

ORDINANCE NO. 2023-13

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, AUTHORIZING THE ACQUISITION OF ADDITIONAL REAL PROPERTY INTERESTS FOR THE HIGHWAY 180 CULVERT PROJECT; PROVIDING FOR DELEGATION OF AUTHORITY, SEVERABILITY, REPEAL OF CONFLICTING ORDINANCES, AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE

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, Schultz Creek floodwaters caused damage to Highway 180 and residential neighborhoods in both the summer of 2022 and spring of 2023; and

WHEREAS, on April 18, 2023 the City Council adopted Ordinance No. 2023-08 authorizing the acquisition of certain real property interests necessary for the Schultz Creek Stabilization Project and the Highway 180 Culvert Project; and

WHEREAS, the City and the Arizona Department of Transportation (ADOT) have identified additional property interests required for the Highway 180 Culvert Project and desire to complete construction of a new drainage channel to bring Schultz Creek waters to the Rio de Flag prior to the 2023 summer monsoons.

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 additional real property interests necessary for the Highway 180 Culvert Project in, under, over and across the real properties legally described in the chart attached hereto as Exhibit 1. A map showing an overview of the project is attached hereto as Exhibit 2.

SECTION 2. Delegation of Authority.

The City Engineer is directed to work with the Arizona Department of Transportation to complete design and obtain legal descriptions for the additional property interests necessary for the Highway 180 Culvert Project.

The Mayor, City Manager, City Attorney, City Engineer, City Clerk, Finance Director, Community Development Director, Real Estate Manager, or their delegates or agents, are hereby authorized and directed to take all steps and execute all documents necessary to carry out the purpose and intent of this ordinance, and to acquire the property interests necessary for the Highway 180 Culvert Project through purchase, exchange, gift, donation, dedication, or condemnation for a public use.

Prior to filing any condemnation proceeding to acquire property interests for the Highway 180 Culvert Project, the City Council shall have the opportunity to review the proposed taking for the project. Following such review, the City Council may adopt a resolution finding that the taking of property interests is necessary for a public use, the Highway 180 Culvert Project, and authorizing the filing of a condemnation proceeding to acquire said property interests.

SECTION 3. Repeal of Conflicting Ordinances.

Any ordinances and parts of ordinances in conflict with the provisions of this ordinance or any part of the code adopted herein by reference are hereby repealed.

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.

This ordinance shall become effective thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 16th day of May, 2023.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

Exhibits:

- Exhibit 1 Legal descriptions of properties where additional property interests are needed
- Exhibit 2 Project overview map