

**NON-MOTORIZED TRANSIT ACCESS IMPROVEMENT AGREEMENT**

**between**

**KING COUNTY, DEPARTMENT OF TRANSPORTATION, METRO TRANSIT DIVISION**

**and**

**CITY OF REDMOND**

THIS NON-MOTORIZED TRANSIT ACCESS AGREEMENT (the "Agreement") is made and entered into by and between the City of Redmond, a municipality of the State of Washington, (the "City" or "Contractor") and King County, a political subdivision of the State of Washington, through its Department of Transportation, Metro Transit Division (the "County"), either of which entity may be referred to hereinafter as "Party" or collectively as the "Parties."

WHEREAS, the County has been awarded a Regional Mobility grant ("Grant") from the Washington State Department of Transportation ("WSDOT") that is expected to improve connectivity and mobility at overcrowded park-and-ride lots in King County by providing funding assistance to: implement a high occupancy vehicle ("HOV") parking permit program; increase on-site bicycle parking capacity at transit facilities along the I-5 and SR-520 corridors including, but not limited to, Northgate Transit Center Park-and-Ride, Redmond Park-and-Ride, and Federal Way Transit Center Park-and-Ride; and construct non-motorized system improvements connecting bikeways and walkways to other park-and-ride facilities and transit centers along these corridors; and

WHEREAS, for the non-motorized improvements element of the WSDOT Grant, the County intends to partner with local jurisdictions to fund and construct certain non-motorized system improvements connecting bikeways and walkways to overcrowded park-and-ride lots and transit centers; and

WHEREAS, the County and the City have mutual interest in improving non-motorized access to the Redmond Park-and-ride; and

WHEREAS, the Parties have identified a grant-eligible, capital improvement project that will support and improve non-motorized access to the Redmond Park-and-ride;

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

**1. PURPOSE OF AGREEMENT**

The purpose of this Agreement is to establish the terms and conditions under which the County will pass-through a portion of the WSDOT Grant proceeds to help provide funding for the City to design and construct certain transit access improvements consisting, in summary, of a sidewalk and bicycle lane on the west side of Redmond-Woodinville Road in the vicinity of NE 109<sup>th</sup> Street (the "Project"), as more

particularly described in the Scope of Work ("SOW") set forth at Exhibit A, which is attached hereto and incorporated herein by this reference.

## **2. DUTIES AND RESPONSIBILITIES OF THE CITY**

- 2.1 The City shall furnish the necessary personnel, equipment, material and/or services and otherwise do all things necessary for or incidental to design, construct and inspect the non-motorized improvements provided for in the Project description set forth in Exhibit A. The Project objectives and timelines are provided for with particularity in Exhibit A.
- 2.2 It shall be the City's responsibility to design and build the Project in compliance with applicable requirements of federal and state laws, codes, rules, regulations, ordinances, and standards, including, but not limited to, the Americans with Disabilities Act ("ADA"). The City shall also be responsible for obtaining any necessary permits; review and approval by federal, state or local regulatory agencies, if applicable; and for conducting any required environmental review. The City shall also be responsible for the administration and funding of any contracts it enters into for the performance of its responsibilities under this Agreement.
- 2.3 Upon completion, all Project improvements shall become the property of the City. The City shall be responsible for ongoing maintenance, repair and replacement of any Project improvements.
- 2.4 The City will provide the County with regular progress reports, at least quarterly, to identify work progress and other matters of significance in the performance of this Agreement.
- 2.5 The City has submitted design plans for the Project improvements to the County for its review. The County reviewed and provided written comments on the plans to ensure consistency with Grant requirements and the County's expectations for the Project. Should the City desire to change the final Project design after the County's initial review and approval of the initial design plans, whether based on additional engineering or traffic analysis, input from stakeholders, or other factors, the County's Contract Manager, as provided for in Section 18 of this Agreement, shall be notified of such proposed changes. Any such changes that are deemed significant by either of the Parties shall require joint written approval.
- 2.6 The City shall contribute 20% of the total project cost up to a maximum of \$125,000 in matching funds in support of the Project improvements.
- 2.7 This Agreement is subject to the requirements of the State Capital Construction Grant Agreement GCB 2289 (the "Grant Agreement"), pursuant to which the County, as the Grant recipient, agreed to include Sections 11 through 25 of the Grant Agreement, attached hereto as Exhibit B and incorporated herein by this reference, in each subcontract and in all contracts it enters into for the employment of any individuals, procurement of any incidental goods or supplies, or the performance of any work to be accomplished with funds awarded under the Grant Agreement. The County further agreed that those clauses shall not be modified in any such subcontract, except to identify the subcontractor or other person or entity that will be subject to its provisions. The City shall comply with the requirements of Exhibit B and shall ensure that any of its subcontractors comply with the requirements of Exhibit B when performing work pursuant to this Agreement.

