
 ☐ Discussion ☐ Public Hearing

PROBLEM/ISSUE STATEMENT:

The 2019-2024 Capital Improvement Plan, adopted by Ordinance No. 841, includes the 148th Street Non-Motorized Bridge project. The project goal is to provide a non-motorized bridge to directly connect neighborhoods west of Interstate-5 with the future Shoreline South 145th Station, which will in turn connect users to centers of employment, commerce and educational opportunities. The initial work for this project is to develop a preliminary design based on the preferred alignment previously approved by Council.

Staff is requesting that Council authorize the City Manager to execute a Project Agreement, substantially in the form of Attachment A and as approved by the City Attorney, with the Central Puget Sound Regional Transit Authority (Sound Transit) to obligate \$3,700,000 of Sound Transit System Access Fund grant funding for use on the 148th Street Non-Motorized Bridge project.

RESOURCE/FINANCIAL IMPACT:

The adopted 2019-2024 Capital Improvement Program includes \$499,999 for the schematic design phase of this project. This \$3,700,000 Sound Transit System Access Fund grant allows the design to progress final design. Funds not expended during design will carry-over to the construction phase. The budget shown below is for the full design phase.

EXPENDITURES

Design

Staff and Other Direct Expenses	\$ 363,000
A/E Consultant Cost	\$ 3,072,731
Contingency	\$ 405,000

Total Design Project Cost	\$ 3,840,731
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REVENUE

FHWA Surface Transportation Program (STP)	\$ 2,055,000
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<i>Sound Transit System Access Fund</i>	\$ 3,700,000
General Fund Contribution	\$ 349,999
Roads Capital Fund	\$ 150,000
Total Project Revenue	\$ 6,254,999

Potential Funding Available for Construction Phase **\$ 2,414,268**

The project is currently funded through final design. Revenue remaining after the design phase, will be carried over for use in the construction phase.

This design budget is preliminary and will be re-assessed at the completion of preliminary design. Staff is pursuing funding from multiple sources including the King County Parks and Trails Levy, and the State Legislature. Additional revenue sources for future milestones may also be identified and pursued.

A budget amendment is not required at this time, as current expenditures remain within the authorized amount for the CIP. Staff anticipates presenting a budget amendment later this year to account for additional grant funding and other changes to the CIP.

RECOMMENDATION

Staff recommends the Council authorize the City Manager to execute a Project Agreement, substantially in the form of Attachment A to this staff report and as approved by the City Attorney, to obligate System Access Fund grant funds totaling \$3,700,000 for the 148th Street Non-Motorized Bridge project, including authorization of any addendums or supplements required by the Central Puget Sound Regional Transit Authority.

Approved By: City Manager ***DT*** City Attorney ***MK***

BACKGROUND

Interstate-5 (I-5) forms a barrier to direct access to the Sound Transit Shoreline South/145th Station from neighborhoods west of I-5. The 148th Street Non-Motorized Bridge project will design a ped/bike bridge spanning I-5 and connecting to the north-end station plaza. Improvements will include integration with the station plaza area (east side of I-5) including ramps and stairs. West side landing improvements will include ramps and stairs, safe pedestrian and bicycle connections to 1st Ave NE, and evaluation of the need for a drop-off/pick-up area.

In spring 2013, the City of Shoreline began community-based visioning and planning to address future land use, transportation, and neighborhood enhancements in the community's light rail station subareas. The subarea plans for both station areas were shaped by extensive public and stakeholder engagement. The 145th Street Station Subarea Plan can be found at the following link:

<http://www.shorelinewa.gov/government/projects-initiatives/light-rail-station-area-planning/145th-street-station-subarea-plan-and-feis>.

One of the key concepts that helped to shape the 145th Street Station Subarea Plan is improved east-west connectivity for pedestrians and bicyclists. A key point raised was an east-west pedestrian and bicycle bridge spanning I-5. This bridge will be part of a larger network of bicycle facilities, making local connections as well as regional connections via the Interurban and Burke Gilman Trails.

