



July 29, 2014

[pdc]

Sponsor: \_\_\_\_\_

Proposed No.: 2014-0216

1 **STRIKING AMENDMENT TO PROPOSED ORDINANCE 2014-0216, VERSION**

2 **1**

3 On page 1, beginning on line 5, strike everything through page 3, line 51, and insert:

4 "BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

5 **SECTION 1. Findings:**

6 A. The Municipality of Metropolitan Seattle was authorized by public vote in  
7 1972 to perform the metropolitan transportation functions of a metropolitan municipal  
8 corporation.

9 B. In 1994, King County assumed the rights, powers, functions and obligations of  
10 the Municipality of Metropolitan Seattle in accordance with chapter 36.56 RCW;  
11 consequently, all the powers and functions of the Municipality of Metropolitan Seattle  
12 have been vested by state law in the legislative authority of King County.

13 C. In 2007, and as authorized by King County Ordinance 15860, the city and the  
14 county entered into an interlocal agreement under which the county agreed to operate and  
15 maintain the South Lake Union streetcar line for benefit of the city and the public.

16 D. Under RCW 35.21.925, the city is authorized to construct supplemental  
17 transportation projects within the city's boundaries. Under that and other authority, the

18 city intends to construct and own, and has begun construction on, a 2.5-mile streetcar  
19 running from Jackson and Occidental Streets to Broadway and Denny Way , which is the  
20 location of the new Link Light Rail Station on Capitol Hill. The First Hill streetcar line  
21 will connect the Capitol Hill, First Hill, Yesler Terrace, Chinatown/International District,  
22 Little Saigon, a corner of the Central District and Pioneer Square neighborhoods with  
23 downtown Seattle and connections to other regional and local transit services and thereby  
24 increase transit ridership and reduce single occupancy vehicle trips to and from those  
25 neighborhoods. The city contemplates that over time it may construct and own additional  
26 streetcar lines.

27 E. The city has experience in building a streetcar as the owner of the existing  
28 South Lake Union streetcar line and the original owner of the former Waterfront streetcar  
29 line.

30 F. King County has experience operating and maintaining streetcars in the city as  
31 operator of the former Waterfront Streetcar and the existing South Lake Union streetcar  
32 line, as well as operating and maintaining the existing Central Link light rail system on  
33 behalf of Sound Transit.

34 G. Consistent with RCW 35.58.610, it is the objective of King County to  
35 coordinate transit service in established urban centers and work with local jurisdictions to  
36 pursue innovative solutions and partnerships. A long-term master agreement with the  
37 city for streetcar services is consistent with those objectives.

38 H. King County, through development of the Strategic Plan for Public  
39 Transportation 2011-2021, may adopt new policy concerning streetcar operations.

40            SECTION 2. The county executive is hereby authorized to execute, substantially  
41 in the form of Attachment A to this ordinance, an amended and restated interlocal  
42 agreement between King County and the city of Seattle for the operation and  
43 maintenance of the Seattle Streetcar.

44            SECTION 3. The county executive may not approve a written extension of the  
45 interlocal agreement, or negotiate a revised agreement that is inconsistent with the  
46 Strategic Plan for Public Transportation in effect at the time of the approval.

47            SECTION 4. If any provision of this ordinance or its application to any person or  
48 circumstance is held invalid, the remainder of the ordinance or the application of the  
49 provision to other persons or circumstances is not affected."

50 Delete Attachment A. Amended and Restated Interlocal Agreement Between King  
51 County and the City of Seattle Regarding The Seattle Streetcar System, and insert  
52 Attachment A. Amended and Restated Interlocal Agreement Between King County and  
53 the City of Seattle Regarding The Seattle Streetcar System, dated July 29, 2014.

54 **EFFECT: Revises ordinance text to refer to the Strategic Plan for Public**  
55 **Transportation, the current countywide transit planning document. Amends the**  
56 **Interlocal Agreement including its appendices to clarify what policy changes require**  
57 **further legislative action and which can be accomplished by the City and County**  
58 **executive branches, clarifies intent, and corrects errors.**

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**AMENDED AND RESTATED INTERLOCAL AGREEMENT**

**between**

**King County and the City of Seattle**

**Regarding**

**The Seattle Streetcar System**

This Amended and Restated Interlocal Agreement (“Agreement”) is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2014 (the “Effective Date”), by and between the City of Seattle (“the City”), a municipal corporation and first-class home rule city with a council-mayor form of government, and King County (“the County”), a home rule charter county and political subdivision of the State of Washington. The City and the County are sometimes referred to individually as a “Party” and collectively as the “Parties.”

**RECITALS**

Whereas, pursuant to Chapters 36.56 RCW and 35.58 RCW and public vote, the County is authorized to perform metropolitan public transportation functions; and

Whereas, under that certain interlocal agreement dated August 20, 2007, and authorized by King County Ordinance 15860 the County operates and maintains the City’s streetcars for the South Lake Union streetcar line; and

Whereas, King County also operates and maintains Sound Transit’s light rail system by agreement with Sound Transit; and

Whereas, the City is constructing the First Hill streetcar line, and is acquiring streetcar vehicles for it, and the Parties anticipate that in the future the City may construct additional streetcar lines and purchase additional streetcar vehicles; and

Whereas, the Parties believe it is in the best interest of the public for the County to continue to operate and maintain the City’s streetcar system (the “Seattle Streetcar”); and

Whereas, the Parties also believe it is in the best interest of the public for the City and the County to establish a unified framework agreement to govern the operation and maintenance of existing, new, and future elements of the Seattle Streetcar;

NOW, THEREFORE, in consideration of the mutual rights, obligations and privileges granted and undertaken, the Parties enter into this Amended and Restated Interlocal Agreement for Seattle Streetcar Operations and Maintenance, subject to the following terms and conditions:

## **TERMS AND CONDITIONS**

### **1.0 Purpose, Scope and Term of Agreement**

#### **1.1 Purpose, Scope and Term**

- A. The purpose of this Agreement, including its appendices incorporated herein by this reference, is to establish a uniform framework governing the roles and responsibilities of the City and the County regarding the operation and maintenance of the Seattle Streetcar and each of its Lines following construction.
- B. Specific matters relating to each Line are addressed in the separate Line Agreements. Copies of Line Agreements are included in Appendix B to this Agreement. Each Line is identified by name (*i.e.*, South Lake Union Line, First Hill Line, etc.). Line Agreements are addressed in Section 2.0 of this Agreement. The Parties anticipate that this Agreement may be amended to include additional Line Agreements as they are entered into by the Parties, and as the Seattle Streetcar is expanded. As provided in Section 1.3 of this Agreement, all Line Agreements between the City and the County are subordinate to this Agreement and governed by it. By executing this Agreement, the Parties agree that they are entering into the Line Agreements contained in Appendix B.
- C. This Agreement shall take effect upon the Effective Date set forth above and shall expire at 11:59 PM on December 31, 2019 (the “Term”).

#### **1.2 Definitions**

Capitalized words and terms and abbreviations not defined in the body of this Agreement are defined in Appendix A, Exhibit 1.

#### **1.3 Order of Precedence**

- A. Upon execution, this Agreement shall take effect with respect to the First Hill Line. This Agreement shall take effect with respect to the South Lake Union (“SLU”) Line on January 1, 2015.
- B. If there is any conflict or ambiguity between this Agreement and any other prior agreement regarding the Seattle Streetcar, including but not limited to that certain Project Coordination and Reimbursement Agreement for the City’s First Hill Streetcar project, dated August 21, 2012 (“FHS Agreement”), then this Agreement shall govern and control. Provided, that this Agreement shall not govern or control with respect to

the South Lake Union Line until January 1, 2015, as provided under Paragraph A of this Section 1.3.

- C. If there is any conflict or ambiguity between this Agreement and its appendices now or hereafter amended, then this Agreement shall govern and control.

#### **1.4 Appendices**

- A. The following Appendices to this Agreement are incorporated by this reference as if fully set forth:

##### Appendix A - Exhibits

1. Definitions
2. RESERVED
3. RESERVED
4. Budget and Cost Methodology for Payments by City to County
5. Payment Schedule
6. Points of Contact

##### Appendix B - Line Agreements

1. South Lake Union Streetcar Line, together with Exhibits A through E
  2. First Hill Streetcar Line, together with Exhibits A through E.
- B. New Exhibits may be added to Appendix A and any Exhibit in Appendix A to this Agreement may be updated, replaced, deleted, or amended in whole or in part (“change”) by mutual written agreement in the form of an amendment, executed by the Director of the Seattle Department of Transportation (“SDOT Director”) and the General Manager of the Transit Division in the King County Department of Transportation (“Transit Manager”) or such other offices as may succeed to the duties and powers of those offices; provided however any change to Part A of Exhibit 4 in Appendix A shall require the prior approval of each Party’s council before the authorized representative of the respective Party is authorized to execute the amendment. The SDOT Director and the Transit Manager may delegate their authority under this Section 1.4.B to a responsible subordinate.
  - C. For reporting purposes to the legislative bodies of each Party, the SDOT Director and the Transit Manager or their designees shall notify the clerks of their respective councils whenever an amendment to an Exhibit of this Agreement is made under Section 1.4.B that does not require prior approval by each Party’s council, and shall provide a copy of any such amendment to the clerks. The copy may be in electronic or paper form.

#### **1.5 Cost Estimates and Annual Updates**

- A. Part A of Exhibit 4. defines Eligible Costs. Part B of Exhibit 4. consists of tables listing the cost estimate for the startup, operation, and maintenance of the Seattle Streetcar and

- each of its Lines. The purpose of the cost estimate is to budget for operations and maintenance such that the Seattle Streetcar and each of its Lines will be operated and maintained in good condition for no less than the Term of the Agreement (as defined herein). These cost estimates shall be updated annually during the Term and during any extension or renewal.
- B. By June 30 of each calendar year during the Term, other than the first year, the County shall deliver to the City a written update of the cost estimate for the next calendar year and a calculation of the estimated expenses for startup, operation, and maintenance of each Line for the City's concurrence. The estimate shall be reasonable and, to the extent reasonably practicable, shall be based upon previous years' expenses. The estimate shall include reasonable detail of the projected expenses, including the annual total presented by expense category. The County shall make appropriate staff reasonably available to the City to respond to inquiries regarding the estimates. The County's annual cost estimate update shall be finalized by the County each year on a schedule consistent with the schedules of the Parties for their respective budget processes.
- C. The City shall make quarterly payments of the amounts due to the County as described in Section 15.1, O&M Cost Reimbursement and Section 2.3.F, O&M Cost Estimate at the payment due dates established in Exhibit 5, Payment Schedule. The Parties may amend the Payment Schedule in writing by mutual written agreement in the form of an amendment executed by the SDOT Director and the Transit Manager.

## **2.0 Line Agreements**

The Parties shall execute a Line Agreement for each new or extended streetcar line before the subject Line is placed in revenue passenger service. Line Agreements shall detail the responsibilities of the Parties for each line. All new or additional Line Agreements shall be authorized by ordinances duly enacted by each Party's respective council. . The SDOT Director and the Transit Manager shall update Appendix B as needed and consistent with Section 2.2.B.

### **2.1 NOT USED**

### **2.2 Administrative Amendment and Deletion of Line Agreements**

- A. By written mutual agreement in the form of an amendment to this Agreement, the Transit Manager and the SDOT Director may delete an entire Line Agreement from Appendix B whenever the streetcar Line is permanently removed from service or subsumed within another Line for which a legislatively-approved Line Agreement already exists and may amend exhibits to Line Agreements administratively amended under Section 2.2.B of this Agreement. Except for the foregoing administrative amendments and for updated contact information, typographical corrections, scrivener's errors, and similar errata or administrative amendments, Line Agreements shall not be amended or altered except as may be authorized by ordinance duly enacted by the Seattle City Council and the Metropolitan King County Council.



- B. Except for Line descriptions and illustrations, Line Agreement exhibits may be added, and any Line Agreement exhibit may be updated, replaced, deleted, or amended in whole or in part, by mutual written agreement in the form of a amendment executed by the SDOT Director and the Transit Manager. The SDOT Director and the Transit Manager may delegate their authority under this Section 2.2.B to a responsible subordinate. Amendment of Line descriptions and illustrations is addressed in Section 2.3.A of this Agreement.
- C. For reporting purposes to the legislative bodies of each Party, the SDOT Director and the Transit Manager or their designees shall notify the clerks of their respective councils whenever an amendment deletes an entire Line Agreement, as provided for in Section 2.2.A, or when a Line Agreement exhibit is amended , as provided for in Section 2.2.B, and shall provide a copy of any such amendments to the clerks. The copy may be in electronic or paper form.

### **2.3 Required Elements of Line Agreements**

Each Line Agreement shall include the following elements:

#### **A. Line Description**

Each Line Agreement shall include a brief written summary or description of the Line’s end points and the nature and length of the track (e.g., “The segment of the Seattle Streetcar from Fairview Avenue N and Ward Street to Westlake Avenue and Olive Way in the City; and generally consisting of 1.3 miles of double track for passenger service, and 0.2 miles of maintenance facility lead track.”). The Line shall be illustrated in a map, which shall be Exhibit A to the Line Agreement. The Line description and illustration may not be amended or revised to expand or extend the Line except as authorized by ordinance duly enacted by the Seattle City Council and the Metropolitan King County Council.

#### **B. Startup Plan**

- i. The Startup Plan shall specify the projected start date for revenue passenger service of the Line. The City will select the start date for revenue passenger service in consultation with the County within 30 days of execution of the Line Agreement. Preparation for operation will include: hiring and training of staff, testing of facilities and equipment, certifying and commissioning of systems, and developing plans and procedures.
- ii. Responsibility for the work during Startup shall be allocated between the City and the County as set forth in the Startup Plan, which shall be Exhibit B to a Line Agreement.
- iii. The City will compensate the County for agreed-upon costs during the Startup Period according to the methodology shown in Appendix A Exhibit 4 (Budget and

Cost Methodology) to this Agreement and as amended upon mutual agreement of the SDOT Director and Transit Manager in writing.

C. Service Plan

Not later than 90 days prior to the start date of revenue passenger service and not later than March 30 of each year thereafter, the City will provide the County with a proposed Line Service Plan for the following calendar year. The proposed Line Service Plan will include headways and hours of operation. The City and County will meet to discuss and, if necessary, modify the proposed plan. If the Parties cannot agree on the content of the Line Service Plan, they shall enter into the dispute resolution process described in this Agreement. Based upon the adopted Line Service Plan, the County will prepare streetcar schedules and assignments of personnel and equipment to meet the plan. The Line Service Plan shall be Exhibit C to the Line Agreement. The Line Service Plan may be amended during the term of the Line Agreement upon written agreement of the SDOT Director and the Transit Manager or their designees.

