

September 25, 2017

Sponsor: Dembowski

[pd] *passed unanimously*
DU →

Proposed No.: 2017-0279

1 AMENDMENT TO PROPOSED ORDINANCE 2017-0279, VERSION 1 2

*Dembowski -
correct typo
s/b V.2
not V.1*

2 On page 3, after line 55, insert:

3 "7. The condemned property is within the Thornton Creek watershed, an
4 11.6-square-mile watershed in Seattle and Shoreline, which watershed has
5 been affected by development of and stormwater runoff from many
6 industrial, commercial, residential, governmental, and transportation
7 activities within the watershed. Community-inspired efforts to restore
8 Thornton creek have succeeded in creating the Thornton Creek water
9 quality channel to provide treatment of stormwater runoff from six
10 hundred eighty acres of the watershed including the area affected by the
11 settlement agreement."

12 On page 5, after line 79, insert:

13 "SECTION 5. It is the intent of King County to continue these community-
14 inspired efforts and therefore to direct that a portion of the proceeds from this settlement,
15 be used to locally address a potential range of historical impacts from vehicles or
16 facilities in the Northgate area by using green stormwater technology, such as filtration,
17 bioswales or other methods, to achieve additional ecological benefits at the Washington
18 state Department of Transportation layover site, and also through accommodation for

19 electric buses to further avoid, minimize or mitigate potential future environmental
20 impacts to the Thornton Creek watershed."
21 Delete Exhibit M-3 to the Settlement Agreement, Lease Assignment and Assumption
22 Agreement, and insert Exhibit M-3 to the Settlement Agreement, Lease Assignment and
23 Assumption Agreement, dated September 25, 2017
24 **EFFECT: Adds a finding concerning the Thornton Creek watershed and a new**
25 **section of the ordinance stating the Council's intent to use a share of the funds due**
26 **to the County to address environmental impacts to Thornton Creek.**
27 **Replaces Exhibit M-3 to the Settlement Agreement with a revised Exhibit M-3. This**
28 **is the agreement between Sound Transit and King County relating to the Simon**
29 **Lease (for the Penney Garage), and the revised M-3 requires that Sound Transit**
30 **reassign the Lease to King County if it chooses not to renew the lease.**
31

EXHIBIT M-3 to the Settlement Agreement -

LEASE ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (this "Agreement"), dated _____, 2017, is between Sound Transit, a Washington regional transit authority ("Buyer"), and King County, a political subdivision of the State of Washington ("Seller").

RECITALS

A. Pursuant to that certain Settlement Agreement dated _____, 2016, between Buyer and Seller (the "Purchase Agreement") (all capitalized terms used and not otherwise defined herein shall have the meanings assigned to them therein), Seller has conveyed to Buyer certain real property, more particularly described below, in Seattle, Washington.

B. In partial consideration therefor, the Settlement Agreement requires Buyer and Seller to execute this Agreement with respect to the Lease (as defined in the Settlement Agreement).

AGREEMENT

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, Buyer and Seller hereby agree as follows:

1. Seller hereby assigns, delivers and conveys to Buyer all of Seller's right, title and interest in that certain Lease (hereinafter the "Northgate Mall Simon Garage Lease") dated June 1 2006, between Seller as lessee, and Northgate Mall Partnership, a Delaware general partnership, as lessor, which affects that certain real property in the County of King, State of Washington, legally described in Exhibit A attached.
2. Buyer hereby assumes and agrees to pay, perform and fully discharge all of Seller's obligations under, and comply with all terms of the Lease, accruing or arising on or after the Commencement Date as defined in the Settlement Agreement until terminated by Buyer.
3. Buyer shall indemnify, defend, protect and hold harmless Seller from and against any claim, damage, liability, loss or deficiency (including but not limited to attorneys' fees and other costs and expenses incident to any suit, action, proceeding or investigation or the defense of any claim) and against any payment or obligations to pay any sum, arising out of or relating to any claim made by the lessor under the Lease or a breach or default in the lessee's obligations thereunder which arise on or after the Commencement Date.
4. Seller shall indemnify, defend, protect and hold harmless Buyer from and against any claim, damage, liability, loss or deficiency (including but not limited to attorneys' fees and other costs and expenses incident to any suit, action, proceeding or investigation or the defense

of any claim) and against any payment or obligation to pay any sum arising out of or relating to any claim made by the lessor under the Lease or a breach or default in the lessee's obligations thereunder which arose prior to the Commencement Date.

5. If Buyer determines to terminate the Lease for convenience during its initial term or during either of the two 10-year extensions available under the Lease, or if Buyer determines not to exercise either the first or the second 10-year term extension options, then Buyer shall promptly notify Seller in writing and, if Seller so demands, then Buyer shall assign the Lease back to Seller, subject to the other terms and conditions of the Lease. Buyer shall give Seller notice of an election to terminate the lease for convenience not less than two hundred forty (240) days before the effective termination for convenience date of the initial lease term or the extended lease term, or immediately upon Buyer's determination not to exercise a Lease term extension option. Any such re-assignment from Buyer to Seller shall be substantially in the form of this Exhibit M-3 to the Purchase Agreement and any estoppel required by Seller shall be substantially in the form of Exhibit M-1 to the Purchase Agreement.

6. The notice that Buyer is required to give under Section 5 of this Exhibit M-3 shall be given to the General Manager of the Transit Division of the King County Department of Transportation or its successor agency.

7. Northgate Mall Partnership ("NMP") hereby consents to the assignment of the Lease from Seller to Buyer under this Agreement. NMP hereby further consents to the potential future reassignment of the Lease from Buyer to Seller as contemplated in Sections 5 and 6 of this Exhibit M-3 and no further consent from NMP shall be required to authorize such reassignment so long as Buyer is not in default under terms of the Lease at the time of such reassignment. Buyer and Seller shall notify NMP in writing of any such reassignment.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

SELLER:

KING COUNTY, a subdivision of the State
of Washington

BUYER:

SOUND TRANSIT, a Washington regional
transit authority

By _____
Name _____
Its _____

CONSENT TO ASSIGNMENT

Northgate Mall Partnership, a Delaware
general partnership

Updated September 25, 2017

**EXHIBIT A
LEGAL DESCRIPTION**

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as the _____ of SOUND TRANSIT, a Washington regional transit authority, to be the free and voluntary act of such corporation for the uses and purposes mentioned in the instrument.

Dated this _____ day of _____, 2016.

NOTARY PUBLIC in and for the State of
Washington, residing at _____
Print Name _____
My appointment expires _____

(Seal or Stamp)

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as the _____ of KING COUNTY, a subdivision of the State of Washington, to be the free and voluntary act of such corporation for the uses and purposes mentioned in the instrument.

Dated this _____ day of _____, 2016.

NOTARY PUBLIC in and for the State of
Washington, residing at _____
Print Name _____
My appointment expires _____

(Seal or Stamp)

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as the _____ of the NORTHGATE MALL PARTNERSHIP, a Delaware general partnership, to be the free and voluntary act of such corporation for the uses and purposes mentioned in the instrument.

Dated this _____ day of _____, 2016.

NOTARY PUBLIC in and for the State of
Washington, residing at _____
Print Name _____
My appointment expires _____

(Seal or Stamp)