

Attachment A

AA: 01-14306
IC: 1-17-15211
SR 520

SR 520, Bike Parking Facilities

AIRSPACE LEASE

THIS IS AN AIRSPACE LEASE (Lease) made and entered into between the WASHINGTON STATE DEPARTMENT OF TRANSPORTATION (hereinafter “WSDOT”), and KING COUNTY METRO TRANSIT DEPARTMENT (hereinafter “TENANT”), a home rule charter county and political subdivision of the state of Washington, each individually a “Party” and collectively “the Parties.”

RECITALS

A. WSDOT is designing and constructing the SR 520/Montlake to Lake Washington – Interchange and Bridge Replacement Project (“Project”) on real property owned by the State of Washington. The Project includes a lid and ramp improvements at the Montlake Boulevard interchange with SR 520.

B. TENANT provides regional public transportation within the Seattle-King County metropolitan area. TENANT desires to lease from WSDOT real property within the Project area to operate a bicycle parking facility, which may include bike racks and bike lockers (“Bike Parking Facility”), and a concrete pad constructed as part of the Project for that purpose.

C. The real property to be leased is depicted in **Exhibit A** (the “Premises”), attached hereto and by this reference incorporated herein.

D. The Premises are not presently needed for highway purposes and TENANT’s use of the real property is compatible with WSDOT’s highway operation, safety, and maintenance activities.

F. WSDOT is granted authority to lease property under RCW 47.12.120, and WSDOT deems it to be in the public interest to enter into this Lease.

AGREEMENT

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performances contained herein, IT IS MUTUALLY AGREED THAT:

1. PREMISES.

A. WSDOT does hereby lease to TENANT, and TENANT does hereby lease from WSDOT, the Premises located in the SE ¼ NW ¼ and Government Lot 1, Section 21, Township 25 North, Range 4 East, W.M., and known to be a portion of the highway right of way of SR 520, and depicted on **Exhibit A**.

B. The Premises consists of approximately 900 square feet as depicted on **Exhibit A**. The Premises contain a concrete pad and associated electrical and communication conduit.

C. WSDOT and TENANT acknowledge that they have jointly examined the Premises and TENANT accepts said Premises in its present condition as of the Commencement Date of this Lease.

2. USE OF PREMISES.

A. TENANT's use of the Premises is limited to installation and maintenance of improvements including bike racks, bike lockers, a remote annunciator panel, and other facilities to support micromobility services (collectively, "Micromobility Improvements"). Installation and maintenance of the Micromobility Improvements may be carried out by TENANT or vendors or contractors of TENANT. TENANT's occupancy or use of the Premises and improvements shall not interfere with the use, safety or the enjoyment of the highway facility, nor produce fumes, vapors, odors, drippings, droppings, or discharge of any kind.

B. In using the Premises, TENANT shall comply with all policies and regulations, including, but not limited to RCW 47.42 *et seq.* and WAC 468-66 *et seq.*, heretofore adopted or hereafter promulgated by WSDOT relative to the location, operation, and maintenance of improvements located on the Premises.

C. In using the Premises, it is expressly agreed that TENANT shall:

(1) Comply with all applicable federal, state, and local laws, ordinances, and regulations, including environmental requirements that are in force or which may hereafter be in force, and

(2) Secure all necessary permits and licenses for the uses of the Premises authorized in this Lease.

D. Pedestrian and bicycle access to the Premises is by way of public trails, sidewalks, and adjacent roadways. Further, direct access to ramps or traveled lanes of limited access highways is not permitted.

E. TENANT shall not commit or allow to be committed any waste upon the Premises nor allow any public or private nuisance.

F. TENANT may construct improvements on the Premises as further detailed in **Section 15** herein.

3. TERM. The Parties acknowledge that the Premises will not be available for the intended Use of Premises at the time of execution of this Lease. The parties agree that Tenant's use and occupancy of the Premises shall be for a term of twenty (20) years, commencing concurrent with the date WSDOT provides written notice that the Premises are open to and available for use by TENANT (the "Commencement Date"), and expiring at 11:59 PM on the last day of the month in which the twentieth (20th) anniversary of the Commencement Date occurs. The Commencement Date shall be memorialized by a written amendment to this Lease.

4. RENEWAL.

A. This Lease may be renewed by TENANT for two (2) additional twenty (20) year periods (each a "Renewal Period"); provided that:

(1) TENANT is not in default at the time of renewal or, if in default, has timely moved to cure such default after notice from WSDOT;

(2) TENANT has not been in default during the term of this Lease, or, if Tenant has defaulted during the term of this Lease, TENANT has cured said default to the sole satisfaction of WSDOT;

(3) There is presently no highway need for the Premises;

(4) TENANT's continued use under this Lease does not impair the safety or operation of WSDOT's highway or facility, as solely determined by WSDOT; and

(5) The terms and conditions of this Lease conform to WSDOT policies or practices, laws, regulations, and contracts in effect at the time of renewal. If the terms and conditions of this Lease do not conform to then-existing WSDOT policies or practices, laws, regulations and contracts, WSDOT shall provide written notification of such noncompliance at least one hundred eighty calendar days (180) calendar days prior to the expiration date of the then current term. If TENANT desires to renew, it shall agree to execute an amendment to this Lease to bring it into compliance with such policies, practices, laws, regulations, and contracts prior to the expiration of the then current Term.

B. TENANT shall give notice of its intent to renew this Lease for the Renewal Period at least one (1) year, but not more than two (2) years, prior to the expiration of this Lease, or any extension thereof.

C. The Renewal Period shall be on the same terms and conditions as set forth herein, except as modified by any changes in policies, practices, laws, regulations, or contracts and as reflected in a written amendment signed by both Parties.

5. HOLDING OVER.

A. In the event TENANT shall hold over or remain in possession of the Premises with the consent of WSDOT after the expiration of the stated term of this Lease, or any written extension or renewal of the term of this Lease, such holding over period or continued possession shall create a tenancy from month-to-month only, upon the same terms and conditions as are set forth herein; provided that WSDOT or TENANT may, in addition to other remedies provided elsewhere herein, terminate this Lease for any reason with not less than twenty (20) calendar days prior written notice.

B. In the event this Lease is amended to require payment of fair market value rent, upon commencement of the hold over period, if the rents are not currently being paid on a monthly basis, TENANT covenants and agrees to pay rent for the Premises to WSDOT in advance on or before the 1st day of each calendar month (Due Date) during the hold over period.

(1) Monthly rent for the hold over period shall be calculated based on the amount of the current rent at the time in which TENANT enters into hold over status. Said rents shall be calculated on a 30-day monthly period over a twelve (12) month period to determine monthly rent amount for the hold over period and will continue to be subject to Rent Adjustments as detailed in **Section 8.** herein.

(2) In no event shall the rent be less than the Fair Market Value, as that term is defined in Section 7 of this Lease.

6. TERMINATION.

A. TERMINATION BY WSDOT.

(1) WSDOT may terminate this Lease in whole or in part without penalty or further liability as provided in this Section 6. The termination of a specific portion of the Premises, but not the entire Premises, shall constitute a termination in part. Termination in whole or in part may occur:

(a) Upon not less than thirty (30) calendar days prior written notice to TENANT, if by the end of that thirty (30) day period TENANT has failed to cure a default for nonpayment of amounts due under this Lease;

(b) Upon not less than sixty (60) calendar days prior written notice to TENANT, if TENANT defaults on a material duty under this Lease, other than for nonpayment of rent, and fails to cure such default within that sixty (60) calendar day period, or such longer period as may be reasonably determined solely by WSDOT, so long as TENANT is diligently working to cure the default during that period;

(c) Immediately, upon written notice, if WSDOT is required by court order, by legislative action, or by a governmental agency having jurisdiction to take some action, which would effectively prohibit TENANT's use of the Premises;

(d) Immediately, upon written notice, if a receiver is appointed to take possession of TENANT's assets, the TENANT makes a general assignment for the benefit of creditors, or the TENANT becomes insolvent or voluntarily takes or suffers action under the Bankruptcy Act; provided that WSDOT may not terminate the Lease under this Section 6.A.1.d if TENANT is actively disputing or resisting an action instituted under the Bankruptcy Act by a third party;

(e) Upon not less than three hundred sixty-five (365) calendar days prior written notice, unless an emergency exists, if WSDOT needs the Premises for a highway purpose that conflicts with TENANT's use, operation, and maintenance of the Premises;

(f) Upon not less than thirty (30) calendar days prior written notice if the Premises has been abandoned, in WSDOT's sole reasonable judgment, for a continuous period of ninety (90) calendar days; unless TENANT's apparent abandonment of the Premises is excused by Force Majeure under Section 44; or

(g) Immediately, if an emergency exists as determined by WSDOT in its sole and reasonable discretion. For purposes of this Section 6.A.1.g an emergency includes but is not limited to a Force Majeure Event (as defined in Section 44), a significant and continuing endangerment of life or the Premises or of the SR 520 highway facility or its ancillary structures, including but not limited to discovery of a severe structural deficiency which irreconcilably precludes TENANT's uses of the Premises due to reasons of safety and that cannot be accommodated or managed through revisions to or temporary interruption of those uses.

(2) Waiver or acceptance of any default of the terms of this Lease by WSDOT shall not operate as a release of the TENANT's responsibility for any prior or subsequent default.

(3) WSDOT agrees that if WSDOT terminates this Lease under Section 6.A.1 as to one or more portions of the Premises, but less than all of them, then this Lease shall not terminate as to the remaining portions depicted in Exhibit A and this Lease shall remain in full effect and force as to those remaining portions of the Premises. The Parties' Designated Representatives shall update Exhibit A via amendment of this Lease to delete any individual portions of the Premises as to which WSDOT exercises its termination rights under Section 6.A.1.

