

**PORT OF SEATTLE**  
**MEMORANDUM**

**COMMISSION AGENDA**  
**ACTION ITEM**

<b>Item No.</b>	<u>6b</u>
<b>Date of Meeting</b>	<u>March 8, 2016</u>

**DATE:** February 19, 2016

**TO:** Ted Fick, Chief Executive Officer

**FROM:** Melinda Miller, Director, Portfolio and Asset Management  
Sean Sullivan, Real Estate Manager

**SUBJECT:** Resolution No 3717, amending Resolution No. 3688 to transfer remaining Eastside Rail Corridor property and improvements to Snohomish County for a purchase price of \$3.5 million

**Estimated Proceeds to Port:** \$3,500,000, minus closing costs.

**ACTION REQUESTED**

Request First and Second Reading and Final Passage of Resolution No. 3717: A resolution of the Port Commission of the Port of Seattle amending Resolution No. 3688 and authorizing the transfer of certain real property located in Snohomish County (portions of the Woodinville Subdivision) and any improvements located thereon, including the Snohomish River Bridge to Snohomish County at a reduced sales price, and further authorizing the Chief Executive Officer to execute all documents related to such transfer.

Motion and Vote to suspend Bylaws Art. VIII, Sec. 1  
Motion and Vote on First and Second Reading and Final Passage

**SYNOPSIS**

Commission authorization is requested to proceed with the sale of a portion of the freight section of the Woodinville Subdivision to Snohomish County for \$3,500,000. This request is subsequent to the agreement between the Port, Redmond, King County, Sound Transit, Cascade Water Alliance, and Puget Sound Energy (“Regional Partners”) to share in the costs of the acquisition of the Woodinville Subdivision rail corridor (Corridor).

Staff is requesting waiver of the Commission Bylaws provision for two readings on separate days in order to meet the expedited closing date required by Snohomish County. The proposed terms of the Purchase and Sale Agreement since the earlier Commission action have only been modified in three areas; 1) Snohomish County removed all contingencies, 2) the closing date is now not later than April 26, 2016, and 3) the purchase price has been reduced from \$5,000,000 to \$3,500,000.

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The expedited action requested on the County's proposed acquisition of the Corridor is related to a County deadline, of the end of April 2016, for expending certain bond funds.

### **BACKGROUND**

The Port acquired the Eastside Rail Corridor on December 18, 2009, from BNSF Railway. Prior to finalizing the acquisition, the Port, the City of Redmond, King County, Sound Transit, Cascade Water Alliance, and Puget Sound Energy ("Regional Partners") agreed that they all had an interest in obtaining rights to use the Corridor and share in the cost of acquiring it for public ownership. This agreement was memorialized in a Memorandum of Understanding dated November 11, 2009. On February 23, 2010, the Commission authorized a Memorandum of Understanding between the Regional Partners regarding the appraisal of the Corridor.

On June 30, 2010, the Port finalized the sale of the Redmond city limits portion of the Corridor to the City of Redmond. On December 21, 2010, Puget Sound Energy acquired an easement over both the freight and railbanked portions of the Corridor. On April 11, 2012, the Port sold to Sound Transit (i) a portion of the Corridor located within the City of Bellevue and (ii) a permanent high capacity transportation easement over the railbanked portion of the Corridor. On April 13, 2012, the Port sold to the City of Kirkland that portion of the Corridor within the City of Kirkland and a portion within the City of Bellevue for trail and transportation uses.

On February 12, 2013, the Port sold to King County (i) the remaining rail banked portion of the Corridor located within King County and (ii) a trail easement over portions of the freight segment of the Corridor located partially in King County and partially in Snohomish County.

### **SALE JUSTIFICATION, DETAILS, AND SCHEDULE**

In early 2014, the Port Commission approved a sale of the last remaining portion of the Eastside Rail Corridor to Snohomish County for \$5,000,000. In April of 2015, Snohomish County submitted a notice to the Port that they had terminated the sale due to conditions, including property deficiencies, they identified that materially impaired their ability to develop their prospective trail and other desired transportation options.

