

MASTER TRANSPORTATION FINANCING AGREEMENT

(SUNSET INTERCHANGE, SPAR AND ISSAQUAH BYPASS)

THIS MASTER TRANSPORTATION FINANCING AGREEMENT ("MTFA") is entered into effective the 10th day of June, 1996, by THE CITY OF ISSAQUAH, a Washington municipal corporation ("City"), KING COUNTY, a Washington home rule charter county ("County"), SUNSET INTERCHANGE FOUNDATION, a Washington nonprofit corporation ("Corporation"), and THE GRAND RIDGE PARTNERSHIP (LIMITED PARTNERSHIP) and THE GLACIER RIDGE PARTNERSHIP (LIMITED PARTNERSHIP) both Washington limited partnerships (collectively the "Partnership") to finance and construct transportation improvements on the terms set forth herein.

RECITALS

A. The parties wish to cooperatively plan and construct transportation improvements which implement the respective county and city comprehensive plans and provide substantial public benefits for both existing and future populations and commerce.

B. The parties have undertaken preliminary review of traffic improvements at the existing Sunset Way Interchange on I-90 and related access to both the City and unincorporated King County. Ongoing studies include review of the feasibility report for the East Sammamish Plateau access road and expansion of the existing interchange at I-90 and Sunset Way, which consists of a partial diamond interchange with accessibility limited to one exit ramp for westbound I-90 traffic and one exit ramp for traffic from Sunset Way to eastbound I-90.

C. The City, County and the Partnership are executing other agreements concurrent with this MTFA regarding real property owned by the Partnership: the "Grand Ridge Joint Agreement" and the "Grand Ridge Annexation and Development Agreement" ("Grand Ridge Agreements"). The Grand Ridge Agreements set forth the urban, rural and open space uses and annexation provisions for the Grand Ridge project ("Grand Ridge Project"). In addition, the City, County, Partnership, and the Corporation will enter into a separate agreement with the Washington State Department of Transportation (WSDOT) related to the WSDOT's participation in the improvements to the Sunset Interchange.

D. The Corporation is a nonprofit entity created to meet federal, state and local requirements to issue tax-exempt bonds, commonly known as Section 63-20 financing. The Corporation has been created for the sole and specific purpose to construct the South SPAR and to construct and/or contribute funds for the Sunset Interchange Segments, through contracts and agreements implementing this MTFA.

E. The parties have undertaken a "fair share" traffic impact analysis and assessed present and future traffic needs related to the four core Transportation Improvements

described in Section 2 below. As used in this MTFA, "MPS", or Mitigation Payment System, means the system for collection of impact fees imposed on development activity under the authority of RCW 82.02.050 et seq. The County's MPS program is described in King County Code Chapter 14.75. The Partnership's fair share calculation using the County's preliminary 1995/1996 MPS project list is set forth in Section 5.

F. Except as provided in this MTFA; the Corporation's agreement to construct and/or contribute funds for the South SPAR and Sunset Interchange, and the Partnership's agreement to contribute or guaranty payment, in a manner acceptable to the County and the City, of a portion of the project costs for the South SPAR and Sunset Interchange, are not in discharge of specific or existing obligations of the Corporation or the Partnership. The parties have agreed to implement solutions to their respective fair share traffic impacts by segmenting and allocating to individual parties different portions of the transportation improvements. The segmenting decision reflects the fact that the fair share amounts roughly correspond to various segments with federal, state or other funding needed for a portion of the Sunset Interchange costs.

G. This segmented implementation assumes federal and state contributions to the Sunset Interchange Segment. If this assumption is not correct and insufficient federal and state funding is provided, the parties agree to reconvene and discuss how to provide any shortfall consistent with the principle of fair share allocation.

H. The parties desire to cooperate in this public/private effort to provide needed transportation facilities.

I. The parties recognize that the construction of the Bypass is integral to resolution of an existing transportation problem within the City created by regional traffic. Such problem would be further exacerbated by any additional development on the Sammamish Plateau or south of the City limits. It is the parties' intention that construction of the Bypass proceed concurrently with the construction of the Sunset Interchange in order to minimize further impacts to the City.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. **PURPOSE.** This MTFA is to coordinate, finance and construct the Transportation Improvements described in Section 2 so that they can be conveyed, owned and operated by the appropriate governmental entities upon completion of construction.

2. **DESCRIPTION OF IMPROVEMENTS.** The capacity improvements to be constructed under this MTFA are collectively known as the "Transportation Improvements" consisting of four "segments" described in Section 2.1 through 2.4 below:

2.1 Issaquah Bypass ("Bypass") is a principal arterial extending south from the southerly limit of the controlled access established for the Sunset Interchange (i.e., approximately 300 feet south of the eastbound off-ramp signal) to a

connection with Front Street South between approximately Second Avenue South and 500 feet south of the south City limits of Issaquah.

- 2.2 South Plateau Access Road - North Segment ("North SPAR") is a principal arterial located between Vaughn Hill Road or the Issaquah-Fall City Road/Issaquah-Pine Lake Road intersection (and including related intersection improvements) and the northern boundary of Urban Development 4 of the Partnership Property (as described in the Grand Ridge Agreements).
- 2.3 South Plateau Access Road - South Segment ("South SPAR") is a principal arterial extending south from the northern boundary of Urban Development 4 (i.e., the southern terminus of the North SPAR) through the Grand Ridge Project and other parcels to the northerly limit of the controlled access established for the Sunset Interchange on I-90 (approximately 300 feet north of the westbound on-ramp signal).
- 2.4 Revised I-90 Sunset Interchange ("Sunset Interchange") is the revision to the existing East Sunset Interchange to provide full access to I-90 in a diamond or modified diamond configuration consisting of new westbound on-ramps, new eastbound off-ramps, a new two-way traffic overpass over I-90, and a principal arterial undercrossing. Other elements include necessary structures over Issaquah Creek, stormwater management facilities, HOV treatments and environmental mitigation. Road and signal improvements within the WSDOT limited access (approximately 300 feet north and 300 feet south of the ramp signals) are considered part of the Sunset Interchange.

The general location and description of these facilities are set forth on Attachment A.

- 2.5 Black Nugget Road. In addition to the foregoing Transportation Improvements, certain non-capacity traffic and safety improvements to Black Nugget Road, as described in Attachment B, will be constructed by the Partnership. Following a public process with residents to be completed within 45 days after the effective date of this MTFA, the County will determine whether rural or urban neighborhood collector standards will be used for those Black Nugget Road Improvements required after the first 100 dwelling units, as described in Attachment B. Subject to these standards (with any variances approved by the County Road Engineer), the Partnership will construct these improvements with no credit against the Partnership's \$32.65 million Fair Share obligation for capacity improvements as described in Section 5. Prior to commencement of construction on Black Nugget Road, the Partnership will provide the County with security satisfactory to the County to cover any potential lien claims arising out of the Partnership's construction activities on Black Nugget Road. The Partnership shall be responsible to obtain and pay for all property necessary to construct the improvements to Black Nugget Road described in Attachment B. If eminent domain is required to obtain any property necessary for said Black Nugget Road improvements, the County shall exercise its eminent domain powers and will be reimbursed by the Partnership for all costs related to such exercise of eminent domain, including

just compensation and costs of litigation and expert witness fees. After the construction of the required improvements to Black Nugget Road, the Partnership shall convey and dedicate such improvements to the County free from all liens and encumbrances.

3. **COORDINATION AND COOPERATION.** The parties shall cooperate to design, secure funding for and construct all of the Transportation Improvements and to implement this MTFA. If for any reason, the Corporation does not execute this MTFA or is in default thereof, the Partnership shall assume all obligations of the Corporation which are set forth herein. Nothing in this agreement shall require the City or the County to issue bonds or to pledge its full faith and credit to perform the obligations under this agreement, but failure to issue such bond or pledge shall not affect the obligation of the City or County to pay or contribute funds as provided herein.

3.1 **Environmental Review for the Transportation Improvements.** The parties agree that environmental review and preliminary engineering work for the Sunset Interchange and South SPAR shall be completed and shall include preparation of the following: (i) draft and final environmental impact statement meeting federal, state, county and city requirements; and (ii) the following appendices: preliminary engineering plans; design report; added access study/report; channelization and hydraulics plan; right-of-way plan; and the I-90 system study. At the discretion of the party responsible for each segment, environmental work completed under this agreement may also include study of the North SPAR and Issaquah Bypass to a programmatic level of detail. The consultant shall allocate its overall charges between the four segments and separately bill for each segment. The City shall pay the charges allocated to the Bypass. The County shall pay the charges allocated to the North SPAR. The charges allocated to the Sunset Interchange and the South SPAR shall be paid as described in Section 3.1.2.

3.1.1 **Scoping and Lead Agents.** The parties shall review the EIS scope and may suggest changes and additions determined necessary to comply with federal and state requirements. The scope shall include project level (or Tier 2) analysis for the Sunset Interchange and South SPAR and alternatives and corridor analysis (programmatic or Tier 1) for the North SPAR and Bypass. The City, County and State should be co-lead agencies, and the City shall be the administrative lead agency for purposes of SEPA. As administrative lead agency, the City shall make and implement decisions to complete EIS preparation, but shall refer any major decisions to the co-lead agencies for mutual approval. The Federal Highway Administration ("FHWA") shall be the federal lead agency for purposes of NEPA. Each co-lead agency shall review, recommend modifications and approve the EIS once it determines it is adequate. The parties to this MTFA shall enter into an agreement with Washington State Department of Transportation (WSDOT) regarding WSDOT participation in the environmental review and preliminary engineering work for the Sunset Interchange and South SPAR. The agreement with WSDOT should clarify how any state funds will apply to the environmental review.

