

**BY AUTHORITY**

ORDINANCE NO. \_\_\_\_\_

COUNCIL BILL NO. CB23-1126

SERIES OF 2023

COMMITTEE OF REFERENCE:

Land Use, Transportation & Infrastructure

**A BILL**

**For an ordinance vacating a portion of the 21<sup>st</sup> Street right-of-way located at Wewatta Street and 21st Street, with reservations.**

**WHEREAS**, the Executive Director of the Department of Transportation and Infrastructure of the City and County of Denver has found and determined that the public use, convenience and necessity no longer require that certain area in the system of thoroughfares of the municipality hereinafter described and, subject to approval by ordinance, has vacated the same with the reservations hereinafter set forth;

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

**Section 1.** That the action of the Executive Director of the Department of Transportation and Infrastructure in vacating the following described right-of-way in the City and County of Denver, State of Colorado, to wit:

**PARCEL DESCRIPTION ROW NO. 2022-VACA-0000011-001:**

**Land Description (Vacation)**

A Tract of land 4.00 feet in width, part of which being the southwesterly 4.00 feet of 21st Street (relocated) Right-of-Way in Block 9, GASTON'S ADDITION TO THE CITY OF DENVER, a subdivision of land in the Southwest Quarter of Section 27 and the Southeast Quarter of Section 28, Township 3 South, Range 68 West of the 6th Principal Meridian, City and County of Denver, State of Colorado, the plat of said subdivision recorded in Book 1 at Page 49 in the Office of the Clerk and Recorder of the City and County of Denver (also filed in Book 1 at Page 27A of Engineering Images), said 21st Street (relocated) Right-of-Way established by City and County of Denver Resolution Number 98, Series 2007, AND part of said Tract being the southwesterly 4.00 feet of the southeasterly 40.00 feet of Delgany Street Right-of-Way adjoining the northwesterly line of said 21st Street (relocated) Right-of-Way, said Delgany Street Right-of-Way established by said plat, all of said Tract more particularly described as follows:

Commencing at a 5/8 inch rebar with a yellow plastic cap marked "LS 38567" at a point on the center line of the vacated alley adjoining the Southeast lines of Lots 8 through 14, inclusive, in said Block 9, said alley vacated by Ordinance 619, Series 2006 and recorded as Reception Number 2006155052 in said Clerk and Recorder's Office, said point being the South corner of a parcel of land described in a special warranty deed recorded as Reception Number 2016061169 in said Clerk and Recorder's Office, from whence a 5/8 inch rebar with a 2 inch aluminum cap marked "LS 38567 WC 10' SW" and lying on said center

1 line bears North 44° 55' 28" East a distance of 141.11 feet, said center line being the basis  
2 of bearings of this description and all bearings herein are relative thereto, said rebar and  
3 aluminum cap being a witness monument lying 10.00 feet southwesterly of the East corner  
4 of said parcel; thence North 44° 55' 28" East 151.11 feet on said center line to the East  
5 corner of said parcel and the POINT OF BEGINNING of said Tract herein described;  
6 Thence North 45° 04' 32" West 173.00 feet on the Southwest Right-of-Way line of said 21st  
7 Street (relocated) and on the Southwest Right-of-Way line of the Southeast half of said  
8 Delgany Street, said Right-of-Way lines being coterminous with the Northeast line of said  
9 parcel and being coterminous with the Northeast line of said Lot 8 and its northwesterly and  
10 southeasterly extensions, to a nail and tag marked "LS 38567" lying on the North corner of  
11 said parcel; Thence North 44° 55' 28" East 4.00 feet on the center line of said Delgany  
12 Street; Thence South 45° 04' 32" East 181.00 feet, parallel with and 4.00 feet northeasterly  
13 of (as measured perpendicular to) said Southwest Right-of-Way lines to the Northwest line  
14 of Wewatta Street described in a Quit-claim deed recorded as Reception Number  
15 9300156938 in said Clerk and Recorder's Office and dedicated as Right-of-Way by  
16 Resolution Number 98, Series 2007; Thence South 44° 55' 28" West 4.00 feet on said  
17 Northwest line being coterminous with the Southeast line of the alley in said Block 9 to the  
18 East corner of said vacated alley; Thence North 45° 04' 32" West 8.00 feet on the  
19 Northeast line of said vacated alley to the POINT OF BEGINNING, said Tract containing  
20 724 square feet or 0.017 acre  
21 be and the same is hereby approved and the described right-of-way is hereby vacated and declared  
22 vacated;