D. Operations Responsibilities

The County will develop a list allocating Line operations responsibilities between the County and the City (Operations List). The County will present the Operations List to the City at least three (3) months prior to the anticipated date of the first day of revenue passenger service for the City's review and approval, such approval not to be unreasonably withheld, delayed or conditioned. The SDOT Director and the Transit Manager or their designees will meet to discuss and, if necessary, modify the proposed Operations List. If the Parties cannot agree on the content of the plan, then they shall enter into the dispute resolution process described in this Agreement. The Operations List shall be Exhibit D to the Line Agreement. The Operations List may be amended during the term of the Line Agreement upon written agreement of the SDOT Director and the Transit Manager or their designees.

E. Maintenance Responsibilities

The County will develop a list allocating Line maintenance responsibilities between the County and the City (Maintenance List). The County will present the Maintenance List to the City at least three (3) months prior to the anticipated date of the first day of revenue passenger service for the City's review and approval, such approval not to be unreasonably withheld, delayed or conditioned. The SDOT Director and the Transit Manager or their designees will meet to discuss and, if necessary, modify the proposed Maintenance List. If the Parties cannot agree on the content of the plan, they shall enter into the dispute resolution process described in this Agreement. The Maintenance List shall be Exhibit E to the Line Agreement. The Maintenance List may be amended during the term of the Line Agreement upon written agreement of the SDOT Director and the Transit Manager or their designees.

F. O&M Cost Estimate

Operating and Maintenance Cost (O&M Cost) refers to the estimated annual cost of the County's work to provide the scheduled level of service identified in the Line Service Plan for each Line Agreement beginning on the first day of revenue passenger service. As an element of the preliminary cost estimate established under Section 1.5 of this Agreement, the County will estimate its annual O&M Cost for each Line for its first calendar year of operations (prorated as applicable), with costs for the following year identified no later than June 30 based on the agreed upon Line Service Plan for the coming year. The O&M Cost Estimate will include direct and indirect costs of County staff involved in carrying out the County's operations and maintenance work and the County's overhead support for that staff. In addition, materials and supplies associated with the County's maintenance and operation of the streetcar Line will be included in the O&M Cost. The methodology for calculating O&M costs is in Exhibit 4 of Appendix A to this Agreement. The O&M Cost Estimate may be amended by agreement of the SDOT Director and the Transit Manager or their designees.

## **2.4 Line Agreement Term, Renewal, Extension, Expiration and Termination**

### **A. Term**

The initial term of each Line Agreement shall be the same as the remaining Term of this Agreement under Section 1.1.C as of the date when the Line Agreement is signed, or five (5) consecutive years, whichever is shorter.

### **B. Renewal or Extension**

Any renewal or extension of a Line Agreement shall require legislative authorization by the City and County councils. Provided, that if the Parties are negotiating a renewal or extension of the Term of this Agreement pursuant to Section 25, then to ensure continuity of service and subject to budget authorization the SDOT Manager and the Transit Manager may agree to extend the initial term of any Line Agreement for up to one (1) additional calendar year on the same terms and conditions then existing in that Line Agreement and this Agreement. Any further or additional extensions or renewals of any Line Agreement shall require legislative authorization by the City and County councils.

### **C. Expiration; Termination**

Each Line Agreement shall expire at the end of its initial term unless renewed or extended as provided under Section 2.4.B of this Agreement, or otherwise reauthorized by legislative action by the City and County councils. Each Line Agreement may be terminated as provided in Section 23.

### **3.0 Seattle Streetcar In General**

#### **3.1 County Obligations**

The County shall:

- A. Assist the City with Startup activities.
- B. Operate and maintain all Seattle Streetcar lines in accordance with adopted Service Plans, Operations Lists, and Maintenance Lists.
- C. Comply with regulatory requirements affecting the operation of the streetcar system, including reporting to regulatory agencies (local, state, and federal) and providing information necessary to respond to operational audits, including the Washington State Department of Transportation's audits of the streetcar System-wide Safety Program Plan.
- D. Develop and adopt the Service Plans Operations Lists, Maintenance Lists, and annual O&M Cost Estimates for each streetcar Line. Develop, adopt, and update as needed a System-wide Safety Program Plan.
- E. Tow damaged or disabled streetcars using King County labor and equipment or private contractors as the Transit Manager may decide in his or her sole discretion.
- F. Invoice the City for the County's Seattle Streetcar-related costs and expenses as provided in this Agreement and any Line Agreements.

#### **3.2 City Obligations**

The City shall:

- A. Cooperate with the County in its development of Service Plans, Operations Lists, Maintenance Lists, and annual O&M Cost Estimates for each streetcar Line.
- B. Review the County's Operations Lists and Maintenance Lists for approval.
- C. Construct or procure all facilities, systems, equipment and revenue/Non-Revenue Vehicles, except as otherwise provided in this Agreement or the Line Agreement, in a condition to meet all applicable safety and operating requirements.
- D. Arrange for required utility connections and service to streetcar facilities (including traction power).
- E. Pay all monthly utility charges, water, sewer and electricity (including traction power).
- F. Undertake Capital Improvements to and replacements of streetcars and streetcar-related facilities and equipment as necessary.
- G. Contract for any service not assigned to the County under this Agreement or legislatively authorized Line Agreements, including Capital Repairs and replacement beyond maintenance of facilities and equipment.
- H. Be responsible for all operations audits, including the Washington State Department of Transportation's audit of the streetcar System-wide Safety Program Plan.
- I. Set, collect, and enforce Seattle Streetcar fares.

- J. Reimburse the County for its Streetcar-related costs and expenses as provided in this Agreement and any Line Agreements.

#### **4.0 Ownership and Use of the Seattle Streetcar**

##### **4.1 In General**

- A. The City shall own all Seattle Streetcar facilities and streetcars. The County shall operate and maintain the Seattle Streetcar. Other than fare-paying passengers and the City's security personnel or other first responders, the County will not permit third parties to use the Seattle Streetcar for any purpose except with approval of, or upon receiving written direction from, the City. In an emergency the City may initially provide verbal direction to the County, to be promptly followed by confirmation in writing at the City's first available opportunity.
- B. The City will retain responsibility for necessary improvements to or modifications of streetcars, equipment or facilities required to support service levels agreed to in the Line Service Plans, including track extensions or modifications, additional stations, platforms or stops, drainage, paving, or utility improvements, increased substation capacity, traffic signal modifications, or additional streetcar revenue vehicles or other equipment.

##### **4.2 Sponsorship, Advertising, and Related Signage or Graphics**

- A. The City retains the right to enter into sponsorship or advertising agreements regarding the Seattle Streetcar, including streetcars, and to retain all money received as a result of such agreements. The County will provide the City and its designated contractors or agents access to Seattle Streetcar facilities and streetcars for the City or its contractors or agents to apply signage and graphics associated with such sponsorship or advertising.
- B. As between the County and the City, the City shall make, implement, and enforce all policies regarding the content of Seattle Streetcar sponsorship, advertising, or other third-party signage or graphics (collectively, "Advertising Graphics"), in the City's sole discretion. As between the County and the City, the City shall decide whether to accept proposed Advertising Graphics, in the City's sole discretion. King County expressly negates and disclaims any right, privilege, duty or obligation to participate in decision-making or policy-setting regarding the content of Seattle Streetcar Advertising Graphics.
- C. As between the County and the City, the City and its contractors or agents shall be solely responsible to install or remove Seattle Streetcar Advertising Graphics. The City shall reimburse the County for the cost and expense to repaint, refinish, repair or restore streetcar vehicles or equipment damaged during the installation or removal of Advertising Graphics.
- D. The County reserves the right to object to proposed Advertising Graphics on the basis of safety or operability (e.g., to object to a proposed vehicle wrap that would dangerously obscure the streetcar operator's field of vision; to object to proposed station signage that

might trip passengers while boarding or de-boarding, or dangerously obscure their view of approaching streetcars). If the County objects and the City disagrees, then the Parties shall enter into the dispute resolution process under Section 22 of this Agreement. The County's reserved rights under this Section 4.2.D do not include the right to object to the content of proposed Advertising Graphics.

- E. Seattle Streetcar maps, route illustrations, wayfinding signs, service timetables, and other streetcar service-related signage or information at stations, platforms, and stops (collectively, "System Signage") are addressed under Section 7.2.

#### **4.3 Fares; Fare Collection System; Fare Media Sales**

- A. Overall. As between the City and the County, the City shall be solely responsible to collect and enforce fares for the Seattle Streetcar. The City may contract with the County to implement some or all of the City's fare-related responsibilities.
- B. Automated Fare Collection. The Seattle Streetcar will accommodate automated fare collection using the ORCA system equipment. To facilitate the regional fare allocation process, any fares collected using the ORCA system will match either the County's Metro Transit fares or Sound Transit's Link fares. Fare revenue collected using ORCA will be retained by the County and credited against Seattle Streetcar operating costs.

Roles and responsibilities for the procurement and installation of ORCA equipment are addressed in other agreements between the Parties. Costs to operate and maintain ORCA equipment and to extract and record data from the ORCA system will be included in the O&M Cost Estimate for each Line.

- C. Fare Inspection and Enforcement. The City shall be responsible for streetcar fare inspection and enforcement.

#### **4.4 Evaluation of Sustainable Design Features**

If the City incorporates sustainable design features into streetcar maintenance facilities, the County will provide the City and its designated contractors or agents reasonable access to streetcar maintenance facilities so the City may evaluate those design features. The City will give the County reasonable advance written notice of dates and times when it might wish to perform such evaluations.

#### **4.5 Special Events**

The City will use its best efforts to inform the County in writing at least thirty (30) days prior to any Special Events that may affect streetcar service on any Line. The County will make every effort to provide personnel and equipment for Special Events not listed in the annual Service Plan at the City's request. Special Events known to the City when the proposed annual Service Plan is prepared by the County shall be specified in that Plan. Special Events may include non-revenue service operations associated with streetcar vehicle sponsorships. For Special Events that occur outside of regular Seattle Streetcar service

hours, the County will bill the City for Special Event-related operations and maintenance on a time and materials basis.

## **5.0 Operations**

### **5.1 Unusual Occurrence Report; Notice of Significant Incidents**

- A. The County will prepare a daily Unusual Occurrence Report covering streetcar operations. The County will send a copy of the report to the City at the end of each day's operation. This report will include any delays to trains exceeding 10 minutes, and any accidents resulting in serious injury or serious damage to streetcar equipment.
- B. The County will promptly notify the City of any streetcar operations- or maintenance-related accident or incident that may result in notice being given to the media, or which can reasonably be expected to be reported in the public media. The County will give this notice to the City as soon as when practicable after the County has dispatched its response personnel to deal with the incident.
- C. Upon the happening of any occurrence or accident reasonably likely to expose the City or the County to potential claims for damages or other costs, the Party with initial knowledge shall promptly give notice to the other Party as provided under Paragraph A of this Section 5.1 and Appendix A Exhibit 6 (Points of Contact). In an emergency each Party shall endeavor to give prompt verbal notice to the other Party, followed by written notice at the notifying Party's earliest opportunity.

### **5.2 Bus Bridge**

In case of extended streetcar service disruption, upon the City's request the County will arrange for substitute bus service, subject to vehicle availability, in accordance with its existing standard procedures governing such service. The City shall reimburse the County for the cost of the substitute bus service.

## **6.0 Maintenance**

### **6.1 Maintenance Services in General**

The County shall undertake its maintenance responsibilities as described in this Article 6.0 in accordance with the manufacturer's recommendations, warranty requirements, industry practices, and information provided by designers, manufacturers, or installers of the equipment or systems.

### **6.2 Non-Revenue Vehicles and Equipment**

The County will provide the City a list of necessary Non-Revenue Vehicles for support of streetcar operations and maintenance. The costs of such vehicles will be charged to the City

as provided for in Appendix A Exhibit 4, Budget and Cost Methodology. The City shall promptly review and approve the County's list, such approval not to be unreasonably withheld, conditioned, or delayed. The County will procure Non-Revenue Vehicles consistent with the City-approved list, and shall invoice the City for the cost of the Non-Revenue Vehicles so acquired. The City shall promptly pay the County's invoice. If this Agreement is terminated or if a Line Agreement is terminated or modified to transfer responsibilities requiring the use of Non-Revenue Vehicles to the City, the affected Non-Revenue Vehicles will be delivered to the City, at no cost or expense to the County, if so requested by the City. The City shall pay the cost of Non-Revenue Vehicle fueling, whether by invoice, by City gas cards, or such other means as the City and the County may agree on. Fueling costs will be included in the O&M Cost Estimate under Section 2.3.F of this Agreement.

### **6.3 Tools and Equipment**

The City will provide all special tools or test equipment that the County will use to perform its vehicle maintenance duties under this Agreement.

### **6.4 Documentation**

The City shall maintain the master file of all as-built drawings, maintenance manuals and other streetcar system-related records or documentation. The City shall provide the County with copies of all as-built drawings and maintenance manuals for all streetcar facilities and equipment.

### **6.5 Configuration Management**

- A. The City will be responsible for Seattle Streetcar Configuration Management. The County may propose changes to streetcar capital assets via a change proposal. All change proposals shall be consistent with the System Safety Program Plan.
- B. Any County change proposal shall include:
  - (i). Description of the proposed change;
  - (ii). A markup of as-built drawings or other as-built documentation;
  - (iii). Estimated cost of the proposed change;
  - (iv). Justification for the proposed change;
  - (v). Service and operating and maintenance cost estimate for the proposed change;
  - (vi). Schedule for completion of the proposed change; and
  - (vii). Proposed distribution of responsibilities between the City and the County regarding any revision in service, operations, or maintenance as a result of the proposed change.
- C. The City will review the proposed change and determine if the change merits implementation. If the City approves the proposed change then the City will prepare and fund a work order to effect the change. Once the work is completed, the City will inspect the work for adherence to the work order, applicable codes and regulations, and



quality of workmanship. The City will be responsible to revise as-built drawings and maintenance manual to reflect the changes, and will provide updated drawings and manuals to the County.

- D. The City will be responsible for the Configuration Management component of any audit conducted by a regulatory agency having oversight responsibility for the Seattle Streetcar. The County will assist the City in preparation for the audit. The City will provide the County with copies of all Configuration Management documents.

## **6.6 Facilities and Equipment Maintenance**

The Parties' responsibilities for maintenance of streetcar facilities and equipment are delineated in Exhibit D to each Line Agreement. The County will implement Maintenance Procedures for its maintenance responsibilities in Exhibit D to each Line Agreement. The Parties agree that King County shall have no responsibility to perform any maintenance task not listed in Exhibit D to a Line Agreement.

## **6.7 Vehicle Maintenance**

In addition to maintaining non-revenue vehicles as stated in Section 6.2, and as more specifically described in Exhibit D to each Line Agreement, the County will be responsible to maintain streetcar revenue vehicles.

### **A. Major Maintenance, Heavy Repair and Overhaul**

The County shall analyze options for Major Maintenance, including Heavy Repair and Overhauls of streetcars, and present the options to the City for mutual written agreement concerning scope, cost, and schedule for such work. The City shall pay all costs for Major Maintenance. The SDOT Director and the Transit Manager or their designees will agree on a streetcar vehicle Overhaul Cycle.

### **B. Maintenance of Car History**

The City will cause the car builder to deliver Car History Books to the County.

