

BY AUTHORITY

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ORDINANCE NO. _____
SERIES OF 2022

COUNCIL BILL NO. CB23-0080
COMMITTEE OF REFERENCE:
Finance & Governance

A BILL

For an ordinance designating certain properties as being required for public use and authorizing use and acquisition thereof by negotiation or through condemnation proceedings of fee simple, easement and other interests, including any rights and interests related or appurtenant to properties designated as needed for the Safe Routes to School project.

BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:

Section 1. The project will include a series of intersection improvements around Smith Elementary, which is not a DPS school, as a result of the Safe Routes to School project to increase pedestrian safety and increase walking and biking to school around Smith Elementary. This 67 square foot temporary easement is for redesign of the existing ramp to accommodate the improved safety features. Ultimately, the corner of Holly & 35th will have concrete bulb out.

That the Council hereby designates the following property situated in the City and County of Denver and State of Colorado as being needed for public uses and purposes by the City and County of Denver, a municipal corporation of the State of Colorado:

A tract or parcel of land being a portion of Lot 17, in the North 220 feet except the east 5 feet of Block 12, San Rafael recorded in Book 1 at Page 31 in the City and County of Denver Clerk and Recorder's Office, located in the Northeast Quarter of Section 30, Township 3 South, Range 67 West of the Sixth Principal Meridian, City and County of Denver, State of Colorado, said tract or parcel being more particularly described as follows:

For the purpose of this description the bearings are referenced to the 20 foot Range Line lying on the west side of Holly Street between the intersection at Holly Street and E. 33rd Avenue and the intersection at Holly Street and E. 35th Avenue, assumed to bear North 00°01'38" East, a distance of 659.38 feet (660 feet per CCD records). Monumented by a stone in a range box at the intersection at Holly Street and E. 33rd Avenue and by an axle in a range box at the intersection at Holly Street and E. 35th Avenue.

Commencing at the range point at the intersection at Holly Street and E. 35th Avenue;
THENCE South 00°01'38" West, along the 20 foot Range Line lying on the west side of Holly Street, a distance of 40.00 feet;

1 THENCE South 89°48'21" West, a distance of 25.00 feet to the intersection of the west right
2 of way line of Holly Street and the south right of way line of E. 35th Avenue and the Point of
3 Beginning;

4 THENCE South 00°01'38" West, along said west right of way line of Holly Street, a distance
5 of 10.87 feet;

6 THENCE North 48°42'58" West, a distance of 16.41 feet to the north line of of Lot 17, in the
7 North 220 feet except the east 5 feet of Block 12, San Rafael recorded in Book 1 at Page 31 in the
8 City and County of Denver Clerk and Recorder's Office and said south right of way line of E. 35th
9 Avenue;

10 THENCE North 89°48'21" East, along said north line and said south right of way line, a
11 distance of 12.33 feet to the Point of Beginning.

12 Containing 67 Square Feet, or 0.002 Acres, more or less.

13 **Section 2.** That Council authorizes the Mayor, including his duly authorized representatives,
14 in accordance with applicable federal, state, and City laws and rules and regulations adopted
15 pursuant thereto, to acquire the needed property interests, including, but not limited to, fee title,
16 permanent easements, temporary easements, fixtures, licenses, permits, improvements (including
17 without limitation, general outdoor advertising devices, buildings, and access points) and any other
18 rights, interests, and appurtenances thereto. Such authority includes the taking of all actions
19 necessary to do so without further action by City Council, including but not limited to: conducting
20 negotiations, executing all related agreements, making all necessary payments, taking any and all
21 actions required by law before instituting condemnation proceedings, allowing the temporary use of
22 City-owned land and conveying all or a portion of any City-owned land, including remnants, by
23 quitclaim deed, permanent or temporary easements, leases, licenses and permits.

24 **Section 3.** That if the interested parties do not agree upon the compensation to be paid for
25 the needed property interests, the owner or owners of the property are incapable of consenting, the
26 name or residence of any owner is unknown, or any of the owners are non-residents of the State,
27 then the City Attorney of the City and County of Denver, upon the Mayor's direction, is authorized
28 and empowered to exercise the City and County of Denver's eminent domain powers by instituting
29 and, as necessary, prosecuting to conclusion proceedings under Article 1, Title 38, Colorado
30 Revised Statutes, to acquire needed property interests upon, through, over, under and along the
31 above-described property as necessary for the purposes set forth in Section 1 above.

32 **Section 4.** That the Council finds and determines that the County of Denver's Department of
33 Transportation and Infrastructure or federal and state agencies may find the need to alter the nature

1 of the property interests or the legal descriptions of the properties referred to in this Ordinance and
2 may continue to do so in order to meet the needs of the Project. Council authorizes the Mayor,
3 including his duly authorized representatives, in accordance with applicable federal, state, and City
4 laws and rules and regulations adopted pursuant thereto, to acquire the property as the property
5 interests and legal descriptions are altered in accordance with the means authorized in this
6 Ordinance.

7 **Section 5.** That the Council authorizes the City to use the power of eminent domain to act
8 as the local authority to repurpose existing City right-of-way with improvements to prioritize the
9 movement of people for safety and economic benefits.

10 **Section 6.** That the City Council hereby finds and determines that the Project is necessary
11 for the health, safety, and welfare of the public.

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13 **[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]**

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1 COMMITTEE APPROVAL DATE: January 31, 2023 by Consent
2 MAYOR-COUNCIL DATE: February 7, 2023
3 PASSED BY THE COUNCIL: February 21, 2023
4  - PRESIDENT
5 APPROVED: _____ - MAYOR _____
6 ATTEST: _____ - CLERK AND RECORDER,
7 EX-OFFICIO CLERK OF THE
8 CITY AND COUNTY OF DENVER
9 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____ ; _____
10 PREPARED BY: Johna M. Varty, Assistant City Attorney DATE: February 9, 2023
11 Pursuant to section 13-9, D.R.M.C., this proposed ordinance has been reviewed by the office of the
12 City Attorney. We find no irregularity as to form and have no legal objection to the proposed
13 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to §
14 3.2.6 of the Charter.
15
16 Kerry Tipper, Denver City Attorney
17
18 BY: Anshul Bagga, Assistant City Attorney DATE: Feb 9, 2023