



Legislation Details (With Text)

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Title: A Resolution Authorizing the Use Of Eminent Domain To Acquire Two Permanent Easements On Properties Owned By Yount GST Irrevocable Trust F/B/O Lisa Gail Yount U/A/D July 1, 2007, A North Carolina Trust Needed For The Homestake Water Project
Presenter:
 Jessica K. Davis, Land Resource Manager, Colorado Springs Utilities
 Aram Benyamin, Chief Executive Officer, Colorado Springs Utilities

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Date	Ver.	Action By	Action	Result
9/27/2022	1	City Council	adopted	Pass

Title

A Resolution Authorizing the Use Of Eminent Domain To Acquire Two Permanent Easements On Properties Owned By Yount GST Irrevocable Trust F/B/O Lisa Gail Yount U/A/D July 1, 2007, A North Carolina Trust Needed For The Homestake Water Project

Presenter:

Jessica K. Davis, Land Resource Manager, Colorado Springs Utilities
 Aram Benyamin, Chief Executive Officer, Colorado Springs Utilities

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 two permanent easements on real properties owned by Yount GST Irrevocable Trust F/B/O Lisa Gail Yount u/a/d July 1, 2007, a North Carolina Trust (“Property Owner”) located at 41200 N HWY 24 and 62 Pt Arkansas River Placer MC, Chaffee County, Colorado (the “Properties”) for the Homestake Water Project.

Background:

The Homestake Water Project (“Project”), a partnership between the City of Colorado Springs and the City of Aurora, and managed by the Homestake Steering Committee, involves replacing all of the 66” diameter pre-stressed non-cylinder concrete pipe (“PCP” or “pipeline”) that was installed in the mid-1960’s for the Homestake Suction Pipeline between the Arkansas River Diversion and the Otero Pump Station. The PCP is at the end of its service life and needs to be replaced with new 66”

diameter cement mortar lined steel pipe.

Through the diligence of the Project team, it was discovered that a portion of the Homestake pipeline was originally installed outside of the existing easements on the Properties. Staff determined that the City would need to acquire two easements on the Properties (one on each property) to account for the portion of the pipeline that is outside of the existing easements on the Properties.

Staff met with a representative of the Property Owner in August of 2020 to discuss an administrative settlement for the easements. When the Property Owner did not accept the settlement offer, staff began the acquisition process per *The City of Colorado Springs Procedure Manual for the Acquisition and Disposition of Real Property Interests, Revised 2021* (the "Real Estate Manual"). Construction for this section of pipeline was originally scheduled to begin in 2021. The Project team delayed construction of this section of pipeline from summer of 2021 until summer of 2023 to allow for acquisition of the easements.

RES sent a Notice of Intent to acquire the easements to the Property Owner in early 2021. RES and Utilities, with the support of the City Attorney's Office, have been negotiating with the Property Owner since then to acquire the easements necessary for the Project. Staff has had several meetings and correspondence, but negotiations have not moved forward.

As provided in the Real Estate Manual, the project manager and the RES Manager may seek City Council approval to use eminent domain to acquire the permanent easements.

Since the Property Owner has not been willing to complete the negotiations of the acquisition of the easements, Utilities and RES seek City Council authorization to use eminent domain to acquire the permanent easements which will help avoid further 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 easements to the City while the value continues to be negotiated.

Previous Council Action:

N/A

Financial Implications:

Utilities has budgeted for the construction of the pipeline in 2023.

City Council Appointed Board/Commission/Committee Recommendation:

N/A

Stakeholder Process:

Staff has met with the Property Owner and the City Attorney's Office has had several meetings and exchanged emails with the Property Owner's attorneys. Property owner has been notified of the City Council meeting. The members of the Utilities Board have been informed of this matter.

Alternatives:

Approve the resolution and authorize the use of eminent domain.
Deny the resolution.

Proposed Motion:

Motion to approve the proposed Resolution authorizing the use of eminent domain to acquire two permanent easements on the properties owned by Yount GST Irrevocable Trust F/B/O Lisa Gail Yount u/a/d July 1, 2007, a North Carolina Trust for the Homestake Water Project.

Summary of Ordinance Language

N/A