

Item No.: 5a\_Attach  
Date of Meeting: November 30, 2009

**Airport Station**  
**Operations and Maintenance Agreement**

**Draft 11-12-09**

**RTA/GA XXX-XX**

# Draft 11-12-09

## TABLE of CONTENTS

<b>1.0 RECITALS .....</b>	<b>1</b>
<b>2.0 PURPOSE AND SCOPE OF AGREEMENT .....</b>	<b>1</b>
2.1 Purpose and Scope .....	1
2.2 Definitions .....	2
<b>3.0 OWNERSHIP .....</b>	<b>2</b>
3.1 Sound Transit Ownership .....	2
3.2 Port of Seattle Ownership.....	2
<b>4.0 GENERAL.....</b>	<b>2</b>
4.1 Sound Transit Responsibilities .....	2
4.2 Port of Seattle Responsibilities .....	2
4.3 Cooperation, Good Faith Efforts and Responsibility for Quality of Work.....	2
4.4 Airport Station Hours of Operation.....	3
4.5 Third-party Vendors at Airport Station .....	3
4.6 Access and Notification of Work.....	3
4.6.1 Sound Transit Track Access .....	3
4.6.2 Port Roadway Access .....	3
4.7 Lighting & Electrical .....	4
4.8 Signage .....	4
4.9 Landscaping .....	4
4.10 Closed Circuit Television Cameras.....	4
4.11 Fire Alarm System .....	4
4.12 Fire Sprinkler System .....	4
4.13 Automated External Defibrillators (AEDs).....	5
<b>5.0 FACILITY CHANGES .....</b>	<b>5</b>
<b>6.0 MEDIA RELATIONS AND ADVERTISING .....</b>	<b>5</b>
6.1 Media Relations and Special Events.....	5
6.2 Advertising.....	5
<b>7.0 EMERGENCY PROTOCOL.....</b>	<b>5</b>
7.1 Emergency Response and/or Emergency Services.....	5
<b>8.0 SECURITY .....</b>	<b>6</b>
<b>9.0 AUDITS AND RECORDS .....</b>	<b>6</b>

# Draft 11-12-09

9.1 Maintenance of Records.....	6
9.2 Access for Audit Purposes .....	6
<b>10.0 ENVIRONMENTAL MANAGEMENT .....</b>	<b>6</b>
10.1 Sound Transit's Environmental Management .....	6
10.2 The Port's Environmental Management.....	7
<b>11.0 COMPENSATION AND PAYMENT .....</b>	<b>7</b>
11.1 Invoices and Payment .....	7
11.2 Sound Transit Invoices .....	7
11.3 Port of Seattle Invoices.....	8
11.4 Annual Cost Reconciliation.....	8
<b>12.0 STATUTORY REQUIREMENTS.....</b>	<b>8</b>
<b>13.0 DESIGNATED REPRESENTATIVES .....</b>	<b>8</b>
<b>14.0 DISPUTE RESOLUTION .....</b>	<b>8</b>
<b>15.0 RISK MANAGEMENT AND CLAIMS.....</b>	<b>9</b>
<b>16.0 INDEMNIFICATION OF CERTAIN CLAIMS .....</b>	<b>10</b>
16.1 General Indemnity .....	10
<b>17.0 TERMINATION .....</b>	<b>10</b>
17.1 Termination for Default.....	10
17.2 Termination for Convenience.....	11
17.3 Activities upon Termination.....	11
<b>18.0 GENERAL PROVISIONS .....</b>	<b>11</b>
18.1 Legal Compliance.....	11
18.2 Personnel .....	11
18.3 Rights and Remedies .....	11
18.4 Independence of Parties.....	11
18.5 Non-Exclusivity of Agreement.....	12
18.6 Parties in Interest .....	12
18.7 Assignment.....	12
18.8 Binding on Successors .....	12
18.9 Applicable Law .....	12
18.10 Waiver of Default.....	12

# Draft 11-12-09

18.11 Entire Agreement .....	12
18.12 Amendments and Modifications .....	12
18.13 Severability .....	13
18.14 Calculation of Time .....	13
18.15 Notice .....	13
<b>19.0 EFFECTIVE DATE AND TERM .....</b>	<b>13</b>
19.1 Effective Date .....	13
19.2 Term .....	13
<b>20.0 EXECUTION OF AGREEMENT .....</b>	<b>14</b>

## EXHIBITS

### A – Definitions

### B – Ownership

- B1 - Sound Transit
- B2 – Port of Seattle
- B3 – Responsibility Matrix

### C – System Description

- C1 – General System Description
- C2 – Key Features
- C3 – System Map

### D – Electrical & Lighting Cost Allocation Methodology

### E – Communications System Diagram

### F – Landscaping Responsibility Matrix

### G – Fire Alarm System Diagram

### H - Designated Representatives

# Draft 11-12-09

## AIRPORT STATION OPERATIONS AND MAINTENANCE AGREEMENT

THIS AGREEMENT IS ENTERED INTO by and between the CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY, a regional transit authority of the State of Washington (hereinafter "Sound Transit"), and THE PORT OF SEATTLE, a Washington municipal corporation (hereinafter the "Port"). The Port and Sound Transit are referred to herein individually as a "Party" and collectively as "Parties". For and in consideration of the mutual covenants contained herein, Sound Transit and the Port agree as follows concerning the Parties' respective rights and obligations relating to the operation and maintenance of those portions of Sound Transit's Link Light Rail system constructed on or over Port property, including the Airport Station and assets related to the system and the station.

### 1.0 RECITALS

- A. Sound Transit owns and operates Airport Link Light Rail, Airport Station, and related assets; and
- B. The Port of Seattle owns and operates Seattle-Tacoma International Airport (Sea-Tac Airport); and
- C. On April 11, 2006, the Parties entered into the Memorandum of Agreement for Sound Transit Central Link Light Rail Airport Light Rail and Roadways Project (RTA/GLR 0068-06). Pursuant to this Memorandum of Agreement, the Parties have collaborated on portions of the construction of Airport Link Light Rail and major roadway access improvements to the Seattle-Tacoma International Airport; and
- D. Sound Transit's Airport Link Light Rail segment will begin revenue operations in December, 2009; and
- E. The Parties have reached concurrence regarding their respective rights and obligations relating to the operation and maintenance of the Airport Link system, station and appurtenances as described herein; and
- F. The Parties' intent is to document their concurrence regarding such rights in this Operations and Maintenance Agreement.

THEREFORE, the Parties consent and agree to the following rights and responsibilities in connection with the operation and maintenance of those portions of Sound Transit's Link light rail system constructed on or over Port property, including the Airport Station and all related assets as follows:

### 2.0 PURPOSE AND SCOPE OF AGREEMENT

#### 2.1 Purpose and Scope

This Agreement is intended to specify the respective roles and responsibilities of the Parties regarding the maintenance and operational aspects of those portions of Sound Transit's Link light rail system on or over Port property including the Airport Station and related assets.

# Draft 11-12-09

## 2.2 Definitions

The Port and Sound Transit agree that the words, terms and abbreviations as used in this Agreement shall be as defined in **Exhibit A: Definitions**.

## 3.0 OWNERSHIP

### 3.1 Sound Transit Ownership

The Parties agree that Sound Transit owns Airport Station, guideway, and related assets which consist of the station structure, the pedestrian bridge crossing International Boulevard (hereinafter the "International Boulevard Bridge"), art elements, at-grade assets, signage, fire alarm and sprinkler systems, information technology systems, drainage systems, the traction power sub station, equipment and other related assets as defined in **Exhibit B1**.

### 3.2 Port of Seattle Ownership

The Parties agree that the Port owns assets at, within or adjacent to the Airport Station which in general consist of Sea-Tac Airport structures, the pedestrian bridge connecting Airport Station to the main Sea-Tac Airport garage (hereinafter the "Port Pedestrian Bridge"), the pedestrian walkway through Sea-Tac Airport garage to the Sea-Tac Airport pedestrian plaza, art elements of Port facilities, at-grade assets, signage, flight information displays, airport customer self service check-in kiosks, fire alarm and sprinkler systems, information technology systems, equipment and other related assets as defined in **Exhibit B2**.

## 4.0 GENERAL

The Parties agree that Sound Transit is the owner of the Link light rail system and has contracted with King County to operate and maintain the system. Sound Transit shall have sole responsibility for coordinating any operational issues directly with King County Metro.

### 4.1 Sound Transit Responsibilities

Sound Transit shall be responsible at its sole expense for operating, cleaning and maintaining, repairing and replacing, in whole or in part, the assets defined in Section 3.1 and **Exhibit B1**. The Airport Station will be incorporated into Sound Transit's Facilities Maintenance Plan and Sound Transit shall follow its policies and practices for scheduled and unscheduled maintenance and major mid-life replacements and repairs.

