

Agreement for Business Mitigation Services
FOR
University Link Capitol Hill Station Construction Business Mitigation
Agreement No. RTA/LR 0226-08

1. Introduction

This Agreement made and entered into, effective the 4 day of Nov, 2008, by and between the Central Puget Sound Regional Transit Authority hereinafter "Sound Transit" and the Capitol Hill Chamber of Commerce (CHCC) hereinafter "Chamber".

2. Administration of Agreement:

The designated representatives for administration of this Agreement are as follows:

Capitol Hill Chamber Manager
Jack Hilovsky
Capitol Hill Chamber
925 E. Thomas Street
Seattle, WA 98102
206-328-6646

Sound Transit Program Manager
Brooke Belman
Sound Transit
401 S. Jackson Street
Seattle, WA 98104
206-398-5238

The Chamber shall be an independent entity for all purposes, and shall be entitled to compensation only as specifically set forth in this Agreement.

3. Term

The term of this Agreement will be from October 1, 2008 through September 30, 2011. However, Sound Transit reserves the right to extend this Agreement for four (4) additional years on an evaluated year to year basis, not to exceed a total of seven (7) years. If such extension(s) involves a change in the services, compensation may be adjusted in accordance with the Terms and Conditions of this Agreement. Sound Transit and the Chamber will evaluate the Agreement on a yearly basis.

The intention of this agreement is for it to be extended to the full term of construction, which is anticipated to last up to seven years. However, Sound Transit and the Chamber agreed to a three-year agreement that will be re-visited at midpoint so that:

1. The effectiveness of the programs can be evaluated and changes made if necessary.
2. Actual construction impacts can be taken into consideration.
3. Administration of the program elements can be evaluated and adjusted if necessary.

4. Scope of Work

The Chamber agrees to perform the scope of work set forth in this Section and to deliver said work in accordance with Attachment A, Scope of Work and Attachment B, Timeline of Milestones.

The Chamber shall administer two (2) elements of Sound Transit's business mitigation program in order to mitigate the impact of Link light rail construction of the Capitol Hill Station. The elements are business technical assistance and neighborhood marketing.

This agreement represents two elements (neighborhood marketing and business technical assistance) that are part of Sound Transit's comprehensive business construction mitigation plan, which include, but are not limited to:

- 24-hour construction hotline
- Maintenance of the construction site area
- Signage, access and parking
- Softscape/pedestrian environment measures
- Providing advance notification to businesses of construction activities

Administration of these business mitigation plan elements will remain with Sound Transit staff and will rely on close coordination with the Capitol Hill business community, including the Chamber of Commerce.

Sound Transit will provide a Project Manager who will work closely with the Chamber on managing the neighborhood marketing and business technical assistance program elements. This Project Manager will participate in Chamber meetings, Sound Transit construction meetings, meet one-on-one with business owners and will represent the overall business mitigation plan. The Chamber will provide office space for the Project Manager to use as needed for the management of the program. The Project Manager will serve as the liaison between Sound Transit and the Chamber and will approve invoices and products before finalization on behalf of Sound Transit. While the Project Manager will work closely with the Chamber, this staff position will be a Sound Transit employee and as such, will report to Sound Transit.

The Project Manager's function will involve marketing the business technical assistance program to the businesses, serving as an advocate for the program and working with the individual businesses to facilitate their use of the program. The Project Manager's time will be dedicated to the success of the marketing and business technical assistance programs, as well as the overall business mitigation plan.

5. Compensation

Sound Transit shall pay an amount not to exceed \$610,000.00 (six hundred ten thousand dollars) to the Chamber as reasonable and fair compensation for satisfactory administration of the services set forth in Section 4 and in Attachment A, Scope of Work. Payment for these services shall be reimbursement for actual expenses incurred by the Chamber on a monthly basis and shall not exceed the amount set forth under each program element, defined in Attachment A, Scope of Work and Attachment C, Budget.

