



CITY AND COUNTY OF DENVER

Finance Office
Division of Real Estate

201 WEST COLFAX
DEPARTMENT 1010
DENVER, CO 80202-4705
PHONE: (303) 913-1525
FAX: (720) 865-7585

MEMO

TO: City Council

RE: Land Acquisition Ordinance Request for Sand Creek Project

DATE: December 9, 2020

The protection of Sand Creek, and the lands that surround it, has been a priority for CCD and its partners, including the Mile High Flood District (MHFD), for decades. CCD's efforts along Sand Creek have focused on providing for safe flood conveyance and mitigating flood hazards; improving environmental health and water quality; developing a regional public trail; and maintaining habitat connectivity.

The Sand Creek Project will realign and improve the Sand Creek Regional Trail—a recommended alternative and preferred option in the 2016 Sand Creek Regional Greenway Trail Master Plan and a partnership project with MHFD. The Project will also enable CCD and its partners to maintain open space to limit flood hazards and protect critical and unique habitats; provide for overbank storage; and create restoration opportunities for water quality and habitat improvements.

A Land Acquisition Ordinance (No. 20200668) was passed by City Council on July 27, 2020 authorizing CCD to use its eminent domain powers to acquire the needed property interests for the Sand Creek Project. In addition to the property described in the above referenced ordinance, the Project requires acquisition of an adjacent parcel which is a portion of the North Ulster Street right-of-way that was vacated by CCD under Ordinance No. 20180282 and passed by City Council on May 14, 2018 (**Attachment A**). Acquisition of this portion of the vacated North Ulster Street right-of-way will ensure connectivity with DPR managed property to the west.

The Project is close to 90% design and construction is expected to begin in January 2020. Immediate acquisition is critical for utilizing MHFD funding, finalizing the design plans and beginning construction early next year. Funding for the acquisition will come from the Parks Legacy Fund (2A) with \$250,000 from MHFD.

Staff therefore requests that City Council pass a Land Acquisition Ordinance so that CCD may proceed with negotiating an acquisition.

Land Acquisition Ordinance Overview

The City uses a Land Acquisition Ordinance (LAO) to acquire land for transportation projects, including roadway and pedestrian projects, and other key City projects which provide a public purpose.

General Specifics of LAOs:

- LAO must have a public purpose.
- A LAO grants authority to acquire needed property through negotiated purchase or condemnation and can include full or partial property acquisition or temporary or permanent easements.
- The City cannot acquire more property than is anticipated for use. Occasionally, the City will acquire a whole property when only a portion is needed if the remainder property would become useless to the land owner.
- Funding for acquisition is included as part of the project budget.
- Large roadway projects typically use vesting deeds to describe a broader area within which acquisitions will occur. This is due to timing of the engineering design and approval and construction schedule.
- Smaller sidewalk and pedestrian projects are often more precise and limited to a more specific area for acquisition and use legal descriptions in the right of way plans to describe the LAO area.

Right of Way Process:

1. Property owner and tenant, if applicable, are notified in writing of the project through a Letter of Intent.
2. City orders an appraisal to determine fair market value based upon the engineering plans and legal descriptions defining the required area.
3. City sends a Relocation General Information Notice, if applicable, and the Acquisition Offer Letter Packet based upon the fair market value.
 - Owner has the right to obtain its own appraisal at City's expense.
4. City negotiates with Owner to come to a settlement agreement:
 - If Owner accepts offer, City prepares Purchase Agreement and moves forward with acquisition, relocation and closing.
 - If owner rejects offer or does not respond to offer, City moves forward with condemnation.
5. City sends a Final Offer and Last and Final Offer Letter if there has been no response from the owner during the initial 30 day period.