23 PROVIDED, HOWEVER, said vacation shall be subject to the following reservation:  
24 A perpetual, non-exclusive easement is hereby reserved by the City and County of Denver, its  
25 successors and assigns, over, under, across, along and through the vacated area for the purposes  
26 of constructing, operating, maintaining, repairing, upgrading and replacing public or private utilities  
27 including, without limitation, storm drainage, sanitary sewer, and water facilities and all  
28 appurtenances to said utilities. A hard surface shall be maintained by the property owner over the  
29 entire easement area. The City reserves the right to authorize the use of the reserved easement by  
30 all utility providers with existing facilities in the easement area. No trees, fences, retaining walls,  
31 landscaping or structures shall be allowed over, upon or under the easement area. Any such  
32 obstruction may be removed by the City or the utility provider at the property owner's expense. The  
33 property owner shall not re-grade or alter the ground cover in the easement area without permission  
34 from the City and County of Denver. The property owner shall be liable for all damages to such  
35 utilities, including their repair and replacement, at the property owner's sole expense. The City and  
36 County of Denver, its successors, assigns, licensees, permittees and other authorized users shall  
37 not be liable for any damage to property owner's property due to use of this reserved easement.  
38 The reserved Easement Area is legally described as follows:

39 **PARCEL DESCRIPTION ROW NO. 2022-VACA-0000011-002:**

**Land Description (Easement Retained)**

A Strip of land 4.00 feet in width lying within the southeasterly half of Delgany Street adjoining Block 9, GASTON'S ADDITION TO THE CITY OF DENVER, a subdivision of land in the Southwest Quarter of Section 27 and the Southeast Quarter of Section 28, Township 3 South, Range 68 West of the 6th Principal Meridian, City and County of Denver, State of Colorado, the plat of said subdivision recorded in Book 1 at Page 49 in the Office of the Clerk and Recorder of the City and County of Denver (also filed in Book 1 at Page 27A of Engineering Images), said Delgany Street Right-of-Way established by said plat, said Strip more particularly described as follows:

Commencing at a 5/8 inch rebar with a yellow plastic cap marked "LS 38567" at a point on the center line of the vacated alley adjoining the Southeast lines of Lots 8 through 14, inclusive, in said Block 9, said alley vacated by Ordinance 619, Series 2006 and recorded as Reception Number 2006155052 in said Clerk and Recorder's Office, said point being the South corner of a parcel of land described in a special warranty deed recorded as Reception Number 2016061169 in said Clerk and Recorder's Office, from whence a 5/8 inch rebar with a 2 inch aluminum cap marked "LS 38567 WC 10' SW" and lying on said center line bears North 44° 55' 28" East a distance of 141.11 feet, said center line being the basis of bearings of this description and all bearings herein are relative thereto, said rebar and aluminum cap being a witness monument lying 10.00 feet southwesterly of the East corner of said parcel; thence North 44° 55' 28" East 151.11 feet on said center line to the East corner of said parcel, said corner also being the intersection of said center line and the Southwest Right-of-Way line of (relocated) 21st Street lying within said Block 9; thence North 45° 04' 32" West 148.00 feet on the Northeast line of Lot 8, said Block 9 and its southeasterly and northwesterly extensions to the POINT OF BEGINNING of said Strip herein described; Thence North 45° 04' 32" West 25.00 feet continuing on said northwesterly extension to the center line of said Delgany Street; Thence North 44° 55' 28" East 4.00 feet on said center line of Delgany Street; Thence South 45° 04' 32" East 25.00 feet parallel with said northeasterly line of said Lot 8; Thence South 44° 55' 28" West 4.00 feet to the POINT OF BEGINNING; said Strip containing 100 square feet or 0.002 acre

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

1 COMMITTEE APPROVAL DATE: August 29, 2023 by Consent  
2 MAYOR-COUNCIL DATE: September 5, 2023 by Consent  
3 PASSED BY THE COUNCIL: \_\_\_\_\_  
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: Martin A. Plate, Assistant City Attorney DATE: September 7, 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: \_\_\_\_\_, Assistant City Attorney DATE: \_\_\_\_\_