## **6.8 Systems and Electrical Maintenance**

- A. Streetcar Electrical Power Systems Other Than Maintenance Facilities. As identified in Exhibit D to each Line Agreement, the County will maintain streetcar electrical power systems, including hardware and software elements of traction power substations, overhead contact system, and electrical switchgear. The County's duties under this Section 6.8.A do not include the maintenance of real-time arrival information signs or automated passenger counting systems addressed under Section 6.8.E.
- B. Maintenance Facility Systems. The City shall maintain the following electrical power systems relating to Seattle Streetcar maintenance facilities: Yard and shop power distribution and lighting, fire alarms, and general electrical facilities. Provided, that the

County shall maintain all streetcar traction power system equipment within Seattle Streetcar maintenance facilities.

- C. **Traffic and Train Signals.** The City will maintain all traffic signals, and aspect displays for train signal control. The County will maintain Train-to-Wayside Communications (TWC) equipment, train signal system controls and TWC equipment on the streetcars. The City will provide the County with access to train signal system control cabinets.
- D. **Radios.** The County shall provide, own and maintain all radios or other communications gear used by Seattle Streetcar operators. All radio costs will be included in the O&M Cost Estimate provided pursuant to Section 2.3.F of this Agreement.
- E. **Real-Time Arrival & Automated Passenger Counting Systems.** The City will procure and install systems providing real-time arrival information and automated passenger counting systems, each of which may include equipment located on the streetcar vehicles and at passenger stations or maintenance facilities. The City shall maintain the electrical power systems supplying power to any real-time arrival information signs. The County will perform routine troubleshooting and will contract with the City's suppliers for all service and maintenance. These costs will be included in the O&M Cost Estimate provided under Section 2.3.F of this Agreement.

## **6.9 Joint Use Facilities**

- A. The County operates transit service and facilities on multiple streets in the City. The County's transit facilities are permitted by the City and some of these facilities are or will become Joint Use Facilities with the Seattle Streetcar or with other uses of the right-of-way. To provide for efficient transit operations and to efficiently use constrained existing street rights-of-way, the Parties agree to the following Joint Use Facility provisions.

### **B. Joint Use Facilities**

Provisions for the design, construction, operation and maintenance of Joint Use Facilities will be established in project agreements associated with each Line. The Parties anticipate that:

- (i) The City will fund the design and construction of any new Joint Use Facilities that are required solely to accommodate the new Streetcar facilities;
- (ii) The Parties will collaborate on the design of Joint Use Facilities to ensure the design meets the requirements of each Party; and
- (iii) The Parties will share proportionally the operations, maintenance and replacement costs of Joint Use Facilities (e.g., if SDOT and the County are the only users of a given Joint Use Facility, then each of them shall pay fifty percent (50%) of the operations, maintenance and replacement cost of that facility). If another entity (such as another City department) also uses a given Joint Use Facility, then the Parties shall endeavor to allocate equal shares (e.g. 33.3%) to each user.)

## **7.0 Customer Service, Information, and Marketing**

### **7.1 Overview**

The County will provide customer information for the Seattle Streetcar. The County shall compile and print schedules for public dissemination and posting on vehicles. The City will provide route and service information on streetcar passenger shelters. The Parties agree to coordinate and work jointly in marketing streetcar service, including Special Events.

### **7.2 Sign Hardware and Changeable Message System**

- A. **Signage.** As part of Startup, the City will prepare and install streetcar-related route and customer signage for stations and streetcars. The County agrees to assist the City in determining the placement of route and customer signs and maps. If the City elects to have the County prepare or install streetcar-related route and customer signage or maps for stations or streetcars, then the City shall reimburse the County for those costs as provided for in Section 15 of this Agreement and Appendix A Exhibit 4 (Budget and Cost Methodology); provided, that the County shall pay for the cost to manufacture and install standard blade-type stop or route markers at the County's own cost; and provided further, that all new, additional, or different graphics or signage shall be manufactured and installed by the County at the City's cost and expense. Nothing in this Section 7.2 shall affect the allocation of responsibility for Advertising Graphics under Section 4.2 of this Agreement.
- B. **Signage Maintenance.** The City shall maintain all Seattle Streetcar-related signage at streetcar stations, platforms, and stops, as further described in Exhibit D to each Line Agreement.

### **7.3 Media Relations**

Except as otherwise identified in this Agreement, as between the City and the County, the County shall have sole responsibility and right to communicate about streetcar accidents, delays, and service changes after the start date of revenue operations on any line, including social media. The City shall be responsible for media communication about streetcar line construction prior to the start date of revenue service operations. After the start date of revenue service operations, the City may provide information about the Line routes, fares, service hours, scheduled headways, sponsorship opportunities, system planning and collateral information through its branded website and social media platforms.

## **8.0 Safety**

### **8.1 System Safety Program Plan**

The County will maintain a System Safety Program Plan (SSPP) in accordance with 49 C.F.R. Part 659 as now codified or hereafter amended.

### **8.2 Safety Oversight**

The Parties anticipate that the Washington State Department of Transportation (WSDOT) will audit the Seattle Streetcar's SSPP. The City and the County will develop corrective action plans to respond to any noted deficiencies. The City shall pay all audit costs as charged by WSDOT for such audit, and the City shall also pay the County's costs to facilitate the audit and create corrective plans if needed.

## **9.0 Security and Law Enforcement**

The City shall provide all security, law enforcement, and fare inspection and enforcement on the Seattle Streetcar and all streetcar stations, platforms, and stops. The County will include the Seattle Streetcar in its Metro Transit System Security Plan, All-Hazards Response Plans and associated training and exercise programs.

## **10.0 Overhead Contact System Work**

**10.1** Present expansion of the Streetcar system installed prior to the Effective Date of this Agreement has included additions and modifications to the Streetcar Overhead Contact System (OCS). The City represents and warrants that all work performed under the FHS Agreement, including without limitation, any and all new connections to or modifications of the County's Electric Trolley Bus (ETB) OCS, shall have been done in a workmanlike manner, and does not limit the operational flexibility or speed of the County's ETB service (unless mutually agreed in writing by the Parties). The County will follow its operating rules for ETB coaches through OCS crossings at intersections. In the event that any element of the Streetcar OCS or any Streetcar-related connections or modifications to the ETB OCS installed prior to the Effective Date of this Agreement subsequently cause operational or liability issues for the County, then the County may correct the defective work and any related work on or in connection with the ETB OCS, which corrective work shall be performed exclusively by the County or the County's contractors. Upon receipt of the County's invoice the City shall reimburse the County for all costs and expenses of work to correct operational or liability issues arising out of or caused by Streetcar OCS elements or Streetcar-related connections, additions or modifications to the ETB OCS that were installed prior to the Effective Date of this Agreement.

**10.2.** Future expansion of the Streetcar system may include additions or modifications to the Streetcar OCS. If Streetcar OCS additions or modifications result in new

connections to or modifications of the County's ETB OCS, then such connections or modifications shall not limit the operational flexibility of, or limit the speed of, the County's ETB service beyond the limits of the County's operating rules, unless mutually agreed in writing by the Parties.

- 10.3.** To accommodate future new Streetcar OCS connections to or modifications of the ETB OCS, it may be necessary to temporarily or permanently relocate portions of the ETB OCS. All Streetcar-related work on or in connection with the ETB OCS shall be performed exclusively by the County or the County's contractors. The City shall reimburse the County for all costs and expenses of the County's Streetcar-related OCS work consistent with and subject to Section 1.5 and Appendix A Exhibit 4 of this Agreement and the applicable Line Agreement.

## **11.0 Administration**

### **11.1 Personnel**

- A. The County will be solely responsible for managing its streetcar operations and maintenance personnel. In so managing its streetcar personnel the County will apply its policies and procedures regarding recruitment, discipline, appearance, drug use and drug testing.
- B. The City will be solely responsible for managing its police and other personnel. In so managing its police and other personnel the City will apply its policies and procedures regarding recruitment, discipline, appearance, drug use and drug testing.

### **11.2 Benefits and Records**

- A. The County will handle all payroll, benefits and employee records for its streetcar operations and maintenance personnel.
- B. The City will handle all payroll, benefits and employee records for its personnel policing or providing security for the streetcar and other City personnel involved with the streetcar.

### **11.3 City Taxes, Fees, Permits, and Charges Relating to the Seattle Streetcar**

- A. In General. If, as a result of a City ordinance, rule, policy, or practice, the County incurs a tax, fee, land use or other permit, or charge (collectively, "City Charge") for the operation or maintenance of the Seattle Streetcar, then the County shall include such City Charge as a line item on the invoice to the City, and may include a reasonable administrative fee not to exceed ten percent (10%) of the face amount of the City Charge.
- B. SDOT Waivers. If a City Charge is waived as to the Seattle Department of Transportation ("SDOT"), or SDOT is otherwise exempt or excepted from a City

Charge, then such City Charge shall also be waived or the County exempted or excepted from such City Charge, but only as to the County's operations and maintenance responsibilities under this Agreement or any Line Agreement.

## **12.0 Audits, Inspections, and Reports**

### **12.1 Audits**

The City, the County Auditor, the State Auditor, federal auditors, and their representatives may audit either Party's records related to the Seattle Streetcar.

### **12.2 Record Retention**

The Parties shall retain Seattle Streetcar-related records consistent with their respective record retention schedules and the Washington State Public Records Act, chapter 42.56 RCW as now codified or hereafter amended.

### **12.3 Audit Preparation Costs**

The City shall pay the County's reasonable costs and expenses associated with maintaining records and otherwise preparing for audits related to the Seattle Streetcar. The City understands, acknowledges, and agrees that different work groups or budgetary units within the King County Metro Transit Division may incur unique or separate costs to maintain records and otherwise prepare for Seattle Streetcar-related audits. Therefore, the County's annual O&M budget may include one or more line items for costs related to audit preparation; provided that the County shall not double-count costs and expenses related to Seattle Streetcar audit preparation. The City may question or challenge County audit preparation costs or expenses as provided in Section 15.2.B.

## **13.0 Performance Requirements and Reporting**

### **13.1 Ridership Reporting**

The County will compile ridership, and performance data, including data from any Automated Passenger Counter (APC) systems that may be installed on the Seattle Streetcar. The County will perform National Transit Database (NTD) reporting for the South Lake Union Line and will provide data for the First Hill Line in NTD format. The City will perform NTD reporting for the First Hill Line. The Parties shall establish an agreed-upon methodology and reporting intervals. The methodology and reporting intervals may be revised, updated, or amended by mutual written agreement of the SDOT Director and Transit Manager, or their designees.

## **14.0 Material and Warranty Management**

### **14.1 Warranty Administration**

The County will process warranty claims for streetcar vehicles, systems, and equipment through its existing warranty claims process, to the full extent of warranty coverage. Warranty claims will be submitted directly to the responsible manufacturer or vendor. If a vendor or manufacturer contests a warranty claim made by the County, the County will immediately notify the City of the dispute, and will provide all information about the claim to the City.

### **14.2 Material Management**

- A. **Startup.** During Startup of each streetcar Line, the City will purchase the manufacturers' recommended Startup Quantities of spare parts. The City shall not reduce quantities below the manufacturers' recommended levels, and the City shall not delete any item from the manufacturers' recommended lists.
- B. **In General.** After Startup, the County will establish and maintain inventory levels and other supplies and consumables to maintain streetcar vehicles and equipment in good working order. Not later than May 1 of each calendar year during the Term, the County shall send its proposed list and quantities of inventory items, supplies, and consumables to the City for review and approval, such approval not to be unreasonably withheld, conditioned, or delayed. If the City declines to approve the County's proposed list in whole or in part, then the County shall not be obligated to maintain the Streetcar to the level of reliability that would have been possible if the City had approved the County's proposed list, and instead the County shall be obligated to maintain the Seattle Streetcar to the lesser level of reliability achievable with the reduced inventory of parts, supplies, and consumables approved by the City. The County shall invoice the City for the cost of all approved inventory items, supplies, and consumables consistent with Article 15.0. In the event that this Agreement is terminated, all material purchased by the City or the County for the maintenance of the Seattle Streetcar will be turned over to the City, consistent with the provisions of Section 23.3 below.
- C. **Crossovers and Related Dual-Use System Equipment.** The Parties recognize the critical importance of crossovers and related equipment that permits the County's OCS to serve both the County's electric trolley bus fleet and the Seattle Streetcar. The City procured crossing hardware for test purposes to select the preferred crossing hardware; the test hardware shall be retained by the County as part of its supply of crossover spare parts. The Parties have agreed upon an initial supply of crossover spare parts to be procured by the City and delivered to the County for use in repairs and maintenance. The City acknowledges that it is the County's desire to maintain a sufficient level of spare crossovers and related parts and equipment to provide a conservative (i.e., erring on the side of being protective) level of redundancy and to protect the existing robust level of service on the County's electric trolley bus routes. The City further acknowledges that

crossovers are unique and are manufactured overseas, such that there is an unavoidably long lead-time when ordering replacements. For this reason the County shall make periodic recommendations with respect to stocking of spare parts as listed above. In the event the City decides not to follow the County recommendation the City shall not find the County at fault in the event that Streetcar service is affected as a result of a spare part issue. The Startup Quantity of crossover spare parts shall be established in each Line Agreement. If the County determines that additional spare parts are required during the term of this Agreement, the County's costs to acquire additional spare crossovers and related joint-use equipment shall be included in the O&M Cost Estimate provided pursuant to Section 2.3.F.

## **15.0 Compensation; Billing**

### **15.1 O&M Cost Reimbursement**

This Section 15.1 defines how the City will compensate the County for its operations and maintenance work associated with each streetcar Line. Section A establishes the compensation framework for the "legacy" South Lake Union Line. Section B establishes the compensation framework for the new First Hill Line.

#### **A. South Lake Union**

- (i) The Parties acknowledge that the operations and maintenance of the South Lake Union line was funded with contributions from the City and the County as part of service changes associated with the start of Link Light Rail operations.
- (ii) Upon the expiration of the SLU Agreement, and subject to the reduction and credit provisions of paragraphs (iii) and (iv) of this Section 15.1.A, the County will make a defined, capped annual contribution to the operation and maintenance of the South Lake Union line. The annual contributions shall be as follows:

<u>Year</u>	<u>Contribution</u>
2015	1,350,000
2016	1,400,000
2017	1,450,000
2018	1,500,000
2019	1,550,000



- (iii) The County may reduce its annual contribution in the event of a major service reduction in order to be consistent with the Strategic Plan for Public Transportation 2011-2021 and the King County Metro Service Guidelines (“Service Guidelines”). If the County elects to reduce its annual contribution, the reduction shall be as provided by the Service Guidelines; for example, if the Service Guidelines require a 10% reduction in the system hours at South Lake Union line that would be a corresponding 10% reduction in the annual contribution. The County will provide the City with as much advance notice as possible as to how the Service Guidelines will affect the SLU Line. In the event that the City disagrees with the service reduction, the City and County intend to cooperate to find alternatives that will both satisfy the County (so that it can comply with the Service Guidelines) and the City’s desire to provide the service it requires along the SLU Line. In the event that within 30 days the Parties are unable to reach mutual agreement as to a solution then the Parties may follow the Dispute Resolution (Steps 1 and 2 only) process to attempt to reach a mutually satisfactory solution. Notwithstanding anything to the contrary herein, in the event the Parties are unable to resolve the dispute, the interpretation of the Service Guidelines and any commensurate reduction in service to the SLU Line shall be determined by the County in its absolute and sole discretion.
  - (iv) The City will reimburse the County for all operations and maintenance costs in excess of the annual County contribution, and will retain all revenues, provided that, for administrative simplicity, revenues collected using the ORCA system will be retained by the County and credited against reimbursable operations and maintenance costs.
- B. The City will reimburse the County for all eligible costs of operation and maintenance of the First Hill Line and all other costs set forth in this Agreement that are set forth as a cost to the City. Eligible cost methodology is as provided for in Exhibit 4.