(4) If TENANT's use of any of portion of the Premises create conflict with the motoring public or impact operations of SR 520, including but not limited to any WSDOT Plans to construct or maintain other highway facilities, then at WSDOT's sole discretion, this Lease may be terminated as to that portion by WSDOT. Except in the event of an emergency, not less than one hundred eighty (180) calendar days prior to potential closure of a portion of the Premises under this Subsection, WSDOT will provide TENANT with notice of the date by which the closure will occur. TENANT will cease operations of the portion(s) of the Premises on the date indicated in said notice. If TENANT's Transit Uses may be accommodated elsewhere within the Premises, then TENANT may be given the ability to move or modify the Premises, at WSDOT's sole discretion and at TENANT's sole expense, in such a manner as agreed to by the Parties. WSDOT will not be liable to reimburse TENANT for any method TENANT chooses to use to provide transit service as a result of service disruptions resulting from such termination or accommodation.

B. TERMINATION BY TENANT.

(1) TENANT may terminate this Lease in whole or in part without penalty or further liability as provided in this Section 6.B. The termination of a specific portion of the Premises, but not the entire Premises, shall constitute a termination in part. Termination in whole or in part may occur:

(a) Upon not less than thirty (30) calendar days prior written notice for any reason;

(b) Upon not less than thirty (30) calendar days prior written notice, if WSDOT defaults and fails to cure such default within that thirty (30) calendar day period, or such longer period, as may be reasonably determined by TENANT, if WSDOT is diligently working to cure the default;

(c) Immediately, upon written notice, if in TENANT's judgment the Premises is destroyed or damaged so as to substantially and adversely affect TENANT's authorized use of the Premises; or

(d) TENANT may terminate this Lease for lack of appropriation, and TENANT's costs associated with such a termination, if any, shall not exceed TENANT's appropriation for the work contemplated in this Lease for the biennium in which termination occurs.. Notwithstanding any contrary provision in this Lease, such termination for non-appropriation shall occur automatically upon the end of the last calendar year for which there was sufficient appropriation, and TENANT shall have no further obligations that extend beyond the end of such calendar year except as to matters that survive the expiration or termination of this Lease. As between the Parties, the sufficiency of any appropriation shall be determined by the General Manager of the Metro Transit Department in its sole and absolute discretion; or

(e) At the time the Premises transfers to a condemning authority, if there is a condemnation of all or part of the Premises, including a sale of all or part of the Premises to a purchaser with the power of eminent domain in the face of the exercise of the power. In such event, each Party shall be entitled to pursue their own separate awards with respect to such taking.

(2) WSDOT agrees that if TENANT terminates this Lease as to one or more of the portions of the Premises, but less than the entire Premises, then this Lease shall not terminate as to the remaining portions of the Premises and this Lease shall remain in full effect and force as to those remaining portions. The Parties' Designated Representatives shall update Exhibit A to delete any individual portion or portions of the Premises as to which TENANT exercises its termination rights under this Section 6.B.

7. CONSIDERATION.

A. WSDOT and TENANT agree that the current annual fair market rental value of the Premises is \$3,393.00 ("Fair Market Value"). WSDOT and TENANT further agree that the current value of TENANT's annual operation and maintenance of WSDOT's North Seattle Park and Ride Lot is equivalent in value to the Fair Market Value. WSDOT has determined that TENANT's operation and maintenance of the North Seattle Park and Ride Lot is a highway benefit. WSDOT agrees that TENANT's annual operation and maintenance of WSDOT's North Seattle Park and Ride Lot can be used as consideration to offset the rent for the Premises. TENANT's operation and maintenance of the North Seattle Park and Ride Lot is further described in WSDOT Agreement

No. CA-01-14339 – Cooperative Agreement, Operation and Maintenance of the North Seattle Park and Ride Lot.

B. TENANT's responsibility for operation and maintenance of the North Seattle Park and Ride Lot is strictly limited to those specific tasks outlined in WSDOT Agreement No. CA-01-14339 – Cooperative Agreement, Operation and Maintenance of the North Seattle Park and Ride Lot.

C. In the event that the TENANT's operation or maintenance of the North Seattle Park and Ride Lot is reduced, the Parties agree to reevaluate the annual value to WSDOT of TENANT's remaining obligations for the operation and maintenance of the North Seattle Park and Ride Lot and to reevaluate the then current annual fair market rental value of the Premises. If the then-current annual fair market rental value of the Premises exceeds the annual value to WSDOT of TENANT's remaining obligation for the operation and maintenance of the North Seattle Park and Ride Lot, the Parties agree to amend this Lease to provide for payment of fair market value rent or other consideration in lieu of rent. In the event that WSDOT Agreement No. CA-01-14339 – Cooperative Agreement, Operation and Maintenance of the North Seattle Park and Ride Lot is terminated, the Parties agree to amend this Lease to provide for payment of fair market value rent or other consideration in lieu of rent.

D. In the event that the TENANT decides to expand its use of WSDOT's property to include some or all of the 900 square-foot area reserved by WSDOT for a future use by TENANT as depicted on **Exhibit A**, TENANT shall provide written notice to WSDOT. WSDOT shall determine the then-current annual fair market value rent for the additional square footage to be used by TENANT, and the Parties agree to amend this Lease to provide for payment of fair market value rent or other consideration in lieu of rent for the additional square footage to be used by TENANT and to modify **Exhibit A** to depict the Premises.

All payments are to be made payable to the Washington State Department of Transportation, on or before the above Due Date and mailed or delivered to WSDOT:

DEPARTMENT OF TRANSPORTATION (Mailing Address)
Attn.: Property Management Program Manager
P.O. Box 47339
Olympia, WA 98504-7339

DEPARTMENT OF TRANSPORTATION (Physical Address)
Attn.: Property Management Program Manager

7345 Linderson Way S.W.
Tumwater, WA 98501

8. RENT ADJUSTMENTS.

A. In the event this Lease is amended to require payment of fair market value rent, the rent shall automatically increase annually on the Commencement Date at the rate of 2% (hereinafter the “Annual Increase Factor”) of the rent in effect during the preceding Lease year. WSDOT may, in its reasonable discretion, adjust the Annual Increase Factor on or after the fifth anniversary of the Commencement Date, and then no more frequently than on or after the fifth anniversary of the most recent adjustment of the Annual Increase Factor. The percentage change of the Annual Increase Factor shall be based on the percentage change that occurred during the years between adjustment of the Annual Increase Factor in the U.S. Consumer Price Index for All Urban Consumers (U.S. CPI-U), using the data as published by the United States Department of Labor’s Bureau of Labor Statistics, or its successor; provided that, in the event such index is discontinued the parties hereto shall select and use for such adjustment purpose, a similar index that reflects consumer price changes generally recognized as an authority by financial and insurance institutions (By way of illustration only, if the Base CPI is 189.7 and the CPI figure for the fourth calendar month before the adjustment year is 256.143, then the rent for that year shall be increased by 1.350 percent. Calculation is $256.143 \div 189.70 = 1.350\%$). Provided, however, that in no event shall the Annual Increase Factor be adjusted downward. WSDOT shall give not less than thirty (30) calendar days’ prior written notice to TENANT that the Annual Increase Factor has been adjusted under this Subsection A. This notice shall include the amount of the new Annual Increase Factor, the amount of the new rent, and the date the new rent is to become effective.

9. ENCUMBRANCES. TENANT shall not encumber the Premises, including, but not limited to, encumbering the Premises with any charge, mortgage, judgment, lien, sublease, or security interest.

10. MAINTENANCE.

A. TENANT shall perform or cause to be performed at its expense all maintenance of the Premises, including improvements thereon, if any. Such maintenance will include, but not be limited to, keeping the Premises in good condition, both as to safety and appearance, and in a manner so as to assure the improvements and condition of the Premises do not adversely affect the highway safety and appearance and that such maintenance will cause no interference with the highway use, all to the satisfaction of WSDOT. Application of pesticides and herbicides within WSDOT right of way as part of TENANT’s maintenance of the Premises shall be performed by, or under, the direct supervision of TENANT’s officers, officials, employees, and/or agents who possess a current Public Operator or Commercial Pesticide Operator license. Washington State

Department of Agriculture Pesticide Application Records shall be kept by TENANT for each application in accordance with RCW 17.21 and be produced to WSDOT within five (5) calendar days after WSDOT requests the records.

B. WSDOT agrees that this Section 10 imposes no duty on TENANT to maintain any portion of the highway infrastructure that may be located within the Premises, but which does not solely serve TENANT's uses authorized under this Lease (e.g. highway deck, driving lanes, support columns or abutments, stormwater system, highway signage, paint striping, etc.).

11. SUBSEQUENT USE FOR TRANSPORTATION PURPOSES

A. TENANT and WSDOT hereby affirm that upon expiration or termination, in whole or in part, of this Lease for any reason and the subsequent use of the Premises for transportation or other purposes, such use will not be considered the use of any publicly owned land from a public park, recreation area, or wildlife and waterfowl refuge within the meaning of 23 U.S.C. § 138 and/or 49 U.S.C. § 303 (former 49 U.S.C. § 1653(f), Section "4f"). If this Lease is terminated, in whole or in part, for transportation or other purposes and WSDOT or authorized local, state, or federal official having jurisdiction of the land or a court of competent jurisdiction determines that replacement of all or any portion of the Premises is required under 23 U.S.C. § 138 and/or 49 U.S.C. § 303, TENANT agrees to acquire any necessary replacement lands promptly at its own expense, and hold harmless WSDOT from any such related costs.