A feasibility analysis of non-motorized crossing options to the Shoreline South/145th Station was conducted in 2016/2017 and determined that such a link is feasible. With confirmation of a viable crossing, the City identified the 148th Street Non-Motorized Bridge as a capital project and continued coordinating with Sound Transit. The staff report for this Council discussion can be found at the following link:

<http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2017/staffreport022717-9b.pdf>.

The final feasibility study can be found at:

<http://www.shorelinewa.gov/home/showdocument?id=37025>.

DISCUSSION

In October 2019, the Central Puget Sound Regional Transit Authority (Sound Transit) confirmed the award of \$3,700,000 in System Access Fund grant funding for the 148th Street Non-Motorized Bridge project. This funding will be utilized for progressing the design of all improvements, environmental documentation and permitting and assistance in community outreach/stakeholder engagement.

The alternative (not recommended), is not to enter into a Project Agreement with Sound Transit, and not utilize the \$3,700,000 awarded by the System Access Fund. As the City does not currently have adequate funds available to complete the design work for this project without this and other additional funding sources, loss of this funding would result in the inability to perform the improvements at this location.

COUNCIL GOAL(S) ADDRESSED

This project supports 2018-2020 City Council Goal 3: "Continue preparation for regional mass transit in Shoreline."

RESOURCE/FINANCIAL IMPACT

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This design budget is preliminary and will be re-assessed at the completion of preliminary design. The Staff is pursuing funding from multiple sources including County Levy, and the State Legislature. Additional revenue sources for future milestones may also be identified and pursued.

A budget amendment is not required at this time, as current expenditures remain within the authorized amount for the CIP. Staff anticipates presenting a budget amendment for the CIP later this year to account for additional grant funding and other changes to the CIP.

RECOMMENDATION

Staff recommends the Council authorize the City Manager to execute a Project Agreement, substantially in the form of Attachment A to this staff report and as approved by the City Attorney, to obligate System Access Fund grant funds totaling \$3,700,000 for the 148th Street Non-Motorized Bridge project, including authorization of any addendums or supplements required by the Central Puget Sound Regional Transit Authority.

Attachment A – Sample Funding Agreement

ATTACHMENT A - EXAMPLE AGREEMENT

SYSTEM ACCESS FUND PROJECT AGREEMENT

BETWEEN THE CITY OF SHORELINE AND THE CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY FOR THE

148th STREET NON-MOTORIZED BRIDGE

GA 0328-19

This Agreement, made and entered into this _____ day of _____, 2020, between the City of Shoreline (hereinafter “City”), and the Central Puget Sound Regional Transit Authority, (hereinafter "Sound Transit");

WHEREAS, the Sound Transit 3 (“ST3”) high capacity transit system expansion plan was approved by the voters in November 2016 and includes a \$100 million System Access Program to “fund such projects as safe sidewalks and protected bike lanes, shared use paths, improved bus-rail integration, and new pick-up and drop-off areas that provide convenient access so that more people can use Sound Transit services;”

WHEREAS, Sound Transit opened the System Access Fund 2019 Call for Projects in February 2019 and subsequently evaluated applications from local governments against evaluation criteria identified by the Sound Transit Executive Committee;

WHEREAS, at the conclusion of the public comment period and online open house in August 2019, the Sound Transit Board of Directors approved 30 applications from 27 local governments on September 26, 2019;

WHEREAS, Sound Transit and the City have a joint interest in delivering on the 148th Street Non-Motorized Bridge, (hereinafter the “Project), which was duly approved by the Sound Transit Board of Directors by virtue of M2019-97;

NOW THEREFORE, in consideration of the terms, conditions, covenants, and performances contained herein, or attached and incorporated and made a part hereof, it is mutually agreed as follows:

1. GENERAL

- 1.1. Purpose. The intent of this Agreement is to establish the terms and conditions for the eligible work to be performed for the Project during the duration of this Agreement. Attached hereto as **Exhibit A**, is the Scope of Work and Deliverables, which outlines the activities, products and general capital improvements eligible for funding by Sound Transit, as presented to Sound Transit in the City’s application for Project funding. Funds may be expended on eligible elements listed in **Exhibit A** up to the not to exceed amount outlined in Section 1.2 below.

