

O-2024-23

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 FROM TELLER STREET TO PIERCE STREET BETWEEN WEST COLFAX AVENUE AND WEST 16TH AVENUE, FOR THE COMPLETION SIDEWALK CONNECTIONS ON WEST 16TH AVENUE, REED STREET, AND LAKEWOOD PLACE, 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 of nearby residents and motorists and to reduce property damage, the City of Lakewood (the "City") desires to implement the North Dry Gulch Improvements, Construction Package Number 3, Reach 2 Project (the "Project"), which will install storm sewer improvements that will collect and convey storm flows that have caused flooding along Teller Street, West 16th Avenue, Reed Street, Lakewood Place;

WHEREAS, the Project will also enhance pedestrian safety by installing pedestrian facilities along West 16th Avenue, Reed Street, and Lakewood Place;

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 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 Improvements, Construction Package Number 3, Reach 2 Project (the "Project") will serve a public purpose by enhancing resident and motorist safety and reducing property damage through collection and conveyance of stormwater flows that have historically caused flooding along West 16th Avenue, Lakewood Place, and West Colfax Avenue. The Project will serve an additional public purpose by enhancing pedestrian safety through the installation of sidewalks along West 16th Avenue, Reed Street, and Lakewood Place, and it is necessary to acquire certain Property Interests, further described in Section 2 herein, to advance such public purposes.

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 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.

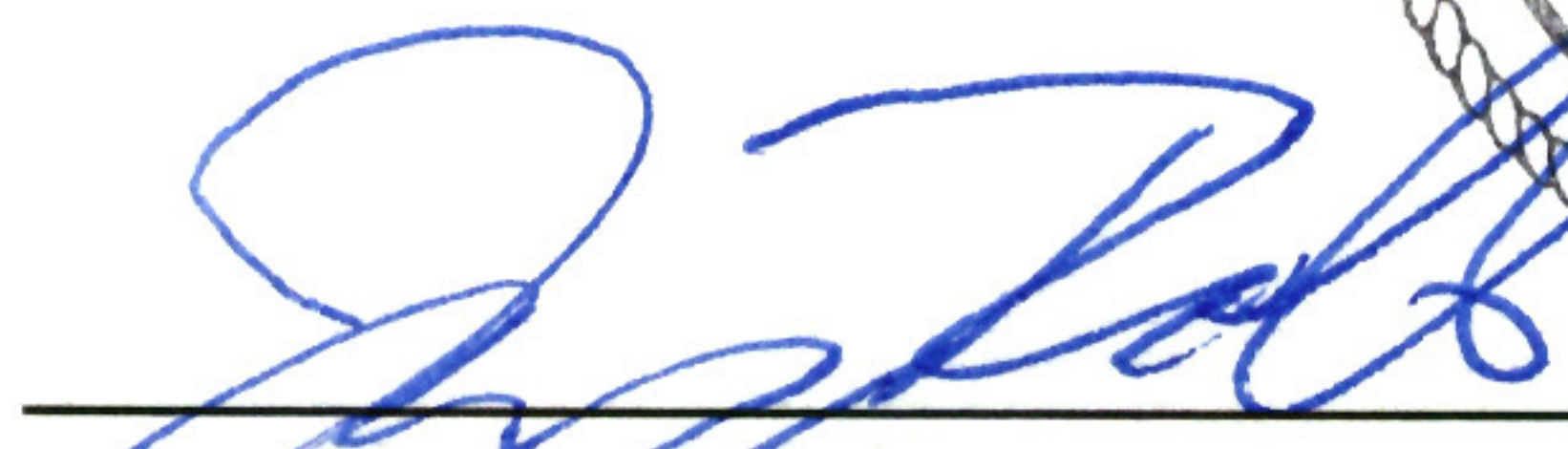
SECTION 8. Nothing herein is intended to authorize the expenditure of monies in excess of the funds appropriated for the Project.

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.

