

1 **INTERLOCAL AGREEMENT FOR SWIFT BRT – ORANGE LINE**
2

3 This Interlocal Agreement (the “Agreement”), is made and entered into by and between
4 Snohomish County, a political subdivision of the State of Washington (the “County”), and the
5 Snohomish County Public Transportation Benefit Area, a municipal corporation of the State of
6 Washington, dba Community Transit (“Community Transit”), collectively the “Parties”,
7 concerning the coordination and construction of a new east west Bus Rapid Transit (BRT) Swift
8 Line.
9

10 WHEREAS, Community Transit and the County are working together on transportation
11 demand management strategies, to provide people with efficient multimodal alternatives that
12 maximize use of the 164th Street corridor, to encourage efficient commuter patterns, reduce air
13 pollution, efficiently direct public resources, and promote desirable commercial and residential
14 development patterns along the corridor; and
15

16 WHEREAS, Community Transit has implemented two Swift BRT Lines in Snohomish
17 County: (1) the Blue Line which runs along the Highway 99 corridor between Everett and
18 Shoreline; and (2) the Green Line which provides connectivity along Airport Rd and SR-527
19 between the Seaway Transit Center and Canyon Park & Ride; and
20

21 WHEREAS, Community Transit has planned implementation for a new east-west Swift
22 BRT Line, (the “Orange Line”), to connect Edmonds College to the future Lynnwood City Center
23 Station and further east to the Park & Ride Facility at McCollum Park; and
24

25 WHEREAS, the implementation of the Orange Line will require Community Transit to
26 construct and install certain improvements within the County’s rights-of-way (the “Project”) as
27 identified in Exhibit B; and
28

29 WHEREAS, the County has planned the implementation for phase 2 of its adaptive signal
30 control system along 164th Street with transit signal priority in conjunction with the Orange Line;
31 and
32

33 WHEREAS, the County is currently planning for future Business Access Transit (BAT)
34 lanes along 164th Street under phase 2 of the high capacity transit access study; and
35

36 WHEREAS, Sound Transit’s Lynnwood Link Extension will open light rail service in
37 Snohomish County in the Summer of 2024 bringing increased ridership to the County; and
38

39 WHEREAS, connectivity to the Lynnwood City Center Station depends on transit service
40 to reduce single-occupant vehicle trips.

1 NOW, THEREFORE, the County and Community Transit hereby agree as follows:

2
3 1. Requirements of Interlocal Cooperation Act.

4
5 1.1 Authority for Agreement. This Agreement is authorized by and entered into
6 pursuant to the Interlocal Cooperation Act, chapter 39.34 RCW.

7
8 1.2 Purpose of Agreement. The purpose and intent of this Agreement is to facilitate
9 the coordination between the Parties for the construction and long-term ownership and
10 maintenance of the Project. This Agreement also establishes Federal Transit Administration
11 (FTA) continuing control requirements for Project improvements.

12
13 1.3 No Separate Entity. The Parties agree that no separate legal or administrative
14 entities are necessary to carry out this Agreement.

15
16 1.4 Ownership of Property. Except as expressly provided to the contrary in this
17 Agreement, any real or personal property used or acquired by either Party in connection with the
18 performance of this Agreement will remain the sole property of such Party, and the other Party
19 shall have no interest therein.

20
21 1.5 Administrators. Each Party to this Agreement shall designate an individual
22 (“Administrator”), which may be designated by title or position, to oversee and administer such
23 Party’s participation in this Agreement. The Parties’ initial Administrators shall be the following
24 individuals:

<p>Community Transit’s Initial Administrator: Christopher Silveira BRT Program Manager 7100 Hardeson Rd Everett, WA 98203 christopher.silveira@commtrans.org 425-438-6169</p>	<p>County’s Initial Administrator: Max Phan Program Planning & Env Manager 3000 Rockefeller Ave, MS 607 Everett, WA 98201 Mphan@snoco.org 425-388-3109</p>
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25
26
27 Either Party may change its Administrator at any time by delivering written notice of such Party’s
28 new Administrator to the other Party.

29
30 2. Coordination. The County and Community Transit agree that early coordination for the
31 Project will ensure efficient use of public funds and implement capital projects on time and on
32 budget.

33
34 3. Municipal Requirements. To further the permitting process, the County and Community
35 Transit have agreed to the following municipal requirements:

1 3.1 SEPA. Pursuant to WAC 197-11-924, the County agrees that Community Transit
2 will serve as Lead Agency for reviewing SEPA.

