



SEATTLE CITY COUNCIL

Legislative Summary

CB 119741

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Title: AN ORDINANCE relating to the Central Puget Sound Regional Transit Authority ("Sound Transit"); authorizing execution of a Funding and Cooperative Agreement for Northgate Station Area Access Improvements between Sound Transit and The City of Seattle; and ratifying and confirming certain prior acts.

Date

Notes:

Filed with City Clerk:

Mayor's Signature:

Sponsors: Pedersen

Vetoed by Mayor:

Veto Overridden:

Veto Sustained:

Attachments: Att A - Northgate Funding and Cooperative Agreement

Reviewer: C.Chow

Uploaded By: Bill.LaBorde@seattle.gov

Filing Requirements/Dept Action:

History of Legislative File

Legal Notice Published:

Yes

No

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Mayor	02/04/2020	Mayor's leg transmitted to Council	City Clerk			
1	City Clerk	02/04/2020	sent for review	Council President's Office			
	Action Text: The Council Bill (CB) was sent for review. to the Council President's Office						
1	Council President's Office	02/06/2020	sent for review	Transportation and Utilities Committee			
	Action Text: The Council Bill (CB) was sent for review. to the Transportation and Utilities Committee						
1	City Council	02/18/2020	referred	Transportation and Utilities Committee			

CITY OF SEATTLE

ORDINANCE 126046

COUNCIL BILL 119741

AN ORDINANCE relating to the Central Puget Sound Regional Transit Authority (“Sound Transit”); authorizing execution of a Funding and Cooperative Agreement for Northgate Station Area Access Improvements between Sound Transit and The City of Seattle; and ratifying and confirming certain prior acts.

WHEREAS, the Northgate Link Light Rail Extension with station stops at University District, Roosevelt, and Northgate is a Central Puget Sound Regional Transit Authority (“Sound Transit”) project approved by regional voters in 2008; and

WHEREAS, the Northgate neighborhood is a designated regional residential and employment center with an existing transit center that currently serves over 6,000 bus passengers a day, and where the light rail station is expected to serve over 15,000 passengers per day, and The City of Seattle (“City”) has long envisioned a station area that integrates safe and efficient pedestrian, bicycle, and bus connections amidst transit oriented development to serve a growing residential population along with abundant employment and educational opportunities; and

WHEREAS, in 2012, by its Motion M2012-42, the Sound Transit Board authorized a Northgate access improvement study to identify potential pedestrian and bicycle access improvements to enhance access to the current Northgate Transit Center and the future Northgate Station inter-modal transit facility as part of the Northgate Link Extension; and

WHEREAS, Motion M2012-42 also stated that Sound Transit’s funding contribution for proposed Northgate pedestrian and bicycle access improvements would match City funding up to \$10 million (\$5 million for a proposed pedestrian and bicycle bridge over Interstate 5, and up to \$5 million for other proposed pedestrian and bicycle

1 improvements) with full funding partnership agreements in place to complete the
2 improvements by 2021; and

3 WHEREAS, the Seattle City Council in Resolution 31389, adopted on June 25, 2012, expressed
4 its intent to match Sound Transit’s funding by committing \$5 million for the proposed
5 pedestrian and bicycle bridge and \$5 million for other pedestrian and bicycle
6 improvements; and

7 WHEREAS, with the passage of Seattle Proposition 1 in November 2015, the City has secured
8 the monies for the pedestrian and bicycle bridge and intends to commit the remainder of
9 the matching funds to the projects identified on “Exhibit B” of Attachment A to this
10 ordinance; and

11 WHEREAS, the Northgate Pedestrian and Bicycle Bridge will soon be under construction and,
12 along with all the other projects listed in the attached proposed Funding and Cooperative
13 Agreement, is on schedule to be completed by Sound Transit’s scheduled opening of the
14 Northgate Extension in the fall of 2021; NOW, THEREFORE,

15 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

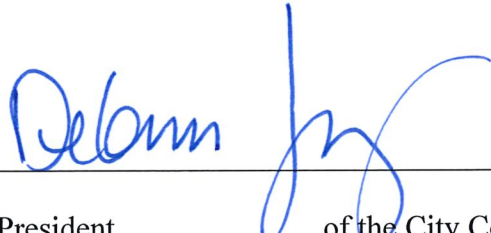
16 Section 1. As requested by the Director of Transportation and recommended by the
17 Mayor, the Director of Transportation or the Director’s designee is authorized to execute, for and
18 on behalf of The City of Seattle, the “Funding and Cooperative Agreement Between the Central
19 Puget Sound Regional Transit Agency and The City of Seattle for the Northgate Station Area
20 Access Improvements GA 0101-17,” substantially in the form of Attachment A to this ordinance,
21 providing for Sound Transit reimbursement up to \$10 million to the City for Northgate Access
22 Projects as spelled out within the agreement, defining dispute resolution procedures and

1 allocating responsibilities among the parties for right-of-way acquisition, construction access,
2 asset ownership and maintenance, and other terms as stated in Attachment A.

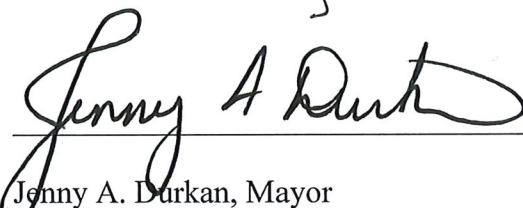
3 Section 2. Any act consistent with the authority of this ordinance taken after its passage
4 and prior to its effective date is ratified and confirmed.

1 Section 3. This ordinance shall take effect and be in force 30 days after its approval by
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020.


4 Passed by the City Council the 24th day of February, 2020,
5 and signed by me in open session in authentication of its passage this 24th day of
6 February, 2020.