- 1.2. Agreement Not-to-Exceed Amount. The total amount of the Agreement shall not exceed \$3,700,000. No payments will be made in excess of the established not-to-exceed amount according to the Project Description outlined in Section 2.1 below.

The funding amount provided by Sound Transit does not include federal funding.

2. PROJECT DESCRIPTION

- 2.1. The Project is a non-motorized pedestrian/bicycle bridge spanning Interstate-5 in the proximity of 148th Street as identified in Exhibit A, Scope of Work and Deliverables. Sound Transit funding will support two Phases:

- 2.1.1. Design Phase. The City will design the non-motorized pedestrian/bicycle bridge. The Design Phase is expected to require \$1,700,000.00 of the total Not-to-Exceed amount noted in Section 1.2. Any work in the Design Phase exceeding \$1,700,000.00 must be approved by Sound Transit. To be reimbursed for the Design Phase, the City must provide the following: 1) **Exhibit B**, Project Funding Plan; 2) **Exhibit C**, Funding Certification Letter for the Design Phase, 3) **Exhibit D**, Project Schedule, 4) **Exhibit E**, Engineer's Estimate.
- 2.1.2. Construction Phase. The City will construct the non-motorized pedestrian/bicycle bridge. To be reimbursed for the Construction Phase, the City must provide the following: 1) completed design plans for Sound Transit review, 2) updated **Exhibit B**, Project Funding Plan; 2) **Exhibit F**, Funding Certification Letter for the Construction Phase; 3) updated **Exhibit D**, Project Schedule; 4) **Exhibit G**, Environmental Review Certification; 5) **Exhibit H**, ROW Certification; 6) updated **Exhibit E**, Engineer's Estimate.

3. PROJECT MANAGEMENT

- 3.1. Designated Representatives. The City and Sound Transit have designated formal points of coordination for this Agreement. The Designated Representatives shall communicate regularly to discuss the status of the tasks to be performed, to identify upcoming decisions related to the Project, to provide any information or input necessary to inform those decisions, and to resolve any issues or disputes related to the Project consistent with this Agreement.

The Designated Representatives are:

CITY

SOUND TRANSIT

Alex Krieg
Deputy Director, Planning & Integration
401 S Jackson St
Seattle WA 98104
206-903-7663
Alex.Krieg@soundtransit.org

The Parties may change designated representatives by written notice to the other Party during the term of the Agreement.

- 3.2. Reporting Requirements. The City is required to submit a Quarterly Progress Report to Sound Transit's Designated Representative to include the below elements (**Exhibit I**: Template for Reporting Requirements). The report may include supporting documentation (photos, City documentation, financial information, etc.).
 - 3.2.1. Project Update. Status of major activities including, the Design Phase and Construction Phase, in the reporting period, both current and upcoming.
 - 3.2.2. Assessment of on-going risks. The City will notify Sound Transit of any issues that may affect the Project Schedule and overall implementation of the Project.
 - 3.2.3. Project Funding. Summary of expenditures during reporting period, and expected expenditures in the subsequent reporting period.
- 3.3. Eligible Costs. Eligible costs include actual costs identified in Exhibit A, Scope of Work and Deliverables.
- 3.4. Additional Project Funding. The Not-to-Exceed funding amount in Paragraph 1.2 represents approximately eighteen percent (18%) of the total Project cost. The City is responsible for obtaining the balance of the Project funding described in the Funding Plan attached as **Exhibit B**.
- 3.5. Project Schedule. The parties agree to the schedule identified in **Exhibit D**, Project Schedule. The City shall complete all work and deliverables of the Project by one year after the expected project completion date shown in Exhibit D, Project Schedule, unless otherwise mutually agreed in writing by both Parties. The City is responsible for notifying Sound Transit of any material changes to the Project Schedule and rationale for the change in writing as part of its required quarterly reporting requirements.
- 3.6. City Work. The City is solely responsible for the environmental review, design, permitting, construction, project and construction management of all applicable Project elements including, but not limited to, procurement and construction administration. The City is responsible for all costs relating to the operations or maintenance of service and capital improvements related to the Project upon its completion. The City will be the owner of the completed Project. Sound Transit is not responsible for funding any service operations or for maintenance of any improvements implemented under this Agreement.
- 3.7. Signage. Any identification signage that is used during the Project shall identify Sound Transit as a funding partner.
- 3.8. Design Review. The City shall provide Sound Transit the opportunity to review design plans at milestones identified in **Exhibit D**, Project Schedule.
- 3.9. Project Closeout. Before payment of the final invoice, the City and Sound Transit will meet to ensure final deliverables are complete per **Exhibit A**, Scope of Work and Deliverables.