### 4.2 Port of Seattle Responsibilities

The Port shall be responsible at its sole expense for operating, cleaning and maintaining, repairing and replacing, in whole or in part, the assets defined in Section 3.2 and **Exhibit B2**. The Port's assets will be incorporated into the Port's facilities maintenance plan and will follow Port of Seattle policies and practices for scheduled and unscheduled maintenance and major mid-life replacements and repairs.

### 4.3 Cooperation, Good Faith Efforts and Responsibility for Quality of Work

The Parties understand and agree that the successful execution of this Agreement depends upon timely and open communication and cooperation between the Parties. Each Party shall be responsible for the quality, technical accuracy, timelines and coordination of all work products and services performed by such Party, its employees and contractors pursuant to this Agreement. The Parties agree to engage in cooperative planning which shall include, but not be limited to, consideration of the following factors: coordination of plans for service and policies of

# Draft 11-12-09

affected jurisdictions which may impact the provision of services, long range plans of Sound Transit and the Port, safe and efficient operations, attractiveness of the services to the public, security requirements, traffic congestion and other such factors that serve the public interest and/or are mutually agreed upon by the Parties.

## **4.4 Airport Station Hours of Operation**

Airport Station will be open for operation 7 days per week, 20 hours per day. The Station will be closed to the public after the last train of the day has departed according to Sound Transit operating procedures. Sound Transit shall be responsible for operation of the Airport Station gates, including the Port Pedestrian Bridge gate. The gates will be opened at the start of the operating day and closed after the last train of the day has departed according to Sound Transit operating procedures. In the future, Airport Station may be open up to 24 hours a day, 7 days per week. For reference, an overview, key features and alignment map of the Central Link Light Rail System, which includes the Airport Segment, is included in **Exhibit C**.

## **4.5 Third-party Vendors at Airport Station**

The Parties agree that there are public and mutual benefits relative to allowing third-party vendor use of Airport Station. In order to use the Airport Station, third-party vendors shall be allowed to apply for a license agreement with Sound Transit following the applicable Sound Transit process. Where applicable, third-party vendors shall also apply to the Port for any necessary approvals to operate on Port property. The Parties shall confer with each other concerning final decisions regarding any third-party use of any portion of Airport Station. Neither Party shall unreasonably withhold approval for third-party vendors to use the Airport Station.

## **4.6 Access and Notification of Work**

Each Party shall allow reasonable access to its property by the other Party to maintain and operate facilities and systems owned by the other Party and to carry out the terms of this Agreement. The Parties shall work together to develop and implement, prior to opening, standard operating procedures, including a communications plan, for accessing each other's property to perform operations and maintenance tasks.

Both Parties agree to make a good faith effort to provide each other with no fewer than seven (7) days prior written or electronic notice of any maintenance activities that require crews to be performing work at, within, near or adjacent to the other Party's property and facilities. The Parties agree to notify each other by phone or email as soon as is reasonably possible for emergency maintenance and operations activities that require immediate action. This shall also include procedures to allow access to public utility crews or other third-party contractors. Sound Transit shall grant Puget Sound Energy (PSE) access to the PSE manholes in the ground plane area. Sound Transit shall also grant the Port's Fire Department and maintenance personnel unrestricted access to the Fire Control Center and the Communications Room within Airport Station. A diagram of the Communications System is provided in **Exhibit E**.

### **4.6.1 Sound Transit Track Access**

The process and procedure for the Port to access Sound Transit track is provided in the King County Standard Operating Procedure 6.15 "Track Allocation Procedures."

### **4.6.2 Port Roadway Access**

Sound Transit shall obtain Port approval for closure of roadway travel lanes or shoulders. Sound Transit shall submit a traffic control plan and schedule, prior to performing activities

# Draft 11-12-09

near, along, or above the North Airport Expressway or garage entry/exit plaza. The traffic control plan shall comply with the STATE Work Zone Traffic Control Guidelines and be prepared in accordance with the Manual on Uniform Traffic Control Devices (MUTCD). The initial traffic control plan, including schedule, and any subsequent revisions required by changes in maintenance operations shall be submitted to the Airport Operations Manager at least fourteen (14) days prior to initiating activities.

## **4.7 Lighting & Electrical**

The Parties shall be responsible for all costs, labor and materials relating to the maintenance, operation and control of all lighting and electrical fixtures and systems in their respective portions of the involved areas as defined in **Exhibits B1 and B2**.

Separate electrical services shall be maintained and each Party will be responsible for its own costs based on the agreed upon methodology described in **Exhibit D**.

Sound Transit shall be responsible for supplying power to the Port Pedestrian Bridge.

## **4.8 Signage**

Sound Transit shall be responsible at its sole expense for operating, cleaning and maintaining, repairing and replacing, in whole or in part all fixed and electronic Sound Transit-owned signage in the Airport Station and on both pedestrian bridges.

The Port shall be responsible at its sole expense for operating, cleaning and maintaining, repairing and replacing, in whole or in part, all fixed and electronic Port-owned signage in the Airport Station, on the Port Pedestrian Bridge, within the Port's garage walkway and within Sea-Tac Airport.

## **4.9 Landscaping**

The Port shall be reimbursed by Sound Transit for all labor and material necessary or related to the maintenance of and care for all landscaping including trash pick up in the areas defined in **Exhibit F**.

## **4.10 Closed Circuit Television Cameras**

Sound Transit shall install closed circuit television cameras including pan/tilt/zoom (PTZ) cameras in the Airport Station and the International Boulevard Bridge. The signal will be shared with the Port at the Airport Station Communication Room. The Parties will coordinate to facilitate use of the system, including how the Port will be provided access to the system to address emergency events.

## **4.11 Fire Alarm System**

Each Party shall be responsible for maintaining its own fire alarm system. The Parties acknowledge, however, that their respective systems overlap each other's property. A diagram depicting the fire alarm systems is provided in **Exhibit G**.

## **4.12 Fire Sprinkler System**

Sound Transit shall be responsible for maintenance of the fire sprinkler system in the Airport Station, the International Boulevard Bridge and the International Boulevard Plaza up to the Port's water meter located west of the Station.

# Draft 11-12-09

## **4.13 Automated External Defibrillators (AEDs)**

Sound Transit shall be responsible for maintaining the AEDs located at the Airport Station. The AEDs at the Airport Station shall be the same as those used in the Sea-Tac Airport terminal.

## **5.0 FACILITY CHANGES**

The Parties agree to coordinate and jointly review proposed changes that may affect the physical and/or operational characteristics of their respective facilities.

## **6.0 MEDIA RELATIONS AND ADVERTISING**

### **6.1 Media Relations and Special Events**

Except as otherwise identified in this Agreement, Sound Transit shall be responsible for all communications with the media about Airport Link Light Rail regardless of the circumstance, but shall collaborate with the Port's Public Affairs staff whenever the communications involve airport operations. The Parties shall confer, collaborate and cooperate with each other's public affairs staff and shall identify public affairs contacts or designees.

Link light rail special or event service information will be coordinated between the Port and Sound Transit.

### **6.2 Advertising**

Sound Transit shall coordinate and inform the Port of plans to sell advertising or place self-promotion advertising at Airport Station and shall consider the Port's comments as part of its decision-making process. The Port agrees to provide Sound Transit with a list of the appropriate parties to review Sound Transit advertising plans and conduct timely review of those plans.

Advertising sold or placed at Airport Station by Sound Transit shall comply with applicable federal, state, or city jurisdiction regulations, codes, and statutes, including the Interlocal Agreement between the City of SeaTac and the Port dated February 16, 2006. Sound Transit retains the right to make final decisions regarding selling or placing advertising at Airport Station.

## **7.0 EMERGENCY PROTOCOL**

### **7.1 Emergency Response and/or Emergency Services**

The following documents shall serve as the governing documents for emergency response and emergency service protocol:

- a. *The Sound Transit Central Link System Security and Emergency Preparedness Plan*
- b. *King County Metro's Central Link Light Rail Standard Operating Procedures*
- c. *Port Resolution No. 3559*
- d. *Airport Operations/Standard Operating Guidelines*
- e. *Sea-Tac Airport Emergency Plan*

# Draft 11-12-09

## 8.0 SECURITY

Sound Transit, the Port and the City of Sea-Tac have executed a *Memorandum of Understanding between the City of SeaTac, Port of Seattle, and Sound Transit for Police and Security Services* which will serve as the governing document for security at the Airport Station.

## 9.0 AUDITS AND RECORDS

### 9.1 Maintenance of Records

The Parties, including their consultants, shall maintain books, records, documents, and other evidence directly pertinent to performance of the work under this Agreement in accordance with Generally Accepted Accounting Principles (GAAP).

