

COMMUNITY TRANSIT

Contract Submittal and Routing Sheet

Contract Routing No. **21014**Use next Routing # in [Tracker](#) [I:\Contract Routing](#) (Procurement Contracts use Contract#)

Name of Agency Entering into Contract with Community Transit:

Washington State Department of Transportation (WSDOT)Contract Description Enter Procurement # if applicable**Community Transit Improvements on State Highway Right of Way****for the Swift Orange Line BRT Project - Interlocal Agreement**Length of Contract Term: N/AExpiration Date: N/AContract Cost: \$ N/A Funding Source: Acct Fund Dept ID Project Contract Revenue: \$ If contract has revenue, please check "Yes" in
Copy to Accounting section below.

Type of Contract (Check Appropriate Box):

- Bid / Proposal
- Funding Agreement / Grant
- Interlocal Agreement
- Labor Agreement
- Lease
- Maintenance Agreement
- ORCA
- Professional/Personal Services Agreement
- Purchase (land, equipment, etc.)
- Room Rental / Catering*
- Ticket / Pass Outlet
- Other:

Was Board Action Required?

- Yes
Date of Board Action & Reso #:
- No

Copy to Accounting?

- Yes CC Accounts.Receivable@commtrans.org
- No

Routing for Approval and Signatures

Project Manager:	Christopher Silveira	<u>Christopher Silveira</u>	Date: <u>3/9/2021</u>
Supervisor / Manager:	Melissa Cauley	<u>Melissa Cauley</u>	Date: <u>3/9/2021</u>
Supervisor / Manager:	June DeVoll	<u>June DeVoll</u>	Date: <u>3/9/2021</u>
Procurement & Contracts Manager*:	Kunjan Dayal	<u>Kunjan Dayal</u>	Date: <u>3/10/2021</u>
Legal Counsel:	<input type="checkbox"/> Approved as to Form		Date: <u>3/10/2021</u>
	<input checked="" type="checkbox"/> Hendricks / Bennett	<u>Matthew R. Hendricks</u>	
Department Head: Up to \$100,000	Roland Behee	<u>Roland Behee</u>	Date: <u>3/10/2021</u>
Chief Executive Officer: Over \$100,000	<input type="checkbox"/> N/A		Date: <u>3/12/2021</u>
	<input checked="" type="checkbox"/> Ric Ilgenfritz	<u>Ric Ilgenfritz</u>	

All contracts on behalf of the Corporation shall be signed by the Chief Executive Officer or designee.Return Contract To: Claudia McConnell

* Dept. Head, or their designee, have signature authority up to \$10,000 for catering, room rentals, etc. for on-site and off-site meetings and events. The Manager of Procurement and Contracts is not required to review and concur on contracts valued at less than \$10,000 for catering, room rentals, etc.

For Final Processing of fully executed contracts, please include:

1 original for CT contract files, include original routing sheet (return to Admin AAll)**1 original copy for each signatory party with whom CT is contracting (please indicate if you or the Admin II is to send an original copy to the contractor)*** 1 copy of ALL REVENUE AGREEMENTS to Accounts.Receivable@commtrans.org

**Interlocal Agreement
between
Washington State Department of Transportation and Community Transit
for
Community Transit Improvements on State Highway Right of Way
For Community Transit Swift Orange Line BRT Project**

This Interlocal Agreement (Agreement) is made and entered into by the Washington State Department of Transportation (WSDOT) and Community Transit (CT), collectively the “Parties” and individually the “Party.”

RECITALS

1. This Agreement addresses improvements that CT intends to make on Washington State highway right of way at I-5 and 164th Street SW, at SR 524 and SR 99, and at SR 96 and Dumas Road for CT to accommodate high capacity transit public transportation service for its Swift Orange Line BRT project (**Project**).
2. This Agreement sets forth the duties and responsibilities of WSDOT and CT concerning improvements that CT intends to construct for the Project.
3. The Project provides high capacity transit service between McCollum Park Park & Ride and Edmonds College in Snohomish County. The Project will also include capacity improvements on 164th Street SW and I-5 ramps at the I-5 interchange and on SR 524 at SR 99.
4. CT anticipates an agreement with the Federal Transit Administration (FTA) for FTA to grant CT Small Starts capital funding to construct the Project.
5. FTA requires that recipients of Small Start capital grant funds agree to maintain continuing control of the use of federally assisted property and constructed improvements to the extent satisfactory to FTA as set forth in FTA Circular 5010.1D and amendments and revisions thereto.
6. WSDOT and CT are authorized to enter into this Agreement pursuant to RCW 39.34.030 and RCW 46.61.165. Under RCW 46.61.165, WSDOT is authorized to reserve all or any portion of any highway under its jurisdiction, including any designated lane or ramp, for the exclusive or preferential use of public transportation providers.