7 
8 President _____ of the City Council

9 Approved by me this 28th day of February, 2020.

10 
11 Jenny A. Durkan, Mayor

12 Filed by me this 28th day of February, 2020.

13 
14 Monica Martinez Simmons, City Clerk

15 (Seal)



16 Attachments:

17 Attachment A – Funding and Cooperative Agreement Between the Central Puget Sound
18 Regional Transit Authority and The City of Seattle for the Northgate Station Area Access
19 Improvements GA-0101-17

FUNDING AND COOPERATIVE AGREEMENT
BETWEEN
THE CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY
AND
THE CITY OF SEATTLE
FOR
THE NORTHGATE STATION AREA ACCESS IMPROVEMENTS
GA 0101-17

This funding and cooperative agreement (“**Agreement**”) is between the Central Puget Sound Regional Transit Authority, a regional transit authority organized under RCW 81.112 (“**Sound Transit**”) and the City of Seattle, a Washington municipal corporation (“**City**”).

RECITALS

- A. The Northgate Link Extension is a voter-approved project of Sound Transit to extend light rail to the Northgate region of the City, with station stops at University District, Roosevelt, and Northgate.
- B. The Northgate area is one of the Puget Sound region’s major residential and employment centers. The existing Northgate transit center currently serves over 6,000 passengers a day, and the future light rail station is expected to serve over 15,000 passengers per day. The Parties anticipate integrated access modes serving Northgate Station will include the Link light rail system, a safe and inviting pedestrian environment, protected bicycle lanes, King County Metro and Sound Transit bus service, transit oriented development, passenger drop off/pick up, and park-and-ride facilities.
- C. The City and Sound Transit have been working together to coordinate strategies for ensuring that transit riders will be able to access the Northgate Station by multiple modes and intend to work cooperatively as the project proceeds, including coordinating construction activities to ensure that City-built access improvements can be built without impacting the schedule for the Northgate Link Extension project.
- D. In 2012, by its Motion M2012-42, the Sound Transit Board authorized a Northgate access improvement study to identify potential pedestrian and bicycle access

improvements to enhance access to the current Northgate Transit Center and the future Northgate Station inter-modal transit facility as part of the Northgate Link Extension.

E. Motion M2012-42 also stated that Sound Transit's funding contribution for proposed Northgate pedestrian and bicycle access improvements would be capped at \$10 million, which includes credits for current project commitments as included in the baselined Northgate Link Extension Project budget. In addition, Motion M2012-42 stated that before Sound Transit money will be authorized towards the improvements, the City of Seattle must match Sound Transit's funding contribution, which includes cash contributions and credit for work performed, must complete appropriate environmental review for the proposed pedestrian and bicycle access improvements, and must have full funding partnership agreements in place to complete the improvements by 2021. Up to \$5 million of Sound Transit's funding contribution is designated for the proposed pedestrian and bicycle bridge (the "Bridge") over Interstate 5, and up to \$5 million is designated for other proposed pedestrian and bicycle improvements in the Northgate Station area. In 2015, by its Motion M2015-26, the Sound Transit Board authorized an extension of its funding commitment.

F. The City's matching funding commitment is contained in Resolution 31389, adopted by the Seattle City Council on June 25, 2012.

G. With the passage of Seattle Proposition 1 in November 2015, the City has secured the monies for the Bridge and intends to commit the remainder of the matching funds to the projects identified below. See full funding letter attached as "Exhibit C."

H. The City evaluated the environmental impacts of the Bridge and the 1st Ave NE protected bike lane and multi-use path from NE 92nd Street to NE Northgate Way ("1st Ave NE Bike Facility") under the State Environmental Policy Act (SEPA) in a SEPA Checklist and issued a Mitigated Determination of Non-Significance (MDNS) on April 2, 2018. On September 4, 2018, the Federal Highway Administration issued a documented categorical exclusion under the National Environmental Policy Act.

NOW, THEREFORE, in consideration of the terms and conditions set forth herein, the Parties agree to the following:

AGREEMENT

- 1. Purpose.** The purpose of this Agreement is to set forth the roles and responsibilities of the Parties in designing, constructing, and funding certain pedestrian and bicycle access improvements in the vicinity of the future Northgate Link light rail station according to an agreed-upon timeframe.
- 2. Cooperation of the Parties.** The provisions contained in this Agreement depend upon timely and open communication and cooperation between the Parties. In this regard, communication of issues, changes, or problems that arise should occur as early as possible in the process, and not wait for explicit due dates or deadlines. The Parties will work cooperatively and in good faith toward resolution of issues in a manner that ensures adequate time for each Party to consider and address the issues. This Agreement contemplates the execution and delivery of a number of future documents, instruments, and permits, the final form and contents of which are not presently determined. The Parties will provide the necessary resources and work in good faith to develop in a diligent and timely manner the final form and content of such documents, instruments, and permits.
- 3. Description and Location of Access Improvements.** Following the completion of an access improvement study authorized by Sound Transit Board Motion M2012-42, Sound Transit and the City have identified certain bicycle and pedestrian connectivity improvements within the Northgate Station Area. The approximate location and design concept of the Bridge is shown on the attached “Exhibit A.” The improvements tentatively identified on the attached “Exhibit B” include the Bridge as well as bicycle and pedestrian improvements in the vicinity of Northgate Station (the “Other Non-Motorized Access Improvements”). Collectively, the Bridge and the Other Non-Motorized Access Improvements are referred to herein as the “Northgate Access Projects.”

4. Project Management and Construction

4.1. The Projects. The City will design and construct the Northgate Access Projects as identified in **Exhibit B**, including without limitation environmental review and mitigation, hazardous waste removal or mitigation, coordination of all required approvals and permits, acquisition of right-of-way, air rights and other property rights, community involvement and construction management, except as provided in Section 5.2 regarding Sound Transit's design and construction to accommodate the Bridge and the 1st Ave NE Bike Facility. Notwithstanding the foregoing or anything to the contrary herein, the City's obligation to complete design and construction of the Northgate Access Projects is subject to the City's budget process and City Council approval of funding for construction of such projects.

4.2. Environmental Review. The City is the "Lead Agency" for purposes of the Northgate Access Projects' compliance with the State Environmental Policy Act (SEPA), Ch. 43.21C RCW. The City shall complete the required environmental documentation for SEPA and the National Environmental Policy Act (NEPA), design and obtain the necessary permits to construct the Bridge and the Other Non-Motorized Access Improvements.

