AGENDA
REGULAR MEETING OF THE CITY COUNCIL
CITY OF LAKEWOOD, COLORADO
VIRTUAL MEETING
JULY 13, 2020
7:00 P.M.

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

123City of Lakewood Website: https://www.Lakewood.org/CouncilVideos  0
Lakewood Speaks: https://lakewoodspeaks.org/  0

Phone Number for Public Comment: (1-253-215-8782)
Webinar ID: (966 6266 1216)
(press # after entering the webinar id then press # once more to join the meeting)
Press *9 to Request to Speak
(You will be prompted when to speak. After speaking, you can hang up or hold to speak on a different agenda item)

The City of Lakewood does not discriminate on the basis of race, age, national origin, color, creed, religion, sex, sexual orientation or disability in the provision of services. People with disabilities needing reasonable accommodation to attend or participate in a City service program, can call 303-987-7080 or TDD 303-987-7057. Please give notice as far in advance as possible so we can accommodate your request.

ITEM 1 – CALL TO ORDER
ITEM 2 – ROLL CALL
ITEM 3 – PLEDGE OF ALLEGIANCE
ITEM 4 – PUBLIC COMMENT
ITEM 5 – EXECUTIVE REPORT
CITY MANAGER

CONSENT AGENDA
ORDINANCES ON FIRST READING

(Ordinances are on first reading for notice and publication only; public hearings are held on second reading)
ITEM 6 – **RESOLUTION 2020-22** – AUTHORIZING THE FIRST ADDENDUM TO DEVELOPMENT AGREEMENT FOR SOLterra CENTRE OFFICIAL DEVELOPMENT PLAN

ITEM 7 – **APPROVING MINUTES OF CITY COUNCIL MEETINGS**

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**END OF CONSENT AGENDA**

**ORDINANCES ON SECOND READING AND PUBLIC HEARINGS**

ITEM 8 – **GENERAL BUSINESS**

**MOTION TO EXTEND EMERGENCY DECLARATION** – I move to extend the declaration of disaster in the City of Lakewood Colorado resulting from the Coronavirus/COVID-19 pandemic, pursuant to Section 1.27 of the Lakewood Municipal Code, originally declared by proclamation of the Lakewood City Manager on March 17, 2020, extended by majority vote of the City Council on multiple occasions, and by this motion extended again until July 27, 2020, unless earlier extended or terminated by the City Council.

ITEM 9 – **MAYOR AND CITY COUNCIL REPORTS**

A. MAYOR
B. MAYOR PRO TEM
C. COUNCIL MEMBERS

ITEM 10 – **ADJOURNMENT**
DATE OF COUNCIL MEETING: JULY 13, 2020 / AGENDA ITEM NO. 6

To: Mayor and City Council
From: Travis Parker, Director of Planning, 303-987-7908
Subject: ADDENDUM TO DEVELOPMENT AGREEMENT FOR CDN RED ROCKS

SUMMARY STATEMENT: In 2009, Lakewood City Council approved a development agreement in conjunction with the Solterra Centre Official Development Plan. The rights under the approved agreement conflict with the recently approved Residential Growth Limitation. Staff has requested the property owner to submit an addendum to the development agreement that acknowledges and accommodates the Residential Growth Limitation. The attached addendum would do the following:

1. Remove development of units on this property from discretionary approval under the ordinance since this was achieved in 2009.
2. Require the developer to notify the City in November of each year how many units they intend to build in the following year.
3. Allow the City to account for those units, without limiting the number, in any way appropriate.

Staff recommends approval of the addendum in order to meet the intent of the Residential Growth Limitation in compliance with previously approved development rights.

BACKGROUND INFORMATION: In 2009, Lakewood City Council approved a development agreement in conjunction with the Solterra Centre Official Development Plan. This document vested the right to construct housing in accordance with the ODP for a period of 25 years. The City committed in that agreement not to take any action that would “alter, impair, prevent, diminish, impose a moratorium on development, or otherwise delay the development or use of the property” without the consent of the owners.

Application of the requirements of recently approved Article 14.27 regarding Residential Growth Limitation would conflict with the terms of this agreement. First, any discretionary review would not only cause a delay in development but, if denied, would directly contradict the previous approval. Secondly, putting development of this property through the standard application process could likely result in inadequate allocations on any given year and denial of some permits. The result would be at minimum a delay and possibly the inability to develop in the approved manner.

Staff has worked with the applicant to find a way to meet the intent of the ordinance in limiting overall city development of housing while honoring the terms of the agreement made in 2009. The attached addendum would add a new requirement for the developer to annually notify the City of the number of units intended to be constructed in the coming year. The City Council could then use this information to account for the number of units in the annual allocation creation and assignment. The City would then honor the development approval by
not requiring an additional Council review of the project and would not limit the construction of the homes through the unavailability of allocations.

**BUDGETARY IMPACTS:** None

**STAFF RECOMMENDATIONS:** Staff recommends approval of the proposed addendum to the development agreement. The proposal meets the spirit of both the Residential Growth Limitations and the existing development agreement.

**ALTERNATIVES:** City Council can approve or deny the proposed addendum. Council could also request the applicant to make further changes to the addendum.

**PUBLIC OUTREACH:** This meeting has been advertised through the normal channels.

**ATTACHMENTS:** Request Letter from Brian Connolly
Approved 2009 Development Agreement
Proposed First Addendum to Development Agreement

**REVIEWED BY:** Kathleen E. Hodgson, City Manager
Benjamin B. Goldstein, Deputy City Manager
Timothy P. Cox, City Attorney
A RESOLUTION

AUTHORIZING AN ADDENDUM TO DEVELOPMENT AGREEMENT FOR SOLTERRA CENTRE OFFICIAL DEVELOPMENT PLAN

WHEREAS, CDN Red Rocks, a Colorado limited partnership (the “Owner”) owns certain property known as Solterra Centre, consisting of 169.4 acres located within Lakewood, Colorado;

WHEREAS, the Owner has approval from the City of Lakewood (the “City”) to develop Solterra Centre under a Site Specific Development Plan known as the Solterra Centre Official Development Plan (the “ODP”);

WHEREAS, in 2009, the City and the Owner entered into a binding development agreement vesting the development rights of the ODP for 25 years (the “Development Agreement”);

WHEREAS, in 2019, the City adopted Chapter 14.27 of the Lakewood Municipal Code limiting future residential growth;

WHEREAS, the Owner and the City desire to ensure that Solterra Centre continues to be built according to the approved ODP and meets the intent of Chapter 14.27;

WHEREAS, the Owner and the City wish to enter into the attached Addendum to Development Agreement for Solterra Centre Official Development Plan Regarding Vested Rights (the “Addendum”) to ensure Solterra Centre is developed as originally approved.; and

WHEREAS, the City Council hereby finds and determines that approving the Addendum is and shall be in the best interest of the residents of the City.