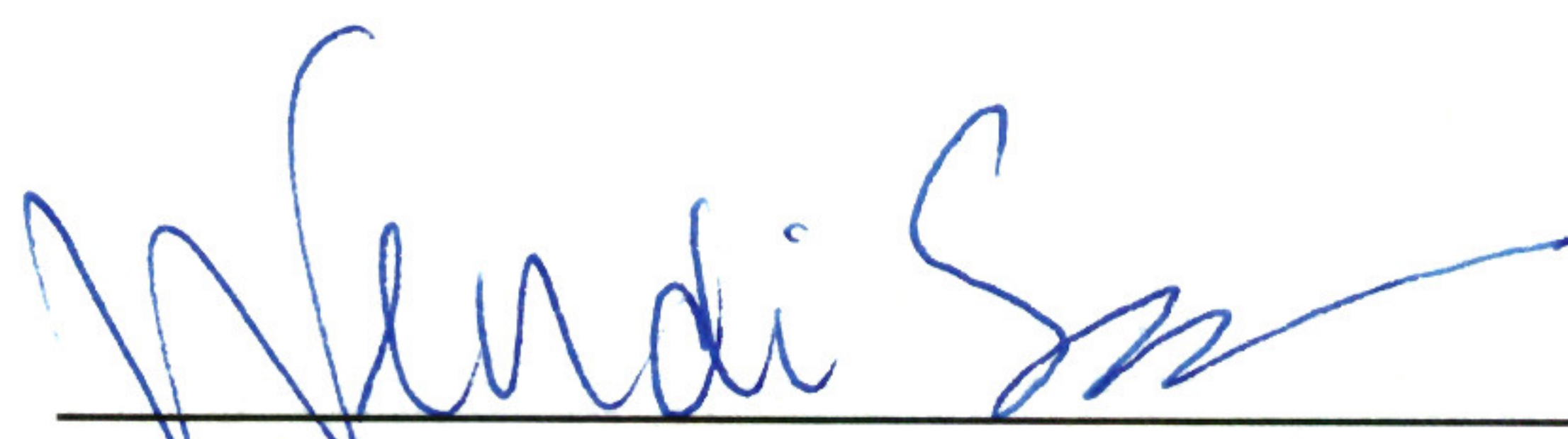
I hereby attest and certify that the within and foregoing ordinance was introduced and read on first reading at a hybrid regular meeting of the Lakewood City Council on the 9th day of September, 2024; published by title in the Denver Post and in full on the City of Lakewood's website, www.lakewood.org, on the 12th day of September, 2024; set for public hearing to be held on the 23rd day of September, 2024, read, finally passed and adopted by the City Council on the 23rd day of September, 2024 and, signed by the Mayor on the 24th day of September, 2024.

ATTEST:



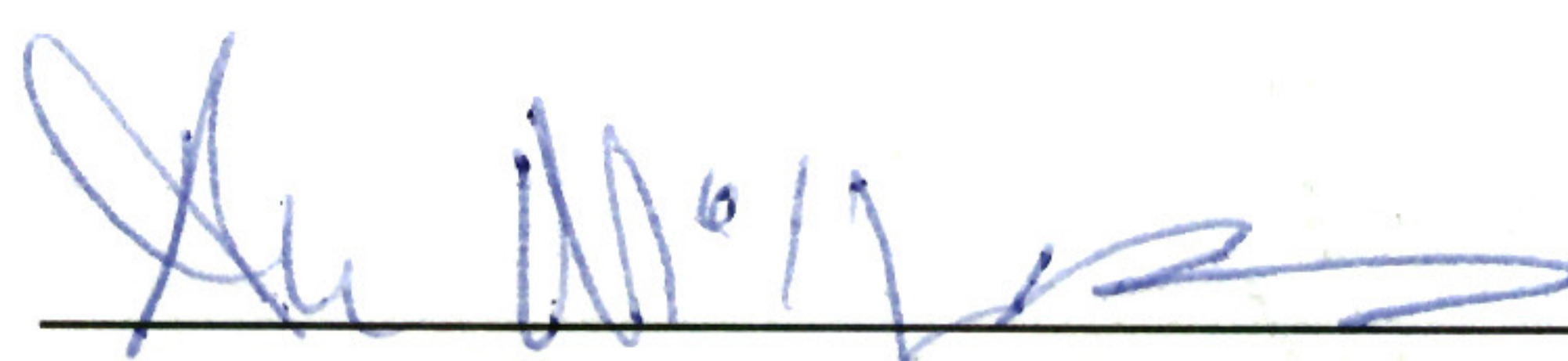
Jay Robb, City Clerk





Wendi Strom, Mayor

APPROVED AS TO FORM:



Alison McKenney Brown, City Attorney

EXHIBIT A
Property Interests for the following addresses:

39-354-12-024 7205 W COLFAX AVE	39-354-12-016 7455 W COLFAX AVE	39-354-15-003 7101 W COLFAX AVE
39-354-15-002 1560 TELLER ST	39-354-15-001 7130 W 16TH AVE	39-354-20-002 1600 TELLER ST
39-354-11-002 7165 W 16TH AVE	39-354-11-021 1601 REED ST	39-354-15-005 7013 W COLFAX AVE
39-354-15-010 1597 REED ST	39-354-15-007 7007 W COLFAX AVE	39-354-15-009 1551 REED ST
39-354-15-008 7001 W COLFAX AVE	39-354-16-007 6990 W 16TH AVE	39-354-16-006 1560 REED ST
39-354-16-005 6965 LAKEWOOD PL	39-354-16-004 6915 LAKEWOOD PL	39-354-16-003 6905 LAKEWOOD PL
39-354-16-002 6901 LAKEWOOD PL	39-354-16-001 1565 PIERCE ST	39-354-16-016 1565 PIERCE ST
39-354-18-001 6999 W COLFAX AVE	39-354-18-002 6955 W COLFAX AVE	39-354-18-003 6898 LAKEWOOD PL
39-354-18-006 6890 LAKEWOOD PL	39-354-18-007 6851 W COLFAX AVE	39-354-18-008 6801 W COLFAX AVE
39-363-05-140 6615 W COLFAX AVE	39-354-11-020 1615 REED ST	39-354-11-022 1625 REED ST
39-354-11-018 1635 REED ST	39-354-01-140 7005 W 16TH PL	39-354-01-132 1675 REED ST
39-354-01-131 1679 REED ST	39-354-01-130 1679 REED ST	39-354-01-125 1695 REED ST
39-354-01-143 1725 REED ST	39-354-01-121 1900 REED ST	