4. INVOICING

- 4.1. The City will submit quarterly invoices and supporting documentation that align with the Scope of Work and Deliverables for payment (See **Exhibit J**, Invoice Template). The invoices must include the Sound Transit purchase order number provided by Sound Transit.
- 4.2. The City will submit its invoices with the required Project reporting documentation (as outlined in Section 3.2), in two .pdf files, via email to accountspayable@soundtransit.org (and carbon copying the Project Designated Representative). Invoices will be paid within (30) days of Sound Transit's receipt of the invoice and acceptable and complete supporting documentation.
- 4.3. The City agrees to submit a final invoice to Sound Transit within forty-five (45) days after the City has completed each phase of the work.
- 4.4. If Sound Transit determines that an invoice lacks sufficient documentation to support payment, Sound Transit will notify the City of its determination and request that the City provide additional documentation. Sound Transit may withhold payment of the invoice until supporting documentation is provided, however such approval shall not be unreasonably withheld.

5. TERM, SUSPENSION, AND TERMINATION

- 5.1. Term. This Agreement shall take effect upon the last date of signature by the Parties as set forth below. This Agreement shall remain in effect until 180 days following Project completion, unless extended by mutual written agreement of the Parties, superseded by a future agreement, or suspended or terminated in accordance with this Section 5.
- 5.2. Termination by Sound Transit. Sound Transit may terminate this Agreement under the following circumstances:
 - 5.2.1. If work as defined in **Exhibit A** is not completed by one year after the expected project completion date shown in Exhibit D, Project Schedule, unless otherwise agreed to by the Parties.
 - 5.2.2. If the City fails to make progress towards completing the Project and the City has not provided adequate assurances of its desire or ability to complete the Project and commence operations.

If the Agreement is terminated under this Section 5.2, the City shall reimburse Sound Transit the full amount of all payments it made to the City under this Agreement within 90 days of the date of termination. The City may ask for an extension of time to complete the Project for good cause. Sound Transit's agreement to extend the completion will not be unreasonably withheld.

- 5.3. Termination by Either Party. Either Party may terminate this Agreement for cause in the event that the other Party fails to fulfill its material obligations under this Agreement in a timely manner or breaches any material provision of this Agreement and the Dispute Resolution Process has failed to reach resolution within the timelines described therein. The Party wishing to terminate this Agreement for cause will provide the other Party with notice of its intent to terminate and will give the other Party an opportunity to correct the failure to perform or breach within thirty (30) days of the notice or within such longer period as may be necessary in the event that correction cannot reasonably be accomplished within thirty (30) days. If the failure or breach is not corrected or cured, this Agreement may be terminated by the aggrieved Party by giving ninety (90) days' notice to the other Party.
- 5.4. Except as provided in this Section, a termination by either Party will not extinguish or release either Party from liability for costs or obligations existing as of the date of termination. Any costs incurred prior to proper notification of termination will be borne by the Parties in accordance with the terms of this Agreement.