3
4 3.2 Permits and Fees. Community Transit agrees they will obtain all necessary and
5 required permits to construct the Project from the Snohomish County Department of
6 Planning & Development Services and to pay all fees necessary for such permits.

7
8 3.3 Zoning and Land Use. The County agrees that the Orange Line Project BRT
9 Stations will be considered a conforming use of the right-of-way as long as the stations
10 continue to serve a transit purpose for Snohomish County.

11
12 3.4 Design Standards. The County and Community Transit approve the design features
13 and iconic markers as identified in Exhibit C to facilitate public awareness and uniform
14 look desired by Community Transit.

15
16 4. Ownership and Maintenance Responsibilities. The Parties agree that Community Transit
17 shall retain ownership of those structures and other items identified in blue on Exhibit B. The
18 County shall accept ownership of all other improvements identified in green and teal on Exhibit
19 B, which are installed as part of the Project by Community Transit within the County rights-of-
20 way, subject to final review and acceptance by the County, which acceptance authority is delegated
21 to the County Engineer. The Parties also agree that each Party shall have the responsibility to
22 maintain the structures and items identified in Exhibit B, as referenced above. Said maintenance
23 shall include, but not be limited to, the following:

24
25 4.1 Community Transit Maintenance Responsibility. Community Transit is responsible
26 for routine, ongoing, and structural maintenance of BRT Stations, loading platform, and
27 passenger facilities. The maintenance includes cleaning of stations while utilizing best
28 management practices to prevent pollutants from entering the stormwater conveyance
29 system.

30
31 4.2 County Maintenance Responsibility. The County will continue to be responsible
32 for routine, ongoing, and structural maintenance of roadway, sidewalks, ADA ramps,
33 streetlights, signals, and stormwater facilities constructed as part of the Project within the
34 County's jurisdictional limits.

35
36 5. Right-of-way Acquisition and Transfer of Property. Community Transit shall be
37 responsible for identifying, paying for, and acquiring all rights-of-way necessary for the Project.
38 Certain portions of said right of way, including roadway, sidewalk, streetlights, signals, stormwater
39 facilities and utility easements required for the Project, shall be transferred to the County once
40 construction is completed. A list of the approximate location and description of the rights-of-way

1 Transfer Easements to be transferred to the County is identified in Exhibit E. In consideration for
2 signing this Agreement the County agrees to the assignment of Transfer Easements, subject to
3 final review and acceptance by the County, which acceptance authority is delegated to the County
4 Engineer. The transfers will be facilitated by Community Transit or its agent and will be
5 completed at such time as all Transfer Easements have been acquired and construction of the
6 Project is completed. The Transfer Easements will convey the same property interests or rights as
7 was acquired by Community Transit.
8

9 6. Effective Date and Duration. This Agreement shall take effect when it has (i) been duly
10 executed by both Parties, and (ii) as provided by RCW 39.34.040, either filed with the County
11 Auditor or posted on at least one Party's Interlocal Agreements website. This Agreement shall
12 remain in effect until both Parties agree in writing to amend, suspend or supersede the Agreement.
13

14 7. FTA Status and Control Section. The Project is funded, in part, by the Federal Transit
15 Administration (FTA). The County acknowledges that pursuant to FTA grant requirements,
16 Community Transit must demonstrate and retain satisfactory continuing control over the use of
17 the Project, related improvements and right-of-way. To address FTA continuing control
18 requirements, BRT Stations, right-of-way acquisitions, and related improvements must remain
19 available to be used for its originally authorized FTA grant purpose throughout its useful life,
20 including but not limited to retaining undiminished transit function for the useful life of the Station,
21 as defined by and in a manner satisfactory to the FTA. If a future project requires any BRT
22 Station(s) approved pursuant to this Agreement to be modified or relocated, the project proponent
23 will be required to obtain all applicable County permits and approvals, and will be responsible for
24 coordinating the transportation planning and project design with Community Transit to support
25 continued transit service at the relocated or modified facility. The County acknowledges the
26 Federal interest in the Project property and agrees that it will take no action which compromises
27 or otherwise diminishes such interest. The future project proponent will be charged all applicable
28 planning, design, construction, administrative, and relocation costs, expenses and fees incurred
29 and recoverable by the Parties in addressing the future project.
30

