

AM No. 09-019

TO: City Council

FROM: John Marchione, Mayor

DATE: February 3, 2009

SUBJECT: **ORDINANCE: ACQUISITION AND CONDEMNATION OF FEE INTEREST IN REAL ESTATE FOR BEAR CREEK REHABILITATION, PROJECT NO. 100407**

I. RECOMMENDED ACTION

Authorize the acquisition of fee interests in real property by negotiation; authorize Mayor and staff to execute escrow and closing documents; and approve the Ordinance authorizing the City Attorney to proceed with condemnation action to acquire the fee interest in King County Tax Parcels 720241-0180 and 720241-0190 needed for the Bear Creek Rehabilitation Project, Project No. 100407, in the event that successful acquisition of the property cannot be negotiated.

II. DEPARTMENT CONTACT PERSONS

Bill Campbell, Director of Public Works	556-2733
Ron Grant, Assistant Public Works Director/City Engineer	556-2742
Debby Wilson, Real Property Manager	556-2715
Mike Haley, Senior Engineer	556-2843

III. DESCRIPTION

Rehabilitation of lower Bear Creek was identified in the Bear Creek Basin Plan, jointly completed by the City and King County in 1990. Funding was not available at that time and this work has been pursued as funding opportunities occurred.

Approximately 1996 through 1999, the City worked together with the Washington State Department of Transportation to enhance a part of Bear Creek within a portion of King County Parcel No. 720241-0180. The project was successfully completed

and is the model for the remaining work to address the Bear Creek segment between the completed project and the Sammamish River.

Funding is now in place to undertake the rehabilitation of the remaining segment. The work in the 3,000-foot segment will relocate Bear Creek from a mostly straight, channelized “stream” to a meandering, reshaped and re-planted channel in established open space.

Timely property acquisition is necessary to accommodate access to the project area for design and engineering, and then to undertake original rehabilitation construction work, and protect and maintain the rehabilitated area in the future. Third party appraisals have been completed and the project has been discussed with the property owners.

If voluntary sale negotiations to purchase the properties 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 the project’s tasks staying on schedule.

IV. **IMPACT**

- A. Service/Delivery: The acquisition of property rights will allow for property access necessary for the continuation of the Bear Creek Rehabilitation project’s design work and to formalize necessary property rights to accommodate constructing and maintaining the project. Authorizing that the property rights can be acquired by exercise of eminent domain, if necessary, will support expediting the property rights acquisition process.
- B. Fiscal: The costs and expenses of acquiring the properties for the Bear Creek Rehabilitation will be funded by the Stormwater CIP. Overall, the project is being funded by the Stormwater CIP and the Washington State Department of Transportation.

**VICINITY MAP OF REAL PROPERTY NEEDED
FOR
BEAR CREEK REHABILITATION (CIP 100407)**



ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF REDMOND, WASHINGTON, PROVIDING FOR THE ACQUISITION, CONDEMNATION, APPROPRIATION, AND TAKING OF A FEE INTEREST IN TWO PARCELS OF REAL ESTATE LOCATED ALONG BEAR CREEK AT REDMOND TOWN CENTER AND LEGALLY DESCRIBED HEREIN, FOR THE PURPOSE OF CONSTRUCTING THE LOWER BEAR CREEK REHABILITATION PROJECT, CIP NO. 100407; 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 LEGAL PROCEEDINGS PROVIDED FOR SAID CONDEMNATION.

WHEREAS, the City of Redmond plans to relocate and rehabilitate approximately 3,000 feet of Lower Bear Creek and surrounding riparian areas; and

WHEREAS, relocation and rehabilitation of Lower Bear Creek will enhance fish and wildlife habitat, provide significant public open space, provide public recreation and viewing opportunities, and address storm water and flood conveyance issues in the area; and

WHEREAS, it is necessary to acquire two parcels of real estate located along Lower Bear Creek in the vicinity of the Redmond Town Center development in order to complete the Lower Bear Creek Rehabilitation Project; and

WHEREAS, the City is in the process of negotiating a voluntary purchase agreement to acquire the necessary property and property rights, but agreement with the owners may not be reached; and

WHEREAS, the owners were notified of the Redmond City Council's intent to consider this condemnation ordinance by mail and by publication as required by RCW 8.25.290; and

WHEREAS, the City Council has determined to condemn the necessary property and property rights in the event that a voluntary purchase cannot be negotiated.

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

Section 1. Classification. This is a non-code ordinance.

Section 2. Need for Property – Public Use. The public health, safety, and welfare demand that the City of Redmond construct the Lower Bear Creek Rehabilitation Project. The improvements to be constructed include relocating an approximately 3,000-foot segment of Bear Creek from a mostly straight, channelized stream to a meandering, re-shaped and re-planted channel in an established public open space, relocation of an existing asphalt path and augmentation of the path with a parallel soft-surface path and “side routes” to enhance public viewing of the creek, and the construction and installation of all necessary appurtenances and related work to make a complete improvement in accordance with City standards. The public health, safety, and welfare further demand that the City acquire the property necessary to construct said public improvements. The City is authorized to condemn property for the purposes stated in this Section by RCW 8.12.030.

Section 3. Declaration of Necessity. The City Council of the City of Redmond, after hearing the report of the City’s Public Works Department and reviewing the planned improvements, hereby finds and declares that a fee simple interest in the two parcels legally described on Exhibit A attached hereto and incorporated herein by this reference as if set forth in full is necessary for the public use and purpose of constructing the Lower Bear Creek Rehabilitation Project described in Section 2 above.

Section 4. Condemnation. The fee interest in the two parcels of real property described in the attached Exhibit A is hereby condemned, appropriated, taken, and damaged for the purpose of constructing the Lower Bear Creek Rehabilitation Project described in Section 2 above, together with all necessary appurtenances 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 5. Authority of Attorneys. Attorneys retained by the City are 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.

Section 6. 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 7. 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 8. Effective Date. This ordinance shall take effect and be in full force five days after its passage and publication of a summary as provided by law.

ADOPTED by the Redmond City Council this ____ day of _____, 2009.

CITY OF REDMOND

MAYOR JOHN MARCHIONE

ATTEST/AUTHENTICATED

MICHELLE M. MCGEHEE, CMC, CITY CLERK

(SEAL)

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
LEGAL DESCRIPTION**

Parcel A:

Tax Parcel: 720241-0190

Parcel 10, Redmond Town Center, a Binding Site Plan, recorded in Volume 176 of Plats, pages 56 through 67, inclusive, in King County, Washington.

Parcel B:

Tax Parcel: 720241-0180

Lot 9, Redmond Town Center, a Binding Site Plan, recorded in Volume 176 of Plats, pages 56 through 67, inclusive, in King County, Washington.