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

SECTION 1. The Addendum is hereby approved.

SECTION 2. The City Manager and City Clerk are hereby authorized and directed to execute and attest, respectively, the Addendum on behalf of the City.

SECTION 3. The fully executed Addendum shall be recorded by the City in the property records of the Clerk and Recorder of Jefferson County, Colorado.

SECTION 4. This Resolution shall become effective immediately upon adoption.
INTRODUCED, READ AND ADOPTED by a vote of ___ for and ___ against at a virtual regular meeting of the Lakewood City Council held on July 13, 2020, at 7 o'clock p.m.

_________________________________

Adam Paul, Mayor

ATTEST:

_________________________________

Michele Millard, City Clerk

APPROVED AS TO FORM:

_________________________________

Timothy P. Cox, City Attorney
May 20, 2020

VIA E-MAIL – TRAPAR@LAKEWOOD.ORG

Travis Parker
City of Lakewood
Planning Department
480 South Allison Parkway
Lakewood, CO 80226-3127

Re: Request for Amendment of Development Agreement

Dear Travis:

As you are aware, our firm represents CDN Red Rocks, L.P. (“CDN”), owner of certain real property (the “Property”) located along South McIntyre Street and within the plat of Red Rocks Business Park in the City of Lakewood (the “City”). The Property is the subject of that certain Development Agreement for Solterra Centre Official Development Plan Regarding Vested Rights, recorded December 11, 2009 in the real property records of Jefferson County at Reception No. 2009124458 (the “Development Agreement,” a copy of which is attached here), which confers vested property rights upon the CDN Property for the development of a mix of commercial and residential uses. We are submitting this letter, along with the attached draft First Amendment to Development Agreement for Solterra Centre Official Development Plan Regarding Vested Rights (the “Proposed Amendment”), and respectfully request that you forward the same to the City Council for review and approval. Below, I offer some general, relevant background on vested property rights, the Development Agreement, and these concepts’ relationship to the City’s recently-enacted, voter-approved “Residential Growth Limitation” ordinance, codified as Chapter 14.27 of the Lakewood Municipal Code. I also explain our request for the Proposed Amendment.

Background

Vested Property Rights. In the absence of vested property rights, a local government is generally free to unilaterally amend or modify zoning and other land use entitlements applicable to a given parcel of land. In such a circumstance, the only limitations on the government’s ability to do so include constitutional limitations such as the Takings Clause of the Fifth Amendment and the Due Process and Equal Protection clauses of the Fourteenth Amendment.

Vested property rights generally provide heightened protection against government interference with land use entitlements. The vested rights doctrine establishes if and when a landowner will be subject to new regulations
applicable to the landowner’s property and the extent to which a landowner might be entitled to a remedy in the event the government interferes with the vested rights. In 1988, the Colorado legislature adopted a vested rights statute, C.R.S. § 24-68-101 et seq. (the “Vested Rights Act”). The Vested Rights Act confers vested property rights for up to three years upon a local government-approved “site specific development plan.” A site specific development plan can be any land use approval identified in a local code or as designated pursuant to a development agreement. With a development agreement, a local government can confer extended vesting beyond the statutory three-year period. There are many reasons that a local government may choose to confer vested rights, including: (1) the desire to induce development on a long-vacant parcel or in response to an economic recession; and (2) as a “fair trade” with a developer that constructs or provides public utilities or services over and above those which might otherwise be required by law.

The vested rights conferred by the Vested Rights Act are not a blanket ban on government action that limits the underlying site specific development plan. Section 105 of the Vested Rights Act identifies three conditions under which regulations may be modified in a manner that would “alter, impair, prevent, diminish, impose a moratorium on development, or otherwise delay the development or use of . . . property as set forth in a site specific development”: (1) if the affected landowner consents to the government action; (2) if hazards are discovered on or in the vicinity of the property posing a serious threat to the public health, safety, and general welfare; or (3) if the landowner receives “just compensation for all costs, expenses, and liabilities incurred by the landowner after approval by the governmental entity.” Such costs, expenses, and liabilities may include “costs incurred in preparing the site for development consistent with the site specific development plan, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultants’ fees, together with interest thereon at the legal rate until paid.”

The Development Agreement. In 2009, the City Council approved the Solterra Centre Official Development Plan (the “ODP”), encumbering the CDN Property. The ODP contemplates the development of the CDN Property with a mix of land uses, including retail, office, and residential. With respect to residential development, the ODP permits the development of up to 1,630 dwelling units. The City Council subsequently approved the Development Agreement pursuant to the Vested Rights Act and designated the ODP as a “Site Specific Development Plan,” thus conferring upon CDN the right to develop and use the CDN Property in the manner described in the ODP.

Section 3 of the Development Agreement contains language substantially identical to the language of Section 105(1) of the Vested Rights Act, providing that “[a]ny zoning or land use action by the City or pursuant to an initiated measure which would alter, impair, prevent, diminish, impose a moratorium on development or otherwise delay the development or use of the Property as set forth in the Site Specific Development” is prohibited except in certain, limited circumstances. The Development Agreement goes on to provide CDN with a remedy of specific performance or, in the alternative, money damages for all costs incurred in furtherance of development after the approval of the Development Agreement.

Relationship to Residential Growth Limitation. In 2019, City voters approved the Residential Growth Limitation, now codified at Chapter 14.27 of the City’s Municipal Code. In order for a residential project to receive building permits under that provision, the project must obtain a number of allocations from the City equal to the number of proposed residential units. These allocations are made from a pool of allocations set
by the City Council each year, which is generally equal to one percent of the total number of housing units in the City in the prior year. Furthermore, any project containing more than 40 units is required to obtain special City Council approval in order to receive allocations.

Application of the allocation process and other provisions of Chapter 14.27 would, at the very least, “delay” if not “impair, prevent, diminish, [or] impose a moratorium” on the development of the Property. To date, the mere existence of the Residential Growth Limitation ordinance has put CDN’s development plans at risk, as potential homebuilders are unwilling to move forward with their plans, given the uncertainty surrounding the project’s ability to actually receive allocations. Since obtaining approval of the ODP, CDN has spent in excess of $6,000,000 preparing the Property for residential development. The passage of Chapter 14.27 puts this investment at risk. In the event that CDN were placed in the unenviable position of filing an action to enforce the terms of the Development Agreement, it would very clearly be entitled to either: (1) a court order requiring the City to adhere to the terms of the Development Agreement notwithstanding Chapter 14.27; or (2) recovery of some or all of its $6,000,000 investment in preparing the Property for residential development. CDN—and we suspect the City as well—views this type of litigation as a suboptimal approach to resolving the inconsistencies between CDN’s vested rights secured under the Development Agreement and the City’s Residential Growth Limitation.