31 8. Independent Entity. The Parties shall perform all work under this Agreement as an
32 independent governmental entity and not as an agent, employee, or servant of the other Party. Each
33 Party has the express right to direct and control its activities in providing the agreed work in
34 accordance with the specifications set out in this Agreement. Each Party shall only have the right
35 to ensure performance.
36

37 9. Indemnification and Hold Harmless.
38

39 9.1 Indemnification/Hold Harmless. Each party shall protect, defend, indemnify, and
40 hold harmless the other party, its officers, officials, employees, and agents, from any and all claims,

1 demands, suits, penalties, losses, damages, judgments, or costs of any kind whatsoever (“claims”),
2 arising out of or in any way resulting from the indemnifying party’s officers, employees, agents,
3 contractors and/or subcontractors of all tiers, consultants and/or sub-consultants, acts or omissions,
4 or performance or failure to perform this Agreement, to the maximum extent permitted by law or
5 as defined by RCW 4.24.115, now enacted or as hereinafter amended.

6
7 9.2 Waiver of Immunity Under Industrial Insurance Act. The indemnification
8 provisions of this Section are specifically intended to constitute a waiver of each party’s immunity
9 under Washington’s Industrial Insurance Act, Title 51 RCW, as with respect to the other party
10 only, and only to the extent necessary to provide the indemnified party with a full and complete
11 indemnity of claims made by the indemnitor’s employees. The Parties acknowledge that these
12 provisions were specifically negotiated and agreed upon by them.

13
14 9.3 No Third Party Right. Nothing contained in this section of this Agreement shall be
15 construed to create a liability or a right of indemnification in any third party.

16
17 9.4 Survival. The provisions of this Section shall survive the expiration or termination
18 of this Agreement with respect to any event occurring prior to such expiration or termination.

19
20 10. Insurance. Each party shall maintain its own insurance and/or self-insurance for its
21 liabilities from damage to property and /or injuries to persons arising out of its activities associated
22 with this Agreement as it deems reasonably appropriate and prudent. The maintenance of, or lack
23 thereof of insurance and/or self-insurance shall not limit the liability of the indemnifying part to
24 the indemnified party(s). The County and Community Transit shall be named as an additional
25 insured on all Certificates of Insurance when required for any County permit for the Project.

26
27 11. Notices. All notices required to be given by any Party to the other Party under this
28 Agreement shall be in writing and shall be delivered either in person, by United States mail, or by
29 electronic mail (email) to the applicable Administrator or the Administrator’s designee; provided,
30 that if the notice is given by email, the email shall be accompanied by telephonic notice and an
31 original counterpart of the notice shall concurrently be sent by mail to the applicable Administrator
32 or Administrator’s designee. Notice delivered in person shall be deemed given when accepted by
33 the recipient. Notice by United States mail shall be deemed given as of the date the same is
34 deposited in the United States mail, postage prepaid, and addressed to the Administrator, or their
35 designee, at the addresses set forth in Section 1.5 of this Agreement. Notice delivered by email
36 shall be deemed given as of the date and time sent; provided that (1) the sender does not receive
37 any failure of delivery notice; (2) the foregoing requirements in connection with email notice are
38 satisfied; and (3) any notice by email sent on a day other than a business day shall be deemed
39 effective on the first business day after being sent.

1 12. Dispute Resolution.
2

3 12.1. Settlement Meeting. It is the Parties' intent to work cooperatively and to resolve
4 disputes in an efficient and cost-effective manner. If any dispute arises between the Parties relating
5 to this Agreement, then the Parties' respective Administrator's, or the Administrator's designees,
6 shall meet and seek to resolve the dispute, in good faith, within ten business (10) days after a
7 Party's request for such a meeting. In addition to the Administrators or designees, each Party shall
8 send any other persons with technical or other information relating to the dispute to the meeting.
9

10 12.2. Mediation. If the Parties cannot resolve the issue within ten (10) days then they
11 shall mediate the matter using a mediator from Judicial Dispute Resolution, LLC or any other
12 mediation service mutually agreed to by the Parties, or as appointed by the court if the Parties
13 cannot agree (collectively "JDR"), within seven (7) days of their failure to agree pursuant to
14 Section 12.1. The Parties shall evenly split any fees charged by JDR, regardless of the outcome
15 of the mediation. Each Party shall bear its own attorneys' fees in connection with the mediation.
16

