

ORDINANCE NO. 2023-14

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, AUTHORIZING THE ACQUISITION OF REAL PROPERTY FOR THE LONE TREE OVERPASS PROJECT; PROVIDING FOR DELEGATION OF AUTHORITY, SUBSEQUENT COUNCIL APPROVALS, SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, Article VII, Section 5 of the Flagstaff City Charter provides that the City acquire real property by ordinance; and

WHEREAS, the City of Flagstaff desires to acquire certain real property for the Lone Tree Overpass Project; and

WHEREAS, in November, 2018 Flagstaff voters passed Proposition 420, to establish a 0.23% local transaction privilege tax (sales) tax rate for a 20 year period, on the gross revenues derived from engaging in business activities within the city of Flagstaff, and dedicating use of the revenues to pay for the costs of a Lone Tree Railroad Overpass from Butler Avenue to Route 66, along with related pedestrian, bicycle, and street connections ("Lone Tree Overpass Project"); and

WHEREAS, the City of Flagstaff has programmed funding for the Lone Tree Overpass Project in its 5-year Capital Improvement Program; and

WHEREAS, the City Council has approved a contract with Ames Construction, Inc., a Minnesota corporation, which includes an option for property acquisition services for the Lone Tree Overpass Project ("agent"); and

WHEREAS, the City Council has previously approved Ordinance 2021-15 which authorized the acquisition of all or part of parcels associated with the Lone Tree Overpass Project, and further design has identified additional parcels that could be impacted which created the need for a supplemental ordinance.

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 any portion or all of the real property for the Lone Tree Overpass Project as generally described in Exhibit A and located as shown in Exhibit B, and per the civil engineering plans approved by the City Engineer ("the Properties").

SECTION 2. Delegation of Authority.

The Mayor, City Manager, City Attorney, City Clerk, Finance Director, City Engineer, 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 Properties and to carry out the purpose and intent of this ordinance, and to acquire the Properties through purchase, exchange, gift, donation, or dedication.

SECTION 3. Subsequent Council Approvals.

The City Council may 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 purchase contract for a Property of \$50,000 or more is subject to City Council approval at a future council meeting.

Any deed or other transfer of real property acquired pursuant to this ordinance will be presented to the City Council at a future council meeting for formal acceptance.

SECTION 4. Repeal of Conflicting Ordinances

All ordinances and parts of ordinances in conflict with the provisions of the code adopted herein are hereby repealed.

SECTION 5. Severability

If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the 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 6. Effective Date

This Ordinance shall be effective thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 3rd day of July, 2023.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

Exhibits:

Exhibit A – List of properties and legal descriptions – all or a portion to be acquired

Exhibit B – Map