AM NO. 12-077 (C.7)

CityofRedmond
WASHINGTON

TO: City Council

FROM: John Marchione, Mayor

DATE: May 1, 2012

SUBJECT: **ORDINANCE: ACQUISITION AND CONDEMNATION OF EASEMENT INTEREST IN REAL PROPERTY FOR EVANS CREEK REALIGNMENT, PROJECT NO. 20020995**

I. RECOMMENDED ACTION:

Authorize the acquisition of permanent and temporary real property rights by negotiation; authorize Mayor and staff to execute acquisition documents; and approve the ordinance authorizing the City Attorney to proceed with condemnation action to acquire the real property rights in King County Tax Parcels 062506-9029 and 062506-9017 needed for stream channel realignment and continued use of existing public facilities, Project No. 20020995, in the event that successful acquisition of the real property rights cannot be negotiated.

II. DEPARTMENT CONTACT PERSONS:

Bill Campbell, Director of Public Works	425-556-2733
Ron Grant, Assistant Public Works Director/City Engineer	425-556-2742
Debby Wilson, Real Property Manager	425-556-2715

III. DESCRIPTION:

Evans Creek is a Class I stream that has been heavily impacted by industrial development. Vegetated stream buffers are very narrow, exposing the stream channel to sunlight and untreated stormwater runoff. King County and the Washington State Department of Transportation have proposed or completed extensive channel and buffer enhancements upstream, and this project is listed in the WRIA 8 Chinook Conservation Plan. The large upstream watershed supports good wild Coho salmon runs and contains quality riparian habitat for other wildlife. The open space proposed for the new channel also contains the well-used Bear-Evans Creek Trail. This easement acquisition and habitat enhancement would also benefit passive recreation.

The proposed stream relocation solution involves:

- Reconstructing the channel to the north and east of industrial properties, keeping the new channel in open space where adequate buffers could be established. This would reconnect the channel with its floodplain wetlands, and restore buffer function. Regulatory buffer impacts to some developed areas would be reduced from the current situation, encouraging cleanup (if needed) and redevelopment. In-stream structures and native vegetation would be placed along the new channel.

- Preliminary feasibility was confirmed through a 2005 study by Roth Hill. Beaver dams also occasionally redirect significant flow into the proposed channel location, supporting the assumed feasibility of this project.

- A third party property appraisal was completed in late 2010, indicating a value for a permanent stream easement over 10.8 acres, along with temporary construction access.

Initiation of this project was discussed at the Planning and Public Works Committee meeting on April 1, 2010. Subsequently the City has been in contact with the property owner over the course of several months. The property area is needed to accommodate the Project, which will help to protect and enhance the environment, as well as fostering redevelopment of industrial properties.

If negotiations to purchase the property are unsuccessful, use of eminent domain would provide the City with the opportunity to secure access to the property and subsequently City ownership to provide for various parks, utility and transportation projects staying on schedule.

IV. IMPACT:

A. Service/Delivery: The acquisition of the property will support the commencement of planning and construction of relocating Evans Creek and rebuilding portions of the existing public trail if necessary to accommodate the stream. Authorizing acquisition of the property by exercise of eminent domain, if necessary, will support expediting the property rights acquisition process.