17 12.3. Notice of Default. If the Parties are unable to resolve their dispute through
18 mediation, either Party may serve a written Notice of Default on the other Party. The Notice of
19 Default shall describe the nature of the dispute and the noticing Party's requested resolution.
20 Twenty (20) business days after service of a Notice of Default, either Party may file suit, seek any
21 available legal remedy, or agree to alternative dispute resolution methods. At all times prior to
22 resolution of the dispute, the Parties shall continue to perform any undisputed obligations and
23 make any undisputed required payments under this Agreement in the same manner and under the
24 same terms as existed prior to the dispute.
25

26 13. Miscellaneous.
27

28 13.1 Entire Agreement. This Agreement constitutes the entire agreement between the
29 Parties regarding the subject matter hereof and supersedes any and all prior oral or written
30 agreements between the Parties regarding the subject matter contained herein.
31

32 13.2 Amendment. This Agreement shall only be modified or amended by a written
33 instrument executed by both Parties.
34

35 13.3 Governing Law and Venue. This Agreement shall be governed by and enforced in
36 accordance with the laws of the State of Washington. The venue of any action arising out of this
37 Agreement shall be in Snohomish County Superior Court.
38

39 13.4 Interpretation. This Agreement and each of the terms and provisions of it are
40 deemed to have been explicitly negotiated by the Parties, and the language in all parts of this
41 Agreement shall, in all cases, be construed according to its fair meaning and not strictly for or

1 against either of the Parties hereto. The captions and headings in this Agreement are used only for
2 convenience and are not intended to affect the interpretation of the provisions of this Agreement.

3
4 13.5 No Waiver. A Party's forbearance or delay in exercising any right or remedy with
5 respect to a default by the other Party under this Agreement shall not constitute a waiver of the
6 default at issue. Nor shall a waiver by either party of any particular default constitute a waiver of
7 any other default or any similar future default.

8
9 13.6 No Assignment. This Agreement shall not be assigned, either in whole or in part,
10 by either Party without the express written consent of the other Party, which may be granted or
11 withheld in such Party's sole discretion.


12
13 13.7 No Third Party Beneficiaries. This Agreement and each and every provision hereof
14 are for the sole benefit of the County and Community Transit. No other persons or parties shall
15 be deemed to have any rights in, under or to this Agreement.

16
17 13.8 Execution in Counterparts. This Agreement may be executed in two or more
18 counterparts, each of which shall constitute an original and all of which shall constitute one and
19 the same agreement.

20
21 IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth
22 under their signatures below, and effective as of the date of the last party to sign.

23
24
25 **SNOHOMISH COUNTY:**

COMMUNITY TRANSIT:


26
27
28 By:  Ken Klein
29 2021.09.30 06:58:02 -07'00'
30 Dave Somers
31 Snohomish County Executive

By: Ric Ilgenfritz  Digitally signed by Ric Ilgenfritz
Date: 2021.09.03 12:18:33 -07'00'
Ric Ilgenfritz
Chief Executive Officer

32
33 Approved as to Form:

Approved as to Form:

34
35
36 By: /s/ George B. Marsh 7/26/2021
37 Deputy Prosecuting Attorney

By: Matthew R. Hendricks  Digitally signed by Matthew R.
Hendricks
Date: 2021.09.01 15:13:11 -07'00'
General Counsel

1
2
3
4

Exhibit A

[Orange Line Project Map]



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6

1 **EXHIBIT B**

2
3 **[Asset Ownership and Maintenance]**

4
5 This Exhibit summarizes the Project elements to be transferred to County ownership and the
6 elements to be retained by Community Transit. Asset ownership requires assurance to the FTA
7 of ongoing maintenance and continuing control.

8
9 **Upon acceptance of the County Engineer, Project elements to be owned and maintained by**
10 **the County include:**

- 11 • Right-of-way easements
- 12 • Roadway, curb & gutter
- 13 • Sidewalk & ADA ramps
- 14 • Traffic & pedestrian signals
- 15 • Stormwater systems

16
17 **Project elements to be owned and maintained by Community Transit include:**

18 Stations, including shelters, benches, garbage bins, railings, windcreens, ticket vending
19 machines, ORCA card readers, information displays, iconic marker/sign, station pavement
20 graphics/texture, curb bumpers.

21
22 **The following aerial maps show the approximate location of Project assets.**

23 Project elements shaded in green and teal and within County rights-of-way represent assets to be
24 owned and maintained by the County.

