



CITY OF KIRKLAND

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MEMORANDUM

To: Kurt Triplett, City Manager

From: John Burkhalter, Development Engineering & Environmental Services Manager
Kevin Raymond, City Attorney

Date: April 26, 2021

Subject: RESOLUTION APPROVING (1) THE CROSS KIRKLAND CORRIDOR IMPROVEMENT AND USE AGREEMENT ADJACENT TO THE PHASE III GOOGLE CAMPUS AND (2) AN AMENDED AND RESTATED CROSS KIRKLAND CORRIDOR MAINTENANCE AGREEMENT.

RECOMMENDATION:

That City Council authorize and direct the City Manager to execute two agreements related to the construction and maintenance of public improvements within the Cross Kirkland Corridor ("CKC") with the owner(s) of the immediately adjacent real property comprising the existing and presently being developed Google campus.

The first agreement is the "Cross Kirkland Corridor Improvement and Use Agreement Adjacent to Phase III Google Campus" ("Use Agreement"). The parties to the Use Agreement are the City and the Google campus Phase III owner, SRMKCCA (an SRM limited liability company). This agreement also anticipates that the Phase III owner, by lease and through a lessee first approved by the City, will operate a small "caboose" restaurant within the CKC, but outside its trail portion, as an accessory use to the Google campus, while remaining open to the public and with caboose restaurant permits and agreements to follow.

The second agreement relates to the ongoing maintenance of the Phase III public improvements by SRMKCCA and is entitled the "Amended and Restated Cross Kirkland Corridor Maintenance Agreement" ("Maintenance Agreement"). A similar maintenance agreement related to public improvements pertaining to Phases I and II of the Google campus development was previously executed. The Use Agreement will build on, but now replace, the prior maintenance agreement by adding SRMKCCA as a party together with the Phase III public improvements. (Because each of the three phases is owned by a separate SMR limited liability company, the parties to this second agreement are the City and the three SRM companies that own, respectively, Phases I, II, and III.)

Both agreements are discussed in greater detail below.

BACKGROUND DISCUSSION:

The Google campus continues to be built out by SRM, the owner of the campus real property. The campus straddles but does not include the CKC. Phases I and II were completed in prior years in support of this important and highly regarded economic development business presence in Kirkland. The development of the buildings associated with the first two phases of

the Google campus included agreements providing for necessary trail crossings as well as the construction and maintenance of many public improvements within the CKC, which improvements (e.g. trail improvements as well as signage, playground equipment, a basketball court, and a volleyball area), continue to be enjoyed by the community, CKC visitors, and Google employees.

The Use Agreement is focused on Phase III of the Google campus development. Construction of a Phase III building on the Phase III property (located on the east side of the CKC) includes the Phase III owner's commitment to also construct additional public improvements in the CKC, including trail improvements as well as a restroom, community vegetable garden, fruit trees, new lighting, pickle ball court, spray park for children, amphitheater, and other public amenities and utilities. The agreement includes typical construction activity provisions, including those related to approvals, design and installation, trail use by the public during construction, and indemnification. In the event contaminated soils are discovered and required to be removed during construction of the improvements within the CKC, the City and SRM, as before, have agreed to share the incremental costs of any such removal. Construction activities are expected to continue for approximately the next six months and will require a short re-routing of trail traffic at the Google campus location, as shown in more detail in an exhibit to the Use Agreement. The agreement acknowledges existing railbanking and transit corridor easement rights and provides for the removal of the improvements in support thereof if necessary.

The Use Agreement also anticipates that a railroad caboose owned by SRM will be built out to function as a small restaurant serving beer and wine and some food to the public. Once fully permitted by the City, the caboose would be relocated by SRM from its present location on the Google campus to a portion of the CKC adjacent to the trail and close to the Google campus, as depicted in exhibits to the Use Agreement. The caboose restaurant would be operated by a lessee selected by SRM and approved in advance by the City. The lease with the restaurant operator, and the use permit or agreement issued by the City providing for the relocation of the caboose to the CKC, will acknowledge the previously-mentioned railbank and transit corridor rights, and will also provide for the possible removal of the caboose at the end of the restaurant or other City-approved use. The caboose restaurant is allowed in the CKC zone as an accessory use to the Google campus, but may be named or classified differently by other regulatory agencies with jurisdiction, e.g. the WSLCB.

The Maintenance Agreement builds on the existing public improvements maintenance agreement with SRM (covering Phases I and II) by adding Phase III and the Phase III owner as a signatory. Under this agreement, as was true for the prior maintenance agreement, SRM will be responsible for maintaining all public improvements other than those associated with the trail itself, which will remain the responsibility of the City.

Staff has greatly appreciated the chance to work with SRM on these two agreements and is pleased to bring them forward now for Council consideration.

Attachments:

- Resolution
- Cross Kirkland Corridor Improvement and Use Agreement Adjacent to Phase III Google Campus
- Amended and Restated Cross Kirkland Corridor Maintenance Agreement