

RESOLUTION NO. _____-17

A RESOLUTION AUTHORIZING THE USE OF EMINENT DOMAIN TO ACQUIRE REAL PROPERTY OWNED BY FRANCISCO SERNA NEEDED FOR THE WEST COLORADO AVENUE RECONSTRUCTION, 31ST STREET TO U.S. HIGHWAY 24, PROJECT

WHEREAS, the City of Colorado Springs ("City") currently provides transportation and drainage systems and other public works and ways as authorized by Article 1, Section 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, 31st Street to U.S. Highway 24, Project (the "Project") consists of capital improvements to transportation and other systems and ways 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, the acquisition of the real property owned by Francisco Serna ("Serna") identified on attached **Exhibit A** (the "Property"), is necessary for the construction of the Project and public improvements within the City limits; and

WHEREAS, despite repeated attempts by the City to negotiate an amicable acquisition of the Property with Serna, the City has been unable to negotiate an agreement for the purchase of the Property; 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 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 land necessary for the City; and

WHEREAS, acquisition of the Property is subject to the procedures of *The City of Colorado Springs Procedure Manual for the Acquisition and Disposition of Real Property Interests* , and Title 38 of the Colorado Revised Statutes; and

WHEREAS, negotiations with Serna have reached an impasse and the City has an imminent need to secure the Property for construction of the Project improvements; and

WHEREAS, the City has a need to acquire possession of the Property immediately to allow the Project to proceed as scheduled and to avoid delays which could have a significant adverse impact on this Regional Collaborative Project and the City.

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 it has a need for and it is necessary to acquire the Property from Serna for the purpose of constructing the Project which is for a public purpose.

Section 2. The City Attorney is hereby authorized to take all action necessary to acquire the Property and to seek immediate possession of the Property 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 _____, 2017.

Council President

ATTEST:

Sarah B. Johnson, City Clerk

EXHIBIT A

Description of the Property

3740 West Colorado Avenue, Colorado Springs, Colorado

TSN: 74033-00-025

and

0 West Colorado Avenue, Colorado Springs, Colorado

TSN: 74033-00-023