4.2.1. Sound Transit will cooperate with the City to complete the environmental documentation and secure the required permits but shall not be required to incur out of pocket (non-staff time) costs in connection with its efforts without the City providing reimbursement/credit consistent with Section 5.1.

4.3. Design Review

4.3.1. The City will host regular design coordination meetings with representatives from Sound Transit and King County to review the design of the Northgate Access Projects. Sound Transit's review, approval, inspection, participation, attendance at meetings, or other involvement in the design of the Northgate Access Projects does not make Sound Transit responsible or liable for design of any Northgate Access Projects or for

construction of the City-constructed portions of the Northgate Access Projects, nor relieve the City of responsibility therefor.

4.3.2. The City will provide Sound Transit with the opportunity to provide design review, approval, and coordination during construction to ensure that the Northgate Access Projects to which Sound Transit has contributed funding are consistent with the scope of work as shown in **Exhibits A and B**; to ensure the Northgate Access Projects do not interfere with Sound Transit's construction of the Northgate Station and Northgate Link Extension, and to identify design issues impacting Northgate Station operations. Sound Transit will review and provide written comments on design documents at 30-, 60- and 90- percent completion, within 14 calendar days of receipt by Sound Transit, or as otherwise agreed upon by the Designated Representatives designated in Section 13.4. If Sound Transit submits reasonable written objections or comments within the time frame identified above to prevent delays to Sound Transit's construction of the Northgate Station and Northgate Link Extension and/or to prevent interference with Sound Transit's operation and maintenance of light rail, the City will cause its designer to make changes to the drawings or specifications consistent with Sound Transit's construction schedule and operations and maintenance requirements. The City will address and respond to every written comment submitted by Sound Transit.

4.3.3. All of the Northgate Access Projects must meet current Americans with Disabilities Act (ADA) standards, and such standards are to be maintained at the expense of the City through the life of the Projects.

5. Sound Transit's Financial Participation-Capital Expenditures

5.1. Maximum Funding Contribution to the Project. Sound Transit will contribute up to \$10 million to the City for the Northgate Access Projects. Notwithstanding any cost overruns, Sound Transit will not be obligated beyond its maximum funding contribution. Sound Transit's contribution will be as follows:

5.1.1. Sound Transit will match the City's investment for the design and/or construction of the Other Non-Motorized Access Improvements, including the 1st Ave NE Bike Facility, up to \$5 million. Sound Transit funds may be applied to the 1st Ave NE Bike Facility or Other Non-Motorized Access Improvements; provided that Sound Transit's funds may only be applied to a project which has completed any applicable environmental review process. The City may use funding contributions to any Other Non-Motorized Access Improvements that are completed in or before 2021 as City matching funds.

5.1.2. Sound Transit will match the City's investment for the design and construction of the Bridge up to \$5 million.

5.2. Credits for Sound Transit Design and Construction Costs. Sound Transit has incurred and will continue to incur costs to design and construct its facilities to accommodate the Bridge and the 1st Ave NE Bike Facility. Sound Transit has designed the Northgate Station mezzanine level to accommodate a future bridge connection to the elevated station structure. The current design of the Station has been modified to ensure that the placement of columns for the elevated guideway will not preclude the development of the 1st Ave NE Bike Facility or connection to the Bridge.

5.2.1. For Sound Transit's design, construction, and related administrative costs in excess of \$1 million incurred to accommodate the Northgate Access Projects, Sound Transit may deduct the amount of such costs, not to exceed \$2.7 million in total, from its funding contributions. Of the not to exceed \$2.7 million, Sound Transit may not credit any more than \$0.7 million toward the Bridge nor any more than \$2 million toward the 1st Ave NE Bike Facility. However, if the City redesigns either Project and that redesign requires Sound Transit to redesign its project, then the \$2.7 million credit cap will be lifted. Sound Transit will undertake additional work that would cause it to exceed its credit cap only if the City approves in writing a scope and cost estimate for the additional work. An itemized list of Sound Transit costs incurred through August 30,

2017 to accommodate the Bridge and the 1st Ave NE Bike Facility is attached hereto as “Exhibit D.” Accordingly, if Sound Transit deducts the maximum of \$0.7 million toward the Bridge, then its monetary contribution to the City would be capped at \$4.3 million. And if Sound Transit deducts the maximum of \$2 million toward the 1st Ave NE Bike Facility, then its monetary contribution to the City for Other Non-Motorized Access Improvements would be capped at \$3 million.

5.2.2. Sound Transit will amend its Temporary Construction Airspace Lease with Washington State Department of Transportation (“WSDOT”) to accommodate the City’s Trail Lease with WSDOT for the Bridge and 1st Ave NE Bike Facility construction on the east side of Interstate 5 at no charge to the City. Sound Transit will also modify its N160 nationwide permit from the U.S. Army Corps of Engineers to accommodate the City’s construction plans impacting the North Watercourse at no charge to the City.

5.3. Payment Schedule.

5.3.1. The City is expecting to advertise and construct the Bridge and the 1st Ave NE Bike Facility as part of the same bid package, but the City will track costs for each component separately. After issuance of the City’s notice to proceed to the contractor for the combined Bridge and 1st Ave NE Bike Facility project, the City may begin sending Sound Transit quarterly reimbursement requests. The reimbursement request amount may include the City’s internal costs and external expenditures to its construction contractor and other external consultants for the Bridge and all Other Non-Motorized Access Improvements. The City’s request will include a summary of the City’s costs and Sound Transit’s share as detailed in the next paragraph. The City will provide supporting documentation to its invoices at Sound Transit’s request. Sound Transit may audit or request additional supporting documentation any time after the City submits its final invoice. Sound Transit will make quarterly reimbursement payments to the City for Sound Transit’s matching share.