Compensation shall be payable as follows:

Professional Fees. Hours worked shall be billed at the applicable fully burdened rates of the consultant performing the work on behalf of the Chamber. No other fees for professional services will be paid unless approved in writing by Sound Transit before the fees are incurred. Professional fees may be adjusted annually

but must have the prior written approval of Sound Transit. All requests for fee adjustment must be in writing and should be sent to the Sound Transit Project Manager.

Other Direct Charges. Sound Transit shall reimburse the Chamber for specific reasonable expenses incurred, subject to prior approval by Sound Transit.

Each program element will carry a ten percent contingency as defined in Attachment C, Budget that can only be executed in writing by Sound Transit prior to use.

6. Payment

The Chamber shall submit monthly invoices with Sound Transit Purchase Order Number to:

Central Puget Sound Regional Transit Authority
Accounts Payable Department
401 S. Jackson St.
Seattle, Washington 98104-2826.

Invoices without a Purchase Order Number will be returned. Sound Transit will then have 30 days to pay the invoice.

Invoices shall be in such form as may be approved by the Project Manager and shall include complete back-up documentation in legible form within twenty (20) days after satisfactory completion of each task as set forth in Section 4.

Invoices must also be accompanied with a monthly status report that will be jointly drafted by the Chamber and Sound Transit Project Manager. The status report will contain a list of accomplishments, challenges, expenses, products and other relevant information that pertains to the specific timeframe. The monthly report will also be presented to the Chamber and Sound Transit representatives at periodic status meetings.

7. Equal Employment Opportunity

The Chamber will not discriminate against any employee, applicant for employment, or subconsultant because of race, religion, creed, sex, sexual orientation, age, nationality, or the presence of any sensory, mental or physical disability, unless based upon a bona fide occupational qualification. The Chamber will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, creed, sex, sexual orientation, age, nationality, or the presence of such disability. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection of training, including apprenticeship. The Chamber agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

8. Legal Compliance

The Chamber agrees to comply with all applicable federal, state and local laws and regulations applicable to the performance of services.

9. Indemnification

The Chamber shall indemnify, defend and hold Sound Transit harmless for all professional negligence, injuries to persons, or damages to property resulting from the performance of services by the Chamber, except to the extent such injuries and damages result from the willful misconduct or negligence of Sound Transit. This indemnification obligation shall include, but not be limited to, claims and actions against Sound Transit by an employee or former employee of the Chamber arising from on-the-job injuries, and the Chamber expressly waives all immunity and limitation of liability under any industrial insurance act, including Title 51 Revised Code of Washington, other workers' compensation act, disability benefit act, or other employee benefit act of any jurisdiction which would otherwise be applicable in the case of such claim or action. Chamber and Sound Transit agree that this indemnification clause was mutually negotiated and agreed to by Chamber and Sound Transit.

In the event of litigation between Sound Transit and the Chamber to enforce any rights under this Agreement, reasonable attorneys' fees shall be allowed to the prevailing party.

10. Washington Law

The laws of the State of Washington will govern this Agreement. The venue for any legal action brought by either party against the other will be King County Superior Court unless otherwise agreed to in writing.

11. Disputes

All claims, disputes and other matters in question between Sound Transit and the Chamber arising out of or relating to this Agreement shall be referred in writing to Sound Transit's Link Light Rail Community Ombudsman for final determination, including all facts, documents and records related thereto. The Ombudsman shall make a written determination within thirty (30) days of such referral. Such referral and determination shall be a condition precedent to commencement of a civil action to adjudicate such issue.

12. Termination of Agreement

Sound Transit may terminate this Agreement, in whole or in part, in writing if the Chamber substantially fails to fulfill any or all of its obligations under this Agreement through no fault of Sound Transit; provided, that, insofar as practicable, the Chamber will be given: (1) not less than ten (10) calendar days written notice of intent to terminate; and, (2) a thirty (30) day remediation period, or an opportunity for consultation with Sound Transit before termination to review what steps are deemed necessary by Sound Transit to cure the default. Sound Transit shall be liable to Chamber only for payment under the compensation provisions herein for services rendered before the Agreement was terminated. Except for payment of services rendered before termination of the Agreement, Chamber hereby waives any claims for compensation or for damages caused by such termination.

