

## **DRAFT**

### **SOUND TRANSIT CHIEF EXECUTIVE OFFICER EMPLOYMENT AGREEMENT**

This Employment Agreement (“Agreement”) is entered into by and between the Central Puget Sound Regional Transit Authority (“Sound Transit”) and NAME (collectively, the “Parties”), and made effective DATE.

1. **Position/Duties.** CEO shall report to, and take direction from, the Board. CEO shall perform the duties customarily performed by the CEO of a large regional public transit authority and shall be responsible for all aspects of Sound Transit’s internal and external operations, direction and performance (financial and otherwise). More specific duties and responsibilities include, without limitation, acting as Sound Transit’s chief spokesperson and ambassador to internal and external stakeholders, including without limitation employees, local communities, regulatory agencies, and business partners; making annual budget proposals and otherwise facilitating the processes of setting and managing Sound Transit budgets; communicating with the Board in a consistently timely, candid and accurate manner and otherwise keeping the Board fully and timely apprised of all material information related to Sound Transit and/or CEO’s responsibilities under this Agreement; implementing Board-approved business, operational and other resolutions, policies, strategies and directives; overseeing management of all Sound Transit personnel; supporting, promoting and furthering Sound Transit’s commitment to diversity, inclusion and equal employment opportunity, including without limitation its related policies, programs and initiatives; and promoting and maintaining a work environment that emphasizes collegiality, collaboration and mutual respect to the fullest extent possible. The above-described duties and responsibilities are illustrative, not restrictive. CEO’s precise duties may be changed, extended or curtailed, from time to time at the discretion of the Board Chair and/or Executive Committee, and CEO shall assume and perform the further responsibilities and duties to which he is reasonably assigned. CEO must devote CEO’s entire working time, effort and skill to Sound Transit’s business and affairs; faithfully and diligently serve Sound Transit’s interests; and refrain from engaging in any business or employment activity that is not on Sound Transit’s behalf (whether or not pursued for gain or profit) and/or not for a charitable or community service purpose, except for (a) activities approved in writing in advance by the Board Chair and/or Executive Committee, which approval shall not be unreasonably withheld, and (b) passive investments that do not involve CEO rendering advice or service to the businesses in which the investments are made.

2. **Term.** Subject to earlier termination under Section 6, the initial Term of this Agreement shall be a period of three calendar years, commencing on DATE and ending on DATE. Thereafter, the Term shall automatically renew for successive one-year periods, measured from January 1 through December 31, unless either Party provides written notice of non-renewal no less than ninety (90) calendar days prior to the last day of the then-current Term. There shall be no more than three such automatic renewals.

3. **Compensation and Benefits.**

(a) Base Salary. During the first year of the Term, measured from DATE through December 31, 2019, Sound Transit shall pay CEO a Base Salary in the annualized gross amount of XXX Dollars and No Cents (\$XXX,XXX.00). Thereafter, CEO's Base Salary shall be evaluated and adjusted, at the Board's discretion, in accordance with Sound Transit policy, including without limitation Sound Transit's Compensation Guidelines and Salary Adjustment Policy and Performance Management Review Guidelines, as currently in effect or hereafter amended at Sound Transit's discretion. All payments of Base Salary shall be made in accordance with Sound Transit's then-current payroll practices and policies.

(b) Contribution and Performance Award. CEO shall be eligible for an annual contribution and performance award per the terms of this Agreement. The determinations whether, and in what amounts, to grant such an award shall be made by the Board at its sole and exclusive discretion, considering, among other factors, all aspects of Sound Transit's and CEO's performance. Absent special circumstances, the determinations regarding bonus payments shall be made, and any corresponding sums paid, no later than March 31 of the calendar year following the calendar year under review. To be eligible for any bonus payment, CEO must have been continuously employed by Sound Transit through December 31 of the calendar year under review. Under no circumstances, shall a bonus be paid on a prorated basis. Otherwise, to the fullest extent possible, CEO's contribution and performance award shall be administered in accordance with Sound Transit's Contribution & Performance Award policy and Performance Management Review Guidelines, as currently in effect or hereafter amended at Sound Transit's discretion.