### 9.2 Access for Audit Purposes

The Parties, the Comptroller General of the United States, any state or federal funding agency or any of their duly authorized representatives shall, for the purpose of audit and examination, have access to and be permitted to inspect each other's books, records, documents, and other evidence for inspection, audit, and copying, in accordance with Washington State record retention requirements. The Parties shall also have access to each other's books, records, and documents during the performance of work if deemed necessary by each other to verify the work and invoices, to assist in negotiations for additional work, and to resolve claims and disputes. Audits conducted under this Section shall be in accordance with Generally Accepted Auditing Standards (GAAS) and established procedures and guidelines of the reviewing or audit agency (ies).

The Parties agree to the disclosure of all information and reports resulting from access to records under this Section provided that the other Party is afforded the opportunity for an audit exit conference and an opportunity to comment and submit any supporting documentation on the pertinent portions of the draft audit report and that the final audit report will include written comments of reasonable length, if any, of the Parties.

## 10.0 ENVIRONMENTAL MANAGEMENT

### 10.1 Sound Transit's Environmental Management

Sound Transit has an established environmental policy, a sustainability initiative, and an environmental management system certified under the International Standards Organization (ISO) 14001. Sound Transit is committed to protecting the environment for present and future generations. The purpose of these policies is to:

- a. Implement environmental stewardship and sustainable development
- b. Reduce environmental risks and liabilities
- c. Enhance image with public, regulators, agencies, and stakeholders
- d. Ensure regulatory compliance
- e. Improve environmental performance
- f. Simplify environmental communication

Sound Transit is committed to meeting or exceeding all environmental commitments during all phases of transit operation. The purpose is to prevent environmental degradation, reduce work delays and cost increases, minimize negative publicity, and reduce the number of concerned

# Draft 11-12-09

citizens, stakeholders, and regulatory agencies. The following Sound Transit documents will serve as the guiding documents for Sound Transit environmental practices at the Airport Station

- a. Sound Transit Environmental and Sustainability System Environmental Policy (ESMS-01), August 22, 2007.
- b. Sound Transit Executive Order No.1, Establishing a Sustainability Initiative for Sound Transit, July 16, 2007.
- c. Sound Transit Resolution R2007-12, June 28, 2007.

## 10.2 The Port's Environmental Management

The Port uses a sustainable asset management approach to guide its decisions related to the planning, design, construction, operation, maintenance, renewal, and demolition of its facilities. This approach integrates environmentally and economically sustainable development by maintaining a focus on the total cost of ownership and implementing a comprehensive asset management program. The following Port documents will serve as the guiding documents for Port environmental practices:

- a. EX-15 Sustainable Asset Management Policy
- b. CPO-2 Environmental Purchasing Policy

## 11.0 COMPENSATION AND PAYMENT

### 11.1 Invoices and Payment

Either Party shall invoice the other on an annual basis for all services provided as follows:

- a. Sound Transit shall invoice the Port for Sound Transit provided electrical service to Port Pedestrian Bridge as defined in Section 4.7, which will consist of actual costs; and
- b. The Port shall invoice Sound Transit for Port provided landscape maintenance as defined in Section 4.9, which will include actual contractor costs plus fifteen percent (15%) administration fee

Provided the invoice is complete, either Party will pay its respective invoice within 30 days of receipt. The invoice will be considered complete only when all annual information is received by each Party. Incomplete invoices will not be processed for payment.

If either Party disputes any of their respective charges, documentation or the completeness of the invoice, notice of such objections shall be provided to the other Party in writing within 20 days after receipt of the completed invoice. Any dispute shall be subject to the dispute resolution procedures as set forth in this Agreement. Notwithstanding this paragraph, either Party's right to dispute charges or audit is not prejudiced.

### 11.2 Sound Transit Invoices

The invoice should be sent to:

Accounts Payable  
Central Puget Sound Regional Transit Authority  
401 South Jackson Street  
Seattle, Washington 98104-2826

# Draft 11-12-09

## 11.3 Port of Seattle Invoices

The invoice should be sent to:

Accounts Payable  
Attn: Billing Supervisor  
Port of Seattle  
P.O. Box 1209  
Seattle, WA 98111

## 11.4 Annual Cost Reconciliation

The Port of Seattle and Sound Transit will complete an annual reconciliation of all costs no later than November 15th in order for each Party to submit an invoice to the other for their respective scopes of work. All financial accruals are to be included as part of the reconciliation process and mutually agreed upon with adequate supporting documentation. Any subsequent cost adjustments shall be mutually agreed upon and treated as an expense of the next period.

## 12.0 STATUTORY REQUIREMENTS

The Parties will comply with all applicable state and federal laws, regulations, rules, and procedures relative to their respective operations.

## 13.0 DESIGNATED REPRESENTATIVES

To ensure effective cooperation, each Party shall designate representatives responsible for communications and coordination between the Parties. Designated Representatives are responsible for the following:

- a) Coordinating input and work of other staff members;
- b) Annual review of the costs;
- c) Revising or preparing exhibits and amendments to this Agreement; and
- d) Identifying and resolving issues.

The contact information of the current Designated Representatives is provided in **Exhibit H: Designated Representatives**. Each Party may unilaterally update its contact information in **Exhibit H** as necessary by providing an amended copy of **Exhibit H** to the Designated Representative.

## 14.0 DISPUTE RESOLUTION

In the event of any dispute concerning this Agreement, the Sound Transit Deputy Director of Operations or designee and the Senior Operations Manager, Landside of the Port or designee shall confer to resolve the dispute. These individuals shall use their best efforts and exercise good faith to resolve disputes and issues arising out of or related to this Agreement. In the event the Sound Transit Deputy Director of Operations or designee and the Senior Operations Manager, Landside of the Port or designee are unable to resolve the dispute, the Director of Operations or designee and the Director of Airport Operations of the Port or designee shall confer and exercise good faith to resolve the dispute.

In the event the Director of Operations or designee and the Director of Airport Operations or designee of the Port are unable to resolve the dispute, the Chief Executive Officer of Sound Transit or designee and the Managing Director, Aviation Division or designee of the Port shall engage in good faith negotiations to resolve the dispute.

# Draft 11-12-09

In the event the Chief Executive Officer of Sound Transit or designee and the Managing Director, Aviation Division or designee of the Port are unable to resolve the dispute, the Parties agree to submit the matter to alternative dispute resolution methods such as mediation or arbitration. The Parties shall follow the alternative dispute resolution procedures set forth in paragraphs 26.4 – 27 of the Memorandum of Agreement for Sound Transit Central Link Light Rail Airport Light Rail and Roadways Project (RTA/GLR 0068-06) between the Parties.

The Parties agree that they shall have no right to seek relief in a court of law until and unless they first follow the alternative dispute resolution procedures described above.

## **15.0 RISK MANAGEMENT AND CLAIMS**

Damage to the Port's or Sound Transit's facilities or assets caused by activities within the Light Rail Transit Way Easement will be corrected by the Party causing the damage at no cost to the other Party. The Parties may purchase insurance to cover all or some of the damage. However, in the event that the responsible Party purchases insurance, the responsible Party remains obligated to pay for the damage it causes in the event the insurance does not cover the damage or is inadequate to cover all the damage. The responsible Party will develop a plan for repairing damaged facilities and share that plan with the other Party prior to commencing repair or replacement work.

In the event of an emergency where the incident and/or damage pose a threat to the public, either Party is authorized to take immediate corrective action, including the retention of agents or others to perform repairs, other mitigation of the damage, or other activities to protect the public and/or prevent further damage. The Party shall, as soon as reasonably possible, notify the responsible Party of the incident, the damage, and the corrective action the Party is performing or plans to perform. Upon request by the responsible Party, the Party shall relinquish the control over the situation and corrective action to the responsible Party or its agent(s). The Parties agree to work cooperatively in the event of such an emergency. If a Party takes corrective action in an emergency situation, all costs incurred by such Party will be reimbursed by the responsible Party.

The handling of damage to Sound Transit's facilities and/or assets as defined in Exhibit B1 caused by a third-party (a person or entity other than the Port or Sound Transit), including repair or replacement, will be the responsibility of Sound Transit, and not the Port. Sound Transit may insure its facilities and assets defined in Exhibit B1 to the extent it deems appropriate. Sound Transit retains the right to pursue recovery from any third-party who caused damage to Sound Transit's facility and/or assets.

The handling of damage to the Port's facilities or assets as defined in Exhibit B2 caused by a third-party (a person or entity other than the Port or Sound Transit), including repair or replacement, will be the responsibility of the Port, and not Sound Transit. The Port may insure its facilities and assets defined in Exhibit B2 to the extent it deems appropriate. The Port retains the right to pursue recovery from any third-party who caused damage to the Port's facility and/or assets.

The Parties mutually agree to name and add each other as additional insured's on their respective liability insurance policies and waive the right of subrogation for losses arising from or related to the activities covered by this Agreement.

