

O-2022-22
AN ORDINANCE

DECLARING THE INTENT OF THE CITY OF LAKEWOOD TO ACQUIRE INTEREST IN PROPERTY FOR PUBLIC PURPOSES FOR THE CONSTRUCTION OF STORM SEWER FACILITIES ALONG WEST 14TH AVENUE BETWEEN WADSWORTH BOULEVARD AND LAMAR STREET AND AUTHORIZING NEGOTIATIONS WITH PROPERTY OWNERS, ACCEPTANCE OF CONVEYANCE INSTRUMENTS AND CONDEMNATION OF REAL PROPERTY INTERESTS (SUBJECT TO FURTHER COUNCIL APPROVAL)

WHEREAS, to enhance safety and reduce property damage the storm sewer improvements will collect and convey storm flows that have caused flooding along West 14th Avenue, the City of Lakewood (the "City") desires to implement the North Dry Gulch 14th Avenue Storm Sewer Project (the "Project"), which will install storm sewer improvements from Wadsworth Boulevard along West 14th Avenue to Lamar Street (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 (the "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 North Dry Gulch 14th Avenue Storm Sewer Project (the "Project") will serve a public purpose by enhancing safety and reducing property damage through collection and conveyance of storm flows that have historically caused flooding along West 14th Avenue, and it is necessary to acquire certain Property Interests from adjacent property owners, 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) fee simple parcels; (ii) permanent easements; (iii) temporary construction easements; or (iv) 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 and 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

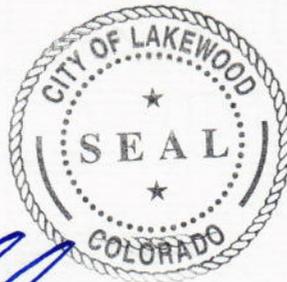
other officers and agents of the City shall cooperate with the City Attorney in the condemnation action, make any deposits and payments as may be necessary for acquisition of the Property Interests, and pay the costs thereof and any condemnation award as it may be finally determined. The City Attorney 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 28th day of November 2022; published by title in the Denver Post and in full on the City of Lakewood's website, www.lakewood.org, on the 1st day of December 2022; set for public hearing on the 12th day of December 2022; read, finally passed and adopted by the City Council on the 12th day of December 2022, and signed, and approved by the Mayor on the 13th day of December, 2022.



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:

49-021-07-012
7300 West 14th Avenue

49-021-04-007
7200 West Colfax Ave (Home Depot)

49-021-09-019
1391 Saulsbury Street

49-021-02-005
1400 Saulsbury Street

49-021-10-015
7000 West 14th Avenue

49-021-01-010
1400 Reed Street

49-021-01-009
6925 W 14th Avenue

49-021-11-014
6800 W 14th Avenue

49-012-07-008
6733 W 14th Avenue

49-012-07-010
6715 W 14th Avenue

49-012-06-007
1400 Otis Street

49-012-06-002
1455 Newland Street

49-012-05-009
6595 West 14th Avenue