(c) Deferred Compensation Plan. CEO shall be eligible to participate in Sound Transit's Section 457(b) Eligible Deferred Compensation Plan, as currently in effect or hereafter amended at Sound Transit's discretion. As to CEO, this benefit currently includes annual contributions on CEO's behalf in a gross amount equal to the lesser of (a) the maximum amount allowable under Internal Revenue Code Sections 457(b) and (e), with cost of living adjustments, or (b) XXX Dollars and No Cents (\$XX,XXX.00).

(d) Flexible Spending Arrangement. CEO shall be eligible to participate in Sound Transit's Flexible Spending Arrangement plan, as currently in effect or hereafter amended at Sound Transit's discretion. As to CEO, this benefit currently includes a matching contribution by Sound Transit up to the maximum allowable under the Internal Revenue Code Section 125 regulations, which for 2019 is anticipated to be Two Thousand and Seven Hundred Dollars and No Cents (\$2,700.00).

(e) Benefits Generally. Unless otherwise specifically provided in this Agreement, Executive shall be entitled to participate in the employee benefit plans currently and hereafter maintained by Sound Transit for its senior executives, including group medical, dental and vision insurance coverage for CEO and CEO's dependents; group term life insurance coverage; accidental death and disability coverage; long-term disability insurance coverage; a Section 401(a) Money Purchase Pension Plan; accrual and use of paid vacation and sick leave, in accordance with Sound Transit policies and practices, as currently in effect or hereafter amended at Sound Transit's discretion; annual ORCA pass for travel on the Sound Transit, Pierce Transit, King County Metro, City of Seattle (South Lake Union and First Hill streetcars), and Community Transit bus and rail systems; and access to

transportation under Sound Transit's Guaranteed Ride Home Program and/or use of a Sound Transit vehicle in case of illness, injury or emergency when carpooling using public transportation. Unless specifically modified by this Agreement, the terms and conditions of Sound Transit's benefit plans are governed by the plan documents themselves. Sound Transit does not promise that any particular kind or level of benefits will continue in the future and reserves the right to terminate or modify the benefits it provides at any time, at its discretion, to the extent permitted by law, provided such adjustment applies to all similarly situated senior executives.

(f) Home Office Equipment. Sound Transit shall provide CEO such equipment and supplies as may be necessary to equip a home office and be responsible for routine maintenance and operational expenses of such equipment. This equipment, which is, and at all times remains, Sound Transit property, may include, but is not limited to, personal computer, tablet, or laptop, printer, and a mobile phone as authorized by the Chair of the Board. The CEO may be reimbursed for the use of a personal mobile phone in accordance with Sound Transit policy and procedures. Use of agency or personal equipment must be consistent with Sound Transit policies, as currently in effect or hereafter amended at Sound Transit's discretion. All Sound Transit equipment shall be promptly returned to Sound Transit upon Sound Transit's request, separation of CEO's employment and/or expiration of this Agreement.

(g) Expense Allowance. Sound Transit shall provide CEO an expense allowance in the gross amount of approximately XXX Dollars and No Cents (\$XXX.00), which annualizes to XXX Dollars and No Cents (\$X,XXX.00), for miscellaneous expenses incurred consistent with Sound Transit policies governing reimbursement of non-travel personal expenditures, as currently in effect or hereafter modified at Sound Transit's discretion. This allowance is in addition to, and intended to cover expenses not otherwise covered by, Sound Transit's general expense reimbursement policies and practices reference at paragraph 5 below, and shall be subject to regular payroll deductions and withholding.

(h) Federal Health Plan Allowance. Sound Transit shall provide CEO an annual allowance in the gross amount of XXX Dollars and No Cents (\$X,XXX.00) to facilitate CEO's continued eligibility for retiree benefits under the Federal Employees Health Benefits Program.

4. Performance Management and Reviews. The Board, and/or its designee, shall manage and evaluate CEO's performance in general accordance with Sound Transit's Performance Management Program, as currently in effect or hereafter amended at Sound Transit's discretion. Formal evaluations shall occur at least annually at or near year-end, and may occur more frequently, at the Board's discretion. For each calendar year, the Board, in consultation with CEO, shall establish performance goals and objectives. Absent special circumstances, the Board anticipates establishing the performance goals and objectives no later than March 31 of the year to which they will apply.