The Chamber may terminate this Agreement at any time provided that said termination shall not increase the cost of or delay the completion of the

performance of the scope of work set forth herein. Immediately upon termination, the Chamber shall submit to Sound Transit all property and documents in its possession, whether in progress or completed, related to the services under this Agreement.

13. Publicity

During the period of this Agreement the Chamber shall not issue any news releases or make any statements to a member of the news media or the general public regarding this Agreement, nor release for publication any document, report or other material of any nature pertaining to the services provided under this Agreement unless such statement(s) or release(s) have been given prior written approval by the Project Manager. The provisions of this clause shall extend also to the release of any such material to any person not authorized by the Project Manager.

14. Ownership of Documents

All documents, computer programs, reports, and other work prepared or produced by the Chamber or sub-consultant, such as but not limited to, progress reports, collaborative marketing materials, and overall program status reports developed in conjunction with the milestones/deliverables sections of the Scope of Work and Attachment B Timeline of Milestones under this Agreement shall be owned by Sound Transit and shall be delivered to Sound Transit upon demand. This does not include the proprietary content and materials used by sub-consultants for seminars or retail and restaurant consultation if that content was not created and charged as work under this agreement. All such documents, other than those exclusively for internal use within Sound Transit, shall carry such notations on the front cover or title page, as may be directed by the Project Manager. The Chamber shall place its endorsement on all such documents or other data furnished to Sound Transit under this Agreement. The Chamber may use the information upon written approval by Sound Transit.

Under the business technical assistance program, financial and other confidential information may be exchanged between a business and the consultant. Sound Transit will not be privy to or expect receipt of this type of confidential information.

15. Scope of Work Amendments

Sound Transit shall not be obligated to pay Chamber for work outside the scope of work specified in Section 4, unless the scope of work is modified in writing with prior Sound Transit approval in accordance with this paragraph. Furthermore, Sound Transit may reduce or eliminate work under this Agreement, at any time or from time to time, during the term of this Agreement, by notifying Chamber in writing that it is amending or modifying the scope of work set forth in Section 4.

16. Insurance

At the time of execution of this Agreement, the Chamber shall file with Sound Transit evidences of insurance from the insurer(s) certifying to the coverage of all insurance and endorsements required herein, specifically noting Sound Transit as an additional insured and referencing this Agreement. The evidence of insurance shall contain a provision that obligates the insurance company(ies) issuing such policy(ies) to notify Sound Transit in writing of any cancellation at least thirty (30) days prior thereto. Any failure to mail such notice shall not relieve the insurance

company, its agents, or representatives, from obligations and/or liability hereunder. The Chamber, the Chamber's insurance broker/agent or insurance company shall notify Sound Transit in writing of any material alteration, including any change in the retroactive date of any "claims made" policies or substantial (>40%) reduction of aggregate limits, if such limits apply.

Suspension or termination of this Agreement shall not relieve the Chamber from its insurance obligations hereunder.

Taking into account the scope of work and services to be performed by a Consultant, the Chamber shall prudently determine whether, and in what amount, each Consultant shall obtain and maintain public liability, professional liability, and any other insurance coverage. Any insurance required of consultants shall, where appropriate and/or applicable, name Sound Transit as an additional insured.

- a. General Liability: The Chamber shall maintain Commercial General Liability for bodily injury including death, personal injury and property damage coverage, utilizing insurers and coverage forms acceptable to Sound Transit, with a limit of at least \$1,000,000 per occurrence or claim and \$2,000,000 annual aggregate, unless such obligation is otherwise specially agreed to by Sound Transit in writing.
- b. Professional Liability: Whenever the work under this Agreement includes "professional services," the Chamber shall maintain the appropriate professional liability insurance in an amount customary for the size of its firm, for damages sustained by reason of or in the course of operations under the Agreement whether occurring by reason of acts failing to meet the standard of care required by this Agreement, negligent acts, or errors, or omissions of the Chamber.
- c. Workers' Compensation: The Chamber shall maintain workers' compensation insurance in the amount and type required by law for all employees of the Chamber working under this Agreement, and shall make all payments required by law for such insurance.

