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Title: A Resolution Authorizing the Acquisition of an Easement across Property Owned by Bull Hill, LLC and an Easement across Property Owned by BLH No. 2, LLC to be Used for Southern Delivery System Project Improvements

Presenter:
Lyman Ho, SDS Land Acquisition Manager
Jerry Forte, P.E., Chief Executive Officer, Colorado Springs Utilities

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Attachments: 1. Bull Hill Resolution - Bull Hill and BLH_2017-12-12 ver2.pdf, 2. Bull Hill Exhibit A_5500000324_LALEGALDESCRIPTION.pdf, 3. Bull Hill Exhibit B_5500000225_LALEGALDESCRIPTION_070517.pdf, 4. Bull Hill Presentation December 2017_Final.pdf, 5. Signed Resolution 155-17

Date	Ver.	Action By	Action	Result
12/12/2017	1	City Council	adopted	
12/11/2017	1	Council Work Session	referred	

A Resolution Authorizing the Acquisition of an Easement across Property Owned by Bull Hill, LLC and an Easement across Property Owned by BLH No. 2, LLC to be Used for Southern Delivery System Project Improvements

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Summary:

Southern Delivery System (SDS) staff requests City Council approval of a resolution authorizing the acquisition of an easement across property owned by Bull Hill, LLC and an easement across property owned by BLH No. 2, LLC to the City of Colorado Springs for the Gary M. Bostrom Reservoir, formerly known as the Upper Williams Creek Reservoir (UWCR).

Previous Council Action:

Previously Council authorized Utilities to use eminent domain to acquire the easement required from Bull Hill, LLC, if negotiations failed; since that time, Utilities has endeavored to negotiate a consensual transaction. Council has not taken previous action regarding the BLH property.

Additionally, since September 8, 2009, City Council has passed a number of resolutions authorizing the acquisition of more than 200 property transactions for the SDS project.

Background:

On December 10, 2013, City Council approved Resolution No. 134-13 authorizing negotiations to acquire properties necessary for the SDS UWCR project. These easement acquisitions join over 2,188.5 acres of property already acquired for the project. Presuming approval of the two easements on today's agenda, approximately 4 additional properties will be required for the reservoir and buffer area.

The Bull Hill, LLC easement is being acquired in a consensual transaction. The easement connects the Bradley Pump Station with the Bostrom Reservoir and will be improved with an 80-inch conveyance pipeline and a 66-inch drain pipeline. Initially, early conversations with the owners indicated that condemnation might be necessary to acquire the easement and CSU sought and obtained approval from Council in September 2017 to use eminent domain if necessary; however CSU has reached an agreement that allows for the acquisition of the full 150-foot easement, and, upon completion of the pipelines, the easement would be reduced in size to a 100-foot width. The owners have accepted the City's appraisal value with a minor adjustment on a 0.775-acre overlap with other easements and a waiver of the owner's right to obtain its own appraisal at the City's expense. The City's appraised value of the easement is \$164,949. The overall compensation and administrative settlement total \$178,086.20. This settlement avoids using eminent domain.

On the other easement, the owner, BLH No.2, LLC, acquired the land from Banning Lewis Holdings, the ownership that acquired the Banning Lewis Ranch from Ultra Petroleum. The City's appraisal valued the 150-foot easement containing 5.212 acres at \$58,400. The owner is willing to waive its right to an appraisal. The proposed settlement is \$65,000, and, upon completion of the drain and fill pipelines, the City will release a portion of the easement that was needed for the construction but not for future maintenance and operation purposes.

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. Additionally, Section 8.6 of The City of Colorado Springs Procedure Manual for the Acquisition and Disposition of Real Property Interests (the "RES Manual") requires that whenever the total acquisition amount is determined to exceed \$50,000, City Council shall approve the transaction.

Colorado Springs Utilities requests that City Council adopt the attached resolution authorizing the acquisition of easements on the Bull Hill and BLH No. 2 properties. 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 SDS project budget. If City Council does not approve the Resolution, Utilities will be lacking a portion of a buffer area considered as a minimum amount to protect the UWCR watershed and a portion of the easements needed to connect the reservoir with the Bradley Pump Station.

Board/Commission Recommendation:

City Council previously approved Resolution No. 134-13 determining the necessity, and authorizing the acquisition of, and entry into possession and use agreements for, certain real property for Southern Delivery System Project Improvements.

Stakeholder Process:

Staff has been in contact with property owners impacted by the SDS project and will continue to communicate with stakeholders on a regular basis. In addition, negotiations with property owners were conducted in accordance with the federal Uniform Act, the RES Manual, and all applicable law.

Alternatives:

Approve the attached Resolution authorizing the acquisition of easements on property or do not approve the attached Resolution, however choosing this alternative will result in delayed land acquisition and potential increased land acquisition costs for developing the Gary M. Bostrom Reservoir.

Proposed Motion:

Move approval of the proposed Resolution

N/A