5. Expenses. Sound Transit shall reimburse CEO for reasonable business expenses incurred in furtherance of CEO's duties and responsibilities while employed by

Sound Transit, including without limitation those incurred for travel, food and lodging. Reimbursement shall be administered in accordance with Sound Transit's expense reimbursement policy, as currently in effect and hereafter amended

6. Termination/Resignation. Sound Transit may terminate CEO's employment with or without cause, and CEO may resign with or without good reason, as set forth below, in which event CEO's compensation and benefits shall immediately terminate except as otherwise provided below:

(a) Resignation without good reason. CEO may resign employment at any time for any reason upon sixty (60) days' written notice to the Board Chair. During the notice period, CEO shall continue to be bound by and subject to the terms of this Agreement, including those governing CEO's performance and Sound Transit's employment termination rights; provided, however, that Sound Transit may not discharge CEO without cause, but may advance the effective date of CEO's resignation without good reason, at its discretion, in which event CEO shall be paid any and all Base Salary and bonus payment to which CEO would otherwise have been entitled during the notice period. In the event of resignation without good reason, CEO shall forfeit any right or entitlement to bonus payments under Section 3(b), and CEO's Base Salary and benefits shall cease on the effective date of resignation, unless otherwise specified in the governing plan document.

(b) Resignation for good reason. CEO may resign for good reason. If CEO wishes to resign for good reason, CEO must first give Sound Transit thirty (30) calendar days' written notice of the circumstances constituting good reason and an opportunity to cure. "Good reason" means, and is limited to, Sound Transit's failure or refusal to cure within the above-referenced thirty (30)-day notice period any of the following occurrences, provided they occurred without CEO's prior written consent: (i) a material reduction of CEO's duties, position or responsibilities; (ii) a material reduction in CEO's benefits and/or Base Salary; and/or (iii) a material change in the geographic location of CEO's primary work facility or location; provided, that a relocation of less than twenty (20) miles from CEO's then-current location shall not be considered a material change in geographic location. If CEO resigns for good reason, CEO shall be entitled to severance pay and benefits per Section 7 below.

(c) Termination without cause. Sound Transit may terminate CEO's employment at any time without cause (i.e., for any reason) upon thirty (30) days' written notice. In the event of termination without cause, CEO shall be eligible for severance pay and benefits per Section 7 below. A decision by Sound Transit not to renew this Agreement, per Section 2, shall constitute termination without cause and shall entitle CEO to severance pay and/or benefits.

(d) Termination with cause. Sound Transit may terminate CEO's employment at any time for cause. In the event of termination for cause, CEO shall forfeit any right or entitlement to bonus payments under Section 3(b), and CEO's Base Salary and benefits shall cease on the effective date of termination, unless otherwise specified in the governing plan document. "Cause" is defined as: without limitation, (i) CEO's breach of any material contractual obligation, including without limitation covenants of confidentiality and/or not to compete and/or solicit; (ii) any act of moral turpitude by CEO, including without limitation any instance of fraud, deceit or dishonesty, whether through act or omission; (iii) CEO's material breach of Sound Transit policy prohibiting nepotism, discrimination, harassment and/or retaliation, as currently in effect or hereafter adopted,

amended and/or modified at Sound Transit's discretion; (iv) CEO's material failure and/or refusal to satisfactorily perform his or her job, following written notice of non-performance and a period of at least ninety (90) calendar days to cure, provided the non-performance is subject to cure; (v) one or more mental, physical and/or emotional conditions and/or impairments that, with or without reasonable accommodation, prevent CEO from satisfactorily performing one or more essential functions of his or her job for a total of period of six (6) consecutive months (180 calendar days) and/or six (6) months (180 calendar days) in any twenty-four month (730 calendar day) period; and/or (vii) CEO's death.

7. Severance. In the event CEO resigns with good reason or CEO's employment is terminated without cause, CEO executes a comprehensive release of claims substantially in the form attached hereto as Exhibit A, and CEO does not exercise the right to revoke, Sound Transit shall provide CEO the following severance pay and benefits:

(a) Payment of CEO's then-current Base Salary for the period remaining under the then-current Term or a period of one year (365 days) measured from the effective date of resignation with good reason or termination without cause, whichever is shorter (the "Severance Period"), together with all scheduled contributions, if any, to CEO's 401(a) and 457(b) plans for the Severance Period. These payments and contributions shall be subject to all payroll taxes and required withholding, any additional withholding to which CEO has agreed, and any outstanding obligations owed by the CEO to Sound Transit, and shall be made in accordance with Sound Transit's regular payroll policies and practices, as currently in effect or hereafter modified at Sound Transit's discretion.