Request

To resolve the foregoing inconsistencies between CDN’s previously-conferred vested rights and the Residential Growth Limitation, CDN has worked at the request of City staff to prepare the attached Proposed Amendment. As drafted, the Proposed Amendment would do the following:

• Amend the Development Agreement to acknowledge the existence of the Residential Growth Limitation.

• Require the owner(s) of the Property to submit, on or before November 1 of each year, a written notice setting forth the number of building permits that the owner(s) expect to seek in the following year.

• Obligate the City to determine, at the time of the Property owner’s submittal of the foregoing notice, whether to provide allocations to the Property owner from the subsequent year’s allocation pool, “borrow” allocations from other years’ worth of allocations, or otherwise determine how to issue the building permits identified in the notice.

• Ensure that the approval of more than 40 building permits per year for the Property would occur on a nondiscretionary basis.

The Proposed Amendment carries several mutual benefits for CDN and the City. Most significantly, the Proposed Amendment balances the Residential Growth Limitation with CDN’s vested rights, allowing the City a means to adhere to the citizen-adopted Residential Growth Limitation while ensuring that CDN retains the benefit of its vested rights. Additionally, the Proposed Amendment provides certainty to both CDN and the City regarding the process through which allocations will be conferred upon future residential development of the Property, avoiding needless argument regarding the relationship between vested rights and the Residential Growth Limitation.
Growth Limitation. Finally, because the Proposed Amendment is specific to the Property, it does not change or modify the Residential Growth Limitation as it applies to any other parcels in the City. Any owner of other property subject to vested rights will not benefit from the Proposed Amendment, and would be required to separately seek an amendment or other approval to address any conflict between that owner’s vested rights and the Residential Growth Limitation.

We look forward to working with you on the foregoing request. We respectfully request that the Proposed Amendment be expeditiously processed for review by the City Council in accordance with Section 104(2) of the Vested Rights Act, and that the City approve the Proposed Amendment. Please note that in the event the City Council does not approve the Proposed Amendment, nothing in this letter is intended to constitute a waiver or limitation of any claim that CDN may have, now or in the future, for any breach of the rights conferred pursuant to the Development Agreement, in the event the City Council does not approve the Proposed Amendment.

Very truly yours,

Brian J. Connolly  
For the Firm

BJC/abm  
Attachments

cc: Tim Cox, City Attorney
DEVELOPMENT AGREEMENT
FOR SOLTERRA CENTRE OFFICIAL DEVELOPMENT PLAN
REGARDING VESTED RIGHTS

THIS DEVELOPMENT AGREEMENT (this "Agreement"), is made as of DECEMBER 10, 2009 (the "Effective Date"), by and between CDN RED ROCKS, L.P., a Colorado limited partnership, and TEEFAM COLORADO LAND COMPANY, L.P., a California limited partnership, and Jerry H. Crispe (collectively, the "Owners"), and the CITY OF LAKEWOOD, COLORADO, a municipal corporation of the State of Colorado (the "City").

Recitals

A. Owners own real property consisting of approximately 169.4 acres, located within the City, as described on Schedule 1 attached hereto (the "Property").

B. On J U L Y 4 2 0 0 9 , the City approved a Site Specific Development Plan for the Property, known as the Solterra Centre Official Development Plan ("ODP").

C. The Site Specific Development Plans ordinance found in Article 18 of Title 17 of the City's Municipal Code (the "Vested Rights Ordinance"), and the Vested Property Rights Statute found in Sections 24-68-101, et seq. of the Colorado Revised Statutes in effect as of the Effective Date (the "Vested Rights Statute"), provide for the establishment of vested property rights in order to advance the purposes stated therein, and authorize the City to enter into development agreements with landowners providing for the vesting of property development rights for a period of greater than three (3) years.

D. It is the desire of the Parties to cause the development rights of the Property created under the ODP to vest as more particularly set forth herein.

NOW, THEREFORE, considering the foregoing recitals and in consideration of the mutual promises and covenants hereinafter set forth, the Owners and the City agree as follows:

Agreement

1. Vested Rights. The ODP constitutes an approved "Site Specific Development Plan" (as defined in the Vested Rights Ordinance and the Vested Rights Statute) and creates vested property rights to develop the Property in the manner contemplated by the Site Specific Development Plan. Subsequent approvals in connection with the development contemplated by the Site Specific Development Plan, if and when properly approved in due course by the City, shall likewise be vested for the balance of the Term (as defined below).

2. Term. The term of the statutory vested rights shall be twenty-five (25) years, commencing on the effective date of ordinance O-2009-30 approving this Agreement (the "Term"). In accordance with Section 17-18-7 of the Vested Rights Ordinance, the Term is
warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of the commercial development, economic factors and market conditions.

3. Remedies; Referendum.

Any zoning or land use action by the City or pursuant to an initiated measure which would alter, impair, prevent, diminish, impose a moratorium on development or otherwise delay the development or use of the Property as set forth in the Site Specific Development Plan, except (i) with the consent of the Owners; or (ii) upon the discovery of natural or man-mane hazards on or in the immediate vicinity of the Property, which hazards could not reasonably have been discovered at the time of the ODP approval, and which hazards, if uncorrected, would pose a serious threat to the public health, safety and welfare; shall entitle Owners to an action for injunction or specific performance and/or monetary damages for those items set forth in Any action that deprives, revokes, diminishes or impairs the vested rights provided herein shall entitle Owners to an action for injunction or specific performance and/or monetary damages as set forth in C.R.S. 24-68-105; provided, however, that Owners agree to first pursue specific performance, and if granted, shall have no right to pursue damages; and only if a court denies specific performance shall Owners be entitled to pursue damages. Adoption of this Agreement is subject to referendum pursuant to the Vested Rights Statute. In the event such a referendum is filed and succeeds in overturning City Council's approval of Ordinance O-2009-30, the vested rights created under this Agreement shall be null and void, provided, however, that none of the development rights for the Property or approvals granted to owners under the ODP shall be affected thereby.

4. Counterparts; Electronic Delivery. This Agreement may be executed in counterparts, all such counterparts will constitute the same agreement and the signature of any party to any counterpart will be deemed a signature to, and may be appended to, any other counterpart. Executed copies hereof may be delivered by telecopier or e-mail and upon receipt will be deemed originals and binding upon the parties hereto, regardless of whether originals are delivered thereafter.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the day and year first above written.

