

AGENDA
REGULAR MEETING OF THE CITY COUNCIL
480 S. ALLISON PARKWAY, 80226
CITY OF LAKEWOOD, COLORADO
HYBRID MEETING
SEPTEMBER 11, 2023
7:00 PM

To watch the Council meeting live, please use either one of the following links:

City of Lakewood Website: [Lakewood.org/CouncilVideos](https://lakewood.org/CouncilVideos)

or

Lakewood Speaks: [Lakewoodspeaks.org](https://lakewoodspeaks.org)

How to Connect to Provide Public Comment:

By Computer: <https://lakewood.zoom.us/j/84957320840>

By iPad, iPhone, or Android device on the Zoom App, enter webinar ID: **849 5732 0840**

By Telephone: **720-707-2699**

Webinar ID: **849 5732 0840 #**

Participant ID: **#**

Press *9 to Request to Speak, you will be prompted when to speak.

Press *6 to Unmute

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ITEM 1 – CALL TO ORDER

ITEM 2 – ROLL CALL

ITEM 3 – PLEDGE OF ALLEGIANCE

ITEM 4 – STATEMENT OF CONFLICT OF INTEREST

ITEM 5 – PROCLAMATION – HONORING ED PERLMUTTER

ITEM 6 – PUBLIC COMMENT

Anyone who would like to address the Council on any matter other than an agenda item will be given the opportunity. Speakers should limit their comments to three minutes.

ITEM 7 – RESOLUTION 2023-48 – DIRECTING CITY STAFF TO COMPLY WITH

PROPOSITION 123 BY FILING ALL NECESSARY COMMITMENTS TO INCREASE THE CITY'S AFFORDABLE HOUSING STOCK BY THREE PERCENT (3%) ANNUALLY OR BY NINE PERCENT (9%) BY DECEMBER 31, 2026

**CONSENT AGENDA
ORDINANCES ON FIRST READING**

- ITEM 8 – RESOLUTION 2023-49 – APPROVING THE 2024 BUDGET FOR THE ALAMEDA CORRIDOR BUSINESS IMPROVEMENT DISTRICT (BID)**
- ITEM 9 – RESOLUTION 2023-50 – APPROVING THE 2024 OPERATING PLAN FOR THE ALAMEDA CORRIDOR BUSINESS IMPROVEMENT DISTRICT (BID)**
- ITEM 10 – RESOLUTION 2023-49 – APPROVING THE 2024 RE-APPOINTMENT NOMINATION OF ED BOYLE TO THE BOARD OF DIRECTORS FOR THE ALAMEDA CORRIDOR BUSINESS IMPROVEMENT DISTRICT (BID)**
- ITEM 11 – RESOLUTION 2023-49 – APPROVING THE 2024 OPERATING PLAN FOR THE ALAMEDA CORRIDOR BUSINESS IMPROVEMENT DISTRICT (BID)**
- ITEM 12 – ORDINANCE O-2023-37 – ADOPTING TITLE 8, CHAPTER 1 OF THE MUNICIPAL CODE OF THE CITY OF LAKEWOOD, COLORADO, TO ALLOW FOR THE USE OF APPROVED FACILITIES AS OVERNIGHT SHELTERS DURING EXTREME WEATHER EVENTS WITHIN THE CITY OF LAKEWOOD, COLORADO**
- ITEM 13 – ORDINANCE O-2023-38 – ADOPTING TITLE 14, CHAPTER 28 OF THE MUNICIPAL CODE OF THE CITY OF LAKEWOOD, COLORADO, IN CONNECTION WITH ESTABLISHING A PUBLIC IMPROVEMENT REIMBURSEMENT PROGRAM TO ALLOW DEVELOPERS OF PRIVATELY FINANCED CONSTRUCTION THE ABILITY TO APPLY FOR AND OBTAIN PARTIAL COST RECOVERY FROM SUBSEQUENT USERS OF THE PUBLIC IMPROVEMENTS**
- ITEM 14 – ORDINANCE O-2023-39 – ACCEPTING THE DEVOLUTION OF CERTAIN PROPERTY FROM THE COLORADO DEPARTMENT OF TRANSPORTATION TO THE CITY OF LAKEWOOD AND APPROVING AN INTERGOVERNMENTAL AGREEMENT TO EFFECT SUCH PROPERTY DEVOLUTION**
- ITEM 15 – ORDINANCE O-2023-40 – INCORPORATING CERTAIN REAL PROPERTY INTO MUNICIPAL WARD 1 BOUNDARY FOR THE CITY OF LAKEWOOD, COLORADO**
- ITEM 16 – APPROVING MINUTES OF THE CITY COUNCIL MEETINGS**

**END OF CONSENT AGENDA
NO ORDINANCES SCHEDULED ON SECOND READING**

OR ITEMS SCHEDULED FOR PUBLIC HEARINGS

ITEM 17 – GENERAL BUSINESS

- A. CITY COUNCIL REQUEST

ITEM 18 – EXECUTIVE REPORT

- A. CITY MANAGER

ITEM 19 – MAYOR AND CITY COUNCIL REPORTS

- A. MAYOR
- B. COUNCIL MEMBERS BY WARD

ITEM 20 – ADJOURNMENT

STAFF MEMO

DATE OF MEETING: SEPTEMBER 11, 2023 / AGNEDA ITEM NO. 5

To: Mayor and City Council
From: Jay Robb, City Clerk, 303-987-7081
Subject: **PROCLAMATION – Honoring Ed Perlmutter**

SUMMARY STATEMENT:

BACKGROUND INFORMATION:

BUDGETARY IMPACTS:

STAFF RECOMMENDATIONS:

ALTERNATIVES:

PUBLIC OUTREACH:

NEXT STEPS:

ATTACHMENTS: None

REVIEWED BY: Kathleen E. Hodgson, City Manager
Benjamin B. Goldstein, Deputy City Manager
Alison McKenney Brown, City Attorney

PROCLAMATION

HONORING CONGRESSMAN ED PERLMUTTER

WHEREAS, Ed Perlmutter is a former member of the U.S. House of Representatives, who served eight terms representing the Seventh Congressional District of Colorado, and during that time, honorably represented the City of Lakewood; and

WHEREAS, Mr. Perlmutter served our military veterans community with distinction in making sure they were recognized for their highly valuable contributions to the freedom of our nation; and

WHEREAS, Mr. Perlmutter was an important advocate for the mission of the National Renewable Energy Lab (NREL) and in securing critical funds for the new United States Geological Survey Office, bolstering the scientific and research capabilities of our region; and

WHEREAS, Mr. Perlmutter secured significant funding that improved the transportation infrastructure throughout his district, including his steadfast advocacy for the much-needed 6th and Wadsworth transportation funding, which has recently come to fruition, and will greatly improve the city's transportation infrastructure, connectivity, and benefit the safety of our community; and

WHEREAS, Mr. Perlmutter has been an instrumental force in making healthcare facilities better in our community through his unwavering support for the OrthoColorado Hospital and St. Anthony Hospital, which have provided essential medical services and improved the overall well-being of the region; and

WHEREAS, Mr. Perlmutter's leadership and dedication played a pivotal role in assisting with the transition and sale of the Federal Property in west Lakewood, ensuring that this valuable land is repurposed for the future benefit of our community; and

WHEREAS, the success and impact of Mr. Perlmutter's service to the City of Lakewood, Colorado, would not have been possible without the tireless efforts of his dedicated staff, who were always accessible, responsive, and committed to improving the lives of his constituents, demonstrating exceptional professionalism, dedication, and a deep sense of public service; and

WHEREAS, in addition to his many accomplishments in public service, Mr. Perlmutter will forever be remembered for his secret talent – his famous cartwheels, which brought smiles and levity to the seriousness of his duties and responsibilities.

NOW, THEREFORE, I, ADAM PAUL, Mayor of the City of Lakewood, declare in recognition of the outstanding career of Congressman Ed Perlmutter:

that the City of Lakewood, Colorado, proudly honors Congressman Ed Perlmutter on this day to celebrate his many efforts and accomplishments during his eight terms of honorable service in the U.S. House of Representatives and does hereby extend its heartfelt gratitude for his dedication and service to the Seventh Congressional District.

GIVEN under my hand and Seal of the City
of Lakewood, this 11th day of September 2023.



Adam Paul, Mayor

STAFF MEMO

DATE OF MEETING: SEPTEMBER 11, 2023 / AGNEDA ITEM NO. 6

To: Mayor and City Council

From:

Subject: **Public Comment**

SUMMARY STATEMENT:

BACKGROUND INFORMATION:

BUDGETARY IMPACTS:

STAFF RECOMMENDATIONS:

ALTERNATIVES:

PUBLIC OUTREACH: This item has been promoted through the regular communication channels to be considered by the Lakewood City Council.

NEXT STEPS:

ATTACHMENTS: None

REVIEWED BY: Kathleen E. Hodgson, City Manager
Benjamin B. Goldstein, Deputy City Manager
Alison McKenney Brown, City Attorney

STAFF MEMO

DATE OF MEETING: SEPTEMBER 11, 2023 / AGNEDA ITEM NO. 7

To: Mayor and City Council

From: Travis Parker, Planning Director

Subject: **DIRECTING CITY STAFF TO COMPLY WITH PROPOSITION 123 BY FILING ALL NECESSARY COMMITMENTS TO INCREASE THE CITY'S AFFORDABLE HOUSING STOCK BY THREE PERCENT (3%) ANNUALLY OR BY NINE PERCENT (9%) BY DECEMBER 31, 2026**

SUMMARY STATEMENT: Requesting that City Council authorize staff to file a commitment to increase Lakewood's affordable housing supply by 9 % by December 31, 2026. This allows the city and Lakewood non-profits the ability to apply for State Proposition 123 funding for the purpose of increasing affordable housing units and achieving the 9 %-unit increase commitment.

BACKGROUND INFORMATION: In November 2022, Colorado voters approved Proposition 123 which dedicates a portion of the state income tax revenue to fund a State Affordable Housing Fund to support local governments in developing affordable housing units. The amount available for Proposition 123 is estimated to be \$160 million in the first year and \$318 million every subsequent year. To be eligible to receive funding, jurisdictions must file a commitment to increase their affordable housing inventory by 3 % annually or 9 % over a span of three years. Starting in 2027, jurisdictions must also commit to an expedited review process for affordable housing developments.

By filing a commitment, Lakewood would have access to Proposition 123 funds and programs that include:

- Grants and loans to local governments and non-profit organizations to acquire and preserve land for affordable housing development;
- Funding to assist in developing affordable housing, including modular and factory-built housing structures.
- Equity investments to assist in the construction or preservation of below-market-rate or affordable housing projects.
- Home ownership programs, such as single-family rehabilitation and down payment assistance for first-time homebuyers;
- Funding to address homelessness through housing vouchers and eviction prevention, including rent assistance and eviction defense;
- Grants to increase planning department capacity to support Prop 123 programs and expedited review process.

The City of Lakewood is required to first set a baseline commitment based on the city's existing housing stock. Using State Department of Local Affairs (DOLA) affordable housing baseline tool and resources, Lakewood is estimated to have 6,949 units of affordable housing, which include both subsidized rental housing as well as naturally occurring affordable rental and homeownership units. To participate in Proposition 123, Lakewood must commit to increasing the total amount of affordable units by 3%, or 208 affordable units annually, or a 9% total increase, which would equate to 625 affordable units by December 31, 2026.

In addition, the city must also create a fast-track review process for new affordable housing developments by

January 1, 2027. Rulemaking around this requirement is still in process and additional guidance is being developed.

Lastly, the City of Lakewood was required to submit a Letter of Intent (LOI) to participate in the State Affordable Housing Fund programs. To satisfy this requirement, a Letter of Intent was submitted for the Land Banking Program on August 9, 2023.

Staff is working with Metro West Housing Solutions, its public housing authority and other rental and for-sale affordable housing providers to identify future development opportunities and partnerships.

BUDGETARY IMPACTS: No city funds are required to commit to Proposition 123. If the City is not able to meet its 9 % commitment by December 31, 2026, it would be ineligible for funding in the 2027 calendar year but may apply again in 2028. None of the Prop 123 funds received between 2023 and 2026 would be required to be paid back or returned if the city is unable to meet the 9 % commitment.

STAFF RECOMMENDATIONS: Staff recommends City Council authorize the City Manager to make a commitment to Proposition 123 to unlock funding to support affordable housing programs and development of affordable housing units in the City of Lakewood.

ALTERNATIVES: If a commitment is not filed by November 1, 2023, the city and Lakewood non-profits, including Metro West Housing Solutions, would not be eligible to apply for available funding through proposition 123 throughout the 2024 calendar year. The city can choose to wait to file a commitment in 2024 which would require a 6% increase in affordable units by December 31, 2026.

PUBLIC OUTREACH: Public outreach is not required to file a commitment to DOLA, but this item has been promoted through the regular communication channels to be considered by the Lakewood City Council.

NEXT STEPS: Staff will file a commitment to increase the affordable housing supply by 9 % with DOLA and become eligible to participant in Proposition 123. DOLA is expected to release more information regarding Prop 123 programming in the Fall of 2023. Staff will determine the applicable programs based on direction from City Council.

ATTACHMENTS: 1. Resolution 2023-48

REVIEWED BY: Kathleen E. Hodgson, City Manager
Benjamin B. Goldstein, Deputy City Manager
Alison McKenney Brown, City Attorney

A RESOLUTION

DIRECTING CITY STAFF TO COMPLY WITH PROPOSITION 123 BY FILING ALL NECESSARY COMMITMENTS TO INCREASE THE CITY'S AFFORDABLE HOUSING STOCK BY THREE PERCENT (3%) ANNUALLY OR BY NINE PERCENT (9%) BY DECEMBER 31, 2026

WHEREAS, on November 8, 2022, Colorado voters passed Proposition 123 dedicating state income tax revenue to fund a State Affordable Housing Fund;

WHEREAS, the State Affordable Housing Fund was divided into two voluntary programs: the Affordable Housing Financing Fund and the Affordable Housing Support Fund;

WHEREAS, the State Affordable Housing Fund is administered by the Colorado Housing Finance Authority (CHFA) and the Affordable Housing Support Fund is administered by the Department of Local Affairs (DOLA), Division of Housing (DOH);

WHEREAS, CHFA requires participating jurisdictions to file Letters of Intent (LOIs) to participate in the State Affordable Housing Fund programs by August 21, 2023;

WHEREAS, the City Council prioritized increasing affordable housing within the City of Lakewood in its 2022 and 2023 goals;

WHEREAS, the required Letters of Intent (LOI) were filed on behalf of the City of Lakewood by the August 21, 2023 deadline;

WHEREAS, in addition to the LOIs, participating jurisdictions are also required to file a three-year commitment by November 1, 2023, indicating an intent to increase affordable housing stock by three percent (3%) annually or nine percent (9%) by December 31, 2026; and

WHEREAS, to make the formal three-year commitment to the various affordable housing programs the City Council will need to authorize City staff to file the necessary commitments and any associated documentation by the November 1, 2023 deadline.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lakewood, Colorado, that:

SECTION 1. Approval. The City Council finds and determines that approving and filing the commitments and associated documentation by November 1, 2023 required for both the Affordable Housing Financing Fund and the Affordable Housing Support Fund is in the best interests of the City of Lakewood, and hereby directs City staff to file the necessary commitments and any associated paperwork to participate in the Proposition 123 voluntary programs to establish eligibility for grant funding.

SECTION 2. Authorization. The City Manager, or designee, is hereby authorized and directed to finalize and approve the commitments and any associated paperwork to participate in the Proposition 123 voluntary programs.

SECTION 3. Effective Date. This Resolution shall become effective immediately upon its adoption.

INTRODUCED, READ AND ADOPTED by a vote of _ for and _ against at a hybrid regular meeting of the City Council on September 11, 2023, at 7 o'clock p.m. at Lakewood City Hall, 480 South Allison Parkway, Lakewood, Colorado.

Adam Paul, Mayor

ATTEST:

Jay Robb, City Clerk

APPROVED AS TO FORM:

Alison McKenney Brown, City Attorney

STAFF MEMO

DATE OF MEETING: SEPTEMBER 11, 2023 / AGNEDA ITEM NO. 8

To: Mayor and City Council

From: Robert Smith, Economic Development Director
Katie Faltys, Economic Development Spec

Subject: **APPROVING THE 2024 BUDGET FOR THE ALAMEDA CORRIDOR BUSINESS IMPROVEMENT DISTRICT (BID)**

SUMMARY STATEMENT: Business Improvement Districts (BIDs) are primarily self-governing entities with significant authority, including the authority to incur debt and impose fees on commercial property owners within the district. However, Title 31 of the Colorado Revised Statutes grants the City oversight authority and requires the City to review and approve each BID's Board of Directors, Annual Budget and Operating Plan. This oversight role is critical to ensuring a positive public perception of BID activities.

BACKGROUND INFORMATION: Business Improvement Districts (BIDs) fill a significant role in Lakewood's vibrancy. Lakewood is home to two BIDs, the Lakewood-West Colfax Business Improvement District and the Alameda Corridor Business Improvement District. BIDs are defined areas where businesses elect to pay an additional tax to fund projects, only within the BID's boundaries. BIDs are governed by an independent board of directors made up of property and business owners in the defined area. The elected board chooses to distribute the funding for appropriate supplemental services above and beyond what Lakewood provides for that area. Services can include street cleaning, additional security, streetscape enhancements, pedestrian connectivity, and marketing.

The Alameda Corridor Business Improvement District runs along Alameda Blvd. from Sheridan Blvd to Carr St. in Lakewood. The boundary of the Alameda BID includes properties as far north as Cedar Ave. and as far south as Ohio Ave. Managed by an Executive Director and governed by a board of local property owners and businesses, the Alameda Corridor BID elects to spend revenue on streetscape improvements and marketing the Alameda Ave. corridor.

The attached 2024 BID Budget, BID Operating Plan and Nominations to the BID Board of Directors have been approved by the BID Board.

BUDGETARY IMPACTS: None. Approving these BID Plans do not affect the City's Budget.

STAFF RECOMMENDATIONS: Staff recommends the City Council approves these four resolutions approving the 2024 Operating Plan and Budget for the Alameda Corridor Business Improvement District and the Re-appointment of Ed Boyle and Patty Denny to the Board of Directors.

ALTERNATIVES:

- The City Council may decide not to approve the resolutions for the 2024 Alameda Corridor Business Improvement District 2024 Budget, 2024 Operating Plan, & re-appointment of nominations to the Board of Directors.

- The City Council may take action to table consideration of these resolutions to a future date certain.

PUBLIC OUTREACH: This item has been promoted through the regular communication channels to be considered by the Lakewood City Council and proper notice of this Council action was given.

The Alameda Corridor Business Improvement District provides public outreach through a variety of channels including a website, publications, Facebook, & Twitter. The Alameda Corridor BID also holds community meetings and several public events each year. Meetings of the Alameda Corridor BID Board are noticed and open to the public.