B. Fiscal: The costs and expenses for property acquisition will be paid from Stormwater Utility funds.

V. ALTERNATIVES:

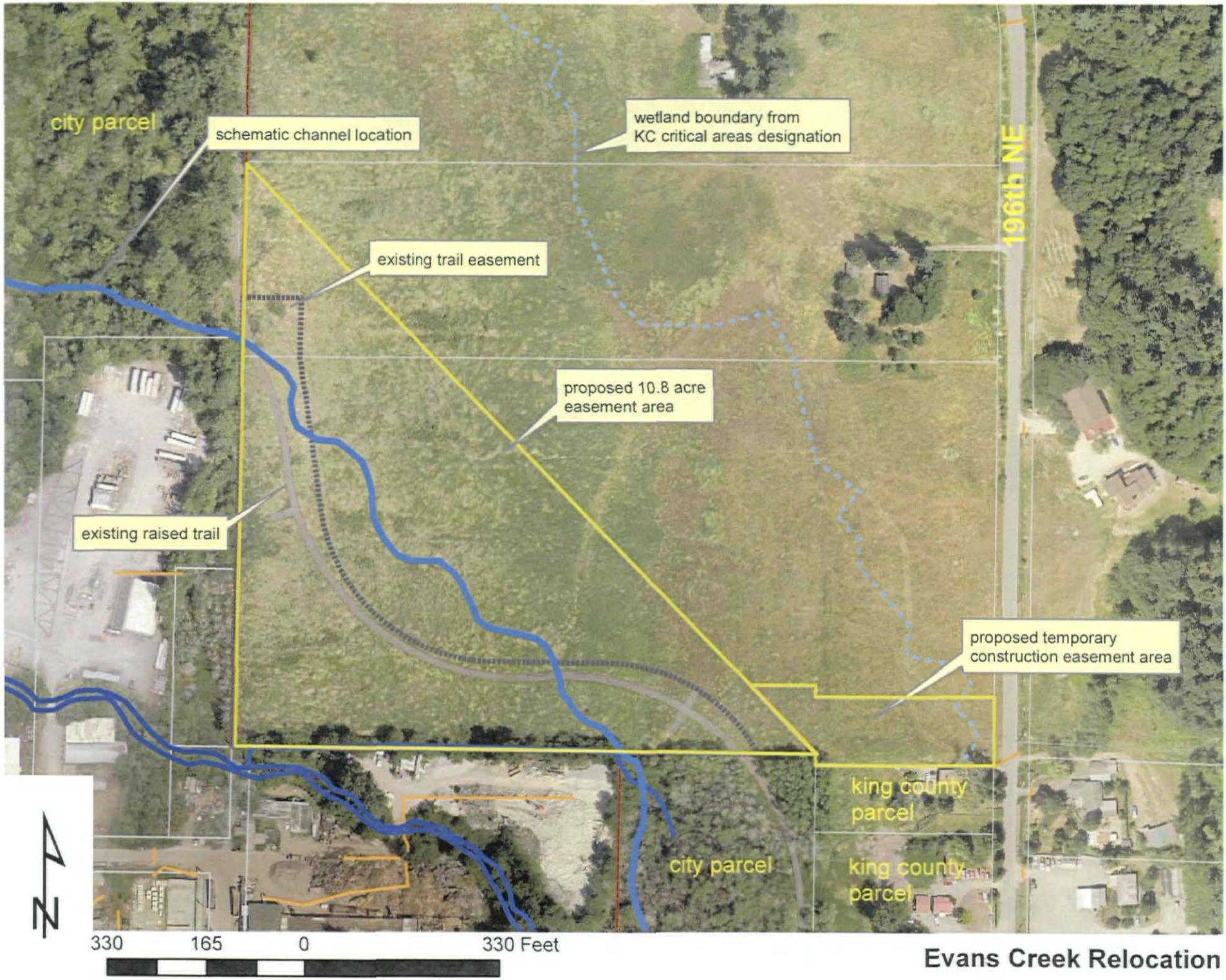
The City Council could choose not to authorize the property acquisition and approve the proposed ordinance. This would eliminate the opportunity to acquire the property rights necessary for the project. Delaying the approval would result in postponing or possibility stopping the project.