17. Audit

Sound Transit reserves the right to inspect, copy and audit all records and documents of the Chamber, or its sub-consultants or associates, relating to work and services provided under this Agreement; provided, Sound Transit gives Chamber twenty-four (24) hours advance notice and such inspection or audit takes place during normal business hours. Chamber shall maintain such records and documents in files or forms convenient to review for a period of three (3) years after final payment is made under this Agreement.

18. Assignment

Chamber shall not assign, delegate, contract or subcontract with any third-party ("third-party contractor") to perform the work required by this Agreement without the express written consent of Sound Transit.

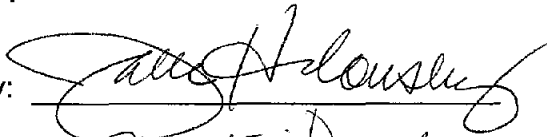
19. Conflicts of Interest and Non-Competitive Practices

The Chamber agrees as follows:

- A. Conflict of Interest. The Chamber by entering into this Agreement with Sound Transit to perform or provide work, services or materials, has thereby covenanted that it has no direct or indirect pecuniary or proprietary interest, and that it shall not acquire any such interest, which conflicts in any manner or degree with the services required to be performed under this Agreement and that it shall not employ any person or agent having any such interest. In the event that the Chamber or its agents, sub-consultants, employees or representatives hereafter acquires such a conflict of interest, it shall immediately disclose such interest to Sound Transit and take action immediately to eliminate the conflict or to withdraw from this Agreement as Sound Transit may require.
- B. Contingent Fees and Gratuities. The Chamber, by entering into this Agreement with Sound Transit to perform or to provide services or materials has thereby covenanted:
 - 1. That no person or selling agency except bona fide employees or designated agents or representatives of the Chamber has been employed or retained to solicit or secure this Agreement with an agreement or understanding that a commission, percentage, brokerage, or contingent fee would be paid; and
 - 2. That no gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Chamber or any of its agents, employees or representatives, to any official, member or employee of Sound Transit or other governmental agency with a view toward securing this Agreement or securing favorable treatment with respect to the awarding or amending, or the making of any determination with respect to the performance of this Agreement.
- C. Anti Kickback. No money, fee, commission, gift, gratuity, or other thing of value may be offered to or accepted by a Sound Transit Board member, officer, employee or Chamber, or sub-consultants as a reward for favorable treatment in connection with the Agreement award or the purchase of a good or service.

IN WITNESS WHEREOF, the duly authorized representatives of the parties hereto have executed this Agreement effective on the date first above written.

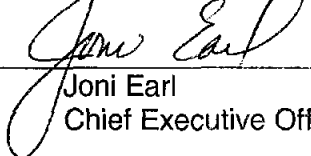
Capitol Hill Chamber of Commerce

By: 
 Title: Executive Director

REVIEWED:

By: _____

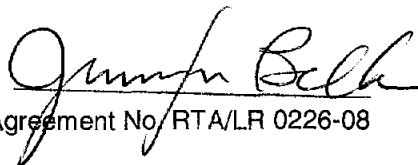
**Central Puget Sound
Regional Transit Authority**

By: 
 Joni Earl
 Chief Executive Officer

REVIEWED:

By: _____

Office of Legal Counsel
 Approved as to Form:

By: 
 Agreement No. RTA/LR 0226-08

Attachment A
Scope of Work (Exhibits A and B)

Background and Intention

In 2009 Sound Transit will break ground to begin constructing the University Link Capitol Hill Light Rail Station. Construction of this station will occur in multiple phases over the course of 7 years, with the highest impact occurring from 2010 through 2015. During this period of construction, Sound Transit is committed to implementing a business mitigation plan to address the local business community's needs.