### **3. DUTIES AND RESPONSIBILITIES OF THE COUNTY**

- 3.1 The County will reimburse the City for a portion of the Grant-eligible costs incurred by the City to design and construct the non-motorized connections as provided for in the SOW set forth at Exhibit A. Under no circumstances will the County's contribution to the City's eligible Project costs exceed a maximum amount of \$500,000, which the County will pay with WSDOT Regional Mobility Grant funds.
- 3.2 The County's obligation to make such reimbursements is contingent upon the City providing 20% of the total project to a maximum amount of \$125,000.
- 3.3 As the Grant recipient, the County will be responsible for any reporting and/or invoicing for reimbursement from WSDOT that may be required under the terms of the Grant award.

### **4. INVOICE AND PAYMENT PROCEDURES**

- 4.1 The County will reimburse the City for actual Grant-eligible costs incurred for work performed pursuant to this Agreement as identified in the SOW. The City shall submit a completed invoice to the County detailing quarterly activities, outcomes, expenses and reimbursement amount due within thirty (30) days of each quarter's end. The County shall pay the City within thirty (30) calendar days after the County has received completed invoices. In no event shall the total reimbursement to City for work performed pursuant to this Agreement exceed \$500,000.
- 4.2 In the event that it is determined that an overpayment has been made to the City by the County, the County will bill the City for the amount of overpayment. The City shall pay the County within thirty (30) days of receipt of an invoice for overpayment.

### **5. AGREEMENT TERM AND MODIFICATIONS**

This Agreement shall be in effect upon execution by both Parties and shall remain in effect from the date of execution through September 30, 2019, unless extended by written amendment of the Parties pursuant to Section 15 or earlier terminated pursuant to the provisions of Section 7 of this Agreement.

### **6. DISPUTE RESOLUTION PROCESS**

- 6.1 Designated Dispute Resolution Representatives. The following individuals are the Designated Representatives for the purpose of resolving disputes that arise under this Agreement:

For the County:                      Bill Bryant, Manager  
Metro Transit Service Development  
201 South Jackson Street, MIS KSC-TR-0426  
Seattle, WA 98104  
(206) 477-6456  
[Bill.Bryant@kingcounty.gov](mailto:Bill.Bryant@kingcounty.gov)

For the City: Maxine Whattam  
Interim Public Works Director  
P.O. Box 97010 MS: 4NPW  
Redmond, WA 98073-9710  
425.556.2310  
[mwhattam@redmond.gov](mailto:mwhattam@redmond.gov)

- 6.2 The County representative and the City representative shall confer to resolve disputes that arise under this Agreement as requested by either Party. The designated representatives shall use their best efforts and exercise good faith to resolve such disputes.
- 6.3 In the event the Designated Representatives are unable to resolve the dispute, the appropriate City Administrator or her/his designee and the General Manager of the County's Metro Transit Division or her/his designee shall confer and exercise good faith to resolve the dispute.
- 6.4 In the event the City Administrator and the General Manager of Metro Transit are unable to resolve the dispute, 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).
- 6.5 If the Parties cannot mutually agree as to the appropriateness of mediation, the mediation process, who shall serve as mediator, or the mediation is not successful, then either Party may institute a legal action in the King County Superior Court, situated in Seattle, Washington, unless another venue is mutually agreed to in writing.
- 6.6 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 has been exhausted.

## **7. TERMINATION**

- 7.1 Termination for Convenience. The County may terminate this Agreement upon thirty (30) days written notice to the City. In the event of termination of this Agreement by the County pursuant to this Subsection 7.1, the County shall be liable only for costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.
- 7.2 Termination for Cause. If either Party does not fulfill in a timely and proper manner its obligations under this Agreement, or if either Party violates any of these terms and conditions, the aggrieved Party will give the other Party written notice of such failure or violation. The responsible Party will be given the opportunity to initiate a correction of the violation or failure within fifteen (15) calendar days. If failure or violation is not corrected within the mutually agreed upon time period, this Agreement may be terminated immediately by written notice of the aggrieved Party to the other.

7.3 Termination for Non-Appropriation or Loss of Grant Funding. In addition to termination for default, the County may terminate this Agreement for non-appropriation or loss of state grant funding by giving not less than thirty (30) calendar days' written notice thereof to the City.

