

AGENDA
REGULAR MEETING OF THE CITY COUNCIL
CITY OF LAKEWOOD, COLORADO
HYBRID MEETING
LAKEWOOD CIVIC CENTER
480 SOUTH ALLISON PARKWAY
JULY 11, 2022
7:00 P.M.
COUNCIL CHAMBERS & ZOOM

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

City of Lakewood Website: <https://www.Lakewood.org/CouncilVideos>

or

Lakewood Speaks: <https://lakewoodspeaks.org/>

To join the City Council Meeting for Public Comment:

By Computer: <https://lakewood.zoom.us/j/87017960123>

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Webinar ID: 849 5732 0840, #

Participant ID: #

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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 – 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.

**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 2022-50 – APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE TOWN OF MORRISON REGARDING THE ROONEY VALLEY

ITEM 7 – RESOLUTION 2022-51 – APPOINTING MAX DE LA BRUYERE AND HEIDI WESTLUND TO SERVE ON THE BOARD OF DIRECTORS OF THE ALAMEDA CORRIDOR BUSINESS IMPROVEMENT DISTRICT

ITEM 8 – ORDINANCE O-2022-12 – AMENDING CHAPTER 14.27 AND TITLE 15 OF THE LAKEWOOD MUNICIPAL CODE AND ARTICLE 13 OF THE LAKEWOOD ZONING ORDINANCE, ALL RELATING TO AFFORDABLE HOUSING

ITEM 9 – ORDINANCE O-2022-13 – DECLARING THE INTENT OF THE CITY OF LAKEWOOD TO ACQUIRE INTEREST IN PROPERTY FOR PUBLIC PURPOSES FOR THE CONSTRUCTION OF HIGHWAY AND PEDESTRIAN FACILITIES FROM WEST VASSAR AVE TO THE MORRISON ROAD INTERCHANGE ON BOTH SIDES OF SOUTH WADSWORTH BOULEVARD AND AUTHORIZING NEGOTIATIONS WITH PROPERTY OWNERS, ACCEPTANCE OF CONVEYANCE INSTRUMENTS AND CONDEMNATION OF REAL PROPERTY INTERESTS (SUBJECT TO FURTHER COUNCIL APPROVAL)

ITEM 10 – APPROVING MINUTES OF THE CITY COUNCIL MEETINGS

City Council Regular Meeting

May 23, 2022

END OF CONSENT AGENDA

ORDINANCES ON SECOND READING AND PUBLIC HEARINGS

ITEM 11 – ORDINANCE O-2022-10 – APPROVING AN EASEMENT MODIFICATION WITH DANIELS SANITATION DISTRICT

ITEM 12 – EMERGENCY ORDINANCE O-2022-11 – REPEALING AND REPLACING IN ITS ENTIRETY SECTION 14.25.050 OF THE LAKEWOOD MUNICIPAL CODE CONCERNING FLOODPLAIN MANAGEMENT, AND FURTHER, DECLARING AN EMERGENCY

ITEM 13 – GENERAL BUSINESS

ITEM 14 – EXECUTIVE REPORT

CITY MANAGER

ITEM 15 – MAYOR AND CITY COUNCIL REPORTS

- A. COUNCIL MEMBERS BY WARD
- B. MAYOR

ITEM 16 – ADJOURNMENT

STAFF MEMO

DATE OF COUNCIL MEETING: JULY 11, 2022 / AGENDA ITEM NO. 6

To: Mayor and City Council

From: Alison McKenney Brown, City Attorney, 303-987-7451
Alex Dorotik, Deputy City Attorney and Litigation Manager, 303-987-7081

Subject: **2022 IGA BETWEEN CITY OF LAKEWOOD AND TOWN OF MORRISON**

SUMMARY STATEMENT: An IGA between Lakewood and Morrison concerning relative rights and responsibilities for water and sanitary sewer service in the Rooney Valley is presented for Council approval.

BACKGROUND INFORMATION: The City Council has been comprehensively informed concerning this issue and has provided guidance on negotiation of this IGA.

The City of Lakewood is in litigation with the Town of Morrison and two property developers concerning the relative legal rights of the parties to provide water and sewer service to the Rooney Valley, and specifically to “Red Rocks Ranch”. The dispute is the result of the two Cities’ differing interpretations of a 2015 IGA between the parties, as such agreement was interpreted in association with a 2003 IGA, as amended in 2008.

This 2022 IGA resolves the dispute in its entirety, and makes future disputes less likely, by very specifically stating the rights and responsibilities of the parties, as well as the consequence should a party breach the terms of this IGA.

The Town of Morrison has reviewed and approved this proposed IGA.

BUDGETARY IMPACTS: This item does not have an associated budget impact.

STAFF RECOMMENDATIONS: Staff recommends adopting the proposed Resolution approving the 2022 IGA between the City of Lakewood and the Town of Morrison.

ALTERNATIVES: The City Council could choose not to adopt the proposed Resolution.

PUBLIC OUTREACH: This item was promoted through the regular communication channels for an item coming before City Council.

ATTACHMENTS: Resolution 2022-50
2022 Rooney Valley Agreement
Rooney Valley Property Map
2016 Rooney Valley IGA

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

2022-50

A RESOLUTION

APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE TOWN OF MORRISON REGARDING THE ROONEY VALLEY

WHEREAS, § 29-1-203, Colorado Revised Statutes, provides that "Governments may cooperate or contract with one another to provide any function, service, or facility lawfully authorized to each of the cooperating or contracting units, including the sharing of costs, the imposition of taxes, or the incurring of debt ... for any period of time" if such agreements are authorized by each party thereto with the approval of its legislative body or other authority with the power to approve;

WHEREAS, the Parties most recently entered into that certain Intergovernmental Agreement Between the Town of Morrison, Colorado and the City of Lakewood, Colorado Regarding the Rooney Valley, on April 25, 2016 (the "2016 IGA"), which expressly replaced and superseded the Parties' prior intergovernmental agreement regarding the Rooney Valley dated May 5, 2000; and

WHEREAS, the purpose of the 2016 IGA was to provide for coordinated development within the Rooney Valley and to address the provision of water and sewer service to new development within the Rooney Valley; and

WHEREAS, development of the Rooney Valley has continued and the objectives of the 2016 IGA have been achieved, such that the need for coordination between the City and the Town has narrowed to addressing the provision of water and sewer service to remaining undeveloped portions of the Rooney Valley; and

WHEREAS, the City and the Town wish to supersede and replace the 2016 IGA with a 2022 IGA to provide for greater certainty in the provision of water and sewer service to identified properties within the Rooney Valley, and to eliminate the potential for disputes between the Parties with respect to such service; and

WHEREAS, the City Council hereby finds and determines that authorizing the Mayor, Adam Paul, to execute the 2022 IGA is in the best interest of the City of Lakewood.

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

SECTION 1. The 2022 Intergovernmental Agreement Regarding the Rooney Valley is hereby approved.

SECTION 2. The Mayor is hereby authorized to enter into the IGA on behalf of the City.

SECTION 3. This resolution shall become effective immediately after signature upon its adoption.

INTRODUCED, READ AND ADOPTED by a vote of ____ for and ____ against at a regular hybrid meeting of the Lakewood City Council held on July 11, 2022 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

**2022 INTERGOVERNMENTAL AGREEMENT BETWEEN
THE TOWN OF MORRISON, COLORADO AND
THE CITY OF LAKEWOOD, COLORADO
REGARDING THE ROONEY VALLEY**

THIS 2022 INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF MORRISON, COLORADO AND THE CITY OF LAKEWOOD, COLORADO REGARDING THE ROONEY VALLEY (the “**Agreement**”) is entered into as of the ___ day of _____, 2022 (the “**Effective Date**”) by and between the City of Lakewood, a home rule city of the state of Colorado, the address for which is 480 S. Allison Parkway, Lakewood, Colorado 80226, sometimes hereinafter referred to as the “**City**,” and the Town of Morrison, a home rule town of the state of Colorado, the address for which is 321 Highway 8, Morrison, Colorado 80465, sometimes hereinafter referred to as the “**Town**,” and together referred to as the “**Parties**.”

RECITALS

I. Whereas, commencing in May 2000, the Parties entered into a series of intergovernmental agreements for the purpose of planning and regulating the development of property located within the Rooney Valley, which generally lies between the City and the Town, and which is described and depicted in **Exhibit A** to this Agreement; and

II. Whereas, the Parties most recently entered into that certain Intergovernmental Agreement Between the Town of Morrison, Colorado and the City of Lakewood, Colorado Regarding the Rooney Valley, on April 25, 2016 (the “**2016 IGA**”), which expressly replaced and superseded the Parties’ prior intergovernmental agreement regarding the Rooney Valley dated May 5, 2000; and

III. Whereas, the purpose of the 2016 IGA was to provide for coordinated development within the Rooney Valley and to address the provision of water and sewer service to new development within the Rooney Valley; and

IV. Whereas, development of the Rooney Valley has continued and the objectives of the 2016 IGA have been achieved, such that the need for coordination between the City and the Town has narrowed to addressing the provision of water and sewer service to remaining undeveloped portions of the Rooney Valley; and

V. Whereas, the City and the Town wish to supersede and replace the 2016 IGA to provide for greater certainty in the provision of water and sewer service to identified properties within the Rooney Valley, and to eliminate the potential for disputes between the Parties with respect to such service; and

VI. Whereas, the City and the Town have authority to enter into this Agreement under Colorado Constitution Article XIV, Section 18(2), CRS § 29-1-201, *et seq.*, and CRS § 29-20-105.

NOW, THEREFORE, in recognition of the Recitals set forth above, and in consideration of the mutual covenants contained herein, the Parties agree as follows:

AGREEMENT

Section 1. 2016 IGA Superseded and Replaced.

The 2016 IGA is hereby superseded and replaced in its entirety by this Agreement.

Section 2. Water and Sewer Service.

A. Scope of Town’s Authority to Provide Water & Sewer Service

(i) Water and sewer service may be provided by the Town, either directly or in coordination with a district formed in accordance with C.R.S. § 32-4-401, *et seq.*, or § 32-4-501, *et seq.* (a “**District**”), to properties located within the Rooney Valley, which properties are identified and numbered on **Exhibit A**, attached hereto and fully incorporated herein by this reference, in the manner and under the conditions set forth in the chart that appears below as Section 2 (B) (the “**Chart**”). The locations of the properties within the City, the Town, or in unincorporated Jefferson County are not relevant to whether or not Town water and sewer service is provided; instead, only the Chart controls.

(ii) The Parties acknowledge and agree that entities other than the City, including, without limitation, Districts, may be entitled to require, in accordance with existing or future agreements, that the Town receive their approval prior to serving one or more properties included in the Chart. Nothing in this Agreement is intended to supersede, waive, or otherwise interfere with the contractual rights of any entity to require such approval. Rather, this Agreement is expressly intended to govern the rights of the City and the Town with respect to the provision of water and sewer service to the properties described in the Chart.

B. Provision of Water & Sewer Service to Rooney Valley Properties

All references in the Chart are to properties as identified in Exhibit A:

Property Name	Property ID Number	Town water/sewer service permitted <u>without</u> City approval	Town water/sewer service permitted <u>with</u> City approval
Cardel Rooney Valley LP	1		X
CDN Red Rocks LP	2		X
General Shale	3		X
Peterson Trust	4	X	
Rooney Road LLC	5	X	
Three Dinos LLC	6		X

Bear Creek Development Corp 1		X	
Bear Creek Development Corp 2		X	
Gallegos Tommy V			X
Genesee Water & San District		X	
Harlan Place Properties LLC			X
Louisville Property Company LLC		X	
Jefferson County Open Space			X
Mount Carbon Metropolitan District 1			X
Mount Carbon Metropolitan District 2		X	
Mount Carbon Metropolitan District 3			X
Red Rocks Baptist Church		X	
Red Rocks Ranch Subdivision Filing No. 2		X	
Rooney Albert Wayne			X
Rooney Cheryl L			X
Rooney Incorporated 1			X
Rooney Incorporated 2			X
Rooney Randall A			X
Rooney Richard L			X
Schmitz Family Foundation		X	
Security Realty Co			X
Solterra Subdivision 1			X
Solterra Subdivision 2			X
Tharaldson Motels II of Las Vegas Inc 1			X
Tharaldson Motels II of Las Vegas Inc 2		X	
Town of Morrison TP		X	
Trinity III LLC 1		X	
Trinity III LLC 2		X	
United States			X
West Metro Fire Protection District		X	
Xcel Energy 1			X
Xcel Energy 2			X

C. City Approval

Should the Town submit its written request to the City to provide water service, sewer service, or both, to a property identified in the Chart as requiring City approval, the City shall provide its response to the Town, approving or rejecting its request, within sixty (60) days of receiving that request (the “**Consideration Period**”). Should the City fail to provide its written approval or rejection of the Town’s request prior to the expiration of the Consideration Period, the Town’s request shall be deemed approved.

D. Service Through or With a District

All properties served by the Town may, at the Town’s election, be served directly by the Town, or with, through, or in coordination with the Mount Carbon Metropolitan District or any other special district organized for the purpose of providing water or sewer services.

E. Town’s Discretion to Serve

Where Town water/sewer service is permitted, the Town has sole discretion to provide water service, or sewer service, or both, or neither.

Section 3. Dispute Resolution & Liquidated Damages.

A. Cure Period

In the event that a dispute arises between the Parties regarding this Agreement, the aggrieved Party shall provide the other Party written notice of the substance of its grievance. The other Party shall thereafter have a period of 30 days within which to cure the asserted breach or other alleged violation of this Agreement to the reasonable satisfaction of the aggrieved Party (the “**Cure Period**”).

B. Civil Actions

Should the dispute remain unresolved at the conclusion of the Cure Period, the aggrieved Party may file a civil action in the District Court for Jefferson County seeking the relief permitted by this Agreement and nothing more.

C. Liquidated Damages

Given that a failure of either Party to comply with Section 2, above, would result in substantial damages to the other Party; and given that the Parties acknowledge and agree that quantifying, and proving, those damages would be unreasonably difficult in light of their inherent uncertainty as of the Effective Date; the Parties have agreed that the **Liquidated Damages** described below shall be the sole and exclusive monetary remedy to which either Party is entitled in response to a breach of Section 2.

(i) Should the Town be determined, by a final, unappealable, judicial order, to have breached Section Two of this Agreement by providing water or sewer service, without the City’s approval, to a property identified in the Chart as requiring City approval, the Town shall pay to the City an amount equal to fifty percent (50%) of the water and sewer tap fees the Town collects, as and when those fees are collected, for the provision of such service to that property.

(ii) Likewise, should the City grant its approval, by a vote of the City Council or other official act, for the Town to provide water or sewer service, or both, to a property identified in the Chart as requiring City approval, and subsequently rescind that approval, by a vote of the City Council or other official act, the City shall forfeit any and all entitlement to collect any portion of the water and sewer tap fees collected by the Town for the provision of service to that property.

D. Limitation of Monetary Remedies & Availability of Injunctive Relief

(i) Notwithstanding any other provision of this Agreement to the contrary, the Parties expressly waive and disclaim any right to demand or receive monetary damages in any amount, except the Liquidated Damages described above, as a remedy for the breach or default of this Agreement, or for any other claim arising under this Agreement.

(ii) Nothing in this Agreement shall limit the Parties in seeking equitable, or other non-monetary relief, including the remedies of mandamus and injunction, in an action to enforce this Agreement.

Section 4. Term of Agreement; Termination.

The **Term** of this Agreement shall extend until:

A. The Parties mutually agree to terminate the Agreement; or

B. It is determined by a final and unappealable judicial order that one of the Parties has materially defaulted in its obligations under the Agreement, in which event, the non-defaulting Party may choose to terminate the Agreement upon thirty (30) days' written notice to the other Party.

C. Notwithstanding the foregoing, in the event of termination, the Town shall continue to have the right to provide water and sewer service to those properties identified in the Chart as permitting Town water/sewer service without City approval, or for which City approval was granted prior to the effective termination date.

Section 5. Entire Agreement; Amendments.

A. This Agreement embodies the whole agreement of the Parties with respect to the subject matter it addresses. The Parties acknowledge and agree that this Agreement shall supersede all previous communications and representations, whether verbal or written, exclusively among the Parties regarding the provision of water and sewer service to properties located within the Rooney Valley.

B. This Agreement may be amended only by a further written agreement between the Parties, with the Town acting pursuant to Town Board authorization and the City acting pursuant to City Council authorization.

IN WITNESS WHEREOF, the Parties have entered into this Agreement, in counterpart, as of the day and year first set forth above.

Signature Pages Follow

By the signature of its Mayor, the **Town of Morrison** enters into this 2022 Intergovernmental Agreement Between the Town of Morrison, Colorado and the City of Lakewood, Colorado Regarding the Rooney Valley.

TOWN OF MORRISON, COLORADO

By: _____
Chris Wolfe, Mayor

ATTEST:

Lyndsey Paavilainen, Town Clerk

APPROVED AS TO FORM:

Gerald Dahl, Town Attorney

By the signature of its Mayor, the **City of Lakewood** enters into this 2022 Intergovernmental Agreement Between the Town of Morrison, Colorado and the City of Lakewood, Colorado Regarding the Rooney Valley.