## **15.2 Invoices and Payment**

### **A. Payment**

The City will make payments according to Exhibit 5, Payment Schedule. For tracking purposes, the County will submit invoices to the City, at least 45 days in advance of each payment due date.

### **B. Reconciliation**

- (i) Either Party may request reconciliation of the budget and fare revenues to actual costs and revenues up to two times annually. The reconciliation shall begin within 45 days after the quarter in which the request was made. Upon completion of the reconciliation, the quarterly payment schedule may be adjusted by the Parties to reflect differences between the budget and actual costs.

- (ii) Upon request of the City, the County shall provide the City with sufficient backup information to support its reconciliation of estimated and actual Seattle Streetcar expenses, and the County shall also make appropriate County staff reasonably available to the City to respond to inquiries regarding such information.
- (iii) The City shall have the right to dispute the County's reconciliation of Seattle Streetcar expenses. Disputes may include but need not be limited to the amount of any expenses and the amount of expenses properly payable to the County. If the City wishes to dispute any Seattle Streetcar expenses, then the SDOT Director shall deliver notice to the Transit Manager under Section 24.7 of this Agreement. The notice shall specify the charges or calculations in dispute. If the City provides such notice, then the County will permit the City to audit the County's books and records pertaining to expenses for the fiscal year to which such reconciliation pertains. Until the completion of the audit and final resolution of any dispute regarding such audit, the City shall continue to pay the County's Seattle Streetcar expenses in the amounts estimated by the County. Any overcharge or underpayment of Seattle Streetcar expenses shall be credited or paid by the responsible Party within sixty (60) days of the completion of the audit or, if there is a dispute, upon the final resolution of the dispute.
- (iv) The Parties shall each maintain books and records regarding Seattle Streetcar expenses consistently to allow accurate audits. Each Party may audit the other Party's Seattle Streetcar-related books and records at the offices where such books and records are kept. Such audit shall be during ordinary business hours and shall occur not later than thirty (30) days after a Party receives notice of intent to audit from the other Party. Audits shall be conducted by a firm not paid on a contingency basis. The auditing Party shall pay the costs of the audit firm, unless the audit reveals that the audited Party overcharged or underpaid by five percent (5%) or more, in which case the audited Party shall pay the costs of the audit firm.

## **16.0 Federal Funding Requirements**

The City anticipates use of federal funds, grants, or other federal financial assistance to pay for some County work under this Agreement. The County is also a recipient of Federal funds for transit purposes and shall continue to comply with applicable federal requirements, including but not limited to Title VI of the Civil Rights Act of 1964. Federal funding shall not relieve the City of its independent contractual obligation to compensate the County under this Agreement.

## **17.0 Designated Representatives**

The Parties shall designate representatives for notice, reporting, and other communications, and for coordinating the Parties' staff work regarding the Seattle Streetcar. The Parties' designated representatives shall also coordinate the periodic reporting and review of documents required under this Agreement, prepare revisions to this Agreement and its

attachments, and identify, elevate, and resolve issues as they may arise. The Parties' designated representatives are listed in Appendix A Exhibit 6 (Points of Contact) attached hereto.

## **18.0 Indemnification**

### **18.1 Indemnity for Design**

To the maximum extent permitted by law, the City shall protect, defend, indemnify and save harmless the County, its officers, officials, employees and agents, from any and all claims, demands, suits, penalties, losses, damages, judgments or costs of any kind ("Claims") arising out of or resulting from the design of the Seattle Streetcar and caused by or arising out of the acts or omissions of the City, its officers, employees, agents, consultants and/or sub consultants of all tiers, including any Claims, demand, and/or cause of action brought against the County by or on behalf of any of the City's employees, or agents. The foregoing duty 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 with a full and complete indemnity and defense of Claims made by the City's employees. The Parties acknowledge these provisions were mutually negotiated and agreed upon by them.

In the event it is determined that RCW 4.24.115 applies to this indemnity obligation, the City agrees to protect, defend, indemnify and save the County, its officers, officials, employees and agents from any and all claims, demands, suits, penalties, losses damages judgments, or costs of any kind whatsoever arising out of or in any way resulting from the City's officers, employees, agents and/or consultants and/or subconsultants of all tiers, acts or omissions, performance of failure to perform the rights and privileges granted under this Agreement, to the maximum extent permitted by law or as defined by RCW 4.24.115, as now enacted or hereafter amended.

### **18.2 Indemnity for Construction**

To the maximum extent permitted by law, the City shall protect, defend, indemnify and save harmless the County, its officers, officials, employees and agents, from any and all claims, demands, suits, penalties, losses, damages, judgments or costs of any kind, ("Claims"), arising out of or resulting from the construction of the Seattle Streetcar and caused by or arising out of the acts or omissions of the City, its officers, employees, agents, vendors, suppliers, contractors and/or subcontractors of all tiers, including any Claims, demand, and/or cause of action brought against the County by or on behalf of any of the City's employees, or agents. The foregoing duty 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 with a full and complete indemnity and defense of Claims made by the City's employees. The Parties acknowledge that these provisions were mutually negotiated and agreed upon by them.

In the event it is determined that RCW 4.24.115 applies to this indemnity obligation, the City agrees to protect, defend, indemnify and save the County, its officers, officials, employees and agents from any and all claims, demands, suits, penalties, losses damages judgments, or costs of any kind whatsoever arising out of or in any way resulting from the City's officers, employees, agents and/or contractors and/or subcontractors of all tiers, acts or omissions, performance of failure to perform the rights and privileges granted under this Agreement, to the maximum extent permitted by law or as defined by RCW 4.24.115, as now enacted or hereafter amended.

### **18.3 Indemnity for Streetcar Vehicle Manufacture Liability**

To the maximum extent permitted by law, the City shall protect, defend, indemnify and save harmless the County, its officers, officials, employees and agents, from any and all claims, demands, suits, penalties, losses, damages, judgments or costs of any kind whatsoever, (hereinafter "Claims"), arising out of or resulting from the design, construction, manufacturer or modification of Seattle Streetcar vehicles and caused by the acts or omissions of the City, its officers, employees, agents, vendors, suppliers and/or subcontractors of all tiers. The City's duty under this Section 18.3 does not extend to Claims to the extent arising out of or resulting from the County's Streetcar Maintenance Responsibilities as outlined in Appendix A, Exhibit D to each Line Agreement or from any modifications that the County makes to any Seattle Streetcar vehicle. The City agrees this obligation to indemnify and defend the County from any Claims, demand, and/or cause of action extends to Claims brought by or on behalf of any of the City's employees, or agents. The foregoing duty 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 with a full and complete indemnity and defense of Claims made by the City's employees. The Parties acknowledge these provisions were mutually negotiated and agreed upon by them.

### **18.4 Indemnity for City of Seattle Maintenance Responsibilities**

To the maximum extent permitted by law, the City shall protect, defend, indemnify and save harmless the County, its officers, officials, employees and agents, from any and all claims, demands, suits, penalties, losses, damages, judgments or costs of any kind whatsoever, (hereinafter "Claims"), arising out of or in any way resulting from the City's Seattle Streetcar Maintenance Responsibilities as outlined in **Exhibit E** to each Line Agreement, now or as hereinafter amended, caused by or arising out of the acts or omissions of the City, its officers, employees, agents, vendors, suppliers and/or subcontractors of all tiers, The City agrees this obligation to indemnify and defend the County from any Claims, demand, and/or cause of action extends to claims brought by or on behalf of any of the City's employees, or agents. The foregoing duty 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 with a full and complete indemnity and defense of Claims made by the City's employees. The Parties acknowledge these provisions were mutually negotiated and agreed upon by them.

### **18.5 Indemnity for King County Maintenance and Operations Responsibilities**

To the maximum extent permissible by law, the County shall protect, defend, indemnify and save harmless the City, its officers, officials, employees and agents, from any and all claims, demands, suits, penalties, losses, damages, judgments or costs of any kind whatsoever, (hereinafter "Claims"), arising out of or in any way resulting from the County's Seattle Streetcar Maintenance and Operations Responsibilities as outlined in **Exhibits D and E** to each Line Agreement, now or as hereinafter amended, caused by or arising out of the acts or omissions of the County, its officers, employees, agents, vendors, suppliers and/or subcontractors of all tiers. The County agrees to indemnify and defend the City from any Claims, demand, and/or cause of action brought by or on behalf of any of the County's employees, or agents. The foregoing duty is specifically and expressly intended to constitute a waiver of the County's immunity under Washington's Industrial Insurance act, RCW Title 51, as respects the City only, and only to the extent necessary to provide the City with a full and complete indemnity and defense of Claims made by the County's employees. The Parties acknowledge these provisions were mutually negotiated and agreed upon by them.

### **18.6 Intentionally Left Blank**

### **18.7 Indemnity for Ordinance or Regulation**

In executing this Agreement, the County does not assume liability or responsibility for or in any way release the City from any liability or responsibility which arises in whole or in part from the existence or effect of City ordinances, rules or regulation, policies or procedures. If any cause, claim, suit, action or administrative proceeding is commenced in which the enforceability and/or validity of any City ordinance, rule or regulation is at issue, the City shall defend the same at its sole expense and if judgment is entered or damages are awarded against the City, the County, or both, the City shall satisfy same, including all chargeable costs and attorney's fees.

### **18.8 Release and Waiver**

Except as otherwise provided in Sections 18.1 through 18.7 above, each Party releases, waives and forever discharges any and all causes of action against the other arising out of the design, construction, operation, or maintenance of the Seattle Streetcar or any of its component parts.

### **18.9 Attorney Fees**

If either Party prevails in litigation regarding enforcement of the provisions of this Article 18.0 against the other Party, then the prevailing party shall recover all fees, costs and expenses (including but not limited to attorney's fees and other legal costs) from the other Party.

## **19.0 Insurance**

### **19.1 Property Damage Insurance**

- A. The City shall insure the Seattle Streetcar vehicles, spares, equipment, platforms and streetcar maintenance facilities under its property damage insurance coverage. Such coverage shall cover all direct physical loss or damage including vehicle or collision and or over turns, except for equipment breakdown. If a streetcar vehicle is so damaged that the City determines to replace it rather than have it repaired, then the City shall procure such replacement vehicle at the City's sole cost and expense. The City shall be solely responsible for its deductible and the prosecution and handling of all first party claims with its insurer(s). Notwithstanding Section 18 Indemnification, the City may elect to self-insure this Property Damage exposure but shall bear the full cost of repairs regardless of fault.
- B. Notwithstanding Section 18 Indemnification, to the extent a loss is covered by City property damage insurance in force, including any extended coverage endorsements, the City shall cause its insurer(s) to waive its rights of subrogation and the City's rights of recovery against the County; provided this Section 19.1.B shall be inapplicable if it would have the effect of invalidating any City property damage insurance coverage of the City.

### **19.2 Risk Management Program**

- A. The County maintains a Risk Management Program under Chapter 2.21 of the King County Code and other authorities. The City understands and agrees that the County is self-funded for all of its liability exposures. The County agrees to maintain, through its self-funded program or an alternative risk of loss financing program, coverage for all of its liability exposures for the duration of this Agreement. The County agrees to provide the City with at least thirty (30) days prior written notice of any material change or alternative risk of loss financing program. The County agrees that nothing in this Section 19 or in the County's Risk Management Program shall limit or modify the County's indemnity obligations under this Agreement. The cost of including the County's activities under this Agreement in its self-funded program or alternative risk of loss finance program shall be included in the calculation of the Seattle Streetcar O&M cost and shall be subject to reconciliation adjustment as part of the Annual Review.
- B. The City of Seattle maintains a Risk Management Program under S.M.C. 3.30.020.P, S.M.C. Chapter 5.24, and other authorities. The County understands and agrees that the City of Seattle is self-funded for all of its liability exposures. The City of Seattle agrees to maintain, through its self-funded program or an alternative risk of loss financing program, coverage for all of the City's liability exposures for the duration

of this Agreement. The City agrees to provide the County with at least thirty (30) days' prior written notice of any material change or alternative risk of loss financing program. The City agrees that nothing in this Section 19 or in the City Risk Management Program shall limit or modify the City's indemnity obligations under this Agreement.

### **19.3 Workers' Compensation**

The County maintains a Safety and Workers' Compensation Program under RCW Chapter 51. The City understands and agrees that the County is self-funded for all of its Workers' Compensation liability exposures. The County agrees to maintain, through its self-funded program or an alternative risk of loss financing program, coverage for all of its Workers' Compensation liability exposures for the duration of this Agreement. The County agrees to provide the City with at least thirty (30) days' prior written notice of any material change or alternative risk of loss financing program. The cost of including the County's activities under this Agreement in its self-funded program or alternative risk of loss finance program shall be included in the calculation of the Seattle Streetcar O&M cost and shall be subject to reconciliation adjustment as part of the Annual Review.

## **20.0 Claims Management**

### **20.1 Allocation of Claims Management Duties**

#### **A. City Responsible for System Claims and Security or Police Worker's Compensation**

- i. The Parties agree that the City shall be responsible to administer, handle, defend and dispose of all claims, causes of action, suits, matters, or administrative proceedings arising out of or relating to the design, construction, or manufacture of Seattle Streetcar vehicles, the Seattle Streetcar system, or any element or component of it, or any or all of them (collectively, "System Claims"). Upon the receipt of a Seattle Streetcar-related claim or other allegation by the County, the City shall accept tender of any portion of the claim that may be fairly characterized as a System Claim. System Claims shall be paid and handled, including defense of litigation, under the City's established claims handling process.
- ii. The City shall not call upon the County to assume charge of the settlement or defense of any System Claims, but the County shall have the right and shall be given the opportunity, at its own expense, to associate with the City in the defense and control of any claim, suit or proceeding relative to an occurrence that involves or appears reasonable likely to involve an O&M Claim as defined in Paragraph B of this Section 20.1.
- iii. Workers compensation claims filed by City employees serving as security or police forces for the Seattle Streetcar shall be handled by the City's worker's compensation system.