3.1.2 Costs of Environmental Review and Design Work for Sunset Interchange and South Spar. The Partnership is responsible for all costs incurred to the effective date of this MTFA for environmental review and preparation of plans, specifications and estimates for the Sunset Interchange and the South Spar. Any of these costs attributable to the Sunset Interchange, upon approval by the County and the City, shall be a credit against the Partnership's contribution to the Sunset Interchange. Upon the effective date of this MTFA, the County will be responsible for the next \$2.8 million of such costs, and the City will be responsible for the next \$1.4 million of such costs after the County's \$2.8 million, for a maximum total responsibility of the County and the City of \$4.2 million, provided that the County shall contribute that portion of the said \$2.8 million applicable to the Sunset Interchange only after (1) the parties to this MTFA have entered into an agreement with WSDOT authorizing such expenditure for the Sunset Interchange pursuant to RCW 36.75.030, and (2) to the extent the County's contribution consists of MPS funds, the Sunset Interchange is added to the County's MPS Project List pursuant to RCW Chapter 82.02 and King County Code Chapter 14.75. The County shall pay its \$2.8 million following receipt of progress billings from the City. To the extent the Partnership provides funding for environmental review and preparation of plans, specifications and estimates for the Sunset Interchange after the effective date of this MTFA but before the aforesaid agreement with WSDOT is executed, the Partnership shall be reimbursed by the County for such funding out of the County's \$2.8 million obligation after the parties execute said agreement with WSDOT. To the extent the City's \$1.4 million is not needed for environmental review and preparation of plans, specifications, and estimates for the Sunset Interchange and the South Spar, the City shall contribute the balance to the construction of the Sunset Interchange. The Partnership shall contribute or guaranty payment to the Corporation, in a manner acceptable to the County and to the City, and the Corporation shall pay the City for all costs of environmental review and design work for the Sunset Interchange and the South Spar in excess of the above described \$4.2 million. Such excess costs that are attributable to the Sunset Interchange, upon approval by the County and the City, shall be a credit against the Partnership contribution to the Sunset Interchange.

3.1.3 Executive Committee. To provide coordination and direction for the work to be performed under this MTFA, an Executive Committee is established consisting of the following persons, their successors or designees:

Mr. Jesse Krail, Manager,
Road Services Division
King County Department of Transportation;

Mr. Robert Aye, Acting Regional Administrator
WSDOT Northwest Region (provided WSDOT enters into an
agreement with the parties related to the Sunset Interchange);

Mr. Greg Wilder, Director
Department of Public Works
City of Issaquah

Mr. James E. Warjone,
Partnership representative;

A representative to be appointed by the Corporation.

The Executive Committee shall provide direction and guidance for the environmental review work and for implementation of this MTF. Its direction and guidance shall be advisory to the extent the City has legal obligations it must perform as administrative lead agency for purposes of SEPA. The Executive Committee shall adopt and ensure compliance with a schedule for completion of the environmental review work and implementation of this MTF.

3.1.4 Project Advisory Committee and Project Manager. The Executive Committee shall establish a project advisory committee consisting of representatives of the parties and other appropriate agencies with expertise. The project advisory committee shall advise the Executive Committee, the project manager and consultants in performing environmental review work. The City shall select, with the approval of the Executive Committee, a project manager who shall be responsible for overall project management, directing the environmental review work, and preparation of plans, specifications and engineering, public involvement program and maintaining coordination of all consultant contract efforts. The City shall comply with the applicable laws and regulations on non-discrimination and minority and women's business enterprises, as determined by the governmental entities. The County's minority and women's business enterprises program, as codified in King County Code Chapter 4.18 and incorporated herein by reference, shall apply to the extent practicable, and any adjustment to the County goals shall be agreed to by all parties.

The project manager shall report to the Executive Committee. The Executive Committee shall establish the scope and responsibilities of the project manager. The Executive Committee may revise the schedule for or defer the performance of any task where a party demonstrates good cause exists for delay or obtaining a firm commitment for the funding of costs of remaining tasks is not imminent.

3.1.5 Grand Ridge Studies. The Partnership shall make available at no cost to the City or other parties, all studies and data relating to the development of the Grand Ridge property which exist on the date of this MTF and are relevant and appropriate for preparation of the Sunset EIS.

3.1.6 Applicable Requirements. The Sunset EIS shall be accomplished in accordance with the requirements of WSDOT Environmental Procedures

Manual (M31-11), the National Environmental Policy Act (NEPA) and the State Environmental Policy Act (SEPA), and the access report will be developed in accordance with WSDOT Design Manual, § 213.

3.1.7 Other Work. The Executive Committee may authorize the preparation or utilization of environmental studies or data prepared by any of the parties or their consultants.

3.1.8 Selection of Consultant. The City will select, with approval of the other parties, the consultant(s) to carry out the environmental review work and Sunset EIS and the engineering and design work for the South SPAR and the Sunset Interchange. In implementing the environmental review and design work for the Sunset Interchange and the South SPAR, the City shall comply with the applicable public works contracting statutes and regulations, including applicable laws and regulations on non-discrimination and minority and women's business enterprises, as determined by the governmental entities. The County's minority and women's business enterprises program, as codified in King County Code Chapter 4.18 and incorporated herein by reference, shall apply to the extent practicable, and any adjustment to the County goals shall be agreed to by all parties.

The parties further agree that any work undertaken as a result of this MTFA shall comply with King County Code Chapters 12.16 and 12.18, incorporated herein by reference.

- 3.2 North SPAR Environmental Work.** The County shall undertake appropriate environmental work as part of its responsibility to construct the North SPAR under Section 6. The County shall utilize to the maximum extent possible the environmental work prepared under Section 3.1.
- 3.3 City Environmental Review.** The City shall undertake environmental review as part of its responsibility to construct the Issaquah Bypass under Section 7. The City shall utilize the environmental work prepared under Section 3.1 to the maximum extent possible. Nothing in this MTFA shall prohibit the City from electing at any time to conduct a project level EIS.
- 3.4 Adopted Plans; Budgets.** Each party shall include the Transportation Improvements in all appropriate comprehensive and land use plans and capital improvement programs and budgets.
- 3.5 Funding Applications.** Each party shall be a lead or co-lead agency where requested by any other party or where required as part of any application or securing of federal or state funding, including but not limited to grants, ISTEA funds or federal highway funds, for any segment of the Transportation Improvements. If any funds are limited to a particular segment, such as the Sunset Interchange or Issaquah Bypass, the funding shall be made available to the party responsible under this MTFA for constructing that segment. If funds

are not limited to a particular segment, then the parties shall determine how the funds shall be used.

3.6 **Road Alignment.** The parties shall mutually evaluate the alignment of the Transportation Improvements and the connections of each Segment, and the public agency which ultimately will hold title to each respective Segment shall formally approve the road alignment.

3.7 **Coordinated Engineering, Permitting and Construction.** The parties shall cooperate in developing the road plans and specifications, engineering, permitting and construction of the Transportation Improvements on the terms provided in this MTFA. The public agency which will hold title to each respective Segment shall timely establish the final road standards and specifications so that each party may timely carry out its preliminary engineering, design and construction work under this MTFA.

4. PROJECT SEGMENTS, RESPONSIBLE PARTIES AND RECIPROCAL IMPACT FEE AGREEMENT.

4.1 **Project Segments and Responsible Parties.** The four "Segments" of the Transportation Improvements and responsibility for construction or contribution of funds are set forth as follows:

<u>Project Segment</u>	<u>Estimated Cost (millions)</u>	<u>Responsible Party</u>
Issaquah Bypass	\$16.7	City Construction (§7.2). Partnership Bypass Contribution (if necessary) (§5.3.3)
North SPAR	\$13.4	County construction (§6.1).
South SPAR	\$25.2	Corporation construction (§5.1); Partnership contribution of costs (§5.3.1); County contribution for EIS and design work (§3.1.2); City contribution for EIS and design work (§3.1.2)
Sunset Interchange	\$22.5	Corporation or WSDOT construction (§ 5.1); Partnership's Sunset Interchange Contribution (§ 5.3); County contribution for EIS and design work (§3.1.2); City contribution for EIS and design work (§3.1.2), Partnership Additional Interchange Contribution (if necessary) (§5.3.4) and Remaining Balance from state, federal and other funding (§ 5.4.2)
Total Costs	\$77.8	

These estimates are stated and fixed in constant 1995 dollars and, for the South SPAR and Sunset Interchange, include non-grant eligible costs. The cost estimate for the South SPAR includes \$2.14 million for right-of-way (ROW). This represents an estimate of the fair market value as buildable commercial property associated with 60 feet of ROW width to be dedicated for the length of the South SPAR as it traverses Urban Area 4, plus the estimated cost of 60 feet of ROW width by 1,200 lineal feet down the hillside. Notwithstanding the fact that only 60 feet of ROW width are included in the cost estimate for the South SPAR, the Partnership will dedicate or acquire the full ROW needed for the South SPAR as described in Section 9.

4.2 Reciprocal Agreements Between County and City. The County and City shall develop a reciprocal impact fee agreement and a reciprocal concurrency review agreement.

4.2.1 Reciprocal Impact Fee Agreement. The reciprocal impact fee agreement shall provide that development projects within the City shall pay for their impacts on unincorporated King County roads and development projects in unincorporated King County shall pay for their impacts on City roads. At a minimum, the reciprocal impact fee agreement shall include the four Segments of the Transportation Improvements described in Section 4.1, at 100% of their estimated costs, subject to satisfying legal requirements for funding commitments for the public share of those projects, including, but not limited to, an agreement with WSDOT.

The reciprocal impact fee agreement and ordinances shall include authority to defer the Grand Ridge share of off-site MPS projects to the extent provided in Section 5.4.4. Upon addition of the Sunset Interchange Segment to the County and City reciprocal impact fee program, each shall contribute the collected impact fee portion which is allocable to the Sunset Interchange Segment to the Sunset Interchange Segment work. The County and City shall use all reasonable efforts to include the Segments in the County's next MPS fee update following adoption of this MTFA and in the City's adoption of the County's or other interim impact fee program until a final program is adopted, but in any event the agreement shall be transmitted to the County Council and the City Council by December 15, 1996. The City's impact fee ordinance shall be established to accomplish the latecomer reimbursement arrangement described in Section 7.2.