CITY OF LAKEWOOD, COLORADO

By: _____
Adam Paul, Mayor

ATTEST:

Jay Robb, City Clerk

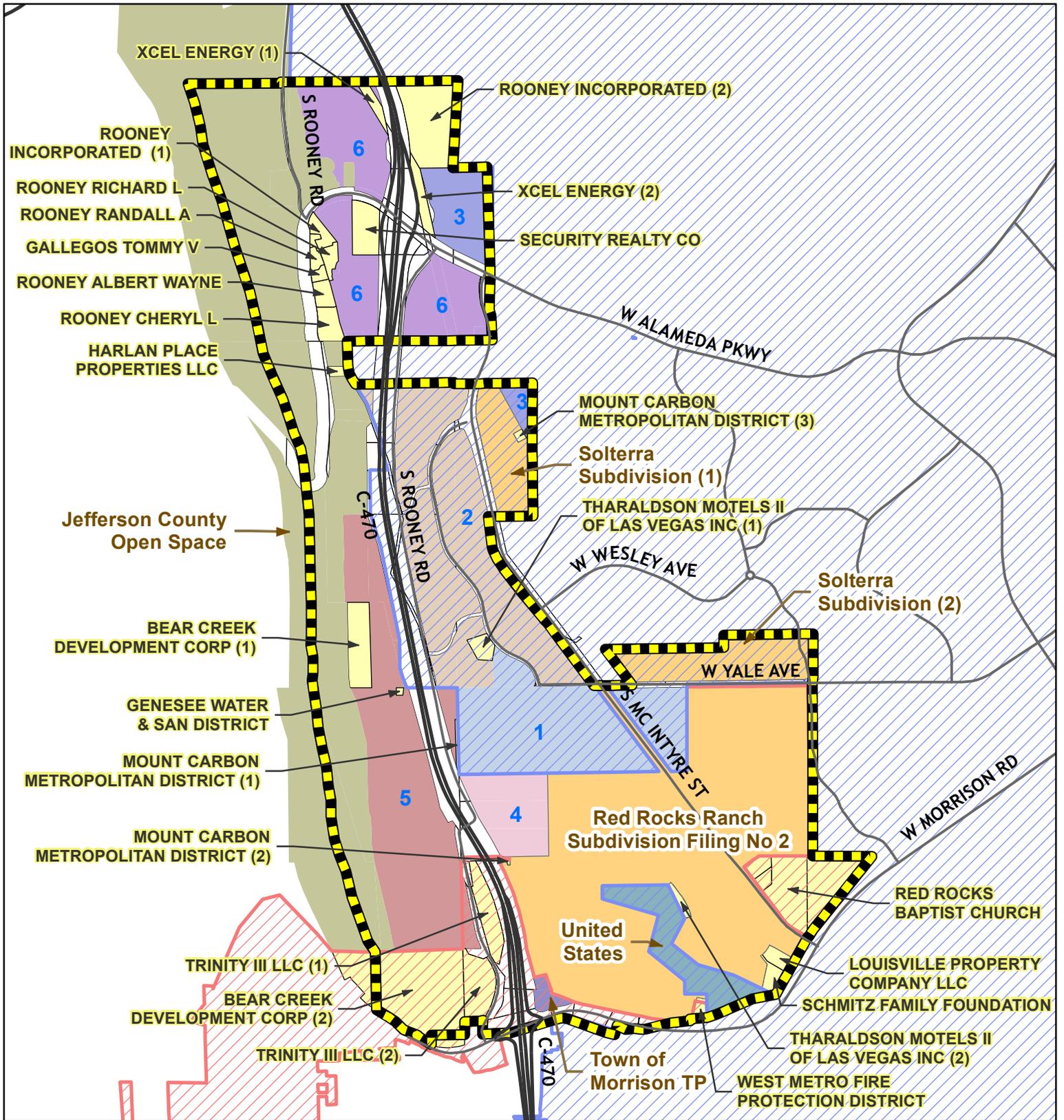
APPROVED AS TO FORM:

Allison McKenny Brown, City Attorney

**2022 INTERGOVERNMENTAL AGREEMENT BETWEEN
THE TOWN OF MORRISON, COLORADO AND
THE CITY OF LAKEWOOD, COLORADO
REGARDING THE ROONEY VALLEY**

EXHIBIT A

Map of Properties in Rooney Valley



- The Rooney Valley
- City of Lakewood
- Town of Morrison
- Public Right-of-Way
- 1 Cardel Rooney Valley LP
- 2 CDN Red Rocks LP
- 3 General Shale
- 4 Peterson Trust
- 5 Rooney Road LLC
- 6 United States
- Three Dinos LLC

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE TOWN OF MORRISON, COLORADO
AND
THE CITY OF LAKEWOOD, COLORADO
REGARDING
THE ROONEY VALLEY

April 25, 2016

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INTERGOVERNMENTAL AGREEMENT

BETWEEN

THE TOWN OF MORRISON, COLORADO

AND

THE CITY OF LAKEWOOD, COLORADO

REGARDING

THE ROONEY VALLEY

This Agreement is made and entered into as of the ___ day of April, 2016, by and between the CITY OF LAKEWOOD, a home rule city of the State of Colorado, whose address is 480 South Allison Parkway, Lakewood, Colorado 80226, sometimes hereinafter referred to as the “City” and the TOWN OF MORRISON, a home rule town of the State of Colorado, whose address is 321 Highway 8, Morrison, Colorado 80465, sometimes hereinafter referred to as the “Town,” and together referred to as the parties.

WITNESSETH:

WHEREAS, pursuant to C.R.S §§ 29-1-201 *et seq.*, and 29-20-105, local governmental entities are authorized and encouraged to make the most efficient and effective use of their powers and responsibilities by cooperating and contracting with other governmental entities for the purposes of planning or regulating the development of land, including but not limited to the joint exercise of planning, zoning, subdivision, building and related regulations and revenue sharing; and,

WHEREAS, the City, Town and Jefferson County, Colorado have been involved since 1994 in master planning the Rooney Valley; and,

WHEREAS, joint planning to coordinate land use, open space, transportation and utilities has proven beneficial; and

WHEREAS, the Town and the City desire to jointly encourage quality development with construction of adequate Public Improvements and the provision of Municipal Services to serve

development in the Rooney Valley and to share Revenues generated by development in the Rooney Valley; and,

WHEREAS, the City and Town wish to encourage development in the Rooney Valley by providing a unified land entitlement process which results in cost efficient and timely processing of land use applications and minimal duplication of effort and expense by the Town, the City and Owners; and,

WHEREAS, the Town and the City plan to process development proposals for the Rooney Valley in a coordinated manner, reciprocally and promptly sharing all relevant information; and

WHEREAS, the Town and the City have agreed to work cooperatively, through contract or internal staff, in the review and processing of land development proposals by Owners and in project administration for development in the Rooney Valley; and

WHEREAS, local governmental entities may, pursuant to intergovernmental agreement, provide for revenue-sharing and are authorized to receive and expend funds from other governmental and private sources for the purposes of planning for or regulating the use of land within their respective jurisdictions; and

WHEREAS, the Town and the City desire to utilize Revenues generated by development in the Rooney Valley to assist with the payment of Municipal Services for development in the Rooney Valley, to assist in certain cases with the construction of onsite and offsite Public Improvements to serve development in the Rooney Valley, and to share such Revenues between the Town and the City; and

WHEREAS, the Town and the City desire to establish the standards, staffing and budget for the Municipal Services to be provided by the City or the Town and the scope of Public Improvements to be provided by any Owner, District or other entities; and

WHEREAS, the Town and City had entered into a previous Intergovernmental Agreement, dated May 5, 2000, and in effect until adoption of this agreement; and

WHEREAS, the parties desire to assure that the Town and the City each have adequate ability to enforce this Agreement pursuant to C.R.S. §29-20-105, which provides that each

governing body that is a party to an intergovernmental agreement such as this has standing to enforce the terms thereof, including, but not limited to, specific performance and injunctive relief, even though the land is annexed or transferred to another jurisdiction.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

ARTICLE I.

DEFINITIONS AND SCOPE OF AGREEMENT

1.01 Definitions.

The following capitalized terms shall be defined as follows:

1. "Agreement" shall mean this Intergovernmental Agreement between the Town of Morrison, Colorado and the City of Lakewood, Colorado Regarding the Rooney Valley.
2. "Approving Municipality" shall mean the municipality possessing authority to approve a petition or application for disconnection, annexation, zoning or subdivision of property within the Rooney Valley.
3. "Bandimere Property" shall mean that property depicted and identified as such on **Exhibit A.**
4. "City" shall mean the City of Lakewood, Colorado.
5. "City Revenues" shall mean the Revenues collected by the City under its 3% sales and use tax as described at Paragraph 21 of this Section 1.01.
6. "District" shall mean any governmental entity other than the Town or the City which may provide or require an Owner to provide Public Improvements or Municipal Services.
7. "Event of Nonappropriation" shall mean the failure or determination not to distribute funds as required in Section 4.01.5.
8. "Final Court Action" shall mean a final order or opinion issued by a court of competent jurisdiction by which the City or Town is bound, and wherein no appeal can be taken or the time for filing an appeal has expired.

9. "Municipal Services" shall mean the types of services normally provided by municipalities, including but not limited to: police protection, traffic engineering, public way landscape maintenance, street maintenance (including street repair, drainage maintenance and repair, street cleaning and snow and ice removal), administrative functions relating to processing and review of applications, building inspections and related services, economic development and land use planning.

10. "Owner" or "Owners" shall mean any person or entity which owns or is the contract purchaser of real property in the Rooney Valley.

11. "Owner Agreement" shall mean any agreement entered into by the Town and/or the City with an Owner to provide economic incentives for such Owner to develop its property in the Rooney Valley.

12. "Peterson Property" shall mean that property depicted and identified as such on Exhibit A.

13. "Project" shall mean a specific undertaking for the construction of any Public Improvements, Public-Related Improvements and any public or private buildings and related amenities located within the Rooney Valley.

14. "Project Coordinator" or "Project Coordinators" shall mean the individual appointed by the Town and/or the individual appointed by the City pursuant to Section 2.03 to represent the Town and the City, respectively, on the Project Management Team.

15. "Project Management Team" shall mean the Town Project Coordinator and the City Project Coordinator.

16. "Public Improvement" or "Public Improvements" shall mean those rights-of-way, easements, access rights, and physical improvements which, upon formal acceptance by the Town or the City shall become the responsibility of the Town or the City for ownership and/or maintenance and repair, and shall include, but not be limited to, the following: curb and gutter, asphalt pavement, concrete pavement, streets of all types, survey monuments, pavement striping, sidewalks, pedestrian/bike paths, traffic signals, street lights, highways, freeways, rights-of-way, easements, landscaping in rights-of-way and easements, park and open space improvements, access rights, construction plans, medians, bridges, acceleration and deceleration lanes, culverts, storm drainage facilities, including necessary retention and detention structures and channels, water lines, sanitary sewer lines, and all other improvements which upon acceptance by the Town, City or a District, are intended to be for the use and enjoyment of the public, and any other improvements dedicated or used for public purposes which are to serve the Rooney Valley

and to ensure that the Project may be developed in accordance with an approved site plan.

17. "Public Improvement Agreement" or "PIA" shall mean one or more agreements between an Owner and/or District and the Town and/or the City describing the Public Improvements to be constructed by such Owner and/or District and any phasing or other details relative to the scope, timing and collateral to assure the completion of such Public Improvements.

18. "Public Improvement Costs" shall mean the costs incurred to design, finance, construct, acquire or otherwise provide Public Improvements.

19. "Public-Related Improvements" shall mean those improvements to the Rooney Valley which are open and accessible to the public, but located on private property and maintained by an Owner, including, but not limited to parking lots and landscaping on the parking lots, private roadways, culverts, storm drainage facilities, including necessary retention and detention structures and channels, architectural upgrades, and common areas within and outside buildings in the Rooney Valley.

20. "Public-Related Improvement Costs" shall mean the costs incurred to design, finance, construct, acquire or otherwise provide, and to maintain, Public-Related Improvements.

21. "Revenues" shall mean Sales Tax Revenue and Use Tax Revenue collected by the City and the Town for activities in the Rooney Valley only. The parties agree that the current Town of Morrison sales and use tax rate is 3.75%, of which .75% is reserved, by the terms of its authorizing documents, for capital improvements in the Town and is not considered part of "Town Revenues" hereunder, and thus also not a part of "Revenues" as hereby defined. The parties agree that the current Lakewood sales and use tax rate is 3%. To the extent either party shall increase its sales and use tax rate, such increase, and the revenues attributable to such increase, shall not be considered a part of "Revenues" under this Agreement, and shall be retained exclusively by the jurisdiction collecting the same, or in the case of Morrison, upon whose behalf the same are collected.

22. "Rooney Valley" shall mean the property depicted and identified as such on **Exhibit A**.

23. "Rooney Valley Development Standards" shall mean the Rooney Valley Development Standards as adopted by the Town on July 20, 1999 and by the City on February 22, 1999. Any differences in versions adopted by the Town and the City shall be reconciled by the Rooney Valley Planning Commission, taking into consideration the recommendations of the Project Management Team. Future amendments may be approved by the Rooney Valley Planning Commission following notice to the Town Board and City Council and a public hearing by the

24. "Rooney Valley Master Plan" shall mean the Rooney Valley Master Plan as adopted by the Town on August 24, 1999 and by the City on May 26, 1998. Any differences in versions adopted by the Town and the City shall be reconciled by the Rooney Valley Planning Commission, taking into consideration the recommendations of the Project Management Team. Future amendments may be approved by the Rooney Valley Planning Commission following notice to the Town Board and City Council and a public hearing by the Rooney Valley Planning Commission.

25. "Rooney Valley Planning Commission" shall mean a committee composed of six members initially, three of whom shall be appointed by the Board of Trustees of the Town and three of whom shall be appointed by the City Council of the City. If an Event of Nonappropriation occurs and for so long as such Event of Nonappropriation continues, the other (non-defaulting) party shall be entitled to appoint a fourth member to the Commission.

26. "Sales Tax Revenue" shall mean the Revenue (as defined at Paragraph 21 of this Section 1.01) received by the City or the Town from the imposition of a municipal sales tax or any subsequently enacted tax imposed by or for the benefit of the City or Town on the price or value of goods or services and derived from transactions or business conducted, located or served within the Rooney Valley.

27. "Shared Revenues" shall mean thirty percent (30%) of Revenues collected by either municipality; which amount shall be shared by the Town and the City as described in Section 4.01.3 of this Agreement.

28. "Town" shall mean the Town of Morrison, Colorado.

29. "Town Revenues" shall mean the Revenues collected by the Town under its 3% unrestricted sales and use tax, as described at Paragraph 21 of this Section 1.01, and understanding that the Town's sales tax is locally imposed but collected on behalf of the Town by the State of Colorado.

30. "Use Tax Revenue" shall mean the Revenue (as defined at Paragraph 21 of this Section 1.01) received by the City or Town for the purchase, rental, or lease of tangible personal property that is stored, used, or consumed in the City or Town, respectively. Use Tax Revenue shall not include construction use tax.

1.02 Scope of Agreement.

1. In consideration of the terms and conditions of this Agreement, the Town and the City agree to jointly plan for the development of, and to share the Revenues from, the property located within the Rooney Valley in accordance with the provisions of this Agreement. It is the intent of the City and the Town to share the burdens and benefits of development within the Rooney Valley, to the full extent permitted by law, on a cooperative basis in accordance with the provisions of the Agreement.
2. Any development that crosses 50 feet or more into the Rooney Valley within the intergovernmental Agreement (IGA) boundary area as depicted and identified on **Exhibit A** will be subject in its entirety to all provisions of this Agreement.

ARTICE II.

LAND USE AND DEVELOPMENT REVIEW PROCESS

2.01 General Description of Project Development Process.

The parties agree that the provisions of this Agreement shall constitute a customized process for development of the Rooney Valley to be used by the Town and the City to administer and manage development of the Rooney Valley.

This Article II describes the procedures which shall apply to the development of any Project within the Rooney Valley. Pursuant to the provisions of C.R.S. §29-20-105, both the Town and the City shall participate fully in the land use and zoning review and approval of land development projects, in determining the scope and delivery of Municipal Services and in sharing Revenues derived from the Rooney Valley, all as described in greater detail in this Agreement, and, therefore, both the Town and the City shall have standing to enforce the provisions of this Agreement, all pursuant to the terms hereof.

2.02 Application of Ordinances, Regulations, Codes, Policies, Procedures.

1. **Joint Planning and Zoning.** The Town and the City recognize and agree that some of the regulations and procedures for land development stated in this Agreement differ from the customary and normal processes used by the Town and the City. Pursuant to C.R.S. §29-20-105, each party agrees that the specific regulations and procedures for development of the Rooney Valley expressly stated in this Agreement shall be applicable to the Rooney Valley in order to provide for uniformity and continuity in jointly processing land use matters that are subject to this Agreement.

2. **Zoning and Development.** While both the Town and the City have promulgated ordinances, regulation, codes, policies and procedures regarding the review and approval of land development within their communities, the Town and the City agree that procedures in the land use regulations of the Approving Municipality wherein the subject property lies shall be used to govern the land use actions identified in Section 2.05.1.

3. Planning. The principal policy and planning documents for the Rooney Valley shall be the Rooney Valley Master Plan and Rooney Valley Development Standards. Any modification to the policy and planning of the City or the Town which have been made applicable to development within the Rooney Valley shall only be effective after approval of such modification by the Rooney Valley Zoning Commission. Until such time, the policy and planning documents in the form existing as of the date of this Agreement shall continue to apply to the Rooney Valley

2.03 Project Management Team.

There shall be a Project Management Team. The Project Management Team shall consist of two Project Coordinators appointed as follows: (1) the City Manager of the City shall designate a person to act as the City Project Coordinator; and (2) the Board of Trustees of the Town shall designate a person to act as the Town Project Coordinator. The City and Town may also appoint others to assist the Project Coordinators. Each Project Coordinator shall be the primary contact person concerning the development of any Project within the Rooney Valley. The City and Town may change or replace their appointee at any time at their sole discretion.

The Purpose of the Project Management Team is to provide day-to-day administrative oversight of the development process in the Rooney Valley and to ensure coordination between the City and the Town. The Project Management Team shall also coordinate the interaction and input from the City and Town administrative staff, consultants, and interested parties and organizations. The members of the Project Management Team will jointly and cooperatively coordinate the land use and development approval processes, the planning and development of Public Improvements, and the planning and provision of Municipal Services for the Rooney Valley and will keep each other informed throughout the process. Neither the City Project Coordinator nor the Town Project Coordinator shall possess the authority to enter into contractual agreements on behalf of their respective municipalities and all contractual agreements proposed by the Project Management Team shall be subject to approval of the normal contracting authority of the City and the Town. The Project Management Team will meet as needed, but not less often than monthly during the development of any Project. On an as needed basis, the participation or representatives from other organizations and agencies may be included in meetings of the Project Management Team. As an administrative body, the Project Management Team is not intended to be and shall not constitute a "local public body" within the meaning of C.R.S §24-6-402.

2.04 Rooney Valley Planning Commission.

There shall be a Rooney Valley Planning Commission. The Rooney Valley Planning Commission shall be composed of three members appointed by the City Council of the City and three members appointed by the Board of Trustees of the Town. If an Event of Nonappropriation occurs and is continuing the other (non-defaulting) party shall be entitled to appoint a fourth member. The members appointed by the Town shall be Town officials or employees or registered electors of the Town or both. The members appointed by the City shall be current members of the

City's planning commission. An appointed member of the Commission may be removed or replaced by the appointing municipality at any time without reason or cause. The Commission shall elect from their members a chairman and vice-chairman. Four members in attendance and eligible to vote shall comprise a quorum of the Commission.

