

**RESOLUTION NO. R2013-05****To Acquire Real Property Interests Required for the Northgate Link Extension**

| MEETING:          | DATE:    | TYPE OF ACTION:         | STAFF CONTACT:   | PHONE:                       |
|-------------------|----------|-------------------------|--|------------------------------|
| Capital Committee | 02/14/13 | Recommendation to Board | Ahmad Fazel, DECM Executive Director   | 206-398-5389                 |
| Board             | 02/28/13 | Final Action            | Don Davis, Executive Project Director<br><b>Roger Hansen, Real Property Director</b> | 206-370-5502<br>206-689-3366 |

**PROPOSED ACTION**

Authorizes the chief executive officer to acquire, dispose, or lease certain real property interests, including acquisition by condemnation, and pay eligible relocation and re-establishment benefits to affected owners and tenants as necessary for the Northgate Link Extension.

**KEY FEATURES SUMMARY**

- Authorizes the acquisition, disposal or lease of two property interests in the Northgate neighborhood in the City of Seattle for construction of light rail facilities for the Northgate Link Extension.
- The two properties are located along the Northgate Link Extension rail alignment on the east side of 1<sup>st</sup> Avenue NE, and south of NE 100<sup>th</sup> Street.
- The real properties identified in this requested action are included in Exhibit A.

**BACKGROUND**

The Northgate Link Extension is a 4.3-mile extension of light rail from the University of Washington Station north under the campus via twin-bored tunnels to an underground station in the University District (U District Station), an underground station along 12<sup>th</sup> Avenue NE between NE 65<sup>th</sup> Street and NE 67<sup>th</sup> Street (Roosevelt Station), and continuing to an elevated station east of 1<sup>st</sup> Avenue NE, spanning NE 103<sup>rd</sup> Street (Northgate Station). The Northgate Link Extension is scheduled to be complete and ready for revenue service in September 2021.

Certain property interests have been identified as necessary for construction of the Maple Leaf tunnel portal, guideway structures, and station in the Northgate area. The proposed action would authorize the acquisition of two property interests by condemnation, if necessary, as needed for the construction, operation and maintenance of the Northgate Link Extension and the payment of relocation benefits to eligible affected owners and tenants. Sound Transit's authorizing legislation grants the agency the power of eminent domain to accomplish such acquisitions when efforts to reach agreement with property owners are unsuccessful.

The parcels identified in Exhibit A are adjacent to 1<sup>st</sup> Avenue NE, and along the light rail alignment identified in the preferred alternative for Northgate Link Extension.

Sound Transit staff has completed an analysis of the Northgate Link Extension schedule for property acquisition work and construction. Initial property acquisition for Northgate Link Extension station and staging areas was authorized by the Board starting in March 2010 in order for the project to be completed and operational by 2021.

Environmental compliance pursuant to the National Environmental Policy Act (NEPA) and State Environmental Policy Act (SEPA) was completed with the North Link Final Supplemental Environmental Impact Statement (EIS) issued on April 7, 2006. The FTA issued a Record of Decision for North Link in June 2006. In March 2012 Sound Transit published the SEPA Addendum to the North Link Final Supplemental Environmental Impact Statement describing design refinements and evaluating the changes in potential impacts as a result of the refinements.

## FISCAL IMPACT

In accordance with Sound Transit policy, budgets for specific parcels will be discussed with the Board in executive session. Consistent with the current estimate at completion for real property acquisition, this action and acquisitions of remaining certified properties are affordable within the adopted project budget.

### PROJECT TABLE

| Northgate Link Extension    | 2013 TIP         | Board Approvals | This Action | Board Approved Plus Action | Uncommitted / (Shortfall) |
|-----------------------------|------------------|-----------------|-------------|----------------------------|---------------------------|
| Agency Administration       | 149,500          | 43,541          |             | 43,541                     | 105,959                   |
| Preliminary Engineering     | 15,077           | 15,077          |             | 15,077                     | -                         |
| Final Design                | 113,123          | 99,526          |             | 99,526                     | 13,597                    |
| Right of Way                | 148,050          | 92,554          |             | 92,554                     | 55,496                    |
| Construction                | 1,323,500        | 20,838          |             | 20,838                     | 1,302,662                 |
| Construction Services       | 112,050          | 83,030          |             | 83,030                     | 29,020                    |
| Third Party Agreements      | 11,000           | 10,157          |             | 10,157                     | 843                       |
| Vehicles                    | 259,100          | -               |             | -                          | 259,100                   |
| <b>Total Current Budget</b> | <b>2,131,400</b> | <b>364,723</b>  | <b>-</b>    | <b>364,723</b>             | <b>1,766,677</b>          |