25 Elements shaded in blue represent assets to be owned and maintained by Community Transit.

26

Location
164 th St SW at Swamp Creek P&R
Ash Way P&R
164 th St SW @ Ash Way
164 th St SW @ Larch Way
164 th St SW @ North Rd

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1



DRAFT communitytransit

Ash Way P&R

Swift
BUS RAPID TRANSIT

Otak

STATION #
EB 3233
&
WB 3239



Swift
BUS RAPID TRANSIT

DRAFT **communitytransit**

164th St SW at Ash Way

Otak

CORRIDOR INTERSECTION #7



1



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3
4

EXHIBIT C

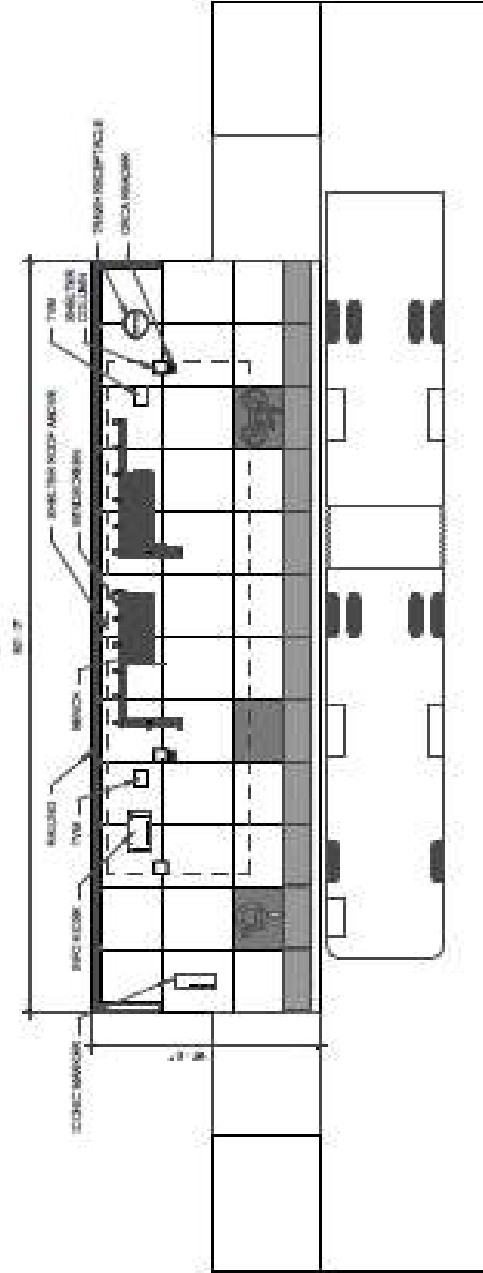
[Station Design]



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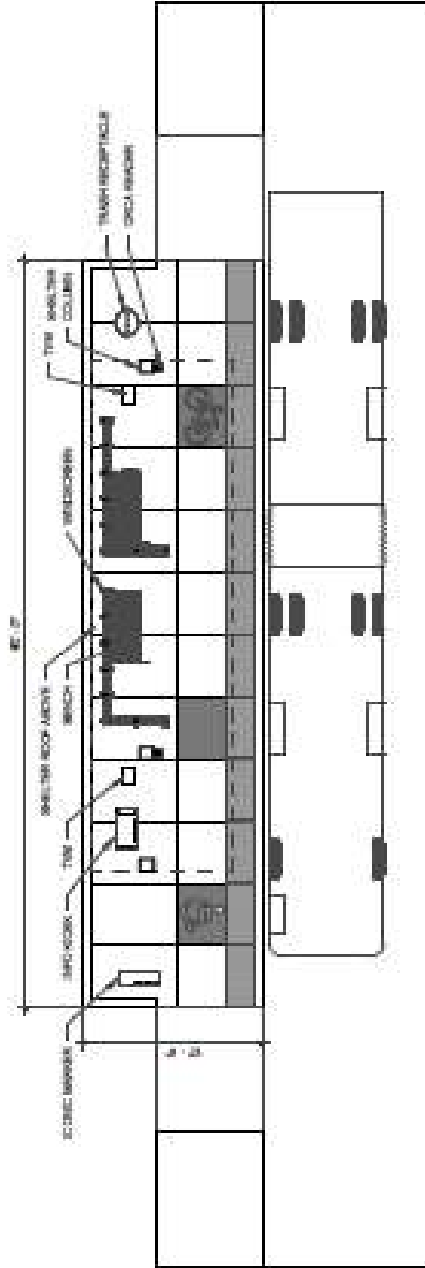
ASYMMETRICAL OPTION FLOOR PLAN 16'