Since the date of the termination, the Port and Snohomish County continued to discuss various avenues to satisfy their joint goals of keeping the rail Corridor in public ownership, and satisfying Snohomish County's long-term plan to construct a recreational trail on the Corridor.

Snohomish County identified numerous concerns related to 1) the lack of fee simple interest in the entire Snohomish County portion of the Corridor and 2) the deteriorating physical condition of the Corridor and the rail infrastructure built on it. During this discussion period, the Port had to repair a culvert in the Corridor that failed near the Maltby area risking damage to a licensee's optic fiber line, further highlighting the County's concerns about the physical condition of the property.

After extended discussions, the Port and Snohomish County agreed that a more appropriate price of the property should be \$3,500,000 based upon the current "as-is" condition of the property.

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The Port and the County agreed that if such an agreement could be made, the County would proceed with haste and remove any pre-conditions to the acquisition, and close the transaction not later than April 26, 2016.

The County has agreed to remove a requirement that the Port obtain an easement over the Burlington Northern tracks, just south of the Snohomish River, which was a major impediment to the prior sale. The agreement will include all the Port's typical environmental and other releases that have been required in similar transactions.

### **FINANCIAL IMPLICATIONS**

- The Port of Seattle will receive \$3,500,000 minus closing costs estimated at \$10,000.
- May – December operating expense favorable \$167,000 to budget.
- Environmental Release. The County waives, releases and discharges forever the Port from any and all present or future claims related to environmental conditions in, at, on, under or originating from the property.

### **STRATEGIES AND OBJECTIVES**

Sale of this remaining portion of the Corridor will support the Century Agenda, and Economic Development Division Business Plan objectives, by converting a non-producing asset into capital that can be invested into new projects that will create quality jobs and drive further economic prosperity throughout the Puget Sound Region.

### **TRIPLE BOTTOM LINE**

#### ***Economic Development***

Snohomish County's goal is to construct a multi-purpose recreational trail that will be a significant economic development project for the County and region. A number of new jobs will be created designing, developing and maintaining the twelve (12) mile long multi-purpose recreational trail and support facilities.

Additionally, this portion of the Corridor potentially can continue to serve new and existing freight rail customers, as well as support new transportation options, such as commuter rail.

#### ***Environmental Responsibility***

Development of the new multi-purpose recreational trail will present an opportunity for the County to enhance and better manage the storm water systems on the property, both storm water entering the property from adjoining parcels and storm water leaving the Corridor property.

#### ***Community Benefits***

The sale of this portion of the Corridor to Snohomish County satisfies the key original Port goal of preserving this property for the public's benefit and use. The long-term plan to create a recreational trail will become part of a wider regional trail system that will be used by the public for years to come.

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### **ALTERNATIVES AND IMPLICATIONS CONSIDERED**

#### **Alternative 1) –Continue Port ownership.**

Financial Impacts: Port would experience expenditures of up to \$5,000,000 in aggregate operating costs and up to \$10,000,000 in capital expenditures, over the next ten (10) years.

Pros:

- The Port would continue to hold and manage the Snohomish County Portion of the Eastside Rail Corridor, preserving the Corridor for future public benefit and use.

Cons:

- The Port would continue to be exposed to all the risks and expenses related to continued ownership. Operating expenses are estimated to be \$500,000 annually (not including litigation costs) based upon historical performance, and capital expenses are estimated at \$2-10,000,000 over the next five years.

This is not the recommended alternative.

#### **Alternative 2) – Attempt to sell the remaining portion of the Eastside Rail Corridor to a private owner or private rail developer/operator.**

Financial Impacts: Possible higher net sales value to the Port. Port would save approximately \$500,000 a year in annual operating expenses and avoid \$2-10,000,000 in capital costs over the next ten (10) years.

Pros:

- The Port could consider offers from private rail developers/operators, possibly attracting a modestly higher sale price. Sales proceeds could be reinvested in future Port initiatives.
- The Port would be relieved of the annual operating expenses and any future capital costs.

Cons:

- Sales to private rail developers/operators would not satisfy the original intent of the Corridor acquisition and the Port's desire to keep the ownership of the Corridor in the public domain.

