

RESOLUTION NO. ____-17

A RESOLUTION AUTHORIZING THE USE OF EMINENT DOMAIN TO ACQUIRE INTERESTS IN REAL PROPERTIES NEEDED FOR THE SOUTHERN DELIVERY SYSTEM PROJECT'S UPPER WILLIAMS CREEK RESERVOIR

WHEREAS, the City of Colorado Springs (the "City"), by and through its enterprise Colorado Springs Utilities ("Utilities"), currently provides utility systems, including water systems, as authorized by Article 1, Section 1-20(d) of the Charter of the City of Colorado Springs; and

WHEREAS, the City entered into that certain Intergovernmental Agreement for Construction of the Southern Delivery System dated August 1, 2003 (the "SDS Construction IGA"), as amended from time to time, under which the City, the Security Water District, the City of Fountain, and the Pueblo West Metropolitan District agreed to work together to design and construct the Southern Delivery System Project (the "SDS Project") with Utilities performing the role of project manager; and

WHEREAS, the SDS Project has been an approved capital project within the budget of Utilities since 2002; and

WHEREAS, as part of Phase I of the SDS Project, Utilities funded the design and land acquisition activities of the SDS Project's Upper Williams Creek Reservoir, which will consist of the construction of a 30,500 acre-foot reservoir and associated drain and fill pipelines within El Paso County, Colorado; and

WHEREAS, on December 10, 2013, City Council approved Resolution No. 134-13, determining that the SDS Project Improvements benefit the public health, safety, and welfare, and are needed for the operation of an essential public water system for the citizens of the City of Colorado Springs, which is a valid and necessary public purpose, and that the acquisition and possession and use of the real property interests identified in Exhibit A as Nos. 1 through 3 are necessary to enable the City to complete the SDS Project Improvements; and

WHEREAS, City Council further finds and determines that the real property interest identified in Exhibit A as No. 4, is also necessary to enable the City to complete the SDS Project Improvements; and

WHEREAS, acquisition of the property interests identified in Exhibit A is necessary for the efficient construction and completion of the SDS Project and its Upper Williams Creek Reservoir; and

WHEREAS, despite repeated attempts by Utilities to negotiate an amicable acquisition of the necessary property interests, Utilities has been unable to negotiate agreements for the purpose of acquiring the property 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 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.

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 certain property rights as set forth in this Resolution and the legal descriptions included in Exhibit A, attached hereto and incorporated herein by reference, for the purpose of constructing the Upper Williams Creek Reservoir and related facilities which is a public purpose.

Section 2. The City Attorney is hereby authorized to take all action necessary to acquire the rights in the Properties listed above and described in Exhibit A and to seek immediate possession of the properties 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

	Tax Schedule No.	Property Interest Required	Legal Description Exhibit
No.1	45000-00-124	Fee interest in approximately 26 acres of an approximately 40 acre parcel	Exhibit A-1
No. 2	45000-00-122	Fee interest in all of an approximately 40-acre parcel	Exhibit A-2
No. 3	45000-00-121	Fee interest in all of an approximately 80-acre parcel	Exhibit A-3
No. 4	55000-00-324	Easement across portion of an approximately 600-acre parcel	Exhibit A-4

EXHIBIT A-1

Description of Property No. 1

Property No. 1 (Tax Schedule No. 45000-00-124) Description:

The Southeast Quarter of the Southeast Quarter of Section 6, Township 15 South, Range 64 West of the Sixth Principal Meridian, County of El Paso, State of Colorado, except the south 30.00 feet thereof conveyed to the County of El Paso by Right of Way deed recorded January 10, 1923 in Book 602 at Page 322.

Said parcel contains 1,729,881 square feet or 39.713 acres, more or less.