DRAFT



ASYMMETRICAL OPTION
NARROW FOOTPRINT FLOOR PLAN

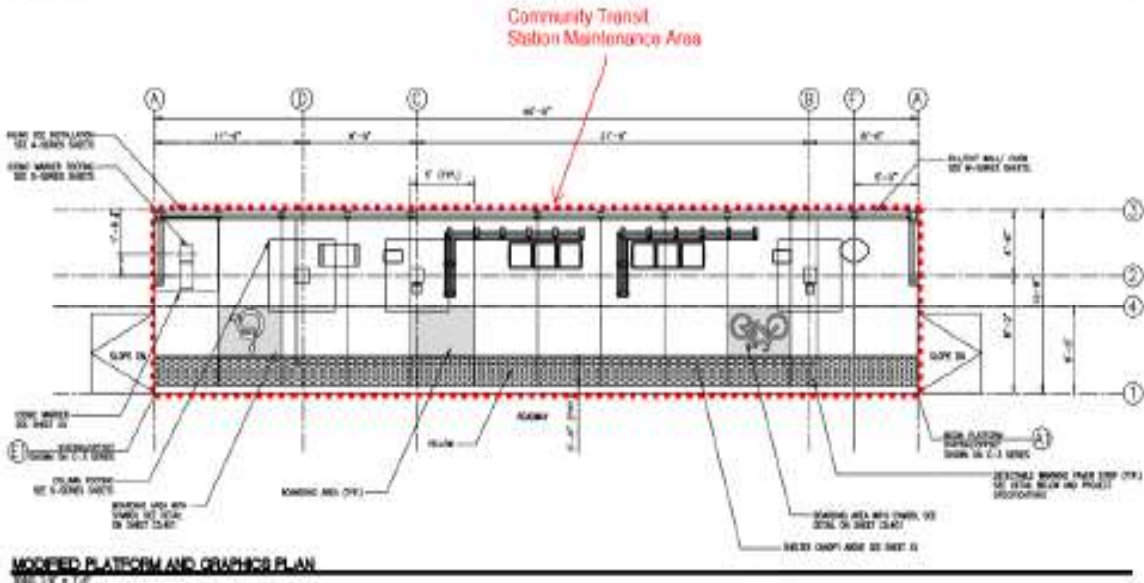
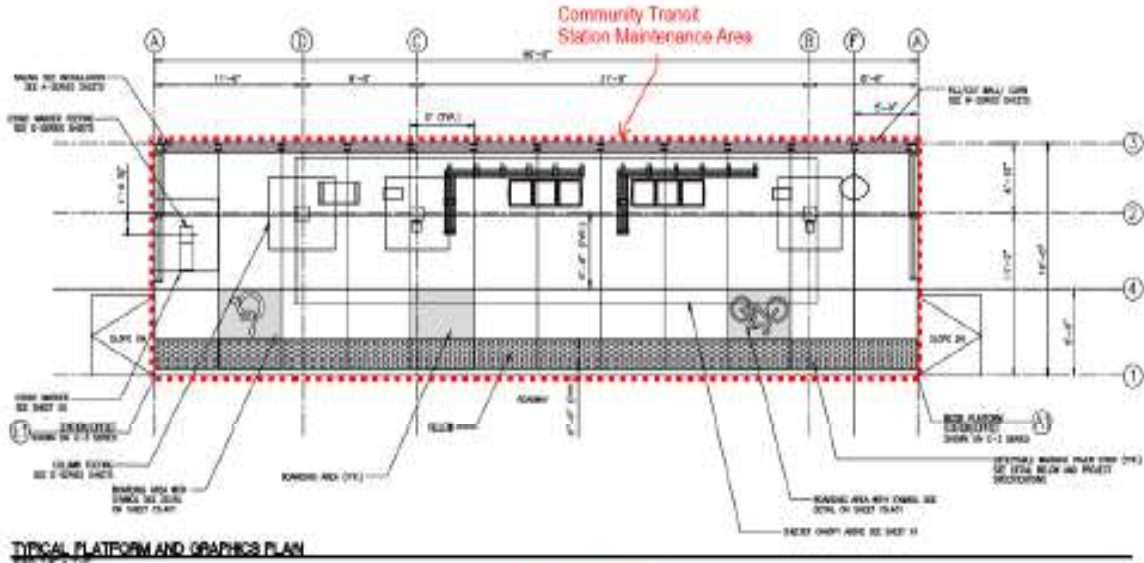
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EXHIBIT D