NOW, THEREFORE, pursuant to RCW 39.34.030 and RCW 46.61.165, the above recitals that are incorporated herein as if fully set forth below, and in consideration of the terms, conditions, covenants and performances contained herein, and Attachment A that is incorporated herein by this reference, IT IS MUTUALLY AGREED AS FOLLOWS:

1. CT will complete the construction of intersections, roadway, sidewalks and traffic and pedestrian signal improvements on 164th Street SW and I-5 ramps at the I-5 Interchange; on SR 524 at SR 99; and on SR 96 at Dumas Road to accommodate the Project.
2. Upon completion of construction, the roadway improvements at SR 524 and SR 99 and at 164th Street SW and I-5 ramps at the I-5 Interchange made by CT will be documented on Channelization Plans maintained and approved by WSDOT.
3. Upon completion of construction, CT will transfer ownership and maintenance of the roadway improvements to WSDOT as set forth in Attachment A.
4. FTA Continuing Control Obligations.
 - 4.1 Both parties acknowledge that the improvements are in part funded with FTA grant funds and therefore subject to the FTA continuing control obligations set forth in federal law. If either Party terminates this Agreement, WSDOT and CT shall assume and adhere to CT's continuing control obligations with respect to FTA grant funds to the extent such funds were utilized to construct the improvements. In no event will WSDOT accept the FTA continuing control obligations for costs associated with items and work related to the improvements that do not, in WSDOT's determination, serve a highway purpose. Improvements for which WSDOT accepts the FTA continuing control obligations include, but are not limited to, roadway travel lanes, roadway signs, sidewalks within limited access, crosswalks and traffic signal systems under WSDOT's control as set forth in Attachment A. In addition, the parties agree that operational changes made to the improvements shall be consistent with both FTA continuing control obligations and applicable state and federal laws and regulations.
 - 4.2 CT retains the continuing control obligations with respect to the FTA grant funds except as provided in paragraph 4.1 above.
 - 4.3 For the purposes of this Agreement, the FTA continuing control obligations means the FTA-funded facility shall be used for transit purposes consistent with FTA Grant No. Swift Orange Line – TBD for the duration of the estimated useful life of the facility, which for this facility is thirty (30) years. In the event any of the above stated continuing control obligations are not met, FTA shall be repaid the then fair market value of the facility times the grant rate (45.9%). The proportionate share of each Party's continuing control obligations shall be determined as set forth in paragraphs 4.1 and 4.2 above. Each Party shall pay its proportionate share of the refund to FTA.
5. Amendment: Any changes to the terms of this Agreement must be mutually agreed upon by WSDOT and CT and incorporated by written amendment to this Agreement. Such amendments shall not be binding or valid unless signed by persons authorized to bind WSDOT and CT respectively.

6. Term of Agreement: Unless otherwise provided herein, the term of this Agreement shall commence as of the date of the execution of this Agreement.
7. Termination: This Agreement may be terminated if both Parties agree in writing signed by an authorized representative of each Party.
8. Indemnification and Waiver: Each of the Parties shall protect, defend, indemnify, and hold harmless the other Party and its officers, officials, employees, contractors, subcontractors, consultants, and/or authorized agents, while acting within the scope of their employment as such, from any and all costs, claims, judgements, and/or awards of damages (both to persons and/or property), arising out of, or in any way resulting from, that Party's obligations performed or to be performed pursuant to the provisions of this Agreement. No Party shall be required to indemnify, defend, or hold harmless the other Party if the claim, suit, or action for injuries, death, or damages (both to persons and/or property) is caused by the sole negligence of the other Party. Where such claims, suits, or actions result from the concurrent negligence of the Parties, their officers, officials, employees, contractors, subcontractors, consultants, and/or authorized agents, and/or involve those actions covered by RCW 4.24.115, the indemnity provisions provided herein shall be valid and enforceable only to the extent of the negligence of the indemnifying Party, its officers, officials, employees, contractors, subcontractors, consultants, and/or authorized agents. The Parties agree that their obligations under this section extend to any claim, demand, and/or cause of action brought by, or on behalf of, any of their officers, officials, employees, contractors, subcontractors, consultants, and/or authorized agents. For this purpose only, the Parties, by mutual negotiation, hereby waive, with respect to each other only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 RCW. This indemnification and waiver shall survive the termination of this Agreement.
9. Disputes: The Parties shall work collaboratively to resolve disputes and issues arising out of, or related to, this Agreement. Disagreements shall be resolved promptly and at the lowest level of hierarchy. To this end, following the dispute resolution process in Sections 9.1 through 9.4 shall be a prerequisite to the filing of litigation concerning any dispute between the Parties:
 - 9.1 The Representatives designated in this Agreement shall use their best efforts to resolve disputes and issues arising out of, or related to, this Agreement. The Representatives shall communicate regularly to discuss the status of the tasks to be performed hereunder and to resolve any disputes or issues related to the successful performance of this Agreement. The Representatives shall cooperate in providing staff support to facilitate the performance of this Agreement and the resolution of any disputes or issues arising during the term of this Agreement.
 - 9.2 A Party's Representative shall notify the other Party in writing of any dispute or issue that the Representative believes may require formal resolution according to