NEXT STEPS: None

ATTACHMENTS: 1. Resolution 2023-49

REVIEWED BY: Kathleen E. Hodgson, City Manager
Benjamin B. Goldstein, Deputy City Manager
Alison McKenney Brown, City Attorney

2023-49

A RESOLUTION

APPROVING THE 2024 BUDGET FOR THE ALAMEDA CORRIDOR BUSINESS IMPROVEMENT DISTRICT (BID)

WHEREAS, the Board of Directors of the Alameda Corridor Business Improvement District (the "BID") has filed with the City Clerk the BID's 2024 Operating Plan and Budget, attached hereto, and requested that the City Council review and approve these documents; and

WHEREAS, the City Council has reviewed the Alameda Corridor BID 2024 Budget as presented by the BID.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lakewood, Colorado, that:

SECTION 1. The Alameda Corridor BID 2024 Budget for the Alameda Corridor Business Improvement District is hereby approved.

SECTION 2. The City Clerk shall transmit a copy of this Resolution to the Board of Directors of the BID.

SECTION 3. This Resolution shall become effective immediately upon its adoption.

INTRODUCED, READ AND ADOPTED by a vote of _ for and _ against at a hybrid regular meeting of the City Council on September 11, 2023, at 7 o'clock p.m. at Lakewood City Hall, 480 South Allison Parkway, Lakewood, Colorado.

Adam Paul, Mayor

ATTEST:

Jay Robb, City Clerk

APPROVED AS TO FORM:

Alison McKenny Brown, City Attorney

A RESOLUTION

APPROVING THE 2024 OPERATING PLAN FOR THE ALAMEDA CORRIDOR
BUSINESS IMPROVEMENT DISTRICT (BID)

WHEREAS, the Board of Directors of the Alameda Corridor Business Improvement District (the “BID”) has filed with the City Clerk the BID’s 2024 Operating Plan and Budget, attached hereto, and requested that the City Council review and approve these documents; and

WHEREAS, the City Council has reviewed the Alameda Corridor BID 2024 Operating Plan as presented by the BID.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lakewood, Colorado, that:

SECTION 1. The Alameda Corridor BID 2024 Operating Plan for the Alameda Corridor Business Improvement District is hereby approved.

SECTION 2. The City Clerk shall transmit a copy of this Resolution to the Board of Directors of the BID.

SECTION 3. This Resolution shall become effective immediately upon its adoption.

INTRODUCED, READ AND ADOPTED by a vote of _ for and _ against at a hybrid regular meeting of the City Council on September 11, 2023, at 7 o'clock p.m. at Lakewood City Hall, 480 South Allison Parkway, Lakewood, Colorado.

Adam Paul, Mayor

ATTEST:

Jay Robb, City Clerk

APPROVED AS TO FORM:

Alison McKenny Brown, City Attorney

A RESOLUTION

APPROVING THE 2024 RE-APPOINTMENT NOMINATION OF ED BOYLE TO THE BOARD OF DIRECTORS FOR THE ALAMEDA CORRIDOR BUSINESS IMPROVEMENT DISTRICT (BID)

WHEREAS, the Board of Directors of the Alameda Corridor Business Improvement District (the "BID") has filed with the City Clerk the BID's re-appointment nominations for BID board of directors, attached hereto, and requested that the City Council review and approve these nominations; and

WHEREAS, the City Council has reviewed the Alameda Corridor BID Re-Appointment Nominations as presented to them by the BID.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lakewood, Colorado, that:

SECTION 1. The 2024 Re-appointment of Ed Boyle to the Board of Directors for the Alameda Corridor Business Improvement District is hereby approved.

SECTION 2. The City Clerk shall transmit a copy of this Resolution to the Board of Directors of the BID.

SECTION 3. This Resolution shall become effective immediately upon its adoption.

INTRODUCED, READ AND ADOPTED by a vote of _ for and _ against at a hybrid regular meeting of the City Council on September 11, 2023, at 7 o'clock p.m. at Lakewood City Hall, 480 South Allison Parkway, Lakewood, Colorado.

Adam Paul, Mayor

ATTEST:

Jay Robb, City Clerk

APPROVED AS TO FORM:

Alison McKenny Brown, City Attorney

A RESOLUTION

APPROVING THE 2024 RE-APPOINTMENT NOMINATION OF PATTY DENNY TO THE BOARD OF DIRECTORS FOR THE ALAMEDA CORRIDOR BUSINESS IMPROVEMENT DISTRICT (BID)

WHEREAS, the Board of Directors of the Alameda Corridor Business Improvement District (the "BID") has filed with the City Clerk the BID's re-appointment nominations for BID board of directors, attached hereto, and requested that the City Council review and approve these nominations; and

WHEREAS, the City Council has reviewed the Alameda Corridor BID Re-Appointment Nominations as presented to them by the BID.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lakewood, Colorado, that:

SECTION 1. The 2024 Re-appointment of Patty Denny to the Board of Directors for the Alameda Corridor Business Improvement District is hereby approved.

SECTION 2. The City Clerk shall transmit a copy of this Resolution to the Board of Directors of the BID.

SECTION 3. This Resolution shall become effective immediately upon its adoption.

INTRODUCED, READ AND ADOPTED by a vote of _ for and _ against at a hybrid regular meeting of the City Council on September 11, 2023, at 7 o'clock p.m. at Lakewood City Hall, 480 South Allison Parkway, Lakewood, Colorado.

Adam Paul, Mayor

ATTEST:

Jay Robb, City Clerk

APPROVED AS TO FORM:

Alison McKenny Brown, City Attorney

STAFF MEMO

DATE OF MEETING: SEPTEMBER 11, 2023 / AGNEDA ITEM NO. 12

To: Mayor and City Council

From: Max Kirschbaum, Public Works Director

Subject: **ADOPTING TITLE 8, CHAPTER 1 OF THE MUNICIPAL CODE OF THE CITY OF LAKEWOOD, COLORADO, TO ALLOW FOR THE USE OF APPROVED FACILITIES AS OVERNIGHT SHELTERS DURING EXTREME WEATHER EVENTS WITHIN THE CITY OF LAKEWOOD, COLORADO**

SUMMARY STATEMENT: The Lakewood Municipal Code is being proposed to be revised to allow existing buildings with non-residential use, to be temporarily utilized as emergency shelters during extreme weather events.

BACKGROUND INFORMATION: The International building code does not allow buildings constructed for non-residential uses to be used in situations that are intended to include sleeping overnight by occupants. Local amendments adopted by the City of Lakewood currently allow only religious buildings and city-owned buildings to be used as overnight shelters. This restricts the potential locations where overnight shelters could be placed and thus limits the potential number of people that the program is able to serve.

The proposed ordinance will allow the buildings of various existing uses to be used as temporary emergency shelters so that shelters can be situated in the areas that are most needed. The language within the ordinance also defines terms not currently included in the City code, sets the parameters for the declaration of an extreme weather event and ensures that any existing building used as a shelter meets the approval of the building department and West Metro Fire Department.

BUDGETARY IMPACTS: No budgetary impact is anticipated as a result of the adoption of this ordinance.

STAFF RECOMMENDATIONS: Staff recommends adoption of the ordinance.

ALTERNATIVES: City council may adopt the ordinance or choose to leave the municipal code as-is.

PUBLIC OUTREACH: This item has been promoted through the regular communication channels to be considered by the Lakewood City Council.

NEXT STEPS: City staff will implement the provisions of the ordinance in preparation for a declared weather emergency.

ATTACHMENTS: 1. Ordinance O-2023-37
2. Ordinance O-2023-37 (revised)

REVIEWED BY: Kathleen E. Hodgson, City Manager
Benjamin B. Goldstein, Deputy City Manager
Alison McKenney Brown, City Attorney

AN ORDINANCE

ADOPTING TITLE 8, CHAPTER 01 OF THE MUNICIPAL CODE OF THE CITY OF LAKEWOOD, COLORADO, TO ALLOW FOR THE USE OF APPROVED FACILITIES AS OVERNIGHT SHELTERS DURING EXTREME WEATHER EVENTS WITHIN THE CITY OF LAKEWOOD, COLORADO

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, the City of Lakewood recognizes the need for safe weather related temporary shelters to provide a place for persons within Lakewood to seek shelter from the weather when temperatures or weather conditions are life threatening;

WHEREAS, the City of Lakewood recognizes that there are currently limited spaces available to those needing shelter during extreme weather events;

WHEREAS, the current building and zoning codes of the City prohibit the use of City owned facilities for emergency shelters;

WHEREAS, increasing the number of shelter spaces for at-risk populations will reduce health-related impacts from extreme weather events;

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; 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 the proposal.

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

SECTION 1. Title 8, Chapter 01 of the Lakewood Municipal Code is hereby adopted as follows:

8.01.010 Definitions

The following words used in this chapter shall have the meanings and constructions given in this section:

City Manager means the City Manager, or designee, of the City of Lakewood.

Day means twenty-four consecutive hours beginning at 12:00 a.m. and ending at the next following 12:00 a.m.

“Extreme Weather Event” means when temperatures are forecasted to be 1) below 32 degrees with wet conditions, or 2) temperatures below 20 degrees with dry conditions.

“Emergency Overnight Shelter” means an overnight, temporary housing accommodation that has been approved to provide shelter during extreme weather events in accordance with the provisions of this Code.

8.01.020 Emergency Shelters

Upon the declaration of the City Manager that the City is forecasted to experience an extreme weather event designated facilities that have been inspected and approved by the West Metro Fire Department and the City Building Official to serve as short term emergency overnight shelters shall be exempt from those Building Codes in Title 14 and Zoning Codes in Title 17 that relate specifically to sheltering humans during that time period set forth within the extreme weather event declaration. Each declared extreme weather event declaration shall be in effect no longer than three (3) consecutive days, but the City Manager shall have the discretion to issue consecutive extreme weather event declarations when conditions warrant.

8.01.030 Rules and Regulations

The City’s Emergency Manager is authorized to adopt rules and regulations for the purpose of carrying out the provisions of this article.

8.01.040 Miscellaneous Authority

The City Manager is authorized to enter into interlocal governmental agreements, or other applicable agreements, to carry out the intent of this Code.

SECTION 2. This ordinance shall take effect thirty (30) days after final publication.

SECTION 3. 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 that such remaining portions or application of this Ordinance are not determined by the court to be inoperable.

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 11th day of September 2023; published by title in the Denver Post and in full on the City of Lakewood's website, www.lakewood.org, on the 14th day of September, 2023; set for public hearing to be held on the 25th day of September, 2023, read, finally passed and adopted by the City Council on the 25th day of September, 2023 and, signed by the Mayor on the __ day of September, 2023.

Adam Paul, Mayor

ATTEST:

Jay Robb, City Clerk

APPROVED AS TO FORM:

Alison McKenney Brown, City Attorney

AN ORDINANCE

ADOPTING TITLE 8, CHAPTER 01 OF THE MUNICIPAL CODE OF THE CITY OF LAKEWOOD, COLORADO, TO ALLOW FOR THE USE OF APPROVED FACILITIES AS OVERNIGHT SHELTERS DURING EXTREME WEATHER EVENTS WITHIN THE CITY OF LAKEWOOD, COLORADO

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, the City of Lakewood recognizes the need for safe weather related temporary overnight shelters to provide a place for persons within Lakewood to seek shelter from the weather when temperatures or weather conditions are life threatening;

WHEREAS, the City of Lakewood recognizes that there are currently limited spaces available to those needing overnight shelter during extreme weather events;

WHEREAS, the current building and zoning codes of the City prohibit the use of most buildings and facilities located within the City for emergency shelters;

WHEREAS, increasing the number of shelter spaces for at-risk populations will reduce health-related impacts from extreme weather events;

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; 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 the proposal.

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

SECTION 1. Title 8, Chapter 01 of the Lakewood Municipal Code is hereby adopted as follows:

8.01.010 Definitions

The following words used in this chapter shall have the meanings and constructions given in this section:

City Manager means the City Manager, or designee, of the City of Lakewood.

Day means twenty-four consecutive hours beginning at 12:00 a.m. and ending at the next following 12:00 a.m.

“Extreme Weather Event” means when temperatures are forecasted to be 1) below 32 degrees Fahrenheit with wet conditions, or 2) temperatures below 20 degrees Fahrenheit with dry conditions.

Emergency Manager means the Emergency Manager, or designee, of the City of Lakewood.

“Emergency Overnight Shelter” means an overnight, temporary housing accommodation that has been approved to provide shelter during extreme weather events in accordance with the provisions of this Code.

8.01.020 Emergency Shelters

Upon the declaration of the City Manager that the City is forecasted to experience an extreme weather event designated facilities that have been inspected and approved by the West Metro Fire Department and the City Building Official to serve as short term emergency overnight shelters shall be exempt from those Building Codes in Title 14 and Zoning Codes in Title 17 that relate specifically to sheltering humans during that time period set forth within the extreme weather event declaration. Each declared extreme weather event declaration shall be in effect no longer than three (3) consecutive days, but the City Manager shall have the discretion to issue consecutive extreme weather event declarations when conditions warrant.

8.01.030 Rules and Regulations

The Emergency Manager is authorized to adopt rules and regulations for the purpose of carrying out the provisions of this article.

8.01.040 Miscellaneous Authority

The City Manager is authorized to enter into interlocal governmental agreements, or other applicable agreements, to carry out the intent of this Code.

SECTION 2. This ordinance shall take effect thirty (30) days after final publication.

SECTION 3. 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 that such remaining portions or application of this Ordinance are not determined by the court to be inoperable.

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 11th day of September 2023; published by title in the Denver Post and in full on the City of Lakewood's website, www.lakewood.org, on the 14th day of September, 2023; set for public hearing to be held on the 25th day of September, 2023, read, finally passed and adopted by the City Council on the 25th day of September, 2023 and, signed by the Mayor on the ___ day of September, 2023.

Adam Paul, Mayor

ATTEST:

Jay Robb, City Clerk

APPROVED AS TO FORM:

Alison McKenney Brown, City Attorney

STAFF MEMO

DATE OF MEETING: SEPTEMBER 11, 2023 / AGNEDA ITEM NO. 13

To: Mayor and City Council

From: Max Kirschbaum, Public Works Director

Subject: **ADOPTING TITLE 14, CHAPTER 28 OF THE MUNICIPAL CODE OF THE CITY OF LAKEWOOD, COLORADO, IN CONNECTION WITH ESTABLISHING A PUBLIC IMPROVEMENT REIMBURSEMENT PROGRAM TO ALLOW DEVELOPERS OF PRIVATELY FINANCED CONSTRUCTION THE ABILITY TO APPLY FOR AND OBTAIN PARTIAL COST RECOVERY FROM SUBSEQUENT USERS OF THE PUBLIC IMPROVEMENTS**

SUMMARY STATEMENT: The Lakewood Municipal Code is proposed to be revised to provide a mechanism for private developers (initial development) to potentially receive reimbursement from future development (subsequent development) that may directly benefit from use of public infrastructure that was completely funded, constructed, and dedicated by the initial developer.

BACKGROUND INFORMATION: In certain circumstances private developers of an initial development within an area must install significant public improvements to support a proposed project or to mitigate impacts to adjacent developments. These improvements often extend well beyond the property limits of the project and must be completely funded and constructed by the initial development in an area, sometimes at substantial cost. Once constructed and accepted these improvements are dedicated to the city for public use. Once dedicated to public use subsequent development is allowed to utilize these public improvements generally without fees or contribution to the original construction cost solely borne by the initial development.

The proposed process to request and obtain a reimbursement agreement is intended to be integrated into the standard development process to ensure that critical information and documentation regarding infrastructure costs are timely and accurate. The initial developer is responsible for providing all supporting information needed to establish the area within which future development would be required to provide reimbursement to the initial development (reimbursement area) and other elements of the agreement to the satisfaction of the City.

The language within the agreement contains two provisions to protect individual property owners from undue financial burden resulting from the reimbursement agreement. The first provision sets a ten-year limitation on the obligation for subsequent developments/individual property owners to be liable for reimbursement costs to the initial developer. Simply stated, if an individual property within a reimbursement area does not initiate a development process within ten years of the date of the reimbursement agreement they will not be required to contribute to the cost of the initial improvements. The second provision allows a property within the reimbursement area that does initiate a development process within the applicable ten year period to appeal the requirement to contribute to the cost of the initial improvements if the development will not connect to or take benefit from the initial improvements.

There is currently no program offered by the City of Lakewood that allows an initial developer to be reimbursed for extensive public improvements that may then be utilized by future development. This ordinance does not guarantee that a developer who completes a reimbursement agreement will recover any portion of the original

infrastructure cost.

BUDGETARY IMPACTS: No budgetary impact are anticipated.

STAFF RECOMMENDATIONS: Staff recommends adoption of the ordinance.

ALTERNATIVES:

PUBLIC OUTREACH: This item has been promoted through the regular communication channels to be considered by the Lakewood City Council.

NEXT STEPS: City staff will share the policy with owners of potential projects and identify projects in progress that may wish to consider initiating the application process.

ATTACHMENTS: 1. Ordinance O-2023-38

REVIEWED BY: Kathleen E. Hodgson, City Manager
Benjamin B. Goldstein, Deputy City Manager
Alison McKenney Brown, City Attorney

AN ORDINANCE

ADOPTING TITLE 14, CHAPTER 28 OF THE MUNICIPAL CODE OF THE CITY OF LAKEWOOD, COLORADO, IN CONNECTION WITH ESTABLISHING A PUBLIC IMPROVEMENT REIMBURSEMENT PROGRAM TO ALLOW DEVELOPERS OF PRIVATELY FINANCED CONSTRUCTION THE ABILITY TO APPLY FOR AND OBTAIN PARTIAL COST RECOVERY FROM SUBSEQUENT USERS OF THE PUBLIC IMPROVEMENTS

WHEREAS, the City of Lakewood 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 convince of such municipality and the inhabitants thereof;

WHEREAS, the City Council desires to create a developer reimbursement program that allows developers of privately financed construction of public infrastructure to obtain partial cost recovery from later users of the public improvement(s) who receive special benefit from those public improvement(s) but did not contribute to the initial capital costs;

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; 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 the proposal.

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

SECTION 1. Chapter 14.28 of the Lakewood Municipal Code shall be adopted as follows:

14.28.010 Purpose

The purpose of this Public Improvement Reimbursement Agreement program is to define the rules and regulations for the developers of privately financed construction of public water, sewer, storm sewer, and street system improvements to obtain partial cost recovery from later users of the Public Improvement(s) who receive special benefit from those Public Improvement(s) but did not contribute to the initial capital costs thereof.

14.28.020 Definitions

As used in this Chapter, the following terms are defined as follows:

City Engineer means the City Engineer for Development Services.

Connection means a physical connection of any kind to the City infrastructure, except that connection of an existing property entrance to new street infrastructure constructed by an Initial Developer that is eligible for reimbursement shall not be considered a connection for the purposes of reimbursement until such time as the property use changes or improvements to the entrance are required as a result of development of the property as determined by the Director or designee.

Connector means a party seeking to connect to the City infrastructure and who benefits from the infrastructure constructed by an Initial Developer that is eligible for the reimbursement procedure set forth in this section under criteria established by the City.

Construction Costs means all reasonable costs, as approved by the City Engineer, incurred directly and solely for the design and construction of Reimbursable Infrastructure and includes the total direct Construction Costs for the Reimbursable Infrastructure, all as detailed in a sworn affidavit of the Initial Developer.

Director means the Director of Public Works Department or designee.

Initial Developer means the party constructing or contracting for construction of Public Improvements required by the City to provide service to a development.

