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Title: A Resolution Authorizing The Use Of Eminent Domain To Acquire Real Property Located At 2910 Austin Bluffs Parkway, Colorado Springs, Colorado Needed For The Central Bluffs Substation Project

Presenter:
Jessica Davis, Land Resource Manager, Colorado Springs Utilities
Travas Deal, Chief Executive Officer, Colorado Springs Utilities

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Date	Ver.	Action By	Action	Result
4/11/2023	1	City Council	adopted	Pass

A Resolution Authorizing The Use Of Eminent Domain To Acquire Real Property Located At 2910 Austin Bluffs Parkway, Colorado Springs, Colorado Needed For The Central Bluffs Substation Project

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Summary:

Colorado Springs Utilities (“Utilities”) and the City of Colorado Springs’ Real Estate Services Office (“RES”) request that City Council approve a resolution that will authorize Utilities to use eminent domain to obtain real property owned by JCJK Real Estate, LLC (“Property Owner”) located at 2910 Austin Bluffs Parkway, El Paso County, Colorado (the “Property”) for the Central Bluffs Substation Project (the “Project”).

Background:

Utilities is modernizing the electric grid for sustainability and system resiliency and reliability. Over the years, our customers’ electricity demands have evolved and peak loads continue to increase. Utilities has identified three substations that are severely space constrained and no longer located at ideal points on the grid to accommodate future demand. The Central Bluffs Substation Project (“Project”) will replace these three aging substations with one facility to improve system reliability, resiliency, and efficiency. Additionally, it will provide for long-term operation and maintenance (O&M) savings. Without this replacement Utilities is at risk for significant reliability and service issues to existing infrastructure.

Staff, over a three-year process, evaluated several sites. Each potential site was evaluated for community impact, legal constraints, and operational compatibility, flexibility and accessibility - as well as cost factors. The unique operational and space requirements for the Project drastically limited options within a part of Colorado Springs that is already well established and fully developed. The proposed Project site was selected because it is the most operationally and economically compatible with the needs of our community. Construction for the Project is scheduled to begin in early 2024.

Staff met with a representative of the Property Owner on July 6, 2022 to discuss the Project and the need for the acquisition of the Property. On July 20, 2022, the City provided the Property Owner with a Notice of Intent to Acquire the Property. The City presented its Offer to Acquire the Property on December 29, 2022, and a Final Offer to Acquire on February 1, 2023. Since then, staff has reached out to the Property Owner numerous times and the Property Owner has been unwilling to meet to negotiate or discuss their concerns; nor have they responded to any offer letters. Communication through the Property Owner's legal counsel is that an appraisal of the Property has been commissioned by the Property Owner, with an indefinite delivery date.

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 through institution of eminent domain proceedings, for all interests necessary for the City, including the interests of Utilities. As provided in Chapter 4 of The City of Colorado Springs Procedure Manual for the Acquisition and Disposition of Real Property Interests, Revised 2021 (the "Real Estate Manual"), the project manager and the RES Manager may seek City Council approval to use eminent domain to acquire the Property.

Since the Property Owner's representatives have not been willing to engage in negotiations with Utilities concerning sale of the Property, Utilities and RES seek City Council authorization to use eminent domain to acquire the real property which will help avoid delays in the construction schedule for the Project. Staff will continue to attempt to reach a settlement agreement with the Property Owner. The proposed resolution also authorizes the use of a voluntary Possession and Use Agreement, which would deliver possession of the real property to the City while the Utilities and the Property Owner continue to negotiate the value of the Property.

Previous Council Action:

On July 12, 2022, City Council passed Resolution No. 92-22 authorizing the acquisition of 4006 Goldenrod Drive for the Project. On February 14, 2023, City Council passed Resolution No. 19-23 authorizing the acquisition of 4002 Goldenrod Drive and 2918 Austin Bluffs Parkway for the Project. On March 14, 2023, City Council passed Resolution No. __-23 for the acquisition of 2914 Austin Bluffs Parkway and 2930 Austin Bluffs Parkway for the Project.

Financial Implications:

This property acquisition is accounted for in Utilities' 2023 project budget.

City Council Appointed Board/Commission/Committee Recommendation:

N/A

Stakeholder Process:

Utilities conducted neighborhood meetings on July 20 and October 18, 2022, to inform the neighborhood about the Project. Utilities has sent out mailers to all of the properties within a one-mile radius of the Project site. Staff has met with and has had regular communication with property

owners impacted by the Project and will continue to communicate with stakeholders on a regular basis. Utilities Board has been briefed on the proposed acquisition of the Property. Negotiations with property owners have been conducted in accordance with the RES Manual, and all applicable laws.

Alternatives:

Approve the resolution. Deny the resolution.

Proposed Motion:

Motion to approve the proposed Resolution authorizing the use of eminent domain to acquire real property located at 2910 Austin Bluffs Parkway, Colorado Springs, Colorado needed for the Central Bluffs Substation Project.

N/A