

## Summary of 2002 Downtown Seattle Transit Tunnel (DSTT) Joint Use Agreement (Ordinance 14396)

### Ordinance

Section 1. I. Sound Transit (ST) shall make regular payments to King County (KC) equivalent to a percentage of the bond payments due on KC's outstanding long-term transit debt

Section 2 notes that this is a three-party agreement between KC, ST, and City of Seattle

### Agreement

SECTION	NAME	DESCRIPTION
<b>1.0</b>	<b>Definitions</b>	
<b>2.0</b>	<b>Term of Agreement and Termination of Prior Transfer Agreement</b>	
2.1	Term of Agreement	Takes effect upon signing and continues in effect unless and until terminated
2.2	Prior Transfer Agreement	The 2000 DSTT Transfer Agreement (Ord 13857) is terminated except parts referenced in §34, and the parties are released from all obligations
<b>3.0</b>	<b>ST's Use of DSTT for High-Capacity Transportation (HCT) Purposes</b>	
3.1	HCT use of DSTT	ST shall have the right to use DSTT for HCT: <ul style="list-style-type: none"> <li>a. ST may access DSTT for inspections, assessments, and design (in §7) at times reasonably established by KC</li> <li>b. If Closure Period O&amp;M Agreement is reached by 3/31/03 (§8, 9) ST may access DSTT to perform closure period construction work</li> <li>c. If O&amp;M Agreement is reached by 3/31/03 (§16), DSTT shall be used for ST's HCT operations (§12)</li> <li>d. If no agreements or County does not operate Link service, then ST can purchase DSTT (§19)</li> </ul>
3.2	City Acknowledgement	City acknowledges use of DSTT consistent with Master Cooperation Agreement and authorized under 2000 Light Rail Transit Way Agreement
3.3	Consideration	In exchange for KC agreement of ST light rail use of DSTT and City acknowledgment of this use of right-of-way (ROW): <ul style="list-style-type: none"> <li>• ST providing KC with a share of the outstanding debt service owed for the DSTT</li> <li>• ST reimbursing City for certain costs or paying City fees</li> <li>• The value provided by ST includes but is not limited to: <ul style="list-style-type: none"> <li>○ Payments to KC as required in this agreement</li> <li>○ Delivery to KC of property at Convention Place Station</li> <li>○ Assumption of a share of the costs for O&amp;M of DSTT</li> </ul> </li> </ul>

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SECTION	NAME	DESCRIPTION
		<ul style="list-style-type: none"> <li>○ Assumption of costs associated with DSTT and street improvements</li> <li>○ Assumption of costs of bus facility improvements near Link stations</li> <li>○ Payment of funds to the Rainier Valley TOCD Fund</li> </ul> <p><b>Mutual benefits and satisfaction of promises in this Agreement and subsequent agreements contemplated here shall constitute adequate consideration and full value for the grant of the use of the DSTT</b></p>
3.4	Recording	Copy of this Agreement shall be recorded in the real property records of KC
<b>4.0</b>	<b>Closure Period Contingencies &lt;&lt;Actual closure period was Sept 2005 - Sept 2007&gt;&gt;</b>	
4.1	Setting of Closure Date	<p>Closure Date (for Closure Period Construction Work) shall be set to coincide with a Metro service change and:</p> <ul style="list-style-type: none"> <li>a. At least 9 months after ST and KC have agreed on final design and schedule and</li> <li>b. At least 4 months after ST has provided written notice to KC and FTA that the conditions in §4.2 have been satisfied</li> </ul>
4.2	<p>Contingencies</p> <p>Note: ST documented compliance in letters submitted with <a href="#">2005-B0099</a></p>	<ul style="list-style-type: none"> <li>a. ST has executed a full funding grant agreement with FTA for construction of the <b>Initial Segment</b> (defined in §1.15 as from turn-around track located in Tunnel Annex east of DSTT Westlake Station to S 154<sup>th</sup> St in Tukwila)</li> <li>b. ST has obtained all permits, street use franchises, etc., necessary to construct, operation, and maintain Link within the Merge Zone, DSTT, and Tunnel Annex</li> <li>c. Downtown Seattle Traffic and Street Improvements described in this agreement have been completed</li> <li>d. KC and ST have agreed in writing to final design and construction schedule for Closure Period Construction Work</li> <li>e. KC and ST have agreed to a Tunnel Closure and Interim Bus Ops Plan</li> <li>f. ST has a procurement contract for delivery of required fleet not later that date scheduled for start of testing in DSTT</li> <li>g. ST and KC have each executed agreements for closure period O&amp;M, closure period construction, O&amp;M, and KC to operate ST express bus routes in DSTT (§8, 9, 16)</li> <li>h. ST has assured KC and Seattle that Initial Segment will be opened no later than 7/1/10</li> <li>i. ST has assured KC and Seattle that bus service will resume in the DSTT within 2 years after closure date</li> <li>j. No bankruptcy or similar for KC, ST, or DSTT</li> <li>k. No action taken by ST Board to stop the planning, construction, or operation of Initial Segment</li> <li>l. ST has paid all \$ due to KC and Seattle prior to start of Closure Period Construction Work</li> <li>m. Seattle, ST, KC authorized to enter this agreement</li> </ul>

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SECTION	NAME	DESCRIPTION
<b>5.0</b>	<b>Real Property Authorizations</b>	
5.1	Property Owners	<ul style="list-style-type: none"> <li>• ST has reviewed all deeds, easements, agreements, etc., and will, at no expense to KC, acquire or obtain any further rights needed</li> <li>• KC, as owner of DSTT, shall not create or change any easement, license or right of entry affecting DSTT within ST’s written consent</li> </ul>
5.2	Defense and Indemnity	<ul style="list-style-type: none"> <li>• ST agreements to defend, indemnify, and hold harmless KC in claims that use for HCT affects the validity of any existing easement, agreement, lease, etc.; or creates a nuisance, trespass, taking, etc.</li> </ul>
<b>60.</b>	<b>Convention Place Station (CPS)</b>	
6.1	General	<p>KC is planning a 2-phase transit-oriented development (TOD) at CPS site</p> <ul style="list-style-type: none"> <li>• Phase 1 may involve construction of a below-grade bus station and parking structure</li> <li>• Phase 2 anticipated to involve private commercial development</li> </ul> <p>Both KC and ST would benefit from increased density near public transportation, ST may need access to a portion of CPS for staging during closure period construction work</p>
6.2	Street and Alley Vacation	<ul style="list-style-type: none"> <li>• 1988 Seattle granted conceptual approval to vacation of alley on Terry, conditioned on KC providing ped access between Olive and Pine</li> <li>• KC has not satisfied Seattle conditions, so vacation has not been completed</li> <li>• To accomplish the TOD, vacation of Terry and alley within CPS property is necessary, Seattle supports TOD @ CPS</li> <li>• Seattle may consider modifying 1988 conditions of alley vacation</li> <li>• KC will use best efforts to ensure that conditions are implemented, including informing Seattle City Council</li> <li>• Seattle agrees to expedite its review of modification of conditions for KC or site developer</li> <li>• KC’s intent to ensure that any conveyance of CPS, grantee is obligated to provide public access between Olive and Pine</li> <li>• KC recognizes that Seattle may impose additional conditions</li> </ul>
6.3	ST conveyance	<ul style="list-style-type: none"> <li>• At no cost to KC, ST shall convey property owned by WSDOT by 1/31/04 (Exhibit 2)</li> <li>• If property not conveyed, ST shall pay KC an amount equal to fair market value of property at that time</li> </ul>
6.4	Bus layover spaces	Parties agree to work together to resolve on and off-street bus layover issues in north downtown