6. INDEMNITY

- 6.1. To the maximum extent permitted by law, the City will hold harmless from, and indemnify and defend Sound Transit (including its board members, officers, directors and employees) (the "Indemnified Parties") from and against any and all claims, demands, losses, lawsuits, actions, or liability of any kind or nature, arising out of or relating to the City's design, construction, maintenance or operation of the Project, including claims by the City's employees. **THE CITY SPECIFICALLY ASSUMES POTENTIAL LIABILITY FOR ACTIONS BROUGHT BY THE CITY'S OWN EMPLOYEES OR FORMER EMPLOYEES AGAINST ANY INDEMNIFIED PARTY, AND FOR THAT PURPOSE THE CITY SPECIFICALLY WAIVES ALL IMMUNITY AND LIMITATIONS ON LIABILITY UNDER THE WORKERS COMPENSATION ACT, RCW TITLE 51, OR ANY INDUSTRIAL INSURANCE ACT, DISABILITY BENEFIT ACT OR OTHER EMPLOYEE BENEFIT ACT OF ANY JURISDICTION THAT WOULD OTHERWISE BE APPLICABLE IN THE CASE OF SUCH CLAIM. THIS INDEMNITY OBLIGATION SHALL NOT BE LIMITED BY ANY LIMITATION ON THE AMOUNT OR TYPE OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR THE CITY OR A CONTRACTOR UNDER WORKERS' COMPENSATION, DISABILITY BENEFIT OR OTHER EMPLOYEE BENEFITS LAWS. THE CITY RECOGNIZES THAT THIS WAIVER WAS SPECIFICALLY ENTERED INTO AND WAS THE SUBJECT OF MUTUAL NEGOTIATION. PROVIDED, HOWEVER, THE CITY'S WAIVER OF IMMUNITY BY THE PROVISIONS OF THIS PARAGRAPH EXTENDS ONLY TO CLAIMS AGAINST THE CITY BY SOUND TRANSIT, AND DOES NOT INCLUDE, OR EXTEND TO, ANY CLAIMS BY THE CITY'S EMPLOYEE(S) DIRECTLY AGAINST THE CITY.** The foregoing indemnity applies only to the extent of the City's negligence.
- 6.2. The City further agrees to assume the defense of the Indemnified Parties with legal counsel acceptable to Sound Transit, whose acceptance shall not be unreasonably withheld. In all legal or claim proceedings arising out of, in connection with, or incidental to the City's work or that

of its contractors, subcontractors of any tier, suppliers, consultants and sub-consultants. The City shall pay all defense expenses, including attorney's fees, expert fees, and costs incurred directly or indirectly on account of such litigation or claims, and shall satisfy any judgment rendered in connection therewith. The City may settle any suit, claim, action cost, loss penalty or damages, subject to the approval of Sound Transit, whose approval shall not be unreasonably withheld, if such settlement completely and forever extinguishes any and all liability of the Indemnified Parties. In the event of litigation between the Parties hereto to enforce the rights under this provision, reasonable attorney fees shall be allowed to the prevailing party.

- 6.3. Each Party agrees to bear full responsibility for any and all tax liabilities owed that may arise in relation to this Agreement, and each Party will fully indemnify and hold the other Party, its officers, agents and employees harmless from any tax liability owed by the other Party arising from or related to the transactions set forth herein, including, but not limited to, any taxes, penalties, fines, and/or interest that are assessed by any tax authority against the indemnifying Party and further including all attorneys' fees and costs incurred in response to any claims or assessments by any tax authority against indemnifying Party, its officers, agents and employees.
- 6.4. The obligations in this Section will survive termination or completion of this Agreement as to any claim, loss or liability arising from events occurring prior to such termination or completion.