The City will consider enacting a transportation impact fee ordinance which shall seek to have the cost of new transportation facilities be shared by the public and private sectors. The intent of the proposed ordinance would be that a proportionate share of the expense of transportation facilities necessitated by the impacts of new development be borne by the development applicants through the imposition of the proposed fees. The proportionate share may depend on the type and size of the development, and location within the City. The transportation capital improvement projects which would benefit from these impact fees may include those elements listed in the the current Capital

Facilities element of the Comprehensive Plan and the Six Year Transportation Improvement Program. In addition, the City and the County may negotiate to apply the City's impact fee methodology to the City's Potential Annexation Areas through a separate process, depending upon the compatibility and consistency of the City and County impact fee systems.

4.2.2 Reciprocal Concurrency Review Agreement. The reciprocal concurrency review agreement shall provide for joint County/City review of developments within each other's jurisdiction that have direct impacts on the other jurisdiction's roads. The reciprocal concurrency review agreement shall specify thresholds and standards to be used to determine concurrency. The County and the City agree that, unless specifically provided for in the reciprocal concurrency review agreement, approval or denial of proposed development permits shall remain the sole responsibility and at the sole discretion of the jurisdiction within which the development is proposed. One jurisdiction shall not have veto authority over the other jurisdiction's permit process. Such agreement shall be transmitted to the County Council and City Council by December 15, 1996.

- 4.3 Future Annexations.** Prior to the City's holding any hearing or taking any formal action on any annexation other than the area covered by the Grand Ridge Annexation and Development Agreement, the City shall execute a pre-annexation agreement with King County to provide sharing of costs associated with County roadway capacity improvements which are critical for Grand Ridge concurrency that are included in the future annexation areas. The following County CIP projects are affected by this provision: North SPAR and East Lake Sammamish Parkway. King County shall not be obligated to award construction contracts for the North SPAR or East Lake Sammamish Parkway until a cost sharing agreement under this Section 4.3 is executed. Pre-annexation agreements between the City and County will reflect a "mortgage financing" principle that provides for City reimbursement of County funds invested on these improvements based upon a depreciation schedule amortized over the expected life of the improvements and adjusted by a nominal interest rate. This commitment for pre-annexation agreements satisfies the County Council's (a) SPAR EIS budget proviso and (b) the 1995 budget proviso on roadway capacity projects in potential annexation areas with respect to the North SPAR and East Lake Sammamish Parkway.

5. SOUTH SPAR AND SUNSET INTERCHANGE.

- 5.1 Corporation Construction of South SPAR and Sunset Interchange.** The Corporation shall undertake and pay for all permitting, right-of-way acquisition and construction of the South SPAR. If authorized by WSDOT, the Corporation shall undertake and pay for all permitting, right-of-way acquisition and construction of the Sunset Interchange segment. In the event WSDOT constructs the Sunset Interchange, the Corporation shall pay to WSDOT all Sunset Interchange funds received from the parties and any other source. The Corporation shall not be obligated to undertake any permitting or construction

on the South SPAR until execution of construction contracts for the Sunset Interchange. Prior to the Corporation's receipt of any funds from the City, the County or the Partnership, the following conditions must be satisfied; (a) The EIS must be approved by the City, the County and the State as co-lead agencies in accordance with Section 3.1.1, and (b) the Corporation shall establish financial management controls acceptable to the City and the County, or the Corporation shall post a bond in a form and amount satisfactory to the City and the County. The Corporation shall maintain insurance to protect itself and any person the Corporation is required to indemnify or shall agree to indemnify, including any director, trustee, officer, employee or agent of the Corporation or another corporation, partnership, joint venture, trust or other enterprise, against any expense, liability or loss.

- 5.2 **Public Works Contracting Laws Apply.** The parties acknowledge that the work undertaken by the Corporation on the South SPAR, if public funds are used in its construction, and the Interchange constitutes public works and, therefore, the Corporation shall comply with the public works contracting statutes and regulations that would apply if the work were being undertaken by a public agency, including, but not limited to, applicable laws and regulations on non-discrimination and minority and women's business enterprises, as determined by the governmental entities. Alternatively, if public funds are not used in the construction of the South SPAR, then the Corporation shall not be required to comply with public works contracting statutes and regulations related to competitive bidding and surety requirements, to the extent consistent with law. The County's minority and women's business enterprises program, as codified in King County Code Chapter 4.18 and incorporated herein by reference, shall apply even to non-public works contracts to the extent practicable, and any adjustment to the County goals shall be agreed to by all parties.

The parties further agree that any work undertaken as a result of this MTFA shall comply with King County Code Chapters 12.16 and 12.18, incorporated herein by reference.

- 5.3 **Partnership's Contribution.** The Partnership shall fulfill a fair share obligation ("Fair Share") for offsite roadway capacity improvements relating to the Grand Ridge Project, including its share of the Transportation Improvements described in this MTFA, as computed using the County's MPS model, subject to the same adjustments made for other similar projects, with the four Transportation Improvements included in the MPS model at 100 % of their estimated costs as reflected in Section 4.1. The Partnership's Fair Share is \$32.65 million, stated in constant 1995 dollars, subject only to the Park and Ride Facility trip reductions credit described in Section 5.4.4 and the recomputation described in Section 5.4.5. The unpaid balance of the Partnership's Fair Share shall be subject to annual adjustment on the anniversary of the effective date of this MTFA in accordance with the Engineering News Record Construction Cost Index for the Seattle area ("ENR Index") with 1995 as the base year. The "unpaid balance" of the Partnership's

contribution means the net, remaining balance from time to time during this MTFA after Partnership payments are made or when Partnership credit amounts are known. For example, the unpaid balance at the commencement of this MTFA will be \$9.65 million, i.e. the total Fair Share amount minus the Partnership's South SPAR amount (\$32.65 million minus \$23.0 million); the unpaid balance of the Interchange Contribution will be reduced by the Partnership credits in Section 3.1.2 or by payment of "Project Costs" under Section 5.3.2 as soon as the amounts are known under those sections; the unpaid balance of the Variable Amount will be reduced with each MPS payment made during Phase I under Section 5.4.4. In addition to the Partnership's contribution for roadway capacity improvements, the Partnership is obligated to undertake safety and operational improvements for Black Nugget Road as described in Attachment B. The Partnership shall have no obligations for off-site transportation facilities or improvements relating to the Grand Ridge project except as expressly set forth in this MTFA and the Grand Ridge Agreements.

This total Partnership's Fair Share shall be contributed as follows: (a) a contribution or guaranty of payment to the Corporation, in a manner acceptable to the City and the County, for the review, design and construction of the South SPAR as provided in Section 5.1 over and above the amounts contributed by the City and the County for the costs of environmental review and preparation of plans, specifications and estimates for the South SPAR (the Partnership's estimated cost for the South SPAR that will be credited against the Partnership's Fair Share is \$23 million, but the Partnership's obligation to contribute or guaranty payment shall be the actual costs of the South SPAR whether over or under \$23 million); the \$23 million credit will be adjusted as necessary to reflect the fixed cost estimate of \$25.2 million less the actual costs covered by the City and County contributions described in Section 3.1.2; (b) \$5.7 million (less credit for Partnership's (i) payment of Sunset Interchange costs before the effective date of this MTFA under Section 3.1.2 and (ii) unreimbursed actual contribution after the effective date of this MTFA to the Sunset Interchange environmental review and preparation of plans, specifications, and estimates pursuant to §3.1.2) shall be contributed or a guaranty of payment, in a manner acceptable to the City and the County, made to the Corporation as the Partnership's minimum (subject to increase pursuant to (c) below) contribution to the Sunset Interchange ("Interchange Contribution"); (c) The Partnership shall contribute or guaranty payment, in a manner acceptable to the City and the County, to the Corporation, the Additional Interchange Contribution, if necessary, up to \$800,000, as described in Section 5.3.4; (d) the amount for off-site road MPS (i.e., roads other than the Transportation Improvements covered by this MTFA) is \$3.95 million (subject to a credit for the Partnership's Additional Interchange Contribution, if necessary, as described in Section 5.3.4, and the Park and Ride Facility trip reductions credit described in Section 5.4.4, and subject to the recomputation of Fair Share as described in Section 5.4.5) and is defined as the "Variable Amount" to be paid as provided in Section 5.4.4. Except for the Partnership's obligation for the review, design and construction of the

South SPAR described in (a) above, the amounts constituting the Partnership's total Fair Share as described herein (and as the Partnership's Fair Share may be recomputed as described in Section 5.4.5), and the Partnership's credits from the date of payment until the credit is applied to the unpaid balance, shall be adjusted in accordance with the ENR Index on an annual basis. The ENR Index adjustment also shall apply to all Partnership credits against those Fair Share components which are adjusted by the ENR Index, beginning when the ENR Index adjustment begins on the Fair Share component and continuing until the credit is actually applied to the unpaid balance. For example, the Partnership's credits against its Interchange Contribution for Sunset Interchange EIS or design costs paid by the Partnership, either before or after the effective date of this MTFA as provided in Section 3.1.2, shall be adjusted by the ENR Index until the credit is actually applied to the unpaid balance; after a credit is applied, the ENR Index shall apply to the remaining unpaid balance of the Partnership's Interchange Contribution.

The Partnership's obligations for the Transportation Improvements are further set forth as follows:

5.3.1 South SPAR. The Partnership shall contribute or guaranty payment, in a manner acceptable to the County and the City, to the Corporation for all costs related to the South SPAR segment which the Corporation undertakes under Section 5.1.