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SECTION	NAME	DESCRIPTION
6.5.1	Possible ST use of CPS	<ul style="list-style-type: none"> <li>• ST shall evaluate potential environmental impacts of Link alternatives in North Link SEIS on KC's TOD proposal</li> <li>• Design of North Link shall accommodate construction of Phase 1 TOD structure</li> <li>• KC will assist ST in specifying working assumptions for CPS for the North Link Supplemental EIS</li> </ul>
6.5.2		<ul style="list-style-type: none"> <li>• If ST requests to use any portion of CPS for construction staging or construction activities related to Initial Segment, KC and ST will negotiate terms and conditions</li> <li>• Use shall not unduly interfere with construction of TOD or operation of buses through CPS during the closure period or prior to the closure date</li> <li>• KC shall not charge any fee for ST use unless the use interferes with construction of the TOD during the closure period or with operation of buses through DSTT or CPS</li> </ul>
6.5.3		<ul style="list-style-type: none"> <li>• IF ST determines to build North Link extension through CPS, KC shall grant ST, at no additional cost, a permanent subterranean easement for construction of the alignment</li> <li>• ST may only exercise its rights in a manner that does not interfere with KC operation of buses through CPS</li> <li>• ST is responsible for all construction costs and impacts associated with light rail alignment through CPS</li> </ul>
6.6	Existing CPS use and staging agreement	<ul style="list-style-type: none"> <li>• CPS Use and Staging Agreement between KC and ST (9/13/00) is amended to eliminate any ST rights to enter and use CPS site and any KC obligations to undertake future work or activities</li> </ul>
6.7	Modifications to CPS	<ul style="list-style-type: none"> <li>• Any ST modifications to or use of CPS shall be negotiated in a separate agreement</li> </ul>
<b>7.0</b>	<b>Tunnel Assessment and Design of Closure Period Construction Work</b>	
7.1	Technical Steering Committee	<ul style="list-style-type: none"> <li>• KC and ST establish a Technical Steering Committee w/ 2 reps each, committee will: <ul style="list-style-type: none"> <li>○ Determine the light rail modifications, common modifications, and bus modifications that will comprise the closure period tunnel modifications</li> <li>○ Develop scopes necessary for ST to complete final design of closure period construction work</li> <li>○ Monitor the satisfactory completion of these scopes</li> <li>○ Perform other activities agreed by KC and ST</li> </ul> </li> <li>• KC and ST will work to finalize the scopes within 90 days after agreement is executed</li> </ul>
7.2	Tunnel Assessment	<ul style="list-style-type: none"> <li>• KC makes no warranties as to conditions of DSTT or its fitness for modifications and operations of Link</li> <li>• ST acknowledges that DSTT is made available for operation of its service as is</li> </ul>

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SECTION	NAME	DESCRIPTION
		<ul style="list-style-type: none"> <li>• KC and ST agree that it is necessary and beneficial to make modifications to DSTT in addition to those id'd in ST's 60% design documents</li> <li>• To ID those addi'l structures, systems, and other elements, KC and ST shall create technical working groups</li> <li>• Each party is responsible for the cost of its own staff and contractors</li> </ul>
7.3	Design of closure period construction work	<ol style="list-style-type: none"> <li>1. ST is responsible for preparation of all designs, specs, and cost estimates, and any other design work necessary to install and construct the Tunnel Annex, Merge Zone improvements, and Closure Period Tunnel Modifications</li> <li>2. ST acknowledges and agrees that KC's participation in assessment and design work is solely for the benefit and protection of KC and may not be relied on</li> </ol>
7.4	Additional Design Work	<ul style="list-style-type: none"> <li>• Following completion of Tunnel Assessment, Technical Steering Committee shall determine how to add to or modify the scopes for ST's existing contracts for Closure Period Construction Work</li> <li>• ST shall not authorize contractors to commence final design of Closure Period Construction Work till scopes have been agreed by Technical Steering Committee</li> </ul>
7.5	KC Participation	<ul style="list-style-type: none"> <li>• KC's employees or contractors shall be fully included by ST in meetings and communications related to Closure Period Construction Work</li> <li>• KC's employees or contractors may respond to questions but shall not direct ST's work</li> </ul>
7.6	Review of Design Work	<ul style="list-style-type: none"> <li>• Technical Steering Committee shall meet at least monthly with ST and KC staff to monitor progress</li> <li>• ST shall not accept any design work till it has been agreed upon by the Technical Steering Committee</li> </ul>
7.7	Cost of Design Work	<ul style="list-style-type: none"> <li>• ST shall pay for all design work related to Tunnel Annex, Merge Zone Improvements, and Closure Period Tunnel Modifications</li> <li>• KC and ST shall each be responsible for the cost of its own staff and contractors on the Technical Steering Committee, except as agreed by ST under the 2002 Project Agreement for Services</li> </ul>
7.8	Indemnification and Insurance	<ol style="list-style-type: none"> <li>1. ST shall project, defend, indemnify, and save harmless KC and KC may be entitled to recover from ST fees and costs to enforce the provision of this section</li> <li>2. ST shall include in all contracts terms that provide indemnification on the part of contractors</li> <li>3. ST agrees that claims, demands, lawsuits, or liability related to Closure Period Construction Work are ST's responsibility</li> </ol>

Summary of 2002 DSTT Joint Use Agreement (Ordinance 14396)

SECTION	NAME	DESCRIPTION
		<ol style="list-style-type: none"> <li>4. ST has established an Owner Controlled Insurance Program (OCIP) for all Closure Period Construction Work</li> <li>5. ST shall provide insurance coverage as described</li> <li>6. ST will provide KC with insurance certificates</li> <li>7. KC and ST shall each maintain insurance for their own employees and contractors</li> <li>8. KC shall cooperate with ST regarding administration and operation of the OCIP</li> <li>9. ST reserves the right to terminate or modify the OCIP but must provide 60 days written notice to contractors and KC</li> <li>10. ST may exclude anyone other than KC from the OCIP, and excluded contractors must provide their own insurance</li> <li>11. ST shall waive subrogation of claims from KC's acts</li> <li>12. Claims under OCIP will not require deductibles</li> <li>13. Coverage from OCIP will be primary to any KC insurance</li> <li>14. KC shall not violate any conditions of OCIP, bind its contractors to the OCIP, notify ST of contractors</li> <li>15. OCIP premiums to be paid by ST</li> <li>16. KC recognizes ST's OCIP broker</li> <li>17. OCIP will include coverage for consequential damages</li> <li>18. All design work covered by OCIP</li> <li>19. OCIP does not limit ST's liabilities or obligations</li> </ol>
7.9	Resolution of design disputes	<ol style="list-style-type: none"> <li>1. Technical Steering Committee will attempt to resolve any disputes regarding design for Closure Period construction work, if unable elevate to KCDOT Director and ST ED</li> <li>2. If KCDOT Director and ST ED unable to resolve, elevate to mediation board of 3 person, which will made decision within 30 days</li> </ol>
<b>8.0</b>	<b>DSTT Operation and Maintenance during Closure</b>	
8.1	General	<ul style="list-style-type: none"> <li>• KC and ST will develop a written Closure Period O&amp;M Agreement under which ST will operate and maintain DSTT during Closure Period</li> </ul>
8.2	Closure Period O&M Agreement	<p>Closure Period O&amp;M Agreement will include:</p> <ol style="list-style-type: none"> <li>a. ST is responsible for maintaining the DSTT structures, systems, and equipment except for "County areas"</li> <li>b. KC is responsible for maintaining the "County areas" but ST shall reimburse KC for any additional maintenance and cleaning costs in County areas due to ST construction</li> <li>c. KC areas must be identified early and should include: <ol style="list-style-type: none"> <li>1. CPS (all levels)</li> <li>2. Street plaza of C/ID Station</li> <li>3. Facilities Maintenance Area south of C/ID Station and parking spaces south of office area</li> <li>4. Rooms associated with traction power, batteries, switchgear, generators, staging, and electric utilities</li> </ol> </li> </ol>