VI. LIST OF ATTACHMENTS:

A. Vicinity Map
B. Ordinance

William J. Campbell, Director of Public Works — 4/20/12 Date

Approved for Council Agenda — John Marchione, Mayor — 4/20/12 Date



Evans Creek Relocation

Attachment A

ATTACHMENT B

CITY OF REDMOND
ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF REDMOND, WASHINGTON, PROVIDING FOR THE ACQUISITION, TAKING, CONDEMNATION, AND APPROPRIATION OF PERMANENT AND TEMPORARY EASEMENT INTERESTS OF REAL PROPERTY FOR THE PURPOSE OF CONSTRUCTING A STREAM CHANNEL AND ASSOCIATED ENVIRONMENTAL ENHANCEMENTS, CITY OF REDMOND, CAPITAL PROJECT NO. 20020995 AND LEGALLY DESCRIBED HEREIN, PROVIDING THAT THE ENTIRE COST THEREOF SHALL BE PAID FROM AVAILABLE FUNDS; AND DIRECTING ATTORNEYS RETAINED BY THE CITY OF REDMOND TO PROSECUTE THE APPROPRIATE ACTION AND PROCEEDINGS IN THE MANNER PROVIDED BY LAW FOR SAID CONDEMNATION

WHEREAS, the City of Redmond plans to construct and relocate a stream channel, install plantings and other environmental enhancements to buffer the stream, and rebuild portions of existing public improvements which facilitate recreation and transportation use; and

WHEREAS, the plans to construct and relocate the stream channel and the associated improvements will improve the water quality of Evans Creek, which currently runs through industrial properties; and

WHEREAS, the plans to construct and relocate the stream channel and the associated improvements will also encourage economic redevelopment of those properties currently encumbered by the stream by relocating the stream to the properties to be

condemned, more fully described in Exhibit A hereto, which are already encumbered by wetland buffers; and

WHEREAS, the realignment of Evans Creek will enhance public park facilities in Martin Park by creating a natural buffer along the riparian zone, improving the meadow for park use, and allowing visitors to engage more closely with the water's edge, in accordance with the East Redmond Corridor Master Plan; and

WHEREAS, it is necessary to acquire real property rights to a portion of property located at approximately the 8500 block of 196th Avenue NE for the public purpose of constructing the new stream channel and modifying other public improvements; and

WHEREAS, the City is in the process of negotiating a voluntary purchase agreement to acquire permanent rights to a portion of real property and temporary real property rights to construction the project, but agreement with the property owner may not be reached; and

WHEREAS, the City Council has therefore determined to authorize condemnation of such interests, and

WHEREAS, pursuant to RCW 8.25.290 the City published and mailed notice to the property owner of land this ordinance authorizes to be condemned, advising such owner that a final decision condemning the required property interests would be

made at the May 1, 2012, Redmond City Council meeting and this ordinance would be considered and passed as a result; and

WHEREAS, any and all interested parties had the opportunity to address the Redmond City Council on the subject at the May 1, 2012, meeting.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF REDMOND, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Classification. This is a non-code ordinance. Real property interests must be condemned, appropriated, taken and damaged for the construction and relocation of a stream channel, associated environmental enhancements, and public improvements as provided by this ordinance. The City is authorized to condemn property and property interests for the public improvements under RCW 8.12.030.

Section 2. Need for Property - Public Use. The City Council of the City of Redmond, after hearing a report of the Public Works Department, and reviewing improvement plans, hereby declares that the public health, safety, and welfare demand that the City acquire permanent and temporary easement interests in certain real properties to relocate and construct a stream for the purposes of water quality enhancement, encouraging economic redevelopment, and enhancing public park facilities. The

improvements to be made include, but are not limited to, the relocation and construction of a portion of Evans Creek, the installation of plantings and other environmental enhancements to buffer the stream, and improvements to existing trails for park use in accordance with the East Redmond Corridor Master Plan. The City Council further finds and declares that the permanent and temporary easement interests described fully in Exhibit A attached hereto and incorporated herein by this reference as if set forth in full are necessary for the public use and purpose of constructing and relocating the stream and the associated improvements described in this Section.

Section 3. Condemnation. The easement interests as described in Section 2, are hereby condemned, appropriated, taken, and damaged for the purpose of constructing the public improvements described in Section 2 above, together with all necessary appurtenances, utilities, and related work to make a complete improvement in accordance with City standards. Condemnation of the property is subject to the making or paying of just compensation to the owners and possessors thereof in the manner provided by law.

