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ORDINANCE NO. 3394

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, APPROVING THE FIRST AMENDMENT TO THE DEVELOPMENT AND ACCESS ENHANCEMENTS FUNDING AGREEMENT BETWEEN THE CITY AND CENTRAL PUGET SOUND REGIONAL TRANST AUTHORITY REGARDING THE LYNNWOOD LINK LIGHT RAIL EXTENSION PROJECT; PROVIDING FOR SEVERABILITY, PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, Chapter 36.70B RCW authorizes local governments to enter into voluntary development agreements with property owners in order to specify development standards or regulations for the property, and to specify mitigation measures to be provided with development; and

WHEREAS, the City is a non-charter optional municipal code city incorporated under the laws of the State of Washington, with authority to enact laws and enter into agreements to promote the health, safety and welfare of its citizens and for other lawful purposes; and

WHEREAS, the Growth Management Act (RCW 36.70A) requires the City to plan for and encourage regional high capacity transportation facilities such as the Lynnwood Link Light Rail Extension Project (RCW 36.70A.020) and to accommodate within the City such essential public facilities (RCW 36.70A.200); and

WHEREAS, Central Puget Sound Regional Transit Authority (“Sound Transit”) is a regional transit authority created pursuant to Chapters 81.104 and 81.112 RCW with all powers necessary to implement a high capacity transit system within its boundaries in King, Pierce, and Snohomish counties; and

WHEREAS, on April 8, 2019, the Lynnwood City Council passed Ordinance 3331 approving the Development and Access Enhancements Funding Agreement between the City of Lynnwood and the Central Puget Sound Regional Transit Authority (the “Agreement”); and

WHEREAS, on June 10, 2019, the Parties executed the Agreement; and

WHEREAS, Parties desire to amend the Agreement to provide consistency in the level of effort necessary to obtain Sound Transit Board approval for any of the Access Enhancement Projects; and

34 WHEREAS, on July 12, 2021, the City Council held a duly noticed public hearing on the
35 proposed First Amendment to the Development Agreement and Access Enhancements Funding
36 Agreement between the City of Lynnwood and the Central Puget Sound Regional Transit
37 Authority regarding the Lynnwood Link Light Rail Extension Project; and

38 WHEREAS, the City Council has determined that the provisions of this Ordinance
39 further the public health, safety and welfare, and are in the best interests of the City;

40 NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LYNNWOOD DO
41 ORDAIN AS FOLLOWS:

42 **Section 1.** The First Amendment to the Development Agreement and Access Enhancements
43 Funding Agreement between the City of Lynnwood and the Central Puget Sound Regional
44 Transit Authority regarding the Lynnwood Link Light Rail Extension Project GA 0070-18,
45 attached hereto as **Exhibit A** (the “First Amendment”), is hereby approved.

46 **Section 2.** The Mayor or her designee is authorized to finalize, conform and execute the First
47 Amendment and administer the provisions of this Ordinance consistent with the Agreement, as
48 amended by the First Amendment.

49 **Section 3.** If any section, sentence, clause or phrase of this Ordinance should be held to be
50 invalid or unconstitutional by a court of competent jurisdiction, such invalidity or
51 unconstitutionality shall not affect the validity or constitutionality of any other section, sentence,
52 clause or phrase of this Ordinance.

53 **Section 4.** This Ordinance or a summary thereof consisting of the title shall be published in the
54 official newspaper of the City, and shall take effect and be in full force five (5) days after
55 publication.

56 PASSED BY THE CITY COUNCIL, the 2nd day of August, 2021.

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APPROVED:

Nicola Smith

9/8/2021

Nicola Smith, Mayor

65 ATTEST/AUTHENTICATED:

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Karen Fitzthum

Karen Fitzthum, City Clerk

APPROVED AS TO FORM:

Rosemary Larson

Rosemary Larson, City Attorney

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Exhibit “A”

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First Amendment to the

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Development and Access Enhancements Funding Agreement

**FIRST AMENDMENT TO THE
DEVELOPMENT AND ACCESS ENHANCEMENTS FUNDING AGREEMENT
BETWEEN THE CITY OF LYNNWOOD AND
THE CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY
REGARDING THE LYNNWOOD LINK LIGHT RAIL EXTENSION PROJECT
GA 0070-18**

This FIRST AMENDMENT TO THE DEVELOPMENT AND ACCESS ENHANCEMENTS FUNDING AGREEMENT (“First Amendment”) is made by and between the City of Lynnwood, a Washington municipal corporation (the “City”) and the Central Puget Sound Regional Transit Authority (“Sound Transit”) for the purposes set forth below. The City and Sound Transit are collectively referred to as “Parties” or individually as a “Party”.

RECITALS

A. The Parties entered into the Development and Access Enhancements Funding Agreement between the City of Lynnwood and the Central Puget Sound Regional Transit Authority as of June 10, 2019 (the “Agreement”).

B. The Parties desire to amend the Agreement to provide consistency in the level of effort necessary to obtain Sound Transit Board approval for any of the Access Enhancement Projects.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the Parties agree to amend the Agreement as described below.

1. Section 4.6, Environmental Review, of the Agreement is hereby amended as follows:

The City is and shall serve as the “Lead Agency” for purposes of any required compliance with the State Environmental Policy Act (SEPA), Ch. 43.21C RCW, of both the Access Enhancement Projects and any other projects undertaken pursuant to Section 4 this Agreement. Where such environmental review has not been completed the City shall coordinate environmental review with Sound Transit, and provide Sound Transit with the opportunity for design review and coordination through construction of said improvements.

~~Prior to receiving Sound Transit Board approval for any of the Access Enhancement Projects, the City shall complete the required environmental documentation for SEPA and design and obtain the necessary permits to construct the Access Enhancement Projects.~~ The City will coordinate with Sound Transit in preparing environmental documents to ensure that SEPA review is adequate to support funding from Sound Transit dollars toward the Access Enhancement Projects. Sound Transit will cooperate with the City to complete the environmental documentation and secure the required permits but shall not be required to incur out of pocket costs (such as non-staff time) in connection with its efforts without the City providing reimbursement or a credit consistent with this Agreement. Nothing in this Section

4.6 shall be interpreted to amend the City’s agreement to use the SEPA documentation for the Project unchanged in accordance with Section 3 of the Permitting Agreement.

2. Unless expressly revised by this First Amendment, all other terms and conditions of the Agreement shall remain in effect and unchanged by this First Amendment.

IN WITNESS WHEREOF, each of the Parties hereto has executed this First Amendment by having its authorized representatives affix her or his name in the appropriate space below:

SOUND TRANSIT

CITY OF LYNNWOOD

DocuSigned by:
By: Kimberly Farley
Kimberly Farley, Deputy Chief Executive Officer

By: Nicola Smith
Nicola Smith, Mayor
Date: 9/8/2021

Date: 9/7/2021

Authorized by Motion No. M2021-37

Approved as to form:

DocuSigned by:
By: Mattelyn Tharpe
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Mattelyn Tharpe, Legal Counsel 1