The Commission shall hear all matters within the IGA area to the extent such matters are also within the scope of Section 2.05.1, and any amendment to the Rooney Valley Development Standards or the Rooney Valley Master Plan, or the adoption of any rules of procedure for the Commission. All decisions of the Commission shall require the affirmative vote of a majority of all votes attributed to all members of the committee regardless of the number of members in attendance (i.e., four affirmative votes are required to approve such actions). The Commission shall be subject to the Colorado Open Meetings and Colorado Open Records laws. The Commission may promulgate or adopt rules of procedure not inconsistent with this Agreement to guide and assist the committee in the conduct of its business. The City and the Town shall assist by making meeting facilities, materials and administrative support available to the Commission.

2.05 Joint Municipal Review Procedures.

1. **Development Approvals.** Any application for any development approvals shall follow the procedures in the land use regulations of the Approving Municipality wherein the subject property lies. The Project Management Team shall be responsible for staff functions, the Rooney Valley Planning Commission shall serve as the Planning Commission or Board of Adjustment, and the City Council or Town Board shall have final approval authority for all actions under this Section.

2. **Site Plan and Subdivision.** Any application for site plan or subdivision shall be processed by the Approving Municipality in accordance with applicable local and state law. Each application received by either municipality, and all documentation related to an application received by either municipality, shall be mailed promptly or otherwise distributed to each member of the Project Management Team within three (5) business days following receipt. Prior to rendering any final decision concerning site development plan or subdivision, the Approving Municipality shall notify the other municipality in writing of the date and time of the meeting or hearing at which a final decision is expected to be rendered. Such notice shall also provide the other municipality a reasonable opportunity to prepare and submit comments and recommendations to the Approving Municipality concerning the application or petition, or a reasonable opportunity to prepare for attendance at the meeting or hearing, prior to the final decision. Failure to timely respond or otherwise submit comments or recommendations to the Approving Municipality following delivery of notice shall be deemed a waiver by the other municipality of its right to comment on the application.

3. **Tie Votes on the Commission.** If any motion before the Rooney Valley Zoning Commission to take action on a matter within the scope of Section 2.05.1, any amendment of the

Rooney Valley Development Standards or the Rooney Valley Master Plan, results in a tie vote with the representatives of the Town voting on one side and representatives of the City voting on the other side, the decision will not be deemed a final decision, but will be continued for a period not to exceed thirty (30) days. The purpose of such continuance shall be to allow sufficient time to assure that decisions are made based upon their merits and not due to jurisdictional disputes. The Rooney Valley Zoning Commission shall then reconvene for the purpose of rendering a final decision. At that time, any motion resulting in a tie vote shall be deemed to have failed for lack of a majority. A tie vote on a motion relating to other matters or a tie vote with representatives of the Town and the City voting on both sides of the motion shall be deemed to have failed for lack of a majority.

2.06 Disconnection and Annexation.

1. Any application for disconnection or annexation shall follow the procedures of Title 31, Article 12 of Colorado Revised Statutes, and if disconnection from or annexation to the Town, the requirements of Title 10, Chapter 9 of the Morrison Municipal Code.

2. The Town and the City will encourage Owners of property within the Rooney Valley that is in unincorporated Jefferson County to annex such property to the Town or the City. Specifically, the City agrees not to annex the Bandimere Property or the Peterson Property without the approval of the Town as expressed by resolution of the Town Board. The Town agrees that no unincorporated property in the Rooney Valley will be granted access to the Town's municipal water or sewer services unless the property annexes to either the Town or the City.

2.07 Building Codes and Permits.

Construction of any Project shall be in conformance with the version of building codes in effect in the Approving Municipality at the time of application for the relevant permit. Each municipality will review building plan submittals and issue building permits within their own jurisdiction.

2.08 Required Fees; Distribution of Fees.

Both the City and the Town impose fees and charges for the costs associated with certain administrative functions of each municipality. The standard fees of the Town or the City shall apply to administrative functions performed under this Agreement, unless otherwise provided herein or unless the Project Management Team determines that additional fees are necessary to pay the actual costs of the services provided. The Town and the City hereby authorize the other to perform the administrative functions described herein and to collect and utilize the fees collected as described herein. Fees shall be paid by the Owner at the time an application is submitted for which such fees is required.

2.09 Inspections.

The City and Town will each be responsible for making building inspections; private site improvement inspections including parking lots, landscaping, fencing and other site improvements; and Public Improvements inspections within their own jurisdiction.

The Town will be responsible for inspection of water and sewer systems within the Town's service area, which area may include property within the Rooney Valley that may in the future be annexed by Lakewood. West Metro Fire Protection District shall be responsible for fire code inspections and various county and state agencies shall conduct other inspections. The results of inspections shall be transmitted to the Project Coordinator.

ARTICLE III.

PROVISION OF MUNICIPAL SERVICES

3.01 Providers of Municipal Services Generally.

The parties have determined that Municipal Services for the Rooney Valley shall be provided and funded as described in this Article III. This Agreement does not alter or affect any other agreement or legal requirement pursuant to which a District or other entity provides or has agreed to provide Municipal Services, Public Improvements, Public-Related Improvements or other services or improvements to the Rooney Valley. In addition, until property in the unincorporated portions of the Rooney Valley is annexed by the Town or the City, it is the intent of the parties that Municipal Services be provided by Jefferson County or a District. If the provision of any Municipal Services by the City could cause the City to exceed its revenue or spending limits under Article X, Section 20 of the Colorado Constitution, the parties agree that the City may request that Municipal Services be provided by the Town or others.

It is the intent and expectation of the parties that Public Improvements and Public-Related Improvements will be installed or constructed by Owners or Districts within the Rooney Valley and that major utility services will be provided by entities other than the Town and the City. However, the parties agree that water and sanitary sewer services may be provided by the Town, subject to annexation of unincorporated property, and, as to property in the City, with the consent of the City, to the full extent of the Town's physical and legal capacity to do so.

3.02 Police Protection.

Police Protection in the City will be provided by the City and in the Town will be provided by the Town. Costs of these services will be paid by each municipality individually.

3.03 Traffic Engineering, Public Way Landscape Maintenance and Street Maintenance Services.

Traffic engineering, public way landscape maintenance and street maintenance services (including street repair, drainage maintenance and repair, street cleaning, and snow and ice removal for public streets), if not provided by a District, shall be provided by the City for all properties in the City and by the Town for all properties in the Town. The City and Town shall mutually determine an annual fee by separate agreement for the cost of the provision of these

services, if needed. Any unresolved issues regarding performance of or payment for services will be referred to the City Manager of the City and the Mayor of the Town or his/her designee who will meet in an attempt to resolve the issues for which there may be disagreement. If no resolution by the Town Administrator and City Manager is reached within one month, the dispute resolution procedures of Article VI will apply.

3.04 Processing of Applications, Building Inspections.

The processing and review of applications, building inspections and related services for which a fee is charged shall be performed, and fees charged for such services, in the manner described in Article II.

3.05 Joint Services.

Economic development and general land use planning not specifically related to site development, shall be provided jointly by the Town and the City. Both parties will use their own resources to encourage economically viable development in the Rooney Valley. All information regarding proposed developments in the Rooney Valley will be promptly shared with each party and, under the policy guidance of the Project Management Team, the Town and the City will determine whether development incentive arrangements are appropriate. The Project Management Team will assist an Owner as necessary and appropriate and will initiate the land use planning and development procedures described in Article II of this Agreement. As between the Town and the City, there will be no reimbursement or Revenue sharing for the cost of these services. Nothing herein shall preclude the Town and the City from seeking reimbursement from an Owner for the cost of providing certain services.

3.06 Other Services.

All other services which may be provided by either municipality, such as general administrative services, legal services, park and recreation services, liquor and other licenses, code enforcement, animal control, prosecution and judicial services, shall be provided by each municipality at its sole cost within its own jurisdiction. The Town or the City may contract with others for such services, but the cost of, responsibility, and fees or other charges for such services shall remain with each municipality and the parties recognize that the type and level of such services may differ in each municipality.

3.07 Supervision and Delegation of Authority.

The Town and City shall each be responsible for the employment, compensation, training and supervision of their own employees. To implement some services, however, the Town and the City may take such further action as may be necessary to delegate authority to the other to carry out the specified responsibilities.

ARTICLE IV.

REVENUE SHARING

4.01 Revenue Sharing.

1. Multiple-Fiscal Year Agreement of Town. This Agreement shall constitute a multiple-fiscal year agreement of the Town to share Net Sales and Use Tax Revenue with the City as approved by the electors of the Town on November 2, 1999 pursuant to the provisions of Article X, Section 20 of the Colorado Constitution. The Town shall share Net Sales and Use Tax Revenues with the City in accordance with the procedures described in this Article IV.

The Board of Trustees of the Town agrees not to take any action, without the express written consent of the City, to reduce the rate or base of any tax which is subject to sharing with the City, unless and only to the extent the Town is required by state law or home rule charter to do so. Future tax increases are not subject to this agreement.

2. Year-to-Year Agreement of City. The City has not held an election to authorize a multiple-fiscal year agreement with the Town pursuant to Article X, Section 20 of the Colorado Constitution and, therefore, the financial obligations of the City herein are subject to annual approval and appropriation by the City Council of the City. Subject to such annual approval and appropriation by the City Council of the City, the City shall share Net Sales and Use Tax Revenues with the Town in accordance with the procedures described in this Article IV.

The City Council of the City agrees not take any action, without the express written consent of the Town, to reduce the rate or base of any tax which is subject to sharing with the Town, unless and only to the extent the City is required by state law or home rule charter to do so. Future tax increases are not subject to this agreement.

3. Determination and Sharing of Revenues. The Town and City agree that sixty percent (60%) of Revenues collected will be used by the collecting municipality for the provision of general services provided by the collecting municipality including police service. The Town and City agree that ten percent (10%) of Revenues collected will be used by the Town or the City as appropriate for the purposes of servicing the residential uses within the Valley. It is the intent of the parties that this 10% shall be remitted to each jurisdiction in proportion to the fraction of the total number of residential units within the Valley located within each jurisdiction. For example, if 50% of the total units are in the Town and 50% in the City, the 10% of Revenues would be divided evenly. The Town and City further agree that the remaining thirty percent (30% of Revenues) will be considered Shared Revenues and will be shared equally. Although the City's authority to share with the Town the City's Revenues derived from that property in the Rooney Valley which is within the City is subject to an annual appropriation by the City Council, it is the present intent of the City to maintain and continue the cooperation and sharing of Revenue described in this Agreement.

a. Dispersal of Revenues. Subject only to an annual appropriation by the City, the City shall annually distribute to the Town fifty percent (50%) of all Shared Revenues collected within the Rooney Valley plus the required portion of the ten percent of revenues dedicated to residential services. Subject only to an annual appropriation by the Town, the

Town shall annually distribute to the City fifty percent (50%) of all Shared Revenues collected within the Rooney Valley plus the required portion of the ten percent of revenues dedicated to residential services. Disbursals by the Town and the City to the other party shall take place no later than June 30 of the calendar year subsequent to the year in which the Net Sales and Use Tax Revenues were collected.

b. Example. By way of illustration and not limitation, **Exhibit B** demonstrates an example of the revenue sharing contemplated by this Agreement.

c. Record Keeping. The City and Town shall each maintain complete and accurate records sufficient to determine the amount of Revenues received from the Rooney Valley during each calendar year. On or before June 30th of each year throughout the term of this agreement, the City and the Town will each deliver to the other an audited statement of the amount of City Revenues or Town Revenues, as the case may be, received from that portion of the Rooney Valley located within the City and the Town, respectively, for the prior year.

4. Owner Agreements. The Town or City may unilaterally enter into Owner Agreements and agree to remit any or all of its portion of revenues from a specific Project to the Owner of such Project to assist in paying Public Improvement Costs or Public-Related Improvement Costs incurred by such Owner. The Town and City may mutually agree to jointly enter into an Owner Agreement to remit some or all Shared Revenues. Nothing in this Agreement shall prevent the Town or the City from sharing additional amounts of its portion of the Shared Revenues with one or more Owners, provided such sharing shall not reduce the amount of Shared Revenues to be remitted to the other party as provided herein.

5. Nonappropriation by City. For any year in which the City fails or determines not to make an appropriation prior to December 31st of such year to remit Shared Revenues to the Town, the Town shall be relieved of its obligation to remit any Town Revenues to the City during the following year. Following the occurrence of a City Event of Nonappropriation, the City may cure such Event of Nonappropriation by appropriating and remitting to the Town an amount equal to the City Revenues which would have been so remitted but for the Event of Nonappropriation and the Town shall then remit to the City any Town Revenues which were not remitted pursuant to the provisions of this Section 4.01.5 and the provisions of this Article IV relating to the sharing of Revenues shall be fully reinstated. Following the second and any subsequent City Event of Nonappropriation, however, the City's right to cure and reinstate the sharing of Revenues or the provision of Municipal Services by the City in the Town, as the case may be, shall only be with the consent of the Town. In addition, for any year in which a City Event of Nonappropriation has occurred and is continuing, the Town shall be entitled to appoint a fourth member to the Rooney Valley Zoning Commission.

6. Subsequent Elections. In the event the electors of the City authorize the City to share Revenues with the Town and/or one or more Owners, then the parties will modify this Agreement

to reflect such absolute commitment and remove the Event of Nonappropriation consequences which would no longer be applicable.

7. City May Defer Receipt of Revenue. In order to comply with the revenue and spending limitations of Article X, Section 20 of the Colorado Constitution, the City may defer receipt of all or part of the Shared Revenues to be remitted to the City and request that such Shared Revenues be held by the Town until the City requests that all or part of such amounts be remitted to the City. Any Revenue by the Town at the request of the City shall be invested and shall be credited to the City if and when remitted to the City.

4.02 Audit Rights

The City and the Town shall cause to be prepared, kept, and maintained, suitable financial records and other books and accounts as may be necessary to determine the amount of Revenues received and collected, and the amount to be remitted and shared pursuant to this Agreement. All such records, books, and accounts shall be maintained for a period of not less than six years after the date such Revenues should have been collected and shall be made available for inspection and audit at any time by either party to this Agreement.

ARTICLE V.

PUBLIC IMPROVEMENTS

5.01 Determination of Necessary Public Improvements.

The parties recognize and agree that the scope of Public Improvements and Public-Related Improvements (collectively herein, the "Improvements") necessary to serve any Project has not been and cannot be fully determined until additional planning, engineering and design work relating to a specific Project has been completed. If the Improvements will be located entirely within the City and serve a Project which is located entirely within the City, then the Public Improvements Agreement may be with only the City and the required collateral to assure satisfactory completion of such Public Improvements may be for the benefit of only the City. If the Improvements will be located entirely within the Town and serve a Project which is located entirely within the Town, then the Public Improvements Agreement may be with only the Town and the required collateral to assure satisfactory completion of such Public Improvements may be for the benefit of only the Town. Otherwise, if the Improvements serve a Project located within both the Town and the City, the Public Improvements Agreement shall be entered into by both the Town and the City and the collateral provided to assure satisfactory completion of such Improvements shall be for the benefit of and enforceable by both the Town and the City. The Public Improvement Costs for Improvements to serve the Project shall be the sole responsibility of the Owner or a District. Notwithstanding any ordinances or other regulations of the City or the Town to the contrary, the City and the Town shall not be obligated to share in any Public Improvements Costs. An Owner may use any portion of the Shared Revenues that may be allocated to the Owner pursuant to an Owner Agreement to pay Public Improvement Costs and any Public-Related Improvement Costs authorized by such Owner Agreement. To the extent such Public Improvement Costs and Public-Related Improvement Costs exceed the amount of any Shared

Revenues paid to the Owner, the Owner shall nonetheless be responsible to pay such Public Improvement Costs and Public-Related Improvement Costs. With respect to Improvements that will be located both within the City and the Town, if the City and the Town determine that Public Improvements beyond those provided by an Owner or a District are necessary or desirable, the Town and the City may agree to provide or obtain such Public Improvements and pay or assess the cost thereof according to any lawful means. Otherwise, the determination of the degree, if any, to which an Owner may be permitted to use any portion of the Shared Revenues shall be solely the determination of the jurisdiction in which the Improvements are located.

5.02 Construction of Public Improvements and Public -Related Improvements.

The Owner or a District shall be required to construct, acquire or otherwise provide, all Public Improvements and Public-Related Improvements to serve the Owner's development. Although the City and the Town have the obligation to operate, maintain, repair, replace and reconstruct Public Improvements that have been dedicated to and accepted by the City or the Town, Districts and utility providers may require other Public Improvements, Public-Related Improvements and/or utilities for the development of a Project, including, but not limited to, other transportation, drainage, water, sanitary sewer, gas, electricity, telephone, cable television, and ditch improvements, and the relocation of certain of such existing improvements or facilities. Owners shall be required to construct, acquire or otherwise provide such Public Improvements, Public-Related Improvements and/or public utilities as may be required by such Districts or utility providers and to coordinate its efforts in doing so with the City and the Town. Except for those Public Improvements and Public-Related Improvements dedicated to a District or utility provider and for which such District or utility provider assumes maintenance responsibility, after Public Improvements have been accepted by the City or the Town, such Public Improvements will be maintained either by the City or the Town as part of the Municipal Services provided pursuant to Article III. Such Public Improvements shall be constructed in accordance with applicable City or Town standards pursuant to this Agreement. Any land owned by an Owner which is necessary to provide easements or rights-of-way for Public Improvements or Public-Related Improvements shall be required to be donated or dedicated by the Owner at no cost to either the City, the Town or any District or utility.

ARTICLE VI.

ENFORCEMENT AND RESOLUTION OF DISPUTES

6.01 Enforcement.

Pursuant to the provisions of C.R.S. Section § 24-20-105(2)(g), the City and the Town shall each have standing to enforce terms of this Agreement. Such enforcement may be through an action for specific performance or injunctive relief or for any other remedy available at law or in equity and shall be brought pursuant to the provisions of Section 6.02 below.

6.02 Alternative Dispute Resolution.

To the extent permitted by law, should any dispute arise regarding the interpretation or implementation of this Agreement, or in connection with any covenant, obligation or act to be performed under this Agreement, or should any continuing event of default exist, the parties agree that such disputes and/or continuing events of default shall be resolved in the following manner:

1. The City and the Town shall continue in good faith to attempt to resolve such dispute or cure such continuing event of default for a period of not less than fifteen (15) days following the identification by either party and written notice to the other party of the existence of a dispute or a continuing event of default.

2. In the event such dispute is not resolved or such continuing event of default is not cured within the fifteen (15) day period set forth above, the City and the Town shall employ a mutually acceptable professional mediator to assist them in resolving the dispute or curing the event of default, and shall bear the fees and costs of such mediator equally among them. Such mediation efforts shall be pursued for not less than thirty (30) days.