5.3.2. Sound Transit's share for each of the Bridge and Other Non-Motorized Access Improvements will be 50% of the total costs (City costs and Sound Transit's costs), less Sound Transit's applicable credits and the limitations in section 5.1 and 5.2 above (a diagram and example of the formula for determining Sound Transit's share is attached as Exhibit G). For purposes of interim reimbursement requests, it will be assumed that Sound Transit has already incurred the full amount of credits. The City's invoice must itemize the reimbursement request showing the request for Bridge funding and Other Non-Motorized Access Improvements separately so that the limitations of section 5.1 and 5.2 can be applied to each correctly. In addition, Sound Transit may hold back matching funds of \$500,000 for the Bridge and \$500,000 for the Other Non-Motorized Access Improvements until the City provides notice of substantial completion of the Bridge and 1st Ave NE Bike Facility respectively. The City will only apply Sound Transit funds to the (i) Bridge and (ii) the 1st Ave NE Bike Facility or Other Non-Motorized Access Improvements; provided that Sound Transit's funds may only be applied to a project which has completed any applicable environmental review process. Notwithstanding the foregoing quarterly payment schedule, Sound Transit will make a final lump-sum payment, including the \$500,000 withholding amount, for any remaining matching contribution amount for the contract component up to the maximum funding contribution, within 30 days of notice from the City that the respective contract component is substantially complete and open to the public, and the City submits a request for the final payment. In addition, notwithstanding any cost overruns, Sound Transit is only obligated to pay up to its maximum funding contribution for the Bridge and Non-Motorized Access Improvements, respectively.

5.4. Invoicing. All invoices, required reports, and documentation shall be submitted to: Sound Transit's Accounts Payable (accountspayable@soundtransit.org). Invoices shall bear the name and address of

the Party's representative designated in Section 13.4, purchase order number (if applicable), and reference to this Agreement. Invoices shall be signed by an authorized representative of the City, who shall verify that the invoice is accurate, that the services have been purchased or the work has been performed, and that the costs shown have been incurred in accordance with this Agreement. Invoices shall be properly completed and accompanied with documentation as reasonably required by Sound Transit. Sound Transit shall pay within 30 days of receipt of a complete invoice with appropriate documentation.

6. Schedule and Milestones.

6.1. Implementation Schedule. The City and Sound Transit acknowledge that timely completion of the Northgate Access Projects is critical to realizing integrated access modes serving Northgate Station. The City and Sound Transit will make reasonable efforts to comply with the implementation schedule milestones identified in Exhibit E, unless otherwise agreed in writing by the Parties.

6.2. Completion of Northgate Access Projects. The City will make best efforts to open the Northgate Access Projects for public use by the start of light rail revenue service at the Northgate Station, or December 31, 2021, whichever is later.

6.3. Non-interference with Operation of New Northgate Station. To avoid interference with transit operations at the new Northgate Station, the City will complete all construction and/or restoration activities related to the Northgate Access Projects in the areas identified in Exhibit F by September 1, 2021 or one month prior to the start of light rail revenue service at the Northgate Station, whichever is later. The City will complete construction of the Bridge spur connection to the light rail station mezzanine by September 1, 2021 or one month prior to the start of light rail revenue service at the Northgate Station, whichever is later.

6.4. Construction Coordination. Within 60 days of the full Notice to Proceed for the Bridge and 1st Ave NE Bike Facility construction contract, the City will

make reasonable efforts to develop a construction phasing plan that takes into account key construction and revenue service milestones for Northgate Station, Elevated Guideway, and Parking Garage and Lynnwood Link Extension during its construction of the Northgate Access Projects. The phasing plan is to be a coordinated effort between the Parties to avoid conflicts during construction and transit operations and identify workable solutions to minimize disruption to both Parties' construction and operations.

7. Right of Way Acquisition, Access, Ownership and Maintenance

7.1. Costs in Excess of Sound Transit Funding Obligation. The City will operate and maintain the Bridge and the Other Non-Motorized Access Improvements at its own expense, including but not limited to utilities, cleaning, security, and major and minor repairs. Sound Transit will operate and maintain the Northgate Station at its own expense, including but not limited to utilities, cleaning, security, and major and minor repairs.

7.2. WSDOT Right of Way. The City must obtain the necessary property rights from the Washington State Department of Transportation ("WSDOT") for air rights over Interstate 5 and from any other property owners, to allow for the Bridge's construction and placement.

7.3. Sound Transit Access. For the useful life of the completed Bridge, Sound Transit and its transit users shall have the right to use the Bridge jointly and in common with the general public. The City acknowledges that Sound Transit's contribution to the design and construction of the Bridge is sufficient consideration for its use, and no additional compensation or charge shall be due from Sound Transit.

7.4. Acknowledgement of Funding. The City will ensure acknowledgement of Sound Transit funds for the Northgate Access Projects is noted in any Project advertisements and postings related to the Project. The graphic identity of the facilities and collateral and web-based materials will incorporate both the City's logo and the Sound Transit logo and identity.

7.5. Ownership and Use of Facilities. The City will own the Project facilities and operate and maintain the Project facilities for their useful life.

7.6. Survival of this Section. The terms and responsibilities of the Parties under this Section 7 will survive termination of this Agreement.

8. Dispute Resolution

8.1. Sound Transit and the City will confer to resolve disputes that arise under this Agreement as requested by either Party. The individuals identified in Section 13.4 are the Designated Representatives of the Parties for the purpose of resolving disputes that arise under this Agreement.

8.2. Level One – Sound Transit’s Designated Representative and the City’s Designated Representative will meet to discuss and attempt to resolve the dispute in a timely manner. If they cannot resolve the dispute within fourteen days, either Party may refer the dispute to Level Two.

8.3. Level Two – The Executive Director of Design Engineering and Construction Management of Sound Transit and the Director of the City’s Department of Transportation, or their designees, will confer and resolve the dispute. If they cannot resolve the dispute within fourteen days, either Party may refer the dispute to Level Three.

8.4. Level Three – Sound Transit’s Chief Executive Officer and the City Mayor, or their designees, will meet to discuss and attempt to resolve the dispute in a timely manner.

8.5. Neither Party may seek relief in a court of law until and unless the Dispute Resolution process has been exhausted.

8.6. At all times prior to resolution of the dispute, the Parties will continue to perform any undisputed obligations and make any undisputed required payments under this Agreement in the same manner and under the same terms as existed prior to the dispute.

