



## Legislation Text

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Clerk 12/18/2007

AN ORDINANCE approving a memorandum of understanding between the county, the Port of Seattle and the BNSF Railway Company relating to the acquisition of the Woodinville Subdivision Eastside Rail Corridor.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Findings. The council makes the following findings:

A. In 2003 Burlington Northern Santa Fe Railroad ("BNSF") announced its intent to divest itself of the Woodinville Subdivision and Redmond Spur, which together are referred to as the Eastside Rail Corridor ("ERC"), a one-of-a-kind forty-two-mile corridor vital to the economic future of King County and six separate Eastside jurisdictions;

B. In 2005, the Puget Sound Regional Council in partnership with Washington state Department of Transportation obtained federal grant funds to conduct a study of this vital corridor, which was released in 2007;

C. In June 2005, the county council appropriated 3.8 million dollars to further the acquisition of this corridor;

D. On May 16, 2005, the King County executive announced that King County entered into exclusive negotiations with BNSF Railway to acquire the ERC for use as a trail and preserve its potential for future transportation;

E. On July 11, 2005, the metropolitan King County council unanimously approved Ordinance 15233, authorizing the ERC acquisition project for the preservation of transportation right-of-way in eastside King

County cities;

F. In 2006, the Puget Sound Regional Council ("PSRC") established a broadly representative BNSF Corridor Advisory Committee to review, discuss and deliberate on the technical analysis of the Eastside Rail Corridor and identify its most desirable and feasible uses. In 2006, the PSRC BNSF Corridor Advisory Committee held six intensive public meetings in various communities all along the corridor from March 2006 through January 2007;

G. On October 25, 2006, the King County executive and Port of Seattle chief executive officer announced the Connections for Our Future proposal, the central element of which was the purchase by the Port of the ERC from BNSF in exchange for King County International Airport, with the aim of publicly acquiring the corridor while minimizing costs to the taxpayers;

H. On January 19, 2007, the PSRC BNSF Corridor Advisory Committee found that the unique corridor should be preserved for future regional transportation uses and publicly acquired for the benefit of the public and that cost-effectiveness of trail development should be optimized;

I. On February 26, 2007, the chief executive officer of the Port of Seattle, the chairman, president and chief executive officer of BNSF and the King county executive signed a memorandum of understanding stating their intent to enter into a definitive transaction regarding the land and infrastructure elements of a purchase and sale agreement within one hundred eighty days;

J. On February 26, 2007, the county executive, the Port of Seattle and the BNSF Railway Company entered into a memorandum of understanding setting forth the proposed principal elements of Connections for Our Future involving the acquisition by the county of the ERC from the BNSF Railway Company;

K. On June 13, 2007, the King County executive, Cascade Land Conservancy, Transportation Choices and the Cascade Bike Club signed a statement of principles for dual-use supporting both rails and trails;

L. At a July 25, 2007, Seattle Rotary Club Meeting, the Port of Seattle through its new Chief Executive Officer rejected the proposal as originally envisioned but proposed that alternative partnership and transaction

was possible;

M. King County and the Port of Seattle have many mutual interests and shared goals, such as: infrastructure improvements which make the region more globally competitive; improved freight mobility for commerce; collaborating on airport operations to ensure preservation and cohesiveness of business models without the county having to divest itself of its airport asset - Boeing Field; and enhancement of mobility, air quality and healthy life-styles through development of additional alternative transportation modalities;

N. King County councilmembers, the Port of Seattle and the executive have since been in discussions to find a collaborative and mutually beneficial way to acquire this vital transportation corridor through a regional partnership;

O. A revised proposal could involve the purchase of approximately forty-two miles of BNSF railroad right-of-way to be preserved in public ownership, improvements over time to the rail corridor, construction of a trail or parallel trail;

P. The Port, the county executive and councilmembers are moving toward completion of a purchase and sale agreement with BNSF by December 31, 2007, when the county's exclusive right to negotiate expires, that will meet the above stated goals of preserving public ownership and the principle of "dual usage" for rails and trails;

Q. Preserving this critical transportation corridor for public ownership for future transportation needs, protecting the county's general aviation airport, and providing an opportunity for the port to secure an asset to ensure global competitiveness subsequent to identifying an alternative solid waste waste-export site, is definitely in the region's interest;

R. The parties to that February 26, 2007, memorandum of understanding have diligently negotiated to carry out its terms, and in so doing have restructured the transaction to better achieve their shared goals;

S. King County desires to preserve this unique and vital transportation corridor in public ownership in perpetuity; and

T. The King County council appreciates all the hard work of the participating parties in forging a collaborative approach that protects the interests of the citizens of King County prior to the December 31, 2007, expiration of the county's exclusive negotiating agreement with BNSF.

SECTION 2. The council of King County hereby requests and authorizes the King County executive to negotiate and execute agreements with the Port of Seattle and BNSF that contain the following elements:

A. King County will waive its exclusivity rights with BNSF for purchase of the ERC to allow the Port of Seattle ("the Port") and BNSF to negotiate and execute a purchase agreement at the Port's sole expense, and King County will be entitled, at a minimum, to a return of the deposit made under its exclusive negotiating agreement with BNSF, and half the interest earned thereon, as set forth in that agreement;

B. The Port will execute a purchase and sale agreement with Burlington Northern Santa Fe by December 31, 2007, for purchase and sale of the ERC;

C. Should the Port in good faith determine in the future to offer or agree to transfer ownership of any or all of the ERC, the Port shall provide King County with one hundred twenty days' notice of such determination and offer King County the right to purchase such property at an amount equal to the Port's purchase price plus interest from the date of acquisition at a rate equal to three percent per annum. If King County does not exercise the right to purchase such property within that period, the right to purchase at that price may be exercised within one hundred twenty days thereafter by any other public agency of the state of Washington authorized to provide transit, rail services or trails;

D. Agreement between the Port and the county on the principle of dual usage of this unique and vital corridor which allows trails and rails to be developed; and

E. Agreement between the Port and the county to create a formal multi-agency process to plan and produce decisions for dual uses of the corridor.

SECTION 3. The executive is requested to consider negotiating an agreement with the Port of Seattle to provide as follows:

The county may prior to June 30, 2008, at its option, require the Port to assign its rights under the purchase and sale agreement to acquire the segment of the ERC between approximately Mile Post 5.0 in Renton to a point just north of the Wilburton Trestle or just north of the Wilburton Tunnel and the segment of the ERC that includes most of the Redmond Spur just south of N.E. 145th Street in Woodinville, such that at closing the county could acquire ownership of those segments at a price allocated proportionately relative to the total purchase price for the ERC. This section shall not be deemed to be a

policy determination by King County to enter into such agreement or to acquire such property.