3. In the event the dispute or the continuing event of default is not resolved by mediation within the thirty (30) day period set forth above, the parties shall submit the dispute to a mutually acceptable professional arbitrator, in accordance with the rules of the American Arbitration Association then in effect, to finally resolve the dispute. The arbitrator shall have authority to impose all available remedies at law or in equity, including but not limited to, specific performance, injunctive relief and damages. The arbitrator may, in his or her discretion, allocate the fees and costs of the arbitration, including attorneys' fees, equitably among the parties. The award or decision made or rendered by the arbitrator shall be final and binding upon the parties.

Alternative Dispute Resolution shall not be employed in such a manner as to constitute a delegation of the City Council's or Town Board's legislative authority or the Rooney Valley Zoning Commission's quasi-judicial responsibility.

ARTICLE VII

MISCELLANEOUS

7.01 Term of Agreement.

The term of this Agreement shall be perpetual.

7.02 Recordation of Agreement.

This agreement and any amendments thereto shall be recorded by the Clerk of the City with the Clerk and Recorder of Jefferson County, Colorado. Although this agreement has been authorized and executed following published notice and public hearing by each municipality, the Town and the City may prepare a memorandum of this Agreement for recording or take other steps to provide notice to Owners of the existence of this Agreement.

7.03 Legal Challenge and Defense of Agreement.

In the event of any legal challenge by a third party to the validity or enforceability of any provision of this Agreement, the parties agree to cooperate in the defense of such challenge and to bear their own cost and attorneys' fees. During the pendency of any such legal challenge, through and including a Final Court Action, the parties agree to abide by and carry out all of the terms of this Agreement.

7.04 Notices.

Any notice, request, payment, consent, approval, demand or other communication required or permitted hereby shall be in writing and shall be deemed to have been given when personally delivered or when deposited in the United States Postal Service, certified, return receipt requested, postage prepaid, properly addressed to the persons to whom such notice is intended to be given at their respective addresses as follows:

If to the City: City of Lakewood
 480 South Allison Parkway
 Lakewood, Colorado 80226-3105
 Attention: City Manager

If to the Town: Town of Morrison
 321 Highway 8
 Morrison, Colorado 80465
 Attn: Town Administrator

7.05 Governing Law.

This Agreement shall be governed by the laws of the State of Colorado. To the extent any of the specific statutes, ordinances or regulations referred to herein are amended, the successor provisions shall apply following written approval by both parties.

7.06 No Third Party Beneficiaries

Nothing contained in this Agreement is intended to or shall create a contractual relationship with, cause of action in favor of, or claim for relief for, any third party, including any Owner. Absolutely no third party beneficiaries are intended by this Agreement. Any third party receiving a benefit from this Agreement is an incidental and unintended beneficiary only.

7.07 Severability.

Except as expressly provided for elsewhere in this Agreement, should any provision of this Agreement be held in a Final Court Action to be invalid, illegal or unenforceable, it shall not affect or impair the validity, legality or enforceability of any other provision of this Agreement. Furthermore, if a material provision of this Agreement is held invalid, illegal or unenforceable, the parties hereto agree to renegotiate that provision to be a valid, legal and enforceable provision which reflects as closely as possible the original intent of the parties hereto as expressed herein with respect to the subject matter of that provision.

7.08 Entire Agreement –Amendments.

This Agreement embodies the whole agreement of the parties. There are no promises, terms, conditions or obligations other than those contained herein, and this Agreement shall supersede all previous communications, representations or agreements, either verbal or written, among the parties hereto on this subject, specifically including the previous Intergovernmental Agreement between the parties dated May 5, 2000. This Agreement may be amended only by written agreement among the parties with the Town acting pursuant to Town Board authorization and the City acting pursuant to City Council authorization. **Exhibits A and B** to this Agreement are incorporated herein by this reference, as fully as if included in the body hereof.

TOWN OF MORRISON, COLORADO

By _____

Sean Forey, Mayor

ATTEST: [SEAL]

Charla Bryant, Town Clerk



ATTEST: [SEAL]

CITY OF LAKEWOOD, COLORADO

By _____

Adam Paul, Mayor

Margy Greer

Margy Greer, City Clerk

This Agreement embodies the whole agreement of the parties. There are no promises, terms, conditions or obligations other than those contained herein, and this Agreement shall supersede all previous communications, representations or agreements, either verbal or written, among the parties hereto on this subject, specifically including the previous Intergovernmental Agreement between the parties dated May 5, 2000. This Agreement may be amended only by written agreement among the parties with the Town acting pursuant to Town Board authorization and the City acting pursuant to City Council authorization. Exhibits A and B to this Agreement are incorporated herein by this reference, as fully as if included in the body hereof.

TOWN OF MORRISON, COLORADO

By *Sean Forey*
Sean Forey, Mayor

ATTEST:

[SEAL]

Charla Bryant

Charla Bryant, Town Clerk



CITY OF LAKEWOOD, COLORADO

By *Adam Paul*
Adam Paul, Mayor



ATTEST:

Margy Greer

Margy Greer, City Clerk

EXHIBIT A

Map of Rooney Valley with identified jurisdictional lines
[Attached]

EXHIBIT B

Revenue Sharing Example

	<u>City</u>	<u>Town</u>	<u>Total</u>
Revenues - Sales & General Use Taxes Collected by Entity	\$ 300,000	\$ 450,000	\$ 750,000
Less: 60% retained by collection entity	(180,000)	(270,000)	(450,000)
Net Revenue available (40%)	<u>120,000</u>	<u>180,000</u>	<u>300,000</u>
Servicing Residential Uses - 10% of Revenues	<u>\$ 75,000</u>		
Total number of residential units in each jurisdiction	<u>1,750</u>	1,500	250
% in jurisdiction		<u>85.71%</u>	<u>14.29%</u>
Amount Allocated for Servicing Residential Uses		<u>64,286</u>	<u>10,714</u>
Shared Revenue - 30% of Revenues	<u>\$ 225,000</u>		
50% shared by City & Town		<u>112,500</u>	<u>112,500</u>
Net Revenue (40%)	<u>176,786</u>	<u>123,214</u>	<u>\$ 300,000</u>
Amount Due To (From) Entity	<u>\$ 56,786</u>	<u>\$ (56,786)</u>	

STAFF MEMO

DATE OF MEETING: JULY 11, 2022 / AGENDA ITEM NO. 7

To: Mayor and City Council

From: Robert Smith, Economic Development Director, 303-987-7732

Subject: A RESOLUTION APPOINTING MAX DE LA BRUYERE AND HEIDI WESTLUND TO SERVE ON THE BOARD OF DIRECTORS OF THE ALAMEDA CORRIDOR BUSINESS IMPROVEMENT DISTRICT

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. When a vacancy occurs on the Alameda Corridor BID's Board of Directors, the Council is authorized under C.R.S. § 31-25-1209 to appoint a replacement by resolution. 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 BIDs 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.

BUDGETARY IMPACTS: This item does not have an anticipated budget impact.

STAFF RECOMMENDATIONS: Staff recommends Council moves and votes in favor of a resolution approving the 2022 Alameda Corridor Business Improvement District's resolutions in approving the nomination of Max de La Bruyere and Heidi Westlund as directors of the Board of the Alameda Corridor Business Improvement District.

ALTERNATIVES: Council moves and votes not to approve a resolution approving the 2022 Alameda Corridor Business Improvement District Board of Directors. Council does not move to vote on approval on resolution approving the 2022 Alameda Corridor Business Improvement District Board of Directors.

PUBLIC OUTREACH: This item was promoted through the regular channels of communication for an item coming before City Council.

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 nine community meetings and several public events each year.

NEXT STEPS: None.

ATTACHMENTS:

- Resolution 2022-51
- Alameda Corridor Business Improvement District's Resolution No. 2022-2 Max de La Bruyere
- Alameda Corridor Business Improvement District's Resolution No. 2022-4 Heidi Westlund

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

2022-51

A RESOLUTION

APPOINTING MAX DE LA BRUYERE AND HEIDI WESTLUND TO SERVE ON THE BOARD OF DIRECTORS OF THE ALAMEDA CORRIDOR BUSINESS IMPROVEMENT DISTRICT

WHEREAS, by Ordinance No. 2003-18, the City Council organized the Alameda Corridor Business Improvement District (the "BID");

WHEREAS, Ordinance No. 2003-18 provided, among other things, for City Council to appoint electors of the BID to its board of directors (the "Board") upon nominations submitted to City Council by the Board; and

WHEREAS, two (2) vacancies have occurred, or will occur, on the Board, and it is therefore necessary for the City Council to appoint two (2) replacements.

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

SECTION 1. The City Council hereby appoints Max de La Bruyere of Lafayette Property Company/ Alameda Crossing Shopping Center, to the board to fill the vacancy of John Buckley for a term running through June 30, 2025.

SECTION 2. The City Council hereby appoints Heidi Westlund of Bridge 33 Capital to the board to fill the vacancy of Phillip Knott for a term running through June 30, 2024.

SECTION 3. This Resolution shall become effective immediately upon adoption by the City Council.

INTRODUCED, READ AND ADOPTED by a vote of ____ for and ____ against at a regular hybrid meeting of the Lakewood City Council held on July 11, 2022 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

**ALAMEDA CORRIDOR
BUSINESS IMPROVEMENT DISTRICT
Jefferson County, Colorado**

Resolution No. 2022-2

A RESOLUTION APPROVING THE NOMINATION OF MAX de LA BRUYERE OF LAFAYETTE PROPERTY COMPANY/ALAMEDA CROSSING SHOPPING CENTER, FOR APPOINTMENT TO THE BOARD OF DIRECTORS OF THE ALAMEDA CORRIDOR BUSINESS IMPROVEMENT DISTRICT

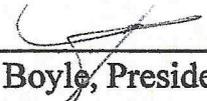
BE IT RESOLVED by the Board of Directors of the Alameda Corridor Business Improvement District, Jefferson County, Colorado as follows:

Section 1. At a meeting of the Board of Directors held on March 24, 2022, the board voted to submit the nomination of Max de La Bruyere of Lafayette Property Company/Alameda Crossing Shopping Center, to the Lakewood City Council for appointment to the Board of Directors to replace John Buckley for a term expiring on June 30, 2025.

Section 2. The Board of Directors of the Alameda Corridor Business Improvement District hereby nominates Max de La Bruyere for appointment to the board for a term running through June 30, 2025 and authorizes the submission of this nomination to the City of Lakewood for approval.

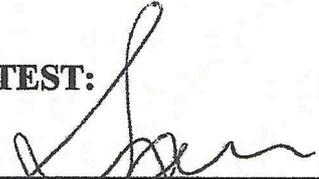
ADOPTED AND APPROVED this 24th day of March 2022.

**ALAMEDA CORRIDOR
BUSINESS IMPROVEMENT DISTRICT
Jefferson County, Colorado**

By: 

Ed Boyle, President

ATTEST:

By: 

Sarah Hadsall, Secretary

**ALAMEDA CORRIDOR
BUSINESS IMPROVEMENT DISTRICT
Jefferson County, Colorado**

Resolution No. 2022-4

**A RESOLUTION APPROVING THE NOMINATION OF HEIDI
WESTLUND FOR APPOINTMENT TO THE BOARD OF DIRECTORS OF
THE ALAMEDA CORRIDOR BUSINESS IMPROVEMENT DISTRICT**

BE IT RESOLVED by the Board of Directors of the Alameda Corridor Business Improvement District, Jefferson County, Colorado as follows:

Section 1. At a meeting of the Board of Directors held on May 26, 2022 the board voted to submit the nomination of Heidi Westlund of Bridge 33 Capital to the Lakewood City Council for appointment to the Board of Directors to replace Phillip Knott for a term expiring on June 30, 2024.

Section 2. The Board of Directors of the Alameda Corridor Business Improvement District hereby nominates Heidi Westlund for appointment to the board for a term running through June 30, 2024 and authorizes the submission of this nomination to the City of Lakewood for approval.

ADOPTED AND APPROVED this 26th day of May, 2022.

**ALAMEDA CORRIDOR
BUSINESS IMPROVEMENT DISTRICT
Jefferson County, Colorado**

By: _____

Ed Boyle, President

ATTEST

By: _____

Sarah Hadsall, Secretary

STAFF MEMO

DATE OF COUNCIL MEETING: JULY 11, 2022 / AGENDA ITEM NO. 8

To: Mayor and City Council

From: Travis Parker, Director of Planning, 303-987-7908

Subject: UPDATES TO RESIDENTIAL GROWTH LIMITATIONS AND AFFORDABLE HOUSING

SUMMARY STATEMENT: The City Council has requested updates to Article 14.27 (residential growth limitations) to facilitate affordable housing. In addition to the redlines previously reviewed by the City Council, staff is proposing adding general definitions of affordable housing terms as well as design and quality standards to Article 15.

BACKGROUND INFORMATION:

In July 2019, Lakewood voters passed a ballot measure to require residential growth limitations in the city. Ordinance 14.27 went into effect on January 1, 2020. Among other things, the ordinance requires that allocations are created each year equal to 1% of existing residential units and that each new residential unit (with some exceptions) receive an allocation prior to building permit issuance.

The City Council met on April 18, 2022 to discuss changes to 14.27 and directed staff to bring forward redlines that allow projects with affordable units to proceed prior to collecting allocations and extend the period for the affordable unit allocation pool.

On June 6, 2022, the City Council reviewed those redlines and asked for an ordinance that incorporated them with further definition of affordability levels and term.

In addition to the redlines requested by the City Council, the attached ordinance also contains updates to Chapter 15 of the Lakewood Municipal Code. These changes create general definitions and quality standards for affordable housing that will apply to any affordable housing initiatives, including but not limited to, Article 14.27. Finally, an amendment to Article 13 is proposed to reference the new definitions.

BUDGETARY IMPACTS: There is no associated budget impact with this item.

STAFF RECOMMENDATIONS: Staff recommends approval of the attached ordinance.

PUBLIC OUTREACH: This meeting was posted in the normal channels of communication for an item coming before the City Council.

ALTERNATIVES: The City Council could approve or deny the draft ordinance or make changes to the draft language.

ATTACHMENTS: Ordinance O-2022-12

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

O-2022-12

AN ORDINANCE

AMENDING CHAPTER 14.27 AND TITLE 15 OF THE LAKEWOOD MUNICIPAL CODE AND ARTICLE 13 OF THE LAKEWOOD ZONING ORDINANCE, ALL RELATING TO AFFORDABLE HOUSING

WHEREAS, pursuant to study sessions held on April 18, 2022, and June 6, 2022, regarding Lakewood Municipal Code (“LMC”) Chapter 14.27 - Residential Growth Limitation, the City Council desires to extend beyond May 31 each year the allocation period for the “affordable housing pool” and to provide the ability for projects with “affordable” units to begin construction prior to receiving all required allocations under LMC Chapter 14.27;

WHEREAS, to accomplish the foregoing and to establish clarity and consistency in general when addressing affordable housing issues within Lakewood, the Lakewood City Council further desires to standardize within the LMC and the Lakewood Zoning Ordinance certain definitions and other provisions related to affordable housing;

WHEREAS, approval of this ordinance on first reading is intended only to confirm that the City Council desires to comply with the LMC 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. Amendments to Chapter 14.27 of the Lakewood Municipal Code.

A. Section 14.27.040 of the Lakewood Municipal Code hereby amended by the addition of a new subsection “H,” which shall read in its entirety as follows:

H. Buildings with Affordable Units - Exemption.

1. Notwithstanding anything to the contrary in this chapter 14.27, any application to develop residential structures containing at least fifteen percent (15%) of gross floor space for rental units at or below eighty percent (80%) of area median income, or ownership units at or below one hundred twenty percent (120%) of area median income (hereafter, an “Affordable Project”), shall be processed in accordance with this subsection H and shall be exempt from the remaining provisions of this chapter 14.27 to the extent such provisions are inconsistent with this subsection H.

2. Provided that all prerequisites required under any applicable provision of the Lakewood Municipal Code for application for a building permit, with the exception of obtaining allocations, have been satisfied, the City shall issue all building permits needed for an Affordable Project, whether the Affordable Project has sufficient allocations to construct the entire Affordable Project or not, subject to the following:
 - a. In the year building permits are issued, allocations equivalent to the total number of residential units in the Affordable Project will be assigned from the surplus pool to the extent available. If this number of allocations is insufficient, the same process will be followed in the following year.
 - b. If any residential units of the Affordable Project do not have allocations after the first two (2) years, then allocations will be distributed from both the open pool and the surplus pool as needed to ensure all such residential units have allocations within five (5) years after building permit issuance.
- B. The following enumerated sections of Chapter 14.27 of the Lakewood Municipal Code are hereby amended to read in their entirety as follows:

14.27.070 - Schedule of Allocation Periods.

- A. For all calendar years, the open pool will have an allocation period from January 1 to October 31.
- B. For all calendar years, the hardship pool will have an allocation period from January 1 to October 31.
- C. For all calendar years, the affordable/low-income housing pool will have an allocation period from January 1 to October 31.
- D. The surplus pool allocation period will occur from November 1 through December 31.

14.27.090 - Issuance of Allocations.

- A. Open Pool. For each respective allocation period in the open pool, one allocation will automatically be issued to each applicant if sufficient allocations are available. The remainder of requests is then tallied, and available allocations are distributed on a pro-rata basis to applicants based upon their requested number.
- B. Hardship Pool. Hardship pool allocations are distributed by the City Council at their discretion upon request from an applicant, and subject to a finding that all of the following conditions exist:

1. That the issuance of an allocation is necessary to prevent undue hardship on the applicant; and
 2. That the issuance of an allocation(s) will not adversely affect the public interest or the purposes of this chapter; and
 3. Allocations are available in the hardship pool; and
 4. That the requested allocation and the resulting building permit would be proper and in accordance with all of the ordinances and regulations of the City of Lakewood, excepting the provisions of this chapter.
- C. Affordable/Low Income Housing Pool. Allocations assigned to the “affordable/low income” housing pool shall only be available for use by qualifying projects during the affordable/low-income housing pool allocation period each year. Any excess allocations in the affordable/low-income housing pool at the end of the allocation period will be transferred to the surplus pool for distribution pursuant to subsection (D) below.
- D. Surplus Pool. All unused open pool, affordable/low-income pool, and hardship pool allocations which remain on November 1 of each year will be available in the surplus allocation pool. One allocation will automatically be issued to each applicant if sufficient allocations are available. The remainder of requests is then tallied, and available allocations are distributed on a pro rata basis to applicants based upon their requested number. Allocations which are unclaimed during the surplus pool or which are due to expire will be assigned by the City Council. Acquisition of the final remaining allocation by a banking plan for a specific project during the surplus pool shall trigger the expiration of the banking plan at the end of the first allocation period in the following year.
- E. Insufficient Allocations. Except as noted above, if there are insufficient allocations available to issue at least one allocation to each applicant for a particular allocation period due to demand, a lottery shall be held to determine the recipients of the allocations. Those applicants who are unable to obtain an allocation during that particular allocation period will be given first preference to receive an allocation in the following allocation period in the same pool if a timely application is filed.
- F. Following the issuance of allocations, staff shall present a report to Planning Commission and City Council summarizing the results of the allocation period.