**B. County Responsible for O&M Claims and Worker’s Compensation for County Employees Serving as Streetcar Personnel**

- i. The Parties agree that the County shall administer, handle, defend and dispose of all claims, causes of action, suits, matters, or administrative proceedings arising out of or relating to the County’s operation or maintenance of the Seattle Streetcar, or both of them (collectively, “O&M Claims”). Upon the receipt of a claim or other allegation by either Party, the County shall accept tender of any portion of the claim that may be fairly characterized as an O&M Claim. O&M Claims will be paid and handled, including defense of litigation, by the King County Risk Management Program under the County’s established claims handling practices.
- ii. The County shall not call upon the City to assume charge of the settlement or defense of any O&M Claim, but the City shall have the right and shall be given the opportunity, at its own expense, to associate with the County in the defense and control of any claim, suit or proceeding relative to an occurrence where the claim or suit involves or appears reasonable likely to involve a System Claim as defined in paragraph A of this Section 20.1.
- iii. Workers’ Compensation claims filed by County employees serving as Seattle Streetcar personnel will be handled by the County’s self-insured Workers’ Compensation program.

**C. Joint Defense and Cooperation**

The County and the City agree to associate in the defense and control of any claim, suit or proceeding that involves or appears to involve both System Claims and O&M Claims, and the Parties shall cooperate in the defense of such claim, suit, or proceeding. The City and County further agree to fully cooperate in the enforcement of any right against any third person or entity which may be wholly or partly responsible for any Systems Claim or O&M Claim or for any damage or impairment to any Seattle Streetcar asset.

**20.2 Confidentiality**

- A. The Parties acknowledge that materials and information, both written and verbal, may be generated by the claims management process and, under applicable law, may be kept confidential and privileged (“Confidential Materials”). Such Confidential Materials are presumed to include, but are not limited to:
- (i) Statements of potential witnesses;
  - (ii) Legal advice, notes, or memoranda of legal counsel;
  - (iii) Information assembled and reports prepared by consulting and potentially testifying experts; and
  - (iv) Statements, documents, and information regarding preparation, strategy, and tactics for litigation or other dispute resolution process; or any of the foregoing.



- B. The Parties intend by this Agreement to protect the privileged and confidential nature of any Confidential Materials to the extent permitted under the Public Records Act, RCW ch. 42.56. Each Party agrees that all verbal and/or written Confidential Materials received by or from a Party shall be held in strictest confidence and shall not be given, shown, provided, communicated or otherwise disclosed to anyone outside of the City and the County without the express written consent of the Party from whom the Confidential Materials were received, except under a judicial order to disclose the materials. If either the City or the County receives a public disclosure request from another person or entity for Confidential Materials, the recipient of the request shall immediately notify the other Party to this Agreement, who shall be entitled to bring a motion in court to oppose the request. The recipient of the request may also move to oppose the request, but is not obligated to do so.

## **21.0 Hazardous Substances**

### **21.1 Indemnification**

- A. To the maximum extent permitted by law, the City shall indemnify, defend and hold harmless the County, its appointed and elected officials, and employees, against any and all claims, liabilities, damages, and expenses, including reasonable attorney's fees, asserted against the County by a third party, including without limitation, any agency or instrumentality of the federal government or state or local government, for bodily injury, including death of a person, physical damage to or loss of use of property, or clean-up activities (including but not limited to investigation, study, response, remedial action, or removal), fines, penalties, or administrative proceedings arising out of or relating to the presence, release, or threat of release of a Hazardous Substance arising out of the design, construction, repair, modification, or demolition of the Seattle Streetcar or its elements, or any of them, except to the extent caused by the act or omission of the County. The City's obligations under this Article 21.0 shall survive the expiration or other termination of this Agreement.
- B. To the maximum extent permitted by law, the County shall indemnify, defend and hold harmless the City, its appointed and elected officials, and employees, against any and all claims, liabilities, damages, and expenses, including reasonable attorney's fees, asserted against the City by a third party, including without limitation, any agency or instrumentality of the federal government or state or local government, for bodily injury, including death of a person, physical damage to or loss of use of property, or clean-up activities (including but not limited to investigation, study, response, remedial action, or removal), fines, penalties, or administrative proceedings arising out of or relating to the presence, release, or threat of release of a Hazardous Substance arising out of the County's operation or maintenance of the Seattle Streetcar or its elements, or any of them, except to the extent caused by the act or omission of the City. The County's obligations under this Article 21.0 shall survive the expiration or other termination of this Agreement.

## **22.0 Dispute Resolution**

The City and the County agree to negotiate in good faith to resolve any disputes arising under this Agreement or the attached Line Agreements so that the purposes of this Agreement and the Line Agreements are not frustrated. The Parties' Designated Representatives shall communicate regularly to discuss the status of the tasks and services to be performed and to prevent disputes from arising. Except as otherwise provided in this Agreement, the Parties shall use the following dispute resolution process.

### **22.1 Step One**

The Parties' Designated Representatives shall confer and attempt to resolve the dispute within ten (10) business days of written notification by either Party.

### **22.2 Step Two**

If the Parties' Designated Representatives are unable to resolve the dispute within ten (10) business days, either Party may refer the dispute to the SDOT Director and the Transit Manager. The SDOT Director and the Transit Manager shall confer and attempt to resolve the dispute within ten (10) business days of receiving the referral. The conference may be in person or by other means, such as telephone conference, videoconference, etc.

### **22.3 Prerequisite to Litigation**

Neither Party may seek relief in a court of law until and unless the steps in Sections 22.1-22.2 are exhausted.

### **22.4 Mediation**

If the Parties cannot resolve the dispute utilizing the process in Sections 22.1-22.2, the Parties may, by agreement, submit the matter to non-binding mediation. The Parties shall share equally in the cost of the mediation. If additional parties participate in the mediation then each participant shall pay a share of the cost of the mediation, such share to be calculated by dividing the total cost of the mediation by the number of parties participating. Mediation shall not be a prerequisite to litigation.

### **22.5 Continued Performance**

During the course of the conflict or dispute resolution efforts, the Parties agree to continue to diligently perform their respective responsibilities under this Agreement and the Line Agreements.

### **22.6 Tolling**

A. The Parties agree that any statute of limitations or statute of repose shall be tolled during any dispute resolution process between them. The time that the statutes are so tolled

- shall be added to the time for bringing an action for each Party's claims under any federal or state law (whether statute or case law), including any state or federal code(s) of civil procedure or statute of limitations that are or may apply.
- B. If either Party sues including, without limitation, to toll the statute of limitations as to a third party, the tolling agreement in Paragraph A of this Section 22.6 shall remain in effect for the duration of any conflict or dispute resolution process between the Parties.
  - C. The Parties agree that, notwithstanding the tolling agreement in Paragraph A of this Section 22.6, the Parties do not waive or release any statute of limitations or statute of repose defense that could be asserted.

## **23.0 Termination**

### **23.1 Default**

Either Party may terminate this Agreement or a Line Agreement by written notice to the other Party if the other Party substantially fails to fulfill any material obligation through no fault of the terminating Party, provided that where practicable, the terminating Party will give:

- A. Written notice of intent to terminate no less than 180 days prior to termination, stating how the other Party has failed to perform the obligations under this Agreement or a Line Agreement; and
- B. An opportunity for the other Party to cure the default within a specified time, not to exceed thirty (30) days, from notice of the intent to terminate. The notice of intent to terminate shall state the time within which cure is permitted and any other appropriate conditions.
- C. If more than thirty (30) days is reasonably needed to cure a default then the defaulting Party may have more than 30 days to cure, so long as the defaulting Party shall have initiated a reasonable cure and diligently pursued it within the 30-day period following that Party's receipt of notice of intent to terminate.
- D. If the defaulting Party fails to remedy the default or the breach to the reasonable satisfaction of the terminating Party within the time established in the notice of termination or any extension granted by the terminating Party, the Agreement or Line Agreement shall be deemed terminated.

### **23.2 For Convenience**

Either Party may terminate this Agreement or a Line Agreement, in writing, for its convenience, provided that the other Party will be given:

- A. Written notice of intent to terminate no less than one hundred eighty (180) days prior to the intended termination date; and
- B. Opportunity to consult with the Party initiating the termination prior to the termination date; Provided further, that
- C. The County's obligation to perform the work of this Agreement or the Line Agreements beyond the current appropriation year is conditioned upon appropriation by the Metropolitan King County Council of sufficient funds to support said work. Should such an appropriation not be enacted, this Agreement and all affected Line Agreements will terminate automatically at the close of the then-current appropriation year. The appropriation year ends on December 31 of each year. As between the County and the City, the Transit Manager shall determine the sufficiency of County appropriations in the Transit Manager's sole and absolute discretion.

### **23.3 Activities upon Termination and Expiration**

- A. The City and the County agree that upon expiration of the Term of this Agreement or any Line Agreement or upon earlier termination of this Agreement or any Line Agreement under this Article 23.0, the City and the County shall cooperate to develop a coordinated plan for terminating the services rendered until the time of termination, determining reasonable contract close-out costs for termination by the County, and accounting for and transfer of equipment provided by the City in the manner the City directs.
- B. If the City terminates this Agreement or a Line Agreement based on a County default or breach, the City shall compensate the County only for the services satisfactorily rendered to the date of termination at the rates and amounts and in the manner provided in this Agreement, with no payment for contract closeout costs under Section 23.3.A.
- C. If the County terminates this Agreement or a Line Agreement based on City nonpayment of operations or maintenance costs or expenses due and owing, the City shall compensate the County for the services satisfactorily rendered to the date of termination at the rates and amounts and in the manner provided in this Agreement, together with the County's reasonable contract closeout costs as provided in Section 23.3.A. The County will add a late fee of five percent (5%) to its final invoice if not paid within sixty (60) days after the County delivers its final invoice. If the County's final invoice remains outstanding ninety (90) days after receipt, then the County will send it to collections.

## **24.0 General Provisions**

### **24.1 Rights and Remedies**

The rights and remedies of the Parties to this Agreement are in addition to any other rights and remedies provided by law or equity, except if this Agreement specifies that the rights

and remedies provided herein shall supersede or replace the Parties' rights or remedies at law or equity.

#### **24.2 No Joint Venture or Partnership**

No joint venture or partnership is formed because of this Agreement.

#### **24.3 No Third Party Rights**

This Agreement is solely for the benefit of the Parties hereto. It creates no right, privilege, duty, obligation, or cause of action or other remedy in any person or entity not a party to it.

#### **24.4 Compliance with Laws**

##### **A. In General**

Each Party shall comply, and shall take reasonable steps to ensure that its employees, agents, consultants, contractors and representatives comply, with all federal, state, and local law, regulations, and ordinances applicable to the work or services for which that Party is responsible under this Agreement, including, but not limited to, applicable public works and procurements laws and regulations, bonding, prevailing wage, nondiscrimination, retainage, insurance, and workers' compensation requirements.

##### **B. Licensing and Certification of Employees**

Each Party shall comply, and shall take reasonable steps to ensure that its employees, agents, consultants, contractors and representatives comply, with all federal, state and local licensing, registration, filing and/or certification standards applicable to the work or services for which that Party is responsible under this Agreement, including but not limited to applicable accrediting standards and any other standards or criteria established by any state or federal agency with jurisdiction over the streetcar system or its component parts, equipment, or other elements.

#### **24.5 Venue; Choice of Law**

Any litigation between the Parties regarding this Agreement or any Line Agreement shall be brought in the Superior Court of King County in Seattle, Washington. This Agreement and the Line Agreements attached to it shall be governed by the law of the State of Washington, without reference to its choice of law rules or conflicts of law provisions.

#### **24.6 No Employee Relationship**

The Parties are independent contractors to each other. Neither Party is an employee or agent of the other. Employees, agents, consultants and representatives of one Party shall not be deemed or construed to be employees or agents of the other Party. No employee, agent, consultant or representative of either Party shall make any claim, demand, or application to or for any right or privilege applicable to an officer or employee of the other Party. Each

Party shall be solely responsible for any claims for wages or compensation by its employees, agents, and representatives, including consultants, and shall release, indemnify, and hold the other Party harmless from any such claims.

#### **24.7 Notice**

Any notice permitted or required to be given by either Party to this Agreement shall be in writing and may be effected by certified or registered United States mail, with return receipt requested, properly addressed, postage prepaid, or by reputable overnight delivery service, or by personal delivery, to the Parties' Designated Representatives identified in Appendix A Exhibit 6 (Points of Contact). The Parties may update their Designated Representatives or other points of contact by providing notice as required in this Section 24.7.

#### **24.8 Waiver or Default**

Waiver of any default under any provision of this Agreement shall not be deemed a waiver of any subsequent default and shall not be construed to be a modification of this Agreement.

#### **24.9 Force Majeure**

- A. Neither Party shall be considered in breach of this Agreement or liable for any delay or failure to comply with this Agreement, if and to the extent that such delay or failure is attributable to the occurrence of a Force Majeure Event.
- B. A Party claiming relief based on a Force Majeure Event shall:
  - (i) Promptly notify the other Party in writing of the existence and nature of the Force Majeure Event;
  - (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; and
  - (iv) Resume performance of its obligations under this Agreement as soon as practicable thereafter.
- C. Obligations to pay for services already provided shall not be excused by a Force Majeure Event.
- D. If a Force Majeure Event destroys all or a substantial portion of the Seattle Streetcar, or all or a substantial portion of a Seattle Streetcar Line, the City shall decide, in its sole discretion whether to restore the damaged portions of the Seattle Streetcar or the Line, which restoration shall be at the City's sole expense. If the City elects not to restore the damaged portion of the Seattle Streetcar or the Line, then this Agreement and any applicable Line Agreement shall terminate as to the damaged portion of the Seattle Streetcar or the Line. If the City elects to restore the damaged portion of the Seattle Streetcar or the Line, then the City shall provide notice to the County, and the County shall resume operations and maintenance of the restored Seattle Streetcar or the Line once restoration is complete. If this Agreement and any applicable Line Agreement are

- terminated due to Force Majeure Event damage to a portion of the Seattle Streetcar system or the Line, the Parties shall not be released from any payment or other obligations arising under this Agreement as to any other portion of the Seattle Streetcar or the Line, and all terms and conditions that expressly survive the expiration or termination of this Agreement shall continue to apply as to the damaged portion of the Seattle Streetcar or the Line.
- E. Notwithstanding anything to the contrary in this Section 24.9, 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 Agreement as to all or a portion of the Seattle Streetcar or a Line upon thirty (30) days' notice to the other Party. Upon such termination the Parties shall close out this Agreement consistent with Section 23.3.A.
- F. If this Agreement or any Line Agreement is terminated pursuant to Sections 24.9.D or E, then the Parties shall not be released from any payment or other obligations arising under this Agreement or any Line Agreement prior to the Force Majeure Event or Events, and all terms and conditions that expressly survive the expiration or termination of this Agreement shall continue to apply as to the portion of the Seattle Streetcar or Line subject to termination.

#### **24.10 Assignment/subcontracting**

Neither Party may assign or subcontract any interest, obligation, or benefit in this Agreement or transfer any interest in the same without prior written consent by the other Party.

#### **24.11 Binding on Successors and Assigns**

This Agreement, together with all appendices, exhibits and attachments now or hereafter made a part, shall be binding on the Parties hereto and their respective successors and assigns.