5.3.2 Sunset Interchange Contribution. The Partnership shall contribute or guaranty payment, in a manner acceptable to the City and the County, to the Corporation, \$5.7 million, adjusted annually by the ENR Index, as its Interchange Contribution to the Project Costs of the Sunset Interchange Segment. To the extent the following costs were included in the Fair Share calculation as identified in Section 5.3 the Partnership's contribution towards "Project Costs" may include the following: all prior expenditures as approved by the Executive Committee through the effective date of this MTFA relating to environmental, engineering or other work or financing costs and financial consultants related to the Sunset Interchange; the Partnership's unreimbursed actual costs of environmental review relating to the Sunset Interchange Segment incurred under Section 3.1.2 after the effective date of this MTFA; engineering and design and permitting costs; site preparation (e.g., clearing and grading) costs; construction costs and any other costs related to the planning, engineering or construction of the Sunset Interchange; project management costs of the Corporation or interest or other carrying costs of the nonprofit corporation to the extent it borrows funds for completion of work related to the Sunset Interchange. The County will use best efforts to include the costs identified above in the MPS fee model. The Executive Committee may approve additional types of expenses as "Project Costs," but the Partnership's overhead or general administrative expenses for the Grand Ridge Project shall not be included in the Sunset Interchange Project Costs.

5.3.3 Partnership Bypass Contribution. If a Bypass Shortfall occurs, then the Partnership shall contribute funds to the City up to a maximum of \$1.4 million as provided herein ("Partnership Bypass Contribution"). This amount is over and above the Partnership's \$32.65 million Fair Share contribution as designated in this MTFA. "Bypass Shortfall" means that all or part of the City's Bypass funding amount above \$15.3 million is not available in committed or reasonably available funds such as from grants, MPS fees, developer contributions in lieu of MPS fees, or bonds to be repaid from such source, despite best efforts to obtain funds by the City (that is, \$16.7 million in Section 4.1 minus \$1.4 million equals \$15.3 million threshold before Partnership Bypass Contribution). If the Bypass Shortfall occurs at the time the City otherwise would execute a construction contract for the Bypass, then the Partnership shall make the Partnership Bypass Contribution to the City within sixty (60) days after receipt of City notice and explanation of the existing and available funding sources for the Bypass. If the City expends less than \$1.4 million under Section 3.1.2, then the Partnership Bypass Contribution shall be correspondingly reduced from \$1.4 million to the actual lesser amount expended by the City (for example, if the City only expended \$1.2 million under Section 3.1.2, then the threshold would be \$15.5 million, that is, \$16.7 million minus \$1.2 million equals \$15.5 million; then Partnership's corresponding contribution would be \$1.2 million). The Partnership Bypass Contribution shall be made if there is a cost overrun but the maximum contribution remains \$1.4 million and would be adjusted downward to the extent the City's expenditure under Section 3.1.2 is less than \$1.4 million. The Partnership Bypass Contribution shall not be a credit against the Partnership's Fair Share. Commencing one year after the Partnership makes the Partnership Bypass Contribution, the City shall begin to make ten annual payments (without interest) to the Partnership, each in an amount equal to one-tenth of the Partnership Bypass Contribution that was made.

5.3.4 Additional Interchange Contribution: If at final adjournment of the 1998 Washington State Legislative session (including any extraordinary session(s)), full Sunset Interchange funding is not secured, the Partnership shall contribute or guaranty payment, in a manner acceptable to the City and the County, to the Corporation for the Project Costs of the Sunset Interchange up to \$800,000.00 (the "Additional Interchange Contribution") in addition to the \$5.7 million Interchange Contribution described in Section 5.3.2. This dollar amount shall be adjusted in accordance with the ENR Index on an annual basis. Only that portion of the Additional Interchange Contribution needed to achieve full funding of the Sunset Interchange will be required of the Partnership. If, following guaranty of an Additional Interchange Contribution to the Corporation by the Partnership but prior to the Corporation's expenditure of the funds (or transmittal to WSDOT), the parties subsequently determine by consensus that the Additional Interchange Contribution is not needed because additional funding has been obtained, then the Corporation will return to the Partnership that portion of the Additional Interchange Contribution not required for the project and the Remaining Portion of the

Variable Amount will be adjusted to reflect this. For any such funds restored to the Remaining Portion of the Variable Amount, the ENR index will accrue from the time the funds were initially guaranteed for the Additional Interchange Contribution to the time they are restored to the Remaining Portion of the Variable Amount, and thereafter as described in Section 5.4.4. Subject to WSDOT's approval through an agreement governing the construction of the Sunset Interchange, the parties will seek similar treatment for Additional Interchange Contributions that may be determined not to be needed subsequent to transmittal to WSDOT.

5.4 Additional Funding.

5.4.1 Remaining Balance. The parties shall cooperate in seeking federal, state and other sources of funding to pay the full Sunset Interchange costs in excess of the parties' contributions to the Sunset Interchange as stated in this MTFA ("Remaining Balance"). Funding for the Remaining Balance shall include, but is not limited to, any MPS fees projected to be collected by the County and similar impact fees collected by the City for the Sunset Interchange. The parties shall report to the Executive Committee on the status and projections for outside funding. The Partnership shall contribute or guaranty payment, in a manner acceptable to the County and the City, to the Corporation or WSDOT, in the event WSDOT constructs the Sunset Interchange, in the amount of the Partnership's Interchange Contribution, for Project Costs including EIS work, plan and specification preparation, and construction amounts when needed for construction of the Sunset Interchange.

5.4.2 Excess Outside Funds. If outside funding in excess of the Remaining Balance of the Sunset Interchange Segment is secured, then the Partnership shall nonetheless contribute an estimated \$5.7 million (adjusted annually by the ENR Index) in Project Costs by transferring any portion of the \$5.7 million (as adjusted) Interchange Contribution not needed for the Sunset Interchange Segment to repay, prorated based on their respective contributions, the County and City-for expenditures made under this MTFA for the Transportation Improvements.

5.4.3 Funding Shortfall. If at final adjournment of the 1998 Washington State Legislative session (including any extraordinary sessions(s)), any secured outside funding, the parties' contributions to the Sunset Interchange as stated in this MTFA, and MPS fees collected under the reciprocal MPS Agreement (or the collection of which is reasonably assured) do not meet or exceed the amount needed to construct the Sunset Interchange, then any of the parties can require that the parties meet to seek agreement on alternative funding strategies. The parties in good faith shall reexamine the financial obligations consistent with the underlying premise of each party paying a fair share allocation. The parties shall continue to seek full funding of the Sunset Interchange Segment until all of the parties mutually agree to cease funding efforts. Upon cessation of funding efforts, the Corporation shall return to the

County and the City all unexpended funds the Corporation shall have received from the County and the City.

5.4.4 Payment of Variable Amount. The Variable Amount is \$3.95 million, subject to credits for the Partnership's Additional Interchange Contribution as described in Section 5.3.4, and for the Park and Ride Facility trip reductions described below in this Section 5.4.4, and subject to reduction if the Fair Share is recomputed as described in Section 5.4.5. The Partnership shall pay the Variable Amount as follows: (a) Through the reciprocal impact fee agreement described in this MTFA, the Partnership will pay the County's "off-site MPS fees" due on Phase I (as described in Attachment B) in the amount of \$711,000 at the time building permits are issued. This dollar amount shall be adjusted in accordance with the ENR Index on an annual basis; (b) The Partnership shall pay or guaranty to the Corporation the Additional Interchange Contribution (if necessary) as described in Section 5.3.4; (c) The portion of the \$3.95 million Variable Amount remaining after deducting the Partnership's payment of \$711,000 for the County's "off-site MPS fees" due on Phase I and the Partnership's payment of up to \$800,000 (if necessary) for the Additional Interchange Contribution is referred to hereafter as the "Remaining Portion of the Variable Amount". If the Remaining Balance of the Sunset Interchange Segment funding is obtained, then the Partnership shall pay to the City the Remaining Portion of the Variable Amount, less any credit for the Park and Ride Facility trip reductions described below in this Section 5.4.4, at an agreed upon dollar amount per equivalent residential unit (ERU) as follows: the Partnership's obligation to pay off-site MPS for Phases II and III (described in Attachment B) is deferred and the Partnership's contributions or guaranty for the cost of the Transportation Improvements are credited, at the agreed rate per ERU, against the Partnership's Fair Share amount of \$32.65 million (adjusted annually by the ENR Index); the Remaining Portion of the Variable Amount shall commence being paid on a per unit basis at the amount that is computed by dividing the Partnership's contribution or guaranty for costs of the Transportation Improvements (less the Variable Amount not yet paid) by the agreed rate per ERU. The per unit fee shall be adjusted by the annual increase or decrease in the Engineering News Record (ENR) Construction Cost Index for the Seattle area.

The Partnership may be entitled to a credit against the Remaining Portion of the Variable Amount for Park and Ride Facility trip reductions. The Park and Ride Facility trip reductions credit will be calculated after the execution of the Transit Agreement described in Attachment C. The Park and Ride Facility trip reductions credit shall be calculated as described in Attachment D.

5.4.5 Fair Share Recomputation. The Partnership's total Fair Share obligation may be recomputed at the request of the Partnership if, prior to the Partnership's payment of the

Remaining Portion of the Variable Amount, the King County Council approves changes to the MPS fee policies on commercial fees that would have resulted in a lower Fair Share for the Partnership if such policies had been in effect when the Partnership's Fair Share was calculated. If such a recomputation is requested by the Partnership, the County will recompute only the portion of the Fair Share associated with the commercial space in the Urban Growth Area of the Grand Ridge Project, as configured in Attachment B. The County will structure the assumptions and input for the recomputation in such a way as to isolate the effects of the commercial fee policy change. Other factors that may have changed in the interim will be held constant. The recomputation will be made using the same zonal structure, project list, project cost estimates (as adjusted by the ENR Index) and trip responsibility factor that are the bases for the Fair Share computation reflected in this MTFA. Any benefit from the recomputation in the form of a decreased Fair Share obligation will be used to reduce only any outstanding balance of the Remaining Portion of the Variable Amount. In the event the difference between the recomputed Fair Share and the Fair Share obligation reflected in this MTFA is larger than the Remaining Portion of the Variable Amount, no credit or refund or reimbursement of any kind in excess of the outstanding balance of the Remaining Portion of the Variable Amount will be due to the Partnership.