SECTION 2. Adoption of a new Chapter 15.02. Title 15 of the Lakewood Municipal Code is hereby amended by the addition thereto of a new Chapter 15.02 relating to affordable housing, which shall read in its entirety as follows:

Chapter 15.02 - AFFORDABLE HOUSING

15.02.010 - Applicability

The provisions of this Chapter shall apply to any construction, reconstruction, development, or conversion of any property or structure, as applicable, to affordable housing (as defined herein) within the City of Lakewood, Colorado, subsequent to the effective date of this Chapter.

15.02.020 - Definitions

Affordable Housing: Housing for which, pursuant to a recorded deed restriction in place for not less than 20 years, the occupants cannot be required to pay more than thirty percent (30%) of their gross monthly household income on rent/mortgage and utilities, and includes housing that qualifies as “low income,” where the occupant earns 0% to 50% of AMI; “moderate income,” where the occupant earns 51% to 80% percent AMI; and “middle income,” where the occupant earns 81% to 120% percent AMI.

Area Median Income (AMI): The median household income for the City of Lakewood and Jefferson County, as adjusted by household size, determined by the United States Department of Housing and Urban Development (HUD) and published annually by the Colorado Housing and Finance Authority (CHFA).

Market-Rate Housing: Housing that is not affordable housing as defined herein.

15.02.030 - Design and Quality Standards

The following design standards shall apply to all affordable housing units within a development project:

- A. Affordable housing units shall be dispersed throughout the residential project and shall have access to all on-site amenities available to market rate housing units.
- B. The construction quality and exterior design of affordable housing units shall be comparable and visibly indistinguishable to the market rate housing units including building materials, foundations, window types, and roof pitches.
- C. Affordable housing units shall be functionally equivalent to market-rate housing units. However, affordable housing units may have alternative

interior finishes, including but not limited to kitchen cabinets, countertops, and bathroom finishes.

- D. The unit type mix ratio for all affordable housing units must be equivalent to the unit type mix ratio for market rate housing units within the same residential project.

SECTION 3. Amendments to Article 13 of the Lakewood Zoning Ordinance. The definition of Affordable Housing in section 17.13.1.3 of the Lakewood Zoning Ordinance (Title 17 of the Lakewood Municipal Code) is hereby amended to read as follows:

Affordable Housing shall have the same meaning as set forth in section 15.02.020 of the Lakewood Municipal Code.

SECTION 4. Effective Date. This ordinance shall take effect thirty (30) days after final publication.

SECTION 5. Severability. 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 regular hybrid meeting of the Lakewood City Council on the 11th day of July, 2022; 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 July, 2022; set for public hearing on the 25th day of July, 2022, read, finally passed and adopted by the City Council on the ____ day of July, 2022 and, signed and approved by the Mayor on the ____ day of July, 2022.

Adam Paul, Mayor

ATTEST:

Jay Robb, City Clerk

APPROVED AS TO FORM:

Alison McKenney Brown, City Attorney

STAFF MEMO

DATE OF COUNCIL MEETINGS: JULY 11, 2022 / AGENDA ITEM NO. 9

To: Mayor and City Council

From: Benjamin B. Goldstein, Deputy City Manager, 303-987-7050
Raymond L. Hill, Acting City Engineer, Capital Project & Utilities, 303-987-7935

Subject: **ACQUISITION ORDINANCE FOR WADSWORTH MORRISON INTERSECTION
PROJECT PROPERTY RIGHTS VASSAR AVENUE TO GREEN GABLES
DEVELOPMENT**

SUMMARY STATEMENT: This ordinance would authorize steps necessary to acquire interests in property to widen Wadsworth Boulevard and to construct a shared use path on the east side of Wadsworth Boulevard for the Wadsworth Morrison Intersection Project.

The City of Lakewood has received federal grant funds to improve the intersection of Wadsworth Boulevard and Morrison Road and to provide a 10' wide shared use path along the east side of Wadsworth from Vassar Avenue to the Green Gable Development. A fourth leg of the intersection will be installed to provide a full movement signalized access to the new Peakview Park. Improvement at the southwest corner of the intersection will increase capacity by providing a double left turn from Morrison Road and through improved pedestrian facilities at the intersection.

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.

Two maps are attached that conceptually illustrates the property rights that are anticipated to be needed. Two fee simple parcels are needed from the southwest corner of the intersection. The fee simple interest is required for widening and wall construction to allow for a right turn lane with a widened sidewalk, signal pole and better sight distance at the intersection. It is anticipated that temporary easements for the construction period, illustrated in orange on the maps, will be required from six 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.

BUDGETARY IMPACTS: The project is funded by federal Grant funds and City Capital Improvement Funds.

STAFF RECOMMENDATION: Approval of the ordinance.

ALTERNATIVES: If this Ordinance is not approved, the City may lose grant funds and the following existing conditions will remain: Pedestrian facilities along the east side of the Wadsworth will not exist with no accessible connection to the new Peakview Park. The southwest corner of Wadsworth Boulevard and Morrison Road intersection will continue to function as it currently does with no pedestrian connection from Morrison Road to Peakview Park. Existing rip rap walls at 2323 S. Wadsworth Boulevard will continue to deteriorate and

resulting in rip rap intermittently falling into the adjacent roadways and the traffic signal at Wadsworth Boulevard and Morrison Road will not be improved to provide left turn access into the Peakview Park.

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-2022-13
Maps

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

O-2022-13

AN ORDINANCE

DECLARING THE INTENT OF THE CITY OF LAKEWOOD TO ACQUIRE INTEREST IN PROPERTY FOR PUBLIC PURPOSES FOR THE CONSTRUCTION OF HIGHWAY AND PEDESTRIAN FACILITIES FROM WEST VASSAR AVE TO THE MORRISON ROAD INTERCHANGE ON BOTH SIDES OF SOUTH WADSWORTH BOULEVARD AND AUTHORIZING NEGOTIATIONS WITH PROPERTY OWNERS, ACCEPTANCE OF CONVEYANCE INSTRUMENTS AND CONDEMNATION OF REAL PROPERTY INTERESTS (SUBJECT TO FURTHER COUNCIL APPROVAL)

WHEREAS, to enhance motor-vehicle safety and pedestrian and bicycle connectivity along both sides of South Wadsworth Boulevard, the City of Lakewood (the "City") desires to implement the South Wadsworth Boulevard and Morrison Road Improvement Project (the "Project"), which will widen Wadsworth Boulevard and install sidewalk improvements from the existing sidewalk on the north end of the Project at the Green Gables development south to West Vassar Avenue (the "Improvements");

WHEREAS, in order to install the Improvements, the City must acquire certain property interests from the owners of property adjacent to the Project (the "Property Interests");

WHEREAS, in order to acquire the Property Interests in compliance with State law, the City Council desires to:

- a. Declare the City's intent to acquire the Property Interests for public purposes in fulfillment of the requirements of Section 38-1-121, C.R.S.;
- b. Authorize negotiations for, and acquisitions of, the Property Interests;
- c. Accept the instruments of conveyance for the Property Interests; and
- d. Authorize the City Attorney to initiate condemnation proceedings (subject to further Council approval) to acquire the Property Interests in the event the City is unable to acquire the Property Interests despite good faith efforts to do so;

WHEREAS, approval of this Ordinance on first reading is intended only to confirm that the City Council desires to comply with the Lakewood Municipal Code by setting a public hearing to provide City staff and the public an opportunity to present evidence and testimony regarding the proposal identified herein; and

WHEREAS, approval of this Ordinance on first reading does not constitute a representation that the City Council, or any member of the City Council, supports, approves, rejects or denies any particular proposal related to this proposal identified herein.

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

SECTION 1. City Council hereby finds that the Project will serve a public purpose by enhancing motor vehicle safety and improving pedestrian and bicycle connectivity along both sides of South Wadsworth Boulevard from the existing sidewalk at the Green Gables development south to West Vassar Avenue. The City Council further finds it necessary to acquire certain Property Interests, further described in Section 2 herein, to advance such public purpose.

SECTION 2. City Council hereby declares its intent to acquire the Property Interests in the form of (i) fee simple parcels, (ii) permanent easements; (iii) temporary construction easements; or (iv) any other interests as may be warranted for the Project, with any improvements contained herein. The properties from which the Property Interests are currently anticipated to be acquired are identified in Exhibit A, attached hereto and incorporated herein by this reference. At such time as the City Manager or designee (the "City Manager") identifies the particular Property Interests necessary for the Project, the City Manager may revise Exhibit A and give notice of intent to acquire the Property Interests as required by Section 38-1-121, C.R.S.

SECTION 3. The City Manager is hereby authorized to negotiate in good faith to acquire the Property Interests. Negotiations shall be based upon appraisal reports or valuations approved by the City Manager. The City Manager is hereby authorized to make offers to any property owner based upon such appraisal reports or valuations to execute agreements for the acquisition of the Property Interests.

SECTION 4. The City Council hereby accepts on behalf of the City, upon recordation, the instruments of conveyance of the Property Interests acquired hereunder.

SECTION 5. The City's Chief Financial Officer is hereby authorized and directed to pay, upon receipt of appropriate documentation, the amounts set forth in the contracts and agreements provided for herein.

SECTION 6. In the event the City Manager is unable to negotiate an agreement for the acquisition of any necessary Property Interest, despite good faith efforts to do so, the City Manager shall bring to the City Council a resolution identifying the Property Interests to be acquired by condemnation, and the City Council shall thereby authorize or deny the exercise of the City's eminent domain power over such Property Interests pursuant to Section 14.4 of the City of Lakewood home rule charter.

SECTION 7. If the City Council approves the exercise of the City's eminent domain power over one or more Property Interests identified in such resolution, the City Attorney, on behalf of the City, shall commence condemnation proceedings with respect to such Property Interests and shall be authorized to apply to the proper court of immediate possession of the Property Interests to be acquired by condemnation, and the City's Chief Financial Officer and all other officers and agents of the City shall cooperate with the City Attorney in the condemnation action, make any deposits and payments as may be necessary for acquisition of the Property Interests, and pay the costs thereof and any condemnation award as it may be finally determined. The City Attorney shall

additionally be authorized to employ such expert witnesses, including appraisers, as the City Attorney determines necessary for the purposes of the condemnation authorized by this Ordinance and the aforesaid resolution, and the City's Chief Financial Officer is directed to pay the costs and expenses of employing such expert witnesses and appraisers.

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

SECTION 9. If any provision of this Ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this Ordinance that can be given effect without the invalid portion, provided such remaining portions or application of the Ordinance are not determined by the court to be inoperable.

SECTION 10. This Ordinance shall take effect 30 days after final publication.

I hereby attest and certify that the within and foregoing ordinance was introduced and read on first reading at a regular hybrid meeting of the Lakewood City Council on the 11th day of July, 2022; 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 July, 2022; set for public hearing on the 25th day of July, 2022, read, finally passed and adopted by the City Council on the ____ day of July, 2022 and, signed and approved by the Mayor on the ____ day of July, 2022.

Adam Paul, Mayor

ATTEST:

Jay Robb, City Clerk

APPROVED AS TO FORM:

Allison McKenney Brown, City Attorney

EXHIBIT A

Property Interests for the following addresses:

49-263-01-001
2323 South Wadsworth Boulevard

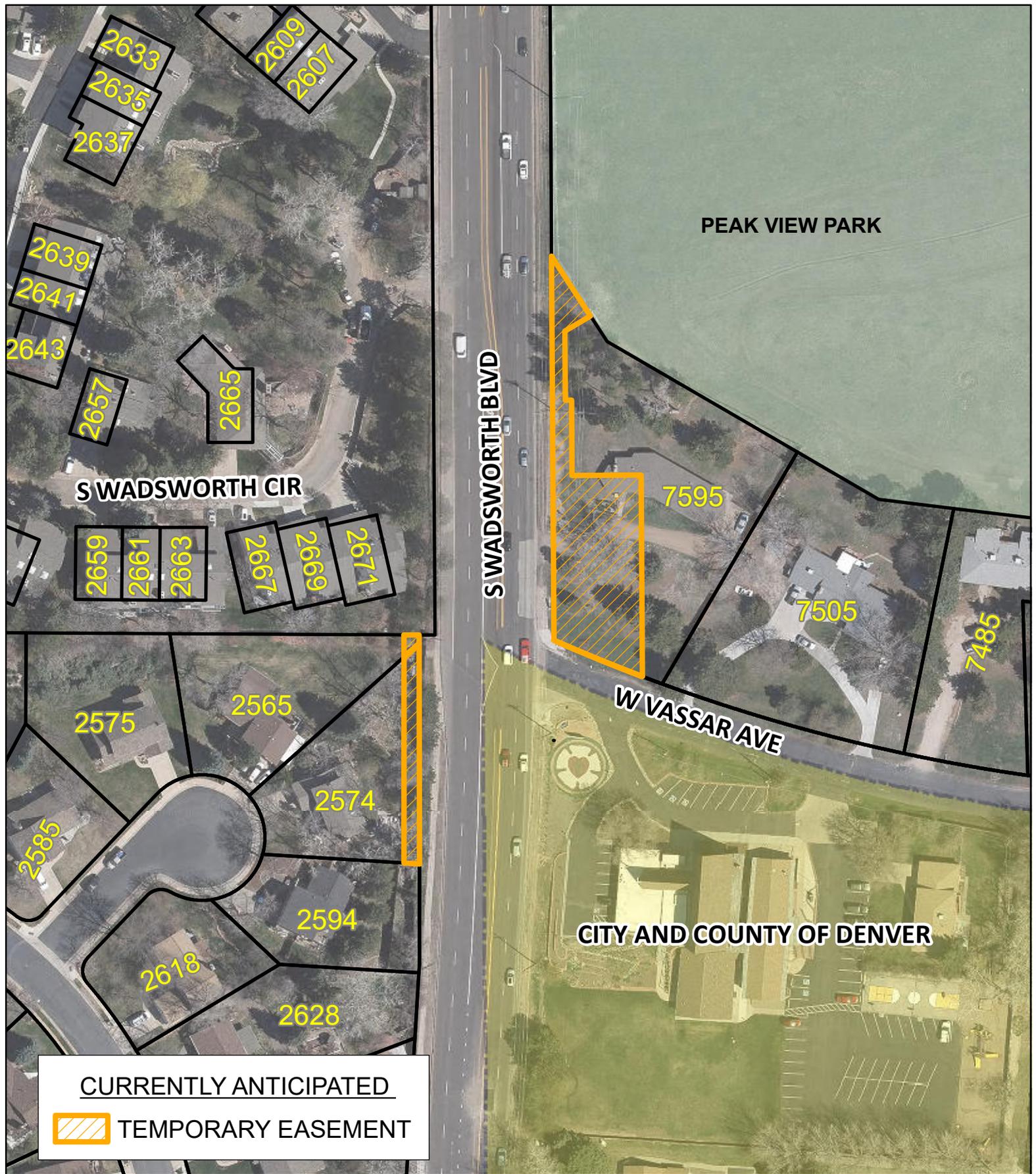
49-263-01-002
2525 South Wadsworth Boulevard

49-263-01-059
2565 South Wadsworth Court

49-263-01-058
2574 South Wadsworth Court

49-264-00-005 & 009
6900 West Lakeridge Road

49-264-01-001
7595 West Vassar Avenue



CURRENTLY ANTICIPATED

 TEMPORARY EASEMENT



**CITY OF LAKEWOOD ORDINANCE MAP
PROPERTY INTEREST AT INTERSECTION
OF WADSWORTH BLVD AND VASSAR AVE**

JULY 11, 2022

W WOODARD DR

7700

S WADSWORTH BLVD

6900

2255

W MORRISON RD

2316

2323

2328

2525

PEAK VIEW PARK

CURRENTLY ANTICIPATED



FEE SIMPLE PARCEL



TEMPORARY EASEMENT



CITY OF LAKEWOOD ORDINANCE MAP PROPERTY INTEREST AT INTERSECTION OF WADSWORTH BLVD AND MORRISON ROAD

JULY 11, 2022



**MINUTES
REGULAR MEETING OF CITY COUNCIL
CITY OF LAKEWOOD
7:00 PM
MAY 23, 2022**

Minutes are action minutes only with links on each item for easy reference to the meeting video.

ITEM 1 - CALL TO ORDER

[View video recording here](#) – video no sound

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

ITEM 2 - ROLL CALL

[View video recording here](#) – video no sound

Those present were: Mayor Adam Paul, Presiding
Charley Able
Barb Franks (Virtual)
Mary Janssen (Virtual)
Jeslin Shahrezaei
Anita Springsteen (Virtual)
Rebekah Stewart
Wendi Strom
Sharon Vincent

Absent: Sophia Mayott-Guerrero
Richard Olver

Others in attendance: Ben Goldstein, Deputy City Manager
Alex Dorotik, Deputy City Attorney
Bernadette Salazar, Deputy 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](#) – video no sound

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

ITEM 4 – STATEMENT OF CONFLICT OF INTEREST

[View video recording here](#)

ITEM 5 – RESOLUTION 2022-44 – APPOINTING A PRESIDING MUNICIPAL JUDGE TO THE LAKEWOOD MUNICIPAL COURT

[View video recording here](#)

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

Public Comment received via Lakewood Speaks: None.

Motion:

Mayor Pro Tem Vincent made a motion to adopt Resolution O-2022-44. The motion was seconded.

Vote on Resolution 2022-44:

AYE: Paul, Able, Franks, Janssen, Shahrezaei, Stewart, Strom, Vincent

NAY: Springsteen,

ABSENT: Mayott-Guerrero, Olver

Result:

Approved 8 -1, the motion passed.

ITEM 6 – PUBLIC COMMENT

[View video recording here](#)

Public Comment received via telephone/in-person:

John Claus – spoke more about his comment online regarding lawn lengths.

Public Comment received via Lakewood Speaks:

Joshua Comden, May 21, 2022, 11:12 AM

I would really like Lakewood to have a turf replacement program to conserve our water resources. Even if we required xeriscaping for all new construction, it would take a very long time to hit any sustainability goals. Setting up a program to help existing developed properties conserve water will push us in the right direction.