CITY OF LAKEWOOD

Kathleen E. Hodgson
City Manager

ATTEST:
Margy Greer, City Clerk
DEVELOPMENT AGREEMENT
FOR SOLTERRA CENTRE OFFICIAL DEVELOPMENT PLAN
REGARDING VESTED RIGHTS

RECOMMENDED AND APPROVED:

Jay N. Hutchison, Director
Department of Planning and Public Works

Kit Botkins, Director
Department of Community Resources

Anne Heine, City Engineer
Department of Public Works

APPROVED AS TO FORM:

Timothy P. Cox,
Office of the City Attorney
DEVELOPMENT AGREEMENT
FOR SOLTERRA CENTRE OFFICIAL DEVELOPMENT PLAN
REGARDING VESTED RIGHTS

CDN RED ROCKS, L.P., a Colorado
limited partnership

By: CDN Canada Development Inc., its
general partner

By: [Signature]
Name: DAVID MINDELL
Title: PRESIDENT, GENERAL PARTNER

Arapahoe )
Colorado ) ss.

The foregoing instrument, was acknowledged before me this 11th day of
September, 2009, by DAVID MINDELL, as President, G.P.
of CDN Canada Development Inc., general partner of CDN Red Rocks, L.P., a Colorado limited
partnership.

Witness my hand and official seal.

My commission expires: 6-14-11

[Signature]
Notary Public

[Signatures continued on following page]
TEEFAM COLORADO LAND COMPANY, L.P., a California limited partnership

By: Ross J. Turner, General Partner

STATE OF Colorado ss.
COUNTY OF Arapahoe

The foregoing instrument was acknowledged before me this 11th day of September, 2009, by Ross J. Turner, as general partner of TEEFAM COLORADO LAND COMPANY, L.P., a California limited partnership.

Witness my hand and official seal.

My commission expires: 6-14-11

[Signatures continued on following page]
DEVELOPMENT AGREEMENT
FOR SOLterra CENTRE OFFICIAL DEVELOPMENT PLAN
REGARDING VESTED RIGHTS

Jerry H. Crispe

By: Jerry H. Crispe, owner

By: ________________
Name: Jerry H. Crispe
Title: ________________

COLORADO )
 ss.

The foregoing instrument was acknowledged before me this 8th day of July, 2009, by Jerry H. Crispe, as ________________ as owner.

Witness my hand and official seal.

My commission expires 4/30/2010

Notary Public

[Signatures continued on following page]
SCHEDULE 1

(Legal description of the Property)

Property:

A parcel of land lying in the West One-Half (W½) of Section 25 and the East One-Half (E½) of Section 26, Township 4 South, Range 70 West of the 6th Principal, City of Lakewood, County of Jefferson, State of Colorado, being more particularly described as follows:

Said parcel being all of that land described in RED ROCKS BUSINESS PARK OFFICIAL DEVELOPMENT PLAN, the plat of which is recorded in ODP Book 29, Page 36, at Reception No. 82050855, of the records of the Jefferson County Clerk and Recorder; EXCEPT Lots 4, 5, 6, and 7, Block 3, RED ROCKS BUSINESS PARK FILING NO. 1, the plat of which is recorded in Plat Book 74, Pages 12, 13, and 14, at Reception No. 83077584, of said records;

TOGETHER WITH all those vacated rights-of-way as shown and platted on SPRINGFIELD DOWNS FILING NO. 1, the plat of which is recorded in Plat Book 61, Pages 50 & 51, at Reception No. 80004356, of said records, and being vacated by Ordinance O-82-173, recorded at Reception No. 83055117 of said records;

TOGETHER WITH all of that land described in LAKEWOOD WEST OFFICIAL DEVELOPMENT PLAN, the plat of which is recorded in ODP Book 33, Page 11, at Reception No. 83074563, of said records, EXCEPT AREA A of said LAKEWOOD WEST OFFICIAL DEVELOPMENT PLAN;

TOGETHER WITH a parcel of land lying in said W½; Beginning at the Southwest corner of said W½, said corner being in common with a platted corner of said RED ROCKS BUSINESS PARK OFFICIAL DEVELOPMENT PLAN; thence N 89°21'39" E along the South line of said W½, a distance of 532.00 feet, more or less, to a platted corner of said RED ROCKS BUSINESS PARK OFFICIAL DEVELOPMENT PLAN; thence N 00°21'45" W along a westerly line of said RED ROCKS BUSINESS PARK OFFICIAL DEVELOPMENT PLAN, a distance of 400.00 feet; thence S 89°21'39" W along a southerly line of said RED ROCKS BUSINESS PARK OFFICIAL DEVELOPMENT PLAN, a distance of 532.00 feet; thence S 00°21'45" E along a easterly line of said RED ROCKS BUSINESS PARK OFFICIAL DEVELOPMENT PLAN, a distance of 400.00 feet, more or less, to the Point of Beginning, said parcel containing an area of 4.9 acres, more or less;

Said parcel containing an area of 169.4 acres, more or less.
ADDENDUM TO
DEVELOPMENT AGREEMENT
FOR SOLTERRA CENTRE OFFICIAL DEVELOPMENT PLAN
REGARDING VESTED RIGHTS

This ADDENDUM TO DEVELOPMENT AGREEMENT FOR SOLTERRA CENTRE OFFICIAL DEVELOPMENT PLAN REGARDING VESTED RIGHTS (this “Addendum”) is entered into by and between CDN RED ROCKS, L.P., a Colorado limited partnership (“Owner”), and the CITY OF LAKEWOOD, a Colorado home rule municipal corporation (the “City”), effective as of the latest date set forth in the signature blocks below (the “Effective Date”).

RECITALS

A. The City and Owner entered into that certain Development Agreement for Solterra Centre Official Development Plan Regarding Vested Rights, recorded December 11, 2009, in the real property records of Jefferson County, Colorado, at Reception No. 2009124458 (the “Development Agreement”), which encumbers the certain real property described therein (the “Property”) and establishes vested property rights for a period of twenty-five (25) years from the date thereof.

B. Section 3 of the Development Agreement sets forth the terms and conditions upon which the vested property rights of the Owner may be divested, whether pursuant to City action or initiated measure.

C. On July 12, 2019, pursuant to initiated measure, an ordinance, known as the “Strategic Growth Initiative” (the “Initiated Measure”) and codified at Chapter 14.27 of the Lakewood Municipal Code, became effective, which intends to limit growth in the number of housing units in the City through an annual building permit allocation process.

D. In order to clarify the relationship between the Development Agreement and the Initiated Measure, the Owner and the City now desire to enter into this Addendum.

ADDENDUM

NOW, THEREFORE, in consideration of the Recitals, the Development Agreement and the mutual agreements set forth herein, the sufficiency of which is hereby acknowledged, the City and Owner hereby agree as follows:

1. Defined Terms. All capitalized terms used but not defined in this Addendum will have the meanings set forth for such terms in the Development Agreement. All terms that are defined in this Addendum and used in any provisions added to the Development Agreement pursuant to this Addendum have the meanings set forth for such terms in this Addendum.

2. Addendum. The Development Agreement is hereby supplemented by the following:
(a) **No Limit on Permit Issuance.** Notwithstanding any provision contained in the Initiated Measure, the City acknowledges and agrees that the Initiated Measure will not in any way operate as a limitation on the issuance of any permits for any development within the Property.