# Draft 11-12-09

Each Party shall ensure that all third-party vendors, concessionaires, contractors, who each Party has the right to hire and utilize for work or services, shall be required to have liability insurance in place prior to performing work or services on any of the operational areas or assets as defined in Section 3.0 of this Agreement. This insurance shall be of the type and in the amounts each Party determines to be sufficient for the work or services to be performed. Each Party who is contracting for the work or services shall require that all third-party vendors and contractors name that Party as an additional insured on the commercial general liability insurance policy of the third-party vendor or contractor. Where a selected third-party vendor or contractor is performing work or services simultaneously for both Parties, then both Parties shall be named as additional insured's on the commercial general liability insurance policy of the third-party vendor or contractor.

## **16.0 INDEMNIFICATION OF CERTAIN CLAIMS**

### **16.1 General Indemnity**

To the maximum extent permitted by law, each Party shall protect, defend, indemnify and hold harmless the other Party and all of its officials, employees, principals and agents, while acting within the scope of its employment as such, from all costs, claims, demands, suits, actions, judgment, and/or awards of damages, arising out of, or in any way resulting from, the Indemnifying Party's negligent acts or omissions. No Party will be required to indemnify, defend, or save harmless the other Party if the claim, suit, or action for injuries, death, or damages is caused by the sole negligence of the other Party. Where such claims, suits, or actions result from concurrent negligence of the Parties, the indemnity provision provided herein shall be valid and enforceable only to the extent of the Party's own negligence. Each of the Parties agrees that its obligations under this subparagraph extend to any claim, demand, and/or cause of action brought by, or on behalf of, any of its employees or agents. For this purpose, each of the Parties, by mutual negotiation, hereby waives, with respect to the other Party, any immunity that would otherwise be available against such claims under the industrial insurance provisions of Title 51 RCW. In the event that a Party incurs any judgment, award, and/or cost arising therefrom, including attorney's fees, to enforce the provision of this section, all such fees, expenses and costs shall be recoverable by the prevailing party. This indemnification shall survive the termination of this Agreement.

## **17.0 TERMINATION**

### **17.1 Termination for Default**

Either Party may terminate this Agreement, in whole or in part, in writing if the other Party substantially fails to fulfill any or all of its obligations under this Agreement through no fault of the other Party, provided that insofar as practicable, the Party terminating the Agreement will give:

- a. Written notice of intent to terminate at least 30 days prior to the date of termination stating the manner in which the other Party has failed to perform the obligations under this Agreement; and
- b. An opportunity for the other Party to cure the default within at least 30 days of notice of the intent to terminate. In such case, the notice of termination will state the time period in which cure is permitted and any other appropriate conditions.

# Draft 11-12-09

If the other Party fails to remedy the default or the breach to the satisfaction of the other Party within the time period established in the notice of termination or any extension thereof, granted by the Party not at fault, the Agreement shall be deemed terminated.

## **17.2 Termination for Convenience**

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

- a. Written notice of intent to terminate no less than 180 days prior to a major service change; and
- b. Opportunity for consultation with the Party initiating the termination prior to the termination date.

## **17.3 Activities upon Termination**

Upon termination of this Agreement by expiration of the term or as provided in this Section, Sound Transit and the Port agree to work together cooperatively to develop a coordinated plan for terminating the services rendered up until the time of termination, determining reasonable contract close-out costs for termination for convenience only, and accounting and disposing of equipment provided by each Party in the manner that each Party directs. In the event of termination by default or breach, each Party shall compensate the other Party for only the services that the other Party has 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 close-out costs as otherwise provided in this Section. No such termination, however, shall relieve the Parties of obligations accrued and unsatisfied at such termination.

## **18.0 GENERAL PROVISIONS**

### **18.1 Legal Compliance**

At all times both Parties provide the respective services under this Agreement in accordance with all applicable local, state and federal laws and regulations.

### **18.2 Personnel**

The Port and all subcontractors will comply with all applicable state and federal laws, regulations, rules, and procedures with respect to employer's liability, worker's compensation, unemployment insurance, and other forms of Social Security and also with respect to withholding of income tax, state disability insurance, and any other proper withholding from wages of employees.

### **18.3 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 except as otherwise provided in this Agreement.

### **18.4 Independence of Parties**

It is understood and agreed that this Agreement is solely for the benefit of the Parties hereto and gives no right to any other Party. No joint venture or partnership is formed as a result of this Agreement. No employees agents or subcontractors of one Party shall be deemed, or represent themselves to be, employees of any other Party.

# Draft 11-12-09

## **18.5 Non-Exclusivity of Agreement**

The Agreement is not, and will not be construed to be, the sole contract for operations, maintenance, or repairs into which Sound Transit may enter during the term of the Agreement or as it may be extended.

## **18.6 Parties in Interest**

Nothing in the Agreement, whether express or implied, is intended to:

- a. Confer any rights or remedies under or by reason of the Agreement on any persons other than the Parties to it and their respective successors and permitted assigns;
- b. Relieve or discharge the obligation or liability of any third-party to a Party to the Agreement; nor
- c. Give any third-parties any right of subrogation or action against the other Party to this Agreement.

## **18.7 Assignment**

Neither Party will assign, transfer, or otherwise substitute its obligations under the Agreement without the prior written consent of the other Party. Any assignment made in violation of this provision will be null and void and confer no rights whatsoever on any person.

## **18.8 Binding on Successors**

All of the terms, provisions and conditions of the Agreement will be binding upon and inure to the benefit of the Parties hereto and their respective successors, permitted assigns and legal representatives.

## **18.9 Applicable Law**

This Agreement will be governed by, and construed and enforced in accordance with, the laws of the State of Washington. Any legal action brought resulting from this Agreement shall be brought in the Superior Court of King County.

## **18.10 Waiver of Default**

Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver of breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of this Agreement unless stated to be such in writing, and signed by authorized Parties.

## **18.11 Entire Agreement**

This Agreement, including attachments and exhibits, constitutes the entire Agreement between the Parties relative to the subject matter herein, except as otherwise expressly provided herein. No modification or amendment of this Agreement shall be valid and effective unless evidenced by an agreement in writing, signed by personnel authorized to bind the Parties.

## **18.12 Amendments and Modifications**

This Agreement and exhibits may be amended or modified by mutual agreement of the Parties in writing.

In particular, this Agreement may be amended or modified with respect to additional work Sound Transit may request the Port to perform beyond the scope specifically defined herein. The Port may perform such additional work at its sole discretion in a manner consistent with its procedures and policies.

# Draft 11-12-09

Amendments to the policies outlined in this Agreement are subject to the approval of the Sound Transit Board of Directors and the Port of Seattle Commission or its designee. Amendments and revisions to exhibits can be authorized by Sound Transit's Director of Operations or designee and by the Port's Director, Airport Operations or designee.

## **18.13 Severability**

If any provision of this Agreement is held invalid by a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to serve the purposes and objectives originally contemplated.

## **18.14 Calculation of Time**

Unless specifically provided otherwise, references to time periods of five or less days shall be considered business days and time periods of greater than five days shall be considered calendar days.

## **18.15 Notice**

Any notice required, permitted or implied under this Agreement including change of address, may be personally served on the other Party by the Party giving notice or may be served by certified mail, return receipt required, to the following address:

Director, Airport Operations  
Sea-Tac International Airport  
P.O. Box 68727  
Seattle, WA 98168

Director of Operations  
Sound Transit  
401 South Jackson Street  
Seattle, WA 98104-2826

## **19.0 EFFECTIVE DATE AND TERM**

### **19.1 Effective Date**

This Agreement shall take effect upon signature by the Parties.

### **19.2 Term**

This Agreement shall expire five years after the date of signature by both Parties.

# Draft 11-12-09

## 20.0 EXECUTION OF AGREEMENT

This Agreement may be executed in counterparts, each of which shall be regarded for all purposes as one original.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year set forth below their signatures.

The Port of Seattle  
("Port")

Central Puget Sound Regional Transit  
Authority  
("Sound Transit")

\_\_\_\_\_  
Tay Yoshitani  
Chief Executive Officer

\_\_\_\_\_  
Joan M. Earl  
Chief Executive Officer

Date: \_\_\_\_\_  
Approved as to form:

Date: \_\_\_\_\_  
Approved as to form:

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

\_\_\_\_\_  
Sound Transit Legal Counsel  
Date: \_\_\_\_\_

## EXHIBIT A: DEFINITIONS

**AED** - Automated External Defibrillator.

**Airport Segment** - The light rail system extending from Tukwila International Blvd. Station in the City of Tukwila to SeaTac Airport in the City of SeaTac.

**CCTV** - Closed Circuit Television

**Configuration Control** - Refers to the responsibility to ensure that no changes are made to any portion of either Party's property and related assets without the express written approval of the Party through a formalized process of approval.

**CPI** - The U.S. Department of Labor, (Bureau of Labor Statistics) Consumer Price Index for All Urban Consumers (CPI-U) for the Seattle-Tacoma-Bremerton area.

**CUSS** - Port of Seattle Common Use Self Service Kiosks. Refers to the automated, self-service check in terminals used by airlines.