B. TENANT further acknowledges, agrees, and promises not to use Outdoor Recreation Funds as provided for in the Land and Water Conservation Act, 16 U.S.C. § 460-l, sections 4-11 (see section 8(f)(3)).

12. SIGNS/DISPLAY/ADVERTISING DEVICES.

A. Signs, display, or advertising devices are not permitted on the Premises unless they comply with RCW 47.42 and WAC 468-66 and are completely detailed on a separate plan sheet which has been approved in writing by WSDOT and incorporated by reference into this Lease. Such advertising shall only indicate ownership and type of on-Premise activities.

B. TENANT is hereby permitted to install and maintain the signs, displays, and/or advertising devices as set forth in the sign plan sheet attached hereto as **Exhibit B**. Within thirty (30) calendar days of the Commencement Date, TENANT at its expense shall erect and maintain a permanent sign at a location on the Premises approved by WSDOT stating as follows: *"This Bike Parking Facility is located on highway right of way in partnership between King County Metro Transit Department and the Washington State Department of Transportation."*

13. PERSONAL PROPERTY. WSDOT shall not be liable in any manner for, or on account of, any loss or damage sustained to any property of whatsoever kind stored, kept, or maintained on or about the Premises, except for such claims or losses that may be caused by WSDOT or its authorized agents or employees. Upon termination of this Lease, WSDOT or its agent may remove all property remaining on the Premises at TENANT's expense and dispose of it in any manner WSDOT deems appropriate. TENANT agrees to reimburse WSDOT for the costs of such removal and disposal within thirty (30) calendar days of the date of WSDOT's invoice.

14. FENCES. Any WSDOT-owned fences in place at the time of execution of this Lease or relocated to separate the Premises from the traveled roadway will be maintained by WSDOT for the duration of the Lease. Tenant shall attach nothing to WSDOT's fence without WSDOT's prior written approval. If any fence is damaged as a result of TENANT's activities, TENANT will immediately repair such damage at its cost and to WSDOT's satisfaction; provided that, if TENANT fails to complete said repair immediately WSDOT may complete the repair and TENANT agrees to reimburse WSDOT for the cost of said repair within thirty (30) calendar days of the date of WSDOT's invoice.

15. CONSTRUCTION WORK.

A. TENANT is hereby authorized to construct the improvements and or perform the Work on the Premises as set forth in **Exhibit C** (Bike Parking Facility Plans), attached hereto and by this reference made a part hereof. For the purposes of this Lease, the term "Work" shall include, but not be limited to activities such as construction, installation, repair, or reconstruction of an improvement.

B. TENANT covenants that any Work it may perform on the Premises will not at any time during or after construction either damage, threaten to damage, or otherwise adversely affect any part or element of the highway facility or the operation thereof. In addition, the design, occupancy, or use of any improvement shall not interfere with the use, the safety, the appearance, nor the enjoyment of the highway facility nor produce fumes, vapors, odors, drippings, droppings, or discharge of any kind. WSDOT shall be furnished with one set of complete plans, details, and specifications and any revisions thereto for all improvements proposed to be placed on the Premises. No work shall be done without the prior written approval of such plans by WSDOT. All construction work shall be done in conformity with the plans and specifications as approved. WSDOT may take any action necessary, including directing that work be temporarily stopped or that additional work be done, to ensure compliance with the plans and specifications, protection of all parts and elements of the highway facility, and compliance with WSDOT's construction and safety standards. The improvements shall be designed and constructed in a manner that will permit access to the highway facility for the purpose of inspection, maintenance, and construction by WSDOT.

16. NON-COMPLETION OF CONSTRUCTION. In the event that this Lease authorizes the construction of improvements, unless the time or times for completion are extended in writing by WSDOT, WSDOT may, at its option, terminate this Lease, without penalty or further liability if:

A. Construction of the improvements is not begun within one hundred twenty (120) days of the Commencement Date; and

B. Construction of the improvements is not prosecuted to completion with reasonable adherence to a construction schedule that allows not more than one hundred twenty (120) days from the start to the finish of construction.

17. "AS-BUILT" PLANS. Within sixty (60) calendar days following TENANT's completion of improvements to the Premises, TENANT shall furnish WSDOT a complete set of reproducible "As-Built" plans, acceptance of which shall be subject to WSDOT's approval, which approval shall not be unreasonably withheld, conditioned, or delayed.

18. USE OF RIGHT OF WAY UNDER/ADJACENT TO STRUCTURE.

A. TENANT shall not weld any metal object to any metal member of any metal structure, nor drill or rivet into nor otherwise fasten anything to any pier or beam on any concrete, metal, or wood structure without WSDOT's specific written approval of detailed drawings for such welding, riveting, drilling, or fastening.

B. TENANT shall at its own expense, and upon prior written approval from WSDOT, make any provisions it deems necessary to protect users of the proposed facility from any hazards resulting from use and operation of the highway.

19. WSDOT'S RIGHT OF ENTRY/INSPECTION.

A. WSDOT, for itself, its agents and contractors, and for the Federal Highway Administration (FHWA), reserves the right to enter upon the Premises at any time without notice to TENANT for the purpose of inspection, maintenance, construction, or reconstruction of the highway facility or any element thereof, to perform security audits, or to perform environmental audits as provided for elsewhere in this Lease. If WSDOT's exercise of such right results in TENANT's inability to use of the Premises, WSDOT will compensate TENANT by providing a pro rata reduction of rent. WSDOT shall in no way be responsible for any incidental or consequential damages due to such loss of use, if any, by TENANT.

B. WSDOT and FHWA may enter upon the Premises at any time without prior notice for the purpose of inspecting any excavation, construction, or maintenance work being done by TENANT. In addition, WSDOT and FHWA may enter the improvements, if any, on the Premises

at any time and without prior notice, for the purpose of inspection, maintenance, and repair of said improvements.

C. Entry upon the Premises and the improvements, if any, for any other purpose by WSDOT and FHWA (or both of them) shall be conducted with reasonable notice to TENANT and during the hours of 8:00 a.m. to 5:00 p.m.

20. DISPOSITION OF IMPROVEMENTS. Upon termination of this Lease, TENANT will remove its improvements unless otherwise directed by WSDOT. In the event TENANT fails to remove said improvements upon termination, WSDOT may remove and dispose of said improvements as it deems appropriate and at TENANT's expense. TENANT shall reimburse WSDOT for all expenses incurred in such removal and disposal within thirty (30) calendar days of the date of WSDOT's invoice for such costs.

21. VACATION OF PREMISES. Upon termination of this Lease, TENANT shall cease its operations on and use of the Premises. In the event TENANT fails to vacate the Premises on the date of termination, TENANT shall be liable for any and all costs to WSDOT arising from such failure.

22. WSDOT ACCESS TO REMOVE IMPROVEMENTS. In the event TENANT fails to remove improvements or restore the Premises to WSDOT's satisfaction, then if necessary or desirable in WSDOT's judgment for reasons of safety or economy, WSDOT or its agents shall have the right to cross any lands owned or otherwise controlled by TENANT for the purpose of accomplishing said removal or restoration. Said right shall expire one hundred eighty (180) calendar days after the date of termination of this Lease, or when removal and restoration is complete in WSDOT's judgment, whichever is the earlier.

23. RESTORATION OF PREMISES. Prior to termination of this Lease, TENANT agrees, if so directed by WSDOT, to restore the Premises to its condition prior to TENANT's occupancy, reasonable wear and tear excepted. This work is to be done at TENANT's expense to the satisfaction of WSDOT. If WSDOT directs TENANT to restore the Premises pursuant to this Section 23, then TENANT and WSDOT shall conduct a joint walkthrough of the Premises to confirm TENANT's restoration work and upon conclusion of the joint walk-through WSDOT shall sign a document confirming that TENANT has complied with and fully satisfied this Section 23.

24. NON-APPLICABILITY OF RELOCATION ASSISTANCE. TENANT acknowledges that this Lease does not at any time entitle TENANT to assistance by or through WSDOT under the Relocation Assistance - Real Property Acquisition Policy (RCW 8.26).

25. WSDOT'S RESERVATION OF RIGHT TO MAINTAIN/GRANT UTILITY FRANCHISES/PERMITS.

A. WSDOT reserves the right for utility franchise and permit holders to enter upon the Premises to maintain, repair, and enhance existing facilities and install new utilities and, for itself, to grant utility franchises and/or permits across the Premises. Such installation will be accomplished in such a manner as to minimize any disruption to TENANT and without utilizing any TENANT-owned improvements. The franchise/permit holder will be required to restore paving and grading damaged by the installation. WSDOT also reserves the right to withdraw portions of the Premises for uses such as, but not limited to, communications sites, which WSDOT determines to be reasonably compatible with TENANT's authorized use of the Premises, and without utilizing any TENANT-owned improvements located on the Premises. WSDOT may not authorize third-party use of any TENANT-owned improvements located on the Premises.

B. WSDOT shall notify the TENANT by email (Construction.Coord@kingcounty.gov) prior to any utility franchise and permit holders work that may impact the Premises. Except as otherwise noted in Section 42, notices provided under this Section 25 are only for notification of utility franchise and permit holders work.

C. TENANT shall not disturb markers installed by a franchise/permit holder and will contact and provide notice to any franchise/permit holder and all owners of underground facilities prior to any excavation. TENANT shall contact WSDOT and call the Underground Utility Locating Service, or its successor organization, as part of its efforts to ascertain any and all owners of underground utility facilities and to locate the utility. TENANT shall not damage legally installed underground utilities. TENANT shall comply with all applicable provisions of RCW 19.122 relating to underground facilities.

