

..Title

AN ORDINANCE appropriating \$26,500,000 from the Conservation Futures Levy Subfund to the BNSF Eastside Rail Corridor project for the acquisition of an additional interest in a railroad right-of-way in King County; and amending the 2009 Budget Ordinance, Ordinance 16312, Section 128, as amended, and Attachment B, as amended.

..Body

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

**SECTION 1. Findings:**

A. The Burlington Northern Santa Fe ("BNSF") Rail Line corridor is currently a forty-seven-mile railroad line within King County that extends through the cities of Renton, Newcastle, Bellevue, Kirkland, Redmond and Woodinville, in part along Lake Washington and adjacent to several public park facilities, into Snohomish County to the city of Snohomish. A portion of the BNSF corridor is located in unincorporated King County.

B. In 2003, BNSF announced its intent to sell the corridor to either public or private entities.

C. Since 2005, King County has been negotiating with BNSF to purchase this vital corridor to ensure it is preserved in public ownership for transportation and recreational trail purposes, and other compatible uses.

D. On July 11, 2005, the metropolitan King County Council unanimously approved Ordinance 15233, authorizing the eastside rail corridor acquisition project for the preservation of transportation right-of-way in eastside King County cities.

E. On December 17, 2007, the metropolitan King County Council approved Ordinance 15995, finding in part that King County desires to preserve this unique and valuable transportation corridor in public ownership in perpetuity, and authorizing the King County executive to negotiate and execute agreements with the Port of Seattle to accomplish that end.

F. In May 2008, the metropolitan King County Council approved Ordinance 16084, authorizing the King County executive to execute a purchase and sale agreement and a donation agreement with BNSF and the Port of Seattle whereby the Port of Seattle would purchase a portion of the corridor from BNSF for \$106,903,000, BNSF would donate the remainder of the corridor to the Port, and King County would purchase a Multipurpose Public Easement over part of the corridor from the Port of Seattle for \$1,903,000. The donated part of the corridor would be "railbanked" under the federal Rails to Trails Act, 16 U.S.C. §1247(d), and King County would serve as the rail banking sponsor, offering the county a unique opportunity to retain the corridor's continuous, unbroken ownership for potential recreation and transportation uses instead of being subdivided, sold for development and lost forever. The agreements identified December 31, 2008, as the closing date related to acquisition of the ERC.

G. The global economic crisis has adversely affected the Port of Seattle's ability to finance the corridor acquisition. In response, the Port has requested and received from BNSF and King County a series of extensions to the closing date. The closing date was

most recently extended to December 15, 2009. As authorized by King County Ordinance 16084, the County and the Port of Seattle are preparing to close in December of 2009 in accordance with the approved and executed purchase and sale agreement and donation agreement.

H. King County and the Port of Seattle have identified additional regional partners who could contribute funds to preserve the BNSF corridor for mutual shared interests such as: infrastructure improvements that make the region more globally competitive; improved freight mobility and public transportation, both motorized and non-motorized; the promotion of tourism and recreational activities in the region; and the enhancement of mobility, air quality and healthy lifestyles through development of additional alternative transportation modalities.

I. The City of Redmond, Sound Transit, Puget Sound Energy and Cascade Water Alliance strongly support public acquisition of the BNSF corridor, and have expressed interest in contributing funding in exchange for various real property interests in the corridor.

J. King County, the Port of Seattle, the City of Redmond, Sound Transit, Puget Sound Energy and Cascade Water Alliance have negotiated a Memorandum of Understanding (MOU) which establishes a new vision to preserve the BNSF corridor after the Port acquires it from BNSF. The MOU is attached to this ordinance as Attachment A.

K. It is in the best interest of King County to take such steps as are necessary to bring the BNSF corridor into public ownership under such terms and conditions as will

preserve the corridor in perpetuity for transportation and recreational trail use, and other compatible purposes.

SECTION 2. The King County executive is requested to negotiate and execute contracts to acquire, develop and maintain additional property rights in the BNSF Eastside Rail Corridor as contemplated in Attachment A.

SECTION 3. From the Conservation Futures Levy Subfund there is hereby appropriated and authorized to be disbursed a supplemental appropriation in the following amount for the specific project identified in Attachment B to this ordinance, which attachment amends Attachment B to Ordinance 16312, as amended, by adding thereto and inserting therein the project listed in Attachment B to this ordinance:

<u>Fund</u>	<u>Capital Fund Name</u>	<u>Amount</u>
3151	Conservation Futures Levy Subfund	\$26,500,000

PROVIDED THAT:

Permanent financing for the project described in Attachment B to this ordinance will be provided through the issuance of limited tax general obligation bonds backed by conservation futures tax levy funds. Interim financing will be supplied through a combination of an interfund loan, pursuant to terms approved by the King County executive finance committee, and bond proceeds in a sale in mid 2010.

PROVIDED FURTHER THAT:

No moneys appropriated through this ordinance for the project described in Attachment B to this ordinance shall be expended or encumbered until the metropolitan King County council adopts an ordinance to approve a contract or contracts

for King County to acquire, develop and maintain a further property interest in the BNSF Eastside Rail Corridor.

Attachment: A. MOU dated November 5, 2009;

Attachment: B. General Government CIP