(b) **No Discretionary Process.** Under no circumstance will any permits be subjected to any discretionary process of the City, including but not limited to the process set forth in Lakewood Municipal Code Section 14.27.040(B). Without limiting the generality of the foregoing, the City reaffirms the right of Owner, in its sole discretion, to request and receive permits at such time(s) as market conditions allow, and the City further acknowledges and agrees that, so long as Owner or other applicant has complied with all City zoning or building code requirements for the issuance of the same, the City shall issue such permits in the normal course of business, without delay.

(c) **Required Notice.** On or before November 1 of each calendar year, Owner shall submit to the City a written notice setting forth the number of residential units for which Owner intends to seek building permits in the subsequent calendar year. Such number shall be thenceforth deemed a limitation on the total number of building permits Owner will seek in such subsequent year. In the event Owner fails to submit such written notice, Owner’s application for building permits will be subject to the City’s standard allocation process pursuant to Chapter 14.27 of the Lakewood Municipal Code. As of the date of this Addendum, Owner anticipates that it will require approximately 150 building permits per year, commencing in 2022; however, such figure is an estimate and intended for illustrative purposes only.

(d) **City Issuance of Building Permits.** The City shall determine, in its sole discretion, at the time of Owner’s application for building permit(s) and following the City’s receipt of the notice set forth in Section A.2(c) above, whether such building permits will: (1) be debited from the annual pool of allocations established pursuant to Lakewood Municipal Code Section 14.27.050 for the year in which Owner intends to construct the subject residential units; (2) be debited from one or more pools of allocations for building permits established for years subsequent to the year in which Owner intends to construct the subject residential units; or (3) be issued, in the year for which such permits are requested, pursuant to such other means as may be determined by the City at the time of submittal of such application. Under no circumstance will the City’s determination that insufficient allocations are available to issue such permits bar the issuance of such permits upon request.

3. **Ratification.** Except as addressed in this Addendum, the Development Agreement is affirmed and ratified in each and every particular. In the event of any inconsistency or conflict between this Addendum and the Development Agreement, the provisions of this Addendum shall control.

4. **Electronic Disposition; Counterparts.** The parties acknowledge and agree that the original of this Addendum, 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 Addendum, may be used for any purpose as if it were the original, including proof of the content of the original
writing. This Addendum may be executed in any number of counterparts, each of which shall be deemed to be an original and all such counterparts taken together shall be deemed to constitute one and the same instrument.

5. **Authority.** The parties represent and warrant that they have taken all actions necessary to legally authorize the undersigned signatories to execute this Addendum on behalf of the parties and to bind the parties to its terms.

[Remainder of page intentionally blank – signatures follow]
IN WITNESS WHEREOF, the parties have executed this Addendum as of the Effective Date.

CITY OF LAKEWOOD

ATTEST:

Michele Millard, City Clerk

Approved as to form:

Travis Parker, Director
Planning Department

Jay N. Hutchison, Director
Department of Public Works

Kathleen E. Hodgson, City Manager

Attestation Date

Recommended and approved as to content:

Timothy P. Cox, City Attorney
CDN RED ROCKS, L.P., a Colorado limited partnership

By: _______________________________
Name: ___________________________
Title: ____________________________

STATE OF COLORADO  )
CITY AND             ) ss.
COUNTY OF DENVER    )

The foregoing instrument was acknowledged before me this ____ day of ________, 20__, by __________________________, as __________________________ of CDN Red Rocks, L.P., a Colorado limited partnership.

Witness my hand and official seal.
My commission expires: ________________________

______________________________
Notary Public

______________________________
Address
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

Mayor Paul called the VIRTUAL MEETING to order at 7:05 p.m.

ITEM 2 – ROLL CALL

Those present were: Mayor Adam Paul, Presiding

Charley Able
Sharon Vincent
Dana Gutwein
Mike Bieda
David Skilling
Anita Springsteen
Barb Franks
Ramey Johnson
Jacob LaBure
Karen Harrison

Absent: None.

Others in attendance: Kathy Hodgson, City Manager, Ben Goldstein, Deputy City Manager, and Tim Cox, City Attorney

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

ITEM 3 – PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited, and there was a moment for silent prayer.

ITEM 5 – PUBLIC COMMENT

None.
ITEM 6 – EXECUTIVE REPORT

Kathy Hodgson, City Manager, gave her executive report:

- She introduced the City of Lakewood’s new Finance Director Holly Bjorklund.
- She stated that the City Council meeting on May 4, 2020 will feature a COVID-19 budget impact update that will be presented by Holly Bjorklund.
- She stated that second reading of COVID-19 Impact Grant Program Ordinance would be moved to May 11, 2020 due to a correction that needed to be made.
- She stated that on April 22, 2020, Economic Development hosted its first Lakewood Economic Recovery with representatives from the top industries in Lakewood
- She provided an update on a potential business loan and grant relief program led by Economic Development for Lakewood businesses impacted by COVID-19. She asked Council if they wanted to proceed with the program. There was consensus to proceed.
- She provided an update on the closure of Quail Street Recycling Center, which was due to a lack of running water, overcrowding issues, and too much physical contact between staff and citizens.

ITEM 16 - MOTION TO EXTEND EMERGENCY DECLARATION – I MOVE TO CONTINUE THE DURATION OF THE PROCLAMATION OR DECLARATION OF STATE OF DISASTER RESULTING FROM THE CORONAVIRUS/COVID-19 PANDEMIC INITIALLY ISSUED BY THE CITY MANAGER ON MARCH 17, 2020 PURSUANT TO SECTION 1.27.060 OF THE LAKEWOOD MUNICIPAL CODE, EXTENDED TO APRIL 13, 2020 BY A MAJORITY VOTE OF THE CITY COUNCIL ON MARCH 23, 2020, AND FURTHER EXTENDED TO APRIL 27, 2020 BY A MAJORITY VOTE OF THE CITY COUNCIL ON APRIL 13, 2020, WITH THE DECLARATION NOW SCHEDULED TO TERMINATE ON MAY 11, 2020 UNLESS FURTHER EXTENDED OR TERMINATED BY THE CITY COUNCIL PRIOR TO THAT DATE.

Mayor Pro Tem Skilling made a MOTION TO EXTEND EMERGENCY DECLARATION. It was seconded.

Council Discussion:

Council member Bieda – He asked if the Emergency Declaration had been previously extended to May 11, 2020. He asked if was not already extended if the wording of the declaration was awkward.

Mayor Pro Tem Skilling – He clarified that the adoption of the Emergency declaration would extend the new deadline of the Declaration to May 11, 2020.
Bieda – He asked if Council could more the date of expiration for the Emergency Declaration for the day following the City Council meeting to ensure that Council has the authority to continue the issue.