Business mitigation can be defined as measures undertaken to avoid or limit the adverse effects of construction. Sound Transit has worked closely with the Capitol Hill business community to develop a specific plan and strategy that meet the unique characteristics of the community. Two important elements of the business mitigation plan are promoting Capitol Hill as a great place to live, work, dine, shop and visit, and providing local businesses near or adjacent to the construction site with technical training to assist them in maintaining their customer base during construction. This Agreement would place the administration of those key elements, neighborhood marketing and business technical assistance, with the Capitol Hill Chamber of Commerce.

While this contract is with the Capitol Hill Chamber of Commerce, the business mitigation elements it is administering will not be limited to Chamber members. Impacted parties, community members and other stakeholders may participate in the planning and implementation of the program as deemed necessary by Sound Transit.

The Capitol Hill Chamber of Commerce

The Capitol Hill Chamber of Commerce was re-established in 2007 to spearhead economic development and increase vitality on Capitol Hill. The organization has over 120 members, who include businesses, property owners, non-profit organizations and residents. The Capitol Hill Chamber of Commerce will work with qualified organizations and consultants to develop a strategic marketing and communications plan to promote Capitol Hill as a shopping, dining and entertainment destination during construction. The Capitol Hill Chamber of Commerce will also work to develop a unique business technical assistance program that utilized local resources, creates partnerships and provides a range of services to both directly impacted businesses as well as the greater business community.

Over the course of the last few years, the neighborhood has seen significant private and public investment that is contributing to its revitalization. The City of Seattle has invested over \$500,000 in support of the creation of the Chamber of Commerce, formation of the Capitol Hill Improvement District and implementation of the Broadway Action Agenda. Private developers have new projects proposed or under construction that will add over 1200 new housing units and over 150,000 square feet of retail or commercial space.

Attachment A
Scope of Work (Exhibits A and B)

Exhibit A: Neighborhood Promotion and Marketing

Project Objective

The Capitol Hill Chamber of Commerce will:

1. Work with greater Capitol Hill business community to create a neighborhood brand strategy for promoting Capitol Hill as a residential, retail and entertainment destination.
2. Create design platform for all businesses to use for materials or products.
3. Develop clear and effective marketing tactics promoting Capitol Hill, with special attention paid to overcoming the actual or perceived impacts of major public works construction on the neighborhood.
4. Create media interest and opportunities in promoting Capitol Hill during station construction.

An effective strategic marketing and communications plan will increase Capitol Hill's prominence as a neighborhood business district and the number of shoppers and diners visiting the business district. It will identify and outline appropriate tactics over the course of the next seven years.

Sound Transit's construction of an underground light rail station near the heart of Capitol Hill's primary retail district is set to begin in early 2009, with major construction being complete in 2015. An important component of developing a marketing strategy will include promotion of the neighborhood and business district to overcome public perceptions that construction is a barrier for shopping and dining in Capitol Hill.

The objectives will be accomplished by a series of tasks consistent with Attachment B, Timeline of Milestones that include:

Task 1: Neighborhood Identification and Strategic Branding

- Brand Audit and Platform Development
- External Research
- Development of Brand Elements Tagline Development

Milestone/Deliverables:

1. Workshop presentation involving various stakeholders
2. Final report summarizing the neighborhood identification and strategic branding effort, participants, recommendations and findings.

Task 2: Design

- Logo
- Visual Brand Platform
- Copywriting, as needed
- Photography, as needed

Milestones/Deliverables:

- Logo files
- Design guide to be available to greater community

Task 3: Marketing and Promotion Strategy

- Identification of marketing elements and timing
 - Marketing elements could include, but are not limited to: website, advertisements, events, etc.

