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Title: AN ORDINANCE approving and authorizing the King County executive to acquire portions of the Eastside Rail Corridor from the Port of Seattle.

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Indexes: ERC/BNSF, Port of Seattle, Rail Roads

Code sections:

Attachments: 1. Ordinance 17503.pdf, 2. See Briefing 2012-B0148 for Staff Reports.doc, 3. 2012-0353 ERC_Supplemental_FiscalNote.xlsx, 4. 2012-0353 Transmittal Letter.doc, 5. 2012-0353 ERC_PSA_FiscalNote 8.24.12.xlsx, 6. 2012-0353--0354--0382 Redmond Reporter: 11-16 & Seattle Times: 11-21-12.doc, 7. 2012-0353--0354--0382. Affidavit of Publication - 11-21 Seattle Times.pdf, 8. 2012-0353-0354-0382 Affidavit of Publication-Redmond Reporter 11-16-12.pdf, 9. A. Real Estate Purchase and Sale Agreement

Date	Ver.	Action By	Action	Result
12/10/2012	2	Metropolitan King County Council	Hearing Held	
12/10/2012	2	Metropolitan King County Council	Passed as Amended	Pass
12/5/2012	1	Committee of the Whole	Recommended Do Pass Substitute	Pass
12/3/2012	1	Metropolitan King County Council	Deferred	
12/3/2012	1	Metropolitan King County Council	Hearing Held	
8/27/2012	1	Metropolitan King County Council	Introduced and Referred	

AN ORDINANCE approving and authorizing the King County executive to acquire portions of the Eastside Rail Corridor from the Port of Seattle.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Findings:

A. The Eastside Rail Corridor ("the ERC"), formerly referred to as the Burlington Northern-Santa Fe ("BNSF") rail line corridor, is a forty-two mile railroad corridor that extends south from the city of Snohomish in Snohomish county to the cities of Renton and Redmond in King County, passing through unincorporated King County and the cities of Woodinville, Kirkland, Bellevue, Renton and Redmond.

B. The ERC is a regional asset that through ongoing public ownership can be managed to support shared objectives of a vibrant, growing community including building a world-class regional transportation system meeting a variety of rail and trail mobility needs and supporting the efficient provision of utility services.

C. The ERC is comprised of a contiguous set of parcels that together offer unique and significant opportunities that would be impossible to recreate if the parcels were disaggregated and sold off to private interests.

D. In 2003, BNSF announced its intent to divest itself of the Woodinville Subdivision and Redmond Spur, which encompass the ERC.

E. In 2005, the King County council passed Ordinance 15233, which authorized the ERC acquisition project for the preservation of transportation right-of-way in eastside King County cities and made supplemental appropriations in support of the acquisition of the ERC.

F. The first time acquisition of the ERC was studied was by the Puget Sound Regional Council, leading to the original vision of potential uses. In May 2007, the Puget Sound Regional Council completed a technical study of the ERC identifying desirable potential uses and examining their general impacts, the comparative costs of such potential uses and the legal or institutional issues associated with preserving or acquiring the ERC. Based on this study, the BNSF corridor advisory committee recommended, for the ERC portion south of Woodinville, that, among other uses, an interim regional multipurpose trail be developed.

G. In December 2007, the King County council passed Ordinance 15995, which approved a memorandum of understanding ("MOU") between BNSF, the Port of Seattle and King County that enabled the acquisition of the ERC by the Port of Seattle and called for negotiations between the Port of Seattle and King County concerning the long-term ownership and use of the ERC.

H. In May 2008, the King County council passed Ordinance 16084, which authorized the executive to execute agreements with the Port of Seattle that addressed the county's acquisition of property interests in the

ERC, including a multipurpose public easement over the ERC, and the timeline and location of trail development within the ERC.

I. In May 2008, the Port of Seattle, BNSF and King County executed a purchase and sale agreement and donation agreement that allowed the Port of Seattle to purchase the ERC, called for an agreement between King County and BNSF for "railbanking" of the ERC south of milepost 23.8 and over the entire spur and called for the Port of Seattle to grant a multipurpose easement to King County over the railbanked portion of the ERC. At the same time, King County executed an interlocal agreement with the Port of Seattle to acquire the multipurpose easement for one million, nine hundred three thousand dollars.