6. NORTH SPAR/KING COUNTY. King County shall construct the North SPAR as follows:

6.1 Obligation to Construct. The County shall undertake and pay for all costs of environmental review and studies, engineering and design, permitting, right-of-way acquisition and construction of the North SPAR Segment. The County shall commence construction of the North SPAR as expeditiously as possible after construction contracts are executed for the Sunset Interchange Segment, subject to force majeure (as defined in Section 13.18).

6.2 Delay in North SPAR. The parties have determined that transportation concurrency for Phases I and II (as defined in Attachment B) does not require construction of the North SPAR. Upon completion of the South SPAR and the full movements of the Sunset Interchange, the County shall work with the Partnership on methods to limit daily traffic volume to 3,000 ADT on Black Nugget Road. The County shall retain sole authority to close the access of the Grand Ridge Project to Black Nugget Road.

7. BYPASS- CITY. The City shall have the following financial and construction obligations:

7.1 **Obligation to Construct.** Under the circumstances described in Section 5.2.3, the Partnership shall contribute up to \$1.4 million to the cost of the Bypass. The City shall undertake and pay for all remaining costs of environmental review and studies, engineering and design, permitting, right-of-way acquisition and construction of the Bypass Segment. While the City assumes responsibility for construction of the Bypass, the parties shall work together to ensure that construction occurs in a timely manner. A joint grant-writing team composed of City, County and Partnership representatives shall work on the development and submittal of grants for the Bypass. The Executive Committee, at the request of the City, shall provide assistance in resolving problems or handling other matters related to the Bypass. The City shall commence construction of the Bypass Segment as expeditiously as possible after construction contracts are executed for the Sunset Interchange Segment, subject to *force majeure* (as defined in Section 13.18).

7.2 **Latecomer Reimbursement.** At the Partnership's request, the City and Partnership shall mutually approve a latecomer reimbursement system whereby the City will collect (at the time building permits, site plans or plats are approved for development within the Grand Ridge Project), and remit those funds (less an administrative fee to the City) to the Partnership, a transportation improvement fee to reimburse the Partnership for the Partnership's contributions or guaranty payments made to the Corporation's payment of Project Costs for the Sunset Interchange Segment and the South SPAR. The reimbursement amount shall include all of the Partnership's actual expenditures plus interest thereon or other financing costs.

8. COST ESTIMATES AND OVERRUNS.

8.1 **Revised Cost Estimates.** Upon completion of the FEIS, each party shall have the right to request renegotiation of the provisions of this MTFA based on a revised cost estimate demonstrating that the cost of its respective Segment has increased to at least 150% of the present cost estimate in Section 4.1. Renegotiation shall be initiated by a party by providing the other parties with written notice of a request to renegotiate within 30 days of the date the FEIS is final, including any appeal periods.

8.2 **Cost Overruns.** With the exception of the Sunset Interchange Segment, each party shall pay any cost overruns, or retain any cost savings, for its respective Segment.

9. **RIGHT-OF-WAY DEDICATION AND ACQUISITION.** Each party shall make available for the Transportation Improvements any land or existing right-of-way owned by that party. As part of its responsibility for each respective Segment, each party shall be responsible to obtain all right-of-way necessary for construction of that party's Segment. If eminent domain is required to obtain any property necessary for the Transportation Improvements, the governmental entity with jurisdiction shall exercise its eminent domain powers and will be reimbursed by the party responsible for that segment. Said reimbursement shall include all costs related to such exercise

of eminent domain, including just compensation and costs of litigation and expert witness fees.

10. **DEDICATION AFTER CONSTRUCTION.** The Partnership shall convey and dedicate to the public entities all Segments of the Transportation Improvements constructed by the Corporation and any property owned by the Partnership related thereto as follows: (a) conveyance of the South SPAR to the City; and (b) conveyance of the ~~Sunset Interchange~~ improvements to WSDOT. The County and City each agree to accept the portion of the Transportation Improvements constructed and located within their respective jurisdictions so long as constructed in accordance with plans and specifications approved by those agencies (including any written approved revisions or change orders) and free from all liens and encumbrances.

11. **COUNTY/CITY MPS AND CONCURRENCY.**

11.1 **Partnership Payment In Lieu of Fees.** The parties acknowledge the Grand Ridge Project will be annexed into and thereafter developed within the City. Although the County's MPS and concurrency program do not apply to projects within the City, the parties have established through this MTFA the Partnership's obligations to pay fees for any Grand Ridge project improvements related to the Transportation Improvement Segments. The amounts paid by the Partnership under Section 5 have taken into account County MPS fees which otherwise would be due and there are no other MPS or other transportation fees, mitigation fees relating to transportation improvements or similar payments relating to transportation improvements.

11.2 **Grand Ridge Concurrency and Mitigation Compliance.** The County and City have determined and established the transportation concurrency requirements for the Grand Ridge Project in the Grand Ridge Joint Agreement in the transportation phasing as set forth in Attachment B hereto. The Partnership compliance with the Joint Agreement, Attachment B and this MTFA implements and satisfies all applicable County, City and State level of service standards and concurrency requirements. This MTFA and the Joint Agreement set forth the Partnership's full mitigation measures, fees and obligations for off-site transportation improvements related to the urban growth area of the Grand Ridge Project. The measures in this MTFA and in the Grand Ridge Development and Annexation Agreement satisfy and there are no other off-site transportation mitigation obligations or measures which otherwise would be required by the County or the City, except as set forth in the Joint Agreement. Notwithstanding the other provisions of this Section 11, the Grand Ridge Project is subject to revised development standards where required to avoid a serious threat to the public health or safety.

12. **METRO PARK AND RIDE FACILITY.** The parties shall cooperate in providing the land, permits and site preparation and implementation of a Metro Park and Ride Facility in the Grand Ridge vicinity, as provided in Attachment C to this MTFA (which is identical to Appendix E to the Grand Ridge Joint Agreement).

13. MISCELLANEOUS PROVISIONS.

- 13.1 **Termination.** This MTFA shall be terminated effective upon the mutual agreement of all the parties. This MTFA shall also be terminated upon written notice that the Partnership elects to pursue rural development under vested short plat applications or an urban planned development under King County Code 21A.39 and therefore abandons its rights to pursue the project under this agreement. Any termination shall not relieve any party from its obligations to pay any previously incurred expenses consistent with this MTFA.
- 13.2 **Authorization; Approval by Parties.** The parties shall execute this MTFA upon approval of the King County Council and Issaquah City Council of the respective agreements described in Recital C above. All parties warrant to each other that they have the right, power and authority to enter into and execute this MTFA and perform in accordance with the terms and conditions herein. Any consent, approval or amendment required of the "parties" under this MTFA shall mean by an authorized representative of the party, and not through the Executive Committee.
- 13.3 **Binding on Successors and Assignments.** This MTFA shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors, personal representatives and assigns. An individual purchaser from the Partnership of the SE Rural Parcel or individual purchasers from the Partnership of single-family residential dwellings or lots in the NE Rural Parcel or Urban Development Areas shall not be obligated as successors of the Partnership to pay the Partnership's Transportation Improvement obligations unless the purchase agreement or other agreement expressly provides for the purchaser's assumption of some or all of those obligations (but MPS fees or latecomer fees pursuant to Section 7.2 shall be charged to purchasers consistent with this Agreement). The Partnership may not assign its obligations to pay for the Black Nugget Road improvements, as described in this MTFA, without the consent of the County and the City (unless County-approved bonds or other security for that road work is provided). The Partnership may not assign its obligations to pay for the Transportation Improvements, as described in this MTFA, without the consent of the County and the City. Such consent shall not be unreasonably withheld.
- 13.4 **Entire Agreement.** This document and the Attachments thereto contain the entire agreement of the parties regarding the subject matter hereof.
- 13.5 **Amendment.** This MTFA shall not be amended without the express written approval of the parties (or its successors and assigns) and approval by the County Council and City Council, except future changes in the scope of the Sunset Interchange/South SPAR EIS can be made at the request of the City without amendment of the MTFA where such changes are made in accordance with Section 3.1.

13.6 **Applicable Law.** This MTFA shall be construed in accordance with the laws of the State of Washington.

13.7 **Inspection of Cost Records.** All parties shall keep available for inspection by representatives of the parties or the FHWA for a period of six years the cost records and accounts pertaining to this MTFA. If any litigation, claim, or audit arising out of, in connection with, or related to this MTFA is initiated before the expiration of the six year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed.

13.7.1 Audits and Inspection. The records and documents with respect to all matters covered by this MTFA shall be subject at all times to inspection, review or audit by the County and the City. The records and documents with respect to all matters covered by this MTFA shall be subject at all times to inspection, review or audit by federal or state officials so authorized by law during the performance of this MTFA and six (6) years after termination hereof, unless a longer retention period is required by law.

The Corporation and the Partnership shall provide right of access to its facilities, including those of any Contractor or Subcontractor, to the County, the City, the state and/or federal agencies or officials at all reasonable times in order to monitor and evaluate compliance with this MTFA. The County and the City will give advance notice to the Corporation and the Partnership in the case of fiscal audits to be conducted by the County or the City.

Upon request from the City or the County, the Corporation shall have an independent audit conducted of its financial statement and condition, which shall comply with the requirements of GAAS (generally accepted auditing standards); GAO's Standards for Audits of Governmental organizations, Program, Activities and Functions; and OMB Circulars A-133 and A-128, as amended and as applicable.