Summary of 2002 DSTT Joint Use Agreement (Ordinance 14396)

SECTION	NAME	DESCRIPTION
		<p>5. 25kV power line that runs the length of the DSTT and powers the surface trolley bus system and all related vaults, junction boxes, rooms, and facilities</p> <p>d. ST shall undertake to:</p> <ol style="list-style-type: none"> <li>1. Prevent damage to DSTT systems, structures, etc.</li> <li>2. Prevent entry into DSTT except by authorized personnel</li> <li>3. Prevent odors, fumes, noise, dust, debris, etc</li> <li>4. Protect DSTT escalators/elevators from dust and prevent use by contractor personnel but maintain them</li> </ol> <p>e. Protective measures shall include temporary walls and barriers, collecting water before it enters the drainage system, etc</p> <p>f. ST shall establish a designated contractor's gate at the southern terminus of the DSTT</p> <p>g. ST shall reimburse KC for all electricity, water, sewer, and other utilities during the closure period that are not attributable to the County Area</p> <p>h. Requirement for advance notice and approval by KC of any activity that may affect County Area, including:</p> <ol style="list-style-type: none"> <li>1. Creates additional security, O&amp;M work in County Area</li> <li>2. Requires utilities or systems in County Area be inactivated or modified</li> <li>3. Requires access to County Area</li> </ol> <p>i. Seattle shall have 24/7 access and use of rooms containing electric and water utility systems</p> <p>j. ST will ID obligations for third party access to DSTT during the Closure Period</p> <p>k. ST will permit public access to Westlake Station Mezzanine Level to access retail and shall provide security and maintenance in that area</p> <p>l. ST shall operate and maintain all structures, systems, and equipment that serve the County Area</p> <p>m. ST shall develop closure and evacuation plans in an emergency</p> <p>n. ST shall assume all KC obligations to other property owners during the Closure Period</p> <p>o. KC shall have 24/7 access to DSTT to inspect Closure Period Construction Work and access County Area</p> <p>p. Prior to reopening, ST shall clean, repair, and replace any DSTT elements that have been soiled or damaged by Closure Period Construction Work</p> <p>q. Prior to reopening, KC shall be provided training and documentation on all light rail modifications and shall participate in testing and commissioning and ST will reimburse KC for costs of participating</p> <p>r. KC and ST shall develop a program for insuring the risk of physical loss to the DSTT, Closure Period Construction</p>

Summary of 2002 DSTT Joint Use Agreement (Ordinance 14396)

SECTION	NAME	DESCRIPTION
		<p>Modifications, and CPS with ST responsible for all premiums and deductibles</p> <p>s. KC and ST shall develop a program for self-insurance, insuring, and adjusting liability claims for O&amp;M during Closure Period</p>
8.3	Process for developing Closure Period O&M Agreement	<ul style="list-style-type: none"> <li>• If KC and ST have not executed Closure Period O&amp;M Agreement by 1/31/03, KC and ST shall establish a mediation board to make recommendations within 30 days</li> <li>• If Closure Period O&amp;M Agreement is not executed by 3/31/03 then provisions of §19 apply for ST to purchase DSTT</li> </ul>
8.4	Amendments to Closure Period O&M Agreement	<ul style="list-style-type: none"> <li>• Upon ST's completion of final design for the Closure Period Construction Work, KC and ST shall review the scope of the Initial Closure Period O&amp;M Agreement and revise as needed</li> </ul>
<b>9.0</b>	<b>Construction of Tunnel Modifications, Tunnel Annex and Merge Zone Improvements</b>	
9.3* (no 9.1-9.2)	Closure Period Construction Agreement	<ol style="list-style-type: none"> <li>1. KC and ST will work together to develop a written Closure Period Construction Agreement</li> <li>2. It shall include the following principles:               <ol style="list-style-type: none"> <li>a. KC may participate in ST's procurement process for a Construction Manager</li> <li>b. KC and ST shall establish a Construction Oversight Committee</li> <li>c. ST shall obtain all needed permits, consents, approvals from federal, state, and local agencies</li> <li>d. ST shall procure a qualified general contractor and comply with all federal, state, and local procurement regulations</li> <li>e. ST shall maintain separate accounts and records of its payments to contractors for the Tunnel Annex, the Merge Zone Improvements, and each type of Closure Period Tunnel Modification and provide regular progress reports to KC</li> <li>f. ST shall manage and administer the construction contract include issuing notice to proceed, monitoring and inspecting the work in progress, communicating with contractor, coordinating contractor activities with permitting agencies and utilities, issuing change orders and resolving contractor claims, reviewing and paying contractor invoices, ensuring completion of punch lists and plans, obtaining tools and equipment needed for maintenance, and issue final acceptance of work on behalf of KC</li> <li>g. KC shall have the right to inspect the work in progress</li> <li>h. ST shall inspect for contractor compliance</li> <li>i. ST shall administer any warranty repairs or claims</li> <li>j. ST shall remove and dispose of all hazardous material discovered or uncovered during Closure Period Construction Work</li> </ol> </li> </ol>



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		<ul style="list-style-type: none"> <li>k. ST shall maintain OCIP for Closure Period Construction Work</li> <li>l. ST shall require its contractors to indemnify KC</li> <li>m. ST will manage and cover all claims</li> <li>n. ST will pay for all costs of its obligations under the Closure Period Construction Agreement, KC shall only reimburse ST for 60% of the construction contractor costs attributable to the Closure Period Common Modifications and 83% of the construction contractor costs attributable to the Closure Period Bus Modifications</li> <li>o. If a dispute arises between KC and ST, Construction Oversight Committee shall attempt to resolve, if can't elevate to Metro GM and ST Light Rail Director, if can't elevate to KCDOT Director and ST ED, if can't elevate to a mediation board</li> </ul> <p>3. If KC and ST have not executed Closure Period Construction Agreement by 1/31/03, KC and ST shall establish a mediation board to resolve within 30 days, if Closure Period Construction Agreement is not executed by 3/31/03, then provisions of §19 apply for ST to purchase DSTT</p>
9.4	Amendments to Closure Period Construction Agreement	<ul style="list-style-type: none"> <li>• Upon ST's completion of final design for Closure Period Construction Work, KC and ST shall review and make revisions as necessary</li> <li>• Amendments prior to or during implementation of the Closure Period Construction Agreement may be executed by the KCDOT Director and ST ED</li> </ul>
<b>10.0</b>	<b>Downtown Seattle Traffic and Street Improvements</b>	
10.1	Downtown Seattle Traffic and Street Improvements – Conditions Precedent	<ul style="list-style-type: none"> <li>• Prior to Closure Period Construction Work, ST must demonstrate to KC and Seattle that ST has executed a full funding grant agreement with FTA for Initial Segment</li> </ul>
10.2	Required Improvements	<ul style="list-style-type: none"> <li>• To mitigate impacts of re-routing buses from DSTT onto surface streets during Closure Period Construction Work, parties agree that certain traffic and street improvements are needed</li> <li>• Parties agree to construct, install, and implement the improvements identified in the Summary of Downtown Seattle Traffic and Street Improvements (Ex 3)</li> <li>• Seattle agrees this plan is adequate to mitigate impacts of Closure Period Construction Work</li> <li>• Improvements include: <ul style="list-style-type: none"> <li>a. Third Ave peak period traffic restrictions</li> <li>b. Fifth Ave S transit contra-flow lane</li> <li>c. Ninth Ave transit contra-flow lane</li> <li>d. Olive Way transit priority improvements</li> </ul> </li> </ul>