9. Termination of the Agreement

9.1. Termination if Project Deemed Too Expensive. If accepting the lowest responsive responsible bid(s), or the Maximum Allowable Construction Cost (“MACC”) for any Project work obtained by the City would commit the City to pay more than the funds available to the City for the Project work, the bids or the MACC may be rejected. In the event the Bridge and 1st Project exceeds the City’s Project budget and the City gives notice to Sound Transit that it will not proceed with construction, either Party may terminate the portion of this Agreement that relates to funding the Bridge after eighteen months from the date that such notice has been delivered to Sound Transit. Sound Transit will not make cash contributions to Projects that do not proceed to construction.

9.2. Survival of this Section. The terms and responsibilities of the Parties under this Section 9 will survive termination of this Agreement.

10. Intentionally Deleted.

11. Audit. The City agrees to cooperate fully with Sound Transit’s auditor or an independent auditor chosen, retained, and paid by Sound Transit to audit costs incurred in design, construction, operation and maintenance of the Projects. If the audit determines that Sound Transit has paid the City in excess of the amounts agreed to under this Agreement, the excess amount will be repaid to Sound Transit within thirty days of the audit determination plus interest of 5 percent per annum. If the City disagrees with the audit determination, then the City may invoke the dispute resolution process in this Agreement. If the audit determines that Sound Transit has not paid the amount due under Section 5 of this Agreement and the City has incurred costs for the Work that exceeds payment made by Sound Transit, then Sound Transit shall pay City the amount owed plus interest of 5 percent per annum.

12. General Provisions.

12.1. No Agency or Employee Relationship. No joint venture or partnership is formed as a result of this Agreement. No employees, agents or subcontractors of one Party shall be deemed, or represent themselves to be, employees of any other

Party. In performing work and services pursuant to this Agreement, neither Party, its employees, consultants, agents, and representatives shall be acting as agents of the other Party and shall not be deemed or construed to be employees or agents of the other Party in any manner whatsoever. Neither Party shall hold itself out as, or claim to be, an officer or employee of the other Party and will not make any claim, demand, or application to or for any right or privilege applicable to an officer or employee of the other Party. Each Party shall be solely responsible for any claims for wages or compensation by their employees, consultants, agents, and representatives, including sub-consultants, or any agency, and shall defend, indemnify and hold the other Party harmless therefrom.

12.2. Indemnity.

12.2.1. Generally. To extent permitted by law, including RCW 35.32A.090, each Party to this Agreement shall protect, defend, indemnify, and save harmless the other Party, its officers, officials, employees, and agents, while acting within the scope of their employment as such, from any and all costs, claims, judgment, and/or awards of damages, arising out of, or in any way resulting from the first Party's negligent or grossly negligent acts or omissions or its intentional misconduct or that of its officers, officials, employees or agents. Neither Party will be required to indemnify, defend, or save harmless the other Party if the claim, suit, or action for injuries, death, or damages is caused by the sole negligence of the other Party. Where such claims, suits, or actions result from concurrent negligence of the Parties, the indemnity provisions provided herein shall be valid and enforceable only to the extent of the Party's own negligence. Each Party agrees that its obligations under this subparagraph extend to any claim, demand, and/or cause of action brought by, or on behalf of, any of its employees or agents. For this purpose, each Party, by mutual negotiation, hereby waives, with respect to the other Party only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 RCW. Sound Transit's design review of City plans does not

impose a duty upon Sound Transit to correctly identify errors or omissions present in the City plans. Each party shall be responsible for its own attorney's fees in any dispute relating to this Agreement.

12.2.2. Taxes. Taxes, including taxes relating to Sound Transit's reimbursement of the City's cost, are a reimbursable cost under this Agreement subject to Sound Transit's funding limitations in Section 5.

12.2.3. Survival. The indemnification responsibilities provided in this section will survive the termination of this Agreement.

13. Miscellaneous

13.1. Entire Agreement. This Agreement and the attached exhibits constitute the entire agreement and understanding between City and Sound Transit relating to the Project. There are no restrictions, promises, representations, warranties, covenants or undertakings, oral or otherwise, except those expressly set forth or referenced in this Agreement.

13.2. Amendments. Waivers, modifications, additions, or amendments to this Agreement must be in writing and signed by the authorized representatives of each Party. Except for amending Exhibits B and D, the City may not waive, modify, add to, or amend this Agreement without City Council approval by resolution or ordinance.

13.3. Severability. In the event that any term, covenant, condition, or provision of this Agreement, or the application of the Agreement to any person or circumstance, is found to be invalid or unenforceable in any respect, the remainder of this Agreement, and the application of such term or provision to other persons or circumstances nevertheless will be binding with the same effect as if the invalid or unenforceable provision were originally deleted. The Parties agree to bargain in good faith to reform this Agreement or replace any invalid or unenforceable provision with a valid and enforceable provision that comes as close as possible to the intention of the invalid or unenforceable provision.

13.4. Designated Representatives. Each Party designates the following persons as their representatives (the "Designated Representatives") who shall be

responsible for coordination of communication between the Parties and shall act as the point of contact for each Party. The Designated Representatives shall communicate regularly as to discuss the status of the tasks to be performed, identify upcoming decisions and any information or input necessary to inform those decisions, and resolve any issues or disputes related to the Northgate Access Projects. The Designated Representatives are:

SOUND TRANSIT:

Kristin Hoffman
Senior Project Manager
Sound Transit
401 S. Jackson Street
Seattle, WA 98104
(206) 903-7401
kristin.hoffman@soundtransit.org

CITY OF SEATTLE:

Eric Strauch
Project Manager
City of Seattle
700 5th Ave, Suite 3800
Seattle, WA 98124
(206) 233-7208
Eric.Strauch@seattle.gov

Each Designated Representative is also responsible for coordinating the input and work of its agency, consultants, and staff as it relates to the objectives of this Agreement. The Parties may change their Designated Representative by written notice to the other Party during the term of this Agreement.