13.8 **Notices.** All communications, notices and demands of any kind which a party under this MTFA requires or desires to give to any other party shall be in writing and deposited in the U.S. mail, certified mail postage prepaid, return receipt requested, and addressed as follows:

If to the County:

King County
King County Courthouse
Third and James Street
Seattle, Washington 98104
Attn.: King County Executive's Office

with copy to:

King County Prosecuting Attorney's Office
(Civil Division)
Fifth Floor - King County Courthouse
516 - Third Ave.
Seattle, Washington 98104
Attn.: Chief of Civil Division

with copy to:

Clerk of the Council
King County Courthouse
516 Third Avenue
Seattle, Washington 98104

If to the City:

City of Issaquah
P.O. Box 1307
Issaquah, Washington 98027
Attn.: Office of the Mayor

with copy to:

Ogden, Murphy and Wallace
Westlake Center Tower
Fifth Avenue
Seattle, Washington 98101
Attn.: Wayne D. Tanaka

If to the Partnership:

Grand Ridge/Glacier Ridge Limited
Partnerships
c/o Port Blakely Communities
Logan Building
Seattle, Washington 98104
Attn.: James E. Warjone and
Judd Kirk

with a copy to:

Davis Wright Tremaine
Century Square
Fourth Avenue
Seattle, Washington 98101-1688
Attn.: Thomas A. Goeltz

If to the Corporation:

Sunset Interchange Foundation
c/o Port Blakely Communities
Logan Building
Seattle, Washington 98104
Attn.: James E. Warjone and
Judd Kirk

with a copy to:

Davis Wright Tremaine
Century Square
Fourth Avenue
Seattle, Washington 98101-1688
Attn.: Thomas A. Goeltz

Notice by mail shall be deemed delivered 48 hours after deposited. Any party at any time by notice to the other party may designate a different address or person to which such notice or communication shall be given. Notices required or to be provided under this Agreement are not intended for individual lot purchasers and shall only be required if the Partnership has assigned its interest to a portion of the Property and notified the City and County of the successor's name and address.

- 13.9 **Time of Essence.** Time is of the essence in this MTFA. A waiver of any breach or default by any party hereto shall not be considered to be a waiver of any other breach or default.
- 13.10 **Enforcement.** The parties agree that unless this MTFA is amended or terminated pursuant to the provisions of this MTFA, this MTFA shall be enforceable by any party hereto notwithstanding any change hereafter in any applicable regulation or ordinance.
- 13.11 **Severability.** If any Material Provision of this MTFA is determined by a court of law to be unenforceable or invalid, then the parties shall confer and agree to amend this MTFA to implement the mutual intent of the parties to the maximum allowed by law. If the parties are unable to reach agreement, then the court shall decide if the invalid provisions require termination of this MTFA.
- 13.12 **Implementing Documents.** Each party shall execute and deliver to the other party all such further instruments and documents as may be reasonably necessary to carry out this MTFA in order to provide and secure to the other party the full and complete enjoyment of its rights and privileges hereunder.

13.13 Liability. Except as otherwise specifically provided elsewhere in this Agreement and any exhibits hereto, each party shall protect, defend indemnify and hold harmless the other parties and their officers, agents, and employees, or any of them, from and against any and all claims, actions, suits liability, loss, costs, expenses, and damages of any nature whatsoever, which are caused by or result from any negligent act or omission of the party's own officers, agents, and employees in performing services pursuant to this agreement. In the event that any suit based upon such a claim, action, loss, or damage is brought against a party or parties, the party or parties whose negligent action or omissions gave rise to the claim shall defend all parties at the party's or parties' sole cost and expense; and if final judgment be rendered against the other parties and their officers, agents, and employees or jointly the parties and their respective officers, agents, and employees, the parties whose actions or omissions gave rise to the claim shall satisfy the same; provided that, in the event of concurrent negligence, each party shall indemnify and hold the other parties harmless only to the extent of that party's negligence. The indemnification hereunder shall be for the benefit of the City and County as an entity, and not for members of the general public.

13.13.1 Insurance Requirements

13.13.1.1. General Requirements. By the date of execution of this MTFA, the parties shall procure and maintain for the duration of this MTFA insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of this MTFA by the parties, their agents, representatives, employees, and/or contractors. The cost of such insurance shall be paid by the parties or their contractors. The parties may furnish separate certificates of insurance and policy endorsements for each contractor as evidence of compliance with the insurance requirements of this MTFA. If the County and/or the City are self-insured for the insurance requirements contained in this Section 13.13.1, certifications of self-insurance shall constitute County and City compliance with this Section 13.13.1.

Each insurance policy shall be written on an "Occurrence" form; excepting that insurance for Professional Liability, Errors and Omissions when required may be acceptable on a "claims made" form.

If coverage is approved and purchased on a "claims made" basis, the party purchasing such coverage warrants continuation of coverage, either through policy renewals or the purchase of an extended discovery period, if such extended coverage is available, for not less than three years from the date of completion of the work which is the subject of this MTFA.

13.13.1.2 Minimum Scope of Insurance. Coverage shall be at least as broad as:

- (a) General Liability: Insurance Services Office form number (CG 00 01 Ed. 11-88) covering **COMMERCIAL GENERAL LIABILITY**.
- (b) Professional Liability: Professional Liability, Errors and Omissions coverage. In the event that services delivered pursuant to this MTFA either directly or indirectly involve or require professional services, Professional Liability, Errors and Omissions coverage shall be provided. "Professional Services", for the purpose of this Section 13.13.1 shall mean any services provided by a licensed professional.
- (c) Automobile Liability: Insurance Services Office form number (CA 00 01 Ed. 12-90) covering **BUSINESS AUTO COVERAGE**, symbol 1 "any auto"; or the combination of symbols 2, 8, and 9.
- (d) Workers' Compensation: Workers' Compensation coverage, as required by the Industrial Insurance Act of the State of Washington as well as any similar coverage required for this work by applicable Federal or "Other States" State Law.

13.13.1.3 Minimum Limits of Insurance. The parties shall maintain limits no less than, for:

- (a) General Liability: One million dollars (\$1,000,000) combined single limit per occurrence for bodily injury, personal injury and property damage, and for those policies with aggregate limits, a two million dollar (\$2,000,000) aggregate limit.
- (b) Professional Liability, Errors and Omissions: One million dollars (\$1,000,000).
- (c) Automobile Liability: One million dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage.
- (d) Workers' Compensation: Statutory requirements of the State of residency.

13.13.1.4 Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions in the Partnership's coverage or the Corporation's coverage must be declared to, and approved by, the County and the City. The deductible and/or self-insured retention of the policies shall not limit or apply

to the Partnership's or the Corporation's liability to the County and/or the City and shall be the sole responsibility of the Partnership or the Corporation.

13.13.1.5. Other Insurance Provisions. The insurance policies required in this MTFA are to contain, or be endorsed to contain the following provisions:

(a) General Liability Policy:

- (i) On the Partnership's and the Corporation's policies, the County and the City, their officers, officials, employees and agents are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of the Partnership or the Corporation in connection with this MTFA.
- (ii) To the extent of the Partnership's or the Corporation's negligence, the Partnership's or the Corporation's insurance coverage shall be primary insurance as respects the County and the City, their officers, officials, employees and agents. Any insurance and/or self-insurance maintained by the County and the City, their officers, officials, employees or agents shall not contribute with the Partnership's or the Corporation's insurance or benefit the Partnership or the Corporation in any way.
- (iii) The Partnership's and the Corporation's insurance shall apply separately to each insured against whom a claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.

- (b) All Policies: Coverage shall not be suspended, voided, canceled, reduced in coverage or in limits, except by the reduction of the applicable aggregate limit by claims paid, until after forty-five (45) days prior written notice has been given to the County and the City.

13.13.1.6 Acceptability of Insurers. Insurance is to be placed with insurers with a Bests' rating of no less than A: VIII or, if not rated with Bests', with minimum surpluses the equivalent of Bests' surplus size VIII.

Professional Liability, Errors and Omissions insurance may be placed with insurers with a Bests' rating of B+: VII. Any exceptions must be approved by the County and the City.

If at any time any of the foregoing policies shall be or become unsatisfactory to the County or the City as to form or substance or if a company issuing any such policy shall be or become unsatisfactory to the County or the City, the

Partnership or the Corporation shall, upon notice to that effect from the County or the City, promptly obtain a new policy and shall submit the same to the County and the City with the appropriate certificates and endorsements, for approval.

13.13.1.7 Verification of Coverage. The Partnership and the Corporation shall furnish the County and the City with certificates of insurance and endorsements required by this MTFA. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements for each insurance policy are to be on forms approved by the County and the City and are to be received and approved by the County and the City prior to the commencement of activities associated with this MTFA. The County and the City reserve the right to require complete, certified copies of all required insurance policies at any time.

13.13.1.8 Contractors. The Partnership and the Corporation shall include all contractors as insureds under their policies, or shall furnish separate certificates of insurance and policy endorsements for each contractor. Insurance coverages provided by contractors as evidence of compliance with the insurance requirements of this MTFA shall be subject to all of the requirements stated in this Section 13.13.1.

13.14 Term. This MTFA shall remain in full force and effect until all of its obligations are performed or until it is terminated.

13.15 Counterparts. This MTFA is executed in four duplicate originals, one for each party, each of which is deemed to be an original.

13.16 No Third Party Beneficiary. This MTFA is made and entered into for the sole protection and benefit of the parties thereto and their successors and assigns. No other person shall have any right of action or interest in this MTFA based upon any provision of this MTFA.