This is not the recommended alternative.

#### **Alternative 3) – Sell the remaining portion of the Eastside Rail Corridor to Snohomish County for \$5,000,000, but retain the responsibility to reimburse the County up to \$2,000,000 for certain repairs that may be needed for up to 2 years after the closing of the sale.**

Financial Impacts: Port would initially secure \$5,000,000 in sales proceeds, less closing costs, but retain liability for, and likely expend, \$2,000,000 in additional capital costs over the next two (2) years. Port would save \$500,000 per year in annual operating expenses and avoid \$2-10,000,000 in capital costs over the next ten (10) years.

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### Pros:

- The Port would be relieved of the annual operating expenses and future capital costs beyond \$2,000,000.
- The Port would be relieved of all future costs and expenses after the two year period after closing.

### Cons:

- This alternative would not satisfy our past practice and ongoing desire to sell the rail Corridor property “as-is” without any warranty or remaining obligation on the part of the Port.
- The Port would retain some liability for two years after such a sale.

This is not the recommended alternative.

**Alternative 4)** – Sell the remaining portion of the Eastside Rail Corridor to Snohomish County under the terms outlined in this memo.

Financial Impacts: Port would secure \$3,500,000 in net sales proceeds less closing costs. Port would save \$500,000 annually in ongoing operating expenses, and \$2-10,000,000 in capital costs over the next ten (10) years.

### Pros:

- The Port would be relieved of all future liability and costs associated with ownership of the Corridor.
- The Port would secure sales proceeds from the \$3,500,000 sale that can be invested in future Port initiatives.
- The proposed sale keeps the Corridor in public ownership, with the prospect of the development of a multi-purpose recreational trail to be used by all of the Region’s inhabitants.
- The Port does not have to secure an easement over the Burlington Northern tracks, south of the Snohomish River.

### Cons:

- None identified.

**This is the recommended alternative.**

## **ATTACHMENTS TO THIS REQUEST**

- Resolution No. 3717
- Purchase and Sale Agreement
- Map of the Eastside Rail Corridor
- PowerPoint Presentation

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### **PREVIOUS COMMISSION ACTIONS OR BRIEFINGS**

- January 14, 2014, Second Reading and Final Passage of Resolution No. 3688, relating to the surplus and sale of a portion of the Eastside Rail Corridor to Snohomish County.
- January 7, 2014, First Reading and Public Hearing of Resolution No. 3688, relating to the surplus and sale of a portion of the Eastside Rail Corridor to Snohomish County.
- April 3, 2012, Second Reading and Final Passage of Resolution No.3659, relating to surplus and sale of certain real property (also known as the Eastside Rail Corridor) to the City of Kirkland (a portion of the Woodinville Subdivision).
- February 28, 2012, First Reading and Public Hearing of Resolution No. 3659, relating to the surplus and sale of certain real property (also known as the Eastside Rail Corridor) o the City of Kirkland (a portion of the Woodinville Subdivision).
- December 13, 2011, Port Commission authorized the Chief Executive Office to execute a Purchase and Sale Agreement between the Port of Seattle and City of Kirkland for a portion of the Woodinville Subdivision.
- May 24, 2011, Port Commission authorized the sale of approximately one mile of the Woodinville Subdivision within the City of Bellevue to Sound Transit and further authorized the grant of a permanent easement to Sound Transit over the Port's railbanked portion of the Woodinville Subdivision.
- December 7, 2010, Port Commission authorized the sale of easement rights on the freight and railbanked portions of the Woodinville Subdivision to Puget Sound Energy.
- June 22, 2010, Port Commission authorized the sale of the Redmond city portion of the Woodinville Subdivision to the City of Redmond.
- February 23, 2010, Port Commission authorized a Memorandum of Understanding between the Regional Partners Regarding Joint Appraisal of the Woodinville Subdivision.
- November 5, 2009, Port Commission authorized execution of a Memorandum of Understanding between the Port and the Regional Partners Regarding Acquisition of the Woodinville Subdivision.