Tim Cox, City Attorney – He stated that Council could revise the language of the declaration to change the date to the date after. He suggested to change the wording of the resolution to not include interim dates.

Council member Johnson – She asked if Council could receive a written copy of the small business grant and loan program that the City was developing. She asked what other resources are available for small businesses.

Mayor Paul – He stated that would be addressed in General Business.

Council member Springsteen – She asked what funding the City is obtaining through the Emergency Declaration and where it is being obtained from. She stated that she wanted to make a record of that. She stated that public comment was not taken from constituents for the meeting.

Vote on MOTION TO EXTEND EMERGENCY DECLARATION:

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The motion passed.

CONSENT AGENDA
ORDINANCES ON FIRST READING

City Clerk Michele Millard read the Consent Agenda, into the record. The Consent Agenda consists of Items 6 through 11, inclusive, with the exception of Item 12.

ITEM 6 – RESOLUTION 2020-17 – ENDORSING AMENDMENT TO LAKEWOOD 2020-2021 HEAD START GRANT APPLICATION FOR PURPOSE OF SUBMITTING REQUEST TO FEDERAL GOVERNMENT FOR SUPPLEMENTAL FUNDS AVAILABLE TO PROVIDE COST OF LIVING ADJUSTMENT TO STAFF IN HEAD START AND EARLY HEAD START
ITEM 7 – RESOLUTION 2020-18 – ENDORSING AMENDMENT TO LAKEWOOD 2020-2021 HEAD START GRANT APPLICATION FOR THE PURPOSE OF SUBMITTING REQUEST TO FEDERAL GOVERNMENT FOR SUPPLEMENTAL FUNDS AVAILABLE FOR QUALITY IMPROVEMENT OF SERVICES IN LAKEWOOD HEAD START PROGRAM

ITEM 8 – RESOLUTION 2020-19 – AUTHORIZING A REVOCABLE LICENSE AGREEMENT BETWEEN THE CITY OF LAKEWOOD AND THE ALAMEDA CORRIDOR BUSINESS IMPROVEMENT DISTRICT, ALONG WEST ALAMEDA AVENUE, AT CHASE STREET AND OTIS STREET, TO ALLOW PLACEMENT AND MAINTENANCE OF TWO SHADE STRUCTURES AND RELATED APPURTENANCES

ITEM 9 – ORDINANCE O-2020-12 – AUTHORIZING A SUPPLEMENTAL APPROPRIATION TO THE 2020 ANNUAL BUDGET IN THE AMOUNT OF $178,632 AND AUTHORIZING THE EXPENDITURE OF GRANT FUNDS FROM THE COLORADO HEALTH FOUNDATION TO ASSIST THE CITY OF LAKEWOOD IN IMPROVING SERVICE ACCESS FOR PEOPLE WHO ARE HOMELESS IN LAKEWOOD

ITEM 10 – ORDINANCE O-2020-13 – ENDORSING THE SUBSTANTIAL AMENDMENT TO THE CITY OF LAKEWOOD 2019 ANNUAL ACTION PLAN FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

ITEM 11 – ORDINANCE O-2020-14 – ENDORSING THE PROJECTS AND PROJECT FUNDING LEVELS IN THE CITY OF LAKEWOOD 2020-2024 CONSOLIDATED PLAN AND 2020 ANNUAL ACTION PLAN FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

ITEM 12 - EMERGENCY ORDINANCE O-2020-15 CREATING THE COVID-19 IMPACT GRANT PROGRAM AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION TO THE CITY OF LAKEWOOD 2020 ANNUAL BUDGET IN THE AMOUNT OF $100,000 FROM THE GENERAL FUND AND AUTHORIZING THE EXPENDITURE THEREOF AND, FURTHER, DECLARING AN EMERGENCY

Public Comment: None.

Council Discussion: None.

A motion was made by Mayor Pro Tem Skilling to order all ordinances introduced on first reading to be published into the Denver Post Newspaper for public hearing set for dates included in the ordinances, and to adopt resolutions, all of which are included in the Consent Agenda Items, for the record and introduced by the City Clerk. It was seconded.
Vote on Consent Agenda:

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The motion passed.

END OF CONSENT AGENDA

RESOLUTIONS

ITEM 13 – RESOLUTION 2020-20 – APPROVING AWARD OF FUNDS UNDER 2020 LAKEWOOD COMMUNITY GRANT PROGRAM

Public Comment: None.

Council Discussion:

**Skilling** – He thanked the committee for their work. He stated that there was approximately $100,000 available in grant funds in 2020. He stated that the City received several great applicants for the grant money available. He stated that the committee looked beyond the circumstances present due to the COVID-19 crisis. He stated that he supported a second round of grant funding for those organizations dealing primarily with the COVID-19 crisis.

**Mayor Paul** – He thanked the committee for their work. He clarified that the Mayor Pro Tem Skilling served on the committee.

Mayor Pro Tem Skilling made a motion to adopt Resolution 2020-20. It was seconded.
Vote on Resolution 2020-20:

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The motion passed

**ORDINANCES ON SECOND READING AND PUBLIC HEARINGS**

**ITEM 14 – CONTINUED ORDINANCE O-2020-1 – AMENDING LAKEWOOD MUNICIPAL CODE TITLE 12, AND ARTICLE 10 OF TITLE 17, TO REFLECT CHANGES IN STATE AND FEDERAL LAW RELATING TO WIRELESS SERVICES AND COMMUNICATIONS - MAY BE CONTINUED TO JUNE 8, 2020**

Mayor Pro Tem Skilling made a motion to adopt Ordinance O-2020-1, It was seconded.

Public Comment: None.

Council Discussion:

**Springsteen** - She stated that constituents shared their concerns regarding the presence of Items 14 & 15 when it was already decided to remove them from the April 27, 2020 agenda. She stated that citizens desired to address the issue with Council in a more public setting. She stated that she desired to continue the discussion of Items 14 & 15 on June 8, 2020 or a later date to allow for greater public input.

**Johnson** – She stated that the 5G discussion would benefit from a point, counter-point presentation. She stated that it will be difficult to set a new date for Items 14 & 15 until a meeting can take place in the Council Chambers, the most appropriate place for the discussion.

**Councilor Vincent** – She stated that she believes Items 14 & 15 need to be rescheduled for June 8, 2020 or an alternative date and not indefinitely. She stated that the issue requires attention as soon as possible.

**Councilor Bieda** – He stated that he agreed that Items 14 & 15 needed to be postponed for further public input.

**Springsteen** – She stated that constituents have contacted her and stated that they could not leave public comment on the issue.
Mayor Paul – He stated that the issue needed public interaction and that Items 14 & 15 would be postponed if it could not take place on June 8, 2020. He stated that there were several public opportunities for discussion on the 5G issue, such as Lakewood Speaks. He stated that Council should investigate legal options to create an ordinance on the issue.