Initial Development means the development of the property for which the Reimbursable Infrastructure is constructed.

Public Improvements means those rights-of-way, easements, access rights, and physical improvements which, upon formal acceptance by the City, shall become the responsibility of the City for ownership and/or maintenance and repair, unless otherwise provided. which upon acceptance by the City, are intended to be for the use of and enjoyment of the public

Reimbursement Area means the geographical area approved by the City Engineer within the City that includes those properties identified as being specially benefitted by the Public Improvements completed by the Initial Developer.

Reimbursable Infrastructure means those Public Improvements identified by the City Engineer as eligible for reimbursement under this Chapter.

14.28.030 Agreement

- A. The owner of any property in the City who installs and dedicates qualified Public Improvements to be owned and maintained by the City may apply for the identification of a Reimbursement Area within which reimbursement of a portion of the costs of the Public Improvement(s) will be required from the owners of property specially benefited by the improvements. Construction cost or portions thereof may be recovered by the Initial Developer pursuant to the reimbursement procedure described in this section. This does not apply to fee in lieu of payment agreements.
- B. The total cost of design and construction of any required Public Improvement(s) shall be the responsibility of the Initial Developer whose development necessitates the initial installation of the Public Improvements as required by the City.
- C. The City Engineer is authorized to adopt administrative rules and regulations as needed to in order to carry out the intent of this Chapter.
- D. Applicants for the Public Improvement Reimbursement Agreements program must comply with all City ordinances and regulations to be eligible for reimbursement agreements. All Public Improvement(s) must be designed in accordance with the current editions of the City of Lakewood Engineering Regulations, Construction Specifications and Design Standards, the City of Lakewood Transportation Engineering Standards, and the City of Lakewood Storm Drainage Criteria Manual, as amended from time to time, the City's current infrastructure master plans, or based on other design requirements as otherwise determined by the City Engineer.
- E. The City Engineer may require the applicant to submit certified statements by a state of Colorado licensed professional engineers and/or contractors registered in the City of Lakewood containing information relevant to the application including, but not limited to, itemization of projected or actual cost of Public Improvement(s), property ownership records, plans, exhibits, or specifications.
- F. The City shall not be a connector or party subject to inclusion in a Reimbursement Area simply by receiving a public benefit from any improvement. However, if the City is the owner of a lot subject to development within the Reimbursement Area, and desires to connect to infrastructure that is the subject of a reimbursement agreement, the City may agree to be included as a connector subject to reimbursement payments.
- G. The applicant is solely responsible for the completeness and accuracy of all applications and required documents and must comply with the requirements of this agreement and all other applicable City ordinances.

14.28.040 Improvements Subject to Reimbursement

A Public Improvement Reimbursement Agreement application shall be accepted for consideration for reimbursement if it contains the following Public Improvement(s):

- A. Public water system extensions and sanitary sewer where such extension provides new mains intended to be owned and operated by the City in locations where no mainlines are available at the time of the formal submittal;
- B. Public storm collectors and outfalls including manholes, inlets located beyond the property frontage, headwalls or end sections, culverts, and major channel improvements;
- C. Public streets or portions thereof including curb and gutter, asphalt pavement, concrete pavement, pavement striping, sidewalks, pedestrian/bike paths, traffic signals, streetlights, acceleration and deceleration lanes; or
- D. Other improvements, at the discretion of the City Engineer, which upon acceptance by the City, are intended to be for the use of and enjoyment of the public.

14.28.050 Excluded Improvement(s)

A Public Improvement Reimbursement Agreement application shall not be accepted for consideration if it contains the following Public Improvement(s):

- A. Asphalt required as part of street widening along the frontage of the initial property being developed including the asphalt transitions in front of abutting properties;
- B. Curb, gutter, and sidewalk along the frontages of initial property being developed;
- C. All improvements used to meet the City of Lakewood's Enhanced Development Menu criteria;
- D. Storm sewer inlets that are located along the frontage of the initial property being developed and are connected to an existing storm sewer collector pipe;
- E. Any improvements associated with a required detention or water quality facility; or
- F. Infrastructure systems that are included in any metropolitan or other special district that assesses fees to residents or collects any supplemental tax from residents.

14.28.060 Application for Establishment of Public Improvement Reimbursement Agreement

- A. At the time of the initial submittal of the Site Plan and Engineering Drawings, the developer may file an application with the City Engineer to form a reimbursable area in order to obtain partial cost recovery from later users of the Public Improvement(s) required by the City and included in the initial submittal of the engineering drawings.

- B. The application shall be made using the form created by the City of Lakewood and shall include the following supplemental information:
1. Payment of the non-refundable application fee set in accordance with 14.01.060.
 2. An exhibit depicting the infrastructure suitable for inclusion in the reimbursement agreement as determined by the City Engineer. The exhibit shall be presented on 11x17 sized paper and shall clearly show all proposed reimbursable Public Improvements included in the request to scale.
 3. An itemized list of the improvements for inclusion in the reimbursement agreement with descriptions and quantities.
 4. An ownership map acceptable to the City, showing all the properties specially benefited by the proposed reimbursement agreement. This exhibit on 11 x 17 sized paper shall clearly show the proposed Reimbursement Area to be established to scale with streets and addresses.
 5. A list of the names, mailing addresses of the property owners, and the tax ownership identification numbers for the properties within the boundaries of the proposed reimbursement agreement area, accompanied by a written ownership and encumbrance report from a title company or similar document acceptable to the City Engineer evidencing proof of ownership of all property subject to the reimbursement agreement.
- C. Concurrent with the Site Plan and Engineering Drawing review, the City Engineer shall conduct a review of the complete application. Incomplete applications will not be reviewed. The Initial Developer will be notified in writing if the Public Improvement qualifies as Reimbursable Infrastructure and whether the application is approved. In the event the City Engineer does not approve the application, the City Engineer shall notify the Initial Developer thereof in writing explaining the bases for such determination. The Initial Developer may thereafter submit modified application materials for further review or file an appeal in accordance with this Chapter.
- D. Applications will be reviewed based on the criteria set forth in the administrative rules and regulations adopted by the City Engineer. Acceptance or denial of the application by the City Engineer must be determined prior to approval of the Site Plan and Engineering Drawings.
- E. The applicant may appeal the decision of the City Engineer prior to acceptance of the Site Plan and Engineering Drawings. An appeal of the City Engineer's decision must be made in writing to the Director of Public Works and include the reason for the appeal and all relevant documentation that the applicant wishes to be considered by

the Director. The Director shall have fourteen (14) days to provide a written decision regarding the application. The Director's decision shall be final and subject to judicial review by a court of competent jurisdiction.

14.28.070 Estimated Construction Cost

- A. Upon approval of the Site Plan and Engineering Drawings the Initial Developer must provide the following construction cost information:
1. A report acceptable to the City Engineer detailing the estimated construction cost and the resulting reimbursement amount proposed to be assessed to each property within the approved Reimbursement Area. The report shall include all calculations substantiating the initial costs based on the approved Engineering Drawings and the approved reimbursable Public Improvements and Reimbursable Area.
 2. The report must include a minimum of three independent construction bids for the reimbursable Public Improvement(s). The bids shall be submitted in similar format and include an itemized unit price, quantities, and the total estimated cost for the improvements. Regardless of which contractor is selected by the Initial Developer, the lowest responsible bidder's itemized unit price schedule of values will be used to calculate the reimbursable amounts for each property.
 3. Notwithstanding the above, if the Initial Developer is unable to obtain three independent construction bids as required, the Initial Developer may request a waiver of this requirement from the City Engineer. In this event, the Initial Developer shall provide documentation to the City Engineer of the extenuating circumstances that preclude obtaining three independent bids. The City Engineer shall have the sole discretion to determine if the documentation of the extenuating circumstances is sufficient to waive the requirement for three independent bids.
 4. A notarized affidavit from the Initial Developer attesting to the estimated construction cost and to the fact that the work was bid to at least three independent contractors. The affidavit shall be supported with complete documentation, including copies of all vendor, consultant, and contractor bids, proposals, invoices and other relevant documents to support the validity of the construction cost. In the event the requirement for three independent bids was waived by the City Engineer, the affidavit will describe the bidding process that was used. The Initial Developer shall attest that all information contained in the application is true and correct.

5. The report must include calculations that clearly identify how the estimated construction cost is to be allocated to the properties within the Reimbursement Area. A separate sheet(s) shall be included for each property showing the location of the property relative to the initial property to be developed, the approved reimbursable Public Improvement(s), the limits of the Reimbursement Area, the total estimated cost, and the estimated cost for that property.
 6. Draft copies of the notice required in Section 14.28.080(A) to be sent to each property owner.
- B. The City Engineer shall complete a review of the estimated construction cost report and provide a written approval or rejection of the estimated Construction Costs. If the City Engineer needs additional information, written comments shall be provided to the Initial Developer. The Initial Developer may thereafter submit modifications until accepted by the City Engineer.
- C. If the Initial Developer disputes the City Engineer's determination regarding the estimated reimbursable Construction Costs, or chooses not to submit modifications, they may appeal such determination as set forth in Section 14.28.140 of this section.

14.28.080 Determination of Pro Rata Shares

- A. Properties within a Reimbursement Area shall be assessed in such a manner as to equitably apportion the cost among all properties specially benefitted by the improvement, but no property shall be assessed an amount greater than the special benefit received by it. In the absence of unusual circumstances requiring a different method, Public Improvements shall be subject to reimbursement on the basis of front footage for streets, sidewalks and trails and on the basis of acres served in the case of water main, sewer main and storm drainage improvements.
- B. The cost to be apportioned within a Reimbursement Area shall be the reasonable cost of installing the improvement, but not including the cost of any part or portion which solely benefits the Initial Developer, such as curb cuts or main connections to serve its property. Engineering costs, not to exceed five percent (5%) of Construction Costs, may be included with the cost allocations. Reimbursable Construction Costs shall be based on the lowest responsible bid of three bids obtained by the Initial Developer.
- C. Except as hereinafter limited, the phrase "special benefit" shall mean only the benefit conferred upon a property, which is greater or different in kind, from that conferred upon properties in the City as a whole by a Public Improvement. Among the factors to be considered in determining the existence of a special benefit are:
1. Improvement in safety or convenience of access;
 2. Improved drainage;

3. Alleviation of health or sanitation hazards;
4. Adaptability of the property to a superior or more profitable use;
5. Improved availability of public water or sewer service to the property; and
6. In the case of undeveloped property, the installation of an improvement which would otherwise be required upon development of the property. When a party must extend an improvement, such as a water or sewer main, in order to make lateral connection to its property, the pre-existing portion of the improvement shall not be deemed to specially benefit that portion of its property served by the extension.

14.28.090 Reimbursement Area Hearing

- A. Upon approval by the City Engineer of the estimated construction cost report, the City shall set a hearing date no less than thirty-five (35) days from the approval and notify the Initial Developer. The Initial Developer shall send by first class U.S. mail, at least twenty-one (21) days before the hearing date, a notice to each of the owners of each property that is situated within the proposed Reimbursement Area boundary, together with a copy of the proposed reimbursement agreement, the individual property summary sheet, letter of explanation and a copy of this code section. The notice shall advise the property owners of the hearing date, time and location and their right to appear at the hearing to contest the Reimbursement Area, the reimbursement agreement, or both.
- B. Hearing Process. The Director shall conduct the hearing on the matter. The burden of proof to establish that the request for reimbursement for construction cost is reasonable and necessary shall be on the Initial Developer. If the Initial Developer establishes that the request for reimbursement is reasonable and necessary, the burden of proof to establish disqualification for reimbursement shall shift to the owner(s) of property identified as being within the Reimbursement Area. Following the hearing, the Director shall render, within thirty (30) days, a written decision and provide copies of the decision to all parties. The Director's decision is final and subject to judicial review by a court of competent jurisdiction.

14.28.100 Establishing the Final Construction Cost

- A. Prior to acceptance of Public Improvements, the Initial Developer must provide the following final construction cost information:
 1. A report acceptable to the City Engineer detailing the final construction cost and the resulting reimbursement amount to be assessed to each property within the approved Reimbursement Area. The report shall include all

calculations substantiating the final costs based on the actual construction cost incurred for construction of the approved reimbursable Public Improvements. For purposes of calculating the assessed reimbursement amount, the total reimbursable amount shall not exceed one hundred fifteen percent (115%) of the estimated Construction Costs determined in Section 14.28.070.

2. A notarized affidavit from the Initial Developer attesting to the final construction cost. The affidavit shall be supported with complete documentation, including copies of all vendor, consultant, and contractor invoices, change orders, pay applications and other relevant documents to support the validity of the final construction cost. The complete cost of all Public Improvement(s) subject to reimbursement must be tracked separately from other costs associated with the project.
 3. The report must include calculations that clearly identify how the final construction cost is to be allocated amongst the initial property, and all properties within the approved Reimbursement Area. A separate sheet(s) shall be included for each property showing the location of the property relative to the initial property to be developed, the approved reimbursable improvement(s), the limits of the Reimbursement Area, the total final cost, and the final cost for that property.
 4. The report must also include a draft letter notifying the property owners within the Reimbursement Area of the completion of the Public Improvements and the final cost to be recorded as required in 14.28.90(C).
- B. The City Engineer shall complete a review of the final construction cost report and provide a written notice of approval or rejection. If the City Engineer needs additional information, written comments shall be provided to the Initial Developer. The Initial Developer may thereafter submit modifications until accepted by the City Engineer.
- C. When the final construction cost is approved, a notice of the existence of the Reimbursement Area shall be recorded by the Initial Developer against the properties in the Reimbursement Area in the office of the County Clerk and Recorder in the county in which the properties are located. The Initial Developer shall send by first class U.S. mail a maximum of twenty-one (21) days after the approval of the final cost and allocation, a notice to each of the owners of each property that is situated within the proposed Reimbursement Area boundary, a copy of the recorded reimbursement agreement, the individual property summary sheet, and a copy of this code section.

14.28.110 Reimbursement Payments

- A. A Connector included within a Reimbursement Area may in such Connector's discretion pay the reimbursement at any time after it has been allocated but shall not

be required to do so until the first of the following to occur: execution of a Public Improvement agreement or similar document; subdivision of the property; issuance of a building permit for the property; or at the time of connection to the Public Improvement.

1. In the event that a Connector included within a Reimbursement Area initiates an action, other than a direct connection to the Public Improvement, that would otherwise trigger a requirement for payment, but the Connector does not immediately benefit from the initial improvement, the Connector may request deferral of the payment in writing from the Director prior to applying for any permits. A decision by the Director to defer payment shall not void the Connectors' obligation triggered by additional actions or change the original term of the obligation.
 2. Deferral of payment for an individual Connector shall not change the reimbursement amount for any other Connector included within the Reimbursement Area.
- B. A Connector included within a Reimbursement Area shall make reimbursement payments directly to the Initial Developer, in good and verifiable funds. Upon making the reimbursement payment, the Connector making the payment and the Initial Developer shall both sign and provide to the City Engineer an acknowledgement of payment showing that the Connector and Initial Developer agree that reimbursement has been made.
- C. No property will be permitted to connect to infrastructure constructed pursuant to this section or to any other part of the City's infrastructure until the obligations associated with such property under any reimbursement agreements have been paid in full or have been deferred.
- D. In no event shall the actual amount reimbursed to the Initial Developer exceed the reimbursable Construction Costs.

14.28.120 Responsibilities of Initial Developer

After the recordation of the reimbursement agreement, it shall be the responsibility of the Initial Developer (and the party's successor(s)-in-interest) to keep the City informed of its current address. Failure to comply with the Initial Developer's responsibilities shall constitute abandonment of all rights of reimbursement and shall be grounds for termination of the reimbursement agreement.

14.28.130 Termination of Reimbursement Areas

- A. The reimbursement agreement shall terminate upon the earlier to occur of the following: payment of the full amount of reimbursable Construction Costs, or ten (10) years from the date of execution.
- B. Upon full payment of reimbursement or expiration of the reimbursement term, whichever occurs first, the City will, upon request, issue a written release to the owner of property included within a Reimbursement Area.

14.28.140 Dispute, Administrative Appeal

- A. In the event the Initial Developer disputes the City Engineer's determination of estimated or actual reimbursable Construction Costs or the qualification of the improvement as Reimbursable Infrastructure, the Initial Developer may submit a written appeal to the Director detailing why the Initial Developer disputes the City Engineer's determination.
- B. Upon receipt of a written appeal hereunder, the Director shall review the written appeal to determine whether the written appeal contains reasonably sufficient information to overturn the City Engineer's determination regarding estimated or actual reimbursable Construction Costs, as applicable. If the Director concludes there is not reasonably sufficient information, the Director shall notify the Initial Developer within twenty-one (21) calendar days after receipt of the written appeal, including identifying the nature of the required additional information to the extent reasonably possible. The Initial Developer shall provide the required additional information within fifteen (15) calendar days after the date of the notice. Failure to provide the required additional information within such time period shall render the appeal abandoned, and the Initial Developer shall be deemed to have accepted the City Engineer's determination of estimated or actual reimbursable Construction Costs.
- C. If the Director concludes that the written appeal is sufficient, with or without required additional information, as applicable, the Director shall investigate and provide to the Initial Developer a written decision within thirty (30) calendar days after receipt of the written application or, if the written application required additional information, within thirty (30) calendar days after receipt of such additional information.
- D. The Director's decision shall be final for the purposes of further appeals, which shall be to a court of competent jurisdiction.

14.28.150 Limitation of City's Duty and Liability

- A. The Initial Developer shall defend and indemnify the City for, and hold the City harmless from, any suit, claim, or action that is or may be brought by any person against the City as a result of the reimbursement agreement entered into pursuant to this Chapter. In the event the City incurs costs as the result of any litigation or dispute in administering this Chapter, the Initial Developer shall reimburse the City for these costs within ten (10) days of the City sending notification. In the event the Initial

Developer fails to reimburse these costs upon written request by the City Attorney or designee, the City will have no further obligations to the Initial Developer and any reimbursement agreements with the Initial Developer will be considered terminated. Notwithstanding the foregoing, the City is not limited to these remedies.

- B. In the event a court invalidates the reimbursement agreement, the City will have no further obligations to the Initial Developer and the reimbursement agreement with the Initial Developer will be considered terminated unless the court order provides otherwise. If the Initial Developer has received reimbursement payments under a reimbursement agreement that a court invalidates, then the Initial Developer shall return the reimbursement funds, plus the applicable collection fee paid by the Connector, to the Connector unless the court order provides otherwise. If a court invalidates the reimbursement agreement, the City will not be obligated to refund the application fee to the Initial Developer.
- C. The Initial Developer shall cooperate with the City in the implementation of the agreement including, but not limited to, providing such information as the City may deem necessary to perform its functions under the agreement.
- D. Failure of the Initial Developer to comply with any of the material provisions of the reimbursement agreement shall constitute abandonment of all rights to reimbursement.
- E. Nothing in this section shall prevent the Initial Developer from pursuing any other legal action against a property owner for failure to pay.

SECTION 2. This Ordinance shall take effect thirty (30) days after final publication. Upon its effective date, there will be a grace period of an additional thirty (30) days for active or in progress developments or redevelopments to apply for partial reimbursement of any public improvement(s) in accordance with the provisions of this Ordinance.

SECTION 3. 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 that such remaining portions or application of this Ordinance are not determined by the court to be inoperable.

