

MEMO TO:

City Council

FROM:

John Marchione, Mayor

DATE:

January 15, 2013

SUBJECT:

RESOLUTION: AUTHORIZE MAYOR TO APPROVE USE OF

CITY-OWNED PROPERTY

I. RECOMMENDED ACTION:

Adopt the proposed resolution delegating authority to the Mayor or his designee(s) to approve licenses, permits, and agreements for the use of City property commonly known as the Redmond Central Connector, and also known as the Redmond Spur.

II. DEPARTMENT CONTACT PERSONS:

Tim Fuller, 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:

RCW 35A.11.010 provides that a city, by and through its legislative body, has the right to allow use of a city's property through contracts, leases, agreements, etc. The City of Redmond is the owner of real property commonly referred to as the Redmond Central Connector; the railbanked rail corridor acquired from Port of Seattle. The property was conveyed to the City of Redmond subject to a number of permits, licenses, leases, and other types of agreements. A significant number of the agreements have expired or terminated. Additionally, the City has received requests from both public and private parties to update an understanding for their continued use of the corridor. Uses include, but are not limited to, installing and maintaining existing underground utilities, private road crossings, landscaping, signage, parking, and improvements to enhance connection between private development and the Redmond Central Connector project.

Considering the volume of agreements that will result from authorizing new or continued use of the corridor, providing the Mayor authority to execute, or assign to staff being able to formalize, agreements would result in efficient management of the agreements and use of the corridor.

City Council January 15, 2013

Resolution: Authorize Mayor to Approve Use of

City-Owned Property

Page 2

The attached resolution presents the parameters of the agreements which Council is authorizing the Mayor, or the Mayors designee(s), to manage.

IV. **IMPACT:**

A. Service/Delivery:

Adopting the resolution will result in potential licensees, permittees, etc. the ability to have requests reviewed and processed with consistency and efficiency.

B.

If the resolution is not adopted, compensation that will be collected either by payment of an application fee, monetary consideration for term use, or both, may not align with the final costs of preparing and processing agreements for Council consideration.

V. **ALTERNATIVE:**

Should the City Council choose to not adopt the proposed resolution, processing each request for use of this City property would result in a significant time and expense to prepare each agreement for City Council's review and acceptance.

VI. TIME CONSTRAINTS:

Delaying adoption of the resolution will delay executing agreements resulting in numerous cases of continued use of City property without authorization.

VII. LIST OF ATTACHMENTS:

Α. Proposed Resolution

Timothy K. Fuller, Director of Public Works

12/31/12 Date

Approved for Council Agenda (

ATTACHMENT A

CITY OF REDMOND RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF REDMOND, WASHINGTON, DELEGATING AUTHORITY TO THE MAYOR OR HIS DESIGNEE TO APPROVE LICENSES, PERMITS, AND AGREEMENTS FOR THE USE OF THE RAILROAD CORRIDOR COMMONLY KNOWN AS THE REDMOND SPUR

WHEREAS, the City of Redmond acquired the railroad corridor commonly known as the Redmond Spur from the Port of Seattle in 2010; and

WHEREAS, the railroad corridor was conveyed subject to a number of existing permits and licenses issued by the former owner, Burlington Northern Railway Company, which authorized certain improvements and facilities to be located in the corridor right-of-way; and

WHEREAS, some of the licenses and permits issued by the former owner may not have been assigned to the City and some may have terminated or expired; and

WHEREAS, the Redmond City Council has determined that in order to allow the Mayor or his designee to properly manage the railroad corridor, the Mayor or his designee should be delegated the authority to issues licenses, permits, and agreements for the use of the corridor subject to certain parameters set forth in this Resolution.

