

RESOLUTION NO. \_\_\_\_\_ - 17

A RESOLUTION AUTHORIZING THE ACQUISITION OF PROPERTY UTILIZING THE USE OF POSSESSION AND USE AGREEMENTS FOR THE WEST COLORADO AVENUE RECONSTRUCTION PROJECT (WESTSIDE AVENUE ACTION PLAN)

WHEREAS, the City of Colorado Springs ("City") currently provides transportation and drainage systems and other public works and ways as authorized by Article 1, § 1-20(d) of the Charter of the City of Colorado Springs; and

WHEREAS, the voters of the City, along with other participating governments, approved the establishment of the Pikes Peak Rural Transportation Authority ("PPRTA") to fund infrastructure and capital projects within an area which includes the City; and

WHEREAS, on November 6, 2012, by vote of the public, the PPRTA Sales and Use Tax Extension was approved thereby extending the PPRTA through 2024; and

WHEREAS, the West Colorado Avenue Reconstruction, 31<sup>st</sup> Street to U.S. Highway 24, Project (the "Project") consists of capital improvements to transportation and other systems and rights-of-way within and through the jurisdictional boundaries of City of Colorado Springs, the City of Manitou Springs, and El Paso County, essential for the public health, safety and welfare of those communities, which is a valid and necessary public purpose; and

WHEREAS, the Project was identified by PPRTA as a Priority "A" Regional Collaborative Project; and

WHEREAS the PPRTA committed funding for final design, plans, and construction of the Project on January 1, 2015; and

WHEREAS, there are approximately 58 properties within the City, as listed in Exhibit A, attached hereto and incorporated herein, from which the Project will need to acquire certain real property interests (the "Parcels"); and

WHEREAS, all negotiations with property owners are conducted in accord with The City of Colorado Springs Procedure Manual for the Acquisition and Disposition of Real Property Interests ("RES Manual"), including Chapter 4, § 4.3(l) and Chapter 6, § 6.3(l), wherein City Council may authorize the use of a Possession and Use Agreement to obtain access to a Parcel and to allow construction and additional time for negotiations; and

WHEREAS, expedited acquisition of the Parcels is necessary for the efficient construction and completion of the Project.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:**

Section 1. City Council finds and determines that the acquisition of the Parcels is necessary to enable efficient construction and completion of the Project and to minimize the impacts of delayed construction on area residents and travelers.

Section 2. City Council finds and determines that it benefits the public health, safety, and welfare that certain real property interests be acquired for the West Colorado Avenue Reconstruction Project. The Parcels shall be acquired either by negotiation and purchase or, if necessary, by the exercise of eminent domain. The real property interests are required for the public purpose of constructing and completing the Project.

Section 3. In the event that acquisition of the Parcels will require extended negotiations or, as a last resort, the exercise of eminent domain, City Council finds and determines that immediate possession is necessary and required for the public health, safety, and welfare of the citizens of the City of Colorado Springs. The Public Works Director and the Real Estate Services Manager are authorized to enter into Possession and Use Agreements with those property owners wishing to use the Agreement as a step toward determining fair market value and just compensation while allowing the Project improvements to proceed.

Section 4. Pursuant to RES Manual §§ 4.3(l), (m) and 6.3(l), in the event a property owner chooses not to sign a Possession and Use Agreement, the Public Works Director and the Real Estate Services Manager shall seek City Council approval to file an eminent domain action.

Dated at Colorado Springs, Colorado, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Council President

ATTEST:

\_\_\_\_\_  
Sarah B. Johnson, City Clerk