

CITY OF WHEAT RIDGE, COLORADO
RESOLUTION NO. 04
Series of 2014

TITLE: A RESOLUTION CONCERNING THE ACQUISITION OF PRIVATE PROPERTY FOR THE PURPOSE OF CONSTRUCTING, INSTALLING, MAINTAINING AND USING PUBLIC IMPROVEMENTS FOR THE KIPLING STREET MULTI-USE TRAIL BY EITHER NEGOTIATION AND VOLUNTARY PURCHASE OR, IF NECESSARY, THROUGH THE UTILIZATION OF THE CITY'S POWER OF EMINENT DOMAIN, AND AUTHORIZING SUCH ACTION AS NECESSARY TO ACCOMPLISH SAID PURPOSES

WHEREAS, the City of Wheat Ridge, Colorado possesses the power of eminent domain pursuant to Article XX, §§1 and 6 of the Colorado Constitution, Section 16.4 and 1.3 of the City of Wheat Ridge Home Rule Charter, C.R.S. §38-1-101, *et seq.*, and C.R.S. § 38-6-101, *et seq.*; and

WHEREAS, the City Council for the City of Wheat Ridge seeks to acquire certain property rights more particularly described on the attached Exhibit A for the purposes of constructing, installing, maintaining and using public improvements for a multi-use trail along Kipling Street in Wheat Ridge, Colorado; and

WHEREAS, the City of Wheat Ridge has complied and intends to continue to comply with all applicable provisions of C.R.S. § 38-1-101, *et seq.*, including, but not limited to, the notice and good faith negotiation requirements and provisions thereof.

NOW, THEREFORE, BE IT RESOLVED by the City Council for the City of Wheat Ridge that:

Section 1. The term "Subject Property" means the Easement interest in the real property more particularly described in attached Exhibit A.

Section 2. The City Council hereby finds that the acquisition of the Subject Property for the construction, installation, maintenance and use of the public improvements for a multi-use trail will serve a proper, public and municipal purpose and use, and that such acquisition is necessary and essential to this public purpose and use. The City Council hereby declares its intent to acquire the Subject Property for the purposes stated herein.

Section 3. The City Manager or his designee, in consultation with the City Attorney, is directed to provide notice of the City's intent to acquire the Subject Property to the various owners of said property and to thereafter conduct good faith negotiations with the owners for the acquisition of the property rights sought. The City Manager is authorized to make offers for all or portions of the Subject Property based upon the appraisal or fair market valuation of the same, and is further authorized to execute

agreements for the acquisition of all or portions of the Subject Property as described on the attached Exhibit A: Right-of-way plans of proposed Project No. STU 391A-008 State Highway No. 391.

Section 4. If, after making good faith offers to acquire the Subject Property, the City is unable to acquire the necessary property rights by negotiation and/or voluntary purchase, the City Attorney is hereby authorized to institute and prosecute eminent domain proceedings in the name of the City so as to acquire the Subject Property by condemnation. In the prosecution of any eminent domain actions to acquire the Subject Property, the City shall have and retain all rights and powers lawfully delegated to it by the Colorado Constitution, the City of Wheat Ridge Home Rule Charter, and C.R.S. § 38-1-101, *et seq.* and C.R.S. § 38-6-101, *et seq.*

Section 5. The City Manager or his designee, in consultation with the City Attorney, is authorized to seek and to take immediate possession of the Subject Property as may be necessary for constructing, installing, maintaining and using public improvements for a multi-use trail, and to make such deposits or other payments as may be necessary in connection therewith. If eminent domain proceedings are instituted, the City Manager or his designee, in consultation with the City Attorney, is authorized to retain such expert witnesses, including appraisers, as the City determines are necessary for the condemnation proceedings.

Section 6. The City Manager or his designee, in consultation with the City Attorney, are hereby specifically authorized to make such reasonable or necessary amendments and corrections to the terms and/or legal descriptions of the Subject Property to be acquired, including authorization to include such additional or other property rights necessary or desirable for the City to acquire so as to construct, install, maintain and use the public improvements for a multi-use trail.

Section 7. The City Council hereby finds, determines and declares that this Resolution is promulgated under the general police power of the City of Wheat Ridge, that it is adopted for the health, safety and welfare of the public, and that this Resolution is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Resolution bears a rational relation to the proper legislative object sought to be obtained.

Section 8. If any clause, sentence, paragraph or part of this Resolution or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 9. This Resolution shall become effective immediately upon adoption.

DONE AND RESOLVED this 13th day of January, 2014.



Joyce Jay
Joyce Jay, Mayor

ATTEST:

Janelle Shaver
Janelle Shaver, City Clerk