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SECTION	NAME	DESCRIPTION
		e. Prefontaine Place S reconfiguration
10.3	Monitoring and Maintaining Bus Performance Levels on Surface Streets	<ul style="list-style-type: none"> <li>• Parties intend that Downtown Seattle Traffic and Street Improvements will be sufficient to maintain bus service performance during the Closure Period and after DSTT is reopened for Joint Use at levels similar to prior to Closure Period</li> <li>• Parties establish a Monitor and Maintain (M&amp;M) Committee to conduct baseline studies</li> <li>• Baseline Measurement period to be ID'd in §20 and consist of at least 60 days and to fall as close to Closure Period as possible</li> <li>• During Closure Period and for one year after DSTT is reopened, M&amp;M Committee shall continue to monitor downtown Seattle transportation system performance and make recommendations</li> <li>• M&amp;M Committee is directed to consult with and seek input of stakeholders and report quarterly to City Council Transportation Committee</li> </ul>
10.4	Changes to Ex 3	<ul style="list-style-type: none"> <li>• An amendment to Ex 3 that relates to any of the primary mitigation projects must be approved by ST Board and Seattle and KC Councils</li> <li>• Other amendments to Ex 3 may be approved by KCDOT Director and ST ED and Seattle Traffic Engineer</li> </ul>
10.5	Design and Construction Responsibilities and Costs	<ol style="list-style-type: none"> <li>1. The Party that is responsible for implementing or completing a Downtown Seattle Traffic and Street Improvement shall be responsible for all aspects of designing, constructing, or implementing, and Parties may agree with each other about scope, schedule, and payments</li> <li>2. Each party shall provide time for others to review and comment</li> <li>3. Parties agree that responsible party must obtain all required permits and approvals, and Seattle will expedite consistent with 4/20/98 MOA for Intergovernmental Cooperation for the Central Link Light Rail Project</li> <li>4. Ex 3 specifies the max amounts that KC and Seattle shall be required to pay for a Downtown Seattle Traffic and Street Improvement that is their responsibility to implement, ST shall be responsible for all actual design, permitting, implementation, and construction with other traffic and street improvements; Ex 3 also provides for a contingency fund to be established by ST and M&amp;M Committee will be responsible for managing the contingency fund</li> </ol>
10.6	Ownership and Maintenance	<ul style="list-style-type: none"> <li>• The party designated for each improvement shall provide ongoing maintenance, repair, and replacement at no cost to the other parties</li> </ul>

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10.7	Minimum duration of traffic and street improvements	<ul style="list-style-type: none"> <li>Downtown Seattle Traffic and Street Improvements shall remain in place and in effect until at least 1 year after light rail revenue service is commenced in the DSTT</li> </ul>
10.8	City Modification or Removal of Traffic and Street Improvements	<ul style="list-style-type: none"> <li>After the one-year period from reopening and until ST operates light rail to Northgate Station, Seattle may modify or remove the Downtown Seattle Traffic and Street Improvements if it will not degrade downtown bus service performance levels</li> <li>Prior to making an modification or removal, Seattle Mayor and City Council shall confer with County Exec and KC Council and ST and allow them opportunity to review and comment and at the staff level, Seattle Traffic Engineer shall confer with KCDOT Director and ST ED</li> </ul>
10.9	Agreed Modification or Removal of Traffic and Street Improvements	<ul style="list-style-type: none"> <li>A modification to or removal of any Primary Mitigation Projects may occur at any time upon agreement approved by ST Board and Seattle and KC Councils</li> <li>Modification or removal of other improvements may occur at any time upon agreement by KCDOT Director, ST ED and Seattle Traffic Engineer</li> </ul>
<b>11.0</b>	<b>Bus Related Costs Assumed by ST</b>	
11.1	Increased operating costs arising from DSTT closure	<ul style="list-style-type: none"> <li>To compensate KC for additional operating costs of bus routes serving downtown Seattle during the Closure Period, ST shall pay KC an annual amount of \$1.15M</li> <li>First payment due shall be adjusted by CPI change from 9/04 to first annual payment</li> <li>Subsequent payment amounts shall be adjusted by CPI during period from last payment</li> <li>Payments to be made until KC buses resume operating in the DSTT, pro-rated as needed</li> </ul>
11.2	KC activities to support light rail construction	<ul style="list-style-type: none"> <li>KC shall complete the bus stop, layover, trolley infrastructure, and service info activities in Ex 4</li> <li>Ex 4 may be changed by agreement of Metro GM and ST Light Rail Director</li> <li>KC shall manage the Ex 4 work within the specified budget</li> <li>Any savings on bus stops, layover, and service info shall be applied to any increased costs in trolley infrastructure</li> <li>If trolley infrastructure costs go higher, ST shall reimburse KC</li> <li>ST shall reimburse KC for actual costs KC incurs to conduct other work not Identified in Ex 4 if the work or activity is requested by ST or required by cities or permitting agencies and related to ST construction activities</li> <li>If ST constructs extensions beyond the Initial Segment, ST shall reimburse KC for actual costs of performing work at other locations</li> </ul>

Summary of 2002 DSTT Joint Use Agreement (Ordinance 14396)

SECTION	NAME	DESCRIPTION
11.3	Construction-related delay of KC buses	<ul style="list-style-type: none"> <li>• ST shall use its best efforts to avoid or minimize delays to normal bus ops as a result of Initial Segment light rail construction activities in downtown Seattle and elsewhere, including:                             <ul style="list-style-type: none"> <li>○ Maintenance of normal bus flows past construction sites</li> <li>○ Coordination and advance planning with ST’s construction management and KC and Seattle staff on changes needed to roads and buses</li> </ul> </li> <li>• It is expected that construction-related delays from Initial Segment will result in KC incurring costs from adding bus trips to the schedule, so ST shall pay KC a total of \$550K between 12/31/04 and 12/31/08</li> <li>• These amounts are not intended to compensate KC for added costs due to construction related delays that may arise from ST’s development of extensions beyond the Initial Segment, a future agreement will address those</li> </ul>
11.4	Bus service planning	<ul style="list-style-type: none"> <li>• KC’s service planning activities and review of transit facility designs related to Link between Northgate Station and S 200<sup>th</sup> Street Station undertaken between 1/1/03 and 12/31/09 to support connection to ST Link shall not be subject to reimbursement</li> </ul>
<b>12.0</b>	<b>ST Service in DSTT After Closure Period</b>	
12.1	ST use of DSTT	<ul style="list-style-type: none"> <li>• Upon reopening DSTT after Closure Period, ST’s light rail and regional express bus services may be regularly scheduled to operate in DSTT with the terms of this Agreement and an O&amp;M Agreement and subject to following max allocations                             <ul style="list-style-type: none"> <li>○ Light rail: 10 trains/hour each direction</li> <li>○ Regional express bus: 10 buses/hour each direction</li> </ul> </li> <li>• KC will provide for ST’s light rail and bus use of DSTT</li> <li>• KC and ST agree that nothing in this Agreement shall be construed as creating any liability or obligation on KC for lost revenues or any other consequences or costs arising from unavailability of DSTT for use by light rail or regional express bus service</li> <li>• Obligations of KC and ST in event of temporary or long-term DSTT unavailability shall be addressed in the O&amp;M Agreement (§16)</li> </ul>
12.2	Reduction/Elimination of Bus Use	<p>a. If either SC or ST determines that, as a result of operational problems in DSTT, including those arising from increased train operation, fewer total bus trips can be accommodated in DSTT, KC and ST shall meet and, after conferring with Seattle, shall determine the number of bus trips to be removed and the service change date on which such removal will take effect, with 180 days advance notice of any need for KC to remove buses from DSTT</p>