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 11th day of September 2023; published by title in the Denver Post and in full on the City of Lakewood's website, www.lakewood.org, on the 14th day of September, 2023; set for public hearing to be held on the 25th day of September, 2023, read, finally passed and adopted by the City Council on the 25th day of September, 2023 and, signed by the Mayor on the ___ day of September, 2023.

Adam Paul, Mayor

ATTEST:

Jay Robb, City Clerk

APPROVED AS TO FORM:

Alison McKenney Brown, City Attorney

STAFF MEMO

DATE OF MEETING: SEPTEMBER 11, 2023 / AGNEDA ITEM NO. 14

To: Mayor and City Council

From: Max Kirschbaum, Public Works Director

Subject: **ACCEPTING THE DEVOLUTION OF CERTAIN PROPERTY FROM THE COLORADO DEPARTMENT OF TRANSPORTATION TO THE CITY OF LAKEWOOD AND APPROVING AN INTERGOVERNMENTAL AGREEMENT TO EFFECT SUCH PROPERTY DEVOLUTION**

SUMMARY STATEMENT: This ordinance would authorize the City Manager to enter into an intergovernmental agreement (IGA) with the Colorado Department of Transportation for the devolution of 0.49 miles of the W 6th Ave North Frontage Road between Eldridge St and Alkire St to the City of Lakewood to accept access control and associated maintenance.

BACKGROUND INFORMATION: The Colorado Department of Transportation (CDOT) owns 0.49 miles of property on the north frontage road of US Highway 6, between Eldridge St and Alkire St in Golden. This portion of roadway no longer functions as a part of the state highway system and CDOT wishes to abandon this portion of highway to become a City of Lakewood street. If this ordinance is approved, the City of Lakewood will accept the rights-of-way and ownership and maintenance of the existing roadway infrastructure. As part of the agreement, the City of Lakewood will also receive a one-time payment from CDOT to perform upgrades required to bring the street up to City standards.

The existing roadway consists of one, twelve-foot lane in each direction with shoulders varying from zero to one foot. The pavement surface is fairly old with moderate cracking. Proposed improvements to bring the existing infrastructure up to City of Lakewood standards include a mill and overlay, widening the existing shoulders to four feet, removal of trees that conflict with the widening, and new pavement markings to define the wider shoulders. No additional drainage or utility impacts are anticipated in this project.

CDOT will pay a one-time payment of \$485,259 for these proposed improvements.

BUDGETARY IMPACTS: The Colorado Department of Transportation will provide funds for the improvements. No City funds are necessary to participate in this agreement.

STAFF RECOMMENDATIONS: Approval of the ordinance

ALTERNATIVES: City Council could decide not to approve the ordinance resulting in the City of Lakewood not assuming ownership of this portion of roadway. CDOT would continue to be responsible for maintenance of this disconnected portion of the 6th Avenue Frontage Road.

PUBLIC OUTREACH: This item has been promoted through the regular communication channels to be considered by the Lakewood City Council.

NEXT STEPS: If the ordinance is approved, the IGA will be executed allowing City of Lakewood to receive the State funds and ownership of the roadway as described above. Design and construction activities to upgrade

the roadway to City Standards would be anticipated in 2024.

ATTACHMENTS: 1. Ordinance O-2023-39
2. Exhibit A
3. Exhibit B

REVIEWED BY: Kathleen E. Hodgson, City Manager
Benjamin B. Goldstein, Deputy City Manager
Alison McKenney Brown, City Attorney

AN ORDINANCE

AN ORDINANCE ACCEPTING THE DEVOLUTION OF CERTAIN PROPERTY FROM THE COLORADO DEPARTMENT OF TRANSPORTATION TO THE CITY OF LAKEWOOD AND APPROVING AN INTERGOVERNMENTAL AGREEMENT TO AFFECT SUCH PROPERTY DEVOLUTION

WHEREAS, the Colorado Department of Transportation (CDOT) owns real property (0.49 miles) identified as U.S. Highway 6 North Frontage Road, as shown in Exhibit A attached hereto;

WHEREAS, the Code of Federal Regulations 23.620.203(c)(3) allows CDOT to relinquish portions of unneeded frontage roads;

WHEREAS, C.R.S. § 43-2-106(1)(a) authorizes the Transportation Commission to determine that all or a portion of a state highway no longer functions as a part of the state highway system, and, with the agreement of each affected county or municipality, the state highway (or portion thereof) may be abandoned;

WHEREAS, C.R.S. § 43-1-106(1)(a) further states that the abandoned State highway (or portion thereof) shall become a city street upon adoption of an ordinance to that effect by the governing body of the affected municipality;

WHEREAS, the Transportation Commission approved a Resolution abandoning the U.S. Highway 6 North Frontage Road on August 16, 2023, a copy of which is attached as Exhibit B;

WHEREAS, the City of Lakewood and CDOT have agreed on the terms of this devolution via an Intergovernmental Agreement (IGA), an unsigned copy of which is attached as Exhibit C;

WHEREAS, the IGA contemplates a one-time payment to the City of Lakewood of four hundred eighty-five thousand two hundred and fifty-nine dollars (\$485,259.00) in exchange for the City of Lakewood accepting the street for access control and all associated maintenance; 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 the proposal.

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

SECTION 1. The City of Lakewood hereby accepts the U.S. Highway 6 North Frontage Road as more particularly described in Exhibit A, in exchange for a one-time devolution payment of \$485,259.00 from CDOT.

SECTION 2. This ordinance shall take effect thirty (30) days after final publication.

SECTION 3. 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 that such remaining portions or application of this Ordinance are not determined by the court to be inoperable.

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 11th day of September 2023; published by title in the Denver Post and in full on the City of Lakewood's website, www.lakewood.org, on the 14th day of September, 2023; set for public hearing to be held on the 25th day of September, 2023, read, finally passed and adopted by the City Council on the 25th day of September, 2023 and, signed by the Mayor on the ___ day of September, 2023.

Adam Paul, Mayor

ATTEST:

Jay Robb, City Clerk

APPROVED AS TO FORM:

Alison McKenney Brown, City Attorney

EXHIBIT A
Description

COLORADO DEPARTMENT OF TRANSPORTATION
ABANDONMENT – PART OF WEST 6TH AVENUE NORTH FRONTAGE ROAD
ELDRIDGE STREET (MM 276.85 +/-) TO ALKIRE STREET (MM 277.34 +/-)
JEFFERSON COUNTY, COLORADO

A portion of highway frontage road right-of-way of the Department of Transportation, State of Colorado, known as U.S. Highway No. 6, located in the Southeast Quarter of Section 6, Township 4 South, Range 69 West of the 6th Principal Meridian, in Jefferson County, Colorado, described as follows:

That portion of U.S. Highway No. 6 northerly frontage road, as it currently exists, beginning at the centerline of Eldridge Street (MM 276.85 +/-), running easterly and terminating at the approximate easterly right-of-way line of Alkire Street (MM 277.34 +/-).

The limits of this abandonment are generally described and bounded as follows:

The northerly line of said roadway to be abandoned, is the existing northerly right-of-way line of U.S. Highway No. 6.

The southerly line of said roadway to be abandoned, lies in the common roadside ditch between the U.S. Highway No. 6 westbound edge of paving and the frontage road southerly edge of paving.

This roadway strip of land is generally 67 feet wide at Eldridge Street, and 48.5 feet wide at Alkire Street. The overall length of said strip is 2,580 feet +/- in length.

The above description is intended to give up all of CDOT's interest in the frontage road with the above-described locations.

EXHIBIT B
Resolution of the Transportation Commission

Proposed Resolution #3

Disposal: Abandonment US 6 North Frontage Road, Eldridge St. to Alkire St., Lakewood

Approved by the Transportation Commission on August 16, 2023.

WHEREAS, CDOT owns 0.49 linear miles of roadway in the City of Lakewood, identified as U.S. Highway 6 North Frontage Road; and

WHEREAS, that portion of U.S. Highway 6 North Frontage Road is located between Eldridge St. (MM 276.85) to Alkire St. (377.34); and

WHEREAS, Region 1 has determined that abandoning this portion of roadway would be in the best interest of Colorado taxpayers;

WHEREAS, Region 1 has completed an environmental clearance (Categorical Exclusion, Form 128) as required for the devolution of state highways;

WHEREAS, Colorado Revised Statute 43-2-106 (1)(a) provides that the Transportation Commission may determine that a State Highway, or portion thereof, no longer functions as a state highway, and with the agreement of each affected county or municipality, the state highway, or portion thereof, can be abandoned to the affected county or municipality; and

WHEREAS, the Code of Federal Regulations 23.620.203(c)(3) allows CDOT to relinquish portions of unneeded frontage roads; and

WHEREAS, the governing body of the City of Lakewood shall adopt a resolution agreeing to the State's abandonment of the portion of U.S. Highway 6 North Frontage Road and agreeing that said roadway segment no longer serves the ongoing purposes of the State Highway system; committing the City of Lakewood to assume ownership of said highway segment in the "as is" condition;

WHEREAS, the Chief Engineer, the Department of Transportation, and the Executive Director are authorized pursuant to CRS 43-2-106, to make determinations regarding abandonment of State Highway(s) to affected county(ies) or municipality(ies);

WHEREAS, the Transportation Commission concurs with the Chief Engineer that this portion of U.S. Highway 6 North Frontage Road is no longer needed for State Highway purposes;

NOW THEREFORE BE IT RESOLVED, pursuant to the provisions of the CRS 43-2-106, the Department of Transportation be given authority to declare that portion of U.S. Highway 6 North Frontage Road abandoned, as shown in Exhibit A.

Herman Stockinger, Secretary
Transportation Commission of Colorado

Date

Exhibit C
Intergovernmental Agreement

**US 6 North Frontage Rd. –
Abandonment CDOT Portion Eldridge
St. to Alkire St. Region # 1 (DM),
Project - C 0063-072 (25033)**

INTERGOVERNMENTAL AGREEMENT

THIS AGREEMENT is made this__day of_____, 2023, by and between the STATE OF COLORADO for the use and benefit of THE DEPARTMENT OF TRANSPORTATION, 2829 W. Howard Place, Denver, Colorado (hereinafter referred to as the “State” or “CDOT”), and the CITY OF LAKEWOOD, a Colorado home rule municipal corporation whose principal business address is 480 S. Allison Parkway, Lakewood, Colorado, 80226, CDOT Vendor #2000005 (hereinafter referred to as the “City” or the “Local Agency”). The “State” and “City” shall hereinafter be referred to collectively as the “Parties” and individually as “Party.”

WHEREAS, authority exists in the law and funds have been budgeted, appropriated and otherwise made available by the State and a sufficient uncommitted balance thereof remains available for payment of project and “City” costs in Fund Number [400], Function [3403], GL Acct [4541000030], WBS Element [25033.10.50], and Cost Center [N/A]. Total Encumbrance Amount: [\$485,259.00].

WHEREAS, Colorado Revised Statutes (“CRS”) §43-2-106 (1)(a) provides that the Transportation Commission may determine that a state highway, or portion thereof, no longer functions as a part of the state highway system, and, with the agreement of each affected county or municipality, the state highway or portion thereof is abandoned. CRS §43-2-106 (1)(b) further provides that any county or municipality receiving a payment from CDOT as a result of CRS §43-2-106 (1)(a) shall credit the payment to a special fund to be used only for transportation- related expenditure.

WHEREAS, both Parties have received the required approvals, clearances and

completed coordination with appropriate agencies to allow for contributions to be made and a state highway, or portion thereof, to be abandoned.

WHEREAS, the execution of this Agreement is contingent upon approval by the State Transportation Commission.

WHEREAS, the City's Council has confirmed by Ordinance O-2023-39, attached hereto as **Exhibit E**, the City's interest in accepting the road after its abandonment by the CDOT Transportation Commission.

WHEREAS, the Parties desire to enter into this Agreement specifying the conditions of abandonment of the state highway, or portion thereof, by the State and acceptance of it by the City.

WHEREAS, the execution of this Agreement is contingent upon the abandonment of U.S. 6 North Frontage Road from 7th Avenue to Eldridge Street as a State Highway and as a City roadway; and disposal by CDOT and acceptance by one or more private parties of the improvements and real estate generally described as U.S. 6 North Frontage Road between 7th Avenue and Eldridge Street and more specifically described in **Exhibit F**;

WHEREAS, the Parties are authorized to enter into this Agreement pursuant to the provisions of CRS §§ 29-1-203, 43-2-106, 43-1-110, 43-1-114, and 43-2-144, as amended, and pursuant to the Charter of the City of Lakewood and Lakewood Municipal Code Chapters 2.06, 2.08, and 3.04.

WHEREAS, this Agreement establishes the general provisions for and defines certain responsibilities regarding the State's abandonment to the City and acceptance by the City of the road as shown in **Exhibit A**, attached hereto, and described in **Exhibit C**, attached hereto, and reaffirms the abandonment of a state highway, or portion thereof.

NOW, THEREFORE, it is hereby agreed that:

I. COMMITMENTS ON THE PART OF THE STATE

1. By Resolution **#TC-23-08-03**, dated August 18, 2023, attached hereto as **Exhibit D**, the State has provided notice of the State's abandonment to the

City of the road shown in **Exhibit A**, and described in **Exhibit C**, based on surveys by CDOT, within the City of Lakewood, Colorado.

2. Within ten (10) days after invoice from the Local Agency, the State shall make a one- time payment of **\$485,259.00** to the City, which will also be the maximum payable to the City

under this Agreement, unless such amount is increased by an amendment to this Agreement, signed by both parties, and is executed before any increased cost is incurred. An uncontested amount not paid by the State shall bear interest after 45 days. That interest shall not accrue on the unpaid amount that is subject to a good faith dispute as outlined below.

3. The State shall relinquish maintenance duties and ownership of a state highway, or portion thereof, upon acceptance of the road by the City, which will occur upon completion of the recording of a Quit Claim Deed by CDOT (sample of the Quit Claim Deed attached hereto as **Exhibit B**) with the Clerk and Recorder's Office in the County in which the abandoned road, or the abandoned portion thereof, is located. The Quit Claim Deed shall provide that if the City ceases to use the road or a portion thereof for the purposes of a city street, title to the road or portion thereof shall revert to CDOT.
4. If applicable, the Quit Claim Deed shall provide that the State shall reserve unto the State and unto the State's successors and assigns, a perpetual easement for the installation, construction, operation, maintenance, repair and replacement of the State's Project No. N/A, Project Code N/A at US 6 North Frontage Road. If applicable, the perpetual Easement to be reserved by the State is legally described and graphically depicted on **N/A**.

II. COMMITMENTS ON THE PART OF THE LOCAL AGENCY

1. The City, by negotiating in good faith and with the authority provided in the Charter of the City of Lakewood and the Lakewood Municipal Code, indicated its intent to accept the road in as-is condition and make it a part of the City road system and accept sole responsibility for the road, including both minor and major maintenance. Pursuant to CRS §43-2-106, the City, by its Council, adopted Ordinance O-2023-39, (**Exhibit E**), accepting the abandoned portions of the state highway, or

portion thereof. The transfer of the road shall be completed following the execution of this Agreement by the Parties.

2. The City must present CDOT with an invoice in the amount of **\$485,259.00** before payment can be made.

III. GENERAL PROVISIONS

1. This Agreement is intended as the complete integration of all understandings between the Parties. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or affect whatsoever, unless embodied herein by writing. No subsequent novation, renewal, addition, deletion, or other amendment hereto shall have any force or

effect unless embodied in a written executed and approved modification pursuant to the State Fiscal Rules.
2. Each Party, to the extent authorized by law, shall be responsible for all claims, damages, liability and court awards including costs, expenses and attorney fees incurred as a result of any act or omission by such Party or its employees, agents, subcontractors, or assignees pursuant to the terms of this Agreement.
3. This Agreement shall inure to the benefit of and be binding upon the Parties, their successors and assigns.
4. To the extent that this Agreement may be executed and performance of the obligations of the Parties may be accomplished within the intent of the Agreement, the terms of this Agreement are severable, and should any term or provision hereof be declared invalid or become inoperative for any reason, such invalidity or failure shall not affect the validity of any other term or provision hereof. The waiver of any breach of a term hereof shall not be construed as a waiver of any other term, or the same term upon subsequent breach.
5. It is expressly understood and agreed that the City or its employees, subcontractors, consultants, or assigns shall not in any respect be deemed an agent of the State.

6. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the City and the State, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person on such Agreement. Further, it is

the express intention of the Parties that any person or entity other than the Parties that may receive services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

7. The City represents and warrants that it has taken all actions that are necessary or required by its procedures, municipal code, ordinances, or applicable law, to legally authorize the undersigned signatory to execute this Agreement on behalf of the City, and to bind the City to its terms.
8. The laws of the State of Colorado and rules and regulations issued pursuant thereto shall be applied in the interpretation, execution and enforcement of this Agreement. Any provision of an Exhibit which provides for arbitration by any extra-judicial body or person or which is otherwise in conflict with said laws, rules and regulations shall be considered null and void.
9. Nothing contained in any provision incorporated herein by reference which purports to negate this or any other special provision in whole or in part shall be valid or enforceable or available in any action at law whether by way of complaint, defense or otherwise.
10. At all times during the performance of this Agreement, the Parties shall strictly adhere to all applicable federal and state laws, rules and regulations that have been or may hereafter be established.
11. The signatories hereto aver that they are familiar with CRS §18-8-301, et seq. (Bribery and Corrupt Influences) and 18-8-401, et seq. (Abuse of Public Office), and that no violation of such provisions is present.
12. The signatories aver that to their knowledge, no state employee has a personal or beneficial interest whatsoever in the service or property described herein.
13. The Parties hereby acknowledge that this Agreement may be executed in

counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The Parties agree that signature pages may be executed via ink signature

or electronic mark and the executed signature pages may be delivered using pdf or similar file type transmitted via electronic mail, cloud-based server, e-signature technology or other similar electronic means. Further, the Parties acknowledge and agree that the original of this Agreement, including the signature page, may be scanned and stored in a computer database or similar device, and that any printout or other output readable by sight, the reproduction of which is shown to accurately reproduce the original of this Agreement, may be used for any purpose as if it were the original, including proof of the content of the original writing.

14. This contract shall be effective upon approval of the State Controller. It shall terminate upon completion of the recording of a Quit Claim Deed by CDOT, unless performance is extended through amendment.

15. Dispute Resolution

A. Initial Resolution

Except as herein specifically provided otherwise, disputes concerning the performance of this Agreement which cannot be resolved by the designated Agreement representatives shall be referred in writing to a senior departmental management staff member designated by the State and a senior manager designated by Local Agency for resolution.

B. Resolution of Controversies

If the initial resolution described in §15.A fails to resolve the dispute within 10 Business Days, Contractor shall submit any alleged breach of this Contract by the State to the Procurement Official of CDOT as described in §24-101-301(30), C.R.S. for resolution in accordance with the provisions of §§24-106-109, 24-109-101.1, 24-109-101.5, 24-109-106, 24-109-107, 24-109-201 through 24-109-206, and 24-109-501 through 24-109-505,

C.R.S., (the "Resolution Statutes"), except that if Contractor wishes to

challenge any decision rendered by the Procurement Official, Contractor's challenge shall be an appeal to the executive director of the Department of Personnel and Administration, or their delegate, under the Resolution Statutes before Contractor pursues any further action as permitted by such statutes. Except as otherwise stated in this Section, all requirements of the Resolution Statutes shall apply including, without limitation, time limitations.