Page 1 of 6

Resolution No. _____AM No.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF REDMOND, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1. Delegation of Authority. The Mayor or his designee is hereby authorized to issue and enter into such licenses, permits, or other agreements as the Mayor may determine to be necessary and proper in order to manage the use of the railroad corridor commonly known as the Redmond Spur by other public agencies and private users. Any such license, permit, or other agreement shall contain the following provisions:

- A. <u>Use</u>. All licenses, permits, and agreements shall specify the use or improvement to be authorized. No use or improvement other than that specified in the license, permit, or agreement shall be allowed.
- B. <u>Interference</u>. The allowed use or improvement shall not interfere with:
 - Existing or planned City uses or improvements;
 - 2. Existing or planned improvements or uses by King County or rights granted to King County under agreements approved or to be approved by the City; or
 - 3. Existing or planned improvements or uses by the Central Puget Sound Regional Transit Authority (Sound Transit) or rights granted to Sound

Transit under agreements approved or to be approved by the City.

- A11 uses and improvements must be CRailbanking. consistent with, and not jeopardize, the railbanked status of the railroad corridor under 16 U.S.C. §1247(d), the Notice of Interim Trail Use issued under such statute, and the rulings of the United States Department of Transportation's Transportation Board regarding the Redmond Spur.
- D. <u>Nature of Rights</u>. All licenses, permits, and agreements shall grant only the permission to use the specified land for the specified purpose; no right, title, or interest in the land itself shall be conveyed.
- E. Revocation and Termination. All licenses, permits, and agreements issued or agreed to be the Mayor shall be revocable or terminable at any time at the will of the City, with no cause required for such revocation or termination.
- F. Indemnity. All licenses, permits, and agreements issued or agreed to by the Mayor shall provide for the City, its officers, agents, and employees, to be indemnified, defended and held harmless from any and all claims, demands, losses, expenses, liens, charges, and liabilities of any description (including attorney's fees and costs incurred by the Grantor in connection therewith) for injury, sickness, or death of persons or damage to, loss of, or destruction of property arising, in

whole or in part, from the licensee's, permittee's, or user's use or improvement of the railroad corridor under the license, permit, or agreement. To the extent necessary to fulfill this obligation, the licensee, permittee, or user must expressly agree that the indemnity obligations shall apply to claims brought against the City, its officers, agents, and employees, by employees of the licensee, permittee or user, notwithstanding any immunity provisions of the worker's compensation or industrial insurance statutes.

- G. <u>Non-Transferable</u>. All licenses, permits, or other agreements shall be personal to the licensee, permittee, or user and shall not be transferable to any other person, firm, or entity without the express written consent of the City.
- H. Other Permits. Obtaining a license, permit, or other agreement authorized by this Resolution shall not operate to relieve the licensee, permittee, or user from obtaining any and all other permits required by the City or any other governmental agency for the use or improvement authorized.
- I. <u>Compliance with Laws</u>. All uses authorized under licenses, permits, and agreements issued or entered into under the authority of this Resolution shall comply with all federal, state, and local laws, rules, regulations, ordinances, and codes.

- J. <u>Compensation</u>. A reasonable amount shall be collected in order to compensate the City for the use of the land and to reimburse the City for any costs or expenses incurred or to be incurred in the issuance of or administration of the license, permit, or agreement or otherwise due to the use or improvements authorized.
- K. Other Reasonable Terms. The Mayor or his designee is authorized to impose such other reasonable terms and conditions on licenses, permits, and agreements issued or entered into under the authority of this Resolution which the Mayor or his designee determines are necessary for the proper management of the railroad corridor.

Section 2. Effective Date. This Resolution shall become effective immediately upon passage by the Redmond City Council.

ADOPTED by the Redmond	d City Council this da	ay of
	CITY OF REDMOND	
	JOHN MARCHIONE, MAYOR	_
ATTEST:		
MICHELLE M. MCGEHEE, MMC, CITY	Y CLERK (SEAL)	
FILED WITH THE CITY CLERK: PASSED BY THE CITY COUNCIL: EFFECTIVE DATE: RESOLUTION NO.		
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