## 8. LEGAL RELATIONS

8.1 No Third Party Beneficiaries. It is understood that this Agreement is solely for the benefit of the Parties hereto and gives no right to any other person or entity.

8.2 No Partnership or Joint Venture. No joint venture, agent-principal relationship or partnership is formed as a result of this Agreement.

8.3 Independent Capacity. The employees or agents of each Party who are engaged in the performance of this Agreement shall continue to be employees or agents of that Party and shall not be considered for any purpose to be employees or agents of the other Party.

8.4 Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

8.5 Jurisdiction and Venue. The King County Superior Court, situated in Seattle, Washington, shall have exclusive jurisdiction and venue over any legal action arising under this Agreement.

8.6 Mutual Negotiation and Construction. This Agreement and each of the terms and provisions hereof shall be deemed to have been explicitly negotiated between, and mutually drafted by, both Parties, and the language in all parts of this Agreement shall, in all cases, be construed according to its fair meaning and not strictly for or against either Party.

8.7 Survival. Each of the provisions of this Section 8 (Legal Relations) shall survive the expiration or earlier termination of this Agreement.

## 9. RECORDS RETENTION AND AUDIT

9.1 Maintenance of Records. During the term of the Agreement and for a period not less than six (6) years from the date of its expiration or earlier termination, the records and accounts pertaining to this Agreement are to be kept available by both Parties for inspection and audit by the other Party and the State Auditor, and copies of all records, accounts, documents, or other data pertaining to the Agreement will be furnished upon reasonable notice. If any litigation, claim, or audit is commenced, the records and accounts along with supporting documentation shall be retained until all litigation, claim, or audit finding has been resolved even though such litigation, claim, or audit continues past the six-year retention period.

9.2 Disclosure of Public Records. Both Parties acknowledge and agree that all non-privileged, non-exempt records that may be maintained pursuant to Subsection 9.1 of this Agreement are subject to public disclosure under the Washington State Public Records Act, Chapter 42.56 RCW.

## 10. FORCE MAJEURE

Either Party to this Agreement shall be excused from performance of its responsibilities and obligations under this Agreement, and shall not be liable for damages due to failure to perform, during the time and to the extent that it is prevented from performing by a cause directly or indirectly beyond its control, including, but not limited to: late delivery or nonperformance by vendors of materials or supplies; any incidence of fire, flood, snow, earthquake, or acts of nature; strikes or labor actions; accidents, riots, insurrection, terrorism, or acts of war; order of any court or civil authority; commandeering material, products, or facilities by the federal, state or local government; or national fuel shortage; when satisfactory evidence of such cause is presented to the other Party to this Agreement, and provided that such non-performance is beyond the control and is not due to the fault or negligence of the Party not performing.

#### **11. NONDISCRIMINATION**

The City agrees to comply with all applicable federal, state, and local laws, rules, and regulations pertaining to nondiscrimination and agrees to require the same of any and all subcontractors providing services or performing any work using funds provided under this Agreement. During the performance of this Agreement, neither the City nor any entity subcontracting under the authority of this Agreement, shall discriminate or tolerate harassment on the basis of sex, race, color, marital status, national origin, religious affiliation, disability, sexual orientation, gender identity or expression or age except by minimum age and retirement provisions, unless based upon a bona fide occupational qualification, in the administration or delivery of services or any other benefits under this Agreement. King County Code Chapter 12.16 and 12.17 are incorporated herein by reference, and such requirements shall apply to this Agreement.

#### **12. INDEMNIFICATION**

The City and its successors and assigns shall protect, save, defend, indemnify and hold harmless the County, its elected officials, officers, employees, and agents while acting within the scope of their employment as such, from any and all costs, claims, actions, judgments, and/or awards of damages or expenses of any nature whatsoever, arising out of or in any way resulting from the City's acts or omissions under this Agreement. The City agrees that it is fully responsible for the acts and omissions of its contractors, subcontractors, consultants, and their employees and agents, acting within the scope of their employment as such, as it is for the acts and omissions of its own employees and agents. The City agrees that its obligations under this provision extend to any claim, demand, and/or cause of action brought by or on behalf of any of its employees or agents. The foregoing indemnity is specifically and expressly intended to constitute a waiver of the City's immunity under Washington's Industrial Insurance Act, RCW Title 51, as respects the County only, and only to the extent necessary to provide the County, its elected officials, officers, employees, and agents with a full and complete indemnity of claims made by the City's employees. The Parties acknowledge that these provisions were specifically negotiated and agreed upon by them. The provisions of this Section 12 shall survive the expiration or earlier termination of this Agreement.