Summary of 2002 DSTT Joint Use Agreement (Ordinance 14396)

SECTION	NAME	DESCRIPTION
		<p>b. If KC bus trips in DSTT are reduced below 50 trips/hour in each direction, KC's percentage shares of cost shall be decreased and ST's shares shall be increased (Ex 5) including:</p> <ol style="list-style-type: none"> <li>1) Debt service (§14.3.b)</li> <li>2) Payments under amortization schedule for Common Elements (§15.3, 4, 5)</li> <li>3) Payments under amortization schedule for Bus Elements (§15.6)</li> <li>4) Costs under O&amp;M Agreement for which KC pays a percentage share (§16.4.i)</li> </ol> <p>c. If KC bus service is reduced to less than 30 buses/hour in each direction, KC may remove all bus service from DSTT, but must first confer with ST and Seattle, then must provide ST and Seattle 365 days advance notice, in which case ST's percentage share shall increase to 100% of debt service and O&amp;M and §15 shall be amended to require ST to reimburse KC for KC's actual costs in remaining payments for Common Elements and Bus Elements</p>
<b>13.0</b>	<b>Local Improvement District (LID)</b>	
13.1	Background and Notice of Any Proposed Reassessment	<ul style="list-style-type: none"> <li>• A LID encompassing properties specially benefited by the DSTT was established by Metro</li> <li>• As successor to Metro, KC has administered the LID and collect the special assessments</li> <li>• KC shall give timely notice to ST of any public proceeding regarding any proposed reassessment regarding the LID</li> </ul>
13.2	Indemnification	<ul style="list-style-type: none"> <li>• ST shall indemnify KC from any claims that construction of DSTT to enable Joint Use, rerouting of buses to surface streets, and/or modification of DSTT should result in a refund of LID assessments</li> </ul>
<b>14.0</b>	<b>Bonds, Tax Covenant &amp; Debt Service Payments Related to Original Tunnel Development</b>	
14.1	Bonds	<ul style="list-style-type: none"> <li>• Bonds were originally issued in 1986 and 1989 to fund DSTT construction</li> <li>• Refunding bonds have been subsequently issued (Ord 13128)</li> <li>• KC retains responsibility for making debt service payments, but ST shall contribute to the payments</li> </ul>
14.2	Tax Exemption of Bonds	<ul style="list-style-type: none"> <li>• ST covenants that it will not take action that would adversely affect the tax-exempt status of the bonds</li> </ul>
14.3	Debt service payments for the Bonds	<p>a. ST agrees to make payments equivalent to a percentages of KC's six-month payments of debt service for the bonds (Ex 6)</p> <p>b. ST's percentage shall be:</p> <ul style="list-style-type: none"> <li>○ For payments due before Closure Period: 0%</li> <li>○ For payments due during Closure Period: 100%</li> <li>○ For payments due after Closure Period but before start of light rail service simulation: 17%</li> </ul>

Summary of 2002 DSTT Joint Use Agreement (Ordinance 14396)

SECTION	NAME	DESCRIPTION
		<ul style="list-style-type: none"> <li>○ For payments due after Closure Period and light rail revenue service simulation has commenced: 40%, then to be increased per §12.2.b</li> <li>c. Upon the earlier of ST extending light rail service to Northgate Station of 1/1/16, ST shall reimburse KC for 100% of each of KC’s subsequent debt service payments (Ex 6), except that if joint use is still continuing KC may opt to continue bus use and ST’s 100% reimbursement shall be reduced by 6% for each 5 KC buses/hour in each direction</li> <li>d. ST shall wire transfer its reimbursement to KC per Ex 6</li> <li>e. ST’s contributions to KC’s debt service payments in Ex 6 will be reduced to reflect its appropriate shares of the savings of any KC refunding of the Bonds</li> <li>f. ST shall have the option to prepay its contributions toward debt service payments at any time after closure of the DSTT and Ex 6 shall reflect this</li> </ul>
<b>15.0</b>	<b>Capital Repairs/Replacements after Execution of this Agreement</b>	
15.1	General	<ul style="list-style-type: none"> <li>● ST acknowledges that the DSTT is made available for modification as is</li> <li>● DSTT will have been functioning for 17 years when ST plans to commence construction of light rail improvements in 2007 so DSTT may require capital repairs or replacement work</li> <li>● KC and ST agree to share the responsibility for capital repairs / replacements needed to preserve DSTT in good working order as in O&amp;M Agreement (§16)</li> <li>● Nothing requires KC to undertake capital repair / replacement work with estimated cost of \$5M or more</li> </ul>
15.2	Light Rail Elements	<ul style="list-style-type: none"> <li>● If a light rail element requires capital repair / replacement work after the Closure Period, KC shall undertake the design and construction in accordance with O&amp;M Agreement</li> <li>● KC shall inform ST in advance</li> <li>● No work for which ST is financial responsible shall be performed without ST’s prior approval</li> <li>● ST shall reimburse KC monthly for 100% of the costs as they are incurred</li> </ul>
15.3	Common Elements	<ol style="list-style-type: none"> <li>1. If a Common rail element requires capital repair / replacement work after the Closure Period, KC shall undertake the design and construction in accordance with O&amp;M Agreement, KC and ST shall agree on nature of the work and estimated cost</li> <li>2. KC and ST have agreed that certain Common Modifications should be done as part of Closure Period Construction Work, so a list should be developed and approved by the Technical Steering Committee (§7), but if there is a problem during Closure Period that is not related to construction it shall be</li> </ol>

Summary of 2002 DSTT Joint Use Agreement (Ordinance 14396)