#### **24.12 Severability**

If any of the terms and conditions of this Agreement is determined to be invalid or unenforceable by a court of competent jurisdiction, the remaining terms and conditions shall remain in full force and effect. The Parties agree to negotiate in good faith to reform the Agreement to replace any invalid or unenforceable term and/or condition with a valid and enforceable term and/or condition that comes as close as possible to the intention of the stricken term and/or condition.

#### **24.13 Warranty of Right to Enter Into Agreement**

The Parties each warrant they have the authority to enter into this Agreement and that the persons signing this Agreement for each Party have the authority to bind that Party.

#### **24.14 Appendices, Exhibits and Attachments**

All appendices, exhibits and attachments referenced in and attached to this Agreement are incorporated by this reference.

#### **24.15 Amendments and Modifications**

This Agreement and its appendices, exhibits and attachments shall only be amended or modified by mutual agreement of the Parties, in writing and, where specifically required in this Agreement, with the approval of each Party's respective legislative body.

#### **24.16 Survival of Certain Provisions**

The Parties' rights and duties under the following sections shall survive any termination or expiration of this Agreement:

Section 12.0 Audits, Inspections and Reports  
Section 18.0 Indemnification  
Section 19.0 Insurance  
Section 20.0 Claims Management  
Section 21.0 Hazardous Substances  
Section 22.0 Dispute Resolution

#### **24.17 Meetings**

The Parties' Designated Representatives will meet at least quarterly during Startup of any Seattle Streetcar Line. The Parties' Designated Representatives will meet at least semi-annually (once every six months) to discuss necessary changes or adjustments to this Agreement. Such discussions will include opportunities to improve the efficiency of the operation and maintenance of the Seattle Streetcar. Meetings may be in person or by telephone or other means.

### **25.0 Extension, Renewal, and Expiration**

#### **25.1 Agreement Review**

Eighteen (18) months prior to the end of the Term, the Parties will initiate discussion as to whether they will agree to extend or renew the Term of this Agreement. If the Parties agree to extend or renew this Agreement, they shall execute a written extension or renewal, along with any amendments, at least twelve (12) months prior to the expiration of this Agreement, or within such lesser time as may be agreed to by the Parties in writing. Any extension or renewal of this Agreement beyond the initial Term shall require authorization by ordinance of the City and County councils.



**25.2 Expiration**

In the event the Parties do not extend or renew the Term of this Agreement, or terminate it by mutual agreement, then it shall expire at the end of the Term as specified in Section 1.C of this Agreement.

**26.0 Execution of Agreement**

This Agreement may be executed in two counterparts, either one of which shall be regarded for all purposes as one original, but both of which together shall constitute one and the same instrument.

**IN WITNESS WHEREOF**, the Parties hereby execute this Agreement as of the day and year set forth below their signatures.

**King County**  
**(“The County”)**

**City of Seattle**  
**(“The City”)**

\_\_\_\_\_  
Dow Constantine  
King County Executive

\_\_\_\_\_  
Edward Murray  
Mayor of Seattle

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
Deputy Prosecuting Attorney

Date: \_\_\_\_\_



## **Exhibit 1**

### **Definitions**

**Accident:** An unexpected loss-causing event that results in a fatality, bodily injury, or property damage.

**Bus Bridge:** A substitute bus service operated in place of rail service when all or a portion of a rail transit line is out of service.

**Capital Improvements:** Placement of new assets into the Seattle Streetcar characterized by one-time cost exceeding One Thousand Dollars (\$1,000) and having a life expectancy exceeding one year.

**Capital Repairs:** Repair intended to extend the life of an existing asset having a one-time cost exceeding One Thousand Dollars (\$1,000) with a life expectancy exceeding one year.

**Car History Book:** A record maintained by the car builder that shows all modifications to the car during its construction, including quality control exceptions and their corrections.

**Changeable Message System:** A system for providing information to the public by means of electrically illuminated signs which may be easily changed as needed.

**Component Repair:** Restoration of a component to reliable operative condition.

**Configuration Management:** The control and documentation of changes that are made to the hardware, software, firmware, and documentation throughout the life of a system.

**Corrective Maintenance:** Unscheduled maintenance conducted to restore a system to its intended operating condition after an observed defect or failure.

**Crossover:** The materials installed in an area where two overhead electrical systems cross or interconnect, such as within an intersection that accommodates the crossing of both the ETB OCS and the Streetcar OCS.

**De-energizations/Outages:** Used interchangeably with “Outage,” means the work necessary to both de-energize and re-energize all or part of the ETB or Streetcar OCS.

**Electrification System:** The overhead electrical wires and related infrastructure improvements (including but not limited to poles, trusses, brackets, Crossovers, guy or tension wires, DC substations, utility cabinets or vaults, switches, transformers, capacitors, computerized monitoring equipment, turnbuckles and other hardware, etc.) used to provide or support power to ETB and/or streetcar services. Sometimes referred to as the overhead contact system (OCS).

**Emergency:** Emergency refers to an unexpected disruption of Seattle Streetcar service due to a defect in the Seattle Streetcar infrastructure, having a cost of repair exceeding \$5,000.

**Emergency Operations:** Refers to operations of the Seattle Streetcar when a portion of the Seattle Streetcar is inoperative due to defect, blockage of the track, or other disruption.

**ETB:** King County's electric trolley bus system and all of its component parts and related infrastructure, including but not limited to the ETB OCS, all as now existing or hereafter modified.

**Force Majeure:** Any delay resulting from any cause beyond a Party's reasonable control resulting in the Party's inability to perform its obligations under this Agreement. Force Majeure Events may include, but are not limited to: Acts of nature; accident, fire or explosions 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, sabotage, or terrorism; epidemic; strikes; delays resulting from legal or administrative challenge by persons or entities other than the Parties to this Agreement, and so forth. Force Majeure Events shall include extraordinary equipment failures (such as traction power substation failures) or acts or omissions of agents, suppliers, contractors or subcontractors of any tier, including but not limited to acts or omissions arising out of or relating to a Force Majeure Event as defined herein.

**Hazardous Substances:** Hazardous Substances means:

A. Any toxic substances or waste, sewage, petroleum products, radioactive substances, medicinal, bacteriological, or disease-producing substances; or

B. Any dangerous waste, hazardous waste, or hazardous substance as defined in the following statutes as now codified or later amended:

- i. Comprehensive Environmental Response, Compensation and Liability Act of 1980, (42 U.S.C. §9601 et seq.);
- ii. Resource Conservation and Recovery Act, as now or hereafter amended (42 U.S.C. §6901 et seq.);
- iii. Hazardous Waste Management Act and Washington Model Toxics Control Act, (R.C.W. Chs. 70.105, and 70.105D);
- iv. Federal Water Pollution Control Act, also known as the Clean Water Act, (33 U.S.C. §1251 et seq.);
- v. Clean Air Act, (42 U.S.C. §7401 et seq.);
- vi. Oil Pollution Act of 1990, (33 U.S.C. §2701 et seq.); or
- vii. Hazardous Materials Transportation Act, (49 U.S.C. 5901 et seq.).

C. Any other pollutant, contaminants, or substances, posing a danger or threat to public health or welfare, or to the environment, which are regulated or controlled by any federal, state and local laws, and regulation, as now codified or later amended.

**Heavy Repair:** A repair that is relatively so material in cost, repair time, or physical damages that management's involvement in the determination of the repair is necessary, and Heavy Repair includes Overhaul and can be scheduled or can be unscheduled in cases such as an accident repair.

**Joint Use Facility:** Joint Use Facilities are structures or improvements integral to the operation of the Seattle Streetcar or the County's transit system and used by the Seattle Streetcar and by the County for its transit service, and potentially by other agencies or services. By way of example only, Joint Use Facilities may include utility and traffic signal poles, support wires, shelters or waiting areas and their amenities, and pedestrian improvements, but only to the extent the same are integral to the operation of the Seattle Streetcar and the County's transit system and used by the Streetcar and also by the County transit system and, potentially, other agencies or services. Joint Use Facilities do not include other municipal improvements not integral to the operation of the Seattle Streetcar and the County's transit system, such as sidewalks, curbs and gutters, street panels, catch basins and storm sewers, street pavement markings and finishes, etc.

**Line:** A designated Seattle Streetcar route along which streetcar passenger service is provided between identified end points, together with all necessary and ancillary improvements, equipment, and facilities, such as tracks, stations, platforms, stops, maintenance facilities, tail tracks, overhead catenary systems, traction power stations, signaling equipment, etc.; e.g., the South Lake Union Line, with service from Fairview Avenue North and Ward Street to Westlake Avenue and Olive Way. Each Line is the subject of a Line Agreement and is described in Section A of its Line Agreement and illustrated in Exhibit A to its Line Agreement.

**Line Agreements:** Those separate, subsidiary agreements between the Parties that establish their specific rights, privileges, duties and obligations as to each Line within the Seattle Streetcar network and subject to this Agreement's broader allocation of rights and duties between the Parties. Line Agreements are collected in Appendix B and identified by name (e.g. South Lake Union Line, First Hill Line, etc.).

**Maintenance Procedure:** A written set of instructions describing the work to be done and the proper sequence of actions to be taken to maintain any component of the Seattle Streetcar.

**Major Maintenance:** Major Maintenance is work beyond the regular, routine upkeep of equipment to replace or repair the equipment in order to return a system to its intended use, prevent further damage, or make it compliant with new or existing laws or regulations. Major Maintenance includes Heavy Repairs and Overhauls.

**Overhaul:** Scheduled maintenance of larger systems to recondition the equipment in order to restore it to its original condition and extend its operating life. For example, rebuilding an air conditioner every five years or 250,000 miles would be an Overhaul.

**Overhead Contact System (OCS):** See definition of Electrification System.

**Non-Revenue Vehicles:** Vehicles other than streetcars used to support Seattle Streetcar operations and that do not carry passengers for fare, including but not limited to maintenance vehicles, wreckers or tow vehicles, staff transport vans, supervisor vehicles, etc.

**Operating Phases:**

**Startup:** The period between the effective date of the Seattle Streetcar Operations and Maintenance Agreement or any later-executed Line Agreement and 12:01 AM of the first day of revenue passenger service.

For the South Lake Union Line Only:

Phase 1: [INTENTIONALLY DELETED]

Phase 2: The period between the effective date of the Seattle Streetcar Operations and Maintenance Agreement and 11:59 PM December 31, 2019.

**Pre-Revenue Service:** Operation of streetcars under the proposed schedule used after the beginning of revenue service, but without passengers. The “Pre-Revenue Service” period is used to test the proposed schedule and to train personnel on the procedures to be used under normal and extraordinary conditions.

**Revenue Service:** Operation of streetcars to transport fare-paying passengers according to a Service Plan, or for Special Events and may include promotional service periods during which no fare is charged.

**Operations List:** The County’s outline for regular service operations, special services, Emergency Operations, and the operating procedures for the guidance of the County’s staff.

**Overhaul Cycle:** The interval at which streetcars will be given an Overhaul.

**Preventive Maintenance:** A process of inspecting, testing, and/or reconditioning an operating system at regular intervals according to specific instructions, intended to prevent in-service failures or retard deterioration.

**FHS Agreement:** That certain Project Coordination and Reimbursement Agreement for the City’s First Hill Streetcar executed by the Parties and dated August 21, 2012.

**Routine Maintenance:** Corrective and Preventive Maintenance.

**Seattle Streetcar:** The set of streetcar Lines in and for the City of Seattle, as now constituted or hereafter amended.

**Service Plan:** A document attached to each Line Agreement that outlines the service to be provided by that Seattle Streetcar Line subject to annual review for changes. The plan sets forth hours of operation, headways, special operations, and other details of the service.

**Special Event:** An event that requires a deviation from the normal operating routine of the Seattle Streetcar. These may include extended hours of service for holidays, anticipated delays due to parades or construction work, and the opening of new streetcar Lines.

**Startup Quantities:** The quantity of spare parts and consumable items specified in contracts for streetcars and facilities as the initial volume of spare part stock provided by the contractor to be delivered before the closure of the contract.

**System Safety Program Plan:** A document developed by Metro Transit Division of the King County Department of Transportation describing its safety policies, objectives, responsibilities, and procedures.

**Support Vehicle:** See Non-Revenue Vehicles.

**Train-to-Wayside Communications:** A system of digital communication between trains (streetcars) and equipment located along the wayside to route trains automatically to their destination and other uses.

**Transfer:** The physical movement and/or alteration of overhead electrical systems. Transfers typically require outages. Transfers and outages are independent items.

**Unusual Occurrence Report (UOR):** A daily report prepared and sent by County personnel operating the Seattle Streetcarsystem to the City. The UOR typically includes entries regarding delays to service, incidents, mechanical failures, and other unusual events.

**Exhibit 2**

**RESERVED**



**Exhibit 3**

**RESERVED**

## **Exhibit 4**

### **Budget and Cost Methodology for Payments by City to County**

#### **A. Eligible Costs**

#### **Eligible costs will be determined based on the following cost methodologies Start-Up and Operation and Maintenance Phases:**

##### **Start-up Cost Methodology**

Direct costs for staff dedicated to the Seattle Streetcar operation and maintenance activities, including salaries, benefits, overtime and a charge for workers compensation costs.

Direct and indirect costs for training and maintenance support from Metro's Power and Facilities Section for the OCS, substations, and trackway once turned over to the County for maintenance. Costs will include direct staff salaries and benefits, section administration, Support Vehicles and a charge for workers compensation costs.

Indirect and general administration costs including Transit Division and King County support services allocated based on methodology used for reporting to National Transit Database (NTD) and reflecting costs reported to NTD, and Light Rail Section administrative costs, as adjusted to reflect costs otherwise included as direct costs in this Agreement.

Direct materials and supplies, including parts, shop supplies and office equipment and supplies.

One-time costs for incorporating Seattle Streetcar parts into the vehicle maintenance inventory system, adjustments to scheduling and customer information software systems, staff hiring and fixed-route customer information signage.

Purchase of non-revenue vehicle(s) to support service operation.

##### **O&M Cost Methodology**

Direct costs for staff dedicated to the Seattle Streetcar operation and maintenance activities, including salaries, benefits, overtime and a charge for workers compensation costs.

Direct and indirect costs for maintenance support from Metro's Power and Facilities Section for the OCS, substations, maintenance facility and trackway. Costs will include direct staff salaries and benefits, section administration, Support Vehicles and a charge for workers compensation costs.

Indirect and general administration costs including Transit Division and King County support services allocated based on methodology used for reporting to National Transit Database (NTD) and reflecting costs reported to NTD, insurance premiums in proportion to the county's overall ridership, risk and claims costs associated with the streetcar as described in the agreement, and

Light Rail Section administrative costs, as adjusted to reflect costs otherwise included as direct costs in this Agreement.

Direct materials and supplies, including parts, shop supplies and office equipment and supplies.

Other service provided by the County outside of the operating scope such as emergency operating and maintenance expenditures, Bus Bridges, body work, moving streetcars to other locations for Overhauls, etc. These and any other activities negotiated under separate agreements will be charged based on actual cost incurred.