Mayor Pro Tem Skilling motioned to postpone Ordinance O-2020-1 to June 8, 2020. It was seconded.

Vote to postpone O-2020-1:

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The motion passed.

ITEM 15 – CONTINUED RESOLUTION 2020-9 – ESTABLISHING CERTAIN FEES FOR PLACEMENT OF WIRELESS CARRIER OR SMALL CELL FACILITIES WITHIN CITY OF LAKewood PUBLIC WAY - MAY BE CONTINUED TO JUNE 8, 2020

Mayor Pro Tem Skilling made a motion to postpone Resolution 2020-9 to June 8, 2020. It was seconded.

Vote to postpone Resolution 2020-9:

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The motion passed.
TEM 16 – **GENERAL BUSINESS** – ITEM 12 moved from Consent Agenda for Council discussion.

**ITEM 12 - EMERGENCY ORDINANCE O-2020-15** CREATING THE COVID-19 IMPACT GRANT PROGRAM AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION TO THE CITY OF LAKEWOOD 2020 ANNUAL BUDGET IN THE AMOUNT OF $100,000 FROM THE GENERAL FUND AND AUTHORIZING THE EXPENDITURE THEREOF AND, FURTHER, DECLARING AN EMERGENCY

Bieda – He stated that he wanted further information on how COVID-19 has affected the revenue sources of the City. He stated that Council should take more time to evaluate the financial situation of the City before creating the grant program as they have already put forth other sources of funds. He stated that there are already other sources of support for businesses and organizations available that could be utilized. He stated that he desired to move the ordinance to June 8, 2020.

Council member Bieda motioned to move Emergency Ordinance O-2020-15 to June 8, 2020. It was seconded.

Council member Harrison – She stated she is concerned about postponing Emergency Ordinance. She stated that local businesses may benefit from the grant program immediately.

Mayor Paul – He clarified that the community grant program would not be for local businesses but for nonprofit organizations helping to address the COVID-19 situation. He stated that the funds would not be used for personnel costs.

Council member LaBure – He stated that he desired to continue forward with the Emergency Ordinance at the current meeting. He stated that there are organizations that could utilize the grant program for immediate relief. He stated that several communities near Lakewood have also created similar programs as well.

Council member Gutwein – She stated that she did not support delaying the grant program. She stated that Council should use taxpayer money to help the community. She stated that she agreed that Council needed to be fiscally responsible, but Council could move forward with the program given the current budget and the City’s reserve amount.

Council member Able – He stated that he agreed that there was immediate need for the grant money. He stated that he believed Council should proceed with the issue at the current meeting.

Johnson – She stated that Council needs to evaluate the City’s finances before proceeding with the grant program. She stated that there are additional resources that citizens could turn to, including the funds in the grant Council just approved.

Springsteen – She asked if the issue could be brought back after Council’s Study Session on May 4, 2020 to the regular meeting on May 11, 2020.
Mayor Paul – He stated that was possible.

Vote to move Emergency Ordinance O-2020-15 to June 8, 2020:

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**TOTAL** 2 9

The motion failed.

Mayor Pro Tem Skilling motioned for the publication and scheduling of second reading of Emergency Ordinance O-2020-15 on May 11, 2020. It was seconded.

Vote on the publication and scheduling of second reading of Emergency Ordinance O-2020-15 on May 11, 2020:

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**TOTAL** 9 2

The motion passed.

Hodgson – She stated that Council will receive further information on the Business Recovery program.

Johnson – She asked what other sources of funds small businesses will be receiving in aid.

Hodgson – She stated that there are federal funds that have become available for small businesses. She stated that the CARES Act has provided some sources of funding for small businesses. She stated that the Study Session on May 4, 2020 would have greater details on the federal funds that small businesses could receive.
ITEM 12 – MAYOR AND CITY COUNCIL REPORTS

Mayor Paul reported that Lakewood.org/virus will be the best source of up-to-date information for citizens. He stated that stay-at-home order has been extended from Jefferson County Public Health until May 8, 2020. He stated that Lakewood has the highest number of cases and encouraged citizens to wear masks.

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

ITEM 13 – ADJOURNMENT

There being no further business to come before City Council, Mayor Paul adjourned the meeting at 8:48 p.m.

Respectfully submitted,

____________________________
Michele Millard, City Clerk
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

Mayor Paul called the meeting to order at 5:30 p.m. in the City Manager’ Conference Room, Lakewood Civic Center South, 480 South Allison Parkway, Lakewood, Colorado.

ITEM 2 – ROLL CALL

Those present were: Mayor Adam Paul, Presiding

Pete Roybal
David Skilling
Jacob LaBure
Charley Able
Dana Gutwein
Sharon Vincent
Mike Bieda
Ramey Johnson
Barb Franks
Karen Harrison

Absent: None.

Others in attendance Kathy Hodgson, City Manager
Cory Peterson, Director of Human Resources
Scott Casey, Thornton Tomasetti

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

ITEM 3 – EXECUTIVE SESSION

Council member Able made a motion to hold an executive session pursuant to Section 2.15(c)(6) of the Lakewood Home Rule Charter and Section 24-6-402(4)(d) of the Colorado Revised Statutes for the purposes of discussing matters critical to the personal safety of members of City Council and for matters involving the protection and security of City property, and specifically to review the results of and to discuss recommendations made in a security audit of certain City offices and facilities, including but not limited to the City Council Chambers. It was seconded.
Vote on the Motion:

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The motion carried.

**ITEM 4 – ADJOURNMENT**

City Council went into the Executive Session at 5:34 p.m.

Submitted by

Michele Millard, City Clerk
MINUTES
SPECIAL MEETING OF THE CITY COUNCIL
CITY OF LAKEWOOD

7:00 P.M February 27, 2020

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

Mayor Paul called the meeting to order at 7:00 p.m. in the City Manager’ Conference Room, Lakewood Civic Center South, 480 South Allison Parkway, Lakewood, Colorado.

ITEM 2 – ROLL CALL

Those present were: Mayor Adam Paul, Presiding

Charley Able
Sharon Vincent
Dana Gutwein
Mike Bieda
Barb Franks
Ramey Johnson
Jacob LaBure
Karen Harrison

Absent: David Skilling
Anita Springsteen

Others in attendance Kathy Hodgson, City Manager
Tim Cox, City Attorney
Ken Fellman, Legal Counsel
Ben Goldstein, Deputy City Manager

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

ITEM 3 – EXECUTIVE SESSION

Council member Able made A MOTION TO HOLD AN EXECUTIVE SESSION PURSUANT TO SECTION 2.15(C)(4) OF THE LAKEWOOD HOME RULE CHARTER AND SECTION 24-6-402(4)(B) OF THE COLORADO REVISED STATUTES, FOR THE PURPOSE OF DISCUSSING MATTERS OF ATTORNEY-CLIENT PRIVILEGE WITH THE CITY ATTORNEY AND THE CITY’S SPECIAL COUNSEL REGARDING POSSIBLE ACTION ON NEW AND PENDING WIRELESS FACILITY PERMIT APPLICATIONS.
It was seconded.