13.17 Attachments. This MTFA includes and incorporates by reference the Attachments A, B, C and D.

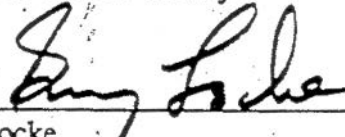
13.18 Force Majeure. The timing of performance by any party under this MTFA, including adherence to any schedule adopted by the Executive Committee under Section 3.1.3, shall be excused during any period of *force majeure*. "*Force majeure*" is defined as extraordinary natural events or weather conditions, war, riots, labor disputes or inability to procure required construction supplies and materials, delays in environmental review, permitting, or other environmental requirements or work, including environmental mitigation, delays as a result of legal or administrative challenges brought by parties other than signatories to this agreement, delays in acquisition of right of way, or other necessary property or interests in

property, including the exercise of eminent domain, or any other delay resulting from any cause beyond the reasonable control of any of the parties.

- 13.19 **Coordination with WSDOT.** The parties shall seek a written agreement with WSDOT regarding funding commitments for the public share of the Sunset Interchange. Until a WSDOT agreement is executed, the parties shall continue to perform their respective obligations under this MTFA so long as any ~~required information~~ or approval from WSDOT is obtained, such as use of SEPA rules for co-lead agencies or WSDOT's designation of applicable design standards for engineering and design work.
- 13.20 **Authorized Agent.** The Partnership hereby designates Port Blakely Communities, Inc. ("PBC") as its agent with authority to give notices, approvals and otherwise act pursuant to this Agreement. Unless otherwise stated in writing by the Partnership, representations and actions by PBC shall represent and bind each Partnership.
- 13.21 **Conflict or Inconsistency.** In the event of any conflict or inconsistency between this MTFA and either or both of the Grand Ridge Agreements, the terms of this MTFA shall control.
- 13.22 **Partnership Obligations.** The Grand Ridge and Glacier Ridge Limited Partnerships shall be jointly and severally liable for all Partnership obligations that arise under this MTFA, except that the Grand Ridge and Glacier Ridge Limited Partnerships shall each be individually liable for the obligation described in Section 9 of this MTFA to make available for the Transportation Improvements any land or existing right of way owned by that party if the Grand Ridge and Glacier Ridge Limited Partnerships do not jointly own the land or existing right of way that must be made available for the Transportation Improvements.

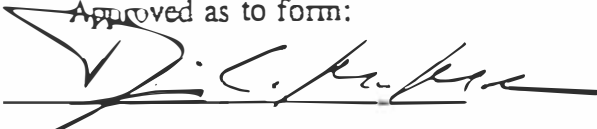
IN WITNESS WHEREOF, the County, the City, the Partnership and the Corporation have executed this MTFA effective as of the last date signed below.

KING COUNTY, a Washington
home rule charter county

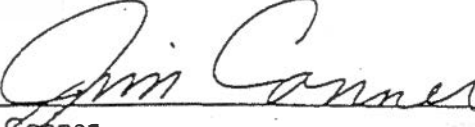
By 
Gary Locke
Its County Executive

Date: June 10, 1996

Approved as to form:

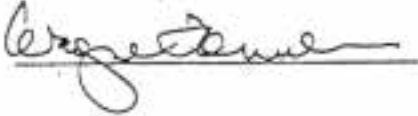


CITY OF ISSAQUAH, a Washington municipal
code city

By 
Jim Conner
Its Mayor Pro Tem

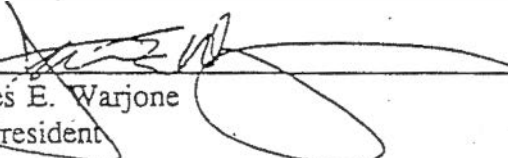
Date: JUNE 7, 1996

Approved as to form:



THE GRAND RIDGE PARTNERSHIP
(LIMITED PARTNERSHIP),
a Washington limited partnership

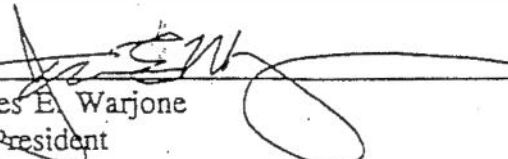
By Warjone Investments, Inc.,
its managing general partner

By 
James E. Warjone
Its President

Date: JUNE 7th 1996

THE GLACIER RIDGE PARTNERSHIP
(LIMITED PARTNERSHIP),
a Washington limited partnership

By Warjone Investments, Inc.,
its managing general partner

By 
James E. Warjone
Its President

Date: JUNE 7th 1996

SUNSET INTERCHANGE FOUNDATION, a
Washington nonprofit corporation

By 

James E. Warjone
Its President

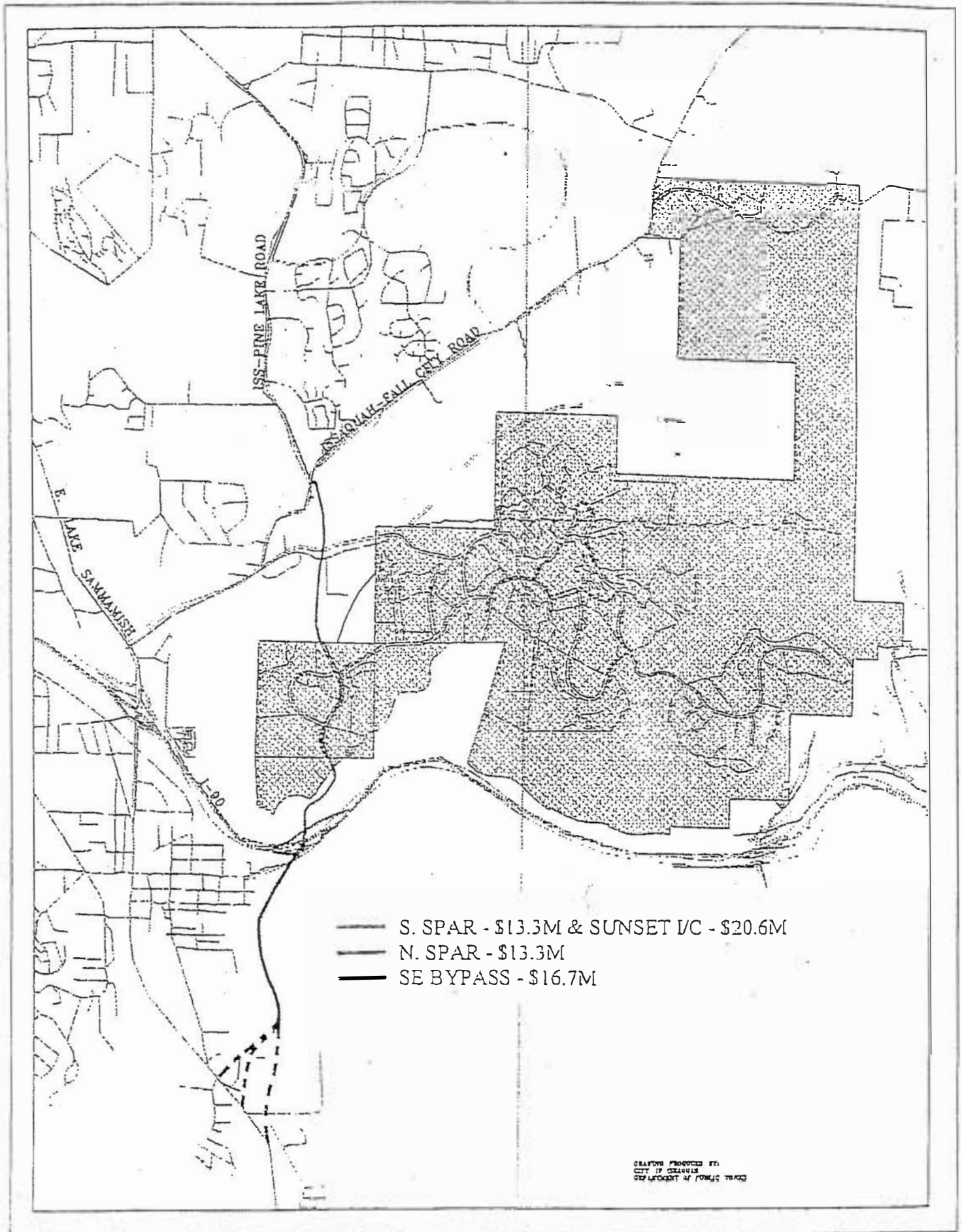
Date: JUNE 7th 1996

ATTACHMENTS:

- A. Map showing location of Sunset Interchange, South SPAR, North SPAR and Bypass
- B. Road Phasing for Grand Ridge Urban Project
- C. Metro Park and Ride Facility at Grand Ridge
- D. Park and Ride Facility Trip Reductions Credit

ATTACHMENT A

MAP SHOWING SUNSET INTERCHANGE, SOUTH SPAR,
NORTH SPAR AND BYPASS



ATTACHMENT B

TRANSPORTATION IMPROVEMENTS AND PHASING

The UGA portion of the Project development shall be phased with transportation improvements in accordance with the following phases. The number of residential units and square footage of retail and commercial development allowable within each phase includes, and is not in addition to, that specified in prior phases.

Phase I. Phase I shall consist of: (a) one hundred single-family residential units without improvements to Black Nugget Road or other roads; or (b). final plat approval for 540 single-family residential units upon the Partnership's completing construction, or posting with the County a two-year financial guarantee instrument in an amount and form acceptable to the County which guarantees construction, of the following Phase I road improvements, provided that no occupancy shall be allowed for such single family residential units until the Partnership completes construction of the following Phase I road improvements; and issuance of a certificate of occupancy for commercial or multifamily development for up to 250,000 square feet of commercial uses, and 50,000 square feet of retail uses upon the Partnership's completing construction of the following Phase I road improvements:

(i) Black Nugget Road improved to neighborhood collector standards, per King County Road Standards, with the County to decide whether to apply rural or urban neighborhood collector standards after a joint community process to be conducted by the County, the City and the Partnership to be completed within 45 days of the effective date of the MTFA.

(ii) Construction access (for construction vehicles, delivery and related construction activities) through Urban Development Area 4 through the Lakeside Quarry area or through alternative routes, not to include Black Nugget Road.

