

O-2023-20

AN ORDINANCE

DECLARING THE INTENT OF THE CITY OF LAKEWOOD TO ACQUIRE INTEREST IN PROPERTY FOR PUBLIC PURPOSES FOR VEHICULAR AND PEDESTRIAN SAFETY IMPROVEMENTS ALONG WEST COLFAX AVENUE FROM TELLER STREET TO SHERIDAN BOULEVARD AND AUTHORIZING NEGOTIATIONS WITH PROPERTY OWNERS, ACCEPTANCE OF CONVEYANCE INSTRUMENTS AND CONDEMNATION OF REAL PROPERTY INTERESTS (SUBJECT TO FURTHER COUNCIL APPROVAL)

WHEREAS, the City of Lakewood ("Lakewood" or "City") is a home rule municipality organized under Article XX of the Colorado Constitution and the authority of the Home Rule Charter for the City of Lakewood (Charter);

WHEREAS, Sections 1.2 and 2.1 of the Charter vests all municipal legislative powers in the City Council, and authorizes the City Council to establish those laws necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort, and convenience of such municipality and the inhabitants thereof;

WHEREAS, to enhance vehicular and pedestrian safety along West Colfax Avenue from Teller Street east to Sheridan Boulevard, the City desires to implement the Colfax Safety Improvements Project ("Project"), which will install roadway and pedestrian improvements along West Colfax Avenue from Teller Street to Sheridan Boulevard (the "Improvements");

WHEREAS, in order to install the Improvements, the City must acquire certain property interests from the owners of property adjacent to the Project ("Property Interests");

WHEREAS, in order to acquire the Property Interests in compliance with State law, the City Council desires to:

- a. Declare the City's intent to acquire the Property Interests for public purposes in fulfillment of the requirements of Section 38-1-121, C.R.S.;
- b. Authorize negotiations for, and acquisitions of, the Property Interests;
- c. Accept the instruments of conveyance for the Property Interests; and
- d. Authorize the City Attorney to initiate condemnation proceedings (subject to further Council approval) to acquire the Property Interests in the event the City is unable to acquire the Property Interests despite good faith efforts to do so;

WHEREAS, approval of this Ordinance on first reading is intended only to confirm that the City Council desires to comply with the Lakewood Municipal Code by setting a public hearing to provide City staff and the public an opportunity to present evidence and testimony regarding the proposal identified herein; and

WHEREAS, approval of this Ordinance on first reading does not constitute a representation that the City Council, or any member of the City Council, supports, approves, rejects or denies any particular proposal related to this proposal identified herein.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Lakewood, State of Colorado:

SECTION 1. The Colfax Safety Improvements Project (the "Project") will serve a public purpose by enhancing the vehicular and pedestrian safety along West Colfax Avenue from Teller Street to Sheridan Boulevard, and it is necessary to acquire certain Property Interests, further described in Section 2 herein, to advance such public purpose.

SECTION 2. It is the intent of the City of Lakewood to acquire the Property Interests in the form of (i) permanent easements; (ii) temporary construction easements; or (iii) any other interests as may be warranted for the Project, with any improvements contained herein. The properties from which the Property Interests are currently anticipated to be acquired are identified in Exhibit A, attached hereto and incorporated herein by this reference. At such time as the City Manager or designee (the "City Manager") confirms that any or all of those parcels identified on Exhibit A are necessary for the Project, the City Manager shall give notice of intent to acquire such Property Interests in conformance with Section 38-1-121, C.R.S.

SECTION 3. The City Manager is hereby authorized to negotiate in good faith to acquire the Property Interests. Negotiations shall be based upon appraisal reports acquired in conformance with Section 38-1-121, C.R.S. or valuations approved by the City Manager. The City Manager is hereby authorized to make offers to any property owner based upon such appraisal reports or valuations to execute agreements for the acquisition of the Property Interests.

SECTION 4. The City Council hereby accepts on behalf of the City, upon recordation, the instruments of conveyance of the Property Interests acquired pursuant to Section 3 above.

SECTION 5. The City's Chief Financial Officer is hereby authorized and directed to pay, upon receipt of appropriate documentation, the amounts set forth in the contracts and agreements provided for herein.

SECTION 6. In the event the City Manager is unable to negotiate an agreement for the acquisition of any necessary Property Interest, despite good faith efforts to do so, the City Manager shall bring to the City Council a resolution identifying the Property Interests to be acquired by condemnation, and the City Council shall thereby authorize or deny the exercise of the City's eminent domain power over such Property Interests pursuant to Section 14.4 of the City of Lakewood home rule charter.

SECTION 7. All interested parties are hereby advised that, in the event the City Council approves the exercise of the City's eminent domain power over one or more Property Interests identified in such resolution, the City Attorney, on behalf of the City, shall commence condemnation proceedings with respect to such Property Interests and shall be authorized to apply to the proper court for immediate possession of the Property Interests to be acquired by condemnation, and the City's Chief Financial Officer and all other officers and agents of the City shall cooperate with the City Attorney in the condemnation action, make any deposits and payments as may be necessary for

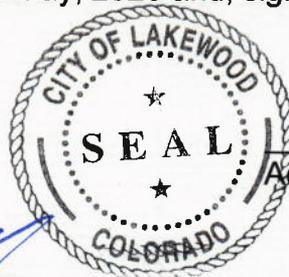
acquisition of the Property Interests, and pay the costs thereof and any condemnation award as it may be finally determined. The City Attorney shall additionally be authorized to employ such expert witnesses, including appraisers, as the City Attorney determines necessary for the purposes of the condemnation authorized by this Ordinance and the aforesaid resolution, and the City's Chief Financial Officer is directed to pay the costs and expenses of employing such expert witnesses and appraisers.