**13. WAIVER**

A failure by either Party to exercise its rights under this Agreement shall not preclude that Party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in a writing signed by an authorized representative of the Party and attached to the original Agreement.

**14. SEVERABILITY**

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this Agreement, and to this end the provisions of this Agreement are declared to be severable.

**15. CHANGES AND MODIFICATIONS**

This Agreement may be changed, modified, or amended only by written agreement executed by authorized representatives of both Parties.

**16. REPRESENTATION ON AUTHORITY OF SIGNATORIES**

The signatories to this Agreement represent that they have the authority to bind their respective organizations to this Agreement.

**17. ALL TERMS AND CONDITIONS**

This Agreement contains all the terms and conditions agreed upon by the Parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the Parties hereto.

**18. CONTRACT MANAGEMENT**

All contact information for the management of this Agreement shall be identified herein and may be updated by either Party for their agency only and shall be submitted in writing or electronic mail to the other Party. Any update to the Contract Managers shall state the effective date of said update.

Contract Manager	Redmond	King County
Contact Name	Peter Dane	Malva Slachowitz
Title	Planner	Transportation Planner
Address	PO Box 97010 MS: 4SPL Redmond, WA 98073-9710	201 South Jackson Street, KSC- TR-0411, Seattle, WA 98104
Telephone	425-556-2816	206-477-5873
Email	pbdane@redmond.gov	malva.s@kingcounty.gov

**19. ASSIGNMENT**


Neither this Agreement, nor any interest herein, may be assigned by either Party without the prior written consent of the other Party.

**20. EXECUTION OF AGREEMENT – COUNTERPARTS**

This Agreement may be executed in two (2) counterparts, either of which shall be regarded for all purposes as an original.

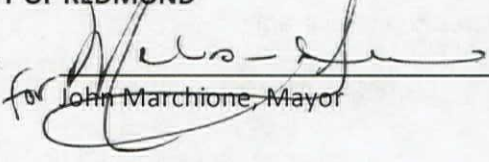
IN WITNESS THEREOF the Parties hereto have executed this Agreement by duly authorized representatives on the dates shown below their respective signatures.

**KING COUNTY**

By:   
Rob Gannon, ~~Interim~~ General Manager  
Metro Transit Division  
King County Department of Transportation

Date: 29 MARCH 2018

**CITY OF REDMOND**

By:   
for John Marchione, Mayor  
City of Redmond

Date: 3/5/2018



Exhibit A  
Statement of Work  
Redmond NON-MOTORIZED TRANSIT ACCESS IMPROVEMENT AGREEMENT

1. Purpose

- a. To construct the Redmond-Woodville Road Safe Route Project which will add sidewalk and bicycle lane on the west side of Redmond Woodinville Road between approximately the 10700 block and NE 109<sup>th</sup> Street.

2. Scope of Services

- a. Project Management
- b. Conceptual Design
- c. Design
- d. Monitoring and Measurement Plan
- e. Construction
- f. Inspection
- g. Monitoring and Reporting

3. Budget: Anticipated expenditures (dollars may be expended and reimbursed up to \$500,000 regardless of date or project phase (i.e. design or construction)).

<b>Design</b>	<b>grant request</b>	<b>match</b>	<b>total for phase</b>
By June 30, 2017	\$0	\$0	\$0
By June 30, 2019	\$0	\$0	\$0
<b>design total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<hr/>			
<b>Construction</b>	<b>grant request</b>	<b>match</b>	<b>total for phase</b>
By June 30, 2017	\$0	\$0	\$0
By June 30, 2019	\$500,000	\$1,600,000	\$2,100,000
<b>construction total</b>	<b>\$500,000</b>	<b>\$1,600,000</b>	<b>\$2,100,000</b>
<hr/>			
<b>Project total</b>	<b>\$500,000</b>	<b>\$1,600,000</b>	<b>\$2,100,000</b>

## Exhibit B

### Assignments and Subcontracts

#### Assignments, Subcontracts, and Leases

A. Unless otherwise authorized in advance in writing by WSDOT, the CONTRACTOR shall not assign any completed Project facilities and/or infrastructure under this AGREEMENT, or execute any contract, amendment, or change order thereto pertaining to the Project or obligate itself in any manner with any third party with respect to its rights and responsibilities under this AGREEMENT or lease or lend the Project or any part thereof to be used by anyone not under the CONTRACTOR's direct supervision.