Kip Kolkmeier, May 20, 2022, 9:32 AM

Under Item 15, Turf Replacement, thank you so much Councilor Stewart for bringing this issue forward. Our water crisis is enormous and needs immediate attention. Traditional lawns use an astonishing amount of our water resources, some estimates are 60% of overall water consumption. Imagine if we could double our water resources simply by transforming our landscapes into a more attractive and natural southwestern landscape. As a member of the Lakewood Advisory Council, I strongly support sending this to LAC for study and recommendations to Council. As noted by Councilor Stewart, recent state legislation creates an unprecedented opportunity to incentivize turf

replacement. LAC can research the state program, review what other cities are doing, discover best practices, and provide guidance to Council on how best to proceed. This is precisely why Council established the LAC, and volunteer Commissioners are eager to support Council's thoughtful consideration of new policy initiatives.

Joshua Comden, May 19, 2022, 11:52 AM

I would like to thank all the councilors and staff that are making the Safe Overnight Parking pilot program a reality. Thank you!!!

John Claus, May 19, 2022, 11:28 AM

Please support Item 13 for the Emergency Ordinance for the Safe Parking Initiative. Lakewood needs to act immediately to support all of our residents.

John Claus, May 19, 2022, 11:24 AM

Regarding the subject of water conservation, I'd like the Mayor and City Council to remove the provision in Lakewood Municipal Code 9.80.020 (A4) which requires residential property owners to keep their lawn lengths at or below 6". After speaking with a number of landscapers and researching online, I've learned that keeping our lawns this short requires far more supplemental irrigation just to keep them alive. If Lakewood is going to genuinely address water conservation, we need to change the public perception and the aesthetics around lawns and consider the tradeoffs we're making to keep these ornaments. On one hand we have neighbors around Bear Creek Lake Park who understandably have issues with the plans to increase water storage. However, Lakewood's Municipal Code is actively promoting the reckless overuse of water and also penalizing property owners who defy it. We recently replaced the Kentucky Bluegrass, which was here when we moved in, and reseeded with various native grasses which thrive at lengths between 12 and 18". Cutting them at/below that length requires supplemental irrigation. Cutting them at/below 6" also prohibits wildflowers and other pollinator forage we've planted from reaching their full potential. At the bare minimum, I'm asking City Council to remove this piece of the municipal code around maximum lawn length. Beyond that maybe we can consider incentivizing residents to decrease the amount of non-native lawn to something more acclimated to Colorado's climate. In short, please stop penalizing citizens for being responsible around water usage.

Kurt Brumbaugh, May 17, 2022, 8:46 PM

Please support the Safe Parking Initiative!

**CONSENT AGENDA
ORDINANCES ON FIRST READING**

[View video recording here](#)

Deputy City Clerk Bernadette Salazar read the Consent Agenda into the record. The Consent Agenda consists of Items 7 through 14, inclusive.

ITEM 7 – RESOLUTION 2022-39 – APPOINTMENT OF A MEMBER TO THE LAKEWOOD JUDICIAL REVIEW COMMISSION

ITEM 8 – RESOLUTION 2022-40 – APPROVING AWARD OF FUNDS UNDER 2022 LAKEWOOD COMMUNITY GRANT PROGRAM

ITEM 9 – RESOLUTION 2022-41 – ENDORSING AMENDMENT TO LAKEWOOD 2022-2023 HEAD START GRANT APPLICATION FOR PURPOSE OF SUBMITTING REQUEST TO FEDERAL GOVERNMENT FOR SUPPLEMENTAL FUNDS AVAILABLE TO PROVIDE A COST OF LIVING ADJUSTMENT TO STAFF IN HEAD START AND EARLY HEAD START

ITEM 10 – RESOLUTION 2022-42 – ENDORSING AMENDMENT TO LAKEWOOD 2022-2023 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 11 – RESOLUTION 2022-43 – APPROVING LAKEWOOD'S PARTICIPATION IN THE REGION 10 COLORADO REGIONAL OPIOID INTERGOVERNMENTAL AGREEMENT PURSUANT TO THE TERMS OF THE 2021 COLORADO OPIOIDS SETTLEMENT MEMORANDUM OF UNDERSTANDING

ITEM 12 – ORDINANCE O-2022-5 – SETTING THE SALARIES OF MUNICIPAL COURT JUDGES

ITEM 13 – EMERGENCY ORDINANCE O-2022-6 – ADOPTING TITLE 8, CHAPTER 15, OF THE MUNICIPAL CODE OF THE CITY OF LAKEWOOD, COLORADO, IN CONNECTION WITH ESTABLISHING A PILOT PROGRAM FOR THE COLORADO SAFE PARKING INITIATIVE

ITEM 14 – ACCEPTING MINUTES OF THE BOARDS AND COMMISSIONS

Lakewood Advisory Commission

Full Commission Meeting

March 16, 2022

Council member Janssen pulled Items 8, 9, and 10 to under General Business.

END OF CONSENT AGENDA

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

Public Comment received via Lakewood Speaks: None.

Motion:

Mayor Pro Tem Vincent made a motion for the acceptance of the minutes of the Boards and Commissions; for the adoption of Resolutions, except Items 8, 9 and 10, all of which are included in the consent agenda items introduced into the record by the City Clerk. The motion was seconded.

Council members asked questions and stated their comments and/or concerns.

Vote on Consent Agenda:

AYE: Paul, Able, Franks, Janssen, Shahrezaei, Stewart, Strom, Vincent

NAY: Springsteen,

ABSENT: Mayott-Guerrero, Olver

Result:

Approved 8 -1, the motion passed.

THERE ARE NO SECOND READING ORDINANCES.

ITEM 15 – GENERAL BUSINESS

[View video recording here](#)

ITEM 8 – RESOLUTION 2022-40 – APPROVING AWARD OF FUNDS UNDER 2022 LAKEWOOD COMMUNITY GRANT PROGRAM

Carolyn Alexander, Operation Manager at the Action Center, gave an update on what was happening at the Action Center, and pre and post Covid statistics.

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

Public Comment received via Lakewood Speaks: None.

Motion:

Mayor Pro Tem Vincent made a motion to adopt Ordinance O-2022-40. The motion was seconded.

Council members asked questions and stated their comments and/or concerns.

Vote on Ordinance O-2022-40:

AYE: Paul, Able, Franks, Shahrezaei, Springsteen, Stewart, Strom, Vincent

NAY: Janssen

ABSENT: Mayott-Guerrero, Olver

Result:

Approved 8 - 1, the motion passed.

ITEM 9 – RESOLUTION 2022-41 – ENDORSING AMENDMENT TO LAKEWOOD 2022-2023 HEAD START GRANT APPLICATION FOR PURPOSE OF SUBMITTING REQUEST TO FEDERAL GOVERNMENT FOR SUPPLEMENTAL FUNDS AVAILABLE TO PROVIDE A COST OF LIVING ADJUSTMENT TO STAFF IN HEAD START AND EARLY HEAD START

[View video recording here](#)

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

Public Comment received via Lakewood Speaks: None.

Motion:

Mayor Pro Tem Vincent made a motion to adopt Ordinance O-2022-41. The motion was seconded.

Council members asked questions and stated their comments and/or concerns.

Council member Springsteen left the meeting.

Vote on Ordinance O-2022-41:

AYE: Paul, Able, Franks, Shahrezaei, Stewart, Strom, Vincent

NAY: Janssen

ABSENT: Mayott-Guerrero, Olver, Springsteen

Result:

Approved 7 - 1, the motion passed.

ITEM 10 – RESOLUTION 2022-42 – ENDORSING AMENDMENT TO LAKEWOOD 2022-2023 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

[View video recording here](#)

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

Public Comment received via Lakewood Speaks: None.

Motion:

Mayor Pro Tem Vincent made a motion to adopt Ordinance O-2022-42. The motion was seconded.

Council members asked questions and stated their comments and/or concerns.

Vote on Ordinance O-2022-42:

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

NAY: Janssen

ABSENT: Mayott-Guerrero, Olver, Springsteen (was not present for the vote)

Result:

Approved 7 - 1, the motion passed.

Request for Council Action:

Council member Shahrezaei's council request was regarding operational support/prioritization for homeless camps.

Ben Goldstein, Deputy City Manager and Alex Dorotik, Deputy City Attorney, addressed City Council's questions, comments, and concerns.

Council member Stewart's request was regarding a turf replacement program. She wanted to send the assignment to the Lakewood Advisory Committee for research and recommendations.

Council members asked questions and stated their comments and/or concerns.

There was consensus to move the proposal to the Lakewood Advisory Committee for research.

ITEM 15 – EXECUTIVE REPORT

None.

ITEM 16 – MAYOR AND CITY COUNCIL REPORTS

[View video recording here](#)

Mayor Paul and City Council members reported on news from their Wards and any other City business with which they were involved.

ITEM 17 – ADJOURNMENT

[View video recording here](#)

There being no further business to come before City Council, Mayor Paul adjourned the meeting at 8:30 p.m.

Respectfully submitted,

Bernadette Y. Salazar, Deputy City Clerk

STAFF MEMO

DATE OF COUNCIL MEETING: JUNE 27, 2022 / AGENDA ITEM NO. 9

JULY 11, 2022 / AGENDA ITEM NO. 11

To: Mayor and City Council

From: Benjamin B. Goldstein, Deputy City Manager, 303-987-7050

Subject: **DANIELS SANITATION DISTRICT EASEMENT ORDINANCE**

This ordinance was approved for publication on 1st reading by a vote of 11 ayes 0 nays.

SUMMARY STATEMENT: A proposed ordinance has been prepared to replace Daniels Sanitation District's ("Daniels"), existing easement at the City Shops on the east side of Quail Street and north of Parfet Street. The existing sanitary sewer underground facilities that are owned and operated by Daniels, do not completely align within the existing easement boundaries. The proposed modification to the existing easement will adjust the easement boundary to encompass Daniels existing utilities and provide a location for realignment of the pipe should Daniels choose to move the pipe in the future. The existing easement will be relinquished after creation of the new easement.

Prior to the first reading of the proposed ordinance, a presentation will be available on Lakewood Speaks for public review and City Council consideration. City staff from the Public Works Department will be available during City Council's discussion.

BACKGROUND INFORMATION: On April 11, 2022, City Council passed Resolution 2022-33, Easement Modification and Encroachment Agreement between The City of Lakewood and Daniels Sanitation District.

- Daniels' existing sanitary sewer pipeline is substantially located within the easement rights held by Daniels, although portions near the northerly and southerly edges of City property are not within the Daniel's existing easements. Figure #1 illustrates the existing recorded easements and displays the proposed modified easement encompassing Daniels existing underground facilities.
- The Easement Modification and Encroachment Agreement between the City of Lakewood and Daniels Sanitation District, regarding the City of Lakewood Maintenance Campus Decant and Tank Farm upgrades, is only effective if the easement is modified to accurately encompass Daniels existing facilities and allow for realignment of the pipe should Daniels choose to move the pipe in the future.
- If the Easement and Right of Way Agreement is approved the existing easements or portions thereof (73577231, 73545733) will be terminated.
- Easement 73577231 on Lot 8 and Parcel A was dedicated to the City; therefore, has merged into the City's fee simple estate, in which Lakewood will relinquish the existing easement.
- Daniels will need to quitclaim the existing easement 73545733 to the City, if the proposed easement materializes.
- The Public Works Department and Daniels Sanitation District jointly developed the easement documents.

BUDGETARY IMPACTS: The adopted 2022 budget includes funding for costs necessary for preparing easement documentation for approval.

STAFF RECOMMENDATIONS: Public Works recommends City Council authorizes the Easement and Right of Way Agreement between Lakewood and Daniels.

ALTERNATIVES: City Council could choose not to approve the proposed ordinance, however delaying Resolution 2022-33 would hold up construction for the tank farm expansion and decant system, which is necessary to meet current regulations. Resolution 2022-33 was developed jointly between Lakewood and Daniels, where both parties agreed to submit to City Council ahead of this ordinance to allow enough time for a bid package to go out before the first half of 2022. Construction will not be able to start until Daniels easement is rectified.

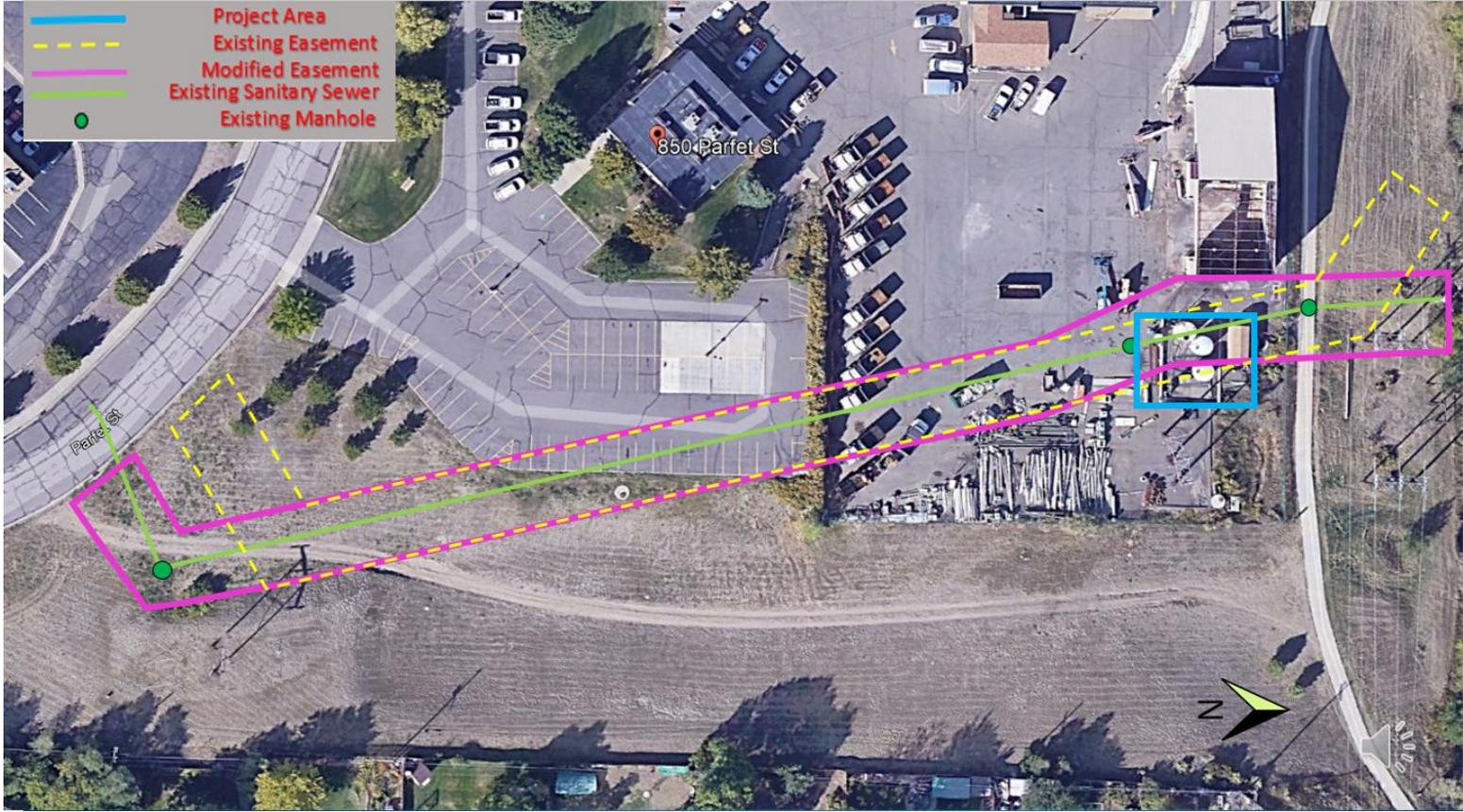
PUBLIC OUTREACH: This item was promoted through the regular communication channels of any item considered by City Council. A presentation on this topic has been made publicly available on LakewoodSpeaks.org

NEXT STEPS: If the ordinance is approved, the easement documents would be signed, and recorded with the Jefferson County Clerk and Recorders office and the project would move forward as described above.

ATTACHMENTS: Ordinance O-2022-10
Easement Agreement
PowerPoint Presentation

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

Figure #1-Easement Location



O-2022-10

AN ORDINANCE

APPROVING MODIFICATION OF SEWER LINE EASEMENT ON CITY PROPERTY

WHEREAS, on April 11th, 2022, the Lakewood City Council approved that certain Easement Modification and Encroachment Agreement between City of Lakewood and Daniels Sanitation District regarding City of Lakewood Maintenance Campus Decant and Tank Farm Upgrades (the "Agreement");

WHEREAS, the purpose of Agreement was to allow for construction of a project to update and extend a tank farm and decant system (the "Project") at the City's maintenance facility property located at 850 Parfet Street (the "City Property"), which required realignment of two easements held by the Daniels Sanitation District ("Daniels") through and abutting the City Property, as identified in the Agreement (collectively, the "Existing Easements"), to accurately reflect the actual physical locations of Daniels' sewer line and to provide for the potential future relocation of a portion of such sewer line;

WHEREAS, to accomplish the foregoing, Daniels and the City now desire: (i) to enter into the attached Easement Agreement, and (ii) that Daniels execute a quit claim deed extinguishing the Existing Easements in favor of the City;

WHEREAS, in accordance with section 14.3 of the City of Lakewood home rule charter (the "Charter"), the City may lease, sell, or otherwise dispose real property held or used for any municipal purpose only by City Council ordinance, and, therefore, the attached Easement Agreement must be approved by ordinance;

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. Approval. Subject to Section 2 hereof, the Easement Agreement attached hereto is hereby approved, and the City Manager is hereby directed to execute, and the City Clerk to attest, such Easement Agreement on behalf of the City.

SECTION 2. Effective Date. This Ordinance shall take effect upon the later to occur of either: (i) execution by the Daniels Sanitation District of a quit claim deed, approved by the City Attorney's Office, which extinguishes the Existing Easements in favor of the City; or (ii) the date that is thirty (30) days after final publication of this ordinance upon second reading.

SECTION 3. Severability. 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 regular meeting of the Lakewood City Council on the 27th day of June, 2022; published by title in the Denver Post and in full on the City of Lakewood's website, www.lakewood.org, on the 30th day of June, 2022; set for public hearing to be held on the 11th day of July, 2022; read, finally passed and adopted by the City Council on the _____ day of July, 2022; and signed by the Mayor on the _____ day of July, 2022.