#### Phase Detail - Right of Way

|                    |                |               |          |               |               |
|--------------------|----------------|---------------|----------|---------------|---------------|
| Right of Way       | 148,050        | 92,554        |          | 92,554        | 55,496        |
| <b>Total Phase</b> | <b>148,050</b> | <b>92,554</b> | <b>-</b> | <b>92,554</b> | <b>55,496</b> |

#### Contract Detail

|                              | Board Approvals to Date | Current Approved Contract Status | Proposed Action | Proposed Total for Board Approval |
|------------------------------|-------------------------|----------------------------------|-----------------|-----------------------------------|
| Contract                     | -                       | -                                |                 | -                                 |
| Contingency                  | -                       | -                                |                 | -                                 |
| <b>Total Contract Amount</b> | <b>-</b>                | <b>-</b>                         | <b>-</b>        | <b>-</b>                          |
| Percent Contingency          | 0%                      | 0%                               | 0%              | 0%                                |

#### Notes:

Amounts are expressed in Year of Expenditure \$000s.

Board Approvals = Committed To-Date + Contingency, and includes pending Board actions.

2013 TIP = Project budget located on page 27 of the Proposed 2013 Transit Improvement Plan (TIP) as amended in Board Resolution R2012-25 adopted by the ST Board 12/20/12.

In accordance with Sound Transit policy, budgets for specific parcels will be discussed with Board members in executive session.

## SMALL BUSINESS PARTICIPATION

Not applicable to this action.

## PUBLIC INVOLVEMENT

Maps of the proposed Northgate Link Extension alignments and construction staging areas were published in the 2003 and 2005 North Link Draft Supplemental Environmental Impact Statements (SEIS) and the 2006 North Link Final Supplemental Environmental Impact Statement and made

available to the public. A 45-day comment period on the 2005 draft SEIS began in October 2005 and two public open houses/hearings were held in November 2005.

A public open house took place in June 2010 to inform the public on the start of the Northgate Link Extension project final design phase. An open house was held on May 17, 2011 regarding the Northgate Station 15% design progress. Staff also conducted a Northgate Station 30% station design open houses on May 23, 2011.

Additional public meetings to present and discuss construction activities in the vicinity of the future tunnel portal and light rail station at Northgate were held on March 26 and June 4, 2012.

In compliance with state law regarding public notification, Sound Transit mailed certified letters to property owners affected by this action on February 11, 2013. Legal notices of this proposed Board action will be published in the Seattle Times newspaper on February 15 and 22, 2013.

## **TIME CONSTRAINTS**

A short delay will not impact planned property acquisition work for the Northgate Link Extension tunnel easement. A significant delay could impact the acquisition schedule and could ultimately affect the construction schedule for the project.

## **PRIOR BOARD/COMMITTEE ACTIONS**

Resolution No. R2012-18: Authorized the chief executive officer to acquire, dispose, or lease certain real property interests, including acquisition by condemnation to the extent permitted by law, and pay eligible relocation and re-establishment benefits to affected owners and tenants as necessary for the Northgate Link Extension located along Interstate 5 near NE 94<sup>th</sup> Street and Northgate in the City of Seattle.

Resolution No. R2012-09: Authorized the chief executive officer to acquire, dispose, or lease certain real property interests, pay eligible relocation and re-establishment benefits to affected owners and tenants as necessary including acquisition by condemnation for the North Link – University of Washington Station to Northgate project between the Roosevelt and Northgate Stations.

Resolution No. R2012-08: Authorized the chief executive officer to acquire, dispose, or lease certain real property interests, pay eligible relocation and re-establishment benefits to affected owners and tenants as necessary, and acquire and dispose of property interests owned by public entities including acquisition by condemnation for the North Link – University of Washington Station to Northgate Project between Roosevelt Station and Northgate Station.

Resolution No. R2011-13: Authorized the chief executive officer to (1) acquire, dispose, or lease certain real property by negotiated purchase, by condemnation to the extent permitted by law (including settlement of condemnation litigation), or by entering into administrative settlements, and (2) to pay eligible relocation and re-establishment benefits to affected owners and tenants as necessary for property interests needed for construction, operation and maintenance of the light rail tunnels and stations between University of Washington and Roosevelt stations within the North Link – University of Washington station to Northgate Project, all in the City of Seattle.