Milestones/Deliverables:

1. Strategic marketing plan to be implemented by the Chamber's marketing committee
2. Annual assessment and evaluation of plan
3. Final program summary report

Task 4: Marketing/Communications/PR

- Core press materials
- Milestone announcements/events

Milestones/Deliverables:

1. Strategic PR plan
2. Annual assessment and evaluation of plan
3. Final program summary report

Sound Transit will participate in the development of the neighborhood marketing effort through the Project Manger and will expect the following items of the Chamber:

- Approval of printed materials, products, etc. paid for by Sound Transit funding to ensure the end product is in line with the agency's commitment to quality.
- Sound Transit name and/or logo represented on various communications vehicles associated with the neighborhood marketing effort.
- Sound Transit representation on the marketing committee.
- Annual evaluation of program to include report and presentation to Sound Transit and the Capitol Hill Chamber of Commerce in the fourth quarter of each year.

Project Location

The neighborhood marketing effort will not be tied to a geographic boundary and is expected to benefit the entire Capitol Hill business community. By partnering with the Capitol Hill Chamber of Commerce, Sound Transit is able to maximize resources available for consistent messages of promoting the impacted community.

Attachment A
Scope of Work (Exhibits A and B)

Exhibit B: Business Technical Assistance

Project Tasks

The Capitol Hill Chamber of Commerce will:

Task 1: Program Development and Implementation

- Identify process of eligibility for participation
- Draft process and procedures for a joint committee to review and approve business participation

Milestones/Deliverables:

1. Develop draft program plan outlining the Business Technical Assistance program and implementation.
2. Presentation of draft plan to Sound Transit and Chamber committee for review
3. Final Business Technical Assistance Program plan approved by Sound Transit

Task 2: Retail and Restaurant Consultation

- Seminars featuring industry experts
- One-on-one consultation

Milestone/Deliverable:

1. Annual report summarizing program, participants and effectiveness
2. Final program summary report

Task 3: Seattle University (SU) and Seattle Central Community College Consultation (SCCC)

- Partnership with Seattle Central Community College and Seattle University
- Participation for eligible businesses

Milestone/Deliverable:

1. Annual report summarizing program, participants and effectiveness
2. Final program summary report

Project Boundary

Sound Transit has a defined area of "directly impacted businesses" that will have priority in participation of the SU and SCCC consultation program. This area encompasses businesses within a one-block radius of the construction site, and those on Denny Way or Olive Way between Interstate-5 and Broadway Avenue E. During the first two years of the business technical assistant program implementation, no less than fifty percent of the SU and SCCC consultation slots will be reserved for use by the directly impacted businesses. If fifty percent of the slots are not used by businesses in the directly impacted area during the first two years those unused slots may be used by eligible businesses along Broadway Avenue E. from Roy to Pine streets.

Selection of businesses to participate in the program will be determined by need, business use, time of the year and timing of the consultation sessions and seminars. Timing for businesses relates to dates and periods of the year specific businesses are available and unavailable to participate in the program.

Businesses located on Broadway from Roy to Pine, and including Olive Way/Denny Way to I-5, will also be eligible to participate in business retail consultation and seminars. Sound Transit in cooperation with the CHCC Sound Transit Committee, will hold the authority to permit businesses outside the designated area to participate in the program.

Sound Transit will participate in the development of the business technical assistance effort through the Project Manger and will expect the following items of the Chamber:

- Approval of printed materials, products, etc. paid for by Sound Transit funding to ensure the end product is in line with the agency's commitment to quality.
- Sound Transit name and/or logo is represented on various communications vehicles associated with the business technical assistance effort.
- Sound Transit representation on the business technical assistance committee.
- Annual evaluation of program to include report and presentation to Sound Transit and the Capitol Hill Chamber of Commerce in the fourth quarter of each year.

**Attachment C
Budget**

Program Element	Budget	Contingency	Total Program Budget
1) Neighborhood Promotion and Marketing	\$290,000	\$29,000	\$319,000
2) Business Technical Assistance			
Retail and Restaurant Consulting	\$195,000	\$19,500	\$214,500
SU and SCCC Consultation	\$125,000	\$12,500	\$137,500
Program Element Sub-total	\$320,000	\$32,000	\$352,000
Program Element Totals	\$610,000	\$61,000	\$671,000