SECTION	NAME	DESCRIPTION
		treated like a pre-Closure Period repair / replacement of a Common Element
15.4	Amortization Schedule for Pre and Post Closure Period Work on Common Elements	<ol style="list-style-type: none"> <li>1. Actual cost of capital repair / replacement work on a Common Element prior to or after the Closure Period shall include everything reduced by grant funds or insurance</li> <li>2. KC shall track and report monthly expenditures for capital repair / replacement work on Common Elements</li> <li>3. KC shall develop a schedule of payments to amortize the final cost of each Common Element for any project &gt; 6 months</li> <li>4. KC and ST in Ex 7 have an illustrative example of an amortization schedule</li> </ol>
15.5	Sharing Costs of Pre- and Post-Closure Work on Common Elements	<ol style="list-style-type: none"> <li>1. KC shall pay the upfront costs of each repair / replacement of a Common Element before or after the Closure Period Work for projects &lt;\$5M, with ST to reimburse quarterly at a share equal to its share of debt service (§14.3.b)</li> <li>2. If costs to repair / replace a Common Element before or after Closure Period are &gt;\$5M, KC and ST will determine how to finance project and share costs over time</li> <li>3. If DSTT conveyed to ST, all remaining payments under the amortization schedules shall be accelerated and ST shall pay its applicable share on the conveyance date</li> </ol>
15.6	Bus Elements	<ol style="list-style-type: none"> <li>1. If Technical Steering Committee agrees that there are Bus Elements in DSTT after Closure Period, KC will do the repair / replacement work in accordance with O&amp;M Agreement, and will inform ST in advance, no work for which ST is financially responsible shall be performed without ST approval</li> <li>2. Actual cost of work on a Bus Element after Closure Period shall include design, permitting, acquisition, demolition, construction, project management, minus grants or insurance</li> <li>3. KC shall track and report monthly expenditures for capital repair / replacement work on Bus Elements</li> <li>4. KC shall develop a schedule of payments that amortizes the final cost of each Bus Element plus interest for any project with construction duration &gt;6 months with payments made quarterly</li> <li>5. KC shall pay the upfront actual costs of each repair / replacement of a Bus Element after Closure Period Work for &lt;\$5M, ST shall pay KC 17% of each payment, but increase 8.3% for each 5 Metro buses removed (§12.2.b), ST's obligations to make contributions toward Bus Element improvements begin with the commencement of the Closure Period</li> <li>6. If costs of repairing or replacing a Bus Element &gt;\$5M, KC and ST shall determine how to finance work and share costs</li> </ol>

Summary of 2002 DSTT Joint Use Agreement (Ordinance 14396)

SECTION	NAME	DESCRIPTION
		7. When DSTT conveyed to ST, all remaining payments under amortization schedule shall be accelerated and ST shall pay its applicable share on the conveyance date
15.7	Prepayment	1. ST shall have the right to prepay any or all of its obligations to KC for Common Element improvements or Bus Elements, but if prepaying is still liable for any additional amount if costs increase
15.8		<ul style="list-style-type: none"> <li>KC and ST shall develop as part of O&amp;M Agreement, a program for indemnification, self-insurance, and adjusting / defending liability claims from repair / replacement work</li> </ul>
<b>16.0</b>	<b>Post-Closure Operation and Maintenance of DSTT, Related Facilities and Entire Light Rail System</b>	
16.1	Tunnel Control Center	<ul style="list-style-type: none"> <li>DSTT and Merge Zone and Tunnel Annex and movement of trains and buses within them shall be controlled by KC through the Tunnel Control Center, with the terms and cost for O&amp;M to be covered in the O&amp;M Agreement</li> </ul>
16.2	Bus and Rail System Control Centers Co-Location Study	<ul style="list-style-type: none"> <li>KC and ST recognize that there may be mutual benefits to co-locating their system control centers including the Tunnel Control Center at the proposed ST light rail maintenance facility or another site near the rail alignment, will return by 8/1/02 with recommendations</li> </ul>
16.3	O&M Agreement	<p>KC and ST shall develop an O&amp;M Agreement, including:</p> <ol style="list-style-type: none"> <li>Recognition that ST Board is responsible for policies for light rail system (fares, budget, fare enforcement, code of conduct, train service levels, maintenance for vehicles and facilities other than DSTT</li> <li>Scope of work that specifies all tasks and activities required for start-up of the light rail system, including training of staff, testing of facilities, systems, equipment, vehicles</li> <li>Scope of work that specifies all tasks and activities required for operation of Tunnel, Tunnel Annex, Merge Zone, and Tunnel Control Center, including the System Control and Data Acquisition (SCADA) equipment, inspections, communicating with public, servicing TVMs, providing public info, sewer, telephone, utilities, contracts for advertising, concessions, or vending</li> <li>Scope of work that specifies all tasks and activities required for maintenance of the Tunnel, Tunnel Annex, Merge Zone, and Tunnel Control Center, including frequency and level</li> <li>Scope of work that specifies all tasks and activities required to operate the light rail system and implement the Tunnel Joint Operations Plan (1/31/02), including frequency and number of trains, communications and control, monitoring through SCADA, customer assistance, service planning, safety</li> </ol>



Summary of 2002 DSTT Joint Use Agreement (Ordinance 14396)

SECTION	NAME	DESCRIPTION
		<p>and security, fare collection and proof of payment, utilities, contracts with vendors</p> <p>f. Scope of work that specifies all tasks and activities required to maintain the facilities, systems, equipment, and vehicles of the light rail system, including frequency and level</p> <p>g. Obligation by ST to provide all facilities, systems, equipment, and vehicles necessary to operate and maintain the light rail system</p> <p>h. Provision for KC, upon notice to ST, to provide for non-Tunnel capital repairs / replacements of the light rail system’s facilities, systems, equipment, and vehicles</p> <p>i. Cost formula and method of payment for ST to reimburse KC:</p> <ul style="list-style-type: none"> <li>• 100% of costs of start-up activities</li> <li>• 100% of costs of maintaining the Tunnel Annex and Light Rail Elements in Tunnel, Tunnel Merge Zone, Tunnel Control Center and related facilities</li> <li>• 40% of costs of maintaining the Common Elements in the Tunnel, Tunnel Merge Zone, Tunnel Control Center, and related facilities</li> <li>• 100% of costs of maintaining light rail system other than Tunnel, Tunnel Annex, Tunnel Merge Zone, and Tunnel Control Center</li> <li>• 40% of costs of operating the Tunnel, Tunnel Annex, Tunnel Merge Zone, and Tunnel Control Center</li> <li>• 100% of costs of operating light rail system other than Tunnel, Tunnel Annex, Tunnel Merge Zone, and Tunnel Control Center</li> <li>• 100% of costs of repairing/replacement the light rail system’s facilities, vehicles, and equipment other than the facilities noted above</li> <li>• 17% of actual costs of maintaining Bus Elements in the Tunnel and Tunnel Merge Zone</li> </ul> <p>j. ST shall reimburse KC for any additional costs created by light rail testing prior to revenue service simulation</p> <p>k. A provision for increasing the 40% ST shares in accordance with §12.2.b as KC buses are removed from DSTT</p> <p>l. A provision that ST shall have meaningful input into KC’s personnel functions involved in the provision of light rail operations and maintenance</p> <p>m. An insurance program that includes most cost-effective means of insuring risk of physical damage to Tunnel, Tunnel Merge Zone, Tunnel Annex, and Tunnel Control Center, with KC and ST to share the cost of insurance premiums same as allocating maintenance costs of these facilities</p> <p>n. An insurance program that includes most cost-effective means of insuring and self-insuring the risk of physical</p>

Summary of 2002 DSTT Joint Use Agreement (Ordinance 14396)

