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Title: AN ORDINANCE approving the financing plan for the acquisition of property interests in the Eastside Rail Corridor.

Sponsors: Jane Hague, Larry Phillips

Indexes: ERC/BNSF, Finance

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Attachments: 1. Ordinance 17915.pdf, 2. A. Eastside Rail Corridor Financing Plan -Revised 10-29-14, 3. 2014-0374 Legislative Review Form.pdf, 4. A. Eastside Rail Corridor Financing Plan, 5. 2014-0374 transmittal letter.doc, 6. 2014-0374 fiscal note.xls, 7. A. Eastside Rail Corridor Financing Plan -Revised 10-29-14, 8. I2014-0374 Staff Report Proposed Ordinance 2014-0374 ERC financing.doc, 9. 2014-0374 Attachment 3 - Amendment 1.docx, 10. 2014-0374 Attachment 4 - Attachment A Revised.docx, 11. 2014-0374 Revised Staff Report- ERC financing.doc

| Date | Ver. | Action By | Action | Result |
|------------|------|----------------------------------|--|--------|
| 11/10/2014 | 2 | Metropolitan King County Council | Hearing Held | |
| 11/10/2014 | 2 | Metropolitan King County Council | Passed | Pass |
| 11/3/2014 | 1 | Committee of the Whole | Recommended Do Pass Substitute Consent | Pass |
| 9/2/2014 | 1 | Metropolitan King County Council | Introduced and Referred | |

AN ORDINANCE approving the financing plan for the acquisition of property interests in the Eastside Rail Corridor.

STATEMENT OF FACTS:

1. The Eastside Rail Corridor ("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.
2. The ERC is a regional asset that through ongoing public ownership can be managed to support shared objectives of a vibrant, growing community.

3. 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.
4. King County has developed, maintains and is seeking to further develop a 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.
5. King County has developed, maintains and anticipates the need to expand its wastewater treatment system, which currently includes conveyance facilities that run within and cross the ERC.
6. The property interests in the ERC that are now 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 memorandum of understanding 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.
7. The county has established and is implementing policy calling for a regional planning process, to include the principal owners and input from stakeholders, to ensure the coordinated development of the ERC to support multiple uses. The ERC Regional Advisory Council, comprised of the five principle owners, leads this process and has created and is implementing a plan for achieving the multiple use vision for the ERC.
8. In 2003, BNSF announced its intent to divest itself of the Woodinville Subdivision and Redmond Spur, which encompass the ERC.

9. 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.
10. Acquisition of the ERC was initially studied by the Puget Sound Regional Council. In May 2007, under the direction of the BNSF Corridor Advisory Committee 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.
11. In December 2007, the King County council passed Ordinance 15995, which approved a memorandum of understanding between BNSF, the Port of Seattle and King County that recognized 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.
12. 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.
13. 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 acquire the ERC, called for an agreement between King County and BNSF for "railbanking" of the ERC mainline south of milepost 23.8 and of 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.

14. In November 2009, King County entered into a memorandum of understanding with partners the Port of Seattle, Sound Transit, the city of Redmond, the Cascade Water Alliance and Puget Sound Energy to work together to acquire property interests in the ERC for a variety of purposes.

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

16. Pursuant to the federal National Trails Act and its implementing regulations, 16 U.S.C. 1247 (d) and 49 C.F.R. 152.29, 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.

17. In December 2009, Ordinance 16738 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 memorandum of understanding, a primary purpose of which was to ensure that the ERC could be developed and operated for the purposes of recreational trail and other uses while also preserving the ERC for the reactivation of interstate freight service.

18. In accordance with the 2009 memorandum of understanding, the memorandum of understanding partners have executed agreements that complete acquisitions of property interests from the Port of Seattle to implement the multiple use purpose of the memorandum of understanding.

19. In June 2010, the city of Redmond acquired from the Port of Seattle ownership of the ERC

from milepost 3.4 to milepost 7.3 of the spur. The city of Redmond has developed and is implementing a plan to build a trail on the city-owned segment of the Redmond spur.

20. 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.

21. In April 2012, Sound Transit acquired from the Port of Seattle ownership of the ERC from milepost 2.4 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.

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

23. On February 8, 2013 King County and the Port of Seattle executed a purchase and sale agreement through which King County acquired property interests in the ERC in support of outcomes including: providing a well-integrated 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; supporting other uses; and preserving the ERC for reactivation for the resumption of interstate freight service.

24. On February 13, 2013, King County and the Port of Seattle closed on King County's acquisition of property interests in the ERC for the sum of fifteen million eight hundred thousand dollars plus any interest accrued between the closing date and the date of final payment.

25. On February 13, 2013, King County and Puget Sound Energy completed a Reciprocal Coordination and Cooperation Covenant Agreement that clarifies the parties' respective interests

in the ERC and ensures that these interests are constructively pursued.

26. On March 27, 2013, King County and the city of Redmond entered into an intergovernmental land transfer agreement to further the mutual goal of a regionally integrated ERC.

27. The Port of Seattle has credited King County the one million nine hundred three thousand dollars already paid to the Port of Seattle in 2008 for the multipurpose easement, reducing the balance owed to approximately thirteen million nine hundred thousand dollars.

28. Shortly after closing King County paid to the Port of Seattle the sum of one million four hundred forty nine thousand dollars toward the balance owed for the county's ERC acquisitions. These federal funds were provided through the Puget Sound Regional Council and appropriated through Ordinance 17500. The payment reduced the balanced owed to approximately twelve million five hundred thousand dollars.

29. The purchase and sale agreement between King County and the Port of Seattle allowed for the option to pay the balance owed in cash and/or property in lieu of cash.

30. After exploring a variety of options to fund its acquisition of property interests in the ERC to advance its trail, transportation and utility system objectives, King County has chosen to pay the balance owed to the Port of Seattle in cash, rather than the property transfer option.

31. The executive has prepared a financing plan, Attachment A to this ordinance, that identifies the fund sources that will be employed, amounts from the respective sources, and the payment timeframe in order to make full payment of the balance owed plus the accrued interest to the Port of Seattle.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. The financing plan for King County's Eastside Rail Corridor acquisitions from the Port of Seattle, Attachment A to this ordinance, is hereby approved.