26. TAXES/ASSESSMENTS/UTILITIES. TENANT agrees to pay all assessments that benefit the Premises and/or which may hereafter become a lien on the interest of TENANT in accordance with RCW 79.44.010. TENANT also agrees to pay all taxes that may hereafter be levied or imposed upon the interest of TENANT or by reason of this Lease. TENANT is responsible for and agrees to pay the cost of utilities, including, but not limited to, surcharges, fuel adjustments, rate adjustments and taxes that serve TENANT's improvements to the Premises.

27. LIENS.

A. Nothing in this Lease shall be deemed to make TENANT the agent of WSDOT for purposes of construction, repair, alteration, or installation of structures, improvements, equipment, or facilities on the Premises. TENANT acknowledges that WSDOT may not, and shall not, be subject to claims or liens for labor or materials in connection with such activities by TENANT.

B. TENANT shall at all times indemnify and hold harmless WSDOT from all claims for labor or materials in connection with construction, repair, alteration, or installation of structures, improvements, equipment, or facilities on or within the Premises, and from the cost of defending against such claims, including attorney fees.

C. In the event a lien is filed upon the Premises, TENANT shall:

(1) Record a valid Release of Lien;

(2) Deposit sufficient cash with WSDOT to cover the amount of the claim on the lien in question and authorize payment to the extent of said deposit to any subsequent judgment holder that may arise as a matter of public record from litigation with regard to lienholder claim; or

(3) Procure and record a bond which releases the Premises from the claim of the lien and from any action brought to foreclose the lien.

D. Should TENANT fail to accomplish C.(1), (2), or (3), above, within fifteen (15) calendar days after the filing of such a lien, the Lease shall be in default per **Section 6**.

28. ENVIRONMENTAL REQUIREMENTS.

A. TENANT represents warrants and agrees that it will conduct its activities on the Premises in compliance with all applicable Environmental Laws. As used in this Lease, "Environmental Laws" means all federal, state and local environmental laws, rules, regulations, ordinances, judicial or administrative decrees, orders, decisions, authorizations or permits, including, but not limited to, the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et. seq., the Clean Air Act, 42 U.S.C. § 7401, et seq., the Federal Water Pollution Control Act, 33 U.S.C. § 1251, et seq., the Emergency Planning and Community Right to Know Act, 42 U.S.C. § 11001, et seq., the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601, et seq., the Oil Pollution Control Act, 33 U.S.C. § 2701, et seq., and Washington or any other comparable local, state, or federal statute or ordinance pertaining to the environment or natural resources and all regulations pertaining thereto.

B. Toxic or hazardous substances are not allowed to be brought on the Premises by TENANT, its agents, contractors and employees, without the express written permission of WSDOT and under such terms and conditions as may be specified by WSDOT. For the purposes of this Lease, "Hazardous Substances," shall include all those substances identified as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601, et seq., and the Washington Model Toxics Control Act, RCW 70A.305 et seq., and shall include gasoline and other petroleum products, provided,

that TENANT is hereby authorized to bring on to the Premises gasoline and petroleum products, herbicides, pesticides, and cleaning agents appropriate for the intended application when necessary to carry out the maintenance and operation requirements set forth in this Lease. To the extent such permission is granted, the transport, use, and disposal of such materials must be done in a legal manner by the TENANT.

C. TENANT agrees to cooperate in any environmental investigations conducted by or at the direction of WSDOT or any state, federal, or local agency with jurisdiction where there is evidence of contamination on the Premises, or where WSDOT is directed to conduct such audit by an agency having jurisdiction. TENANT will reimburse WSDOT within thirty (30) calendar days of the date of WSDOT's invoice for the cost of such investigations, where the need for said investigation is determined to be caused by the TENANT's operations. WSDOT will reimburse TENANT for costs of environmental investigations on the Premises that are conducted by TENANT where the need for such investigation is determined to be caused by WSDOT's operations. TENANT will provide WSDOT with notice of any inspections of the Premises, notices of violations, and orders to clean up contamination. TENANT agrees that WSDOT may participate in all settlement, remediation or abatement discussions arising out of or relating to environmental conditions on the Premises. In the event that TENANT fails to take remedial measures as duly directed by a state, federal, or local regulatory agency within ninety (90) calendar days of such notice, WSDOT may elect to perform such work, and TENANT covenants and agrees to reimburse WSDOT for all direct and indirect costs associated with WSDOT's work where said contamination is determined to have resulted from TENANT's authorized use of the Premises.

D. For the purposes of this Section 28, Costs shall include, but not be limited to, all response costs, disposal fees, investigatory costs, monitoring costs, civil or criminal penalties, and attorney fees and other litigation costs incurred in complying with any environmental laws, defined in 28.A.

E. TENANT agrees to defend, indemnify and hold harmless WSDOT from and against any and all claims, causes of action, demands and liability including, but not limited to, any Costs, liabilities, damages, expenses, assessments, penalties, fines, losses, judgments and attorneys' fees associated with the removal or remediation of any Hazardous Substances contingent on TENANT's written concurrence that the following requirements are met:

(1) The Hazardous Substances have been released or otherwise come to be located on the Premises, including Hazardous Substances that may have migrated from the Premises through water or soil to other properties; and

(2) The Hazardous Substances release was caused by or resulted from TENANT's activities on the Premises.

Contingent on TENANT's written concurrence that conditions (1) and (2) are met, TENANT further agrees to, defend, indemnify and hold WSDOT harmless from any and all liability arising from TENANT's offsite disposal, handling, treatment, storage, or transportation of any Hazardous Substances removed from the Premises by or on behalf of TENANT.

F. WSDOT agrees to indemnify, defend and hold TENANT harmless from and against any and all claims, causes of action, demands and liability including, but not limited to, any costs, liabilities, damages, expenses, assessments, penalties, fines, losses, judgments and attorneys' fees associated with the existence of, and/or removal or remediation of any Hazardous Substances, contingent on WSDOT's written concurrence that the following requirements are met:

(1) The Hazardous Substances have been released or otherwise come to be located on the Premises, including but not limited to Hazardous Substances that may have migrated from SR 520 or the Premises through water or soil to other properties; and

(2) The Hazardous Substances release is determined to have been caused by or result from activities other than TENANT's.

Contingent on WSDOT's written concurrence that conditions (1) and (2) are met, WSDOT further agrees to indemnify, defend, and hold TENANT harmless from any and all liability arising from the offsite disposal, handling, treatment, storage or transportation of any such Hazardous Substances removed from SR 520 or the Premises by or on behalf of WSDOT.

G. The provisions of this Section 28 shall survive the termination or expiration of this Lease.

29. INSURANCE (SELF INSURED).

A. TENANT's insurance policy or self-insurance program must provide liability coverage at least equivalent to that provided by Insurance Services Office, Inc. Commercial General Liability Coverage Form CG 00 01 07 (Coverages A & B) for not less than TWO MILLION (\$2,000,000.00) per occurrence, with a general aggregate amount of not less than FOUR MILLION (\$4,000,000.00) per policy period.

B. WSDOT acknowledges, agrees, and understands that TENANT maintains a fully funded Self-Insurance program consistent with King County Code chapter 2.21 for the protection and handling of TENANT's liabilities including injuries to persons and damage to property.

TENANT agrees, at its own expense, to maintain, through its Self-Insurance program, coverage for all of its liability exposures for this Lease. TENANT agrees to provide WSDOT with a certificate of self-insurance as adequate proof of coverage and provide WSDOT with at least thirty (30) calendar days prior written notice of any material change in TENANT'S Self-Insurance program.

C. If, after the Commencement Date of this Lease, TENANT elects to terminate its self-insured status and secure commercial liability coverage, then TENANT will promptly notify WSDOT and provide a certificate of insurance from an insurer licensed to conduct business in the State of Washington, in the amounts and types as set forth in Section 29.A. above. Further, TENANT shall provide to WSDOT a certificate of insurance within ten (10) calendar days of receiving a written notice from WSDOT for an increase in the coverage amounts as authorized in Section 29.D. below.

D. TENANT agrees that WSDOT may require increases in the insurance coverage required in this Lease no more often than every three (3) years or sooner by mutual written agreement; provided, any adjustments made shall be in accordance with reasonable prudent risk management practices and insurance industry standards. TENANT agrees to provide to WSDOT a certificate of self-insurance as adequate proof of coverage of insurance for the increased coverage amounts.

E. Coverage, if obtained by TENANT in compliance with this Section 29, shall not be deemed as having relieved TENANT of any liability.

F. WSDOT shall maintain insurance policy or self-insurance program providing liability coverage at least equivalent to that provided by Insurance Services Office, Inc. Commercial General Liability Coverage Form CG 00 01 07 (Coverages A & B) for not less than TWO MILLION (\$2,000,000.00) per occurrence, with a general aggregate amount of not less than FOUR MILLION (\$4,000,000.00) per policy period.

G. If WSDOT maintains a self-insurance program for any of WSDOT's liabilities, including injuries to persons and damage to property, then WSDOT agrees, at its own expense, to maintain, through its Self-Insurance program, coverage for its liability exposures for the Premises and SR 520 as set forth in this Lease. WSDOT agrees to provide TENANT with a certificate of self-insurance as adequate proof of coverage and provide TENANT with at least thirty (30) calendar days prior written notice of any material change in WSDOT's Self-Insurance program.