SECTION	NAME	DESCRIPTION
		<p>damage to all other facilities, vehicles, and equipment in the light rail system with ST 100% responsible</p> <p>o. Program for self-insuring, insuring, and adjusting/defending liability claims arising from O&amp;M of (a) entire light rail system including Tunnel, Tunnel Merge Zone, Tunnel Annex, and Tunnel Control Center; and (b) operate of bus service within the Tunnel and Tunnel Merge Zone and design, construction, and repair/replacement of Light Rail Elements, Common Elements, and Bus Elements, with KC and ST to determine how to share costs</p> <p>p. Provisions for duration and termination for material breaches</p> <p>q. Provision that if O&amp;M Agreement expires or is terminated, ST may opt or KC may require ST to acquire DSTT with 365 days advance notice and an acquisition agreement</p>
16.5	Process for developing O&M Agreement	<ul style="list-style-type: none"> <li>• Either KC or ST may request mediation at any time through a mediation board to make recommendations within 30 days</li> <li>• O&amp;M Agreement subject to approval by KCC by ordinance and ST Board by resolution, if not executed by 3/31/03, ST may purchase DSTT (§19)</li> </ul>
16.6	Amendment of O&M Agreement	<ul style="list-style-type: none"> <li>• KC and ST may review scope and terms of O&amp;M Agreement and make necessary revisions, which may be executed by the Metro GM and ST Director of Light rail</li> </ul>
16.7	First Year Cost Estimates	<ul style="list-style-type: none"> <li>• No later than one year prior to start-up and other activities under O&amp;M Agreement, cost formula shall be amended to add actual cost estimates for the year in which the activities will commence, cost estimates may be amended by Metro GM and ST Director of Light rail</li> </ul>
<b>17.0</b>	<b>Bus Facility Improvements Associated with the Light Rail Project</b>	
17.1	Cost and Completion of Improvements	<ul style="list-style-type: none"> <li>• ST shall be responsible for all design, permitting, ROW acquisition, and construction costs associated with completing the Bus Facility improvements (Ex 8), including street and sidewalk improvements at bus zones, accessibility features, bus layovers, shelter footings, signage, poles, overhead wires</li> <li>• Ex 8 may be modified by Metro GM and ST Director of Light rail</li> <li>• ST responsible for all design, engineering, community planning, demo, removal, production, construction, repair, or other work needed for Ex 8</li> <li>• KC responsible for providing KC's standard bus shelters and signage at all bus stops serving light rail stations, except where KC has agreed in writing to provide other than its standard shelters and signage</li> </ul>

Summary of 2002 DSTT Joint Use Agreement (Ordinance 14396)

SECTION	NAME	DESCRIPTION
17.2	Review of Design and Specification	<ul style="list-style-type: none"> <li>• KC shall have an opportunity to review and accept all designs, etc., for completion of Bus Facility Improvements, but does not relieve ST of its responsibilities for the work</li> </ul>
17.3	Ownership of Improvements	<ul style="list-style-type: none"> <li>• Except for bus shelters, benches, trolley wires and associated poles and equipment, signage, and litter receptacles installed by KC and any other improvements agreed in writing, improvements in Ex 8 shall be property of ST, which shall be solely responsible for ongoing maintenance, repair, and replacement</li> </ul>
17.4	Trolley Wire Extension	<ul style="list-style-type: none"> <li>• KC responsible for costs of extending trolleybus electrification system in street ROW to boundary of light rail stations KC determines are to be served by Metro buses</li> <li>• ST responsible for costs of off-street trolley wire relocation and installation at light rail stations</li> </ul>
<b>18.0</b>	<b>Rainier Valley Transit-Oriented Community Development Fund</b>	
18.0		<ul style="list-style-type: none"> <li>• Due to benefits and savings to light rail project by joint operations in DSTT, ST shall make annual payments to Rainier Valley TOCD Fund per Ex 9</li> <li>• ST shall not be required to commence payments until (a) entity established to administer the fund and (b) Operating Plan for the fund has been adopted by ST Board and Seattle City Council</li> <li>• Payments to be made to Supplemental Mitigation Account in Fund to support TOD projects within Rainier Valley</li> </ul>
<b>19.0</b>	<b>Sound Transit Acquisition of DSTT</b>	
19.0		<ul style="list-style-type: none"> <li>• If KC and ST have not executed O&amp;M Agreement, the Closure Period O&amp;M Agreement, and the Closure Period Construction Agreement (§16, 8, 9) by 3/31/03, or if legislative authorities terminate negotiations, KC, ST, and Seattle shall commence negotiations to supersede this Agreement with a Tunnel Acquisition and Joint Operations Agreement</li> <li>• When that agreement is executed, and the transfer of DSTT to ST has been completed, this Agreement terminates</li> <li>• Acquisition Agreement shall use as starting point the Downtown Seattle Transit Tunnel Transfer Agreement of 6/1/00</li> <li>• No obligations to ST greater than 2000 agreement</li> <li>• New agreement shall include provisions for a KC option to operate bus service during periods of exclusive bus use before light rail service begins and periods of joint operations, including payment for each option</li> <li>• Agreement shall also address modifications to property provisions related to CPS</li> </ul>

Summary of 2002 DSTT Joint Use Agreement (Ordinance 14396)

SECTION	NAME	DESCRIPTION
		<ul style="list-style-type: none"> <li>• Agreement shall also include cost savings to ST sufficient to fund outstanding obligations of §18</li> <li>• This agreement subject to approval by governing bodies of KC, ST, Seattle</li> </ul>
<b>20.0</b>	<b>Contacts</b>	
<b>21.0</b>	<b>Federal Transit Administration (FTA) requirements</b>	
21.0		<ul style="list-style-type: none"> <li>• ST and KC shall jointly identify applicable FTA grant restrictions and requirements and jointly seek FTA consent</li> <li>• ST responsible for all costs required to be paid to US, FTA, or State from this Agreement and ST's destruction or modification of any portion of DSTT, re-routing of buses to surface streets, or use of DSTT for ST service</li> </ul>
<b>22.0</b>	<b>Invoicing and Payment</b>	
22.0		<ul style="list-style-type: none"> <li>• Seattle and KC may invoice ST as often as monthly</li> <li>• ST to remit payment within 30 calendar days or pay interest</li> <li>• If dispute, use §23.2</li> </ul>
<b>23.0</b>	<b>Dispute Resolution</b>	
23.1	Processes Otherwise Specified	<ul style="list-style-type: none"> <li>• KC and ST have specifically provided for resolving certain disputes</li> </ul>
23.2	Dispute Resolution Measures Prior to Legal Action	<ul style="list-style-type: none"> <li>• In the event of a dispute in this Agreement not otherwise specifically provided for, the affected Parties shall attempt to resolve the matter informally</li> <li>• If can't resolve, forward to KCDOT Director, ST ED, and SDOT Director</li> <li>• If can't resolve within 30 calendar days, forward to County Exec, ST Board Chair, Seattle Mayor</li> <li>• If can't resolve within 30 days, may agree to mediation</li> <li>• If can't resolve, legal remedy</li> </ul>
<b>24.0</b>	<b>Records</b>	
24.1	Inspection	<ul style="list-style-type: none"> <li>• Each party shall maintain accurate records</li> <li>• All parties and State Auditor shall have access to the records</li> </ul>
24.2	Retention	<ul style="list-style-type: none"> <li>• Copies of the records shall be furnished to each party on request</li> <li>• Records must be retained for 6 years from date of termination or expiration of this Agreement</li> <li>• If litigation, must retain till resolved</li> </ul>
<b>25.0</b>	<b>Condition of DSTT</b>	
25.1	KC Responsibilities Prior to Closure Date	<ol style="list-style-type: none"> <li>Maintain all usual and necessary business records pertaining to DSTT consistent with past practices</li> <li>Obtain ST's approval prior to making any substantial improvement to DSTT except in emergency (§15.0)</li> <li>Maintain DSTT in its current condition, normal wear and tear and casualty loss excepted</li> </ol>

Summary of 2002 DSTT Joint Use Agreement (Ordinance 14396)

