

ORDINANCE NO. 2021-24

AN ORDINANCE OF THE FLAGSTAFF CITY COUNCIL AUTHORIZING THE ACQUISITION OF DRAINAGE EASEMENTS, TEMPORARY CONSTRUCTION EASEMENTS, AND ANY OTHER NECESSARY PROPERTY RIGHTS FOR DRAINAGE AND FLOOD CONTROL IMPROVEMENTS TO THE SPRUCE AVENUE WASH; PROVIDING FOR DELEGATION OF AUTHORITY, SUBSEQUENT COUNCIL APPROVALS, SEVERABILITY, AUTHORITY FOR CLERICAL CORRECTIONS, AND DECLARING AN EMERGENCY

RECITALS:

WHEREAS, pursuant to Article VII, Section 5 of the Flagstaff City Charter the City shall acquire real property by ordinance; and

WHEREAS, pursuant to Article I, Section of the Flagstaff City Charter the City may acquire real property, easements, and other real property interests by purchase, gift, devise, exchange, or condemnation; and

WHEREAS, the City may exercise the power of eminent domain to acquire property rights necessary for channel improvements pursuant to A.R.S. Section 12-1111 and for public works projects pursuant to A.R.S. Section 12-1142; and

WHEREAS, it is necessary for the preservation of the peace, health and safety of the City of Flagstaff, Arizona, an emergency is declared to exist, and this ordinance shall become immediately operative and in force from and after the date of posting hereof.

ENACTMENTS:

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. In General.

The City of Flagstaff shall acquire drainage easements, temporary construction easements, and any other necessary property rights for drainage and flood control improvements to the Spruce Avenue Wash ("the property rights"), generally following the route shown on the map attached hereto as Exhibit A with the final project boundaries to be approved by the City Engineer.

SECTION 2. Delegation of Authority.

The Mayor, City Manager, City Attorney, City Engineer, City Clerk, Finance Director, Real Estate Manager, or their delegates or agents, are hereby authorized and directed to take all steps and execute all documents necessary to acquire the property rights and to carry out the purpose and intent of this ordinance, and to acquire such easements through purchase, exchange, gift, donation, dedication, or condemnation for a public use.

The City Engineer is directed to determine the final project boundaries for the Spruce Avenue Wash drainage and flood control improvements, and to obtain legal descriptions and maps for the property rights to be acquired for the project.

The Real Estate Manager is directed to obtain appraisals of the property rights to be acquired, and to proceed with acquisitions. All final agreements for acquisition are subject to the City Manager's final approval.

SECTION 3. Subsequent Council Approvals.

The City Council shall approve any condemnation necessary for public use, including site access, by resolution referencing this ordinance, and including a legal description and map of the properties sought to be condemned, which resolution shall be immediately effective.

Any easements and necessary property rights acquired pursuant to this ordinance will be presented to the City Council at a future council meeting for formal acceptance.

SECTION 4. Severability.

That if any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the City Code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION 5. Clerical Corrections

The City Clerk is hereby authorized to correct clerical and grammatical errors, if any, related to this ordinance, and to make formatting changes appropriate for purposes of clarity, form, or consistency with the Flagstaff City Code.

SECTION 6. Effective Date.

It is necessary for the preservation of the peace, health and safety of the City of Flagstaff, Arizona, an emergency is declared to exist, and this ordinance shall become immediately operative and in force from and after the date of adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 7th day of December, 2021.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

Exhibits:
Exhibit A - Map