(iii) Improved and signalized Black Nugget/Vaughn Hill intersection, with left and right turn lanes as determined by the County; even though intersection completion is not a condition of Phase I(a), the Partnership shall use all reasonable efforts to finance and install an interim wire span signal as early in Phase I(a) as reasonably possible, as follows: (a) the Partnership on an expedited basis shall submit interim signal plans to the County and order materials, and (b) the County shall expeditiously review and approve such plans.

(iv) Additional safety improvements to Black Nugget Road, such as residential driveway improvements and necessary lighting improvements.

(v) Screening or landscaping buffer improvements along Black Nugget Road.

In order to ensure that construction, delivery and other construction-related vehicles do not use Black Nugget Road for access to the Urban Development Area, the Partnership shall include in all construction contracts a provision precluding all contractors and sub-contractors from using Black Nugget Road for access to the construction sites in the Urban Development Area.

Phase II. Phase II shall consist of final plat approval for 3,250 single-family residential units (or up to 3,950 if commercial uses that would be in Phase III are converted to residential as described below) upon completion of construction of the following Phase II road improvements, and issuance of a certificate of occupancy for up to 1,500,000 square feet of commercial uses, and 425,000 square feet of retail uses upon completion of construction of the following Phase II road improvements:

(a) Sunset Interchange improvements as defined in this MTFPA at Section 2.4.

(b) Minimum four lane South SPAR connection from the north boundary of Urban Development Area 4 to the Sunset Interchange.

Phase III. Phase III shall consist of full Project buildout, consisting of Phases I and II with issuance of certificates of occupancy for a total of up to 2,950,000 square feet of commercial uses, upon completion of the North SPAR connection, with a minimum of four lanes.

COMBINED PHASES

The road improvements for the Phases described above may be combined or constructed concurrently, in which event Project buildout will be allowed at the combined level of the completed Phases. Phase II and III development shall not, however, proceed until requirements for development of all prior phases have been satisfied.

EQUIVALENCY TO CONVERT STANDARD SINGLE FAMILY TO OTHER RESIDENTIAL USES

The residential uses stated in Phases I and II are stated in terms of standard single family units (non-age restricted). The Partnership may allocate the equivalent single-family dwelling unit trips (i.e., 10 trips per day per hour) to either single-family units, multi-family units, or active senior housing in accordance with the following conversion factors:

100 Standard Single-Family Detached Dwelling Units Will Convert to:	
RESIDENTIAL USES	
Single-family detached	100 dwelling units
Single-family attached	116 dwelling units
Multi family	151 dwelling units
Age-restricted (Active senior housing, over 55 yrs)	
- Single-family	217 dwelling units
- Multi-family	270 dwelling units
- 60 % single/40 % multi-family	238 dwelling units

The conversions based upon transportation equivalency allow the Partnership to elect the specific types of residential units within the Phases defined herein. However, notwithstanding that transportation equivalency, the maximum development allowed within the UGA shall be 3,250 residential units, 2.95 million square feet of commercial uses, and 425,000 square feet of retail uses. Further, after Phase I, the Partnership may elect to convert up to 840,000 commercial square feet into residential uses at the ratio of 1 residential unit (of any type) for each 1,200 square feet of authorized commercial space, in which event the full Project buildout would include 3,950 residential units, 2.11 million square feet of commercial uses, and 425,000 square feet of retail uses.

METRO PARK & RIDE FACILITY AT GRAND RIDGE

The County, City and Partnership agree to work together on plans to provide a park & ride lot facility at or near the Grand Ridge Project and transit service to the Grand Ridge Project area. The County's obligation to provide such a facility and service, and the Partnership's obligation to contribute to the same, shall be contingent upon the County, Partnership and City agreeing to and executing a separate written agreement detailing the specific terms, conditions and contingencies of their respective obligations (hereinafter referred to as the "Transit Agreement").

The parties anticipate that the environmental review, financing mechanisms and schedule for construction of the Sunset Interchange and Sammamish Plateau Access Road (SPAR) shall be known and agreed to by all concerned persons and entities within three years. At a minimum, any Transit Agreement shall provide that construction of the park & ride lot facility and implementation of transit service shall be contingent upon execution of construction contracts for the Sunset Interchange and SPAR improvements.

The parties shall endeavor to meet the following objectives in developing the Transit Agreement.

- 1) The parties should cooperate on planning, siting, construction, and financing of a park & ride lot facility which would be the connection point for regional transit service. The County may elect to provide only peak-hour regional transit service to the park & ride lot facility, depending on the capacity of that facility.
- 2) The Partnership should cause to be provided to the County, free of charge, sufficient land to site a park & ride lot facility. The Partnership may secure said land either through an agreement with the Washington State Department of Transportation (WSDOT) under which WSDOT would reserve for ten (10) years, and then enter into a long term agreement with the County for use as a park & ride lot, a site of up to ten (10) acres which is located adjacent to the planned urban core of the Project, or through other means which are deemed acceptable by the County. Provided, however, the County, the Partnership and WSDOT may agree to explore a trade of the aforementioned ten acres of land should a more suitable site for the park & ride facility be identified in the future.
- 3) The Partnership should contribute toward the development of the park & ride lot facility, including but not limited to: preparing environmental analyses as defined in the scope of work for the SPAR Road EIS; including a the Metro park and ride facility as an authorized use within the Annexation Agreement for Development Area 4 and the expansion south and east of Area 4; providing roadway access to the facility from the SPAR Road, if necessary; and sizing and locating off-site storm drainage facilities, water, and other utilities so they are available to serve the site.
- 4) The County and City should cooperate with the Partnership in the design of the park & ride lot facility after the environmental review process is complete. The County shall assure that the park & ride lot facility adheres to established construction standards and procedures.

5) The County should reserve up to \$4,500,000 within its appropriate capital program to contribute toward the cost of developing the park & ride lot facility. Upon the Partnership's review and approval of the identified costs, the Partnership should contribute \$100,000 to the construction costs of the park & ride lot facility. The Partnership's contribution to the capital construction costs of the park & ride facility shall be exclusive of the non-monetary contributions identified in Sections 2 and 3 of this Attachment.

6) The Partnership and the County should explore a mutually beneficial financing mechanism for construction and maintenance of the park & ride lot facility. The options include, but are not limited to, a long-term lease of the facility, a turnkey construction arrangement, a permanent easement, and exploration of other issues such as joint use of the facility and provision of maintenance and security services for the facility.

7) The Partnership should consult with the County and the City on the design of the overall Grand Ridge Project to insure that the goal of providing a transit- and pedestrian-oriented community is met. The parties' collaboration in planning shall include such issues that may affect the success of the goals and commitments outlined by the Partnership.

**PARK AND RIDE FACILITY
TRIP REDUCTIONS
METHODOLOGY FOR DETERMINING GRAND RIDGE TRIP REDUCTION
AND POTENTIAL CREDIT FOR PARK AND RIDE FACILITY**

CRITICAL ASSUMPTIONS:

Current analysis was completed assuming up to 1,000 space Park and Ride lot; actual credit will not be calculated or applied until construction contract for the facility is executed and the size is known, pursuant to the Master Transportation Financing Agreement (MTFA).

Up to 400 spaces would be filled during the peak hour while the remainder would be filled during the peak shoulder hours or at non-peak times.

Grand Ridge residential trips would represent 5 to 6% of the peak spaces, equaling approximately 100 spaces.

Off site traffic currently passing through Grand Ridge to other Park and Ride facilities or driving to destinations which would now use the Grand Ridge Park and Ride facility equals 300 spaces (400-100 = 300 intercepted trips).

Grand Ridge office trip reduction of up to 5% possible, based on reverse commute and amount of peak hour transit service.

METHOD OF CALCULATION

King County will calculate the potential Park and Ride credit using the foregoing assumptions, but based on the actual number of spaces made available for Park and Ride use on terms acceptable to the County. There are two portions of the potential credit: one for intercepted Off-site Trips; and one for Office Trips. The maximum credit for both portions will be determined by the number of spaces in the facility, as illustrated in the following table.

PROPORTIONAL SHARE TABLE

SPACES	MAXIMUM CREDIT	OFFICE SHARE	OFF-SITE SHARE
1,000	\$3.17 M	\$922 K	\$2,245 K
800	\$2.79 M	\$922 K	\$1,796 K
500	\$1.70 M	\$576 K	\$1,123 K
350	\$1.17 M	\$380 K	\$ 786 K
0	0	0	0

Since the Park and Ride facility may be constructed in phases, the credit may be adjusted over time as additional Park and Ride spaces are made available. These credits shall be increased by the ENR Index as described in Section 5.3 of the MTFA.

Office Trip Credit: In order to qualify for the potential Office Trip portion of the credit, the Grand Ridge Partnership is not required to make any financial contribution to the design and

- construction of the Park & Ride facility. However, the credit will only be applied to the Partnership's "Remaining Portion of the Variable Amount" (as defined in Section 5.4.4 of the MTFA. Moreover, the credit will be applied only if the Park & Ride facility is located adjacent to the commercial office space in Grand Ridge, or failing that, if either: (1) the Partnership finances the provision of shuttle service between the facility and the Grand Ridge Office space during the peak commute hours; or (2) Park & Ride lot transit service stops at the office complex.

Off-site Trips: In order to qualify for the potential Off-site Trip portion of the credit, the Partnership is required to execute an agreement with the County as described in Attachment C and make significant contributions to the land acquisition, design and construction of the facility. Based on the commitments made by the Partnership in this subsequent agreement (to be negotiated following award of construction contracts for the Sunset Interchange and SPAR improvements), the County will place a value on the cash and in-kind contributions to be made by the Partnership, using the estimated savings to the County based on comparable park and ride projects. This value will set the maximum amount of the Off-site Trip portion of the credit earned by the Partnership. The credit to be applied will be set at the smaller of the following two figures: (1) the value of the Partnership's contributions to the facility; or (2) the value calculated for off-site trip credit, determined by the number of spaces to be provided in the facility.