

RESOLUTION NO. _____ - 19

A RESOLUTION AUTHORIZING THE USE OF EMINENT DOMAIN TO ACQUIRE REAL PROPERTY INTERESTS OWNED BY GOETSCH PEACOCK, LLC FOR THE COTTONWOOD CREEK DETENTION BASIN PR-2 PROJECT.

WHEREAS, the City of Colorado Springs (“City”), by and through its Department of Public Works and its Stormwater Enterprise, provides public roads, bridges, stormwater infrastructure and other works and ways, as authorized by Article 1, Section 1-20(d) of the Charter of the City of Colorado Springs; and

WHEREAS, the City entered into an Intergovernmental Agreement with Pueblo County, Colorado, on April 27, 2016 (“IGA”) in which the City agreed to fund stormwater infrastructure and capital projects within an area that includes the City; and

WHEREAS, the IGA identifies the Cottonwood Creek Detention Basin PR-2 Project (the “Project”) as a high priority project; and

WHEREAS, the Project consists of capital improvements to stormwater infrastructure for the purpose of managing stormwater flows, essential for the public health, safety and welfare of the City, which is a valid and necessary public purpose; and

WHEREAS, the Project necessitates removal of the existing Cowpoke Bridge and construction of a new crossing over Cottonwood Creek at Tutt Boulevard; and

WHEREAS, by Resolution 6-19 dated January 22, 2019, City Council authorized the acquisition of certain real property from Heriberto Lopez and Blanca F. Magallan Velasquez for \$100,000 for construction of the Project; and

WHEREAS, the City acquired the real property as described in deed dated January 28, 2019 from Heriberto Lopez and Blanca F. Magallan Velasquez to the City, attached hereto as Exhibit A, for the purpose of constructing the Project (the “City Property”); and

WHEREAS, Goetsch Peacock, LLC owns two easements, attached hereto as Exhibit B and Exhibit C (the “Interests”), which are encumbrances on the City’s title to the City Property; and

WHEREAS, acquisition of the Interests is necessary for the construction of the Project because the terms of the Interests restrict the City’s construction of the Project on the City Property; and

WHEREAS, despite attempts to negotiate an amicable acquisition of the Interests of Goetsch Peacock, LLC in the City Property, the City has been unable to negotiate an agreement for acquisition of the Interests; and

WHEREAS, pursuant to the provisions of Article XX, Section 1 of the Colorado Constitution and the City Charter, the City is empowered to acquire property interests within or without its territorial limits by lease, purchase, gift, bequest, dedication, or other suitable means of conveyance, or through institution of eminent domain proceedings, for all interests necessary for the City; and

WHEREAS, negotiations with Goetsch Peacock, LLC have reached an impasse and the City has an imminent need to unencumber the City Property of the Interests in order to allow the Project to proceed as scheduled and to avoid delays which could have a significant adverse impact on the City of Colorado Springs.

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

Section 1. City Council hereby finds it to be in the interest of the public health, safety, and welfare, and that the City has a need to, and it is necessary to, acquire all easement interests of Goetsch Peacock, LLC in the City Property for the public purpose of constructing the Project.

Section 2. The City Attorney is hereby authorized to take all action necessary to acquire the easement interests of Goetsch Peacock, LLC in the City Property and to seek immediate relief by a voluntary Possession and Use Agreement, eminent domain, or other appropriate proceedings.

Section 3. This Resolution shall be in full force and effect immediately upon its adoption.

DATED at Colorado Springs, Colorado this ____ day of _____, 2019.

Council President

ATTEST:

Sarah B. Johnson, City Clerk