13.5. Notices. Except as otherwise expressly provided in this Agreement, all requests, notices, demands, authorizations, directions, consents, waivers or other communications required or permitted under this Agreement shall be in writing and shall be either: (i) delivered in person, (ii) deposited postage prepaid in the certified mails of the United States, return receipt requested, (iii) delivered by a nationally recognized overnight or same-day courier service that obtains receipts, or (iv) delivered electronically to the other Party's Designated Representative. However, notice under Section 9, Termination of the Agreement, must be delivered in person or by certified mail, return receipt requested.

13.6. Rights and Remedies. The duties and obligations imposed by this Agreement and the rights and remedies available hereunder are in addition to and not a limitation of or waiver regarding any duties, obligations, rights, and

remedies otherwise available by law. Waiver by either Party of any default will not affect or impair any right arising from any subsequent default. The failure of either Party to insist at any time upon the strict observance or performance of any of the provisions of this Agreement or to exercise any right or remedy provided for in this Agreement shall not impair any such right or remedy nor be construed as a waiver or relinquishment thereof.

13.7. Choice of Forum. In the event that either Party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this Agreement, the Parties agree that any such action or proceedings will be brought in a court of competent jurisdiction in King County, Washington.

13.8. Transfer/Assignment. Neither Party may assign any interest, obligation, or benefit in this Agreement or transfer any interest in the same, whether by assignment or novation, without prior written consent by the other Party. This Agreement is binding upon, and inures to the benefit of, the Parties and their respective permitted successors and assigns.

13.9. Benefits. This Agreement is intended for the sole benefit of the Parties to this Agreement. Nothing in this Agreement is intended to give any person or entity, other than the Parties any legal or equitable right, remedy, or claim under this Agreement.

13.10. Preparation. The Parties and their legal counsel have cooperated in the drafting of this Agreement. Accordingly, the Parties intend that this Agreement is the joint work product of the Parties. The Parties do not intend for any provision of this Agreement to be construed against a Party on the basis of authorship.

13.11. Counterparts. This Agreement may be simultaneously executed in duplicate counterparts, each of which will be deemed to be an original, and such counterparts together shall constitute one and the same instrument.

13.12. Authority. The persons signing this Agreement warrant that they have the respective power and authority to sign this Agreement on behalf of their city or regional transit authority, respectively.

13.13. City Council Approval. This Agreement is subject to City Council approval.

- 14. Term of Agreement.** The term of this Agreement is from the last date written below and, unless it is otherwise terminated in accordance with the provisions of this Agreement, until the Northgate Access Projects are open for public use and Sound Transit has made all cash payments owed to the City under this Agreement.
- 15. Survival.** Section 11 and Subsection 12.2 will survive termination of this Agreement.

The authorized representatives of Sound Transit and City are signing this Agreement and the effective date shall be the last date written below.

CENTRAL PUGET SOUND
REGIONAL TRANSIT AUTHORITY

CITY OF SEATTLE

Signed: _____

Signed: _____

Title: _____

Title: _____

Dated: _____

Dated: _____

Approved to form

Legal Counsel:

Dated: _____

Exhibit A

Northgate Pedestrian and Bicycle Bridge

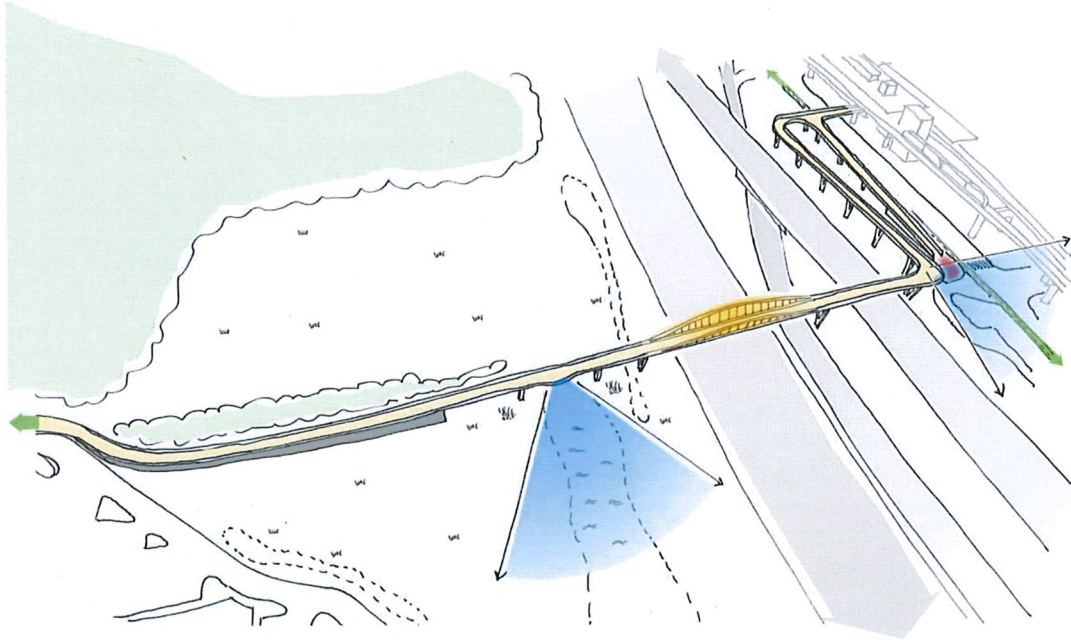


Exhibit B

Bridge and Other Non-Motorized Access Improvements

- Northgate ped/bike bridge
- Multi-use path
- Safe Routes to School Neighborhood Greenway
- Crossing improvements
- Protected bike lanes
- Sidewalk
- Pedestrian pathway
- North Seattle Neighborhood Greenway (west to Crown Hill)
- Northgate Neighborhood Greenway – Maple Leaf connection
- Northgate Neighborhood Greenway – Pinehurst connection
- Street concept plan (improvements to be built by private development)
- Existing protected bike lanes