7. AUDITS

- 7.1. Each Party will maintain accounts and records, including contract and financial records that sufficiently and properly reflect all direct and indirect costs of any nature expended for work performed under this Agreement so as to ensure proper accounting for all monies paid to the City by Sound Transit. These records will be maintained for a period of six (6) years after termination or expiration of this Agreement unless permission to destroy the records is granted by the Office of the Archivist pursuant to RCW Chapter 40.14 and agreed to by the Parties.
- 7.2. The City will make all Project records available for Sound Transit inspection upon prior reasonable request. Audits may be performed by Sound Transit or its independent public accountants to ensure compliance with and enforcement of this Agreement. Should the audit determine that funds from Sound Transit have been used for expenses that were ineligible, then Sound Transit shall provide a copy of the auditor's determination to the City. If the City agrees with the determination, then the City will reimburse Sound Transit the amounts found to have been ineligible. If the City disputes the auditor's determination, then the matter shall be referred to the dispute resolution process set forth in Section 9.

8. INSURANCE

- 8.1. Coverage. During the construction phase of any eligible elements within the Project, the City shall provide primary insurance coverage in the amounts that it deems necessary for

construction projects of similar size and cost. If the City is self-insured, it shall provide to Sound Transit's risk manager a certificate of self-insurance. The City shall require their contractor(s) and sub-contractors to obtain and maintain insurance in amounts and types suitable to protect Sound Transit and the City from exposures presented by the work performed under this Agreement. The minimum insurance requirements during the entire term of this Agreement are set forth below:

a) Commercial General Liability in the amount of two million dollars (\$2,000,000) each occurrence limit, two million dollars (\$2,000,000) general aggregate limit, covering bodily injury including death, personal injury, property damage, Employers' Liability and contractual coverage endorsements, and utilize insurers and coverage forms acceptable to Sound Transit.

b) Commercial Auto Liability coverage for bodily injury and property damage utilizing insurers and coverage forms acceptable to Sound Transit, with a limit of at least one million dollars (\$1,000,000) combined single limit.

c) Worker's Compensation insurance coverage, where applicable, shall comply with State of Washington Labor and Industries requirements.

d) Builders Risk coverage will be the responsibility of all contractors and subcontractors.

e) Pollution Liability (if there is any potential environmental liability exposure) in the amount of one million dollars (\$1,000,000) each occurrence and two million dollars (\$2,000,000) aggregate.

f) Professional Liability (if there is a potential professional liability exposure) in the amount of one million dollars (\$1,000,000) per claim.

8.2. Certificates. Certificates of insurance must name Sound Transit as an "Additional Insured," and shall reference the number and title of this Agreement. All insurance coverage obtained by the City or its contractors and subcontractors must name Sound Transit, its officers and employees as "additional insured's" and contain "severability of interest" (cross liability) provisions. The City's and the contractor's insurance policies shall be primary to and not contributing with any insurance or self-insurance that may be carried by Sound Transit and waive their right of Subrogation against Sound Transit. Certificates of Insurance, including the Additional Insured Endorsements, Waiver of Subrogation Endorsements and Primary and Non-Contributory Endorsements, will be provided to Sound Transit before the start of any work performed under this Agreement.