B. The CONTRACTOR agrees to include Sections 11 through 25 of this AGREEMENT in each subcontract and in all contracts it enters into for the employment of any individuals, procurement of any materials, or the performance of any work to be accomplished under this AGREEMENT. The PARTIES further agree that those clauses shall not be modified, except to identify the subcontractor or other person or entity that will be subject to its provisions. In addition, the following provision shall be included in an advertisement or invitation to bid for any procurement by the CONTRACTOR under this AGREEMENT:

Statement of Financial Assistance:

"This AGREEMENT is subject to the appropriations of the State of Washington."

#### Section 11 Reports and Project Use

A. The CONTRACTOR agrees that the Project shall be used for the provision of transportation services within the area indicated in Exhibit I Attachment A, for the term of the Project's plus four years after the project is complete, as set forth in WSDOT's Regional Mobility Grants Program Guidebook, and any subsequent amendments thereto. The CONTRACTOR further agrees that it will not use or permit the use of the Project in a negligent manner or in violation of any law, or so as to avoid any insurance covering the same, or permit the Project to become subject to any lien, charge, or encumbrance. Should the CONTRACTOR unreasonably delay or fail to use the Project during the project term and reporting period, the CONTRACTOR agrees that it may be required to refund up to the entire amount of the "State Regional Mobility Grants Funds" expended on the Project. The CONTRACTOR shall immediately notify WSDOT when any Project facilities and/or infrastructure is withdrawn from Project use or when the Project or any part thereof is used in a manner substantially different from that identified in Exhibit I, "Project Scope, Schedule and Budget" and Attachment A. If the Project is permanently removed from transportation services, the CONTRACTOR agrees to immediately notify WSDOT of its intentions regarding the disposal of the Project or any part of the Project thereof.

B. Reports. The CONTRACTOR shall submit quarterly reports to WSDOT for the Term of Project, regarding the progress of the Project and annual performance reports for four calendar years after the project is operationally complete, as prescribed in WSDOT's Regional Mobility Grants Program

Guidebook, and any subsequent amendments thereto or as WSDOT may require, including, but not limited to, interim and annual reports. The CONTRACTOR shall keep satisfactory written records with regard to the use of Project and shall submit the following reports to, and in a form and at such times prescribed by WSDOT as set forth in WSDOT's Regional Mobility Grants Program Guidebook, 2015 version, and any subsequent amendments thereto:

1. An approved Performance Measurement Plan must be on file with WSDOT before submitting the first reimbursement request.
2. An Annual Performance Report that includes a summary of overall project performance and supporting data.
3. Reports describing the current usage of the Project and other data which WSDOT may request from the CONTRACTOR by memos, e-mails or telephone requests.
4. In the event any portion of the Project sustains disabling damage, the CONTRACTOR shall notify WSDOT immediately after the occasion of the damage, including the circumstances thereof.
5. The CONTRACTOR shall collect and submit to WSDOT, at such time as WSDOT may require, such financial statements, data, records, contracts, and other documents related to the Project as may be deemed necessary by WSDOT.

C. Remedies for Misuse or Noncompliance. The CONTRACTOR shall not use the Project or any part thereof in a manner different from that described in Exhibit I, Project Scope, Schedule and Budget, and Attachment A, as set forth in Section 2 of the AGREEMENT. If WSDOT determines that the Project has been used in a manner different from Exhibit I, Project Scope, Schedule and Budget, and Attachment A, WSDOT may direct the CONTRACTOR to repay WSDOT the State funded share of the "Project Costs." WSDOT may also withhold payments should it determine that the CONTRACTOR has failed to comply with any provision of this AGREEMENT.

#### Section 12 Maintenance of the Project

The CONTRACTOR shall make all necessary repairs and reasonably maintain the Project to assure it remains in good and operational condition until the end of its useful life. The useful life of the constructed project is determined by WSDOT, indicated in the "Financial Plan Table" of the 2015-2017 Regional Mobility Grant Application that is based upon Architectural/Engineering (A&E) estimates, materials used and industry standards for the type of structure built. All service, materials, and repairs in connection with the use and operation of the Project during its useful life shall be at the CONTRACTOR's expense. CONTRACTORS who are transit agencies must also have a Transit Asset Management Plan certified by WSDOT that details the transit agency's plan to maintain the Project. All other CONTRACTORS must submit a written Maintenance Plan to WSDOT for approval prior to the occupation and/or operations of the Project. The CONTRACTOR agrees, at a minimum, to maintain the Project and service or replace parts at intervals recommended in the manuals and/or instructions provided by the subcontractors and/or component manufacturers, or sooner if needed. The CONTRACTOR shall have the Project routinely inspected and make arrangements for any appropriate service and repair under the manufacturer's warranty. WSDOT shall not be liable for repairs. The CONTRACTOR shall retain records

of all maintenance and parts replacement performed on the Project in accordance with Section 22, Audits, Inspection, and Retention of Records. The CONTRACTOR shall provide copies of such records to WSDOT, upon request.

