

**A RESOLUTION AUTHORIZING NEGOTIATIONS, PURCHASE, AND THE
EXERCISE OF THE CITY’S POWERS OF EMINENT DOMAIN TO ACQUIRE
CERTAIN REAL PROPERTY INTERESTS NECESSARY FOR THE 88TH
AVENUE WIDENING PROJECT**

NO. 2025-017

WHEREAS, the City of Commerce City (“City”) plans to engage in a public improvement project to widen East 88th Avenue from approximately Interstate 76 to approximately Highway 2 (the “Project”); and

WHEREAS, the City Council has determined that there is a compelling public need and purpose for the Project; and

WHEREAS, the City Council has approved budget authorizations and appropriations with sufficient funds for right-of-way acquisition for the Project; and

WHEREAS, the Project’s design has been complete to a sufficient detail to enable delineation of the real property interests the City will need to acquire to construct and maintain the Project (“Property Interests”); and

WHEREAS, the City of Commerce City, Colorado possesses the power of eminent domain pursuant to the provisions of Article XX, § 1 of the Colorado Constitution, Section 4.15 of the City of Commerce City Home Rule Charter, C.R.S. §38-1-101, *et seq.*, and C.R.S. § 38-6-101, *et seq.*;

WHEREAS, if the Property Interests cannot otherwise be acquired in a timely manner, the exercise of the City’s powers of eminent domain to obtain immediate possession of and to acquire title to the Property Interests for the Project is necessary and required for the public health, safety and welfare of the citizens of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COMMERCE CITY, COLORADO, AS FOLLOWS:

SECTION 1. Findings. The recitals to this resolution are incorporated as findings of the City Council. This resolution is found to be necessary for the preservation of the public health, safety, and welfare and in the public interest.

SECTION 2. Authorization. Pursuant to Article XX, § 1 of the Colorado Constitution, Sections 2.2(b) and 4.15 of the City of Commerce City Home Rule Charter, C.R.S. §38-1-101, *et seq.*, and C.R.S. § 38-6-101, *et seq.*, the City Attorney is authorized to take necessary and appropriate action to acquire possession of and good title to the Property Interests needed, including good faith negotiation, acquisition, and, if necessary, filing a petition in condemnation to acquire and obtain immediate possession of and good title to the Property Interests shown in **Exhibit A**. The City Attorney is authorized to prosecute such proceedings to completion and to retain the services of special condemnation counsel, appraisers, and other appropriate consultants and expert witnesses.

SECTION 3. Just Compensation. The City Manager is authorized to establish the compensation to be offered to each owner for the Property Interests in compliance with applicable law.

SECTION 4. Good Faith Negotiations. As appropriate and necessary, City staff is directed to undertake in an expedient manner and in accordance with the requirements of Article I, Title 38, C.R.S., as applicable, good faith negotiations with the Property owner(s) for acquisition of the Property Interests on the basis of fair and reasonable value. The City Manager is authorized to execute any agreements for possession and use for, or acquisition of title to the Property Interests. Should such negotiations fail, the City Attorney is authorized to forthwith institute eminent domain proceedings to acquire immediate possession of, and good title to the Property Interests. The City Attorney, in consultation with the City Manager, is authorized to enter into settlement agreements for the City to obtain possession of and/or title to the Property Interests.

SECTION 5. Need, Necessity and Public Use. The City Council finds and determines it is in the interest of the public's health, safety and welfare for it to acquire, as soon as possible, the necessary Property Interests. The City finds and determines there is a public need and necessity for obtaining possession of and acquiring the Property Interests and that the City's acquisition of the Property Interests is for a public use and purpose.

SECTION 6. Costs. The City Manager shall be further authorized to incur reasonable costs associated with acquiring the Property Interests, including, without limitation, the cost of title examination, title insurance, appraisal fee payments mandated by statute, normal closing costs, all reasonable costs and expenses of the condemnation proceedings, including filing fees, expert witness fees, court reporter fees, attorney fees, litigation costs and charges, and all other related or incidental costs or expenses associated with the acquisition or condemnation of immediate possession of and good title to the Property Interests.

SECTION 7. Amendment. The City's Director of Public Works, or his designee, is authorized to provide legal descriptions and to hereafter amend or clarify the Property Interests to be acquired and the nature and/or extent of the interests to be acquired, including commencement date and duration of any temporary easement, as needed to construct and maintain the Project.

SECTION 8. Severability. If any clause, sentence, paragraph, or part of this resolution or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect the remaining provisions of this resolution.

SECTION 9. Safety Clause. The City Council finds and declares that this resolution is promulgated and adopted for the public health, safety and welfare and this resolution bears a rational relation to the legislative object sought to be obtained.

RESOLVED AND PASSED THIS 6TH DAY OF JANUARY 2025.

CITY OF COMMERCE CITY, COLORADO

Steve J. Douglas, Mayor

ATTEST

Dylan A. Gibson, City Clerk