J. In November 2009, King County entered into an MOU with partners the Port of Seattle, Sound Transit, the city of Redmond, the Cascade Water Alliance and Puget Sound Energy to work together to secure property interests in the ERC in support of transportation, recreation and utility uses.

K. In December 2009, BNSF conveyed the ERC to the Port of Seattle and the Port of Seattle conveyed the multipurpose easement to King County.

L. Pursuant to the federal National Trails Act and its implementing regulations, 16 U.S.C. 1247(d) and 49 C.F.R. 1152.29, in December 2009 King County entered into an interim trail use agreement with BNSF Railway Company to railbank the ERC from Woodinville to Renton as well as the Redmond Spur from Woodinville to Redmond, subject to reactivation for the resumption of interstate freight service. The interim trail use agreement designated King County as the interim trail user for railbanking purposes.

M. In December 2009, the King County council passed Ordinance 16738, which requested that the King County executive negotiate contracts to acquire property rights, in addition to those encompassed in the multipurpose easement, in the ERC as envisioned in the 2009 MOU, a primary purpose of which was to ensure that the ERC be developed and operated for the dual purposes of recreational trail and public transportation use while also preserving the ERC for the reactivation of interstate freight service.

N. Pursuant to the 2009 MOU, the MOU partners have executed and, as needed, continue to negotiate

agreements among them that complete acquisitions of property interests to implement the dual use purpose of the MOU.

O. In June 2010, the city of Redmond acquired from the Port of Seattle fee ownership of the ERC from milepost 3.4 to milepost 7.3 of the spur.

P. In December 2010, Puget Sound Energy acquired from the Port of Seattle a utility easement over all portions of the ERC main line and spur south of the city of Snohomish in Snohomish county.

Q. In April 2012, Sound Transit acquired from the Port of Seattle fee ownership of the ERC from milepost 12.4 to 13.5 of the main line, and a high capacity transportation easement over all other portions of the ERC main line south of milepost 23.8 and from milepost 0.0 to 3.4 on the spur. In April 2012, Sound Transit also acquired from the city of Redmond an easement from milepost 3.4 to 7.3 of the spur. These interests allow Sound Transit to develop and operate a commuter rail system throughout the portions of the ERC located within King County.

R. In April 2012, the city of Kirkland acquired from the Port of Seattle fee ownership of the ERC from milepost 14.8 to 20.3 of the main line.

S. King County has developed, maintains and is seeking to further develop a world-class regional trail system that provides an important mode of transportation and recreation opportunity for a diverse and growing population. Maintaining the ERC in contiguous public ownership offers a once-in-a-lifetime opportunity to expand this regional trail system, encouraging vibrant, prosperous and sustainable communities and safeguarding and enhancing King County's natural resources and environment.

T. King County has developed, maintains, and anticipates the need to expand its world-class wastewater treatment system, which currently includes conveyance facilities that run within and cross the ERC.

U. King County is aware of and will explore a variety of options to fund the acquisition and development of portions of the ERC to advance its trail, transportation and utility system objectives.

V. The city of Redmond has developed and is implementing a plan to build a trail on the city-owned

segment of the Redmond spur, from mileposts 3.4 to 7.3. It is in the interest of King County and the city of Redmond to enter into an intergovernmental land transfer agreement to further the mutual goal of a regionally integrated ERC.

W. King County has worked with Puget Sound Energy to complete an agreement that clarifies the parties' respective interests in the ERC and ensures that these interests are constructively managed. King County has initiated such discussions with the city of Kirkland and anticipates completing a similar agreement in the near future.

X. The property interests in the ERC that will be held by King County, Puget Sound Energy, Sound Transit and the cities of Redmond and Kirkland are intended by these entities to implement the November 2009 MOU vision to share the ERC for public transportation, trail and utility uses in a manner that allows each entity to achieve its purposes and attempts to avoid any frustration of those purposes.