(b) In the event that CEO timely elects COBRA continuation coverage for CEO and/or CEO's dependents, payment of a single lump sum, subject to routine payroll deductions and withholding, in a net amount equal to the aggregate cost of the corresponding premiums for such coverage for the Severance Period.,.

(c) Payment of the cash value of one hundred percent (100%) of CEO's accrued, unused vacation, and twenty-five percent (25%) of CEO's accrued, unused sick leave, subject to routine payroll deductions and withholding.

(d) The foregoing provisions are intended to be exempt from or comply with the requirements of Internal Revenue Code Section 409A, and the final regulations and any guidance promulgated thereunder (collectively, "Section 409A"), so that none of the severance payments and benefits to be provided hereunder will be subject to the additional tax imposed under Section 409A, and any ambiguities herein will be interpreted to so comply. Sound Transit and CEO agree to work together in good faith to consider amendments to this Agreement and to take such reasonable actions which are necessary, appropriate or desirable to avoid imposition of any additional tax or income recognition prior to actual payment to CEO under Section 409A. Notwithstanding the foregoing, Sound Transit makes no representation or warranty to CEO with respect to any tax, economic or legal consequences of any payments or benefits provided hereunder, including without limitation under Section 409A, and no provision of the Agreement shall be interpreted or construed to transfer any liability for failure to comply with Section 409A from CEO or any other individual to Sound Transit or any of its affiliates.

8. Protection of Sound Transit Business Assets. Sound Transit has substantial, legitimate business interests in its employees and confidential information which can be protected only by CEO agreeing to the following terms.

(a) Covenant not to disclose. During CEO's employment with Sound Transit and at all times after that employment ends, regardless of the reason(s) it ends, CEO shall hold Sound Transit's confidential information in strict confidence and shall not disclose, copy, or use such information, except as authorized in writing by Sound Transit. "Confidential Information" means information that is not generally known to the public and to which CEO has been or will be exposed as a result of being employed by Sound Transit. This includes information developed by CEO, alone or with others, or entrusted to Sound Transit by its clients, business partners, suppliers, vendors and/or others. "Confidential Information" includes, but is not limited to, any confidential or proprietary information relating to Sound Transit's (i) policies, practices, procedures, marketing, sales, and/or support; (ii) purchasing, accounting and/or finances, including sales, costs, profits and pricing methods; (iii) internal organization; (iv) officers, directors, employees, prospective employees, clients, prospective clients, suppliers, and prospective suppliers, and any lists thereof; (v) technology, including without limitation discoveries, inventions, research and development, product development, manufacturing processes, engineering, hardware/software design and maintenance tools (including source code and object code), and/or hardware/software product know-how and show-how; (vi) trade secrets; and/or (viii) all derivatives, modifications, improvements, and/or enhancements to any of the foregoing whether or not created or developed by CEO. "Confidential Information" also includes all non-public, personal information, which is defined to mean non-public or personally identifiable information about employees or other individuals. Confidential Information may be contained in any tangible material, including without limitation, drawings, samples, procedures, specifications, reports, studies, customer or supplier lists, budgets, cost or price lists, compilations and/or computer discs, drives and/or programs, or may be in the nature of unwritten or unrecorded knowledge or know-how. "Confidential Information" excludes all information that (i) is known to CEO prior to receipt thereof from Sound Transit; (ii) is or becomes public knowledge through no fault of CEO; (iii) is rightfully received by CEO from a third party without a duty of confidentiality; or (iv) is independently developed by CEO on CEO's personal time, without the assistance or involvement of Sound Transit, and without the use of Sound Transit equipment, supplies, facilities, information or other resources. Further, notwithstanding the above provisions, CEO shall comply with all public disclosure obligations under state and/or federal law, as applicable to him and/or Sound Transit.

(b) Covenant not to recruit. During CEO's employment with Sound Transit and for a period of twelve (12) consecutive months following the date on which CEO's employment ends, regardless of the reason it ends, CEO shall not directly or indirectly, alone or with or through others, solicit, encourage, influence or otherwise cause or attempt to cause any Sound Transit employee to leave or materially modify his or her employment with Sound Transit.