Section 4. Authority of City Attorney. The City Attorney is hereby authorized and directed to begin and prosecute the proceedings provided by law to condemn, take, and appropriate

the interests necessary to carry out the provisions of this ordinance, and is further authorized in conducting said condemnation proceedings, and for the purpose of minimizing damages, to stipulate as to the use of the property hereby authorized to be condemned and appropriated, and as to the reservation of any right of use of the owner or any person entitled to possession of the property, provided that such reservation does not interfere with the use of said property as provided in this ordinance.

Section 5. Source of Funds. The entire cost of the property acquisition authorized by this ordinance, including all costs and expenses of condemnation proceedings, shall be paid from available funds as may be appropriate under the circumstances.

Section 6. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 7. Effective Date. This ordinance shall take effect five (5) days after passage and publication of an approved summary as provided by law.

ADOPTED by the Redmond City Council this ___ day of _____, 2012.

CITY OF REDMOND

_____
MAYOR JOHN MARCHIONE

ATTEST/AUTHENTICATED

_____ (SEAL)
MICHELLE M. MCGEHEE, MMC, CITY CLERK

APPROVED AS TO FORM
OFFICE OF THE CITY ATTORNEY

_____
JAMES E. HANEY, CITY ATTORNEY

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO.

EXHIBIT A

PROPERTY ID NUMBER	PROPERTY OWNER	PROPERTY OWNER TAX PAYER'S OR CONTACT ADDRESS	PROPERTY ADDRESS (PER KING COUNTY ASSESSMENT RECORDS)	PROPERTY RIGHTS
062506-9029 AND 062506-9017	UNION SHARES LLC	UNION SHARES LLC GORDON HOENIG 13835 62ND AVE NE KIRKLAND WA 98033	8733 196TH AVE NE REDMOND, WA 98053	Permanent Easement: That portion of the NE ¼ of the SE ¼ S6, T25N, R6E, W.M., King County, Washington, described as follows: Beginning at the SW corner of the NE ¼ of the SE ¼ of said S6; Thence S89°25'00"E, along the S line thereof, a distance of 988.92' to the NW corner of the E ½ of the E ½ of the SE ¼ of the SE ¼ of said S6; Thence N44°00'13"W, a distance of 1388.29' to the NW corner of the S ½ of the N ½ of the NE ¼ of the SE ¼ and the W line of the NE ¼ of the SE ¼ of said S6; Thence S01°24'54"W, along said W line, a distance of 988.82' to the Point of Beginning. Containing 488,882 square feet, more or less.

PROPERTY ID NUMBER	PROPERTY OWNER	PROPERTY OWNER TAX PAYER'S OR CONTACT ADDRESS	PROPERTY ADDRESS (PER KING COUNTY ASSESSMENT RECORDS)	PROPERTY RIGHTS
062506-9017	UNION SHARES LLC	UNION SHARES LLC GORDON HOENIG 13835 62ND AVE NE KIRKLAND WA 98033	8733 196TH AVE NE, REDMOND, WA 98053	Temporary Easement: That portion of S6, T25N, R6E, W.M. as recorded under Auditor's File No. 20080125900020, records of King County, Washington, described as follows: The S 100' of Tract X. Tract X: The NE ¼ of the SE ¼ of S6, T25N, R6E, W.M., in King County, Washington; Together with that portion of the N 132 feet of the E ½ of the E ½ of the SE ¼ of the SE ¼ of S6, T25N, R6E W. M. lying N of the Following described line: Beginning at the NE corner of the SE ¼ of the SE ¼ of said S6; Thence S00°39'14"W, along the E line of said subdivision, 15.30'; Thence N88°16'29"W 15' to the True Point of Beginning of this Line described; Thence continuing N88°16'29"W 314.86', more or less, to the W line of the E ½ of the E ½ of the SE ¼ of the SE ¼ of said S6 and the end of this Line description; Except that

portion thereof for 196th Avenue Northeast (Anna Abrahamson Road) as conveyed to King County under Recording Number 1419896; Situate in the County of King, State of Washington.