H. If, after the Commencement Date of this Lease, WSDOT elects to terminate its self-insured status and secure commercial liability coverage, then WSDOT will promptly notify TENANT and provide a certificate of insurance from an insurer licensed to conduct business in the State of Washington, in the amounts and types as set forth in Section 29.F above, or such other larger amounts and types as may be warranted under the circumstances.

I. Coverage, if obtained by WSDOT in compliance with this Section 29, shall not be deemed as having relieved WSDOT of any liability.

J. By requiring such minimum insurance coverage as specified herein, the Parties shall not be deemed or construed to have assessed the risks that may apply to either Party under this Lease. The Parties shall each assess their own respective risks and, if either Party deems appropriate and/or prudent, may maintain greater limits and/or broader coverage.

K. 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 Section 29 shall affect and/or alter the application of any other provision contained within this Lease.

L. Vendors or contractors of TENANT shall be required to carry their own liability insurance.

30. HOLD HARMLESS/INDEMNIFICATION/WAIVER.

A. TENANT and its successors and assigns shall protect, save, defend and hold harmless WSDOT, its authorized agents and employees, from all claims, actions, costs, damages, or expenses of any nature whatsoever arising out of or relating to the acts or omissions of TENANT, its agents, contractors, licensees, invitees or employees, on or in connection with the Premises. TENANT obligations under this Section 30.A shall not include any claims, costs, damages, or expenses arising out of or relating to the negligent acts or omissions of WSDOT or its authorized agents, invitees or employees; PROVIDED that if claims, actions, costs, damages, or expenses arise out of or relate to the concurrent negligence of (i) WSDOT, its agents, contractors, invitees or employees and (ii) TENANT, its agents, contractors, licensees, invitees or employees, or (iii) involve actions covered by Ch. 4.24.115 RCW, then this Section 30.A shall be valid and enforceable only to the extent of the negligent acts and omissions of TENANT and its agents contractors, licensees, invitees or employees.

B. WSDOT and its successors and assigns shall protect, save, defend and hold harmless TENANT, its authorized agents and employees, from all claims, actions, costs, damages, or expenses of any nature whatsoever arising out of or relating to the acts or omissions of WSDOT,

its agents, contractors, invitees or employees in connection with the Premises or SR 520 to the extent SR 520 is addressed in this Lease. WSDOT's obligations under this Section 30.B shall not include such claims, costs, damages, or expense to the extent caused by the negligent acts or omissions of TENANT or its agents, contractors, licensees, invitees or employees; PROVIDED that if the claims or damages are caused by or result from the concurrent negligence of (i) TENANT, its agents, contractors, licensees, invitees or employees and (ii) WSDOT, its agents, contractors, invitees or employees, or (iii) involves actions covered by Ch. 4.24.115 RCW, then this Section 30.B shall be valid and enforceable only to the extent of the negligent acts and omissions of WSDOT and its agents, contractors, licensees, invitees or employees.

C. TENANT specifically assumes potential liability for actions brought by TENANT's own employees against WSDOT and, solely for the purpose of this indemnification and defense, TENANT specifically waives any immunity under the state industrial insurance law, Title 51 RCW, which waiver has been mutually negotiated by the Parties.

D. WSDOT specifically assumes potential liability for actions brought by WSDOT's own employees against TENANT and, solely for the purpose of this indemnification and defense, WSDOT specifically waives any immunity under the state industrial insurance law, Title 51 RCW, which waiver has been mutually negotiated by the Parties.

E. The indemnification provisions in this Section 30 shall survive the expiration or termination of this Lease.

31. NONDISCRIMINATION. TENANT, for itself, its successors, and assigns, as part of the consideration hereof, does hereby agree to comply with all applicable civil rights and antidiscrimination requirements, including, but not limited to, RCW 49.60.

32. ASSIGNMENT.

A. Neither this Lease nor any rights created by it may be assigned, sublet, or transferred by TENANT without the prior written approval of WSDOT. Any such assignment shall be in writing on a form approved by WSDOT and shall include an assumption of the Lease by the assignee. In determining whether to approve an assignment or sublease WSDOT shall be entitled to consider the proposed assignee's or sublessee's financial condition, managerial capability, business reputation, nature of the proposed assignee's, or sublessee's business, and such other factors as may reasonably bear upon the suitability of the assignee or sublessee as a TENANT of the Premises or the holder of this Lease.

B. TENANT shall provide the written assignment form to WSDOT at least sixty (60) calendar days prior to the date TENANT requires the approved form. In addition, TENANT shall provide to WSDOT a copy of said written assignment within fifteen (15) calendar days of its

execution. WSDOT's consent to one assignment or sublease shall not waive the requirement of obtaining WSDOT consent to any subsequent assignment or sublease. TENANT hereby covenants that it is acting as principal and not as an agent for any undisclosed principal.

C. In the event TENANT assigns this Lease, sublets, or otherwise allows third party use of any portion of the Premises, whether by written or verbal agreement, without WSDOT's written approval, WSDOT, in addition to or in lieu of terminating this Lease for default and in addition to any damages it may experience, may demand a share of any revenue generated by such unauthorized use. WSDOT shall set the amount of said share and its decision shall be final and binding. WSDOT may demand such share at any time during the term of this Lease. TENANT agrees to pay said share retroactively to the date the unauthorized third-party use commenced. Furthermore, such unauthorized assignment shall not relieve TENANT from all of its obligations under this Lease, including, but not limited to, the payment of rent and the maintenance of insurance. Further, TENANT shall execute an assignment as provided above within ten (10) calendar days of the date WSDOT approves the assignment.

D. Notwithstanding anything in this Section 33 to the contrary, the installation, maintenance, removal, or replacement of TENANT's Micromobility Improvements by a contractor or vendor of TENANT shall not constitute an assignment, sublease, or other property interest in the Premises, and shall not require prior written approval of WSDOT.

34. BINDING CONTRACT. This Lease shall not become binding upon WSDOT unless and until executed for WSDOT by the Secretary of Transportation or such Secretary's duly authorized representative.

35. PERFORMANCE BY WSDOT. If TENANT defaults in the performance or observation of any covenant or agreement contained in this Lease, WSDOT, without notice if deemed by WSDOT that an emergency exists, or if no emergency exists, with thirty (30) calendar days prior written notice, may direct TENANT to stop all or a portion of its use of the Premises and may itself perform or cause to be performed such covenant or agreement and may enter upon the Premises for such purpose. Such emergency shall include, but not be limited to, endangerment of life, the highway facility or failure of TENANT to maintain self-insurance or obtain in a timely manner the replacement insurance coverage specified in Section 29. TENANT shall reimburse WSDOT the entire cost and expense of such performance by WSDOT and any legal fees WSDOT incurred in enforcing such reimbursement. TENANT shall make such reimbursement within thirty (30) calendar days of the date of WSDOT's invoice. Any act or thing done by WSDOT under the provisions of this Section shall not be construed as a waiver of any agreement or condition herein contained or the performance thereof.

36. MODIFICATIONS; NONWAIVER. This Lease contains all the agreements and conditions made between the parties hereto and may not be modified orally or in any other manner

other than by a written agreement signed by all parties hereto. The receipt of rent by WSDOT, with knowledge of any breach of this Lease by TENANT, and/or with knowledge of any default on the part of TENANT shall not be deemed to be a waiver of any provision of this Lease. Failure on the part of WSDOT to enforce any covenant or provision herein contained shall not discharge or invalidate such covenant or provision or affect the right of WSDOT to enforce the same in the event of any subsequent breach or default.

37. INTERPRETATION. This Lease shall be governed by and interpreted in accordance with the laws of the state of Washington without giving effect to its conflicts of law rules or choice of law provisions. The titles to paragraphs or sections of this Lease are for convenience only and shall have no effect on the construction or interpretation of any part hereof. The Parties hereby acknowledge and agree that:

- A. Each Party hereto is of equal bargaining strength;
- B. Each Party has actively participated in the drafting, preparation, and negotiation of this Lease;
- C. Each Party has reviewed this Lease and has consulted with its legal counsel and such other professional advisors as such Party has deemed appropriate, or had the opportunity to do so in relation to any and all matters contemplated under this Lease;
- D. Each Party has agreed to enter into this Lease following such review and the rendering of such advice; and
- E. Any rule of construction to the effect that ambiguities are to be resolved against the drafting parties shall not apply in the interpretation of this Lease, or any portion hereof, or any amendments hereto.

38. SEVERABILITY. In case any one or more of the provisions contained in this Lease shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Lease shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

39. TOTALITY OF AGREEMENT. It is understood that no guarantees, representations, promises, or statements expressed or implied have been made by TENANT or by WSDOT, except to the extent that the same are expressed in this Lease.

40. ATTORNEYS' FEES. In the event of any controversy, claim, or dispute arising out of this Lease, each party shall be solely responsible for the payment of its own legal expenses, including but not limited to, attorney's fees and costs, except as provided elsewhere in this Lease.

41. VENUE. TENANT agrees that the venue of any action or suit concerning this Lease shall be in the King County Superior Court and all actions or suits thereon shall be brought therein, unless applicable law requires otherwise.

42. NOTICES. Wherever in this Lease written notices are to be given or made, they will be served, personally delivered or sent by certified or overnight mail addressed to the Parties at the addresses listed below unless a different address has been designated in writing and delivered to the other Party. TENANT agrees to accept service of process at said addresses; and TENANT further designates the Clerk of the Metropolitan King County Council as an agent for the purpose of service of process, regarding litigation, but for no other purpose. Such service shall be deemed personal service. Notice shall be deemed given on the date that process is served or notice is personally delivered, or if mailed, upon the date shown on the return receipt. Notwithstanding anything in this Section 42 to the contrary, a Party may provide notice electronically via the email addresses listed below with delivery confirmation or read receipt (or both). A Party providing electronic notice shall bear the burden to prove the date that notice was delivered.

