

Council Meeting Date: September 26, 2017

To: President and Members of City Council

From: Jerry A. Forte, P.E., CEO, Colorado Springs Utilities

Subject Title: A Resolution Authorizing the Acquisition of Easements on Property Owned by the Bach Family Trust to be Used for the Clear Spring Ranch Bank Stabilization Project and for Access to the Owen and Hall Diversion Structure

Presenter:

Brian McCormick, Senior Project Engineer, Water Planning and Design
Jerry Forte, P.E., Chief Executive Officer, Colorado Springs Utilities

Summary:

Colorado Springs Utilities (Utilities) staff requests City Council approval of a resolution authorizing the acquisition of easements across a portion of the property owned by the Bach Family Trust to be used for the Clear Spring Ranch Bank Stabilization Project and for access to Utilities' Owen and Hall Diversion Structure.

Previous Council Action:

None with respect to this parcel of real property.

Background:

I. Bank Stabilization Project

Colorado Springs Utilities operates a solids handling (i.e., a sludge) pipeline that runs between Utilities' Las Vegas Water Resource Recovery Facility ("Las Vegas") and Utilities' Clear Spring Ranch Solids Handling Facility, generally following the alignment of Fountain Creek. Just north of the Clear Spring Ranch property, the sludge line runs within a narrow corridor located between the BNSF Railway tracks and Fountain Creek. The bank of Fountain Creek in this area is nearly 40-55 feet above the Creek and is eroding. In order to protect the sludge line from the failure that would occur through continued erosion of the Creek bank, Utilities proposes to construct a grouted boulder structure that would stabilize and armor the bank. The proposed stabilization project is expected to protect approximately 1,200 linear feet of the Creek's bank.

Work associated with this project must be performed during the low flow period for Fountain Creek to minimize the risk of damage during construction due to flooding. The low flow period typically occurs from October to March. Access to the project site would be from Utilities' property on the west side of Fountain Creek. Improvements must be installed on private property within drainage easements and within BNSF Railway right-of-way.

Utilities has successfully obtained all of the necessary easements and permissions to perform this project except for one permanent easement and one temporary construction easement required from the Bach Family Trust.

II. Access to and Inspection and Maintenance of the Owen and Hall Diversion Structure

In addition to the two easements Utilities needs for the bank stabilization project, Utilities also requires two easements from the Bach Family Trust for access to Utilities' Owen and Hall Diversion Structure located on Utilities' Clear Spring Ranch property and for activities related to performance of periodic inspection, maintenance, and repair of the Diversion Structure. The Owen and Hall Diversion Structure supplies water for irrigation on Clear Spring Ranch, which then recharges the shallow aquifer used to supply process water for the Nixon and Front Range Power Plants. The Diversion Structure is currently scheduled for inspection later in 2017 and requires repairs as soon as the necessary easements may be obtained.

Access to the Diversion Structure with heavy equipment is typically made through Fountain Creek downstream of the Diversion Structure. Inspection and maintenance activities often involve construction of berms from stream sediment upstream and downstream of the Diversion Structure to divert flows from Fountain Creek and allow for work in dry conditions.

Utilities requires two permanent easements, one upstream and one downstream of the Diversion Structure, to ensure it has the ability to conduct these activities when required.

III. History of Negotiations

Utilities and the City's Real Estate Office (RES) began negotiations with the Bach Family Trust in December 2015, and made significant efforts to reach resolution on the acquisition with the Bach Family Trust. A number of offers and counteroffers were made based on separate appraisals obtained by both the City and the Bach Family Trust from third party independent appraisers and a review appraisal obtained by the City from another third party independent appraiser. The City's review appraisal found that the fair market value of the easements was \$29,500.

Subsequent to receiving the various appraisal reports, Utilities engaged in negotiations with Bach Family Trust. As a result of these negotiations Utilities recommends approval of a total acquisition amount of \$75,000 to address concerns related to: (1) past impacts to Bach Family Trust resulting from Utilities activities on or near Bach Family Trust property, (2) impaired access during construction of the Clear Spring Ranch Bank Stabilization Project, (3) Utilities' historic use of Bach Family Trust property without a recorded easement, and (4) the Bach Family Trust's request for compensation used for construction of a fence.

Pursuant to the provisions of the Colorado Constitution and the Colorado Springs City Charter, the City is empowered to acquire real property necessary for Utilities projects. Sections 4.1 and 8.6 of The City of Colorado Springs Procedure Manual for the Acquisition and Disposition of Real Property Interests (the "RES Manual") require City Council approval for acquisitions of real property interests where the total acquisition amount exceeds \$50,000.

Colorado Springs Utilities requests that City Council adopt the attached resolution authorizing the acquisition of the Bach Family Trust property. Additionally, the attached resolution authorizes the City's Real Estate Services Manager to execute all documents necessary to close the transaction.

This item supports the City's strategic goal of investing in future infrastructure.

Financial Implications:

This land acquisition has been budgeted in the 2017 budget for the Sanitary Sewer Creek Crossing Program and the Energy Supply Division budget. If City Council does not approve the Resolution, Utilities will be unable to perform the bank stabilization project and may not have all of the access needed to maintain the Owen and Hall Diversion Structure.

Board/Commission Recommendation:

N/A.

Stakeholder Process:

Staff has been in contact with the property owner and will continue to communicate with her about work planned to be performed within the easements.

Alternatives:

Approve the attached Resolution authorizing the acquisition of easements on property owned by the Bach Family Trust; or do not approve the attached Resolution.

Proposed Motion:

Move approval of the proposed Resolution.

Summary of Ordinance Language

N/A