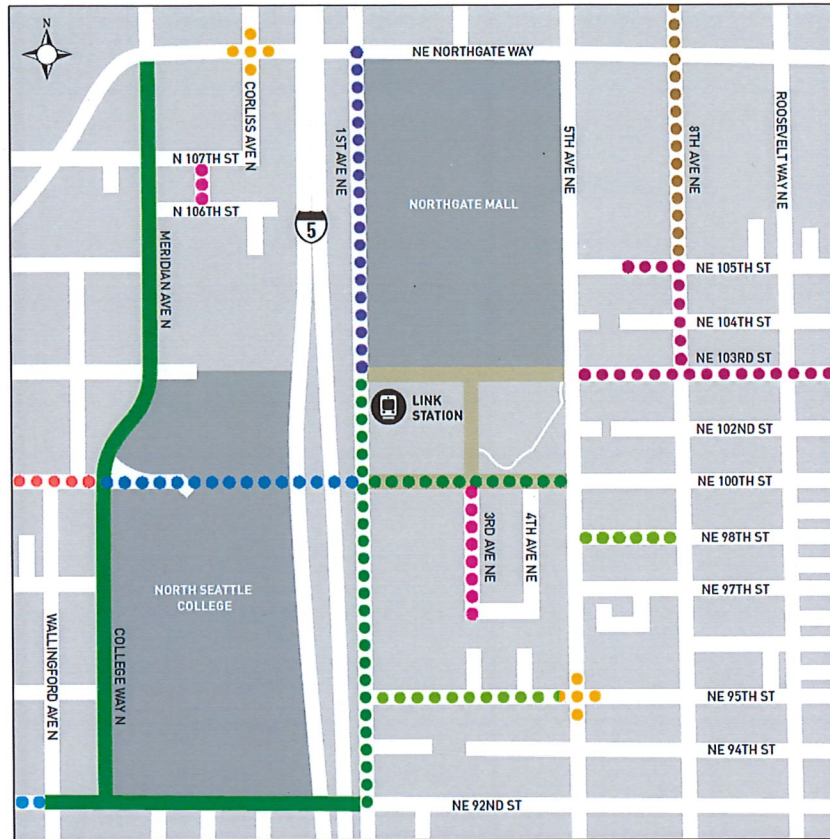


Exhibit C

City of Seattle Funding Certification Letter



City of Seattle
Edward B. Murray, Mayor
Department of Transportation
Scott Kubly, Director

January 13, 2016

Sound Transit
Attention Ahmad Fazel
Union Station
401 S. Jackson St.
Seattle, WA 98104

RE: Northgate Bridge Funding

Dear Mr. Fazel:

This letter confirms that Seattle has matching funds of \$5 million for the Northgate Bicycle and Pedestrian Bridge and \$5 million for other bicycle and pedestrian improvements in the station area as committed by Resolution 31389. Monies are available to fund these projects and Seattle has initiated design of the bridge and the 1st Avenue protected bike lane and will be initiating design of additional bicycle and pedestrian projects in 2016.

With the passage of the Levy to Move Seattle, the bridge is now fully funded and continues to move forward through final design. With this project being fully funded, the commitment satisfies the City's obligation to Sound Transit by having the bridge fully funded by February 1, 2016 (ST Motion M2015-26). We appreciate the continuing coordination and partnership with Sound Transit that has furthered this design of this station amenity and community catalyst project.

We also acknowledge that this funding obligation by Sound Transit will terminate upon the opening of Northgate Station or no later than September 30, 2021. Should the station opening extend past September 30, 2021, we would request that the funding obligation be extended concurrently.

Please contact me or our staff contact Michael James with any question or updates regarding the funding or schedule impacts of delivering the Northgate Station and related projects.

Sincerely,

Scott Kubly
Director, Department of Transportation

City of Seattle

CC: Fred Wilhelm, Sound Transit

Seattle Municipal Tower
700 5th Avenue
Suite 3800
PO Box 34996
Seattle, Washington 98124-4996

Tel (206) 684-ROAD / (206) 684-5000
Fax: (206) 684-5180

Hearing Impaired use the Washington Relay Service (7-1-1)
www.seattle.gov/transportation

Exhibit D

Sound Transit Design and Construction Costs Incurred Through August 30, 2017

Overview of costs incurred to date to accommodate Northgate Access Projects - Design and Construction	Design Cost	Construction cost estimate
1st Ave NE Bike Facility		
<p>Bicycle Lane Study (SIP) Work included conceptual design options for the SDOT Bike Facility and methods for the elevated guideway and the civil work to accommodate the bike lanes and required barriers and clear distances. Design work includes coordination meetings with SDOT and ST to review. Construction costs include the cantilevered portion of the N125 MLP Retained structure that was redesigned to make space for bike facility.</p>	\$ 34,811	\$ 28,310
<p>N160 Elevated Guideway Design ST directed the design team to modify column location and add two straddle bents to accommodate cycle track and multi use track. Work included design cost to recalculate the N160 Guideway. Construction Costs included modification of A6 and A7 single T bent to double column straddle bents and modifications to B7 and B8. These modifications included minor changes to the column location to avoid existing vaults and to accommodate the bike path.</p>	\$ 100,632	\$ 1,898,659
<p>Ped Access NE 100th St Design and construction to accommodate sidewalk on west side of 1 Ave NE. Construction costs for the ADA curb and sidewalk treatments. Construction cost for pedestrian access improvements within the Park and Ride Lot, the 1 Ave NE crossing</p>	\$ 81,247	\$ 16,096

Overview of costs incurred to date to accommodate Northgate Access Projects - Design and Construction	Design Cost	Construction cost estimate	
<p>N160 90% design work - Cycle-track SPU Request - Develop design solution which accommodates the future SDOT Cycle Track adjacent to both the Jurisdictional Ditch and S Watercourse. Work includes design studies which pipe a portion of the ditch to accommodate water flow and allow the future SDOT Cycle Track to be placed adjacent to the ditch and Street ROW.</p>	\$ 84,130	\$ 306,187	
<p>N160 100% Design - Site Restoration for Cycle-track ST Request - Modify Sidewalk and Shoulder Restoration at 1 Ave NE, NE 103 St to NE 105th St; east side to accommodate the SDOT Bike facility widths and sidewalk pavement requirements. The following construction costs can be attributed to construction of pedestrian elements 1. Cost delta between current 60% restoration plans, and modifications to incorporate the sidewalk and paving sections</p>		\$ 80,037	
<p>1st Ave Channelization Work developed lane channelization option for review with SDOT and KCM. Work focused on 1 Ave NE, between NE 100 and 103 St. Options provided channelization which accommodated the cycle track, turning movements and KCM bus lanes. 100% design cost</p>	\$ 2,978		
<p>Wetland restoration - PBL</p>		\$ 74,807	
<p>ST administrative costs - 10%</p>	\$ 30,380	\$ 240,410	
<p>Sub-total (1st Ave NE Bike Facility)</p>	\$ 334,177	\$ 2,644,506	\$ 2,978,684