Resolution No. R2011-04: Authorized the chief executive officer to (1) acquire, dispose, or lease certain real property by negotiated purchase, by condemnation (including settlement of condemnation litigation), or entering into administrative settlements, and to pay eligible relocation and re-establishment benefits to affected owners and tenants as necessary for property interests needed for construction of the Brooklyn and Roosevelt Stations and certain tunnel alignment within the North Link Project – UW Station to Northgate project and (2) acquire and dispose of property interests owned by public entities, including acquisition by condemnation to the extent permitted by

law, between the University of Washington Station and Northgate in the City of Seattle which are needed for construction, maintenance and operation of the light rail tunnel and stations.

Resolution No. R2010-17: Authorized the chief executive officer to acquire, dispose, or lease certain real property interests by negotiated purchase, by condemnation (including settlement), by condemnation litigation, or by administrative settlement; and to pay eligible relocation and reestablishment benefits to affected parties as necessary for construction, maintenance and operation of a light rail tunnel and stations between the University of Washington Station and the Pine Street Stub Tunnel and between the University of Washington Station and Northgate.

Resolution No. R2010-04: Authorized the chief executive officer to acquire, dispose, or lease certain real property by negotiated purchase, by condemnation (including settlement of condemnation litigation), or entering into administrative settlements, and to pay eligible relocation and re-establishment benefits to affected owners and tenants as necessary for staging and station areas for the Brooklyn and Roosevelt Stations within the North Link – UW Station to Northgate project.

Resolution No. R2010-02: 1) Amended the Adopted 2010 Lifetime Capital Budget for the North Link – UW Station to Northgate project from \$107,176,375 to \$345,499,512 to perform final design, third party coordination, property acquisition, and related tasks, and 2) Amended the North Link – UW Station to Northgate 2010 annual budget by decreasing the Right of Way Acquisition and Permits phase by \$9,000,000 and increasing the Final Design phase by \$9,000,000.

Resolution No. R2006-07: (1) Selected the final route, profile, and station locations for the North Link Light Rail Project; (2) authorized the necessary steps to complete final design and implementation of the University Link Project.

## **ENVIRONMENTAL REVIEW**

JI 2/4/2013

## **LEGAL REVIEW**

JB 2/8/2013

**RESOLUTION NO. R2013-05**

A RESOLUTION of the Board of the Central Puget Sound Regional Transit Authority authorizing the chief executive officer to acquire, dispose, or lease certain real property interests, including acquisition by condemnation and pay eligible relocation and re-establishment benefits to affected owners and tenants as necessary for the Northgate Link Extension.

WHEREAS, the Central Puget Sound Regional Transit Authority, hereinafter referred to as Sound Transit, has been created for the Pierce, King, and Snohomish Counties region by action of their respective county councils pursuant to RCW 81.112.030; and

WHEREAS, Sound Transit is authorized to plan, construct, and permanently operate a high-capacity system of transportation infrastructure and services to meet regional public transportation needs in the Central Puget Sound region; and

WHEREAS, in general elections held within the Central Puget Sound Regional Transit Authority district on November 5, 1996 and November 4, 2008, voters approved local funding to implement a regional high-capacity transportation system for the Central Puget Sound region; and

WHEREAS, Environmental compliance pursuant to the National Environmental Policy Act (NEPA) and State Environmental Policy Act (SEPA) was completed with the North Link Final Supplemental Environmental Impact Statement (EIS) issued on April 7, 2006, and the Federal Transit Administration issued a Record of Decision for North Link in June 2006; and

WHEREAS, in order to acquire the properties determined to be necessary for the construction, operation and maintenance of project improvements required under Sound Move and ST2, it is necessary for Sound Transit to acquire by negotiated purchase or to condemn certain rights in the property for public purposes, and to pay eligible relocation and re-establishment benefits to affected parties; and

WHEREAS, Sound Transit has identified certain real properties as necessary for the construction and permanent location of the Northgate Link Extension are reasonably described in Exhibit A of this resolution; and

WHEREAS, in order to acquire the properties determined to be necessary for the light rail tunnel construction, operation and maintenance from the Roosevelt Station to the Northgate Station it is necessary for Sound Transit to acquire by negotiated purchase or to condemn certain lands and rights in property for public purposes, and to pay eligible relocation and re-establishment benefits to affected parties; and

WHEREAS, Sound Transit has commissioned or will commission appraisals to determine the fair market value of the properties, and will continue to negotiate in good faith with the owners of the properties authorized to be acquired by negotiated purchase or condemned, with the intent of reaching agreements for the voluntary acquisition of the property for fair market value; and

WHEREAS, the funds necessary to acquire the property by voluntary purchase or to pay just compensation adjudged due after condemnation and the funds necessary to pay eligible relocation and re-establishment costs shall be paid from Sound Transit general funds.