Y. It is in King County's interest to execute a purchase and sale agreement with the Port of Seattle in support of outcomes including: providing a well-integrated world-class trail system that supports the regional transportation network; consolidating the property rights that undergird the regional wastewater system that protects water quality and aids economic development; maintaining the ERC's potential to support commuter rail connectivity through the major growth centers in King County's east side; and preserving the ERC for reactivation for the resumption of interstate freight service.

Z. The county has established policy requiring a regional planning process to include the principal owners, with input from stakeholders to ensure coordinated, dual usage of the ERC. The county remains committed to that policy goal and to the implementation of the Eastside Rail Corridor Regional Advisory Council. Among the many uses that the advisory council should consider will be the careful consideration of the restoration of excursion passenger rail service.

AA. The county's acquisition of ownership interests on the ERC will be funded in part by one million four hundred forty-nine thousand one hundred four dollars, which was appropriated through Ordinance 17500

(Proposed Ordinance 2012-0352). These moneys shall be transmitted to the Port of Seattle within thirty days of closing.

BB. It is critical to achieve trail and rail interconnectivity within the ERC.

CC. The high capacity transportation, regional trail and county wastewater facilities that are to be located in the ERC will be of significant public benefit and constitute essential public facilities. As essential public facilities, these transportation, trail and wastewater uses are subject to the requirements of the Growth Management Act, chapter 36.70A RCW. The region will work cooperatively to site essential public facilities in an equitable manner.

DD. The ERC will be a dual use transportation corridor, which is a corridor that will provide for the co-location of motorized public transportation facilities and regional trail facilities.

SECTION 2. A. The King County council hereby approves King County's acquisition of portions of the ERC from the Port of Seattle for a purchase price of up to fifteen million eight hundred thousand dollars consistent with a purchase and sale agreement substantially in the form of Attachment A to this ordinance.

B. The King County executive is hereby authorized to execute a purchase and sale agreement substantially in the form of Attachment A to this ordinance with a purchase price of up to fifteen million eight hundred thousand dollars, and to implement the terms of this agreement and to execute any documents necessary to carry out the transaction authorized by the purchase and sale agreement.

SECTION 3. Before the executive may propose any transfer property in lieu of and satisfaction of all or a portion of the purchase price to the Port of Seattle under Section 2.1.2 of the purchase and sale agreement, the executive must obtain the approval by ordinance of the council. Further, the executive shall no later than eighteen months after the closing called for by the purchase and sale agreement prepare and submit to the council an ordinance for approval of a financing plan to pay the purchase price. The executive shall submit the financing plan and ordinance required by this section in the form of a paper original and an electronic copy with the clerk of the council, who shall retain the originals and provide electronic copies to all councilmembers

and to the council's director of strategic policy initiatives.

SECTION 4. Before the King County executive may proceed with any rail track removal, the executive must coordinate with Sound Transit and obtain the approval by motion of the King County council. The executive shall submit the rail removal plan and motion in the form of a paper original and electronic copy with the clerk of the council, who shall retain the originals and provide electronic copies to all councilmembers and to the council's director of strategic policy initiatives.

SECTION 5. It is in the interest of King County to designate the planned trail area as defined in the reciprocal coordination and cooperation covenant agreement in Ordinance 17501 (Proposed Ordinance 2012-0354) quickly in order to protect its property interests in the corridor. Designation of the planned trail area is not a decision on the location of a trail, which decision will be made through a planning process that requires King County council approval. Such designation also does not foreclose locating the trail in any portion of the ERC through that planning process. Rather, designation of the planned trail area is part of the county's acquisition of the corridor from the Port of Seattle and the property interests in the reciprocal coordination and cooperation covenant agreement from Puget Sound Energy. The planned trail area shall not be designated in a location that would make potential future high capacity transit development cost-prohibitive. Any obligations that exist under Sound Transit's transportation easement for the benefit of King County shall not be considered cost-prohibitive. The King County executive shall submit to the King County council by January 30, 2013, a proposal for perfecting the planned trail area consistent with the reciprocal coordination and cooperation covenant agreement as part of the dual use plan.