#### Section 13 General Compliance Assurance

The CONTRACTOR agrees to comply with all instructions as prescribed in WSDOT's Regional Mobility Grants Program Guidebook and any amendments thereto. The CONTRACTOR agrees that, WSDOT and/or any authorized WSDOT representative, shall have not only the right to monitor the compliance of the CONTRACTOR with respect to the provisions of this AGREEMENT, but also have the right to seek judicial enforcement with regard to any matter arising under this AGREEMENT. It is understood by the CONTRACTOR that this assurance obligates the CONTRACTOR and any transferee of the CONTRACTOR, or said transferee's successor(s), for the term of this AGREEMENT."

#### Section 14 Compliance with State Design Standards

The CONTRACTOR agrees the Project design must comply with all Washington State Standard Specifications for Road, Bridge, and Municipal Construction ([www.wsdot.wa.gov/Publications/Manuals/M41-10.htm](http://www.wsdot.wa.gov/Publications/Manuals/M41-10.htm)), and any revisions thereto. Projects that wish to use design standards that differ from state standards must submit a request to WSDOT's Public Transportation Division and obtain documented approval before design work commences.

#### Section 15 No Obligation by the State Government

No contract between the CONTRACTOR and its subcontractors shall create any obligation or liability of WSDOT with regard to this AGREEMENT without WSDOT's specific written consent, notwithstanding its concurrence in, or approval of, the award of any contract or subcontract or the solicitations thereof and the CONTRACTOR hereby agrees to include this provision in all contracts it enters into for the design, acquisition, and construction of facilities and/or infrastructure related to the Project, or the performance of any work to be accomplished under this AGREEMENT.

#### Section 16 Ethics

A. Relationships with Employees and Officers of WSDOT. The CONTRACTOR shall not extend any loan, gratuity or gift of money in any form whatsoever to any employee or officer of WSDOT, nor shall the CONTRACTOR rent or purchase any Project equipment and materials from any employee or officer of WSDOT.

B. Employment of Former WSDOT Employees. The CONTRACTOR hereby warrants that it shall not engage on a full, part-time, or other basis during the period of this AGREEMENT, any professional or technical personnel who are, or have been, at any time during the period of this AGREEMENT, in the employ of WSDOT without written consent of WSDOT.

## Section 17 Compliance with Laws and Regulations

The CONTRACTOR agrees to abide by all applicable state and federal laws and regulations including but not limited to, those concerning employment, equal opportunity employment, nondiscrimination assurances, project record keeping necessary to evidence compliance with such federal and state laws and regulations, and retention of all such records. The CONTRACTOR will adhere to all of the nondiscrimination provisions in Chapter 49.60 RCW.

## Section 18 State and Local Law

Except when a federal statute or regulation pre-empts state or, local law, no provision of this AGREEMENT shall require the CONTRACTOR to observe or enforce compliance with any provision, perform any other act, or do any other thing in contravention of state or local law. Thus if any provision or compliance with any provision of this AGREEMENT violates state, or local law, or would require the CONTRACTOR to violate state or local law, the CONTRACTOR agrees to notify WSDOT immediately in writing. Should this occur, WSDOT and the CONTRACTOR agree to make appropriate arrangements to proceed with or, if necessary, expeditiously, terminate the Project.

## Section 19 Labor Provisions

Overtime Requirements. No CONTRACTOR or subcontractor contracting for any part of the Project work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty (40) hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty (40) hours in such workweek. CONTRACTOR will comply with Title 49 RCW, Labor Regulations.

## Section 20 Environmental Protections and Archeological Preservation

The CONTRACTOR agrees to comply with all applicable requirements of chapter 43.21C RCW "State Environmental Policy Act" (SEPA). The CONTRACTOR also agrees to comply with all applicable requirements of Executive Order 05-05, Archeological and Cultural Resources, for all capital construction projects or land acquisitions for the purpose of a capital construction project, not undergoing Section 106 review under the National Historic Preservation Act of 1966 (Section 106).