NOW THEREFORE BE IT RESOLVED by the Board of the Central Puget Sound Regional Transit Authority as follows:

SECTION 1. The chief executive officer is hereby authorized to execute such agreements as are customary and necessary for the acquisition, lease, or disposal of the real property interests described in Exhibit A (said property to be used for the Northgate Link Extension Project) and incorporated herein by reference, and for the payment of eligible relocation and re-establishment costs. In accordance with Sound Transit's adopted Real Property Acquisition and Relocation Policies, Procedures and Guidelines, the acquisition price of the properties shall not exceed the fair market value to be determined through the appraisal process; provided that in the event the total of the acquisition, relocation, and re-establishment costs of the properties for the Northgate Link Extension Project exceeds Sound Transit's approved budget for right-of-way acquisition (plus contingency), then the chief executive officer shall obtain approval from the appropriate committee or the Board, per Resolution No. 78-2, before the acquisition of the property for the Northgate Link

Extension Project by purchase or by condemnation and the payment of eligible relocation and re-establishment costs.

SECTION 2. The chief executive officer or her designee is hereby authorized to settle condemnation litigation or enter administrative settlements (a settlement in lieu of initiating condemnation litigation) for the acquisition of the real property interests described in Exhibit A. Such settlements shall be made only upon the finding of legal counsel that the settlement is consistent with the law and is reasonable, prudent, and in the public interest. Such settlements shall not exceed established project budgets. For all other settlements proposed, the chief executive officer shall obtain prior approval of the appropriate committee or the Board, per Resolution No. 78-2.

SECTION 3. The Sound Transit Board deems the Northgate Link Extension Project, to be a public use for a public purpose. The Board deems it necessary and in the best interests of the citizens residing within Sound Transit's boundaries to acquire the property identified in Exhibit A as being necessary for the construction, operation, and permanent location of the Roosevelt to Northgate Stations light rail tunnels, guideway, and stations, and parties should be paid relocation and re-establishment costs associated with displacements from the properties.

SECTION 4. The Sound Transit Board of Directors finds that the public health, safety, necessity, convenience, and welfare demand and require that the properties described in Exhibit A be immediately acquired, condemned, appropriated, taken and damaged for the construction, operation, and permanent location of the Northgate Link Extension Project.

SECTION 5. In addition to the authority granted the chief executive officer in Section 1 above, condemnation proceedings are hereby authorized to acquire all, or any portion thereof, of the properties and property rights and/or rights in those of the properties described in Exhibit A for the purpose of constructing, owning, and operating a permanent location of the Northgate Link Extension stations and light rail tunnel and guideway. The chief executive officer is also authorized to make minor amendments to the legal descriptions of the properties described in Exhibit A, as

may be necessary to correct scrivener's errors and/or to conform the legal description to the precise boundaries of the property required for the Project.


SECTION 6. The funds necessary to acquire the property by purchase or to pay just compensation adjudged due after condemnation shall be paid from Sound Transit general funds.

ADOPTED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on 2/28/2013.



Pat McCarthy  
Board Chair

ATTEST:



Marcia Walker  
Board Administrator

**RESOLUTION NO. R2013-05  
EXHIBIT A  
NORTHGATE LINK EXTENSION**

| <b>R/W No.</b> | <b>Owner/Contact</b>  | <b>Parcel #</b> | <b>Site Address</b>                                  |
|----------------|-----------------------|-----------------|--|
| NG780          | Gateway Muirland Inc. | 2434900010      | 155 NE 100 <sup>th</sup> Street<br>Seattle, WA 98125 |

LOTS 1, EXECUTIVE PARK, AS PER PLAT RECORDED IN VOLUME 104 OF PLATS, PAGES 85 THROUGH 89, RECORDS OF KING COUNTY, WASHINGTON.

| <b>R/W No.</b> | <b>Owner/Contact</b>    | <b>Parcel #</b> | <b>Site Address</b>                              |
|----------------|-------------------------|-----------------|--|
| NG788          | Northgate Lodging, LLLP | 3226049130      | 9538 1 <sup>st</sup> Ave NE<br>Seattle, WA 98115 |

PARCEL B OF CITY OF SEATTLE SHORT PLAT NO 8708046, ACCORDING TO SHORT PLAT RECORDED APRIL 21, 1988 UNDER RECORDING NO. 8804210831, IN KING COUNTY, WASHINGTON.