To: Mayor and City Council

From: Jay N. Hutchison, Director of Public Works, 303-987-7901

Subject: ACQUISITION ORDINANCE FOR 1ST AVENUE SIDEWALK PROPERTY RIGHTS, GARRISON STREET TO CREIGHTON MIDDLE SCHOOL

This ordinance was approved on 1st Reading by a vote of 10 ayes 1 nays.

SUMMARY STATEMENT: This ordinance would authorize steps necessary to acquire interests in property for construction of a public sidewalk with curb and gutter along the south side of 1st Avenue from Garrison Street to Creighton Middle School.

BACKGROUND INFORMATION: This sidewalk will enhance pedestrian safety to and from Creighton Middle School, where pedestrians currently walk on the roadway or in the bike lane. The sidewalk will be on the south side of 1st Avenue and connect to existing sidewalk at each end of the project and avoid numerous conflicts with utilities that exist on the north side of 1st Avenue. Curb and gutter is necessary to distinguish between the pedestrian walk and the motor vehicle travel area and to carry local drainage. Using a roadside swale or ditch for local drainage would require more width and, consequently, more land acquisition than installing curb and gutter.

This ordinance declares the city’s intent to acquire property interests necessary for the project and initiates the negotiation process between the City and the property owners for necessary property rights. It also authorizes acceptance of conveyance instruments and, if needed, condemnation of property interests. However, condemnation would not occur prior to additional City Council approval by resolution.

A map is attached that conceptually illustrates the property rights that are anticipated to be needed. It is anticipated that temporary easements for the construction period, illustrated in orange on the map, will be required from four properties. The temporary easements are required to perform minor re-grading and landscape restoration to blend the area behind the new sidewalk into the surrounding site features and yards.

An unusual circumstance exists along the 95 Holland Street property. In typical circumstances, a temporary easement during construction would be sufficient at this location. However, there is an area between the city-owned 1st Avenue right-of-way and the property of the 95 Holland Street owner. This unusual parcel, shown in blue on the map, was originally part of the right-of-way owned by Jefferson County for 1st Avenue. Jefferson County vacated the parcel in 1959 and it was given to...
the then-current owner of 95 Holland Street. Subsequent sales of the 95 Holland Street property did not include this vacated parcel. The previous owner has not been located and property taxes on this parcel have not been paid since 1980.

The current owner of 95 Holland Street was unaware of this unusual parcel’s ownership and is interested in owning the portion of the parcel the City will not need. Public Works will work on resolving the ownership issue with the intent of a portion of the parcel becoming part of the 95 Holland Street property when possible.

The sidewalk adjacent to this unusual parcel may be constructed in a temporary configuration until the ownership is resolved. Resolving ownership of this parcel could take several forms. For example, the actual owner may be found. Or the City could condemn the parcel. Anticipating the owner may not be located, the City has begun paying the back taxes and, if ownership is not resolved in some other way, the City will eventually apply to the county for a Treasurer’s deed to take ownership of the parcel.

**BUDGETARY IMPACTS:** The project is funded by a Safe Routes to School Grant and City Capital Improvement Funds.

**STAFF RECOMMENDATION:** Approval of the ordinance.

**ALTERNATIVES:** If this Ordinance is not approved, the sidewalk will not be built. Pedestrians/students will continue to walk in the street. Grant funding would likely be forfeited.

**PUBLIC OUTREACH:** City staff has contacted the affected property owners seeking to discuss the project. Notification of City Council’s consideration of this ordinance has been mailed to each property owner. The notification includes clear language that there could be no discussion of value at the City Council hearing about this ordinance because this is the very start of the acquisition process and no values have yet been determined.

**NEXT STEPS:** Begin the acquisition process and complete preparation of construction bid documents.

**ATTACHMENTS:** Ordinance O-2020-29

Map

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