Vote on the Motion:

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The motion carried.

**ITEM 4 – DISCUSSION AND POSSIBLE ACTION** - REGARDING THE ACCEPTANCE AND PROCESSING OF SMALL CELL FACILITY PERMIT APPLICATIONS

**ITEM 5 – ADJOURNMENT**

City Council went into the Executive Session at 7:07 p.m.

Submitted by

Michele Millard, City Clerk
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

Mayor Paul called the meeting to order at 6:00 p.m. in the City Manager’ Conference Room, Lakewood Civic Center South, 480 South Allison Parkway, Lakewood, Colorado.

ITEM 2 – ROLL CALL

Those present were: Mayor Adam Paul, Presiding

Charley Able
Sharon Vincent
Dana Gutwein
Mike Bieda
David Skilling
Anita Springsteen
Barb Franks
Ramey Johnson
Jacob LaBure
Karen Harrison

Absent: None.

Others in attendance Kathy Hodgson, City Manager
Norm Brisson, Court Administrator
Jill Lause, Human Resources Senior Business Partner

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

ITEM 3 – EXECUTIVE SESSION

Council member Able made a motion to hold an executive session pursuant to C.R.S. 24-6-402(4)(f) and Section 2.15(c)(8) of the Lakewood Home Rule Charter to consider a personnel matter, and specifically to conduct interviews of candidates for the position of municipal judge. It was seconded.
Vote on the Motion:

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**TOTAL** 11 0

The motion carried.

**ITEM 4 – ADJOURNMENT**

City Council went into the Executive Session at 6:02 p.m.

Submitted by

Michele Millard, City Clerk

WHEREAS, on January 31, 2020, the United States Department of Public Health and Human Services Secretary declared a public emergency for the novel coronavirus (COVID-19) beginning on January 27, 2020; and

WHEREAS, on March 10, 2020, Colorado Governor Jared Polis declared a State of Disaster Emergency as the number of identified COVID-19 cases in Colorado increased, and announced numerous emergency measures to protect public health and safety; and

WHEREAS, the Jefferson County Department of Public Health has informed the City of Lakewood that the number of confirmed cases of COVID-19 in Jefferson County continues to increase; and

WHEREAS, the cost and magnitude of responding to and recovery from the impact of the COVID-19 Pandemic may be far in excess of the City’s available resources; and

WHEREAS, declaration of a local disaster emergency will assist and permit access to local emergency funds and Federal and State assistance, and will allow adjustments to policies, procedures, and ordinances to ensure the public’s health and welfare; and

WHEREAS, it is appropriate and in the interests of the public health and safety of the City and its residents to rapidly address community spread of COVID-19 and subsequent cascading impacts, such as economic distress, and to further protect the health and safety of the public by declaring a state of disaster in the City of Lakewood; and

WHEREAS, the situation is sufficiently serious that it has become necessary for the City Manager to declare a state of disaster within the City of Lakewood pursuant to Chapter 1.27 of the Lakewood Municipal Code, and to exercise the City Manager’s emergency powers set forth therein; and

WHEREAS, I have reviewed the situation, consulted with City of Lakewood Department Directors and the Jefferson County Director of Public Health, and verified the existence of the state of disaster cited below, and the necessity for me to take immediate, extraordinary action as outlined in this Proclamation.

NOW, THEREFORE, I, KATHLEEN E. HODGSON, AS CITY MANAGER OF THE CITY OF LAKEWOOD, COLORADO, DO PROCLAIM AND ORDER AS FOLLOWS:
SECTION 1. DECLARATION OF STATE OF DISASTER

A. Based on my review of the present circumstances and my consultations with City of Lakewood Department Directors, the Jefferson County Director of Public Health and the Director of the Colorado Department of Public Health and Environment, I have determined that a state of disaster exists requiring and authorizing me to exercise any or all of the emergency powers vested in me as City Manager by Lakewood Municipal Code Chapter 1.27 as described in this Proclamation. The issuance and execution of this Proclamation declaring a state of disaster shall automatically empower me as the City Manager to exercise any and all of the disaster and emergency powers and shall activate all relevant portions of the Emergency Plan and Management System. Nothing in this Proclamation shall be construed to limit or reduce the authority or powers available to the City Manager pursuant to Chapter 1.27, and all provisions of Chapter 1.27 shall remain in full force and effect regardless of whether those provisions are referenced herein.

B. I will be exercising the authority provided in Chapter 1.27 through the mechanisms identified therein, including through the promulgation of such regulations as I deem necessary to protect life and property and preserve critical resources, through the issuance of emergency orders, proclamations and other enactments and through the use and direction of City personnel, services and equipment and such additional acts necessary for the management of the state of disaster.

C. Pursuant to Lakewood Municipal Code section 1.27.071, it is unlawful for any person to violate or to knowingly fail to obey any order or regulation made or issued pursuant to that Chapter. Penalties for violations of any order or regulation promulgated by the City Manager or for violations of any provision of Chapter 1.27 shall be as set forth in Section 1.27.120 of the Lakewood Municipal Code.

SECTION 2. DISTRIBUTION OF DECLARATION OF STATE OF DISASTER

Once issued, this Proclamation shall be properly published and disseminated to the public and filed with the City Clerk and the City Council. A copy of this Proclamation shall be forwarded to the Colorado Division of Emergency Management and the Department of Local Affairs.

SECTION 3. DURATION OF DECLARATION OF STATE OF DISASTER.

Pursuant to LMC Section 1.27.60(D), the state of disaster declared by this Proclamation shall remain in effect until the City Manager declares by Proclamation that the threat of danger has passed or that the disaster conditions no longer exist, suggesting that the City Manager has the authority to declare a state of disaster of indefinite duration. However, Section 1.27.060(D) further provides that a declaration of a state of disaster cannot extend beyond seven days, unless a majority of the City Council approves a longer duration. Inasmuch as the COVID-19 disaster will obviously extend well beyond seven days, the City Manager intends to ask the City Council to vote, at its next meeting, to declare the state of disaster to continue indefinitely. In making the ultimate determination as to whether the danger has passed or the disaster conditions no longer exist, the City Manager may consider such factors as whether the state of Colorado’s declaration of disaster has been terminated.

SIGNED THIS 17th DAY OF March

BY:

Kathleen E. Hodgson, City Manager
City of Lakewood, Colorado

ATTEST:

Michele Millard, City Clerk
City of Lakewood, Colorado