**Designated Representatives** - The individuals who are assigned to specific tasks outlined in the Agreement as listed in Exhibit G.

**DSTT** - the Downtown Seattle Transit Tunnel consisting of the Tunnel, the Merge Zone, the Tunnel Annex, and the Tunnel Control center as defined in the DSTT agreement.

**FIDs** – Port of Seattle Flight Information Displays

**FCC** – Fire Control Center.

**LCC** – The Link Control Center located at the King County Metro Building at 1263 6th Avenue, Seattle, Washington.

**Third Party** - A person or entity other than Sound Transit or the Port.

## Exhibit B1: Sound Transit Owned Assets

Note: This will include the site drawings depicting ST asset ownership as well as the following list of assets.

Sound Transit Owned Assets
<b>Light rail track structure</b>
<ul style="list-style-type: none"><li>• At-grade slabs</li><li>• Retaining walls</li><li>• Abutments</li><li>• Traffic barriers delineating track</li><li>• Aerial structures</li><li>• Columns</li><li>• Foundations</li></ul>
<b>Light rail operating systems</b>
<ul style="list-style-type: none"><li>• Traction Power Substation (TPSS)</li><li>• Overhead catenary systems and controls</li></ul>
<b>Airport Station Structure</b>
<ul style="list-style-type: none"><li>• Columns</li><li>• Foundations</li><li>• Platforms</li><li>• Glazing</li><li>• Elevators and escalators</li><li>• Interior finishes</li><li>• Infrastructure systems</li></ul>
<b>Operating, revenue control and monitoring systems</b>
<ul style="list-style-type: none"><li>• Conduits</li><li>• Cabling</li><li>• Equipment</li><li>• Other support infrastructure</li></ul>
<b>International Boulevard Bridge</b>
<ul style="list-style-type: none"><li>• Associated facilities located east of International Boulevard</li></ul>
<b>Port Pedestrian Bridge</b>
<ul style="list-style-type: none"><li>• CCTVs</li><li>• Public Address Speaker</li></ul>
<b>Track and station drainage</b>
<ul style="list-style-type: none"><li>• Drains</li><li>• Downspouts</li></ul>
<b>Sound Transit Art Elements</b>
<b>Station grade level</b>
<ul style="list-style-type: none"><li>• Pavement</li><li>• Landscaping</li><li>• Fencing</li><li>• Egress facility</li><li>• Infrastructure systems</li></ul>

## Exhibit B2: Port of Seattle Owned Assets

<b>Port of Seattle Owned Assets</b>
<b>North Airport Expressway elements</b>
<ul style="list-style-type: none"><li>• Roadway surface</li><li>• Roadway shoulders</li><li>• Bridges</li><li>• Walls</li><li>• Cut and fill slopes</li><li>• Utilities</li><li>• Sign structures and signage (including static and variable message signs)</li><li>• Intelligent transportation system (ITS)</li><li>• Traffic barriers excluding track barriers</li><li>• Illumination</li><li>• Drainage</li><li>• Landscaping</li><li>• Other structures</li></ul>
<b>Airport Station</b>
<ul style="list-style-type: none"><li>• Flight information displays (FIDs) and system</li><li>• Common Use Self Service Kiosks (CUSS) and system</li></ul>
<b>Non-station grade level</b>
<ul style="list-style-type: none"><li>• Pavement</li><li>• Landscaping</li><li>• Fencing</li><li>• Supporting infrastructure</li><li>• Traffic barriers and impact attenuators</li></ul>
<b>Pedestrian bridge connecting Airport Station to the main garage</b>
<ul style="list-style-type: none"><li>• Foundations</li><li>• Columns</li><li>• Bridge structure</li><li>• Flooring</li><li>• Roofing</li><li>• Public Address Speaker</li><li>• Interior finishes</li><li>• Infrastructure</li></ul>
<b>Pedestrian walkway through garage – connecting the pedestrian bridge to the garage fourth floor pedestrian plaza</b>
<ul style="list-style-type: none"><li>• Walkway surfaces</li><li>• Signage</li><li>• Railings</li><li>• Infrastructure systems</li></ul>

# Responsibility Matrix

Sound Transit      Port of Seattle

## Tasks

NOTES:

### Airport Station

Landscape		X
Janitorial	X	
Maintenance	X	
Fire/Life Safety	X	
Signage	X	
Lighting	X	
CCTV	X	Video feed provided to POS
AED	X	

### IB Ped. Bridge & Plaza

Landscape	X	
Janitorial	X	
Maintenance	X	
Fire/Life Safety	X	

### POS Ped. Bridge

Landscape		X
Janitorial		X
Maintenance		X
Fire/Life Safety		X
Signage	X	X
Lighting		X
CCTV		X

Each Party to maintain respective signage.  
POS to reimburse ST for power consumption.

### Elev. Guideway

Landscape		X
Maintenance	X	
Fire/Life Safety	X	

# **EXHIBIT C: GENERAL SYSTEM DESCRIPTION OVERVIEW**

## **Central Link Light Rail System – Initial and Airport Segments**

### **Initial Segment**

The Initial Segment extends from a tail track located in a Tunnel Annex east of Westlake Station through the existing Downtown Seattle Transit Tunnel (DSTT) to Tukwila International Blvd. Station bordering the cities of Tukwila and SeaTac.

The Initial Segment consists of a 15.6-mile long double-track light rail transit system, twelve passenger stations, and an Operations and Maintenance Facility (OMF). The line, located largely in exclusive right-of-way with a mix of at-grade, aerial, and subway guideway, includes the existing 1.5-mile long DSTT and serves four of its five stations. Buses will continue to serve all five of the existing DSTT stations as studies have concluded that joint use is feasible and safe. The Initial Segment included retrofitting the DSTT for joint rail/bus operations, ADA compliance, and Fire/Life Safety requirements.

Four of the twelve stations on the Initial Segment are in the DSTT: Westlake, University Street, Pioneer Square, and International District/China Town. South of the DSTT, the line includes an at-grade station at Stadium and SODO; a deep-mined station in the Beacon Hill; an elevated station at Mt. Baker; at-grade stations at Columbia City, Othello Street, and Rainier Beach; and an elevated station at Tukwila International Blvd. which includes a park and ride lot.

### **Airport Segment**

The line is extended further south by some 1.7 miles from Tukwila International Blvd. Station to SeaTac Airport Station. There are no intermediate stations. The alignment is all aerial structure except for a portion of the guide way where it comes to grade to facilitate access requirements for maintenance vehicles. The combined Initial Segment and Airport Segment are 15.6 miles in total.

### **System**

A fleet of 35, low-floor, articulated 95-foot cars have been procured for both the Initial and Airport Segments. All passenger stations have been constructed accommodate four-car trains. The project includes an Operations and Maintenance facility that is located on a 25-acre site adjacent to the aerial structure on South Forest Street between 6<sup>th</sup> Avenue South and Airport Way South.

## EXHIBIT C: GENERAL SYSTEM DESCRIPTION KEY FEATURES

The following is a summary description of the line and planned service:

**Alignment** Westlake stub tunnel to SeaTac Airport Station = 15.6 miles of double track

- 1.5 miles tunnel joint bus/rail operations
- 1.0 miles tunnel
- 7.2 miles at-grade
- 5.9 miles aerial

31 grade crossings (3 gated and 28 controlled by traffic lights)

**Train Service** Seven days a week (including holidays)  
20 hours per day (5:00am to 1:00am) Monday – Saturday  
18 hours per day (6:00am to Midnight) Sunday

**Stations** 13 stations (5 below ground, 3 aerial and 5 at-grade stations)

### Headways (Initial Segment)

Monday – Friday		Saturday		Sunday & Holidays	
05.00 to 06.00 hrs	15 mins	05.00 to 08.00 hrs	15 mins	06.00 to 08.00 hrs	15 mins
06.00 to 08.30 hrs	7½ mins*	08.00 to 22.00 hrs	10 mins	08.00 to 22.00 hrs	10 mins
08.30 to 15.00 hrs	10 mins	22.00 to 01.00 hrs	15 mins	22.00 to 00.00 hrs	15 mins
15.00 to 18.30 hrs	7½ mins*				
18.30 to 22.00 hrs	10 mins				
22.00 to 01.00 hrs	15 mins				

\* Headways may be adjusted to 6 minutes with the February 2010 service change following the opening of the Airport Segment.

