

CITY COUNCIL COMMUNICATION 97-032
JANUARY 20, 1997 AGENDA

SUBJECT:	TYPE:	SUBMITTED BY:
AMENDMENT OF CITY CODE— ACCESS AND RIGHT-OF-ENTRY AGREEMENTS	◆ RESOLUTION ORDINANCE RECEIVE/FILE	TERRENCE L. TIMMINS CITY SOLICITOR

SYNOPSIS —

The ordinance would amend Section 2-32 of the City Code, entitled "Powers and Duties of City Manager," to authorize the City Manager to:

1. Execute access and right-of-entry agreements granting access to City property to persons, firms, corporations, and other governmental entities to conduct soil testing, surveys, and the like in support of public or private projects; and
2. Execute access and right-of-entry agreements with property owners to obtain access to their property for City personnel, contractors, or consultants for the performance of activities in support of City projects or operations.

FISCAL IMPACT —

The ordinance amendment would authorize the City Manager to develop a schedule of charges for the grant of access to City property, which charges would be waived for other governmental entities seeking such access. The ordinance would also authorize the City Manager to approve the expenditure of up to \$1,000 to obtain access to the property of others for City personnel, contractors, or consultants in support of City projects or operations.

RECOMMENDATION —

Approval of the ordinance amending Section 2-32 of the City Code.

BACKGROUND —

The City is frequently approached by both private parties and other governmental entities who are seeking access to City property to conduct soil tests, surveys and the like in support of private and public projects. In such instances, the City has established the practice of requiring such parties to execute and access agreements or license agreements for right-of-entry in favor of the City to cover liability issues and the restoration of City property at the conclusion of such activities. However, since the City Council has never formally assigned the power to execute such agreements to any particular City officer, such agreements would have to be brought to the City Council for formal approval. The City Council has, however, assigned the authority to grant access to City property for purposes of conducting environmental assessment and remediation activities to the City's Permit and Development Center. Given the routine nature of such requests for access to conduct soil testing and surveys, it would also be appropriate for the City Council to likewise delegate that authority. Under the proposed ordinance, the City Manager would be authorized to execute access and right-of-entry agreements for that purpose. The ordinance would also authorize the City Manager to develop a schedule of charges

for the grant of such access, but would provide for the waiver of those charges when access is sought by another governmental entity.

The City is also frequently required to obtain access to private property or to property owned by other governmental entities so that City personnel, contractors, or consultants may conduct tests, do surveys, take samples, and the like in support of City projects or City operations. On October 16, 1995, by Roll Call No. 95-3904, the City Council authorized the City Manager to execute access and right-of-entry agreements on behalf of the City to obtain access to private property or the property of other governmental entities for those purposes. In that roll call, the City Manager was authorized to expend up to \$100 as compensation for the grant and execution of such access agreements. Based on experience since that roll call was adopted, it is staff's recommendation that the expenditure limit to obtain execution of such agreements should be increased to \$1,000. The ordinance would formalize the delegation of this authority to the City Manager by placing that authority in the City Code, and would increase the City Manager's authorized expenditure level for such access agreements to \$1,000.