## Section 21 Accounting Records

A. Project Accounts. The CONTRACTOR agrees to establish and maintain for the Project either a separate set of accounts or separate accounts within the framework of an established accounting system that can be identified with the Project. The CONTRACTOR agrees that all checks, payrolls,

invoices, contracts, vouchers, orders, or other accounting documents pertaining in whole or in part to the Project shall be clearly identified, readily accessible and available to WSDOT upon request, and, to the extent feasible, kept separate from documents not pertaining to the Project.

B. Documentation of Project Costs and Program Income. The CONTRACTOR agrees to support all allowable costs charged to the Project, including any approved services contributed by the CONTRACTOR or others, with properly executed payrolls, time records, invoices, contracts, or vouchers describing in detail the nature and propriety of the charges. The CONTRACTOR also agrees to maintain accurate records of all program income derived from implementing the Project.

## Section 22 Audits, Inspection, and Retention of Records

A. Submission of Proceedings, Contracts, Agreements, and Other Documents. During the term of the Project and for six (6) years thereafter, the CONTRACTOR agrees to retain intact and to provide any data, documents, reports, records, contracts, and supporting materials relating to the Project as WSDOT may require. Project closeout does not alter these recording and record-keeping requirements. Should an audit, enforcement, or litigation process be commenced, but not completed, during the aforementioned six (6) year period then the CONTRACTOR's obligations hereunder shall be extended until the conclusion of that pending audit, enforcement, or litigation process.

B. General Audit Requirements. The CONTRACTOR agrees to obtain any other audits required by WSDOT at CONTRACTOR's expense. Project closeout will not alter the CONTRACTOR's audit responsibilities.

C. Inspection. The CONTRACTOR agrees to permit WSDOT, and the State Auditor, or their authorized representatives, to inspect all Project work materials, payrolls, maintenance records, and other data, and to audit the books, records, and accounts of the CONTRACTOR and its contractors pertaining to the Project. The CONTRACTOR agrees to require each third party contractor to permit WSDOT, the State Auditor, or their duly authorized representatives, to inspect all work, materials, payrolls, maintenance records, and other data and records involving that third party contract, and to audit the books, records, and accounts involving that third party contract as it affects the Project.

## Section 23 Permitting

The CONTRACTOR agrees to be solely responsible for all required Federal, State and/or local permitting as related to the Project.

## Section 24 Loss or Damage to the Project

A. The CONTRACTOR, at its own expense, shall cover any loss, theft, damage, or destruction of the Project's facilities, associated equipment and/or infrastructure using either of the following methods:

1. The CONTRACTOR shall maintain property insurance for facilities, associated equipment and/or infrastructure adequate to cover the value of the Project; the CONTRACTOR shall supply a copy of the

Certificate of Insurance specifying such coverage to WSDOT with the first request for reimbursement, and supply proof of renewal annually thereafter; or

2. The CONTRACTOR shall certify that it has self-insurance and provide a written certificate of self-insurance to WSDOT with the first request for reimbursement, and annually thereafter. The CONTRACTOR will cover from its own resources the costs of repairing or replacing any Project facilities, associated equipment and/or infrastructure, if it is stolen, damaged, or destroyed in any manner.

B. If the damage to the Project does not result in a total loss, payments for damage shall be paid directly to the CONTRACTOR. The CONTRACTOR shall, within thirty (30) days, either: 1. Devote all of the insurance proceeds received to repair the Project and place it back in service, and the CONTRACTOR shall, at its own expense, pay any portion of the cost of repair which is not covered by insurance; or

2. In the event the CONTRACTOR certified to self-insurance, devote all funds necessary to repair the Project and place it back into service.

C. If the Project is a total loss, either by theft or damage, the insurance proceeds or equivalent shall be paid directly to the CONTRACTOR and within fifteen (15) days the CONTRACTOR shall pay WSDOT its proportionate funded share of such proceeds received. The CONTRACTOR shall within sixty (60) days of loss, theft, or damage, notify WSDOT that it either:

1. Intends to replace the lost Project facilities, associated equipment and/or infrastructure; or

2. Does not intend to replace the lost Project facilities, associated equipment and/or infrastructure.

D. If the CONTRACTOR intends to replace the Project facilities, associated equipment and/or infrastructure then WSDOT will reimburse the CONTRACTOR upon receipt of an approved invoice, funds up to the amount WSDOT received in insurance proceeds.