9. DISPUTE RESOLUTION

- 9.1. Any disputes or questions of interpretation of this Agreement or the performance of either Party under this Agreement that may arise between Sound Transit and the City shall be governed under the dispute resolution provisions in this Section 9. The Parties agree that neither Party may take or join any action in any judicial or administrative forum to challenge the other Party's performance under this Agreement until the dispute resolution process in this Section 9 has been exhausted.
- 9.2. The Parties agree that cooperation and communication are essential to resolving issues efficiently. The Parties agree to use their best efforts to prevent and resolve potential sources of conflict at the lowest level possible.
- 9.3. Either Party may refer a dispute to the dispute resolution process by providing written notice of such referral to the other Party's Designated Representative. The Parties agree to use their best efforts to resolve disputes arising out of or related to this Agreement using good faith negotiations by engaging in the following dispute resolution process should any such disputes arise:
- a. Level One - Sound Transit's Designated Representative and the City's Designated Representative shall meet to discuss and attempt to resolve the dispute in a timely manner. If they cannot resolve the dispute within fourteen (14) days after referral of that dispute to Level One, either party may refer the dispute to Level Two.
 - b. Level Two - Sound Transit's Deputy Executive Director, Office of Planning & Innovation, and the City's Departmental Leads shall meet to discuss and attempt to resolve the dispute in a timely manner. If they cannot resolve the dispute within fourteen (14) days after referral of that dispute to Level Two, either Party may refer the dispute to Level Three.
 - c. Level Three - Sound Transit's Executive Director or Designee and the City's Department Directors or Designee shall meet to discuss and attempt to resolve the dispute in a timely manner.
- 9.4. In the event the dispute is not resolved at Level Three within fourteen (14) days after referral of that dispute to Level Three, the Parties are free to file suit, seek any available legal remedy, or agree to alternative dispute resolution methods such as mediation. At all times prior to resolution of the dispute, the Parties shall continue to perform any undisputed obligations and make any undisputed required payments under this Agreement in the same manner and under the same terms as existed prior to the dispute. Notwithstanding anything in this Agreement to the contrary, neither Party has any obligation to participate in mediation or any other form of alternative dispute resolution following completion of Level Three of the process described herein. A Party may decline to participate in such proceeding for any reason or no reason.

10. LEGAL PROVISIONS

- 10.1. Warranties. By execution of this Agreement, both Parties warrant that they have the full right and authority to enter into and perform this Agreement, and that by entering into or performing this Agreement, they are not in violation of any law, regulation, or agreement;

and that the execution, delivery and performance of the Agreement has been duly authorized by all requisite corporate action, and that the signatories hereto, which have signed on each Parties behalf, are authorized to sign this Agreement.

- 10.2. No waiver. Neither Party will be relieved of its obligations to comply promptly with any provision of this Agreement by reason of any failure by the other Party to enforce prompt compliance, and such failure to enforce will not constitute a waiver of rights or acquiescence in the other Party's conduct.
- 10.3. Costs. Each Party will be responsible for its own costs, including legal fees, incurred in negotiating or finalizing this Agreement, unless otherwise agreed in writing by the Parties. If either Party brings any claim or lawsuit arising from this Agreement, each Party will pay all its legal costs and attorney's fees and expenses incurred in defending or bringing such claim or lawsuit, including all appeals, in addition to any other recovery or award provided by law; however, nothing in this paragraph will be construed to limit the Parties' rights to indemnification.
- 10.4. Public Records. Each Party shall be responsible for its own public records and public records requests.
- 10.5. Notices. All notices required under this Agreement must be in writing and addressed to the Designated Representative. All notices must be either: (i) delivered in person, (ii) deposited postage prepaid in the certified mails of the United States, return receipt requested, (iii) delivered by a nationally recognized overnight or same-day courier service that obtains receipts, or (iv) delivered electronically to the other Party's Designated Representative. However, notice under Section 5, termination, must be delivered in person or by certified mail, return receipt requested.
- 10.6. The parties may not unreasonably withhold requests for information, approvals or consents provided for in this Agreement; provided, however, that approvals or consents required to be given by vote of the Sound Transit Board or the City Board are recognized to be legislative actions. The parties will take further actions and execute further documents, either jointly or within their respective powers and authority, to implement the intent of this Agreement. The City and Sound Transit will work cooperatively with each other to achieve the mutually agreeable goals as set forth in this Agreement.
- 10.7. Time is of the essence in every provision of this Agreement. Unless otherwise set forth in this Agreement, the reference to "days" shall mean calendar days unless otherwise noted. Any reference to "working days" shall exclude any legal holidays and weekend days. If any time for action occurs on a weekend or legal holiday, then the time period shall be extended automatically to the next business day.
- 10.8. No joint venture or partnership is formed as a result of this Agreement. No employees, agents or subcontractors of one Party shall be deemed, or represent themselves to be, employees of any other Party.