**Trains** 95 feet long  
2-car train consists in the initial years of service

**Stations** Capable of accommodating a maximum consist size of 4 cars

**Light Rail Vehicles** 74 seated and 74 standees = 148 total per LRV at a load factor of 2.0  
**Vehicles** Space for 2 wheel chairs, 2 bicycles and luggage space per car

**Fares System** A barrier free proof-of-payment fare collection system

**Maintenance Facility** An Operations and Maintenance Facility (OMF) is located at Forest Street and Airport Way  
The OMF will have the following:

- Link Operations Control Center
- Transportation functions
- Outside storage yard for 104 cars
- LRV maintenance shop

# EXHIBIT C: GENERAL SYSTEM DESCRIPTION ALIGNMENT MAP

## Central Link Light Rail – Initial and Airport Segments



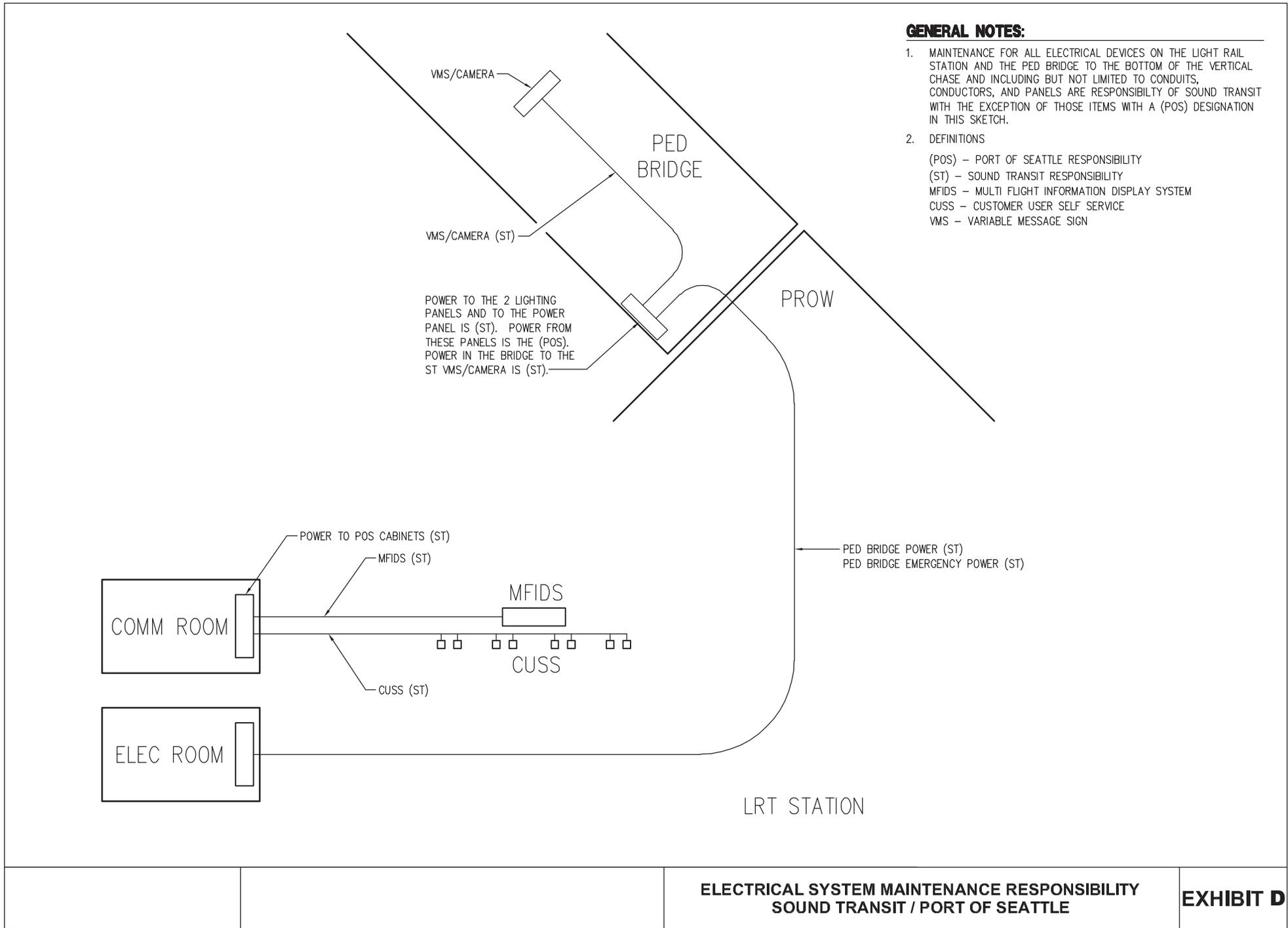
# Exhibit D

## Lighting Cost Allocation

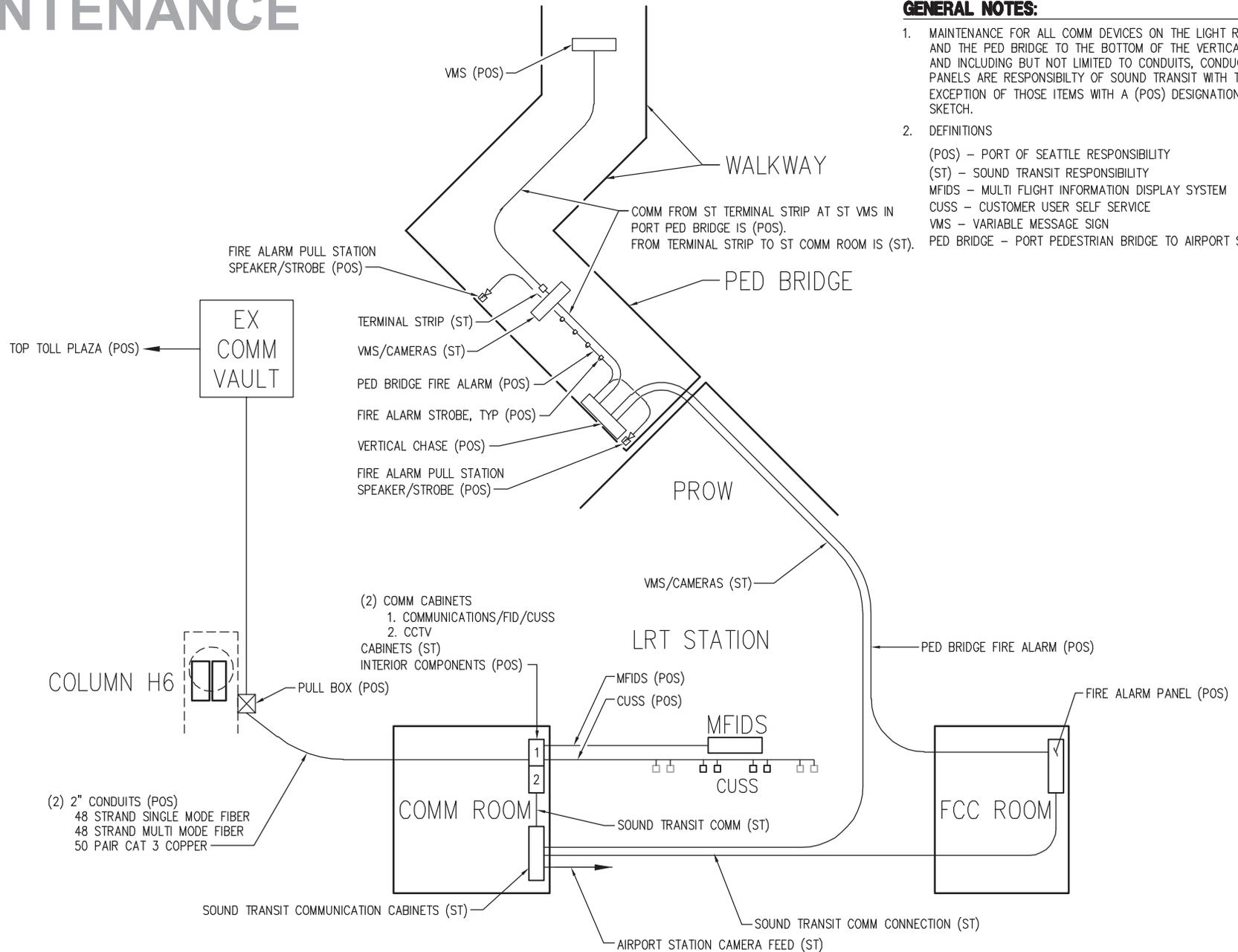
Cost Allocation for POS PED Bridge

NOTES:

<b>Number of Lighting Fixtures</b>	60	(Est.)	
<b>Power Consumption of Individual Fixtures (Watts)</b>	60	(Est.)	
<b>Hours of Operation (Ave.)</b>	24		
<b>Electrical Power Utility Rate (KWHR)</b>	\$0.09	(Est.)	To be determined at close of construction
<b>Misc. Consumption Factor</b>	10%	(Est.)	To account for Janitorial use, VMS and LED signage
<b>Daily KWHR</b>	95.04		
<b>Daily Power Consumption Cost</b>	\$8.55		
<b>Annual Power Consumption Cost</b>	\$3,122.06		