SECTION	NAME	DESCRIPTION
25.2	“As Is” and “With All Faults”	<ul style="list-style-type: none"> <li>• ST agrees DSTT is being made available by KC as is and with all faults, including but not limited to presence of any hazardous materials (§1.13)</li> <li>• KC shall not be liable to ST for claims or damages arising from any defect in the construction of or present condition of DSTT or any of its structures, systems, or other elements whether known or unknown, or for damage by storm, rain, or leakage or any other occurrence</li> </ul>
25.3	Disclaimer of Warranties	<ul style="list-style-type: none"> <li>• KC does not make any warranties</li> </ul>
25.4	Document Inspection	<ul style="list-style-type: none"> <li>• Except for attorney-client info, KC shall use its best efforts to provide ST any and all documents related to DSTT requested by ST</li> </ul>
<b>26.0</b>	<b>Taxes, Assessments and Liens</b>	
26.1	Taxes and Assessments	<ul style="list-style-type: none"> <li>• ST to pay all taxes and assessments that are the result of ST’s use of DSTT (RCW 79.44.010)</li> </ul>
26.2	Labor and Material Claims	<ul style="list-style-type: none"> <li>• Nothing in this Agreement makes one party the agent of other others for purposes of construction, repair, alteration, or installation of structures, improvements, equipment, or facilities</li> <li>• Each party shall at all times indemnify and hold the others harmless from all claims for labor or materials in connection with construction, repair, etc.</li> </ul>
<b>27.0</b>	<b>KC’s Reservation of Right to Grant Franchises and Permits to Third Parties</b>	
27.0		<ul style="list-style-type: none"> <li>• KC reserves right to grant any other person or entity franchises, concessions, permits, or other allowances in or on DSTT provided they do not materials interfere with or increase the cost of operations of ST service in DSTT</li> </ul>
<b>28.0</b>	<b>Force Majeure</b>	
28.0		<ul style="list-style-type: none"> <li>• Force majeure includes acts of nature, civil or military authorities, fire, terrorism, accidents, shutdowns for emergency repairs, lockouts, strikes, labor or other disturbance, inability to procure supplies, legal or administrative delays, etc</li> <li>• If any party is rendered unable by a force majeure to comply with any obligation or condition of this Agreement, the requirement shall be suspended only for the time and to the extent reasonably necessary</li> </ul>
<b>29.0</b>	<b>Legal Relations</b>	
29.1	No Partnership Formed and No Benefit to Third Parties	<ul style="list-style-type: none"> <li>• This Agreement is solely for benefit of parties and give no right to any other party</li> <li>• No joint venture or partnership is formed</li> </ul>
29.2	Compliance with Applicable law	<ul style="list-style-type: none"> <li>• Parties and their contractors shall comply with all federal, state, and local law</li> </ul>

Summary of 2002 DSTT Joint Use Agreement (Ordinance 14396)

SECTION	NAME	DESCRIPTION
29.3	Specific Performance and Remedies	<ul style="list-style-type: none"> <li>• If any party fails to perform a material obligation under this Agreement, any party shall be entitled to bring an action to abate, prevent, or enjoin the breach, to recover monetary damages, or to compel specific performance</li> </ul>
29.4	Applicable Law and Forum	<ul style="list-style-type: none"> <li>• This agreement shall be interpreted in accordance with the laws of the State of WA</li> <li>• If legal issue, will be brought in a court in King County</li> </ul>
<b>30.0</b>	<b>Termination</b>	
30.1	Termination Provisions	<ol style="list-style-type: none"> <li>a. Agreement terminates on the date that KC conveys DSTT to ST pursuant to a Tunnel Acquisition and Joint Operations Agreement (§19)</li> <li>b. If KC commences operation of the light rail system under an O&amp;M Agreement (§16), this agreement shall remain in effect as long as there also remains in effect an O&amp;M Agreement, as amended and extended from time to time</li> <li>c. If O&amp;M Agreement expires or is terminated, either ST may opt or KC may require ST to acquire DSTT (§16.4.p) and this Agreement shall terminate concurrent with expiration or termination of O&amp;M Agreement unless otherwise agreed</li> <li>d. This Agreement shall automatically terminate on 12/31/03 if ST has not entered into a full funding grant agreement with FTA</li> <li>e. This Agreement shall automatically terminate on 12/31/07 if ST has not satisfied other conditions precedent to Tunnel Closure (§4)</li> <li>f. This Agreement shall automatically terminate if a final court order precludes ST from using DSTT for light rail</li> </ol>
30.2	Termination for Insolvency	<ul style="list-style-type: none"> <li>• KC may terminate this Agreement on 60 calendar days prior notice if ST seeks liquidation, reorganization, or other bankruptcy relief</li> </ul>
30.3	ST Termination	<ul style="list-style-type: none"> <li>• Until commencement of closure Period, KC and ST shall notify the other if learn of damage to DSTT &gt;\$5M</li> <li>• If DSTT is damaged such that ST can no longer safely or cost effectively use it, KC shall notify ST with 30 days whether it elects to repair the damage</li> <li>• If KC does not elect to repair the damage, ST may terminate the Agreement on 30 calendar days written notice</li> <li>• Future agreements shall establish termination provisions as a result of damage caused after the commencement of the Closure Period</li> </ul>
<b>31.0</b>	<b>Assignment</b>	
31.0		<ul style="list-style-type: none"> <li>• Except for an assignment to a successor governmental entity or other assignment by law, none of the parties shall assign this agreement</li> <li>• Any attempted assignment shall be void</li> </ul>

**Summary of 2002 DSTT Joint Use Agreement (Ordinance 14396)**

<b>SECTION</b>	<b>NAME</b>	<b>DESCRIPTION</b>
<b>32.0</b>	<b>Amendments</b>	
32.0		<ul style="list-style-type: none"> <li>Amendments to this Agreement shall be approved (1) by ST Board and KC and Seattle Councils, and (2) by ST ED, KCDOT Director, and SDOT Director</li> </ul>
<b>33.0</b>	<b>Waiver</b>	
33.0		<ul style="list-style-type: none"> <li>Waiver or any breach of this Agreement shall not be deemed to be waiver of any prior or subsequent breach and shall not be construed to be a modification of the terms of Agreement</li> </ul>
<b>34.0</b>	<b>Authority</b>	
34.0		<ul style="list-style-type: none"> <li>39.33 RCW</li> <li>39.34 RCW</li> </ul>
<b>35.0</b>	<b>Interpretation</b>	
35.0		<ul style="list-style-type: none"> <li>Agreement shall be construed in accordance with laws of State of WA</li> </ul>
<b>36.0</b>	<b>Time is of the Essence</b>	
<b>37.0</b>	<b>Counterparts</b> (many copies, single Agreement)	
<b>38.0</b>	<b>Severability</b>	
<b>39.0</b>	<b>Survival of Terms</b>	
39.0		<ul style="list-style-type: none"> <li>The following sections shall survive the termination of this Agreement: 5.0, 7.0, 10.0, 13.0, 15.0, 17.0, 22.0, 25.0, 29.0</li> </ul>
<b>40.0</b>	<b>Entire Agreement</b>	

**Exhibits**

Exhibit 1: Map and description of DSTT, including easements, equipment, and furnishings

Exhibit 2: Legal description of CPS property to be conveyed to KC by ST

Exhibit 3: Downtown Seattle Traffic and Street Improvements (for closure period)

Exhibit 4: KC activities to support light rail construction (throughout the alignment not just in DSTT)

Exhibit 5: Schedule of Percentage Contributions by level of bus trips in DSTT

Exhibit 6: Debt payment schedule (shows last payments in 2019)

Exhibit 7: Draft Common Element Capital Asset Amortization Schedule (shows last payments in 2009)

Exhibit 8: Auxiliary bus facilities for Initial Segment

Exhibit 9: Payment schedule for funding the CDF (shows last payments in 2009)