**B. Budget Tables**

See next pages

**EXHIBIT 4 B BUDGET TABLES**

<b>SEATTLE STREETCAR</b>	
<b>2014 FIRST HILL STREETCAR-STARTUP BUDGET</b>	
<b>PART 1 Streetcar StartUp Staffing</b>	
Staffing to provide 19 streetcar operators, 4 electro mechanics, 0.75 train controller, 5 O/M supervisors, 1 Maintenance Chief, 1 Superintendent and management/administrative support to operations staff.	
<b>Part 1 Subtotal</b>	<b>830,000</b>
<b>Part 2 Power System Operation &amp; Maintenance</b>	
Startup allowance	
<b>Part 2 Subtotal</b>	<b>30,000</b>
<b>PART 3 General Administration and Implementation Support</b>	
General administrative support (Misc & M5 Parts input)	
<b>PART 3 Subtotal</b>	<b>30,000</b>
<b>PART 4 Operating Materials/Supplies</b>	
Startup Equip (\$618,625), Office consumables (printing/copying), vehicle consumables (oil, filters, etc) and Operator, Supervisor uniforms and cold weather gear.	
<b>Part 4 Subtotal</b>	<b>660,000</b>
<b>Grand Total-2014 Startup Estimate</b>	<b>\$ 1,550,000</b>

**EXHIBIT 4 B BUDGET TABLES**

<b>SEATTLE STREETCAR</b>	
<b>2014 FIRST HILL STREETCAR - PRELIMINARY OPERATING BUDGET</b>	
<b>PART 1 Streetcar Operations Staffing</b>	
Staffing to provide 19 streetcar operators, 4 electro mechanics, 0.75 train controller, 5 O/M supervisors, 0.75 maintenance chief, 0.75 superintendent and management/administrative support to operations staff. (Costs for superintendent, maintenance chief, train controller and management/administrative staff are share with South Lake Union Streetcar.)	
<b>Part 1 Subtotal</b>	<b>620,000</b>
<b>Part 2 Power System Operation &amp; Maintenance</b>	
Cost-allocated staff support for maintenance of overhead contact system, traction power substations, radio maintenance and Administrative costs for Audit Support	
<b>Part 2 Subtotal</b>	<b>280,000</b>
<b>PART 3 General Administration and Implementation Support</b>	
General administrative support (financial management, training, testing, insurance, M5 Parts Mgmt etc)	
<b>PART 3 Subtotal</b>	<b>70,000</b>
<b>PART 4 Operating Materials/Supplies</b>	
Office consumables (printing/copying), vehicle consumables (oil, filters, etc)	
<b>Part 4 Subtotal</b>	<b>20,000</b>
<b>Grand Total-2014 Revenue Service</b>	<b>\$ 990,000</b>

**EXHIBIT 4 B BUDGET TABLES**

<b>2015 SEATTLE STREETCAR FIRST HILL STREETCAR- PRELIMINARY OPERATING BUDGET</b>	
<b>PART 1 Streetcar Operations Staffing</b>	
Staffing to provide 19 streetcar operators, 4 electro mechanics, 0.75 train controller, 5 O/M supervisors, 0.75 maintenance chief, 0.75 superintendent and management/administrative support to operations staff. (Costs for superintendent, maintenance chief, train controller and management/administrative staff are shared with South Lake Union Streetcar.)	
<b>Part 1 Subtotal</b>	<b>4,010,000</b>
<b>Part 2 Power System Operation &amp; Maintenance</b>	
Cost-allocated staff support for maintenance of overhead contact system, traction power substations, radio maintenance and Administrative costs for Audit Support	
<b>Part 2 Subtotal</b>	<b>460,000</b>
<b>PART 3 General Administration and Implementation Support</b>	
General administrative support (financial management, training, testing, insurance, M5 Parts Mgmt, etc)	
<b>PART 3 Subtotal</b>	<b>510,000</b>
<b>PART 4 Operating Materials/Supplies</b>	
Office consumables (printing/copying), vehicle consumables (oil, filters, etc) & essentials to equip operators & supervisors with uniforms and cold weather gear	
<b>Part 4 Subtotal</b>	<b>150,000</b>
<b>Grand Total-2015 Revenue Service</b>	<b>\$ 5,130,000</b>

**EXHIBIT 4 B Budget Tables**

<b>2015 SEATTLE STREETCAR SOUTH LAKE UNION STREETCAR- OPERATING BUDGET</b>	
<b>PART 1 Streetcar Operations Staffing</b>	
Staffing to provide 1 streetcar chief, 1 administrative specialist, 4 O/M supervisors, and 9 streetcar operators, 3 electro mechanics. Shared costs with First Hill Streetcar: 0.25 train controller, 0.25 Maintenance Chief, 0.25 Superintendent, 0.25 train controller and management/administrative staff.	
<b>Part 1 Subtotal</b>	<b>2,370,000</b>
<b>Part 2 Power System Operation &amp; Maintenance</b>	
Cost-allocated staff support for maintenance of overhead contact system, traction power substations, radio maintenance and Administrative costs for Audit Support	
<b>Part 2 Subtotal</b>	<b>160,000</b>
<b>PART 3 General Administration and Implementation Support</b>	
General administrative support (financial management, training, testing, insurance, M5 Parts Mgmt, etc)	
<b>PART 3 Subtotal</b>	<b>50,000</b>
<b>PART 4 Operating Materials/Supplies</b>	
Office consumables (printing/copying), vehicle consumables (oil, filters, etc) & essentials to equip operators & supervisors' s uniforms and cold weather gears	
<b>Part 4 Subtotal</b>	<b>120,000</b>
<b>Grand Total-2015 Revenue Service</b>	<b>\$ 2,700,000</b>

## Exhibit 5

### Payment Schedule

#### Exhibit 5 Payment Schedule

##### A. South Lake Union Line

Quarterly Estimated Cost	Quarterly Estimated ORCA Fare Revenue	Quarterly Fixed Contribution	Payment Amount (Quarterly Cost Estimate Less Quarterly ORCA Fare Revenue Estimate Less Quarterly Share of Fixed County Contribution)	Payment Due Date
\$ 675,000	\$ 199,000	\$ 337,500	\$ 138,500	31-Mar-15
\$ 675,000	\$ 199,000	\$ 337,500	\$ 138,500	30-Jun-15
\$ 675,000	\$ 199,000	\$ 337,500	\$ 138,500	30-Sep-15
\$ 675,000	\$ 199,000	\$ 337,500	\$ 138,500	31-Dec-15
\$ 695,000	\$ 216,500	\$ 350,000	\$ 128,500	31-Mar-16
\$ 695,000	\$ 216,500	\$ 350,000	\$ 128,500	30-Jun-16
\$ 695,000	\$ 216,500	\$ 350,000	\$ 128,500	30-Sep-16
\$ 695,000	\$ 216,500	\$ 350,000	\$ 128,500	31-Dec-16
\$ 715,000	\$ 235,000	\$ 362,500	\$ 117,500	31-Mar-17
\$ 715,000	\$ 235,000	\$ 362,500	\$ 117,500	30-Jun-17
\$ 715,000	\$ 235,000	\$ 362,500	\$ 117,500	30-Sep-17
\$ 715,000	\$ 235,000	\$ 362,500	\$ 117,500	31-Dec-17
\$ 737,500	\$ 275,750	\$ 375,000	\$ 86,750	31-Mar-18
\$ 737,500	\$ 275,750	\$ 375,000	\$ 86,750	30-Jun-18
\$ 737,500	\$ 275,750	\$ 375,000	\$ 86,750	30-Sep-18
\$ 737,500	\$ 275,750	\$ 375,000	\$ 86,750	31-Dec-18
\$ 760,000	\$ 293,000	\$ 387,500	\$ 79,500	31-Mar-19
\$ 760,000	\$ 293,000	\$ 387,500	\$ 79,500	30-Jun-19
\$ 760,000	\$ 293,000	\$ 387,500	\$ 79,500	30-Sep-19
\$ 760,000	\$ 293,000	\$ 387,500	\$ 79,500	31-Dec-19



**Exhibit 5 Payment Schedule**

B. First Hill Line

Quarterly Estimated Cost	Quarterly Estimated ORCA Fare Revenue	Payment Amount (Quarterly Cost Estimate Less Quarterly ORCA Fare Revenue Estimate)	Payment Due Date
\$ 1,270,000	\$ -	\$ 1,270,000	30-Sep-14
\$ 1,270,000	\$ -	\$ 1,270,000	31-Dec-14
\$ 1,282,500	\$ 257,500	\$ 1,025,000	31-Mar-15
\$ 1,282,500	\$ 257,500	\$ 1,025,000	30-Jun-15
\$ 1,282,500	\$ 257,500	\$ 1,025,000	30-Sep-15
\$ 1,282,500	\$ 257,500	\$ 1,025,000	31-Dec-15
\$ 1,320,000	\$ 267,500	\$ 1,052,500	31-Mar-16
\$ 1,320,000	\$ 267,500	\$ 1,052,500	30-Jun-16
\$ 1,320,000	\$ 267,500	\$ 1,052,500	30-Sep-16
\$ 1,320,000	\$ 267,500	\$ 1,052,500	31-Dec-16
\$ 1,360,000	\$ 277,500	\$ 1,082,500	31-Mar-17
\$ 1,360,000	\$ 277,500	\$ 1,082,500	30-Jun-17
\$ 1,360,000	\$ 277,500	\$ 1,082,500	30-Sep-17
\$ 1,360,000	\$ 277,500	\$ 1,082,500	31-Dec-17
\$ 1,400,000	\$ 465,000	\$ 935,000	31-Mar-18
\$ 1,400,000	\$ 465,000	\$ 935,000	30-Jun-18
\$ 1,400,000	\$ 465,000	\$ 935,000	30-Sep-18
\$ 1,400,000	\$ 465,000	\$ 935,000	31-Dec-18
\$ 1,442,500	\$ 480,000	\$ 962,500	31-Mar-19
\$ 1,442,500	\$ 480,000	\$ 962,500	30-Jun-19
\$ 1,442,500	\$ 480,000	\$ 962,500	30-Sep-19
\$ 1,442,500	\$ 480,000	\$ 962,500	31-Dec-19

**Exhibit 6**

**Points of Contact**

Designated Representatives

City: Ethan Melone (or Successor) Rail Transit Manager Seattle Department of Transportation P.O. Box 34996 Seattle, WA 981240-4996 <a href="mailto:Ethan.Melone@seattle.gov">Ethan.Melone@seattle.gov</a> (206) 684-8066	County: Randy Witt King County, Metro Transit Division Design & Construction Manager 201 South Jackson Street Seattle, WA 98104-3856 <a href="mailto:Randy.Witt@kingcounty.gov">Randy.Witt@kingcounty.gov</a> (206) 477-5970
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Contact Information for SDOT Director, Transit Manager, and Service of Notice

SDOT Director:  Director Seattle Department of Transportation P.O. Box 34996 Seattle, WA 98124-4996 (206) 684-5000	Transit Manager:  General Manager King County, Metro Transit Division 201 South Jackson Street Seattle, WA 98104-3856
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Emergency Contacts (Available 24 hours per day):

Link Control Center (206) 205-8177

Tedd Hankins (206)-477-5991

Michael Avery (206) 903-7660

Invoices.

County shall submit invoices to:

Seattle Department of Transportation  
Accounts Payable  
ATT: Seattle Streetcar  
PO Box 34996  
Seattle, WA 98124-4996

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## **SOUTH LAKE UNION STREETCAR LINE AGREEMENT**

### **A. LINE DESCRIPTION**

This Line Agreement governs the South Lake Union Line segment of the Seattle Streetcar from Fairview Avenue N and Ward Street to Westlake Avenue and Olive Way in the City; and generally consisting of 1.3 miles of double track for passenger service, and 0.2 miles of maintenance facility lead track as illustrated in Exhibit A of this Line Agreement. This Line Agreement is part of and governed by the Amended and Restated Interlocal Agreement Between King County and the City of Seattle Regarding the Seattle Streetcar System (“Streetcar Interlocal Agreement”). The Streetcar Interlocal Agreement shall control over the terms of this Line Agreement in all instances of conflict, ambiguity or contract interpretation or construction.

### **B. START-UP PLAN**

Not Applicable. Startup of the South Lake Union Line occurred in the past.

### **C. SERVICE AND SCHEDULE PLAN**

#### **Service Plan**

The Service Plan is found in Exhibit C of this Line Agreement.

### **D. OPERATIONS**

The governing documents for Operations will be the Safety/Security Program Plan (SSPP), followed by the Operations Plan, Rulebook and Standard Operating Procedures (SOP’s). These will be prepared by integrating the new territory of the First Hill Line into the documents currently governing the South Lake Union operation resulting in one set of governing documents for the Seattle Streetcar incorporating both lines.

The Operations List is found in Exhibit D of this Line Agreement.

### **E. MAINTENANCE**

The governing documents for Maintenance will be the Safety/Security Program Plan (SSPP), followed by the Maintenance Plan, Rulebook and Standard Maintenance Procedures (SMP’s). These will be prepared by integrating the new territory and equipment of the First Hill Line into the documents currently governing the South Lake Union maintenance resulting in one set of governing documents for the Seattle Streetcar incorporating both lines.

The Maintenance List is found in Exhibit E of this Line Agreement.

### **F. O&M COST ESTIMATE**

The O&M Cost Estimate is found in Exhibit 4 of the Streetcar Interlocal Agreement.



**Exhibit B**

NOT USED

## **Exhibit C**

### **Service and Schedule Plan**

#### **Hours of Service**

The streetcar will operate Monday thru Thursday, 6:00 a.m. to 9 p.m.; Friday and Saturday 6:00 a.m. to 11 p.m., and Sundays/Holidays, 10:00 a.m. to 7:00 p.m. Monday through Friday, 6:00 a.m. to 9:00 a.m., and 4:00 p.m. to 7:00 p.m. are considered “peak” service periods.