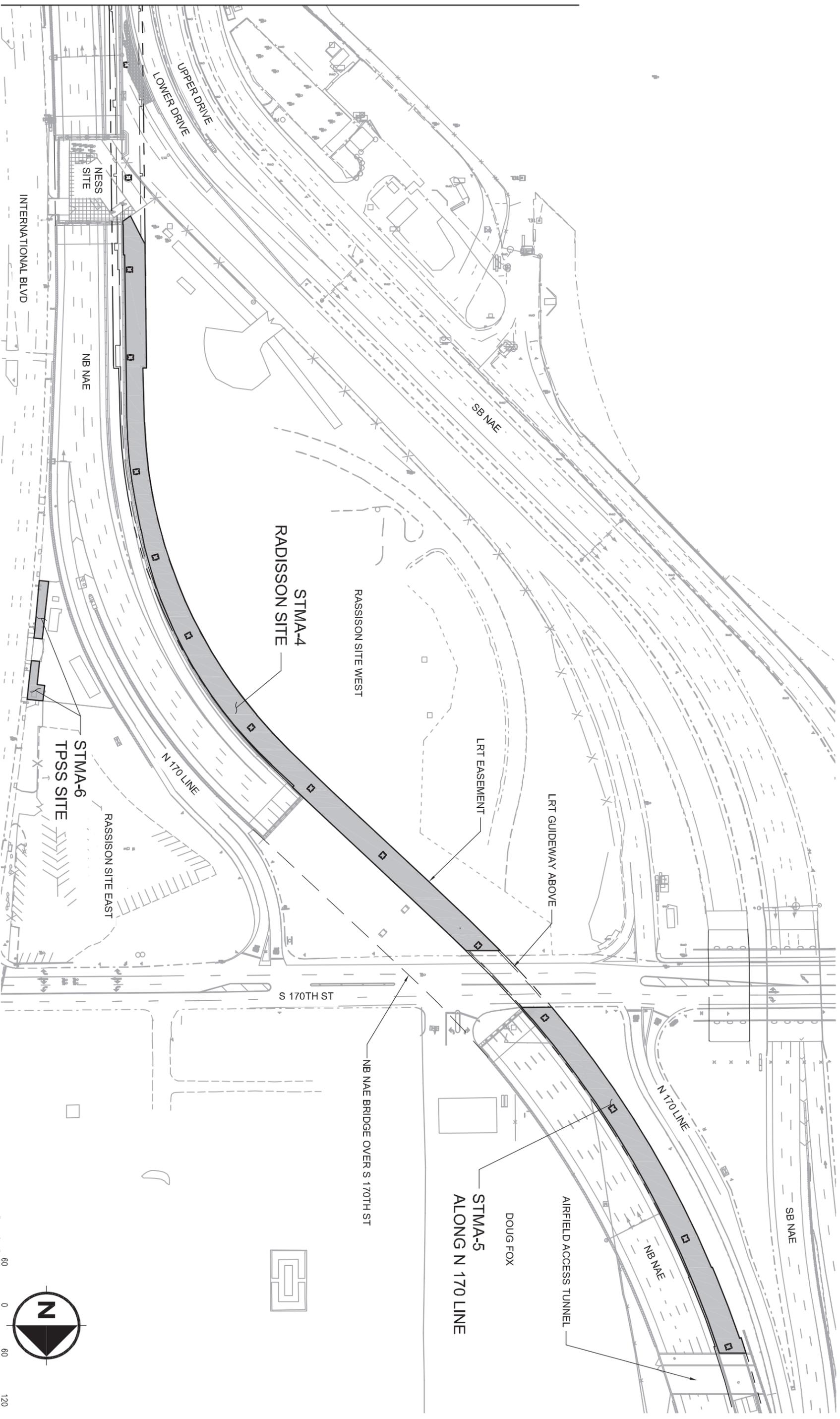


# MAINTENANCE

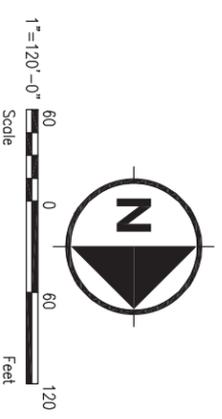


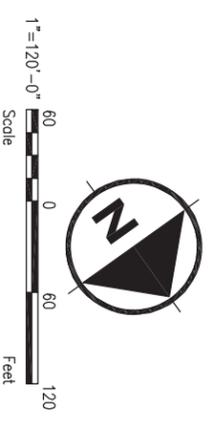
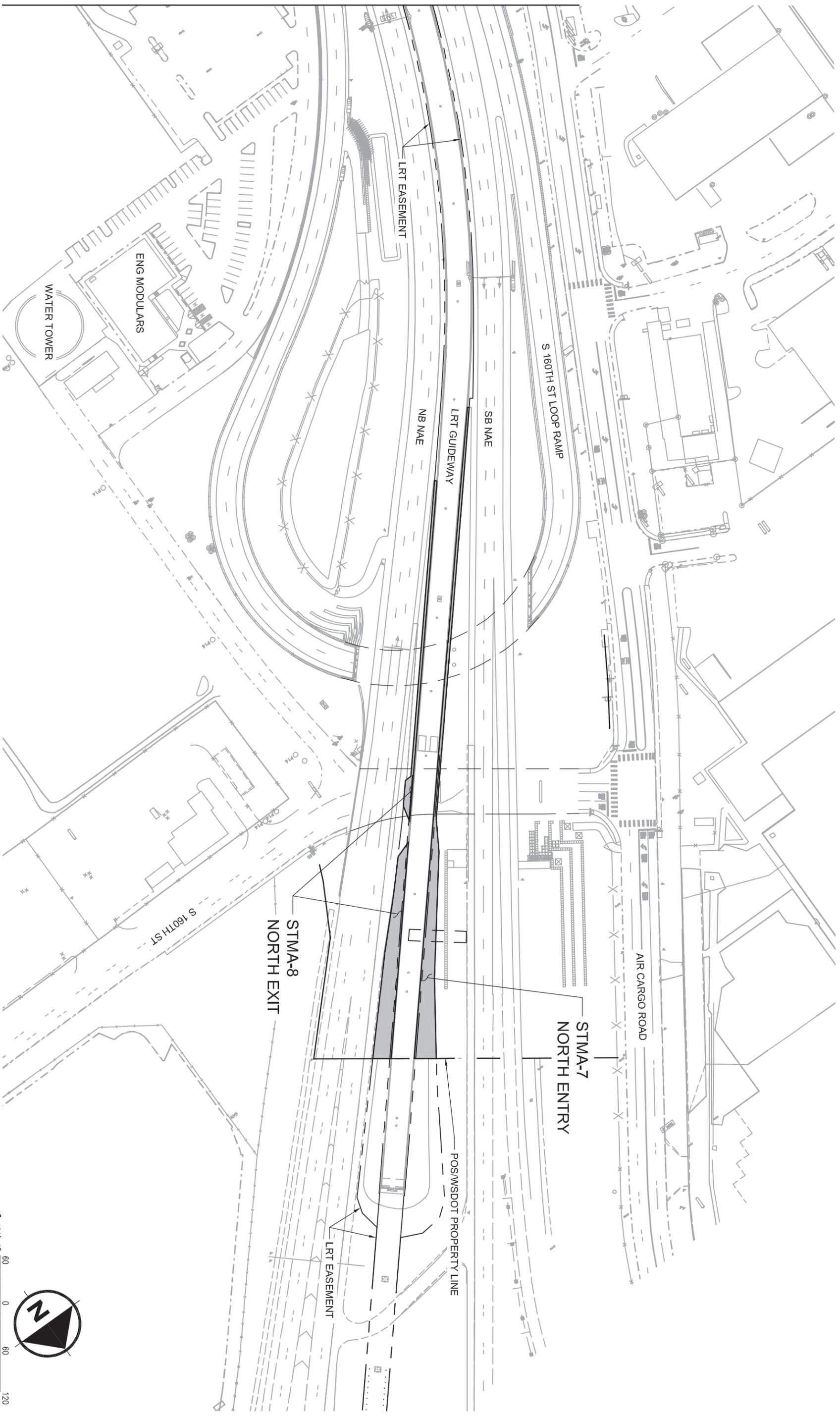
## GENERAL NOTES:

1. MAINTENANCE FOR ALL COMM DEVICES ON THE LIGHT RAIL STATION AND THE PED BRIDGE TO THE BOTTOM OF THE VERTICAL CHASE AND INCLUDING BUT NOT LIMITED TO CONDUITS, CONDUCTORS, AND PANELS ARE RESPONSIBILITY OF SOUND TRANSIT WITH THE EXCEPTION OF THOSE ITEMS WITH A (POS) DESIGNATION IN THIS SKETCH.
2. DEFINITIONS  
(POS) – PORT OF SEATTLE RESPONSIBILITY  
(ST) – SOUND TRANSIT RESPONSIBILITY  
MFIDS – MULTI FLIGHT INFORMATION DISPLAY SYSTEM  
CUSS – CUSTOMER USER SELF SERVICE  
VMS – VARIABLE MESSAGE SIGN  
PED BRIDGE – PORT PEDESTRIAN BRIDGE TO AIRPORT STATION