WSDOT: DEPARTMENT OF TRANSPORTATION (Mailing Address)
Attn.: Property Management Program Manager
P.O. Box 47338
Olympia, WA 98504-7338

DEPARTMENT OF TRANSPORTATION (Physical Address)
Real Estate Services
Attn.: Property Management Program Manager
7345 Linderson Way SW
Tumwater, WA 98501

TENANT: King County Metro Transit
Attn: Capital Division Director
201 South Jackson Street, M.S. KSC-TR-0435
Seattle, WA 98104-0431

Email: transitproperty@kingcounty.gov

43. LEASE MANAGEMENT; DISPUTE RESOLUTION.

A. Lease Management.

(1) Each party shall appoint a Lease Manager for this Lease who will provide oversight of their respective Party's activities conducted under this Lease. The Lease Managers will be the principal point of contact for the Parties concerning the

day-day operations and performance under this Lease. Each Party shall notify the other Lease Manager, in writing, when there is a new Lease Manager assigned to this Lease.

(2) The TENANT Lease Manager information is:

KING COUNTY METRO TRANSIT
KSC-TR-0431
201 South Jackson Street
Seattle, WA 98104
Attention: Real Estate and Environmental

(3) The WSDOT Lease Manager information is:

DEPARTMENT OF TRANSPORTATION (Physical Address)
Real Estate Services
Attn.: Property Management Program Manager
7345 Linderson Way SW
Tumwater, WA 98501-7384

B. Dispute Resolution.

(1) The following individuals are the Designated Representatives for the purpose of resolving disputes that arise under this Lease. Either Party may, by notice in writing to the other Party as provided under Section 42 of this Lease, designate a different or additional person to serve as that Party's Lease Manager or Designated Representative. Dispute Resolution notices shall be sent to:

WSDOT:
Headquarters Real Estate Services Program Administrator
Washington State Department of Transportation
P.O. Box 47338
Olympia, WA 98504-7338

TENANT:
Capital Division Director
King County Metro Transit
KSC-TR-0435
201 South Jackson Street
Seattle, WA 98104-0431

(2) The Parties' Designated Representatives shall confer to resolve disputes that arise under this Lease as requested by either Party. The Designated Representatives shall use their best efforts and exercise good faith to resolve such disputes.

(3) If the Designated Representatives are unable to resolve a dispute, then the appropriate WSDOT Regional Administrator or her/his designee and the General Manager of Metro Transit for TENANT or her/his designee shall confer and exercise good faith to resolve the dispute.

(4) If the WSDOT Regional Administrator and the General Manager of Metro Transit are unable to resolve the dispute, then the Parties may, if mutually agreed in writing, submit the matter to non-binding mediation. The Parties shall then seek to mutually agree upon the mediation process, who shall serve as the mediator, and the time frame the Parties are willing to discuss the disputed issue(s).

(5) Each Party shall bring to the mediation session, unless excused from doing so by the mediator, a representative from its side with full settlement authority. In addition, each Party shall bring counsel and such other persons as needed to contribute to a resolution of the dispute. The mediation process shall be considered settlement negotiations for the purpose of all state and federal rules protecting disclosures made during such negotiations from later discovery or use in evidence; provided, that any settlement agreement as may be executed by the Parties shall not be considered confidential and may be disclosed. Each Party shall pay its own costs for mediation and share equally in the cost of the mediator (TENANT – fifty percent; WSDOT – fifty percent). If other persons or entities also participate as independent parties to the mediation then the cost of the mediator shall be divided equally among all of the participating parties. The venue for the mediation shall be in Seattle, Washington, unless the Parties mutually agree in writing to a different location.

(6) If the Parties cannot mutually agree as to the appropriateness of mediation, as to the mediation process, or as to who shall serve as mediator, or the mediation is not successful, then either Party may institute a legal action in the County of King, State of Washington. The Parties agree that they shall have no right to seek relief in a court of law until and unless each of the above procedural steps in Section 43.B(1) through 43.B(3) inclusive has been exhausted.

44. FORCE MAJEURE.

A. "Force Majeure Event" or "Event" means any act or event that prevents the affected Party from performing its obligations under this Lease, if such act or event is beyond the reasonable control, and not the result of the fault or negligence, of the affected Party and such Party is unable

to overcome such act or event with the exercise of due diligence (including the expenditure of reasonable sums). Subject to the foregoing definition, Force Majeure Event may include natural phenomena, such as storms, hurricanes, floods, lightning or earthquakes; explosions or fires arising from causes unrelated to the acts or omissions of the Party seeking to be excused from performance; acts of war, civil unrest, public disorder, strikes or labor unrest that are not within the control of TENANT, sabotage, epidemic, rebellion, riot, or war or terrorism. Force Majeure Events shall not include equipment failures or acts or omissions of agents, suppliers, contractors or subcontractors, except to the extent that such acts or omissions arise from a Force Majeure Event as defined in this Section 44.A.

B. Except as otherwise specifically provided in this Lease, neither Party shall be considered in default or breach of this Lease or liable for any delay or failure to comply with this Lease, if and to the extent that such delay or failure is attributable to the occurrence of a Force Majeure Event. Provided, that the Party claiming relief based on a Force Majeure Event shall: (i) notify the other Party in writing of the existence and nature of the Force Majeure Event within three (3) business days of the occurrence of such event, unless the Force Majeure Event renders it impossible to give notice within such timeframe, in which case the Party claiming relief shall give notice as soon as it is practicable to do so; (ii) exercise all reasonable efforts to minimize delay caused by such Force Majeure Event; (iii) notify the other Party in writing of the cessation of such Force Majeure Event within three (3) business days of such cessation; and (iv) resume performance of its obligations under this Lease as soon as practicable thereafter.

C. Obligations to pay for services already provided shall not be excused by a Force Majeure Event. Provided, that if a Party's internal administrative operations are disrupted by a Force Majeure Event such that it is administratively unable to process a payment due to a Force Majeure Event, then the Party's duty to process and make such payment shall be suspended until such time as the Party is able to restore its administrative processes; and no penalty or interest shall attach to such suspension.

D. In the event of a Force Majeure Event that destroys all or a substantial portion of the Premises or SR 520 in the vicinity of the Premises, WSDOT shall, within sixty (60) calendar days following such event, communicate to TENANT WSDOT's anticipated process and timeline for determining whether to restore the Premises or such portion of SR 520. If WSDOT elects not to restore the Premises or such portion of SR 520, then this Lease shall terminate as to the affected portion of the Premises. If WSDOT anticipates that it will restore the Premises, or such portion of SR 520 then WSDOT shall so notify TENANT, and the Parties shall cooperate to implement such restoration, and the temporary or permanent relocation, if any, or reconfiguration, if any, of TENANT's improvements in the general vicinity of the Premises so that TENANT may continue its uses under this Lease. TENANT shall determine, within sixty (60) calendar days of receiving WSDOT's notice, whether to continue its use of the Premises. If TENANT elects not to continue

the Lease, then TENANT shall promptly remove its personal property consistent with Section 13 regarding Personal Property.

E. If this Lease is terminated pursuant to Section 44.D, then: (i) the Parties shall not be released from any payment or other obligations arising under this Lease prior to the Force Majeure Event and remaining due and owing after such event; and (ii) all terms and conditions that expressly survive the expiration or termination of this Lease, or by their nature should survive the expiration or termination of this Lease, shall continue to apply.

F. Notwithstanding anything to the contrary in this Section 44, if nonperformance due to a Force Majeure Event (or multiple Force Majeure Events) continues beyond two (2) consecutive calendar years, then either Party may terminate this Lease upon thirty (30) calendar days' notice to the other Party. Upon such termination TENANT shall decommission and remove its personal property and TENANT's improvements from the Premises as required under Section 13 of this Lease. If this Lease is terminated pursuant to this Section 44.F, then: (i) the Parties shall not be released from any payment or other obligation maturing under this Lease prior to the Force Majeure Event, and remain due and owing after such event; and (ii) all terms and conditions that expressly survive the expiration or termination of this Lease, or by their nature should survive the expiration or termination of this Lease, shall continue to apply.

45. COOPERATION IN EXECUTING SUBSEQUENT DOCUMENTS. WSDOT and TENANT agree to cooperate in executing any documents necessary to protect the rights of the Parties and not inconsistent with the rights granted by this Lease.

46. APPROVALS. Unless otherwise expressly stated herein, where a Party hereto has a right of approval hereunder, such approval shall not be unreasonably withheld, conditioned, or delayed.

47. SURVIVAL. Any terms and provisions of this Lease pertaining to rights, duties or obligations extending beyond the expiration or termination of this Lease, and all outstanding or remaining obligations accrued prior to the end of the Term, shall survive the end of the Term.

48. POLICE POWERS UNAFFECTED. Nothing contained in this Lease shall be considered or interpreted to diminish the governmental or police powers of King County or the State of Washington.

49. LEGAL RELATIONS. TENANT shall be deemed an independent contractor for all purposes, and the employees of TENANT or any of its contractors, subcontractors, and employees thereof shall not in any manner be deemed employees of WSDOT. WSDOT shall be deemed an independent contractor for all purposes, and the employees of WSDOT or any of its contractors, subcontractors, and employees thereof shall not in any manner be deemed employees of TENANT.

This Lease creates no right, privilege, duty, obligation, cause of action, or other interest in any person or entity not a party to it.

