

STAFF MEMO

DATE OF MEETING: SEPTEMBER 11, 2023 / AGNEDA ITEM NO. 13

To: Mayor and City Council

From: Max Kirschbaum, Public Works Director

Subject: **ADOPTING TITLE 14, CHAPTER 28 OF THE MUNICIPAL CODE OF THE CITY OF LAKEWOOD, COLORADO, IN CONNECTION WITH ESTABLISHING A PUBLIC IMPROVEMENT REIMBURSEMENT PROGRAM TO ALLOW DEVELOPERS OF PRIVATELY FINANCED CONSTRUCTION THE ABILITY TO APPLY FOR AND OBTAIN PARTIAL COST RECOVERY FROM SUBSEQUENT USERS OF THE PUBLIC IMPROVEMENTS**

SUMMARY STATEMENT: The Lakewood Municipal Code is proposed to be revised to provide a mechanism for private developers (initial development) to potentially receive reimbursement from future development (subsequent development) that may directly benefit from use of public infrastructure that was completely funded, constructed, and dedicated by the initial developer.

BACKGROUND INFORMATION: In certain circumstances private developers of an initial development within an area must install significant public improvements to support a proposed project or to mitigate impacts to adjacent developments. These improvements often extend well beyond the property limits of the project and must be completely funded and constructed by the initial development in an area, sometimes at substantial cost. Once constructed and accepted these improvements are dedicated to the city for public use. Once dedicated to public use subsequent development is allowed to utilize these public improvements generally without fees or contribution to the original construction cost solely borne by the initial development.

The proposed process to request and obtain a reimbursement agreement is intended to be integrated into the standard development process to ensure that critical information and documentation regarding infrastructure costs are timely and accurate. The initial developer is responsible for providing all supporting information needed to establish the area within which future development would be required to provide reimbursement to the initial development (reimbursement area) and other elements of the agreement to the satisfaction of the City.

The language within the agreement contains two provisions to protect individual property owners from undue financial burden resulting from the reimbursement agreement. The first provision sets a ten-year limitation on the obligation for subsequent developments/individual property owners to be liable for reimbursement costs to the initial developer. Simply stated, if an individual property within a reimbursement area does not initiate a development process within ten years of the date of the reimbursement agreement they will not be required to contribute to the cost of the initial improvements. The second provision allows a property within the reimbursement area that does initiate a development process within the applicable ten year period to appeal the requirement to contribute to the cost of the initial improvements if the development will not connect to or take benefit from the initial improvements.

There is currently no program offered by the City of Lakewood that allows an initial developer to be reimbursed for extensive public improvements that may then be utilized by future development. This ordinance does not guarantee that a developer who completes a reimbursement agreement will recover any portion of the original

infrastructure cost.

BUDGETARY IMPACTS: No budgetary impact are anticipated.

STAFF RECOMMENDATIONS: Staff recommends adoption of the ordinance.

ALTERNATIVES:

PUBLIC OUTREACH: This item has been promoted through the regular communication channels to be considered by the Lakewood City Council.

NEXT STEPS: City staff will share the policy with owners of potential projects and identify projects in progress that may wish to consider initiating the application process.

ATTACHMENTS: 1. Ordinance O-2023-38

REVIEWED BY: Kathleen E. Hodgson, City Manager
Benjamin B. Goldstein, Deputy City Manager
Alison McKenney Brown, City Attorney