Adam Paul, Mayor

ATTEST:

Jay Robb, City Clerk

APPROVED AS TO FORM:

Alison McKenney Brown, City Attorney

EASEMENT AGREEMENT

When recorded please return to:
City of Lakewood
City Clerk’s Office
480 South Allison Pkwy
Lakewood, CO 80226

This EASEMENT AGREEMENT (the “Agreement”) is made and entered into this ____ day of _____, 2022, by and between the **CITY OF LAKEWOOD**, a Colorado home rule municipal corporation whose principal business address is 480 S. Allison Parkway, Lakewood, CO 80226, hereinafter called “GRANTOR” (whether grammatically singular or plural), and the DANIELS SANITATION DISTRICT, a Title 32 Special District, whose principal address is 1002 Kipling Street, Lakewood, Colorado 80215, hereinafter called “GRANTEE”.

WITNESSETH:

FOR AND IN CONSIDERATION of the sum of Ten Dollars (\$10.00) and the mutual covenants contained herein, GRANTOR HEREBY GRANTS TO GRANTEE and its successors and assigns a PERMANENT UTILITY EASEMENT (the “Easement”) and right to enter, re-enter, occupy and use that certain real property located in the County of Jefferson, State of Colorado, as legally described in Exhibit A, attached hereto and incorporated herein by this reference (the “Easement Area”), for the purpose of construction, laying, maintaining, removing, repairing, operating, changing or altering, at Grantee’s cost and expense, underground sewer lines, including, by way of example and not by way of limitation, mains, conduits, ventilators, manholes, lamp holes, cables, wires, electrical apparatus and other underground and surface appurtenances thereto, together with a perpetual easement for ingress and egress thereto and therefrom for the aforesaid purposes, over, under and across Grantor-owned property located at 850 Parfet Street, Lakewood, Colorado (the “Grantor Property”).

IT IS FURTHER MUTUALLY AGREED by and between Grantor and Grantee that:

1. Grantee shall have the right of ingress and egress in, to, over, through and across the Grantor Property for any reasonable purpose needed for the full enjoyment of any rights or use provided for herein.
2. Grantor shall not construct or place any building, fencing, streetlight, power pole, yard light, mailbox or sign or other object or structure that interferes with the use of the easement granted herein without Grantee’s prior, written approval. Any unapproved object interfering with Grantee's use and enjoyment of the Easement granted herein may be removed by Grantee, upon reasonable notice to Grantor, without liability to Grantor for damages. Grantee agrees to notify Grantor prior to removal of any landscaping. Grantor may plant vegetation within said Easement, provided that the root system of the vegetation will not interfere with the sewer line. If Grantor violates these restrictions or if Grantor's actions cause damage to Grantee's lines, Grantor will be liable for the cost to correct said violations or damage.

P.M. No. 4-4-69-424	Ord. No.: O-2022-
ACCEPTED FOR CITY OF LAKEWOOD	Tax Schedule No. 300125507, 300177028 and 300406402
By: _____	Quarter Sec. No. 49-042 & 49-043

3. Grantee shall have and exercise the right of subjacent and lateral support to the extent necessary for its full, complete and unmolested enjoyment of the rights herein described. Grantor shall take no action which impairs the earth cover over, or the lateral or subjacent support for, any sewer lines or appurtenances within the Easement. If, however, Grantor obtains specific written permission of Grantee, the earth cover over any sewer lines, or appurtenances may be modified. Any modification undertaken by Grantor shall provide for reimbursement to Grantee of the cost of any alterations to any of its facilities made necessary by such change. Grantor understands that Grantee is under no obligation to provide written permission for any such modification.

4. Grantor specifically retains the right to the undisturbed use and occupancy of the subject property insofar as such use and occupancy is consistent with and does not impair any grant or agreement contained herein and except as herein and otherwise provided.

5. Grantor represents that it has full right, title and lawful authority to grant the Easement and to make and enforce the promises herein, subject to existing easements, restrictions and right-of-way of record.

6. Each and every one of the benefits and burdens of this Agreement shall inure to and be binding upon the legal representatives, heirs, executors, administrators, successors and assigns of the parties to this Agreement.

7. After construction of any sewer lines or appurtenances as herein described, Grantee shall restore the general surface of the ground, except as necessarily modified to accommodate appurtenances, as nearly as may reasonably be to the grade and condition it was in immediately prior to construction. Grantee shall replace topsoil in cultivated and agricultural areas, and any excess earth resulting from installations by Grantee shall be removed from the Grantor Property and Easement Area at Grantee's sole expense.

8. In the event Grantee abandons its rights herein granted and ceases to use the same, all right, title and interest hereunder of Grantee shall cease and terminate, and Grantor shall hold said premises, as the same may then be, free from the rights so abandoned and shall own all material and structures of Grantee so abandoned. If Grantee abandons its rights under this Agreement, Grantee agrees to execute and acknowledge an instrument evidencing its abandonment suitable for recording.

9. Grantor further grants to Grantee a temporary easement for construction purposes. This temporary easement shall terminate immediately upon completion of the intended construction within the Easement Area, unless sooner terminated by instrument executed by Grantee. Grantor further agrees that Grantee may stockpile soil and materials on the construction easement during the period of construction, subject to Grantor's reasonable instructions.

IN WITNESS WHEREOF, GRANTOR has executed this Agreement on this _____ day of _____, 2022.

GRANTOR:

CITY OF LAKEWOOD

Kathleen E. Hodgson, City Manager

ATTEST:

Jay Robb, City Clerk

Attestation Date

Approved as to form:

Gregory D. Graham, Sr. Asst. City Attorney

Recommended and approved as to content:

Benjamin B. Goldstien, Interim Director
Public Works Department

Spencer Curtis, Right-of-Way Agent
Public Works Department

IN WITNESS WHEREOF, GRANTEE has executed this Agreement on this _____ day of _____, 2022.

GRANTEE

DANIELS SANITATION DISTRICT

By: _____
Rex Johnson, President

ATTEST:

Secretary

EXHIBIT A

PARCEL I - LEGAL DESCRIPTION

EXHIBIT "A" LEGAL DESCRIPTION

A PERMANENT EASEMENT LOCATED IN THE SOUTHWEST QUARTER OF SECTION 4, TOWNSHIP 4 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF LAKEWOOD, COUNTY OF JEFFERSON, STATE OF COLORADO, ALSO BEING A PORTION OF LOT 8, PARK WEST FILING NO. 2, FILED IN THE JEFFERSON COUNTY CLERK AND RECORDER'S OFFICE AT RECEPTION NO. 73574032, SAID PERMANENT EASEMENT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARING OF THIS DESCRIPTION IS ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SOUTHWEST QUARTER OF SECTION 4, ASSUMED TO BEAR N89°23'04"E A DISTANCE OF 1,318.70 FEET FROM A 3.25" ALUMINUM CAP FOUND AT THE NORTHWEST CORNER OF SAID NORTHEAST QUARTER OF THE SOUTHWEST QUARTER TO A 3.25" ALUMINUM CAP STAMPED L.S. #13528 FOUND AT THE CENTER QUARTER CORNER OF SAID SECTION 4;

BEGINNING AT A POINT ON SAID NORTH LINE, SAID POINT BEARS S89°23'04"W A DISTANCE OF 239.12 FEET FROM SAID CENTER QUARTER CORNER;

THENCE S26°51'58"E A DISTANCE OF 24.34 FEET; THENCE S01°13'08"E A DISTANCE OF 31.21 FEET; THENCE S26°51'58"E A DISTANCE OF 76.54 FEET TO THE EASTERLY SIDE OF A 35' WIDE EASEMENT FOR SANITARY SEWER AND STORM DRAINAGE PER PLAT; THENCE ALONG SAID EASTERLY SIDE THE FOLLOWING THREE (3) COURSES: 1).THENCE S14°40'59"E A DISTANCE OF 456.36 FEET; 2).THENCE S00°13'14"W A DISTANCE OF 27.71 FEET; 3).THENCE S53°54'57"W A DISTANCE OF 61.11 FEET TO THE NORTHEASTERLY RIGHT-OF-WAY OF PARFET STREET; THENCE ALONG SAID NORTHEASTERLY RIGHT-OF-WAY ALONG A NON-TANGENT CURVE TO THE LEFT AN ARC LENGTH OF 35.02 FEET, HAVING A RADIUS OF 305.86 FEET, THROUGH A CENTRAL ANGLE OF 06°33'34" AND A CHORD WHICH BEARS N36°05'10"W A DISTANCE OF 35.00 FEET TO THE WESTERLY SIDE OF SAID 35' WIDE EASEMENT FOR SANITARY SEWER AND STORM DRAINAGE PER PLAT; THENCE ALONG SAID WESTERLY SIDE THE FOLLOWING TWO (2) COURSES: 1).THENCE N53°54'57"E A DISTANCE OF 44.89 FEET; 2).THENCE N14°40'59"W A DISTANCE OF 452.74 FEET; THENCE N26°51'58"W A DISTANCE OF 80.78 FEET; THENCE N01°13'08"W A DISTANCE OF 39.55 FEET; THENCE N26°51'58"W A DISTANCE OF 24.33 FEET TO SAID NORTH LINE; THENCE N89°23'04"E ALONG SAID NORTH LINE A DISTANCE OF 35.00 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 22,976 SQUARE FEET, MORE OR LESS.

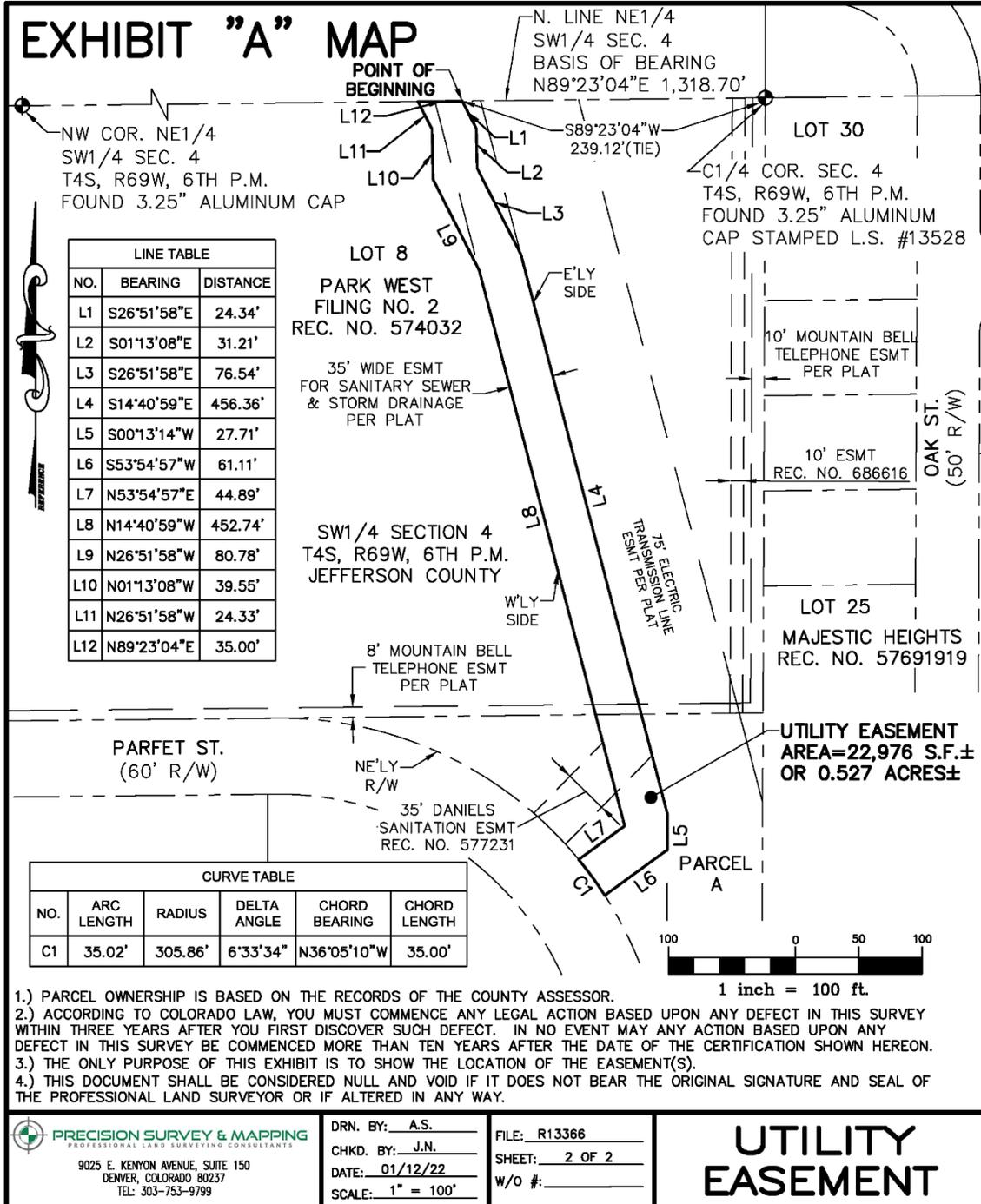
I, THE UNDERSIGNED, A REGISTERED LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE THAT THIS EXHIBIT WAS PREPARED BY ME OR UNDER MY SUPERVISION AND IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE.

Signature of Christopher P. Juliana, Registered Professional Surveyor No. 31158, dated 01/12/22. Text: CHRISTOPHER P. JULIANA, L.S. 31158, FOR AND BEHALF OF PRECISION SURVEY & MAPPING, INC.



PRECISION SURVEY & MAPPING logo and contact info (9025 E. KENYON AVENUE, SUITE 150, DENVER, COLORADO 80237, TEL: 303-753-9799). Metadata table with fields: DRN. BY: A.S., CHKD. BY: J.N., DATE: 01/12/22, SCALE: 1" = 100', FILE: R13366, SHEET: 1 OF 2, W/O #: . Large text: UTILITY EASEMENT.

PARCEL I - MAP



- 1.) PARCEL OWNERSHIP IS BASED ON THE RECORDS OF THE COUNTY ASSESSOR.
- 2.) ACCORDING TO COLORADO LAW, YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS AFTER THE DATE OF THE CERTIFICATION SHOWN HEREON.
- 3.) THE ONLY PURPOSE OF THIS EXHIBIT IS TO SHOW THE LOCATION OF THE EASEMENT(S).
- 4.) THIS DOCUMENT SHALL BE CONSIDERED NULL AND VOID IF IT DOES NOT BEAR THE ORIGINAL SIGNATURE AND SEAL OF THE PROFESSIONAL LAND SURVEYOR OR IF ALTERED IN ANY WAY.

PARCEL II – LEGAL DESCRIPTION

EXHIBIT "A" LEGAL DESCRIPTION

A PERMANENT EASEMENT LOCATED IN THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 4 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF LAKEWOOD, COUNTY OF JEFFERSON, STATE OF COLORADO, ALSO BEING A PORTION OF TRACT D, BLOCK 2, COBE LAKEWOOD SUBDIVISION FILING NO. 1, FILED IN THE JEFFERSON COUNTY CLERK AND RECORDER'S OFFICE AT RECEPTION NO. 77879336, SAID PERMANENT EASEMENT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARING OF THIS DESCRIPTION IS ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID NORTHWEST QUARTER OF SECTION 4, ASSUMED TO BEAR N89°23'04"E A DISTANCE OF 1,318.70 FEET FROM A 3.25" ALUMINUM CAP FOUND AT THE SOUTHWEST CORNER OF SAID SOUTHEAST QUARTER OF THE NORTHWEST QUARTER TO A 3.25" ALUMINUM CAP STAMPED L.S. #13528 FOUND AT THE CENTER QUARTER CORNER OF SAID SECTION 4;

BEGINNING AT A POINT ON SAID SOUTH LINE, SAID POINT BEARS S89°23'04"W A DISTANCE OF 239.12 FEET FROM SAID CENTER QUARTER CORNER;

THENCE S89°23'04"W ALONG SAID SOUTH LINE A DISTANCE OF 35.00 FEET; THENCE N00°36'56"W A DISTANCE OF 86.00 FEET; THENCE N89°23'04"E A DISTANCE OF 35.00 FEET; THENCE S00°36'56"E A DISTANCE OF 86.00 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 3,010 SQUARE FEET, MORE OR LESS.

I, THE UNDERSIGNED, A REGISTERED LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE THAT THIS EXHIBIT WAS PREPARED BY ME OR UNDER MY SUPERVISION AND IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE.



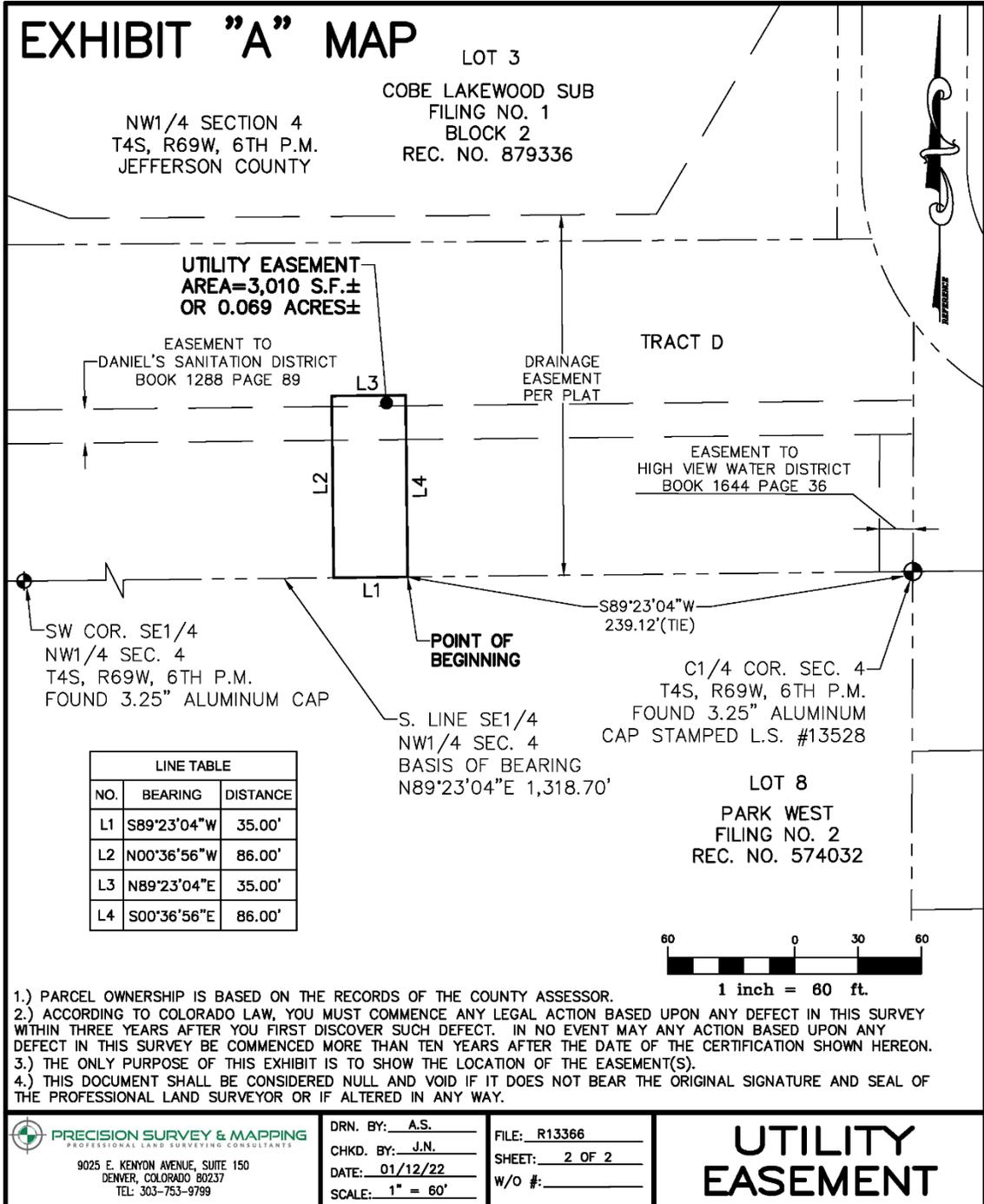
 Christopher P. Julian (Signature) 01/12/22

 CHRISTOPHER P. JULIAN, P.L.S. 31158 DATE

 FOR AND BEHALF OF PRECISION SURVEY & MAPPING, INC.