50. COUNTERPARTS. This Lease may be executed in counterparts, each of which shall be deemed the original, but which together shall constitute one and the same instrument.

51. AUTHORIZED SIGNATURES. The undersigned acknowledge that they are authorized to execute this Lease and bind their respective agencies to the obligations set forth herein.

52. EXHIBITS. The following exhibits are attached to this Lease:

- A. Premises
- B. Signage Plan Sheet
- C. Bike Parking Facility Plans

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IN WITNESS WHEREOF, the parties have executed this Lease as of the date of WSDOT's execution written below.

Signatures:

Accepted and Approved by:

KING COUNTY METRO TRANSIT

WASHINGTON STATE DEPARTMENT OF
TRANSPORTATION

By: _____

By: _____

Title: _____

Title: _____

Dated: _____

Dated: _____

APPROVED AS TO FORM

APPROVED AS TO FORM

By: _____
Senior Deputy Prosecuting Attorney

By: _____
Assistant Attorney General

Dated: _____

Dated: _____

AGENCY ACKNOWLEDGMENT

STATE OF WASHINGTON)

) ss.

County of King)

On this _____ day of _____, 20____ before me personally appeared _____, to me known to be the duly appointed _____ and that he/she executed the within and foregoing instrument and acknowledged the said instrument to be his/her free and voluntary act and deed of said State of Washington, for the uses and purposes therein set forth, and on oath Lessees that he/she was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the _____ day of _____, 20_____.

(Signature)

(Print or type name)

Notary Public in and for the State of Washington
residing at _____

My commission expires _____

WSDOT ACKNOWLEDGMENT

STATE OF WASHINGTON)

) ss.

County of King)

On this _____ day of _____, 20____ before me personally appeared _____, to me known to be the duly appointed _____, and that s/he executed the within and foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said State of Washington, for the uses and purposes therein set forth, and on oath states that s/he was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the _____ day of _____, 20____.

(Signature)

(Print or type name)

Notary Public in and for the State of Washington
residing at _____

My commission expires _____



KING COUNTY METRO BICYCLE PARKING & BIKE LOCKER AIRSPACE LEASE AREA (PREMISES)

Washington State
Department of Transportation

SR 520 Bridge Replacement and HOV Program



LEGEND

- METRO BICYCLE PARKING & BIKE LOCKER LEASE AREA
- WSDOT LIMITED ACCESS
- WSDOT RIGHT-OF-WAY

0 50 100
SCALE IN FEET

Exhibit A
Sheet 1 of 2

T.25N. R.4E. W.M. CITY OF SEATTLE

CURVE DATA				
P.I. STATION	DELTA	RADIUS	TANGENT	LENGTH
56+14.41	5°00'55" LT.	2,063'	90.35'	180.58'
63+36.87	12°02'13" RT.	500'	52.72'	105.04'

LEGEND

ACCESS TO BE PROHIBITED SHOWN THUS

PROPERTY OWNERSHIP NUMBERS

PROPERTY LINES

SCALE IN FEET

THE BASIS OF BEARINGS AND DISTANCES ARE DETERMINED FROM WASHINGTON COORDINATE SYSTEM NORTH ZONE (NAD 83/91).

THE DISTANCES SHOWN ARE GROUND DISTANCES.

FOR SURVEY INFORMATION SEE RECORD OF SURVEY SR 520 DATED FEBRUARY 14, 2007 AFN 20070215900002 AND RECORD OF SURVEY BY WASHINGTON STATE DEPARTMENT OF TRANSPORTATION OCTOBER 27, 2014 AFN 20141030900001 AND RECORD OF SURVEY BY WASHINGTON STATE DEPARTMENT OF TRANSPORTATION AUGUST 9, 2016 AFN 20160809900007.

MONTLAKE PARK ADDITION

By	Revision Description	Approval
STW	Revised R/W and L/A on Lt. Sta. 59+20 to 62+40.95	Letter 1-16-19
STW	Revised Area Parcel 1-23178; Revised Access Easement on Lt. Sta. 61+82± to 61+84±	Letter 1-30-19
STW	Revised Sta. 61+86.27 on Lt. Revised Surplus Property Offsets on Lt. Sta. 63+73.79 to 63+80.46	Letter 4-16-19
MRW	Revised Surplus Property ICN 7-17-15584 Area; Deleted Station & Offset Points S1, S2, S3 & Associated Point Table	Letter 5-15-19
STW	Revised R/W and L/A on Lt. Sta. 56+00 to 57+28.49	Letter 11-18-19

SOUND TRANSIT EASEMENT AND AIR SPACE LEASE

POINT	STATION	OFFSET
1	64+36.2	217.6' LT.
2	65+16.5	205' LT.
3	64+21.9	163.2' LT.
4	64+89.9	104.5' LT.
5	SEE SHEET 10	
6	SEE SHEET 10	
7	SEE SHEET 10	
8	SEE SHEET 10	
9	SEE SHEET 10	
10	SEE SHEET 10	

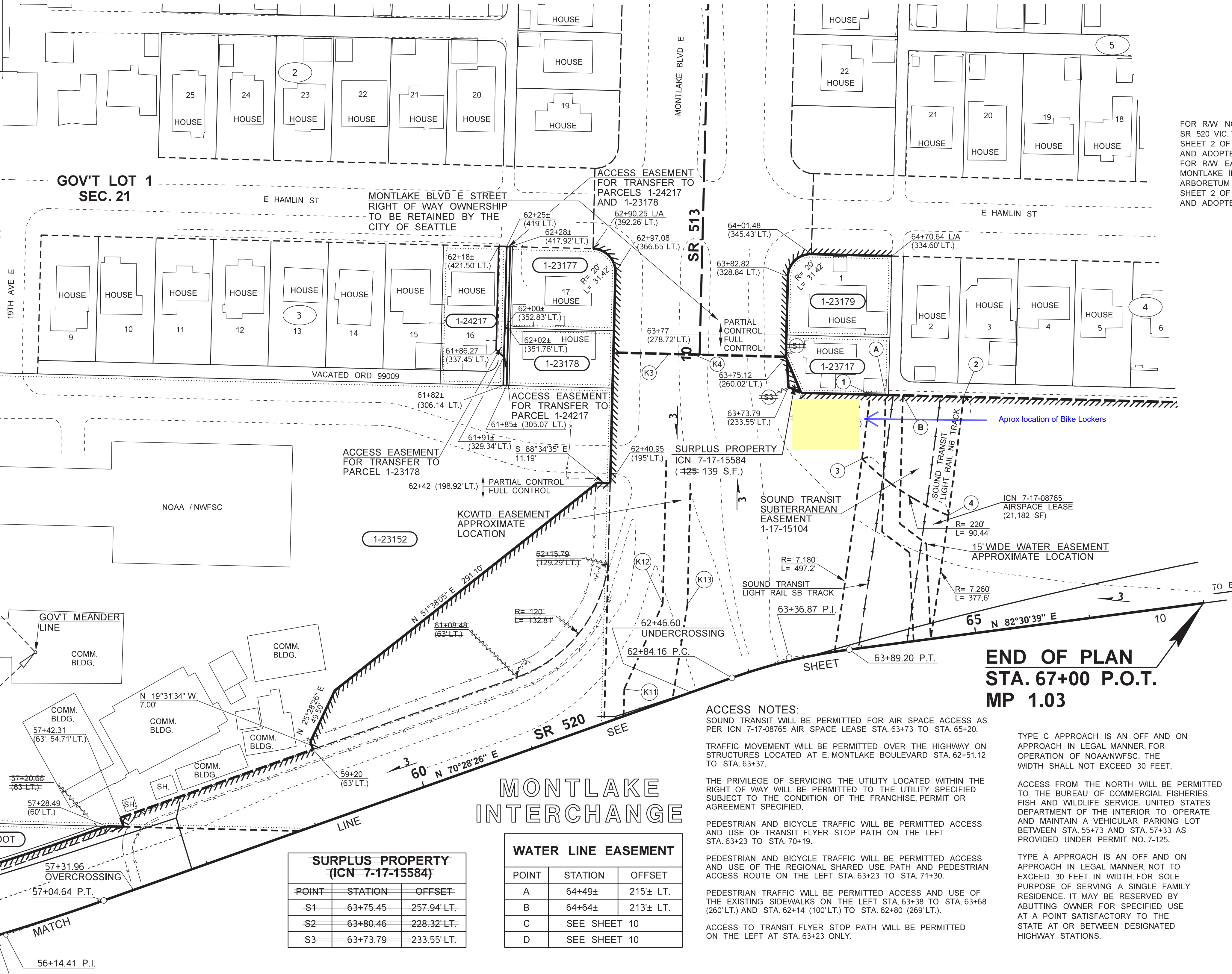
KCWTD EASEMENT

POINT	STATION	OFFSET
K1	SEE SHEET 10	
K2	SEE SHEET 10	
K3	63+11±	285' LT.
K4	63+24±	278.7' LT.
K5	SEE SHEET 10	
K6	SEE SHEET 10	
K7	SEE SHEET 10	
K8	SEE SHEET 10	
K9	SEE SHEET 10	
K10	SEE SHEET 10	
K11	61+93±	22.1' LT.
K12	62+49±	80.8' LT.
K13	62+69±	73.1' LT.