Overview of costs incurred to date to accommodate Northgate Access Projects - Design and Construction	Design Cost	Construction cost estimate	
I-5 Pedestrian Bridge Improvements			
Mezzanine Level Changes Work modified the original scope to incorporate a mezzanine level within the station design. The mezzanine allows for a more open surface level and allows for a direct, overhead pedestrian crossing above 1 Ave NE. Assumed 10% of mezzanine construction cost attributable to pedestrian bridge.	\$ 119,718	\$ 143,667	
** Ped Bridge Foundation PCR will design and document a foundation or column shaft within the N160 Plaza. Intent is to include this work within the N160 Contract to provide a foundation ahead of station plaza finishes. This is to minimize disruption on the plaza level. Construction cost would a drilled shaft casing, with partial shaft installed with reinforcing steel exposed	\$ 20,000	\$ 338,561	
ST administrative costs - 10%	\$ 13,972	\$ 48,223	
Sub-total (Bridge)	\$ 153,690	\$ 530,451	\$ 684,141
Total ST costs incurred to date to date	\$ 487,867	\$ 3,174,957	\$ 3,662,824
Potential credits for Other Non-Motorized Access Projects projects per M2012-42			
Total Design and Construction 1st Ave NE Bike Facility			\$ 2,978,684
ST Credit (costs exceeding \$1M)			\$ 1,978,684
ST contribution less credit			\$ 3,021,316
Potential credits for I-5 Ped Bridge per M2012-42			
Total Design and Construction I-5 Ped Bridge			\$ 684,141
ST contribution less credit			\$ 4,315,859

Exhibit E

Milestone Schedule

Sound Transit Northgate Station milestones:

1. 4Q2018 – Complete Parking garage
2. 1Q2020 – N160 Northgate Station, Elevated Guideway and Parking Garage contract substantial completion
3. 3Q2021 – Northgate Link begins revenue service

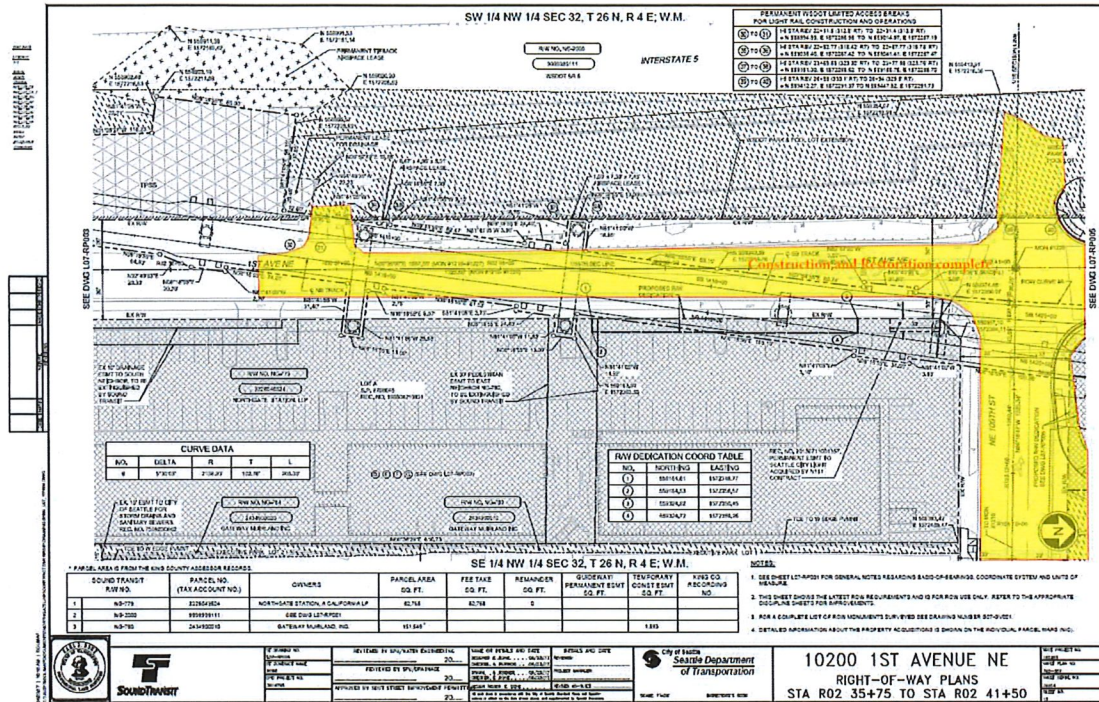
City milestones for the Bridge:

1. 1Q2019 – Complete final Bridge design
2. 3Q2019 – Award construction contract
3. 3Q2020 – Complete 50% construction of Bridge
4. 3Q2021 – Bridge construction complete, open for public use

City milestones for the Other Non-Motorized Improvements:

1. 3Q2021 – Construction complete

Exhibit F



A larger, more legible copy is on file with each of the Designated Representatives

Exhibit G

$$\frac{CI + CO + STI}{2} - STI = ST\$ \leq \$5M - STI$$

Key

- CI* *City in-house costs*
- CO* *City contractor costs*
- STI* *ST in-house and contractor costs*
(subject to max credits described in
Section 5.2.1)
- ST\$* *ST cash contribution*

Example:

For Other Non-Motorized Improvements, if the City spends \$8M (in-house and contractor), and Sound Transit spends \$2M (max credit), then the formula would be:
 $(\$8M + \$2M)/2 = \$5M$ minus \$2M = \$3M cash reimbursement to the City.