C. Questions of Fact

Except as otherwise provided in this Agreement, any dispute concerning a question of fact arising under this Agreement which is not disposed of by agreement shall be decided by the Chief Engineer of the Department of Transportation. The decision of the Chief Engineer will be final and conclusive unless, within 30 calendar days after the date of receipt of a copy of such written decision, Local Agency mails or otherwise furnishes to the State a written appeal addressed to the Executive Director of CDOT. In connection with any appeal proceeding under this clause, Local Agency shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, Local Agency shall proceed diligently with the performance of this Agreement in accordance with the Chief Engineer's decision. The decision of the Executive Director or his duly authorized representative for the determination of such appeals shall be final and conclusive and serve as final agency action. This dispute clause does not preclude consideration of questions of law in connection with decisions provided for herein. Nothing in this Agreement, however, shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

IV. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-3).

These Special Provisions apply to all contracts. Contractor refers to Local Agency and Contract refers to Agreement.

1. **STATUTORY APPROVAL.** §24-30-202(1), C.R.S. This Contract shall not be valid until it has been approved by the Colorado State Controller or designee. If this Contract is for a Major Information Technology Project, as defined in §24-37.5-102(2.6), then this Contract shall not be valid until it has been approved by the State's Chief Information Officer or designee.
2. **FUND AVAILABILITY.** §24-30-202(5.5), C.R.S. Financial obligations of the State payable after the current State Fiscal Year are contingent upon funds

for that purpose being appropriated, budgeted, and otherwise made available.

3. GOVERNMENTAL IMMUNITY. Liability for claims for injuries to persons or property arising from the negligence of the State, its departments, boards, commissions committees,

bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, et seq. C.R.S. No term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

4. **INDEPENDENT CONTRACTOR.** Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the State. Contractor shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Contractor or any of its agents or employees. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Contract. Contractor shall (i) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (ii) provide proof thereof when requested by the State, and (iii) be solely responsible for its acts and those of its employees and agents.
5. **COMPLIANCE WITH LAW.** Contractor shall comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.
6. **CHOICE OF LAW, JURISDICTION, AND VENUE.** Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the

interpretation, execution, and enforcement of this Contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this Contract shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

7. PROHIBITED TERMS. Any term included in this Contract that requires the State to indemnify or hold Contractor harmless; requires the State to agree to binding arbitration; limits Contractor's liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be void ab initio. Nothing in this Contract shall be construed as a waiver of any provision of §24-106-109

C.R.S. Any term included in this Contract that limits Contractor's liability that is not void under this section shall apply only in excess of any insurance to be maintained under this Contract, and no insurance policy shall be interpreted as being subject to any limitations of liability of this Contract.

8. SOFTWARE PIRACY PROHIBITION. State or other public funds payable under this Contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby certifies and warrants that, during the term of this Contract and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Contractor is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Contract, including, without limitation, immediate termination of this Contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.

9. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. §§24-18-201 and

24-50-507, C.R.S. The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Contract. Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor's services and Contractor shall not employ any person having such known interests.

10. VENDOR OFFSET AND ERRONEOUS PAYMENTS. §§24-30-202(1) and 24-30-202.4,

C.R.S. [Not applicable to intergovernmental agreements] Subject to §24-30-202.4(3.5), C.R.S., the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for:

(i) unpaid child support debts or child support

arrearages; (ii) unpaid balances of tax, accrued interest, or other charges specified in §§39- 21-101, et seq., C.R.S.; (iii) unpaid loans due to the Student Loan Division of the Department of Higher Education; (iv) amounts required to be paid to the Unemployment Compensation Fund; and (v) other unpaid debts owing to the State as a result of final agency determination or judicial action. The State may also recover, at the State's discretion, payments made to Contractor in error for any reason, including, but not limited to, overpayments or improper payments, and unexpended or excess funds received by Contractor by deduction from subsequent payments under this Contract, deduction from any payment due under any other contracts, grants or agreements between the State and Contractor, or by any other appropriate method for collecting debts owed to the State.

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THE PARTIES HERETO HAVE EXECUTED THIS INTERGOVERNMENTAL AGREEMENT

* Persons signing for the Local Agency hereby swear and affirm that they are authorized to act on the Local Agency's behalf and acknowledge that the State is relying on their representations to that effect.	
LOCAL AGENCY CITY OF LAKEWOOD, COLORADO Name: <u>Kathleen E. Hodgson</u> NAME Title: <u>City Manager</u> _____ *Signature Date: _____	STATE OF COLORADO Jared S. Polis, GOVERNOR By _____ Keith Stefanik, P.E. (For) Shoshana M. Lew, Executive Director Date: _____
Local Agency Attestation Name: <u>Jay R. Robb</u> (print name) Title: <u>City Clerk</u> (print title) _____ *Signature Date: _____	LEGAL REVIEW Philip J. Weiser, Attorney General By _____ Assistant Attorney General Date: _____
Local Agency Approved as to Legal Form Name: <u>Lauren Stanek</u> (print name) Title: <u>Senior Assistant City Attorney</u> (print title) _____ *Signature Date: _____	

ALL AGREEMENTS REQUIRE APPROVAL BY THE STATE CONTROLLER

CRS §24-30-202 requires the State Controller to approve all State Agreements. This Agreement is not valid until signed and dated below by the State Controller or delegate. The Local Agency is not authorized to begin performance until such time. If the Local Agency begins performing prior thereto, the State of Colorado is not obligated to pay the Local Agency for such performance or for any goods and/or services provided hereunder.

**STATE OF COLORADO
STATE CONTROLLER
Robert Jaros, CPA, MBA, JD**

By: _____
Colorado Department of Transportation

Date: _____

EXHIBIT A

SCOPE OF WORK

Abandonment of a Portion of U.S. 6 North Frontage Road – Eldridge St. to Alkire St. Project # C 0063-072
SubAccount #: 25033

The Colorado Department of Transportation “CDOT” is partnering with the City of Lakewood “Lakewood” whereas, Lakewood wishes to have U.S. 6 North Frontage Road abandoned as a State Highway by CDOT and accepted as a City roadway by Lakewood from Eldridge St. to Alkire St. CDOT will convey the above-mentioned portion of U.S. 6 North Frontage Road to Lakewood. In exchange for taking ownership of the portion of U.S. 6 North Frontage Road from Eldridge St. to Alkire St., Lakewood will receive \$485,259 of state only funds.

The right-of-way fence between U.S. 6th Ave. and the U.S. 6th Ave. North Frontage Road is on CDOT property, not included in the area to be abandoned, and will be owned and maintained by CDOT.

Vegetation between the CDOT U.S. 6th Ave. right-of-way fence and U.S. 6th Ave. North Frontage Rd., Eldridge St. to Alkire St, to be owned and maintained by the City of Lakewood.

COLORADO DEPARTMENT OF TRANSPORTATION
ABANDONMENT - PART OF WEST 6TH AVENUE
ELDRIDGE STREET (MM 276.85+/-) TO ALKID STREET
JEFFERSON COUNTY, COLORADO
DATE: MARCH 1, 2020

SECTION 6
TOWNSHIP 4 SOUTH
RANGE 69 WEST

7TH AVENUE

ELDRIDGE ST.

6TH

DEFRAME

EXISTING

67' FROM EXISTING NORTH ROW
LINE (ABANDONMENT WIDTH
VARIES)

64.5' FROM EXISTING NORTH ROW
LINE (ABANDONMENT WIDTH
VARIES)
SOUTHERLY LINE OF ABANDONMENT
(BOTTOM OF ROADSIDE DITCH)
SOUTHERLY LINE OF PARALLEL
EXISTING NORTH ROW LINE

Mile Marker No. 276.85 +/-

DOVINNEY

5TH

U.S. HIGHWAY NO. 6 (6TH AVENUE)

E
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SAMPLE QUITCLAIM DEED

WITNESS, that the Grantor, for and in consideration of the sum of **FOUR HUNDRED EIGHTY FIVE THOUSAND TWO HUNDRED FIFTY NINE** DOLLARS and 0/100th, (**\$485,259.00**), the receipt and sufficiency of which is hereby acknowledged, does hereby remise, release, sell and QUITCLAIM unto the Grantee, and the Grantee's heirs and assigns, forever, all the right, title, interest, claim and demand which the Grantor has in and to the real property, together with any improvements thereon, located in the County of **JEFFERSON** and State of Colorado, described as follows:

The foregoing instrument was acknowledged before me this _____ day of _____, 20_____, by Andrea Griner, Chief Clerk for Property Management and Keith Stefanik, P.E. as Chief Engineer of the Department of Transportation, State of Colorado.

Witness my hand and official seal. My commission expires:

Notary Public

Colorado Department of Transportation,
Name and Address of Person Creating Newly Created Legal Description (§ 38-35-106.5, C.R.S.)
No. 933. Rev. 10-19. QUITCLAIM DEED (Page 1)

EXHIBIT C DESCRIPTION

**COLORADO DEPARTMENT OF TRANSPORTATION
ABANDONMENT – PART OF WEST 6TH AVENUE NORTH
FRONTAGE ROAD
ELDRIDGE STREET (MM 276.85 +/-) TO ALKIRE STREET (MM
277.34 +/-) JEFFERSON COUNTY, COLORADO
DATE: MARCH 1, 2023**

A portion of highway frontage road right-of-way of the Department of Transportation, State of Colorado, known as U.S. Highway No. 6, located in the Southeast Quarter of Section 6, Township 4 South, Range 69 West of the 6th Principal Meridian, in Jefferson County, Colorado, described as follows:

That portion of U.S. Highway No. 6 northerly frontage road, as it currently exists, beginning at the centerline of Eldridge Street (MM 276.85 +/-), running easterly and terminating at the approximate easterly right-of-way line of Alkire Street (MM 277.34 +/-).

The limits of this abandonment are generally described and bounded as follows:

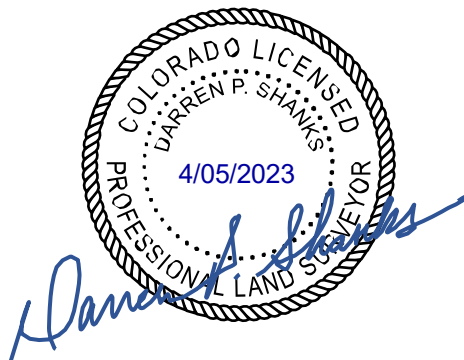
The northerly line of said roadway to be abandoned, is the existing northerly right-of-way line of U.S. Highway No. 6.

The southerly line of said roadway to be abandoned, lies in the common roadside ditch between the U.S. Highway No. 6 westbound edge of paving and the frontage road southerly edge of paving.

This roadway strip of land is generally 67 feet wide at Eldridge Street, and 48.5 feet wide at Alkire Street. The overall length of said strip is 2,580 feet +/- in length.

The above description is intended to give up all of CDOT's interest in the frontage road with the above-described locations.

For and on behalf of the
Colorado Department of
Transportation Darren P. Shanks,
PLS 38193
Region 1 West Right-of-Way Unit
Phone: (720) 497-6983
425A Corporate Circle
Golden, CO 80401



COLORADO DEPARTMENT OF TRANSPORTATION
ABANDONMENT - PART OF WEST 6TH AVENUE
ELDRIDGE STREET (MM 276.85+/-) TO ALKIRE STREET
JEFFERSON COUNTY, COLORADO
DATE: MARCH 1, 2010

SECTION 6
TOWNSHIP 4 SOUTH
RANGE 69 WEST

7TH AVENUE

ELDRIDGE ST.

6TH

DEFRAME

EXISTING

67' FROM EXISTING NORTH ROW
LINE (ABANDONMENT WIDTH
VARIES)

64.5' FROM EXISTING NORTH ROW
LINE (ABANDONMENT WIDTH
VARIES)
SOUTHERLY LINE OF ABANDONMENT
(BOTTOM OF ROADSIDE DITCH)
SOUTHERLY LINE OF PARALLEL
EXISTING NORTH ROW LINE

Mile Marker No. 276.85 +/-

DOVINNEY

5TH

U.S. HIGHWAY NO. 6 (6TH AVENUE)

E
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2

EXHIBIT D
TRANSPORTATION COMMISSION RESOLUTION

EXHIBIT E
LOCAL AGENCY ORDINANCE

EXHIBIT F DESCRIPTION

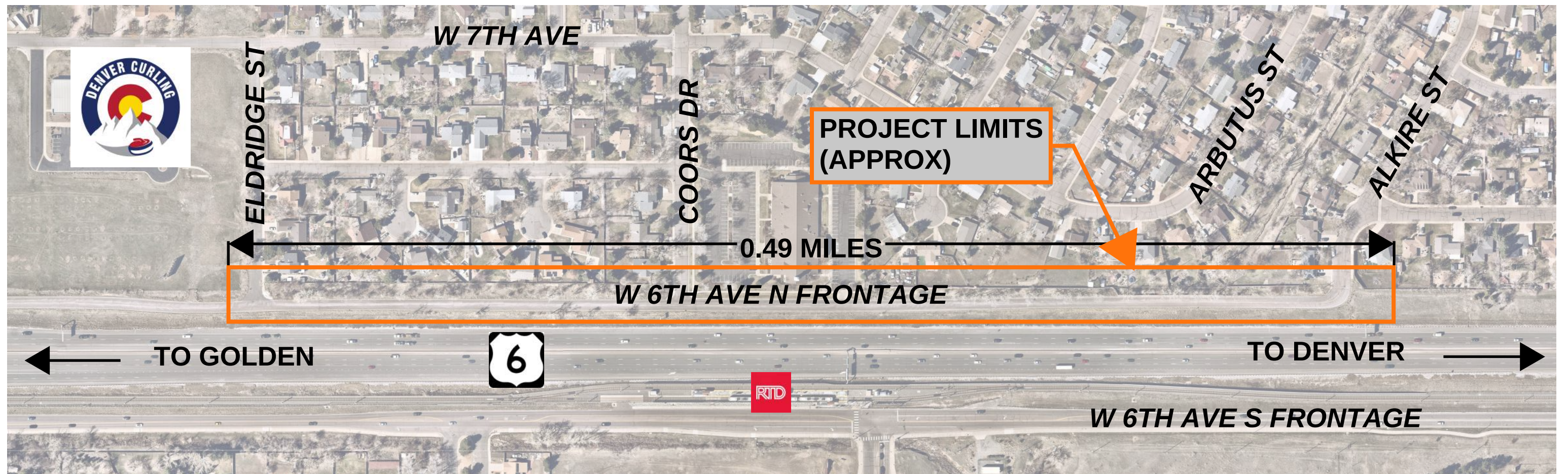
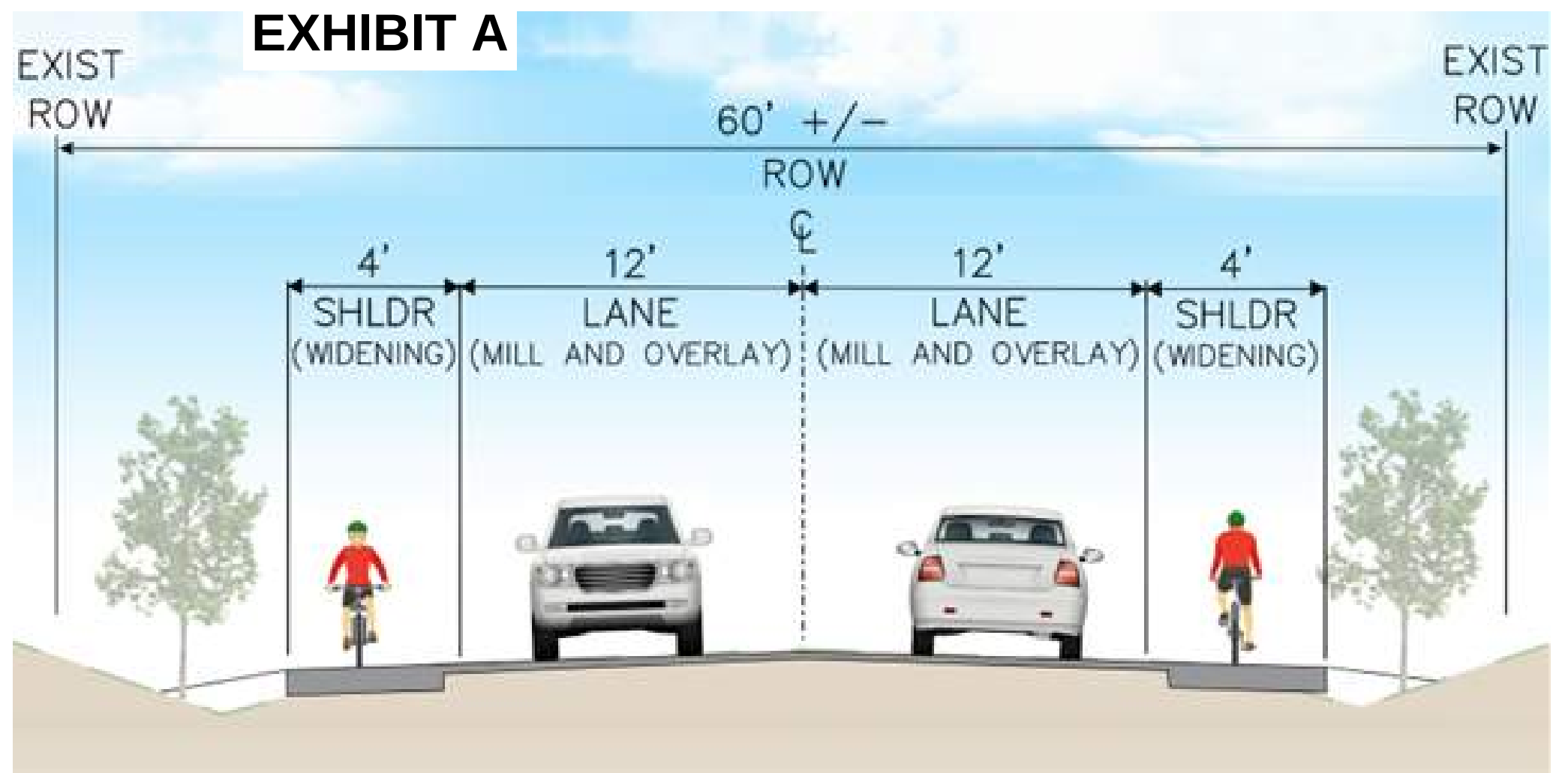
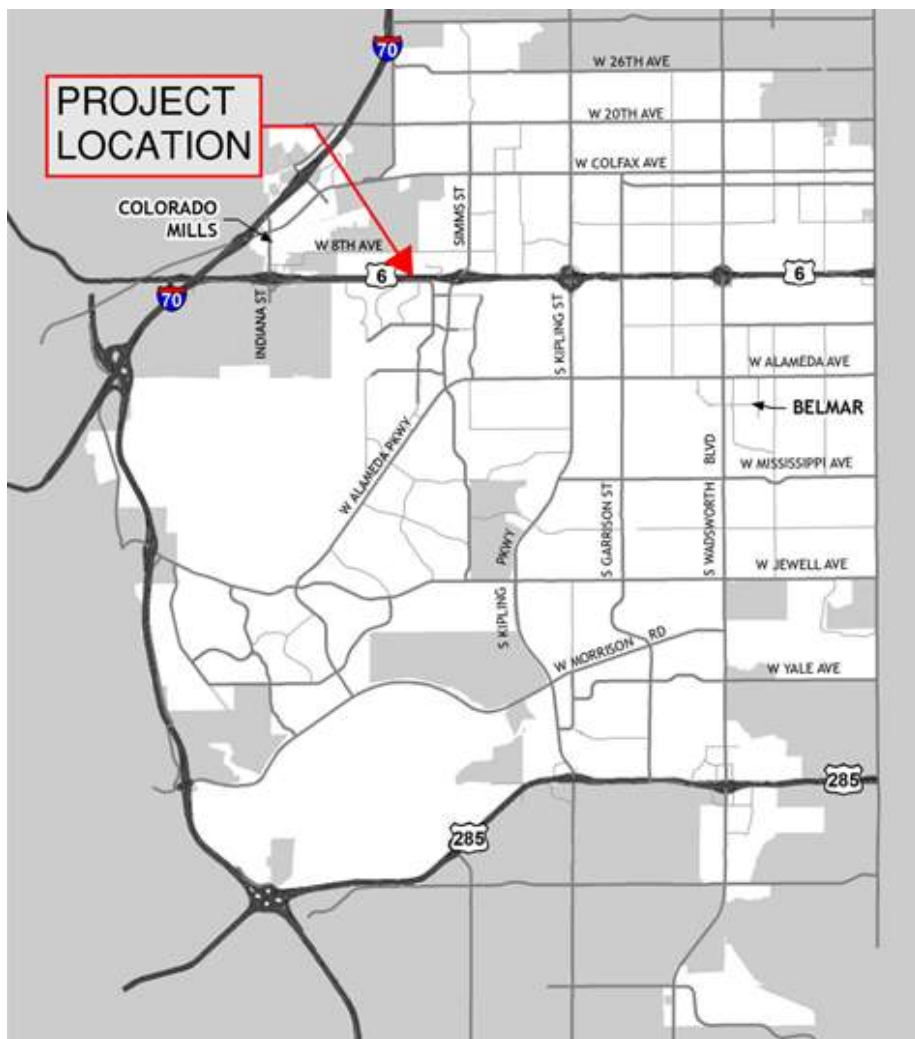
**COLORADO DEPARTMENT OF TRANSPORTATION
ABANDONMENT – WEST 6TH AVENUE NORTH
FRONTAGE ROAD
FROM WEST 7TH AVENUE (MM 276.44+/-) TO
ELDRIDGE STREET (MM 276.85+/-) PER CDOT
PROJECT NUMBERS C 11-0002-24, C 11-0006-01, C
11-0182-28, SN FAP 67-A(4)
JEFFERSON COUNTY, COLORADO DATE:
SEPTEMBER 27, 2022**