SECTION 8. Nothing herein is intended to authorize the expenditure of monies in excess of the funds appropriated for the Project.

SECTION 9. If any provision of this Ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this Ordinance that can be given effect without the invalid portion, provided such remaining portions or application of the Ordinance are not determined by the court to be inoperable.

SECTION 10. This Ordinance shall take effect thirty (30) days after final publication.

I hereby attest and certify that the within and foregoing ordinance was introduced and read on first reading at a hybrid regular meeting of the Lakewood City Council on the 24th day of April, 2023; published by title in the Denver Post and in full on the City of Lakewood's website, www.lakewood.org, on the 27th day of April, 2023; set for public hearing to be held on the 8th day of May, 2023, read, finally passed and adopted by the City Council on the 8th day of May, 2023 and, signed by the Mayor on the 9th day of May, 2023.



Adam Paul, Mayor

ATTEST:

Jay Robb, City Clerk

APPROVED AS TO FORM:

Alison McKenney Brown, City Attorney

EXHIBIT A

Property Interests for the following addresses:

Properties on the south side of Colfax		
49-021-04-007 7200 W Colfax Ave	49-012-05-001 6400 W Colfax Ave	49-011-04-013 5530 W Colfax Ave
49-021-03-011/010 7130/7150 W Colfax Ave	49-012-04-005 6300 W Colfax Ave	49-011-04-017 5522 W Colfax Ave
49-021-03-012 7110 W Colfax Ave	49-012-03-013 6218 W Colfax Ave	49-011-03-022 5480 W Colfax Ave
49-021-02-007 7010 W Colfax Ave	49-012-03-001 6212 W Colfax Ave	49-011-03-001 5400 W Colfax Ave
49-021-02-001 7000 W Colfax Ave	49-012-02-001 6100 W Colfax Ave	49-011-02-020 5390 W Colfax Ave
49-021-01-016 6990 W Colfax Ave	49-012-01-008 6060 W Colfax Ave	49-011-02-001 5300 W Colfax Ave
49-021-01-014 6900 W Colfax Ave	49-012-01-001 6000 W Colfax Ave	49-011-01-017 5246 W Colfax Ave
49-021-01-021 6808 W Colfax Ave	49-011-07-001 5900 W Colfax Ave	49-011-01-001 5200 W Colfax Ave
49-021-01-020 6800 W Colfax Ave	49-011-06-032 5830 W Colfax Ave	
49-012-07-002 6796 W Colfax Ave	49-011-00-019 5800 W Colfax Ave	
49-012-07-001 6700 W Colfax Ave	49-011-00-013 5700 W Colfax Ave	
49-012-06-001 6680 W Colfax Ave	49-011-05-001 5660 W Colfax Ave	
49-012-05-006 6560 W Colfax Ave	49-011-00-001 5600 W Colfax Ave	
49-012-05-012 6540 W Colfax Ave	49-011-04-014 5536 W Colfax Ave	

Properties on the north side of Colfax		
39-354-15-003 7101 W Colfax Ave	39-363-05-108 6435 W Colfax Ave	39-364-10-015 5701 W Colfax Ave
39-354-05-004 7033 W Colfax Ave	39-363-05-109 6575 W Colfax Ave	39-364-11-008 5637 W Colfax Ave
39-354-15-005 7013 W Colfax Ave	39-363-05-110 6441 W Colfax Ave	39-364-99-005 5601 W Colfax Ave
39-354-15-006 7011 W Colfax Ave	39-363-12-002 6295 W Colfax Ave	39-364-12-026 5555 W Colfax Ave
39-354-15-007 7007 W Colfax Ave	36-363-12-003 6205 W Colfax Ave	39-364-12-024 5535 W Colfax Ave
39-354-15-008 7001 W Colfax Ave	39-363-12-004 6203 W Colfax Ave	39-364-12-008 5505 W Colfax Ave
39-354-18-001 6999 W Colfax Ave	39-363-10-023 6173 W Colfax Ave	39-364-13-002 5495 W Colfax Ave
39-354-18-002 6955 W Colfax Ave	39-363-10-022 6111 W Colfax Ave	39-364-13-003 5401 W Colfax Ave
39-354-18-004 6901-W Colfax Ave	39-363-13-001 6091 W Colfax Ave	39-364-14-008/020 5353 W Colfax Ave
39-354-18-005 6885 W Colfax Ave	39-363-13-025 6001 W Colfax Ave	39-364-14-019 1515 Ames St
39-354-18-007 6851 W Colfax Ave	39-364-09-018 5991 W Colfax Ave	39-364-15-018 5201 W Colfax Ave
39-354-18-008 6801 W Colfax Ave	39-364-09-009 5885 W Colfax Ave	
39-363-05-140 6615 W Colfax Ave	39-364-09-007 5809 W Colfax Ave	
39-363-05-139 6599 W Colfax Ave	39-364-00-011 5807 W Colfax Ave	
39-363-05-141 6501 W Colfax Ave	39-364-10-004 5799 W Colfax Ave	