Portion of Property No. 1 to be acquired in fee:

That portion of the Southeast One-Quarter of the Southeast One-Quarter of Section 6, Township 15 South, Range 64 West of the Sixth Principal Meridian, County of El Paso, State of Colorado, more particularly described as follows:

Commencing at the Southwest Corner of said Southeast One-Quarter of the Southeast One-Quarter; thence N01°03'45"W on the West line of said Southeast One-Quarter of the Southeast One-Quarter a distance of 30.00 feet to the North Right of Way line of Bradley Road and the Point of Beginning; thence continuing N01°03'45"W on said West line of the Southeast One-Quarter of the Southeast One-Quarter a distance of 861.71 feet; thence departing said West line and parallel with said North Right of Way Line of Bradley Road N89°51'08"E a distance of 1,341.14 feet to the East line of said Southeast One-Quarter of the Southeast One-Quarter; thence on said East line S01°30'51"E a distance of 861.85 feet to said North Right of Way line of Bradley Road; thence on said North line S89°51'08"W a distance of 1,347.93 feet to the Point of Beginning.

Said parcel contains 1,158,454 square feet or 26.594 acres, more or less.

Basis of Bearings: Bearings are based on the South line of the Southeast One-Quarter of the Southeast One-Quarter of Section 6, Township 15 South, Range 64 West of the Sixth Principal Meridian. Said line is assumed to bear S89°51'08"W between the found monuments as shown hereon, with all bearings referenced thereto.

EXHIBIT A-2

Description of Property No. 2

Property No. 2 (Tax Schedule No. 45000-00-122) Description – All of property to be acquired in fee:

A parcel of land located in Section 5, Township 15 South, Range 64 West of the Sixth Principal Meridian, County of El Paso, State of Colorado, more particularly described as follows:

The East 446.15 Feet of the Southwest Quarter of the Northeast Quarter and the West Half of the Southeast Quarter of Section 5, Township 15 South, Range 64 West of the 6th P.M., County of El Paso, State of Colorado, except the Southerly 30 Feet thereof.

Said parcel contains 1,750,493 square feet or 40.186 acres, more or less.

EXHIBIT A-3

Description of Property No. 3

Property No. 3 (Tax Schedule No. 45000-00-121) Description – All of property to be acquired in fee:

A parcel of land located in Section 5, Township 15 South, Range 64 West of the Sixth Principal Meridian, County of El Paso, State of Colorado, more particularly described as follows:

The Southwest Quarter of the Northeast Quarter and the West Half of the Southeast Quarter of Section 5, Township 15 South, Range 64 West of the 6th P.M., County of El Paso, State of Colorado, except the East 446.15 Feet and the Southerly 30 Feet thereof.

Said parcel contains 3,449,353 square feet or 79.186 acres, more or less.

EXHIBIT A-4

Description of Property No. 4

Property No. 4 (Tax Schedule No. 55000-00-324) Description - Easement acquisition of the following portion of Tax Schedule No. 55000-00-324:

A 150 foot Pipeline Easement located in the South Half of Section 12, Township 15 South, Range 65 West of the Sixth Principal Meridian, County of El Paso, State of Colorado, more particularly described as follows:

Beginning at the Southeast Corner of said Section 12; Thence on the South line of the Southeast Quarter of said Section 12, S88°18'30"W a distance of 2,665.33 feet to the South Quarter Corner of said Section 12; Thence on the South line of the Southwest Quarter of said Section 12, S89°30'02"W a distance of 1,324.03 feet to the West Sixteenth Corner of said Section 12; Thence on the West line of the East Half of said Southwest Quarter, N00°11'25"W a distance of 150.00 feet; Thence 150 feet north of and parallel with the South line of said Southwest Quarter, N89°30'02"E a distance of 1,321.66 feet to the West line of said Southeast Quarter; Thence 150 feet North of and parallel with the South line of said Southeast Quarter, N88°18'30"E a distance of 2,667.39 feet to the East line of said Southeast Quarter; Thence on said East line, S00°18'36"E a distance of 150.02 feet to the Point of Beginning.

Said easement contains 598,380 square feet or 13.737 acres, more or less.

Bearings are based on the South line of the Southeast Quarter of Section 12, Township 15 South, Range 65 West of the Sixth Principal Meridian, County of El Paso, State of Colorado being monumented at the East end by a found 3 ¼" aluminum cap, PLS 12103, and at the West end by a found 3 ¼" aluminum cap, PLS 16109. Said line is assumed to bear S88°18'30"W, with all bearing hereon referenced thereto.