A portion of highway frontage road right-of-way of the Department of Transportation, State of Colorado, known as U.S. Highway No. 6 located in the Southwest Quarter (SW1/4) of Section 6, Township 4 South, Range 69 West of the 6th Principal Meridian, in Jefferson County, Colorado, described as follows:

That portion of U.S. Highway No. 6 northerly frontage road, as it currently exists, beginning at 7th Avenue (MM 276.44 +/-) with a point of termination at Eldridge Street (MM 276.85 +/-).

The distance in the above description is based on CDOT's Online Transportation Information System and are approximate. The above description is intended to give up all of CDOT's interest in the frontage road between the above-described locations.

For and on behalf of the
Colorado Department of
Transportation Darren P. Shanks,
PLS 38193
Region 1 West Right-of-Way Unit
Phone: (720) 497-6983
425A Corporate Circle
Golden, CO 80401



Resolution #TC-2023-08-03

Disposal: Abandonment US 6 North Frontage Road, Eldridge St. to Alkire St., Lakewood

Approved by the Transportation Commission on August 16, 2023.

WHEREAS, CDOT owns 0.49 linear miles of roadway in the City of Lakewood, identified as U.S. Highway 6 North Frontage Road; and

WHEREAS, that portion of U.S. Highway 6 North Frontage Road is located between Eldridge St. (MM 276.85) to Alkire St. (377.34); and

WHEREAS, Region 1 has determined that abandoning this portion of roadway would be in the best interest of Colorado taxpayers;

WHEREAS, Region 1 has completed an environmental clearance (Categorical Exclusion, Form 128) as required for the devolution of state highways;

WHEREAS, Colorado Revised Statute 43-2-106 (1)(a) provides that the Transportation Commission may determine that a State Highway, or portion thereof, no longer functions as a state highway, and with the agreement of each affected county or municipality, the state highway, or portion thereof, can be abandoned to the affected county or municipality; and

WHEREAS, the Code of Federal Regulations 23.620.203(c)(3) allows CDOT to relinquish portions of unneeded frontage roads; and

WHEREAS, the governing body of the City of Lakewood shall adopt a resolution agreeing to the State's abandonment of the portion of U.S. Highway 6 North Frontage Road and agreeing that said roadway segment no longer serves the ongoing purposes of the State Highway system; committing the City of Lakewood to assume ownership of said highway segment in the "as is" condition;

WHEREAS, the Chief Engineer, the Department of Transportation, and the Executive Director are authorized pursuant to CRS 43-2-106, to make determinations regarding abandonment of State Highway(s) to affected county(ies) or municipality(ies);

WHEREAS, the Transportation Commission concurs with the Chief Engineer that this portion of U.S. Highway 6 North Frontage Road is no longer needed for State Highway purposes;

NOW THEREFORE BE IT RESOLVED, pursuant to the provisions of the CRS 43-2-106, the Department of Transportation be given authority to declare that portion of U.S. Highway 6 North Frontage Road abandoned, as shown in Exhibit A.

**Herman
Stockinger**

Digitally signed by Herman
Stockinger
Date: 2023.08.18 11:38:20
-06'00'

Herman Stockinger, Secretary
Transportation Commission of Colorado

Date

STAFF MEMO

DATE OF MEETING: SEPTEMBER 11, 2023 / AGNEDA ITEM NO. 15

To: Mayor and City Council
From: Jay Robb, City Clerk, 303-987-7081
Subject: **INCORPORATING CERTAIN REAL PROPERTY INTO MUNICIPAL WARD 1
BOUNDARY FOR THE CITY OF LAKEWOOD, COLORADO**

SUMMARY STATEMENT: The recent annexation of portions of the real property known as Stevinson Annexations No. 22 & 23 necessitates an incorporation into Ward 1 municipal boundaries.

BACKGROUND INFORMATION: The City Council recently adopted Ordinances O-2023-31 which annexed land known as the Stevinson Annexations No. 22 & 23 into the City of Lakewood. This action will officially incorporate the real property into the boundary of Ward 1 for the City of Lakewood, Colorado. Adding this area to Ward 1 is the most practicable option since the property owned by the Stevinsons only abuts the Ward 1 boundary in the northwestern area of the City.

Additionally, all of the annexed parcels are owned by the Stevinsons, so there would be no new residents from the annexed area being added to Ward 1.

BUDGETARY IMPACTS: There are no budgetary impacts to the City.

STAFF RECOMMENDATIONS: Staff recommends adopting this ordinance so that all annexed properties are located within Ward 1 of the City.

ALTERNATIVES: None.

PUBLIC OUTREACH: This item has been promoted through the regular communication channels to be considered by the Lakewood City Council.

NEXT STEPS: If approved on first reading, this Ordinance will be scheduled for second reading and public hearing on September 25th to provide City staff and the public an opportunity to present evidence and testimony.

ATTACHMENTS: 1. Ordinance O-2023-40

REVIEWED BY: Kathleen E. Hodgson, City Manager
Benjamin B. Goldstein, Deputy City Manager
Alison McKenney Brown, City Attorney

O-2023-40

AN ORDINANCE

INCORPORATING CERTAIN REAL PROPERTY INTO MUNICIPAL WARD 1
BOUNDARY FOR THE CITY OF LAKEWOOD, COLORADO

WHEREAS, pursuant to Section 2.7 of the Lakewood Home Rule Charter, the boundaries of wards of the City of Lakewood may be changed by ordinance;

WHEREAS, the recent annexation of certain land to the City of Lakewood via Ordinance O-2023-31, also known as the Stevinson Annexations No. 22 & 23 necessitates an amendment to the Ward 1 municipal boundaries;

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; 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 the proposal.

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

SECTION 1. The real property known as the Stevinson Annexations No. 22 & 23 as legally described in Exhibit A, attached hereto, are hereby incorporated into the Ward 1 municipal boundaries of the City of Lakewood, Colorado.

SECTION 2. This ordinance shall take effect thirty (30) days after final publication.

SECTION 3. 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 that such remaining portions or application of this Ordinance are not determined by the court to be inoperable.

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 11th day of September 2023; published by title in the Denver Post and in full on the City of Lakewood's website, www.lakewood.org, on the 14th day of September, 2023; set for public hearing to be held on the 25th day of September, 2023, read, finally passed and adopted by the City Council on the 25th day of September, 2023 and, signed by the Mayor on the ___ day of September, 2023.

Adam Paul, Mayor

ATTEST:

Jay Robb, City Clerk

APPROVED AS TO FORM:

Alison McKenney Brown, City Attorney

EXHIBIT A

LEGAL DESCRIPTIONS
STEVINSON ANNEXATION NO. 22

A PARCEL OF LAND BEING A PORTION OF THE SOUTHWEST ONE-QUARTER (SW 1/4) OF SECTION 6, TOWNSHIP 4 SOUTH, RANGE 69 WEST AND A PORTION OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF SECTION 1, TOWNSHIP 4 SOUTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF JEFFERSON, STATE OF COLORADO DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SW 1/4, BEING IN COMMON WITH THE SOUTHEAST CORNER OF SAID SE1/4;

THENCE S89°51'11"W, ALONG THE SOUTH LINE OF SAID SE1/4, A DISTANCE OF 42.50 FEET, MORE OR LESS, TO THE WESTERLY CORPORATE BOUNDARY LINE OF THE CITY OF LAKEWOOD, AS DEFINED BY ANNEXATION MAP **OF STEVINSON ANNEXATION NO. 5**, RECORDED IN PLAT BOOK 119, PAGE 56, AT RECEPTION NO. 94164854 IN THE RECORDS OF THE JEFFERSON COUNTY CLERK AND RECORDER, APPROVED BY ORDINANCE O-1994-56, RECORDED AT RECEPTION NO. 94164853 OF SAID RECORDS;

THENCE N00°06'53"W, ALONG SAID WESTERLY LINE AND ALONG A PORTION OF THE EASTERLY CORPORATE BOUNDARY LINE OF THE CITY OF LAKEWOOD AS DEFINED BY THE ANNEXATION MAP OF **DENVER WEST ANNEXATION NO. 20**, RECORDED IN PLAT BOOK 156, PAGE 37, AT RECEPTION NO. F1108033 OF SAID RECORDS, APPROVED BY ORDINANCE O-2000-28, RECORDED AT RECEPTION NO. F1108032 OF SAID RECORDS, A DISTANCE OF 390.50 FEET TO AN ANGLE POINT OF **SAID STEVINSON ANNEXATION NO. 5**, AND THE **POINT OF BEGINNING**;

THENCE DEPARTING THE WESTERLY LINE OF SAID **STEVINSON ANNEXATION NO. 5** AND CONTINUING ALONG THE EASTERLY LINE OF SAID **DENVER WEST ANNEXATION NO. 20**, N00°06'53"W, A DISTANCE OF 63.22 FEET TO AN ANGLE POINT OF SAID **DENVER WEST ANNEXATION NO. 20**;

THENCE DEPARTING THE EASTERLY LINE OF SAID **DENVER WEST ANNEXATION NO. 20** AND PROCEEDING ALONG THE WESTERLY RIGHT-OF-WAY LINE OF DENVER WEST COLORADO MILLS BOULEVARD, N00°06'53"W, A DISTANCE OF 26.78 FEET TO AN ANGLE POINT IN THE WESTERLY LINE OF SAID **STEVINSON ANNEXATION NO. 5**;

THENCE ALONG THE SOUTHERLY, WESTERLY, AND NORTHERLY BOUNDARY LINES OF SAID **STEVINSON ANNEXATION NO. 5**, THE FOLLOWING THREE (3) COURSES:

- 1) N89°57'49"E, ALONG SAID SOUTHERLY BOUNDARY LINE, A DISTANCE OF 222.33 FEET;
- 2) THENCE S00°08'27"E, ALONG SAID WESTERLY BOUNDARY LINE, A DISTANCE OF 90.00 FEET;
- 3) THENCE S89°57'49"W, ALONG SAID NORTHERLY BOUNDARY LINE, A DISTANCE OF 222.37 FEET, MORE OR LESS, TO THE **POINT OF BEGINNING**;

CONTAINING AN AREA OF 20,011 SQUARE FEET OR 0.459 ACRE, MORE OR LESS.

BASIS OF BEARINGS: THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 6 IS ASSUMED TO BEAR N 00°08'27" W, MONUMENTED ON THE SOUTH BY A FOUND 3-1/4 INCH DIAMETER BRASS CAP IN RANGE BOX STAMPED PLS 34989, 2002, AND MONUMENTED ON THE NORTH BY A 3-1/4 INCH ALUMINUM CAP IN RANGE BOX STAMPED LS 24966, 1998.

LEGAL DESCRIPTION
STEVINSON ANNEXATION NO. 23

A PARCEL OF LAND LOCATED IN THE SOUTHWEST ONE-QUARTER (SW $\frac{1}{4}$) AND THE SOUTHEAST ONE-QUARTER (SE $\frac{1}{4}$) OF SECTION 6, TOWNSHIP 4 SOUTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN; COUNTY OF JEFFERSON, STATE OF COLORADO; MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 6; THENCE N00°13'46"W, A DISTANCE OF 92.00 FEET TO AN ANGLE POINT IN THE CORPORATE BOUNDARY LINE OF THE CITY OF LAKEWOOD AS DEFINED BY THE ANNEXATION MAP OF **STEVINSON ANNEXATION NO. 1**, RECORDED IN PLAT BOOK 119, PAGE 52, AT RECEPTION NO. 94164846 OF THE RECORDS OF THE JEFFERSON COUNTY CLERK AND RECORDER, APPROVED BY ORDINANCE, O-1994-52, RECORDED AT RECEPTION NO. 94164845 OF SAID RECORDS, SAID ANGLE POINT BEING THE **POINT OF BEGINNING**;

THENCE ALONG THE CORPORATE BOUNDARY THE FOLLOWING COURSES:

A) ALONG THE EASTERLY AND NORTHERLY BOUNDARY LINES OF SAID **STEVINSON ANNEXATION NO. 1** THE FOLLOWING TWO (2) COURSES:

- 1) N00°13'46"W (N00°01'30"W (R)), ALONG THE EAST LINE OF SAID SW $\frac{1}{4}$, A DISTANCE OF 238.05 FEET TO THE CALLED NORTHEAST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SAID SW $\frac{1}{4}$;
- 2) THENCE S89°57'53"W (N89°49'53"W (R)) ALONG THE CALLED NORTH LINE OF THE SOUTHEAST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SAID SW $\frac{1}{4}$ AND THE CALLED NORTH LINE OF THE EAST ONE-HALF OF THE SOUTHWEST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SAID SW $\frac{1}{4}$, A DISTANCE OF 349.31 FEET, MORE OR LESS, TO THE NORTHEAST CORNER OF **STEVINSON ANNEXATION NO. 2**, RECORDED IN PLAT BOOK 119, PAGE 53, AT RECEPTION NO. 94164848 OF SAID RECORDS, APPROVED BY ORDINANCE, O-1994-53, RECORDED AT RECEPTION NO. 94164847 OF SAID RECORDS;

B) THENCE ALONG THE NORTHERLY AND WESTERLY BOUNDARY LINES OF SAID **STEVINSON ANNEXATION NO. 2** THE FOLLOWING TWO (2) COURSES:

- 1) S89°57'53"W (N89°49'53"W (R)), ALONG THE CALLED NORTH LINE OF THE SOUTHWEST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SAID SW $\frac{1}{4}$ AND ALONG THE CALLED NORTH LINE OF THE SOUTH ONE-HALF OF THE SOUTHWEST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SAID SW $\frac{1}{4}$, A DISTANCE OF 803.80 FEET (850.75 FEET (R)), MORE OR LESS, TO THE CALLED NORTHWEST CORNER OF THE EAST ONE-HALF OF THE SOUTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SAID SW $\frac{1}{4}$;
- 2) THENCE S00°13'35"E, (S00°31'26"W (R)), ALONG THE CALLED WEST LINE OF THE EAST ONE-HALF OF THE SOUTHWEST ONE-QUARTER OF THE

SOUTHWEST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SAID SW¼, A DISTANCE OF 195.83 FEET, MORE OR LESS, TO THE NORTHERLY LINE OF **STEVINSON ANNEXATION NO. 3**, RECORDED IN PLAT BOOK 119, PAGE 54, AT RECEPTION NO. 94164850 OF SAID RECORDS, APPROVED BY ORDINANCE, O-1994-54, RECORDED AT RECEPTION NO. 94164849 OF SAID RECORDS;

C) THENCE ALONG THE NORTHERLY, EASTERLY, NORTHERLY AND WESTERLY BOUNDARY LINE OF SAID **STEVINSON ANNEXATION NO. 3** THE FOLLOWING ELEVEN (11) COURSES:

- 1) N81°17'33"W (N81°19'07"W (R)), A DISTANCE OF 165.50 FEET (173.42 FEET (R));
- 2) THENCE S75°32'41"W (S75°32'51"W (R)), A DISTANCE OF 121.95 FEET (65.44 FEET (R));
- 3) THENCE N00°16'57"W (N00°04'00"W (R)), A DISTANCE OF 35.80 FEET (35.04 FEET (R)) TO A POINT OF CURVATURE;
- 4) THENCE 101.77 FEET (102.47 FEET (R)) ALONG THE ARC OF A TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 175.00 FEET AND A CENTRAL ANGLE OF 33°19'14" (33°33'00" (R)), THE LONG CHORD OF WHICH BEARS N16°56'34"W, A LENGTH OF 100.34 FEET TO POINT OF REVERSE CURVATURE;
- 5) THENCE 73.29 FEET (73.19 FEET (R)) ALONG THE ARC OF A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 125.00 FEET AND A CENTRAL ANGLE OF 33°35'33" (33°33'00" (R)), THE LONG CHORD OF WHICH BEARS N16 48'25"W, A LENGTH OF 72.24 FEET TO POINT OF TANGENCY;
- 6) THENCE N00°00'38"W (N00°04'00"W (R)), A DISTANCE OF 89.48 FEET (89.36 FEET (R));
- 7) THENCE S89°57'20"W (N89°50'24"W (R)), A DISTANCE OF 50.00 FEET TO POINT OF CURVATURE;