9. Ownership and Return of Property. CEO acknowledges and agrees that all electrically-stored information, documents, apparatus, equipment and other physical property in any form, including all copies, drafts and derivatives thereof, as applicable, whether or not containing or pertaining to Confidential Information, which was accessed or acquired by CEO, furnished to CEO, or produced by CEO or others in connection with CEO's employment with Sound Transit, is the sole and exclusive property of Sound Transit (hereafter referred to as, "Physical Property"). Upon Sound Transit's request, CEO shall immediately return to Sound Transit all such Physical Property and provide Sound Transit signed certification of CEO's compliance with this provision.

10. Indemnification. Sound Transit shall defend CEO, and hold CEO harmless, from and against any and all allegations, suits, claims actions, legal proceedings and/or judgments arising out of CEO's performance of duties for, or employment with, Sound Transit, provided that CEO acted in good faith, in a manner reasonably believed to be within the scope of his employment, and in compliance with Sound Transit policies and procedures, as currently in effect or hereafter amended at Sound Transit's discretion.

11. Remedies. CEO acknowledges that a breach of this Agreement may cause Sound Transit irreparable injury for which there is no adequate remedy at law. Consequently, if CEO breaches or threatens to breach this Agreement, in addition to any other remedies otherwise available to Sound Transit, including money damages, Sound Transit shall be entitled to specific performance and injunctive relief, including without limitation the issuance of temporary restraining orders and/or preliminary and/or permanent injunctions without the necessity of posting a bond or other security and without prejudice to any other rights or remedies that Sound Transit may have for such breach.

12. Notices. All notices, requests, demands and other communications called for hereunder shall be in writing and shall be deemed given (i) on the date of delivery if delivered personally, (ii) one (1) business day after being sent by a well-established commercial overnight service, or (iii) four (4) business days after being mailed by registered or certified mail, return receipt requested, prepaid and addressed to the parties or their successors at the following addresses, or at such other addresses as the parties may later designate in writing:

If to Sound Transit:

If to CEO:

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Or at the last residential address known by Sound Transit.

13. Attorneys' Fees/Venue/Jurisdiction. Unless otherwise prohibited by law, in any dispute that arises out of or relates to this Agreement, CEO's employment with Sound Transit and/or the separation of that employment, the prevailing party shall recover reasonable costs and attorneys' fees, including on appeal. Venue and jurisdiction of any lawsuit related to any such dispute shall exist exclusively in state and federal courts in King County, Washington, unless injunctive relief is sought by either Sound Transit or CEO and, in the moving Party's judgment, that relief might not be effective unless obtained in some other venue.

14. Assignment. This Agreement shall inure to the benefit of, and be binding upon, Sound Transit and its successors and assigns. This Agreement is personal to CEO, and CEO shall not assign or delegate his rights or duties under this Agreement, and any such assignment or delegation shall be null and void.

15. Governing Law/Severability/Waiver. This Agreement is governed by the laws of the state of Washington without giving effect to provisions thereof related to choice of laws or conflict of laws. If any part of this Agreement is held to be unenforceable, it shall not affect any other part. If any part of this Agreement is held to be unenforceable as written, it shall be enforced to the maximum extent allowed by applicable law. No waiver of any provision of this Agreement is valid unless in writing, signed by the party against whom the waiver is sought to be enforced. The waiver of any breach of this Agreement or failure to enforce any provision of this Agreement shall not waive any later breach.

16. Miscellaneous. The Parties have read this Agreement, understand its terms, and been fully advised by legal counsel. Each also has participated in drafting this Agreement and therefore waives the rule of construction that an agreement is construed against its drafter. This Agreement, together with the policies and plans referenced herein, is the final and complete expression of the agreement of the Parties; may be modified only by a written addendum signed by both Parties; and supersedes all prior agreements, discussions and representations. This Agreement may be executed via facsimile and/or PDF or TIF, and in one or more counterparts, each of which shall be deemed an original, and all of which together constitute one and the same instrument.

CENTRAL PUGET SOUND  
REGIONAL TRANSIT AUTHORITY

PETER ROGOFF, CEO

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Signature: \_\_\_\_\_  
Date: \_\_\_\_\_