E. Coverage, if obtained or provided by the CONTRACTOR in compliance with this section, shall not be deemed as having relieved the CONTRACTOR of any liability in excess of such coverage as required by the limitation of liability section of this AGREEMENT, or otherwise.

#### Section 25 Limitation of Liability

A. The CONTRACTOR shall indemnify and hold WSDOT, its agents, employees, and officers harmless from and process and defend at its own expense any and all claims, demands, suits at law or equity, actions, penalties, losses, damages, or costs (hereinafter referred to collectively as "claims"), of whatsoever kind or nature brought against WSDOT arising out of, in connection with or incident to this AGREEMENT and/or the CONTRACTOR's performance or failure to perform any aspect of this AGREEMENT. This indemnity provision applies to all claims against WSDOT, its agents, employees and officers arising out of, in connection with or incident to the negligent acts omissions of the CONTRACTOR, its agents, employees and officers. Provided, however, that nothing herein shall require the CONTRACTOR to indemnify and hold harmless or defend the WSDOT, its agents, employees or officers to the extent that claims are caused by the negligent acts or omissions of the WSDOT, its agents, employees or officers. The indemnification and hold harmless provision shall survive termination of this AGREEMENT.

B. The CONTRACTOR shall be deemed an independent contractor for all purposes, and the employees of the CONTRACTOR or its subcontractors and the employees thereof, shall not in any manner be deemed to be employees of WSDOT.

C. The CONTRACTOR specifically assumes potential liability for actions brought by CONTRACTOR's employees and/or subcontractors and solely for the purposes of this indemnification and defense, the CONTRACTOR specifically waives any immunity under the State Industrial Insurance Law, Title 51 Revised Code of Washington.

D. In the event either the CONTRACTOR or WSDOT incurs attorney's fees, costs or other legal expenses to enforce the provisions of this section of this AGREEMENT against the other PARTY, all such fees, costs and expenses shall be coverable by the prevailing PARTY.



# City Agreement Routing Form

The Project Administrator should complete the top section of this form, once Department Head/Designee signature has been obtained, attach the specified number of agreement originals to this form (have the contractor/supplier sign all original copies before routing) and forward the documents to the City Clerk for internal city routing. The City Clerk will route the agreement to the Risk Manager for approval of insurance and indemnification requirements, to the City Attorney for approval as to legal form and to the Mayor for signature. The City Clerk will then attest/authenticate the Mayor's signature and will forward this form and remaining agreement(s) to Project Administrator

Project Title: King County Non Motorized Access to Transit Grant  
Type of Service: Grant to help fund Redmond's Red-Wood Road Safe Routes to School project. This revenue is already assumed in the project budget.  
Supplier/Contractor Name: King County Metro  
Contract/Agreement Amount, Original: \$500,000 Amended Amount: \_\_\_\_\_  
Council Approval Date: 2/6/18 Nature of Funding: WSDOT grant to Metro with Redmond as sub recipient  
Project Administrator: Peter Dane MailStop: 4SPL Phone: 2816  
Anticipated Agreement Start Date: March 2018 Estimated Completion Date: December 2018

Does this contract contain the purchase of technology related items/services?  YES  NO  
If Yes, route to: I.S. Manager (3SFN)

I.S. Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Will federal funds be used to pay for all or part of contract?  YES  NO  
If Yes, check for debarment at [www.sam.gov](http://www.sam.gov)  
(print results and keep a copy in project file)

Department Head/Designee Signature: Karen Anderson Date: 2-26-18

Comments:

Account Numbers/  
Distribution

NIGP/Commodity Code: \_\_\_\_\_

ROUTING PROCESS: (1 copies)

To: City Clerk ACU Date 2/27/18  
(for routing and tracking)

Risk Manager MFB Date 2/28/18  
(Signature or initials)

City Attorney [Signature] Date 3/1/18  
(Signature or initials) AM 3/5/18

(Note: If contract exceeds Mayor's authorized signing limits, route to City Clerk (3NFN) for council approval)

Mayor \_\_\_\_\_ Date \_\_\_\_\_  
(Signature or initials)

City Clerk U Date 3/5/18  
(Signature or initials)

NOTE: The agreement becomes fully executable once the Mayor has signed it. The Project Administrator may then forward one set of originals to the Contractor/Consultant and work may begin. The City's original will be retained by the City Clerk. Once all signatures have been obtained, forward a copy of this form to Accounts Payable, with payment instructions

Finance use ONLY Supplier Id \_\_\_\_\_ Date Received \_\_\_\_\_ Agreement # 8659