- 8) THENCE 5.51 FEET ALONG THE ARC OF A TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 45.00 FEET AND A CENTRAL ANGLE OF 07°01'12", THE LONG CHORD OF WHICH BEARS S86°26'51"W, A LENGTH OF 5.51 FEET;
 - 9) THENCE N00°28'34"E (N00°40'50"E (R)), ALONG THE CALLED WEST LINE OF THE EAST ONE-HALF OF THE NORTHEAST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SAID SW¼, A DISTANCE OF 62.77 FEET, MORE OR LESS, TO THE CALLED NORTHEAST ONE-CORNER OF THE SOUTHWEST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SAID SW¼;
 - 10) THENCE S89°57'55"W (N89°49'36"W (R)), A DISTANCE OF 173.67 FEET (171.21 FEET (R)), MORE OR LESS, TO THE CALLED NORTHWEST CORNER OF THE SOUTHWEST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SAID SW¼;
 - 11) THENCE S00°33'15"W (S00°45'31"W (R)), ALONG THE CALLED NORTH-SOUTH CENTERLINE OF THE SOUTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SAID SW¼, A DISTANCE OF 151.81 FEET, MORE OR LESS, TO AN ANGLE POINT IN THE NORTHERLY LINE OF **STEVINSON ANNEXATION NO. 4**, RECORDED IN PLAT BOOK 119, PAGE 55, AT RECEPTION NO. 94164852 OF SAID RECORDS, APPROVED BY ORDINANCE O-1994-55, RECORDED AT RECEPTION NO. 94164851 OF SAID RECORDS;
- D) THENCE ALONG THE NORTHERLY AND EASTERLY BOUNDARY LINES OF SAID **STEVINSON ANNEXATION NO. 4**, THE FOLLOWING TWO (2) COURSES:
- 1) S89°57'59"W (N89°49'45"W (R)), A DISTANCE OF 110.40 FEET;
 - 2) THENCE N00°04'50"W (N00°07'26"E (R)), A DISTANCE OF 330.30 FEET TO THE SOUTHERLY LINE OF **STEVINSON ANNEXATION NO. 21**, RECORDED IN PLAT BOOK 170, PAGE 29, AT RECEPTION NO. F1694460 OF SAID RECORDS, APPROVED BY ORDINANCE, O-2003-2, RECORDED AT RECEPTION NO. F1694459 OF SAID RECORDS;
- E) THENCE ALONG THE SOUTHERLY, EASTERLY AND SOUTHERLY BOUNDARY LINES OF SAID **STEVINSON ANNEXATION NO. 21**, THE FOLLOWING THREE (3) COURSES:
- 1) N89°58'26"E (N89°58'03"E (R)), A DISTANCE OF 164.70 FEET;
 - 2) THENCE N00°08'27"W, A DISTANCE OF 330.36 FEET;
 - 3) THENCE N89°58'47"E, A DISTANCE OF 176.01 FEET;
- THENCE DEPARTING THE CORPORATE BOUNDARY OF THE CITY OF LAKEWOOD, S00°02'18"W, A DISTANCE OF 305.34 FEET, MORE OR LESS, TO THE NORTHERLY RIGHT-OF-WAY OF WEST 7TH AVENUE BEING 25.00 FEET NORTHERLY OF THE SOUTH LINE OF THE NORTH ONE-HALF OF THE SOUTH ONE-HALF OF SAID SW¼; THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY OF WEST 7TH AVENUE N89°58'26"E, A DISTANCE OF 715.43 FEET TO A POINT ON A CURVE;

THENCE 108.40 FEET ALONG THE ARC OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 142.00 FEET, A CENTRAL ANGLE OF 43°44'26", THE LONG CHORD OF WHICH BEARS N47°56'12"E, A LENGTH OF 105.79 FEET;

THENCE NOT TANGENT TO THE PREVIOUSLY DESCRIBED COURSE, N89°58'26"E, A DISTANCE OF 50.00 FEET TO THE EAST RIGHT-OF-WAY LINE OF FIG STREET;

THENCE S00°13'35"E, ALONG SAID EAST RIGHT-OF-WAY LINE OF FIG STREET, A DISTANCE OF 95.84 FEET, MORE OR LESS, TO THE SOUTH LINE OF THE NORTH ONE-HALF OF THE SOUTH ONE-HALF OF SAID SW¼;

THENCE N89°58'26"E, ALONG THE SOUTH LINE OF THE NORTH ONE-HALF OF THE SOUTH ONE-HALF OF SAID SW¼, A DISTANCE OF 310.00 FEET, MORE OR LESS, TO THE SOUTHWEST CORNER OF THAT RIGHT-OF-WAY DESCRIBED IN RECEPTION NO. 90031503 OF SAID RECORDS;

THENCE ALONG THE WESTERLY AND NORTHERLY LINES OF SAID RIGHT-OF-WAY THE FOLLOWING TWO (2) COURSES:

1) N00°13'46"W, A DISTANCE OF 25.00 FEET;

2) THENCE N89°58'26"E, A DISTANCE OF 330.00 FEET TO THE SOUTHWEST CORNER OF LOT 49, **BROWNE'S SUBDIVISION**, THE PLAT OF WHICH IS RECORDED IN PLAT BOOK 13, PAGE 3, AT RECEPTION NO. 54578496 OF SAID RECORDS;

THENCE N89°54'24"E ALONG THE SOUTH LINE OF SAID LOT 49 AND THE NORTH LINE OF WEST 7TH AVENUE, AS SHOWN AND DEDICATED ON SAID **BROWNE'S SUBDIVISION**, A DISTANCE OF 30.00 FEET, MORE OR LESS, TO THE NORTHERLY EXTENDED EAST RIGHT-OF-WAY LINE OF ELDRIDGE STREET AS SHOWN AND PLATTED ON SAID **BROWNE'S SUBDIVISION**;

THENCE S00°13'36"E ALONG SAID EAST RIGHT OF WAY LINE AND VARIOUS EXTENSIONS THEREOF, A DISTANCE OF 578.13 FEET TO A POINT OF CURVATURE;

THENCE 23.53 FEET ALONG THE ARC OF A TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 15.00 FEET, A CENTRAL ANGLE OF 89°52'00", THE LONG CHORD OF WHICH BEARS S45°09'36"E, A LENGTH OF 21.19 FEET, MORE OR LESS, TO THE NORTHERLY BOUNDARY LINE OF SAID **STEVINSON ANNEXATION NO. 1**;

THENCE S89°54'19"W ALONG THE NORTHERLY LINE OF SAID **STEVINSON ANNEXATION NO. 1**, A DISTANCE OF 44.97 FEET, MORE OR LESS, TO THE **POINT OF BEGINNING**;

EXCEPTING LOT 2, **CURLING CLUB SUBDIVISION**, THE PLAT OF WHICH IS RECORDED AT RECEPTION NO. 2014006194 OF SAID RECORDS;

CONTAINING AN AREA OF 654,155 SQUARE FEET OR 15.017 ACRES, MORE OR LESS.

BASIS OF BEARINGS: THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 6 IS ASSUMED TO BEAR N 89°57'20" E, MONUMENTED ON THE WEST BY A FOUND 3-1/4 INCH DIAMETER BRASS CAP IN RANGE BOX STAMPED PLS 34989, 2002, AND MONUMENTED ON THE EAST BY A 3 INCH ALUMINUM CAP IN RANGE BOX STAMPED CITY OF LAKEWOOD LS 19591, 1986.



**MINUTES
SPECIAL MEETING OF THE CITY COUNCIL
CITY OF LAKEWOOD**

6:00 P.M

August 7, 2023

Minutes are not a verbatim transcription, but rather an attempt to capture the intent of the speaker by the City Clerk.

ITEM 1 – CALL TO ORDER

[View video recording here](#)

Mayor Paul called the VIRTUAL Special Meeting to order at 6:00 p.m.

ITEM 2 – ROLL CALL

[View video recording here](#)

Those present were:

- Mayor Adam Paul, Presiding
- Charley Able
- Barb Franks
- Mary Janssen
- Sophia Mayott-Guerrero
- Richard Oliver
- Jeslin Shahrezaei
- Rebekah Stewart
- Anita Springsteen
- Wendi Strom
- Sharon Vincent

Absent: None.

Others in attendance: Ben Goldstein, Deputy City Manager, Alison McKenney Brown, City Attorney, Lauren Stanek, Senior Assistant City Attorney, Jay Robb, City Clerk

Full and timely notice of this City Council meeting had been given and a quorum was present.

ITEM 3 – STATEMENT OF CONFLICT OF INTEREST

[View video recording here](#)

Mayor Paul read the Statement of Conflict of Interest.

Prior to the public hearing, Councilor Stewart made motion to convene in Executive Session. The motion was seconded.

The Council Members discussed their reasons for and against going into Executive Session.

Mayor Paul asked the City Attorney to confirm if the motion is proper.

Alison McKenney Brown, City Attorney confirmed that the motion was proper and the meeting, including the topic of Houst Bill 2023-1255 was noticed well in advance.

Discussion ensued between the Council and City Attorney McKenney Brown.

Councilor Shahrezaei called the question, the motion was seconded.

Voting to call the question:

AYE: Paul, Able, Janssen, Olver, Franks, Mayott-Guerrero, Shahrezaei, Stewart, Strom, Vincent.

NAY: Springsteen.

Result: Approved 10-1, the motion passed.

Vote to go into Executive Session for legal counsel regarding Emergency

Ordinance O-2023-30:

AYE: Paul, Franks, Mayott-Guerrero, Shahrezaei, Stewart, Strom, Vincent.

NAY: Able, Janssen, Olver, Springsteen.

Result:

Failed 7 - 4, the motion failed due to lack of a super-majority of the members present.

**ORDINANCES ON SECOND READING
AND PUBLIC HEARINGS**

[View video recording here](#)

ITEM 4 – ORDINANCE O-2023-30 – AN EMERGENCY ORDINANCE TEMPORARILY ENACTING AND ENFORCING A NONRENEWABLE ANTI-GROWTH LAW FOR THE PURPOSE OF DEVELOPING OR AMENDING LAND USE PLANS OR LAND USE LAWS COVERING RESIDENTIAL DEVELOPMENT OR THE RESIDENTIAL COMPONENT OF A MIXED-USE DEVELOPMENT

Councilor Janssen moved to direct staff enforce Chapter 14.42 of the Lakewood Municipal Code (the Smart Growth Initiative) and that the city does not recognize House Bill 23-1255, the motion was seconded.

The Councilors discussed their support for and against the motion.

Councilor Shahrezaei called the question, the motion was seconded.

Voting to call the question:

AYE: Paul, Able, Franks, Mayott-Guerrero, Shahrezaei, Stewart, Strom, Vincent.

NAY: Janssen, Olver, Springsteen.

Result: Approved 8-3, the motion passed.

Vote on the City continue to enforce Chapter 14.42 of the Lakewood Municipal Code and not recognize House Bill 23-1255:

AYE: Able, Janssen, Olver, Springsteen

NAY: Paul, Franks, Mayott-Guerrero, Shahrezaei, Stewart, Strom, Vincent

Result: Failed 7-4, the motion failed.

[View video recording here](#)

Mayor Paul opened the public hearing on Emergency Ordinance O-2023-30. at 6:46 p.m.

Public Comment received via telephone/in-person:

Cathy Kentner, Ward 1, spoke against Ordinance O-2023-30 and provided a history of the Smart Growth Initiative under Chapter 14.42 of the Lakewood Municipal Code.

Brian Holman, Ward 2, spoke against Ordinance O-2023-30 and talked about the risks of not complying with House Bill 2023-1255. Mr. Holman spoke against growth limitations and advocated for sending other types of questions to shape the community.

David Thormodsgard, Ward 3, spoke in favor of adopting Ordinance O-2023-30 to allow more time for a planned response by the City to House Bill 23-1255.

Public Comment received via Lakewood Speaks: 13. SEE PAGE 6

Mayor Pro Tem made a motion to approve Emergency Ordinance 2023-30. It was seconded.

Council members asked questions and stated their comments and concerns regarding Ordinance O-2023-30.

Ms. McKenney Brown and Ms. Stanek responded to questions from the Council regarding the possible outcomes resulting from the Council adopting or not adopting Ordinance O-2023-30.

Councilor Stewart moved to amend Ordinance 2023-30 by striking the language regarding "up to 24 months" and replacing that timeline of "up to 12 months". The motion was seconded.

Ms. Stanek. responded to questions from the Council regarding the amendment.

Discussion ensued between Ms. Stanek and the Council regarding matters of local concern versus statewide concern.

The Council Member discussed their support and opposition to the motion.

Vote on amending Emergency Ordinance 2023-30 by striking the language regarding “up to 24 months” and replacing that timeline of “up to 12 months”.

AYE: Paul, Mayott-Guerrero, Shahrezaei, Stewart.

NAY: Able, Janssen, Olver, Springsteen, Franks, Strom, Vincent.

Result: Failed 4-7, the motion failed.

Councilor Olver made a motion to amend Emergency Ordinance 2023-30 to strike a reference to “residential growth limitation” language and replace the language with “strategic growth”. The motion seconded.

Ms. McKenney Brown responded to questions from the Council regarding the amendment to change the language in the Ordinance from “anti-growth” to strategic growth”.

Councilor Olver amended his motion to amend the first recital of the Ordinance to insert the phrase “strategic growth initiatives” after “residential growth limitations”. The amended motion was seconded.

Vote on amending Emergency Ordinance 2023-30 to amend the first recital of the Ordinance to insert the phrase “strategic growth initiatives” after “residential growth limitations.”

AYE: Paul, Able, Janssen, Olver, Springsteen Franks, Mayott-Guerrero, Strom.

NAY: Shahrezaei, Stewart, Vincent.

Result: Approved 8-3, the motion passed.

Springsteen moved to amendment Emergency Ordinance 2023-30 to include a recital indicating that the “residential growth limitation” language is a definition under House Bill 23-1255 and not a term used by the City (see exact language). The motion was seconded.

Vote on amending Emergency Ordinance 2023-30 inserting the following recital: “WHEREAS, reference to the term “anti-growth law” was included in the ordinance to mirror the applicable statute but not to label the City’s strategic growth ordinance as anti-growth.”

AYE: Paul, Franks, Able, Janssen, Olver, Springsteen.
NAY: Strom, Vincent, Shahrezaei, Mayott-Guerrero, Stewart.

Result: Approved 6-5, the motion passed.

The Councilors made final comments regarding their support or opposition to the amended Ordinance and discussed different options.

Vote on Emergency Ordinance 2023-30, as amended.

AYE: Paul, Franks, Mayott-Guerrero, Olver, Shahrezaei, Stewart, Strom, Vincent.
NAY: Able, Janssen, Springsteen.

Result: Approved 8-3, the motion passed.

ITEM 5 – ADJOURNMENT

[View video recording here](#)

There being no further business to come before City Council, Mayor Paul adjourned the meeting at 9:20 p.m.

Respectfully submitted,

Jay Robb, City Clerk

Public Comment received via Lakewood Speaks: 13.

John Claus, Aug 7, 2023, 9:58am

Please reject this emergency ordinance. This poor solution prolongs bad policy which has put a stranglehold on Lakewood's affordable housing supply for too long. The creators of this policy sold a false bill of goods to the electorate and they never delivered on their promises. Now one of these failed policymakers is running for mayor and blames everyone else for her failures in drafting SGI. Please stop giving in to a small group of babbling zealots who only care about limiting economic and housing diversity in Lakewood. Please keep Lakewood from being involved in expensive, pointless lawsuits. Reject this emergency ordinance.

Sandie Weathers, Aug 7, 2023, 9:27am

This emergency ordinance should be rejected because it is a bad solution that would protect and prolong bad policy. No effort on behalf of Council should be spent on saving what will soon be illegal policy. The growth cap was a FAILURE and it never produced affordable housing like its advocates claimed it would. The only thing being built now are luxury homes. Supporters of SGI were against luxury development, yet they still support this policy when the end result was the opposite of what they claimed they wanted. Could it be that SGI was never about affordable housing and ALWAYS about keeping apartments out of Lakewood? I believe that Lakewood should be accessible to everyone who wants to live here. SGI has only succeed in making us an exclusive community like Boulder. On that note, it is my understanding that Boulder Council is planning on voting to be in compliance with State Law. I suggest that our council do the same. I would never advocate for our Council breaking the law and subjecting us to costly, taxpayer funded lawsuits.

Laura McGee, Aug 7, 2023, 9:27am

The City Council is obligated to defend a constitutionally held vote of the citizens of Lakewood, a Home Rule Charter city. It is an interesting concept when the word "oppose" doesn't mean "oppose", but is used as a passive tactic to accept the State's intrusion into the citizens' legal rights to determine what kind of community they want to have. We again see the Council's contempt for the democratic processes that ensure our rights. The Council continues to conduct its business in secret, thus exemplified by this virtual meeting. Sadly, we have watched this Mayor continue to believe he can rule, rather than govern. And it is a sad comment on our city government, when dark money supports the notion that councillors rule, rather than govern based on representing their constituents. We have to thank Ms. Herskovitz, for her exceptional, accurate and detailed comments. The lengths to which this Council has gone to undermine its citizens and to deceive them, is beyond comprehension.

Kristi Ferree, Aug 7, 2023, 7:47am

After reading the House Bill, I believe that the Emergency Ordinance proposed does not meet the criteria of the intent of the Bill. We should save the 2 year emergency ordinance in case it is truly needed for a disaster or resource deficit in the future. This ordinance would only temporarily allow 14.27 Growth Limitation to halt development for two years and at what cost? As we have seen over the past years, prices of construction materials and land has only gone up. Putting a false cap on building for two years is only going to make it even less likely that builders would include affordability in their products simply because of cost. We need to make it easier for people to afford housing, not more difficult.

Lenore Herskovitz, Aug 7, 2023, 7:41am

Correction: In my previous lengthy comment I said that Boulder and Golden were taking a wait

and see approach. In this morning's Denver Post (August 7, 2023) it states that Golden will be addressing HB23-1255 in an executive session on Tuesday, August 8, 2023. This bill is the front page story in today's Denver Post.

James Kinney, Aug 7, 2023, 1:43am

Given the language of the last amendment added to the law for reasons known only to the legislature before passage, and how that uncertainty leads to not knowing if Lakewood's Strategic Growth Initiative is or is not legal, I believe it is the responsibility of the elected Mayor and City Council to continue following our City's law until the time the State files suit contending SGI is not in compliance with State law, and then wins in court over Lakewood's defense of our law. I believe it would be helpful to residents to hear the Mayor and City Council transparently and publically make a concise statement as to why no affordable housing (the lack of which is causing the housing crises and prompting the State to threaten to remove our local governance rights) has been permitted to be built since SGI was passed by the citizens of this City.