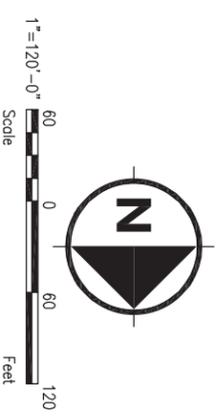
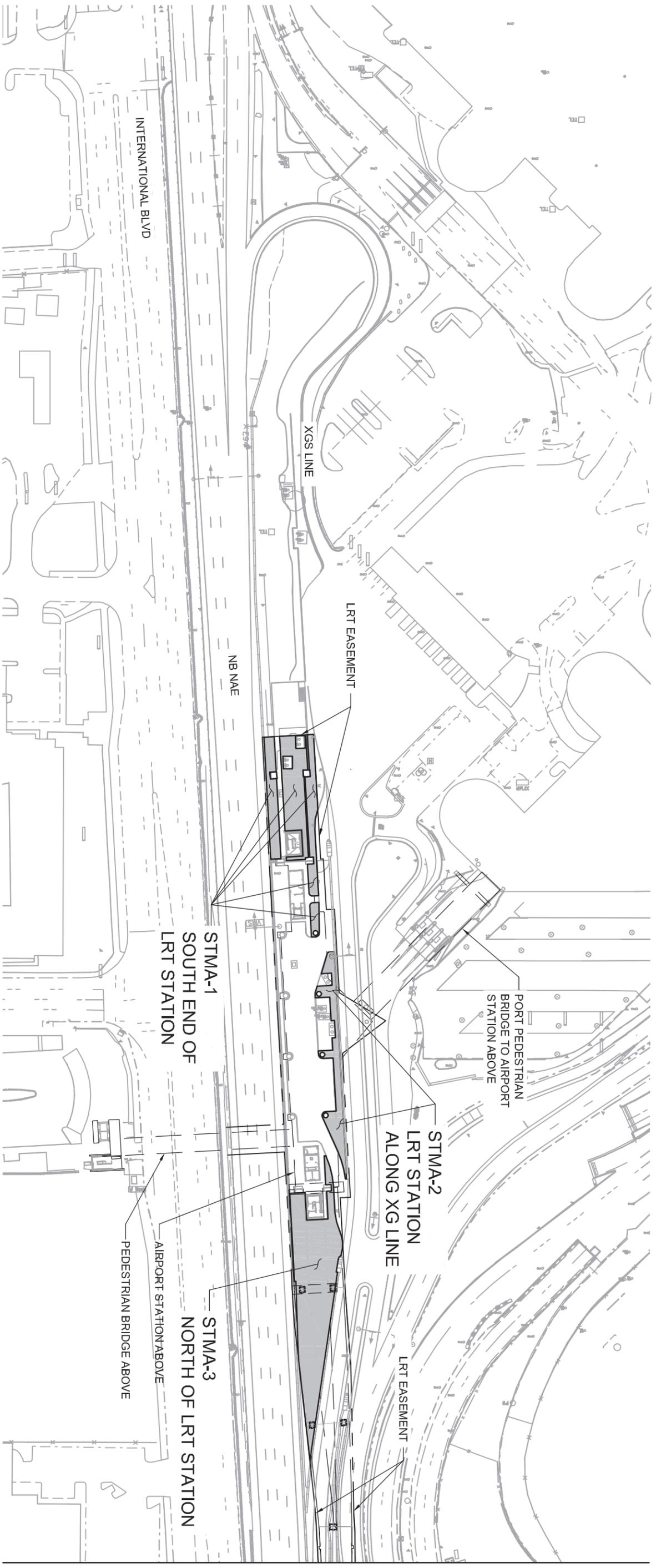


LANDSCAPE MAINTENANCE AREAS  
PORT OF SEATTLE / SOUND TRANSIT





LANDSCAPE MAINTENANCE AREAS  
PORT OF SEATTLE / SOUND TRANSIT



LANDSCAPE MAINTENANCE AREAS  
PORT OF SEATTLE / SOUND TRANSIT

**GENERAL NOTES:**

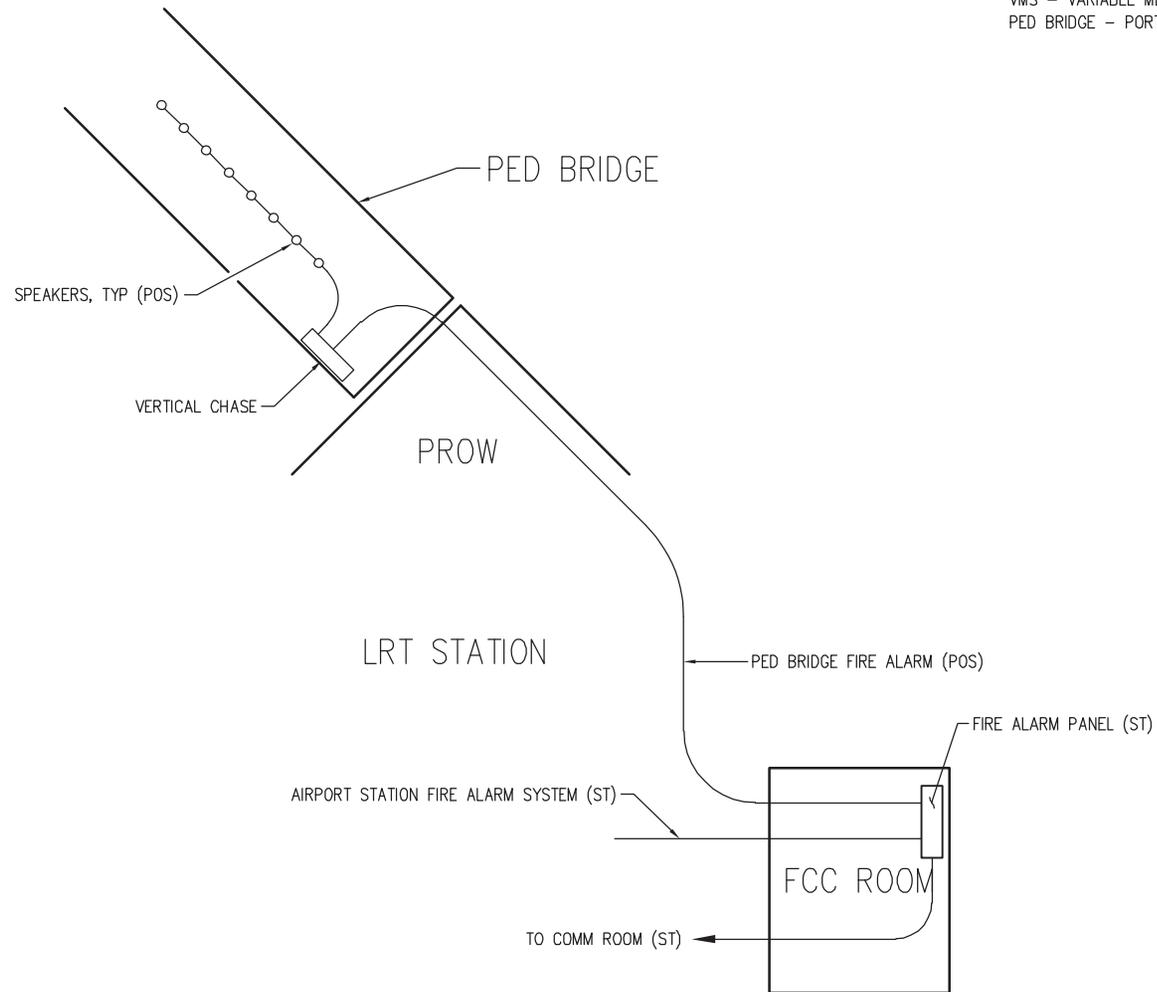
1. DEFINITIONS

(POS) – PORT OF SEATTLE RESPONSIBILITY

(ST) – SOUND TRANSIT RESPONSIBILITY

VMS – VARIABLE MESSAGE SIGN

PED BRIDGE – PORT PEDESTRIAN BRIDGE TO AIRPORT STATION



## **EXHIBIT H: DESIGNATED REPRESENTATIVES**

### **Port of Seattle**

Paul Grace  
Airport Operations Senior Manager  
Sea-Tac International Airport  
P.O. Box 68727  
Seattle, WA 98168  
Telephone: 206-787-7235  
Fax: 206-787-7710

### **Sound Transit**

Vicki Youngs  
Deputy Director of Operations  
Sound Transit  
401 S. Jackson ST  
Seattle, WA 98104  
Telephone: 206-398-5024  
Fax: 206-398-5215