Section 9.4. The Representatives shall meet within five (5) working days of receiving the written notice and attempt to resolve the dispute.

- 9.3 In the event the Representatives cannot resolve the dispute or issue, Community Transit's Chief Executive Officer and WSDOT's Northwest Region Administrator, or their respective designees, shall meet and engage in good faith negotiations to resolve the dispute.
- 9.4 In the event Community Transit's Chief Executive Officer and WSDOT's Northwest Region Administrator, or their respective designees, cannot resolve the dispute or issue, CT and WSDOT shall each appoint a member to a disputes board. These two members shall then select a third member not affiliated with either Party. The three member board shall conduct a dispute resolution hearing that shall be informal and unrecorded. All expenses for the third member of the dispute board shall be shared equally by both Parties; however, each Party shall be responsible for its own costs and fees.
10. Venue: In the event that either Party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this Agreement, the Parties agree that any such action or proceedings shall be brought in Snohomish County Superior Court. Further, the Parties agree that each shall be solely responsible for payment of its own attorney's fees, witness fees, and costs.
11. Audits/Records: All records for work authorized by this Agreement shall be held and kept available for inspection and audit by WSDOT, CT, and the Federal government for a period of six (6) years from the date of termination of this Agreement or date of any final payment authorized under this Agreement, whichever is later. Each Party shall have full access to and right to examine said records during normal business hours and as often as it deems necessary. Should a Party require copies of any records from the other Party, the requesting Party agrees to pay the reasonable costs thereof. In the event of litigation or claim arising from the performance of this Agreement, CT and WSDOT agree to maintain the records and accounts until such litigation, appeal or claims are finally resolved. The provisions of this section shall survive the termination of this Agreement.
12. Working Day: Working day means any day other than Saturday, Sunday, or a legal local, state, or federal holiday.
13. Severability: Should any section, term or provision of this Agreement be determined to be invalid, the remainder of this Agreement shall not be affected and the same shall continue in full force and effect.
14. Independent Contractor: The Parties shall be deemed independent contractors for all purposes, and the employees of the Parties or any of their contractors, subcontractors, consultants, and the employees thereof, shall not in any manner be deemed to be employees of the other Party.

15. Authorization to Sign: The undersigned acknowledge that they are authorized to execute this Agreement and bind their respective agency to the obligations set forth herein.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Party's date last signed below.

Community Transit	Washington State Department of Transportation
<p><u>Sign and Date:</u></p> <p><i>Ric Ilgenfritz</i></p> <p>3/12/2021</p>	<p><u>Sign and Date:</u></p> <p><i>Amir Rasaie</i> 3/3/2021</p>
<p>Ric Ilgenfritz Chief Executive Officer</p>	<p>Amir Rasaie Assistant Regional Administrator Project Development – Sno-King</p>

Attachment A: Swift Orange Line BRT Project WSDOT Ownership and FTA Continuing Control

This attachment summarizes Swift Orange Line BRT Project elements to be transferred to WSDOT ownership and requiring assurance to FTA of ongoing maintenance and continuing control. Project improvements to be owned and maintained by WSDOT include the following elements in Washington State highway right of way at I-5 and 164th Street SW of the Swift Orange Line Project:

- Roadway, including BAT lanes and modified turn lanes, curb and gutter.
- Sidewalk
- Traffic & Pedestrian Signals, Signage and Striping