#### **Service Frequency**

Mon-Friday            10 Minute Headways (7 AM-7PM)

All Other Times        15 Minute Headways



## **Exhibit D**

### **Operations Responsibility List**

#### **City of Seattle**

1. Cooperate with King County in development and review of Streetcar Service Plan
2. Contract for any service not assigned to King County, including capital repairs and replacement beyond normal maintenance of facilities and equipment
3. Provide all special tools or test equipment needed by King County to perform its duties under the Streetcar Agreement
4. Deliver equipment maintenance requirements and drawings to King County
5. Prepare Car and Station signage

#### **King County**

1. Incorporate Streetcar Service Plan, Schedule Plan, Operations Plan, System Safety Program Plan
2. Incorporate the Seattle Streetcar into Metro's System Security Plan
3. Comply with regulatory requirements
4. Hire and train staff
5. Comply with performance standards
6. Develop and implement operating and maintenance procedures
7. Operate and maintain the streetcars
8. Consult with City regarding Revenue Passenger Service
9. Develop Emergency Response Plan
10. Develop All Hazards Response Plan
11. Conduct emergency preparedness drills
12. Prepare train schedules, operator runs and car assignments
13. Prepare "Bus Bridge" plan
14. Provide Non-Revenue Vehicles
15. Arrange Lost and Found handling
16. Develop media relations procedures
17. Collect and report ridership and performance data

## **Exhibit E**

### **Routine Maintenance Responsibilities List**

#### **City of Seattle**

1. Utility Connections
2. Pavement
3. Traffic signals
4. Train Signal Aspects
5. Traffic signs
6. Pavement markings
7. Station landscaping
8. Artwork
9. Lighting
10. Shelters and furnishings
11. Information and advertisement posters
12. Poles – joint use with Traffic Signals
13. Track Drains – all except the portion between the rails
14. Passenger Platforms and Furnishings

#### **King County**

1. Rail Vehicle maintenance
2. Wheel Truing
3. TWC & Train Signal Control
4. Radios
5. Cranes
6. Phones and Networks
7. Track
8. Overhead Contact System
9. Streetcar/Trolley Bus Crossings
10. Poles – strain poles (including joint use trolley bus/streetcar)
11. Span Wires
12. Substations, including Maintenance Facility substation
13. Automated Passenger Counting (Vendor's service contract)
14. South Lake Union Maintenance Facility (including but not limited to Lighting, Fire Alarms, Electrical Facilities, Elevators)
15. Non-revenue vehicle maintenance



## **FIRST HILL STREETCAR LINE AGREEMENT**

### **A. LINE DESCRIPTION**

This Line Agreement governs the First Hill Line segment of the Seattle Streetcar from Occidental Avenue and South Jackson Street to East Denny way and Broadway in the City of Seattle, Washington, and generally consists of 2.5 miles of double track for passenger service and .3 miles of maintenance facility lead track, all as illustrated in Exhibit A to this Line Agreement. This Line Agreement is part of and governed by the Amended and Restated Interlocal Agreement Between King County and the City of Seattle Regarding The Seattle Streetcar System (“Streetcar Interlocal Agreement”). The Streetcar Interlocal Agreement shall control over the terms of this Line Agreement in all instances of conflict, ambiguity or contract interpretation or construction.

### **B. START-UP PLAN**

The projected start date for revenue passenger service of the First Hill Streetcar Line is October 31, 2014. Responsibility for the work during the Startup Period is allocated between the City and the County as set forth in Exhibit B of this Line Agreement.

### **C. SERVICE AND SCHEDULE PLAN**

#### **Service Plan**

The Service Plan is found in Exhibit C of this Line Agreement.

### **D. OPERATIONS**

The governing documents for Operations will be the Safety/Security Program Plan (SSPP), followed by the Operations Plan, Rulebook and Standard Operating Procedures (SOP’s). These will be prepared by integrating the new territory of the First Hill Line into the documents currently governing the South Lake Union operation.

The Operations List is found in Exhibit D of this Line Agreement.

### **E. MAINTENANCE**

The governing documents for Maintenance will be the Safety/Security Program Plan (SSPP), followed by the Maintenance Plan, Rulebook and Standard Maintenance Procedures (SMP’s). These will be prepared by integrating the new territory and equipment of the First Hill Line into the documents currently governing the South Lake Union maintenance.

The Maintenance List is found in Exhibit E of this Line Agreement.

The Start-up quantity of crossover spare parts is found in Exhibit E of this Line Agreement.

### **F. O&M COST ESTIMATE**

The O&M Cost Estimate is found in Exhibit 4 of the Streetcar Interlocal Agreement.



## **Exhibit B**

### **Start-up Plan**

Projected Revenue Passenger Service Start Date

10/31/2014

### **Start-up Responsibilities**

#### **City of Seattle**

Safety/Security Certification (with some tasks delegated to KC)  
Design  
Construction  
Public Outreach (Start-up period only)  
Rail Vehicle Procurement  
System Commissioning  
System Testing  
Integrated Testing  
Provide Tools and Equipment  
Provide Spare Parts  
Provide Office Furniture  
Provide for Vendor Training  
Provide Service Plan

#### **King County**

Assist with Safety/Security Certification  
Hire Staff  
Train Staff  
Provide Uniforms for Staff  
Support Integrated Testing  
Create/Update Standard Operating Procedures  
Create/Update Standard Maintenance Procedures  
Participate in Integrated Testing  
Conduct Pre-Revenue Service  
Create Operating Schedules  
Manage Rail Activation

**Exhibit C**

**Service and Schedule Plan**

**Hours of Service**

The streetcar will operate Monday thru Saturday from 5 a.m. to 1 a.m. and Sundays/Holidays 10:00 a.m. until 8:00 p.m. Monday through Friday, 6:00 a.m. to 9:00 a.m. and 4:00 p.m. to 7:00 p.m. are considered “peak” service periods.

<b>First Hill Streetcar--Service Plan</b>						
	5 AM to 6 AM	6 AM to 9 AM	9 AM to 3 PM	3PM to 7 PM	7 PM to 11 PM*	11 PM to 1 AM
<b>Weekdays</b>						
Cars in Operation	2 to 3 (Phased In)	5	4	5	3	2 to 3 (Phased Out)
Approximate Train Frequencies	18 to 25 minutes	10 minutes	12 minutes	10 minutes	18 minutes	18 to 25 minutes
<b>Saturdays</b>						
Cars in Operation	0	4	4	4	4	2 to 3 (Phased Out)
Approximate Train Frequencies		12 minutes	12 minutes	12 minutes	12 minutes	18 to 25 minutes
<b>Sundays/Holidays*</b>						
Cars in Operation	0	2	3	3	3 (Service Ends at 8PM)	0
Approximate Train Frequencies		25 minutes	15-18 minutes	15-18 minutes	15-18 minutes	
*Extra event service in 4 hour blocks around sporting events (one additional car in operation)						



## **Exhibit D**

### **Operations Responsibility List**

#### **City of Seattle**

1. Cooperate with King County in development and review of Streetcar Service Plan
2. Arrange for required utility connections and service to Streetcar facilities
3. Contract for any service not assigned to King County, including capital repairs and replacement beyond normal maintenance of facilities and equipment
4. Test the facilities and equipment, conduct integrated testing, certify and commission systems
5. Select revenue passenger service date
6. Provide all special tools or test equipment needed by King County to perform its duties under the Streetcar Agreement
7. Deliver equipment maintenance requirements and drawings to King County
8. Obtain sufficient “Startup Quantity” of spare parts
9. Prepare Car and Station signage
10. Marketing of the streetcar opening

#### **King County**

1. Incorporate Streetcar Service Plan, Schedule Plan, Operations Plan, System Safety Program Plan
2. Incorporate the Seattle Streetcar into Metro’s System Security Plan
3. Comply with regulatory requirements
4. Hire and train staff
5. Comply with performance standards
6. Develop and implement operating and maintenance procedures
7. Operate and maintain the streetcar system
8. Consult with City regarding Revenue Passenger Service
9. Assist with operational testing
10. Develop Emergency Response Plan
11. Develop All Hazards Response Plan
12. Conduct emergency preparedness drills
13. Prepare train schedules, operator runs and car assignments
14. Prepare “Bus Bridge” plan
15. Provide Non-Revenue Vehicles
16. Arrange Lost and Found handling
17. Develop media relations procedures
18. Collect and report ridership and performance data

## **Exhibit E**

### **Maintenance Responsibilities List**

#### **City of Seattle**

1. Utility Connections
2. Pavement
3. Traffic signals
4. Train Signal Aspects
5. Traffic signs
6. Pavement markings
7. Station landscaping
8. Artwork
9. Lighting
10. Shelters and furnishings
11. Information and advertisement posters
12. Poles – joint use with Traffic Signals
13. First Hill Streetcar Maintenance Facility Track Drains
14. Passenger Platform and Furnishings

#### **King County**

1. Rail Vehicle maintenance
2. Wheel Truing
3. TWC & Train Signal Control
4. Radios
5. Cranes
6. Phones and Networks
7. Track
8. Overhead Contact System
9. Streetcar/Trolley Bus Crossings
10. Poles – strain poles (including joint use trolley bus/streetcar)
11. Span Wires
12. Substations, including Maintenance Facility substation
13. Real-Time Arrival Signs (Electrical troubleshooting; Vendor's service contract)
14. Automated Passenger Counting (Vendor's service contract)
15. Non-revenue vehicle maintenance

<b>Exhibit E First Hill Streetcar Crossover Spare Parts</b>		
<b>Maintenance</b>		
Item	Name	Quantity
1	E1944-01 Rev 0 U/M EA CONNECTOR, OVAL COPPER TUBE	131
2	D2991-01 Rev 0 U/M EA TUBE SPLICE	50
3	C0288-03 Rev 0 U/M EA GLIDER, 1 WIRE SCREWED	6
4	C0288-01 Rev 0 U/M EA GLIDER, 1 WIRE PRESSED	21
5	D3505-07 Rev 0 U/M EA SPLIT CHANNEL, COMPLETE	4
6	D0806-01 Rev 0 U/M EA TRANSITION PIECE, FLAT TUBE	21
7	E0143-01 Rev 00 U/M EA COPPER TUBE, OVAL, 15.75 FEET LONG (4.8M)	29
8	E0274-01 Rev 0 U/M EA FLAT PROFILE COPPER, DRAWN BAR @ 4.80m LENGTH	10
9	D0804-01 Rev 00 U/M EA COLLAR, CONNECTION ASSEMBLY, COMPLETE	268
10	B0796-04 Rev 00 U/M EA TRANSITION CLAMP	68
11	D0132-01 Rev 00 U/M EA INSULATION ROD	79
12	D1605-01 Rev 0 U/M EA INSULATION ROD CONNECTOR	41
13	D3139-01 Rev 0 U/M EA INSULATED RUNNER	6
14	E0225-01 Rev 0 U/M EA CONNECTION PIVOT FOR INSULATOR	150

15	C1091-01 Rev 0 U/M EA CROSSING PIECE, ADJUSTABLE 45 DEGREE-90 DEGREE	24
16	C1493-01 Rev 0 U/M EA RUNNER	42
17	300020 Rev 0 U/M MINSULATION TUBE, SLITTED	30
18	352672 Rev 0 U/M M SEAL CORD, SCAPA, DIA=3MM	30
19	300908 Rev 0 U/M RL INSULATING TAPE, 25MM	10
20	E2972-01 Rev 0 U/M EA SEAL CORD, INSULATION CORD, INSULATING TAPE, STRIPCALK SET	6
21	C1670-01 LINE INSULATOR TUPE 1 P- 42	4
22	D 2174-01 INSULATED SUPPORT FOR RUBBER TUBE INSTALLATION P-63	1
23	E 0928-01 SHACKLE FOR LOOP INSULATOR P-72	10

<b>Exhibit E First Hill Streetcar Crossover Spare Parts K&amp;M Emergency Repair Parts</b>		
Item	Name	Quantity
1	B1083-01 Rev 0 U/M EA SUPPORT YOKE FOR CROSSING, NON-BRIDGI	8
2	E1944-01 Rev 0 U/M EA CONNECTOR, OVAL COPPER TUBE	32
3	D2991-01 Rev 0 U/M EA TUBE SPLICE	4
4	D0449-02 Rev 0 U/M EA TUBE SUSPENSION, L=200	8
5	D0449-01 Rev 00 U/M EA SUSPENSION W/ SHORT BANDS	14
6	C0288-01 Rev 0 U/M EA GLIDER, 1 WIRE PRESSED	6
7	D3505-07 Rev 0 U/M EA SPLIT CHANNEL, COMPLETE	4
8	E2972-01 Rev 0 U/M EA SEAL CORD, INSULATION CORD, INSULAT TAPE, STRIPCALK SET	8
9	300908 Rev 0 U/M RL INSULATING TAPE, 25MM	3
10	300940 Rev 0 U/M RL INSULATING TAPE, SELF-SEALING, B=100X30 AMORCAST	2
11	352672 Rev 0 U/M M SEAL CORD, SCAPA, DIA=3MM	16
12	300020 Rev 0 U/M M INSULATION TUBE, SLITTED	11
13	300020 Rev 0 U/M M INSULATION TUBE, SLITTED	4
14	E0143-01 Rev 00 U/M EA COPPER TUBE, OVAL, 15.75 FEET LONG (4.8M	20
15	D0798-02 Rev 00 U/M EA COPPER TUBE SUSPENSION HANGER	6
16	D0798-05 Rev 0 U/M EA SUSPENSION FLAT PROFILE, W/ 4 SCREWS L=	4
17	D1741-01 Rev 0 U/M EACOPPER PROFILE, L=1100	4
18	D1741-04 Rev 0 U/M EA COPPER PROFILE, L=3100	2
19	D0528-02 Rev 0 U/M EA SUPPORTING CLAMP FOR SWITCHES & CROS 1/2", THREADED LENGTH L =20mm	22

20	E0274-01 Rev 0 U/M EA FLAT PROFILE COPPER, DRAWN BAR @ 4.80m LENGTH	2
21	D0837-01 Rev 00 U/M EA SUSPENSION CLAMP FOR INSULATOR	8
22	D0804-01 Rev 00 U/M EA COLLAR, CONNECTION ASSEMBLY, COMPLETE	43
23	B1253-01 Rev 0 U/M EA CROSSING PIECE, ADJUSTABLE 65 DEGREE- 90 DEGREE	4
24	B0796-04 Rev 00 U/M EA TRANSITION CLAMP	12
25	D0132-01 Rev 00 U/M EA INSULATION ROD	8
26	D2174-01 Rev 00 U/M EA INSULATED SUPPORT FOR RUBBER TUBE INSULATION	14
27	D1605-01 Rev 0 U/M EA INSULATION ROD CONNECTOR	6
28	D0528-01 Rev 00 U/M EA CLAMP HOLDER FOR CONTACT WIRE	13
29	D3139-01 Rev 0 U/M EA INSULATED RUNNER	2
30	C2114-01 Rev 0 U/M EA ARC BLOWER	1
31	E0225-01 Rev 0 U/M EA CONNECTION PIVOT FOR INSULATOR	25
32	D2270-01 Rev 0 U/M EA COPPER TUBE W/ CONNECTOR	2
33	B1241-01 Rev 0 U/M EA CROSSING TROLLEYBUS, TUBE VERSION, MECHANICAL, 10 DEGREE	2
34	B1176-01 Rev 0 U/M EA SWITCH PIECE, U99, MECHANICAL	4
35	C2296-02 Rev 0 U/M EA SPREADER, LONG, COMPLETE, INSULATED, L610	1
36	C2296-01 Rev 0 U/M EA SPREADER, SHORT, COMPLETE, INSULATED, L610	1
37	E3979-01 Rev 0 U/M EA ADAPTER, 1/2" TO 1/2"	10
38	C1091-01 Rev 0 U/M EA CROSSING PIECE, ADJUSTABLE 45 DEGREE-90 DEGREE	8
39	D 0446-01 FEEDER CLAMP	4
40	D 2786-01 LOOP INSULATOR CLOSURE THIMBLE	10



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