[Station Maintenance Area]

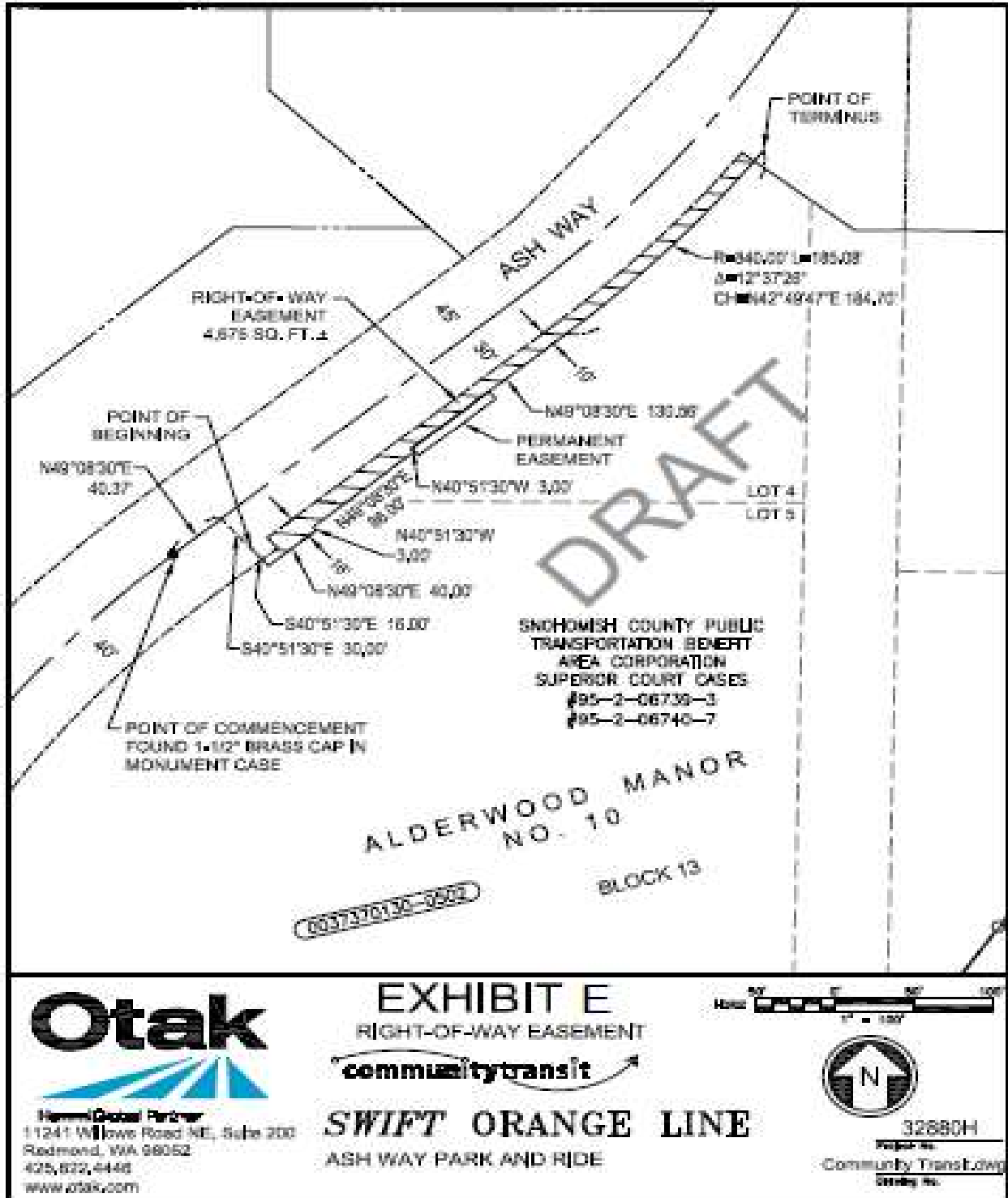


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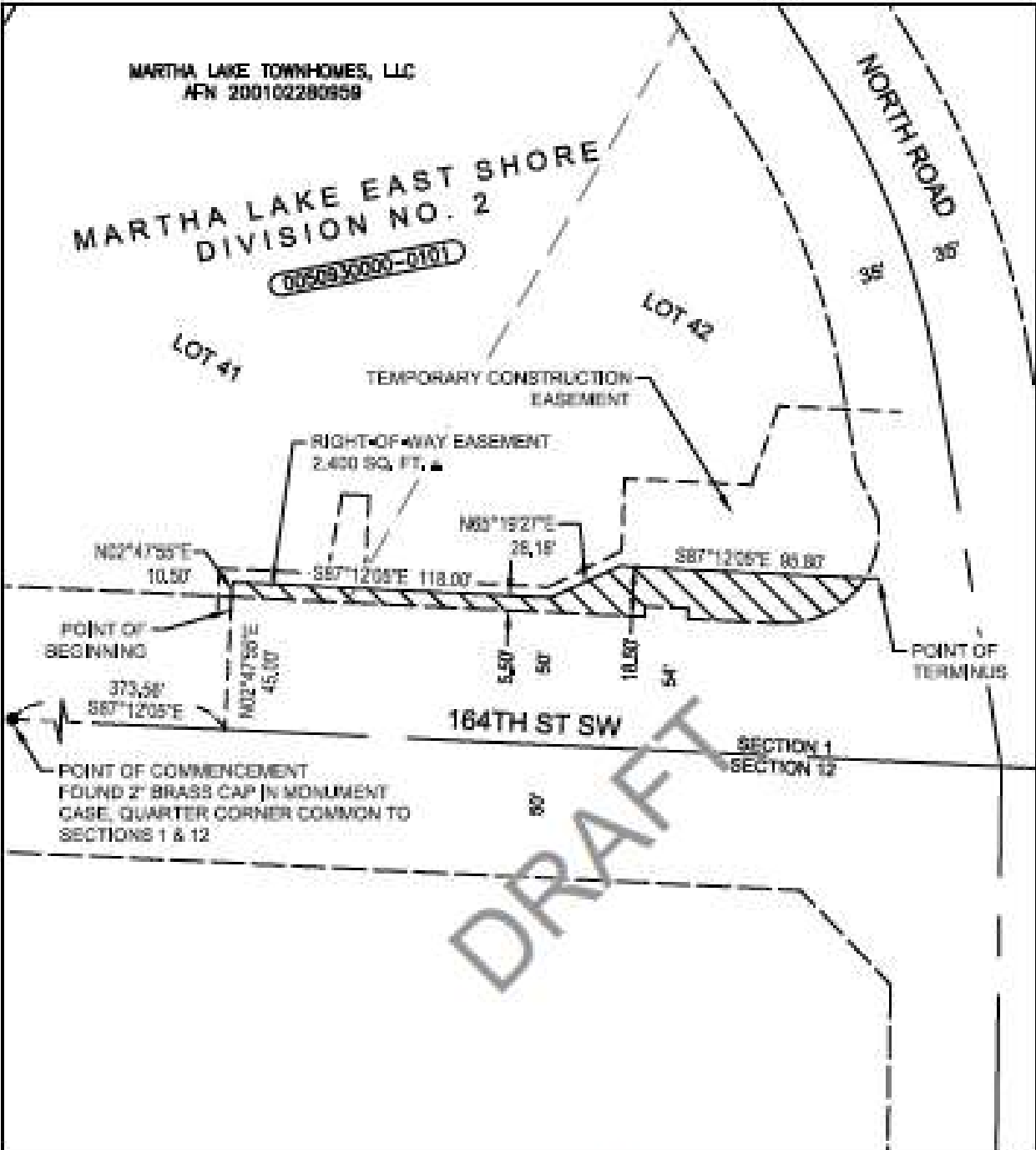
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5

EXHIBIT E

[Approximate Location and Description of Right-of-Way to be Transferred to the County]



6



HammiGlobal Partner
 11241 Willow Road NE, Suite 200
 Redmond, WA 98052
 425.822.4448
 www.otak.com

EXHIBIT E
 RIGHT-OF-WAY EASEMENT
 communitytransit
SWIFT ORANGE LINE
 164TH STREET SW & NORTH ROAD



32890H
 Project No.
 Martha Lake.dwg
 Drawing No.