OWNERSHIPS

PARCEL NO.	NAME	TOTAL AREA	R/W	LT. REMAINDER RT.	EASMT	CENTERLINE OF APPROACH STATION	TYPE
1-24217	BURDICK MATTHEW & STEFENIE	6,506			* 651		
1-23717	SLC MONTLAKE LLC	4,770	ACCESS ONLY				
1-23179	SEANAYAKE, MIHINDU J & ROZANNI	6,384	ACCESS ONLY			64+56 (336.9' LT.)	A
1-23178	KRUTCH, WILLIAM	4,950	ACCESS ONLY		* 150		
1-23177	SMITH, DOUGLAS M & KATHERINE H	6,652	ACCESS ONLY		* 213		
1-23152	SEE SHEET 7					62+48 (214.1' LT)	C

TOTAL AREA IS FROM ASSESSOR'S RECORDS UNLESS OTHERWISE NOTED.



* ACCESS EASEMENT

SURPLUS PROPERTY (ICN 7-17-15584)

POINT	STATION	OFFSET
S1	63+75.45	257.94' LT.
S2	63+80.46	228.32' LT.
S3	63+73.79	233.55' LT.

WATER LINE EASEMENT

POINT	STATION	OFFSET
A	64+49±	215± LT.
B	64+64±	213± LT.
C	SEE SHEET 10	
D	SEE SHEET 10	

ACCESS APPROACH SCHEDULE

Reference	Approval	Revision Description	By
Letter 5-31-18	8-10-18	Added Surplus Property ICN 7-17-15584 and Area	BRM
Letter 1-19-18	3-2-18	Added Superseded Cross Reference Note and Type A Access Approach Parcel 1-23179	MRW
Letter 12-21-17	1-5-18	Deleted Temporary Construction Easement on Lt. Sta. 62+05.63 to 62+56±, and Point Table.	BHB
Letter 10-27-17	12-1-17	Revised Temporary Construction Easement on Lt. Sta. 62+23.51 to 62+05.63, Points N1 and N2	STW
Letter 9-13-17	10-6-17	Revised Access Easement For Transfer to Parcel 1-23178 on Lt. Sta. 61+91± to 62+18±; Added Access Easement For Transfer to Parcels 1-24217 and 1-23178 on Lt. Sta. 62+00± to 62+28±; Added Access Easement For Transfer to Parcel 1-24217 on Lt. Sta. 61+90± to 62+02±; Added Temporary Construction Easement on Lt. Sta. 62+06± to 62+56±	STW
Letter 6-14-17	7-14-17	Added Montlake Park Addition Block 3 Lots 9 and 10, Noted Houses and Vacated Ord 99009; Added Parcel 1-24217; Noted Access Easement for Transfer on Lt. Vic. Sta. 62+50; Noted Approximate Location KCWTD Easement and Added Sta. and Offsets in Table; Noted Sound Transit Light Rail SB Track on Lt. Vic. Sta. 64+00 and Corrected Track Locations	STW
Letter 2-13-17	3-3-17	Revised Sta. 56+14.41 P.I. Curve Data Delta; Revised SR 520 Bearing Vic. Sta. 65+50; Revised Sound Transit Easement and Air Space Lease on Lt. Sta. 64+36.2 to 65+16.5; Revised Water Line Easement on Lt. Sta. 64+49± to 64+64±; Revised Sta. Sound Transit Air Space Lease Access Note; Added KCWTD Easement on Lt. Vic. Sta. 62+00; Revised Area ICN 7-17-08765 Air Space Lease; Revised Areas Parcels 1-23177 thru 1-23179, and 1-23717; Noted R/W and L/A Width on Lt. Sta. 56+00; Added Fence Topography on Lt. Vic. Sta. 57+50 to 64+00	STW

ACCESS NOTES:

SOUND TRANSIT WILL BE PERMITTED FOR AIR SPACE ACCESS AS PER ICN 7-17-08765 AIR SPACE LEASE STA. 63+73 TO STA. 65+20.

TRAFFIC MOVEMENT WILL BE PERMITTED OVER THE HIGHWAY ON STRUCTURES LOCATED AT E. MONTLAKE BOULEVARD STA. 62+51.12 TO STA. 63+37.

THE PRIVILEGE OF SERVICING THE UTILITY LOCATED WITHIN THE RIGHT OF WAY WILL BE PERMITTED TO THE UTILITY SPECIFIED SUBJECT TO THE CONDITION OF THE FRANCHISE, PERMIT OR AGREEMENT SPECIFIED.

PEDESTRIAN AND BICYCLE TRAFFIC WILL BE PERMITTED ACCESS AND USE OF TRANSIT FLYER STOP PATH ON THE LEFT STA. 63+23 TO STA. 70+19.

PEDESTRIAN AND BICYCLE TRAFFIC WILL BE PERMITTED ACCESS AND USE OF THE REGIONAL SHARED USE PATH AND PEDESTRIAN ACCESS ROUTE ON THE LEFT STA. 63+23 TO STA. 71+30.

PEDESTRIAN TRAFFIC WILL BE PERMITTED ACCESS AND USE OF THE EXISTING SIDEWALKS ON THE LEFT STA. 63+38 TO STA. 63+68 (260' LT.) AND STA. 62+14 (100' LT.) TO STA. 62+80 (269' LT.).

ACCESS TO TRANSIT FLYER STOP PATH WILL BE PERMITTED ON THE LEFT AT STA. 63+23 ONLY.

TYPE C APPROACH IS AN OFF AND ON APPROACH IN LEGAL MANNER, FOR OPERATION OF NOAA/NWFS. THE WIDTH SHALL NOT EXCEED 30 FEET.

ACCESS FROM THE NORTH WILL BE PERMITTED TO THE BUREAU OF COMMERCIAL FISHERIES, FISH AND WILDLIFE SERVICE, UNITED STATES DEPARTMENT OF THE INTERIOR TO OPERATE AND MAINTAIN A VEHICULAR PARKING LOT BETWEEN STA. 55+73 AND STA. 57+33 AS PROVIDED UNDER PERMIT NO. 7-125.

TYPE A APPROACH IS AN OFF AND ON APPROACH IN LEGAL MANNER, NOT TO EXCEED 30 FEET IN WIDTH, FOR SOLE PURPOSE OF SERVING A SINGLE FAMILY RESIDENCE. IT MAY BE RESERVED BY ABUTTING OWNER FOR SPECIFIED USE AT A POINT SATISFACTORY TO THE STATE AT OR BETWEEN DESIGNATED HIGHWAY STATIONS.

FOR R/W NORTHERLY SEE SR 513, SR 520 VIC. TO NE 45TH ST VIC., SHEET 2 OF 7 SHEETS, APPROVED AND ADOPTED JANUARY 24, 2008. FOR R/W EASTERLY SEE SR 520, MONTLAKE INTERCHANGE VICINITY TO ARBORETUM INTERCHANGE VICINITY, SHEET 2 OF 5 SHEETS, APPROVED AND ADOPTED JANUARY 10, 2014.

ALL PLANS ARE SUBJECT TO CHANGE. OWNERSHIP SHOULD BE VERIFIED. PROPOSED PROPERTY RIGHTS SHOWN MAY NOT HAVE BEEN ACQUIRED. ENCUMBRANCES MAY OR MAY NOT BE SHOWN. PARTIES SEEKING CURRENT PLAN INFORMATION SHOULD CONSULT THE DEPARTMENT OF TRANSPORTATION HEADQUARTERS RIGHT OF WAY PLANS OFFICE FOR THE OFFICIAL PLAN ON FILE. FOR ENCUMBRANCE INFORMATION CONSULT THE DEPARTMENT OF TRANSPORTATION HEADQUARTERS REAL ESTATE SERVICES OFFICE.

THIS PLAN SUPERSEDES SR 520, SR 5 VICINITY TO EVERGREEN POINT BRIDGE, SHEETS 2 THRU 6 OF 13 SHEETS, APPROVED AND ADOPTED JUNE 17, 2005

THIS PLAN SUPERSEDES SR 5, SEATTLE FREEWAY EAST GALER ST. TO SHELBY ST., SHEETS 3 AND 4 OF 4 SHEETS, APPROVED DECEMBER 31, 1957, AND SR 520, ROANOKE CONNECTION 10TH AVENUE NORTH TO MONTLAKE INTERCHANGE, SHEETS 2 THRU 5 OF 5 SHEETS, APPROVED MARCH 3, 1961, AND SR 520, MONTLAKE INTERCHANGE VICINITY TO ARBORETUM INTERCHANGE VICINITY, SHEET 2 OF 5 SHEETS, APPROVED AND ADOPTED JANUARY 10, 2014.

LIMITED ACCESS FEATURES SHOWN ARE TENTATIVELY APPROVED BY THE STATE SURVEY MANAGER.

EXHIBIT A

LIMITED ACCESS ESTABLISHED BY THE ASSISTANT SECRETARY OF ENGINEERING AND REGIONAL OPERATIONS, FINDINGS AND ORDER ADOPTED DECEMBER 19, 2016.

FOR ACCESS HEARING PLAN SEE PLAN OF SAME TITLE, APPROVED AND ADOPTED JUNE 3, 2016.

SR 520

SR 5 INTERCHANGE VICINITY TO MONTLAKE INTERCHANGE VICINITY

KING COUNTY

RIGHT OF WAY AND LIMITED ACCESS PLAN
FULL AND PARTIAL CONTROL
MP 0.81 TO MP 1.03
STATION 56+00 TO STATION 67+00

WASHINGTON STATE DEPARTMENT OF TRANSPORTATION
OLYMPIA, WASHINGTON



PROJECT ENGINEER
MARCH 2, 2017
APPROVED AND ADOPTED STATE SURVEY MANAGER

SHEET 9 OF 10 SHEETS

ACCESS APPROVED BY COUNCIL OF CITY OF SEATTLE, MARCH 13, 1961 IN ACCORDANCE WITH COUNCIL FILE NO. 241993.