 PRECISION SURVEY & MAPPING <small>PROFESSIONAL LAND SURVEYING CONSULTANTS</small> 9025 E. KENYON AVENUE, SUITE 150 DENVER, COLORADO 80237 TEL: 303-753-9799	DRN. BY: <u>A.S.</u>	FILE: <u>R13366</u>	<h1>UTILITY EASEMENT</h1>
	CHKD. BY: <u>J.N.</u>	SHEET: <u>1 OF 2</u>	
	DATE: <u>01/12/22</u>	W/O #: _____	
	SCALE: <u>1" = 60'</u>		

PARCEL II - MAP



Easement Modification Daniels Sanitation District Ordinance

- June 13, 2022

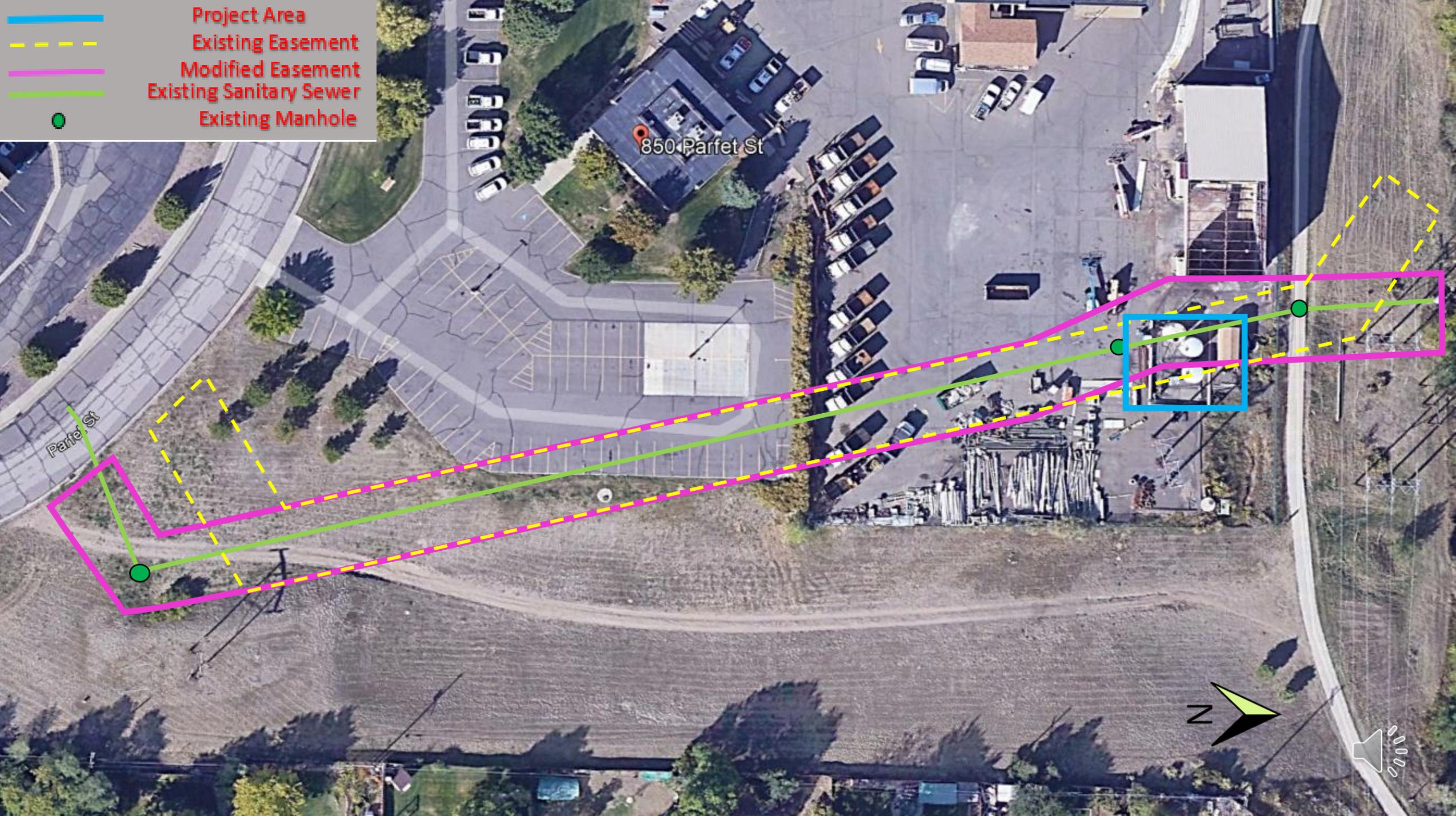


Background

- Resolution 2022-33-Easment Modification and Encroachment Agreement between Lakewood and Daniels Sanitation District (Daniels), approved on April 11th, 2022
- Request City Council approval for proposed modification to Daniels' existing easement.
 - Approve documents for modified easement.
 - Vacate existing easements.



Project Area
Existing Easement
Modified Easement
Existing Sanitary Sewer
Existing Manhole



850 Parfet St

Parfet St



Recommendation

Adoption of the City Council Ordinance authorizing modifications to Daniels Sanitation District's existing easement.



STAFF MEMO

DATE OF COUNCIL MEETING: JUNE 27, 2022 / AGENDA ITEM NO. 10

JULY 11, 2022 / AGENDA ITEM NO. 12

To: Mayor and City Council

From: Benjamin B. Goldstein, Deputy City Manager, 303-987-7901

Subject: **FLOODPLAIN MANAGEMENT ORDINANCE UPDATE**

This ordinance was approved for publication on 1st reading by a vote of 11 ayes 0 nays.

SUMMARY STATEMENT: In order to participate in the National Flood Insurance Program, the City must adopt and keep current a floodplain management ordinance meeting certain minimum standards required by the Federal Emergency Management Agency (FEMA). The proposed ordinance revisions provide updated information, which will be used to apply the provisions of the ordinance if approved by City Council.

The City of Lakewood was recently informed that adoption and enactment of the ordinance is required by August 2, as a result of the 30-day enacting period that accompanies a regular ordinance, staff is requesting that this item be adopted by emergency ordinance.

BACKGROUND INFORMATION: The following revisions have been approved by FEMA and are proposed for City Council adoption:

Adopt revised and updated Flood Insurance Study

Periodically, updates become available to the local flood information which is used to guide development and reinvestment in the floodplains. By adopting the following updates, this information can be used as the best available information in applying the requirements of the floodplain management ordinance.

Flood Insurance Study for Jefferson County, Colorado and Incorporated Areas prepared by the Federal Emergency Management Agency, and the Flood Insurance Rate Map (FIRM) dated August 02, 2022

For the City of Lakewood, no significant changes have been made to the flood hazard data on the Preliminary and/or revised Preliminary copies of the FIRM for Jefferson County. The revised FIRM includes modifications based on previously approved Letters of Map Change actions (LOMC). Some LOMCs have not been incorporated in the revised FIRM due to scale limitations, these LOMCs will be revalidated by letter after the FIRM becomes effective.

Volumes 1 and 8 of 10 of the Flood Insurance Study proposed to be adopted by this ordinance are available for review in the Department of Public Works.

BUDGETARY IMPACTS: None.

STAFF RECOMMENDATIONS: Staff recommends adoption of the ordinance to allow for the continued participation of property owners in FEMA's flood insurance program.

ALTERNATIVES: The City Council may adopt the revised floodplain management ordinance or choose to leave the municipal code as-is. Failure to adopt the revised floodplain management ordinance will result in FEMA terminating the issuance and renewal of National Flood Insurance Program insurance policies within Lakewood. Any later amendments to the floodplain management ordinance would need to be reviewed by FEMA prior to adoption.

PUBLIC OUTREACH: The Mile High Flood District notified property owners and tenants within the study area several times during the series of public meetings associated with the notifications regarding the FEMA process to modify the FIRM.

Public outreach on the proposed floodplain management ordinance revisions has been made through Lakewood Speaks. The public will have an additional opportunity to provide feedback during the public hearing on second reading of the ordinance.

NEXT STEPS: City staff will implement the revised provisions of the floodplain management ordinance on the effective date of the ordinance.

ATTACHMENTS: Emergency Ordinance O-2022-11
Emergency Ordinance O-2022-11_Redlined

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

AN EMERGENCY ORDINANCE

REPEALING AND REPLACING IN ITS ENTIRETY SECTION 14.25.050 OF THE LAKEWOOD MUNICIPAL CODE CONCERNING FLOODPLAIN MANAGEMENT, AND FURTHER, DECLARING AN EMERGENCY

WHEREAS, the City of Lakewood regulates by ordinance development within floodplains throughout the city;

WHEREAS, the City of Lakewood participates in the National Flood Insurance Program of the Federal Emergency Management Agency;

WHEREAS, the City Council of the City of Lakewood desires to repeal and replace Lakewood Municipal Code section 14.25.050 with the intent of maintaining a current and updated floodplain management ordinance as required for continued participation in the National Flood Insurance Program;

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 in order 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 recitals set forth above are incorporated herein.

SECTION 2. Section 14.25.050 of the Lakewood Municipal Code is hereby repealed and replaced in its entirety with the following:

14.25.050 Adoption of Flood Insurance Study, Flood Insurance Rate Map and Official Flood Studies.

A. There is hereby adopted the Flood Insurance Study for Jefferson County, Colorado and Incorporated Areas prepared by the Federal Emergency Management Agency, effective August 02, 2022, and amendments thereto, and the Flood Insurance Rate Map, effective August 02, 2022, and amendments thereto, and the following studies and amendments thereto and all technical back-up information as the Official Flood Studies for Lakewood, Colorado. A copy of said Map, studies and amendments are on file with the City of Lakewood Department of Public Works and available for public inspection.

1. Flood Hazard Area Delineation
Weir Gulch Tributaries
1st Avenue - Dakota Avenue

July, 1977

2. Major Drainageway Planning
Weir Gulch Tributaries
1st Avenue and Dakota Avenue
Depew Street Basin
Portions of this study are superseded by
(19) and (24) below. July, 1978
3. Major Drainageway Planning, Volume 2
Sanderson Gulch/Weir Gulch
Portions of this study are superseded by
(4), (16) and (26) below. August, 1972
4. Weir Gulch
Drainage Improvements Schedule III
South. Garrison Street to
Main Reservoir January, 1977
5. Flood Hazard Area Delineation
Lakewood Gulch February, 1979
6. Flood Hazard Area Delineation
McIntyre Gulch October, 1977
7. Flood Hazard Area Delineation
Sloans Lake Drainageway and Tributaries
July 2018
8. Flood Hazard Area Delineation
Green Mountain Area
Portions of this study are superseded by
(22) and (25) below April, 1978
9. Flood Hazard Area Delineation
South Lakewood Gulch July, 1977
10. Flood Hazard Area Delineation
Bear Creek December, 1979
11. Master Drainage Plan, Volume 2
Lena Gulch
Portions of this study are superseded by
(17) and (18) below. June, 1975
12. Flood Hazard Area Delineation
Dry Gulch and Tributaries November, 1977
13. Flood Hazard Area Delineation
Henry's Lake Drainageway
Portions of this study are superseded by
(20) and (21) below. July, 1983

14. Flood Hazard Area Delineation Weaver Creek	May, 1981
15. Flood Hazard Area Delineation Dutch Creek, Lilley Gulch, Coon Creek and Three Lakes Tributary	May, 1978
16. Major Drainageway Planning Upper Weir Gulch	December, 1993
17. Flood Hazard Area Delineation Upper Lena Gulch	January, 1993
18. Major Drainageway Planning Upper Lena Gulch	March, 1994
19. Flood Plain Revisions Depew Street Basin Portions of this study are superseded by (24) below.	December, 1998
20. Outfall System Planning Academy Park Tributary to Bear Creek	July, 1999
21. Outfall System Planning Pinehurst Tributary to Bear Creek	December, 1999
22. Flood Hazard Delineation Update Fox Run Gulch (formerly known as "Drainageway B")	January, 2008
23. Flood Hazard Area Delineation Marston Lake North Drainageway	July, 2012
24. Floodway Study First Avenue Tributary	July, 2013
25. Hydrologic Evaluation and Floodplain Update Drainageway G, G1, G2, G3 and the Indiana Street Overflow	February, 2013
26. Flood Hazard Area Delineation Sanderson Gulch (includes North Sanderson Gulch)	October, 2018

B. The official flood studies listed as 1 through 26 above, and any amendments to the 2022 Flood Insurance Study, are to be used in all cases for administration of this chapter.

C. No provision in this chapter will be enforced based upon modified data reflecting natural or man-made physical changes without first receiving prior approval of such

change(s) by the City of Lakewood, the Mile High Flood District and the Federal Emergency Management Agency.

SECTION 3. Emergency Declaration. In accordance with section 7.4 of the City of Lakewood home rule charter (the "Charter"), the City Council hereby finds, determines and declares that an emergency exists and that this Ordinance is necessary for the immediate preservation of public property, health, welfare, peace or safety because, if a revised Floodplain Management ordinance that is consistent with current requirements is not effective within Lakewood by August 2, 2022, then beginning August 3, 2022:

- a. the Federal Emergency Management Agency (FEMA) will terminate the issuance and renewal of National Flood Insurance Program (NFIP) insurance policies within Lakewood and will not re-authorize the issuance and renewal thereof until after such a revised Floodplain Management ordinance becomes effective; and
- b. the Federal Flood Mitigation Assistance grant program, Building Resilient Infrastructure and Communities grant program, as well as Federal Small Business Administration disaster loans, may be made unavailable.

The City Council further determines that the adoption of this ordinance as an emergency ordinance is in the best interest of the residents of the City of Lakewood, but if this emergency ordinance is not adopted by an affirmative vote of two-thirds of all members of the City Council, it may still be passed as a regular ordinance in conformance with the provisions of Charter section 7.4.

SECTION 4. Effective Date. In light of the foregoing, the City Council hereby declares an emergency, and this Ordinance shall be in full force and effect immediately upon adoption on second reading. Notwithstanding the foregoing, in the event this emergency ordinance is not adopted by an affirmative vote of two-thirds of all members of the City Council, but is adopted as a regular ordinance, its effective date shall be thirty (30) days after final publication upon second reading hereof.

SECTION 5. Severability. 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 regular meeting of the Lakewood City Council on the 27th day of June, 2022; published by title in the Denver Post and in full on the City of Lakewood's website, www.lakewood.org, on the 30th day of June, 2022; set for public hearing to be held on the 11th day of July, 2022; read, finally passed and adopted by the City Council on the _____ day of July, 2022; and signed by the Mayor on the _____ day of July, 2022.

Adam Paul, Mayor

ATTEST:

Jay Robb, City Clerk

APPROVED AS TO FORM:

Alison McKenney Brown, City Attorney

14.25.050 Adoption of Flood Insurance Study, Flood Insurance Rate Map and Official Flood Studies.

A. There is hereby adopted the Flood Insurance Study for Jefferson County, Colorado and Incorporated Areas prepared by the Federal Emergency Management Agency, ~~2014~~effective August 02, 2022, and amendments thereto, and the Flood Insurance Rate Map ~~dated February 5, 2014, effective August 02, 2022~~, and amendments thereto, and the following studies and amendments thereto and all technical back-up information as the Official Flood Studies for Lakewood, Colorado. A copy of said ~~map~~Map, studies and amendments are on file ~~in~~with the City of Lakewood Department of Public Works and available for public inspection.

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1st Avenue - Dakota Avenue
July, 1977
2. Major Drainageway Planning
Weir Gulch Tributaries
1st Avenue and Dakota Avenue
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Portions of this study are superseded by
(19) and (24) below.
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3. Major Drainageway Planning, Volume 2
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Portions of this study are superseded by
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Drainage Improvements Schedule III
South. Garrison Street to
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5. Flood Hazard Area Delineation
Lakewood Gulch
February, 1979
6. Flood Hazard Area Delineation
McIntyre Gulch
October, 1977
7. Flood Hazard Area Delineation
Sloans Lake ~~Drainageway and Tributaries Basin October, 1977~~July 2018
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- | | |
|---|----------------|
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Bear Creek | December, 1979 |
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Dry Gulch and Tributaries | November, 1977 |
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| 15. Flood Hazard Area Delineation
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Coon Creek and Three Lakes Tributary | May, 1978 |
| 16. Major Drainageway Planning
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26. Flood Hazard Area Delineation Sanderson Gulch (includes North Sanderson Gulch)	October, 2018

- B. The ~~Official Flood Studies~~official flood studies listed as 1 through 26 above, and any amendments to the ~~2014~~2022 Flood Insurance Study, are to be used in all cases for administration of this chapter.
- C. No provision in this chapter will be enforced based upon modified data reflecting natural or man-made physical changes without first receiving prior approval of ~~the~~such change ~~in the documents(s)~~ by the City of Lakewood, the ~~Urban Drainage and Mile High~~ Flood ~~Control~~ District and the Federal Emergency Management Agency.