Lenore Herskovitz, Aug 6, 2023, 4:58pm

The packet for tonight's meeting includes a staff memo prepared by the City Attorney. The subject of the document is the City Council's Response to HB 23-1255. One subheading offers "alternatives" to an Emergency Ordinance 0-2023-30. but these were very vague. Subsequently the City Attorney sent Council members a more detailed description of 2 other options which were not subject to attorney/client privilege and could be made available to the public. Why wasn't this included as an addendum to the packet prior to this meeting so the community could be informed of all options on the table? This virtual only meeting deals with a topic that involves an ordinance that was voter approved and later overturned by state legislators. This should not have been a hybrid event because many people still have difficulty navigating calling in or submitting comments on Lakewoodspeaks. The 'in person' alternative was not even offered. Among the more notable critics of the Strategic Growth Initiative (SGI) were the present Mayor, the City Manager, and the Planning Director. The grassroots effort known as SGI began in 2017 but was kept off the ballot for 2 years because of several unsuccessful lawsuits. Hundreds of thousands of dollars were spent in an effort to defeat the initiative but on July 2, 2019 the voters approved it. However several months before the special election was held, the City starting passing out building permits for hundreds of units. This continued till the end of the year and created a backlog that skewed the allocation process for 2 years. This was only one of many attempts to discredit and mislead the public regarding SGI. This was a plan designed to provide the types of housing people wanted while also fulfilling the communities' needs but the detractors consistently maligned, demonized and scapegoated SGI as the cause of Lakewood's housing deficiencies. The City renamed the initiative the Residential Growth Limitation Ordinance removing "strategic" which has since been incorporated in the title of both the local and state housing policy plans. Now "anti-growth" has been added to the list of misnomers. Whether or not you were a supporter of the SGI you should be concerned about the precedent HB23-1255 is setting by attempting to eradicate a voter approved initiative. Since Lakewood was directly affected by this bill, one would assume we would have had a significant presence in opposing it. In a piece published on April 11, 2023 Mayor Paul told Alan Gionet, a local CBS reporter that our city council's legislative committee had voted to oppose HB 23-1255. That was inaccurate. Our legislative committee didn't vote on this until April 24, 2023 when they decided to take a "strong oppose" position. According to the committee chair Councillor Stewart, they were taking a wait and see approach to see what amendments might be introduced. Also, we didn't want to lose our seat at the table. While Lakewood didn't lose its seat at the table, they missed out on the main course. By the time the City expressed their "strong oppose" position, the House had completed the 3rd reading of the bill. The Deputy City Manager told me that Lakewood worked with the Colorado Municipal League

(CML) to write an amendment that at best would have exempted us from the bill. Unfortunately, this never made it to the table. A copy of this unsuccessful document was requested but it was not available. On July 17, 2023 the attempt to meet in executive session to discuss legal issues that might arise from HB 23-1255. This was voted down because several Councillors felt that no specific legal issues were cited to warrant a private meeting. The following week at first reading of the Emergency Ordinance, Councillors Frank and Mayott-Guerro stated they were disappointed that they were unable to have a discussion with the City Attorney. Councillor Shahrezaei went a step further than just expressing her disappointment saying "a lot of this is political theatrics" referring to the actions of the Councillors voting against the executive session. Actually it isn't. The Councillors who opposed going into executive session felt there was no justifiable, stated reason to keep this discussion from the public. There had been no lawsuit filed and any comments made by the city attorney would be based on speculations and hypotheticals at best. For those Councillors who felt disappointed, maybe you can now relate to how Councillors Able, Springsteen, Olver and Janssen must feel when the majority on the dais dismiss their suggestions for legislative actions and vote against their ideas and contributions on a regular basis. These 4 Councillors are the only representatives that consistently advocate for transparency and place the voice of the people above their own. I wish there were more like them on this body. At the end of the July 24, 2023 meeting, the Mayor said he had reached out to the CML and the governor's office through back and forth conversations. There is no official record of Lakewood making an appearance or submitting anything in writing to advocate for our position. Although we are the 5th largest city in the state we do not have a lobbyist so we rely on our staff or legislative committee chair to fill this role. In the case of Pitkin County, their convincing testimony resulted in their exemption from HB 23-1255. What would have happened if we would have tried harder and sooner? We'll never know. Regarding tonight's vote, take a breath. Both Golden and Boulder, also targeted by HB 23-1255 are not rushing into anything. So far, neither have posted items on their upcoming agendas to address this issue. I think it would be a mistake to pass this emergency ordinance now. Talk to these other affected communities. SGI is certainly salvageable and worthy of the effort to respect the voice of the voters. More information about HB 23-1255 is available in a couple articles on LakewoodInformer.com Thank you.

John Mohatt, Aug 4, 2023, 5:29pm

Lakewood Staff's proposed temporary support of L.M.C. 14.27 should be rejected. I urge you to direct Lakewood staff through a regular motion to continue to enforce L.M.C. 14.27 and to fail to recognize HB 23-1255 as a valid law of the State. HB 23-1255 unconstitutionally prevents municipal voters from exercising their initiative and referendum rights. It is very frustrating that Lakewood staff choose not to support L.M.C. 14.27 when HB 23-1255 was being debated. Pitkin County, a much smaller community with fewer resources, successfully testified before the state legislature and had their growth ordinance exempted from HB 23-1255. It is time to permanently support Lakewood's Strategic Growth Initiative.

Glen Newell, Aug 3, 2023, 2:21pm

Esteemed members of the Council and City Staff, and Mayor Paul- Respectfully, you must be joking with this attempt : it appears the council and staff are set to allow the disruptive behavior of the anti-development , anti-government few to alter the required course. I see nothing in the Staff Memo to support it's assertion that the need to delay lifting the growth limit is based on the budget or any fiduciary interest of the City of Lakewood. This is simply a delaying tactic, and with this especially competitive contest to replace our current Mayor, I can only speculate on what other motivations there might be in disrupting a reasonable consultation with legal council, and then pushing this 'temporary' solution. I call on the council to table this proposal at least until sound, outside party, legal counsel is accomplished and reasonable discussion has taken place.



**MINUTES
REGULAR MEETING OF THE CITY COUNCIL
CITY OF LAKEWOOD**

7:00 P.M

August 14, 2023

Minutes are not a verbatim transcription, but rather an attempt to capture the intent of the speaker by the City Clerk.

ITEM 1 – CALL TO ORDER

[View video recording here](#)

Mayor Paul called the HYBRID meeting to order at 7:00 p.m.

ITEM 2 – ROLL CALL

[View video recording here](#)

Those present were: Mayor Adam Paul, Presiding
Charley Able
Sophia Mayott-Guerrero
Mary Janssen (Virtual)
Richard Olver
Jeslin Shahrezaei
Anita Springsteen
Rebekah Stewart
Wendi Strom
Sharon Vincent (Virtual)

Absent: Barb Franks

Others in attendance: Ben Goldstein, Deputy City Manager
Alison McKenney Brown, City Attorney
Jay Robb, City Clerk

Full and timely notice of this City Council meeting had been given and a quorum was present.

ITEM 3 – PLEDGE OF ALLEGIANCE

[View video recording here](#)

ITEM 4 – STATEMENT OF CONFLICT OF INTEREST

[View video recording here](#)

ITEM 5 – PUBLIC COMMENT

[View video recording here](#)

Public Comment received via telephone/in-person:

James Mace, Ward 1, stated he received emails from the City of Lakewood stating not being allowed to enter public comment.

Samantha Wood, Ward 5, expressed concerns about an intersection near Bear Creek Lake? Stating that with school starting soon.

Jeff Boyd, Ward 2, Co-Chair of the Two Creeks, spoke about having a problematic neighbor, then spoke specifically against Jumbo's Bar and Grill.

Don Burkhart, Ward 1, thanked the three Councilors that voted against adopting Emergency Ordinance O-2023-30.

Lenore Herskovitz, talked about the City Council's recent adoption of Emergency Ordinance O-2023-30 and her disappointment about the process and the options that were not considered or adopted by the Council. Ms. H. talked about the Smart Growth Initiative (SGI) that was adopted by Lakewood voters in 2019 and how the Council did not defend the SGI.

Tammy Kreis, Ward 2, spoke against Jumbo's Bar and Grill and talked about problems the business created in the neighborhood. Ms. Kries talked about her public comment to City Council in March 2023 and her anticipation to testify on August 29th at the Liquor Hearing regarding Jumbo's.

Hunter Kreis, Ward 2, talked about his anticipation to testify on August 29th Liquor Hearing regarding Jumbo's, and thanked Councilor Sharon Vincent for her assistance to residents on this matter.

Bob Reinhart, Ward 2, talked about his anticipation to testify on August 29th at the Liquor Hearing regarding Jumbo's, and thanked Councilor Sharon Vincent for her assistance to residents on this matter.

Roberta Garrett, Ward 2, talked about her anticipation to testify on August 29th at the Liquor Hearing regarding Jumbo's, and thanked Councilor Sharon Vincent for her assistance to residents on this matter.

Joan Poston, spoke to Council about her ongoing FOIA request with the Federal Government and distributed a letter explaining the complexity and cost of her request (Attachment A). Ms. Poston also talked about problems with inflation in Colorado.

Jenna Hallock, from Colorado Christian University, provided an update about the major dates and stats for the fall semester, spoke about other resources and upcoming events for the University.

Maddie Nichols, Ward 2, talked about her anticipation to testify on August 29th at the Liquor Hearing regarding Jumbo's, and thanked Councilor Sharon Vincent for her assistance on this matter.

Tanesha Howard, Ward 2, addressed the concerns about her bar, Jumbo's Sports Bar and Grill. Ms. Howard spoke about the need to find a compromise to allow the businesses to continue in the neighborhood.

Herbert "Jumbo" Howard, Ward 2, spoke about the concerns raised by his bar, Jumbo's Sports Bar and Grill, and talked about issues in the neighborhood creating issues in the area surrounding the bar. Mr. Howard talked about the contribution by the bar owners to the area, to the community, and talked about other popular events that the bar hosts.

James Kraft, an employee of Jumbo's Sports Bar and Grill, talked about the issues raised about the bar as being standard problems with running a bar. Mr. Kraft talked about the contributions by the bar owners to the surrounding area.

Ilan Reigger, provided a presentation regarding major issues with the homeless near his residence at 1330 Zephyr Street and the surrounding area near the RTD Light Rail station at Wadsworth and 13th Avenue.

Portia Prescott, Rocky Mountain President of the NAACP, spoke in favor of Jumbo's Sports Bar and Grill, and talked her family's personal history about the situation with Jumbo's Sports Bar and Grill. Ms. Prescott emphasized the issues of homelessness and crime along the Colfax area that may be contributing to larger issues and cannot be blamed on the business.

Benzal Jimmerson, spoke in favor of Jumbo's Sports Bar and Grill, talked about other ways that the issues with the business could have been resolved and talked about the issues of homelessness and crime along the Colfax area that may be contributing to larger issues and cannot be blamed on the business.

Simone Renee, Community Member and NAACP Member, spoke in favor of Jumbo's Sports Bar and Grill, talked about other ways that the issues with the business could have been resolved, and the issues of homelessness and crime along the Colfax area that may be contributing to larger issues and cannot be blamed on the business.

Joshua Jackson, Member and Criminal Justice Committee Chair of the Rocky Mountain NAACP, spoke in favor of Jumbo's Sports Bar and Grill, talked about other ways that the issues with the business could have been resolved, and the issues of homelessness and crime along the Colfax area that may be contributing to larger issues and cannot be blamed on the business.

Public Comment received via Lakewood Speaks: 4 – SEE PAGE 7

**CONSENT AGENDA
ORDINANCES ON FIRST READING**

[View video recording here](#)

City Clerk Jay Robb read the Consent Agenda into the record.

ITEM 6 – RESOLUTION 2023-42 – APPOINTING MEMBERS TO THE LAKEWOOD HISTORIC PRESERVATION COMMISSION

ITEM 7 – RESOLUTION 2023-43 – APPOINTING A MEMBER TO THE LAKEWOOD PLANNING COMMISSION

ITEM 9 – RESOLUTION 2023-45 – APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE MILE HIGH FLOOD DISTRICT, THE CITY AND COUNTY OF DENVER, AND THE CITY OF SHERIDAN FOR A MAJOR DRAINAGEWAY PLAN AND A FLOOD HAZARD AREA DELINEATION FOR BEAR CREEK DOWNSTREAM OF BEAR CREEK RESERVOIR

ITEM 10 – RESOLUTION 2023-46 – APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE MILE HIGH FLOOD DISTRICT FOR MAINTENANCE OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR MCINTYRE GULCH AT URBAN STREET AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT

ITEM 11 – ORDINANCES ADOPTING STEVINSON ANNEXATIONS NOS. 22 & 23

- **ORDINANCE O-2023-31** – ANNEXING CERTAIN PROPERTY TO BE KNOWN AS THE STEVINSON ANNEXATIONS NO. 22 & 23, LOCATED IN THE SOUTHWEST ONE-QUARTER OF SECTIONS 6, TOWNSHIP 4 SOUTH, RANGE 69 WEST AND THE SOUTHEAST ONE-QUARTER OF SECTION 1, TOWNSHIP 4 SOUTH, RANGE 70 WEST, 6TH PRINCIPAL MERIDIAN, COUNTY OF JEFFERSON, STATE OF COLORADO
- **ORDINANCE O-2023-32** – TO INITIALLY ZONE AND REZONE LAND LOCATED AT 14700 W. 7TH AVE., CITY OF LAKEWOOD, COUNTY OF JEFFERSON, STATE OF COLORADO
- **ORDINANCE O-2023-33** – TO REZONE LAND LOCATED AT 15000 W. COLFAX AVE., CITY OF LAKEWOOD, COUNTY OF JEFFERSON, STATE OF COLORADO
- **ORDINANCE O-2023-34** – TO VEST THE ZONING FOR LAND LOCATED AT 14700 W. 7TH AVE., CITY OF LAKEWOOD, COUNTY OF JEFFERSON, STATE OF COLORADO

- **ORDINANCE O-2023-35** – TO VEST THE ZONING FOR LAND LOCATED AT 15000 W. COLFAX AVE., CITY OF LAKEWOOD, COUNTY OF JEFFERSON, STATE OF COLORADO
- **ORDINANCE O-2023-36** – VACATING ALL OF THE 600 BLOCK OF S. GARDENIA COURT RIGHT OF WAY NORTH OF WEST 6TH AVENUE FRONTAGE ROAD AND SOUTH OF WEST 7TH AVENUE

END OF CONSENT AGENDA

Councilor Olver asked to pull Item 8 from the Consent Agenda. Without objection Item 8 was pulled.

Mayor Pro Tem Strom made a motion to order all ordinances introduced on first reading to be published in the Denver Post with public hearing set for the date included in the Ordinance; and for the adoption of Resolutions, all of which are included in the consent agenda items introduced into the record by the City Clerk. The motion was seconded.

Councilor Shahrezaei summarized the appointments being recommended by the Council Screening Committee.

Vote on Consent Agenda:

AYE: Paul, Able, Mayott-Guerrero, Janssen, Olver, Shahrezaei, Springsteen, Stewart, Strom, Vincent.

NAY:

ABSENT: Franks.

Result: Approved 10 - 0, the motion passed.

ITEM 8 – RESOLUTION 2023-44 – APPROVING PARTICIPATION BY THE CITY OF LAKEWOOD IN A COORDINATED ELECTION TO BE CONDUCTED ON NOVEMBER 7, 2023, BY THE JEFFERSON COUNTY CLERK AND RECORDER

Mayor Pro Tem made a motion to adopt Resolution 2023-44. The motion was seconded.

Result: Approved 10 - 0, the motion passed.

Vote on Consent Agenda:

AYE: Paul, Able, Mayott-Guerrero, Janssen, Olver, Shahrezaei, Springsteen, Stewart, Strom, Vincent.

NAY:

ABSENT: Franks.

Result: Approved 10 - 0, the motion passed.

Public Comment received via telephone/in-person: None.

Public Comment received via Lakewood Speaks: None.

There were no ordinances on second reading and no other public hearing items.

ITEM 12 – GENERAL BUSINESS

There was no general business.

ITEM 12 – EXECUTIVE REPORT

No report.

ITEM 13 – MAYOR AND CITY COUNCIL REPORTS

[View video recording here](#)

Mayor Paul and City Council Members reported their attendance at previous meetings and events and announced upcoming neighborhood meetings and events.

ITEM 14 – ADJOURNMENT

[View video recording here](#)

There being no further business to come before City Council, Mayor Paul adjourned the meeting at 8:25 p.m.

Respectfully submitted,

Jay Robb, City Clerk

Public Comment received via Lakewood Speaks: 4

Joshua Comden, Aug 14, 2023, 10:35am

Be careful what you cite. Here is a quote in the abstract to Shaw and McKay's (1942) Social Disorganization Theory: "Delinquency is found to be highly correlated with changes in population, inadequate housing, poverty, ... , tuberculosis, mental disorders, and adult criminality. The common basic factor is social disorganization or the absence of community effort to cope with these conditions. Causation of juvenile delinquency is to be sought more in terms of the community than of the individual." Notice that they do not attribute crime to population density. However, between the three dots I placed in the quote, they have two other factors that they attribute to crime, but I am not willing to write them here with decorum rules as they are. You can read the full abstract here <https://psycnet.apa.org/record/1943-00271-000> to make your own assessment.

Joshua Comden, Aug 14, 2023, 10:35am

Be careful what you cite. Here is a quote in the abstract to Shaw and McKay's (1942) Social Disorganization Theory: "Delinquency is found to be highly correlated with changes in population, inadequate housing, poverty, ... , tuberculosis, mental disorders, and adult criminality. The common basic factor is social disorganization or the absence of community effort to cope with these conditions. Causation of juvenile delinquency is to be sought more in terms of the community than of the individual." Notice that they do not attribute crime to population density. However, between the three dots I placed in the quote, they have two other factors that they attribute to crime, but I am not willing to write them here with decorum rules as they are. You can read the full abstract here <https://psycnet.apa.org/record/1943-00271-000> to make your own assessment.

James Kinney, Aug 14, 2023, 12:48am

Results reported from the recent independent and scientifically conducted City of Lakewood Community Survey showed crime in Lakewood is of highest concern to residents. It is well documented that law enforcement is one of the critical factors to prevent and respond to crime. We recognize in these post-George Floyd incident times the nature and operations of police departments has changed, particularly, in my opinion, because police department staff numbers have become reduced. Shaw and McKay's (1942) Social Disorganization Theory studied crime rates as higher in urban areas because of the larger population density. And Harries (2006) found violent and property crimes to be correlated with population density. There are benefits that accompany higher populations and housing density, but less crime has not been among those. Lakewood has been focusing to increase population and housing density for at least a decade and a half. The Governor and the State legislature indicated during the 2023 session that State population growth and housing density increase were not occurring fast enough, so laws need to be passed from the top down to increase the pace, as if population densification were a natural law, never to be questioned. Citizens have a right and deserve an opportunity to partake of transparent discussions and debates of our City's land use future presented by knowledgeable persons with well-prepared presentations covering all sides of considerations and issues. Gathering, analyzing and acting on input directly from citizens should be the foundation on which our future land use plans are based. One important issue to be included and openly addressed in this ongoing public process is the community's major concern with crime in our community.

Teresa Ditmon, Aug 9, 2023, 2:03pm

I want to thank all the council members who fought to keep discussions on ordinances transparent. Can city lawyers please explain why they cannot disclose legal analysis to the general public? Shouldn't the general public be informed if it's pertinent to something we have or will directly vote on? Legal analysis is not binding and it seems undemocratic not to include the public in the legal reasoning behind decision making. I get this is important information city council needs to make informed decisions and that is why many wanted a meeting that would be closed to the public, but we can't ignore the fact that this is information should be public. Can we get legal expertise from various sources/attorneys that CAN share the legalities without jeopardizing the client/attorney privilege the city has with its attorneys..? Who will represent the people? Who will provide thorough analysis for Us? I appreciate council members choosing to stand.