10.9. This Agreement has been reviewed and revised by legal counsel for both Parties and no presumption or rule that ambiguity shall be construed against the Party drafting the document applies to the interpretation or enforcement of this Agreement. The Parties intend this Agreement to be interpreted to the full extent authorized by applicable law.

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

10.11. Severability. In case any term of this Agreement is held invalid, illegal, or unenforceable in whole or in part, by a court of law, the Parties will reform the agreement to satisfy the original intent of the Parties.

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

SOUND TRANSIT

CITY

By: _____
Kimberly Farley, Deputy CEO

By: _____

Date: _____

Date: _____

Approved as to form:

Approved as to form:

By: _____
Sound Transit Legal Counsel

By: _____
City of Shoreline Legal Counsel

Exhibit List:

Exhibit A: Scope of Work and Deliverables

Exhibit B: Project Funding Plan

Exhibit C: Funding Certification Letter for Design Phase

Exhibit D: Project Schedule

Exhibit E: Engineer's Estimate

Exhibit F: Funding Certification Letter for Construction Phase

Exhibit G: Environmental Review Certification

Exhibit H: ROW Certification

Exhibit I: Template for Reporting Requirements

Exhibit J: Invoice Form

Exhibit A: Scope of Work and Deliverables

[Party Nickname] will insert an updated scope of work in narrative form

Exhibit B: Project Funding Plan

[Party Nickname] to provide Project Funding Plan

Exhibit C: Funding Certification Letter for Design Phase

[Party Nickname] to provide Funding Certification Letter

Exhibit D: Project Schedule

[Party Nickname] to provide Project Schedule

Exhibit E: Engineer's Estimate

[Party Nickname] to provide Engineer's Estimate

Exhibit F: Funding Certification Letter for Construction Phase

[Party Nickname] to provide Funding Certification Letter

Exhibit G: Environmental Review Certification

[Party Nickname] to provide Environmental Review Certification

Exhibit H: ROW Certification

[Party Nickname] to provide ROW Certification

Exhibit I: Template for Reporting Requirements

System Access Fund Project Agreement 148th Street Non-Motorized Bridge PROJECT REPORT

GA 0328-19

Reporting Period: _____
Submitted By: _____

1. **Project Update.** Status of major activities in the reporting period, both current and upcoming.

2. **Assessment of on-going risks.** [Party nickname] will notify Sound Transit of any issues that may affect the Project Schedule and overall implementation of the Project.

3. **Summary of expenditures during reporting period.** Summary of expenditures during reporting period, and expected expenditures in the subsequent reporting period.

Exhibit J: Sound Transit Invoice Form

Invoice No. _____ Dated: _____

TO: Sound Transit
Accounts Payable
401 S Jackson Street
Seattle, WA 98104
accountspayable@soundtransit.org

Attention: Accounts Payable and [Sound Transit's Designated Representative]

Re: **148th Street Non-Motorized Bridge**, System Access Fund Project, GA 0328-19

The [party name]'s authorized representative certifies that Sound Transit's pro rata share of costs under this invoice is \$_____, and is due and payable to [party name] in accordance with the provisions of the Agreement, and is supported by the attached invoice and supporting documentation. *[Identify the element(s), and the amounts by element, for which the amount due applies]*

The [party name] makes the following representations and warranties to Sound Transit in connection with the Invoice:

- All work performed to date has been, unless otherwise specifically stated by [party name], performed in accordance with the terms and conditions of this Agreement.
- The amount specified above has been computed in accordance with, and is due and payable under, the terms and conditions of the Agreement, has not been the subject of any previous invoice (unless disputed or rejected for payment) and is not the subject of any pending invoice from [party name].

Any liability of Sound Transit arising from these representations and warranties are governed by the terms and conditions of the Agreement.

City of Shoreline

By: _____ Date: _____
[Name, Position]