



Legislation Text

File #: 18-0272, **Version:** 1

A Resolution authorizing the use of eminent domain to acquire real property owned by Robert T. Wilcox and Diane Y. Wilcox needed for the West Colorado Avenue Reconstruction, 31st Street to U.S. Highway 24, project

Presenter:

Mike Chaves, Engineering Manager

Summary:

The attached resolution authorizes staff to proceed with the use of eminent domain to acquire the property from Robert T. Wilcox and Diane Y. Wilcox for the project. Despite repeated attempts by the City to negotiate an amicable acquisition of the property with Robert T. Wilcox and Diane Y. Wilcox, the City has been unable to negotiate an agreement for the purchase. Staff will continue to make all reasonable efforts to reach a negotiated settlement for the purchase and sale of the property with Robert T. Wilcox and Diane Y. Wilcox. However, obtaining the authority to proceed with eminent domain will allow the City to meet project construction deadlines and avoid project delays if an agreement cannot be reached.

Previous Council Action:

On December 12, 2017, City Council approved a resolution authorizing the acquisition of property utilizing possession and use agreements for 58 properties needed for the West Colorado Avenue Reconstruction, 31st Street to U.S. Highway 24, project.

On June 13, 2017, City Council approved a resolution authorizing the use of eminent domain to acquire real property owned by Francisco Serna needed for the West Colorado Avenue Reconstruction, 31st Street to U.S. Highway 24, project.

On February 27, 2018, City Council approved a resolution amending resolution 153-17 authorizing the acquisition of property utilizing possession and use agreements for 60 properties needed for the West Colorado Avenue Reconstruction, 31st Street to U.S. Highway 24, project.

Background:

The City of Colorado Springs ("City"), along with other participating governments, is working to complete the West Colorado Avenue Reconstruction, 31st Street to U.S. Highway 24 Project ("Project"). The Project consists of capital improvements to transportation and other systems and ways within and through the jurisdictional boundaries of the City of Colorado Springs, the City of Manitou Springs, and El Paso County, essential for the public health, safety and welfare of those communities. The Project was identified by the Pikes Peak Rural Transportation Authority ("PPRTA") as a Priority "A" Regional Collaborative Project, and the PPRTA committed funding for engineering

and construction of the Project on January 1, 2015.

This Project supports the City's strategic goal of investment in infrastructure by: reconstruction of West Colorado Avenue/Manitou Avenue from 31st Street to U.S. Highway 24; construction of park trails and sidewalks; construction of drainage facilities; reconstruction of the Colorado Avenue Bridge over Fountain Creek; and, in conjunction with Colorado Springs Utilities, upgrades to utility infrastructure to include undergrounding of electric along Colorado Avenue.

The improvements planned for the Project will require partial acquisition of the property at 31 S. Thirty Second Street, further identified by El Paso County Assessor's parcel 7403420025 ("Property"). The need for the Property was identified during the preliminary and final engineering processes for the Project and approved by the City of Colorado Springs, the City of Manitou Springs and El Paso County.

Project representatives have either contacted, or attempted to contact, the Property Owners, Robert T. Wilcox and Diane Y. Wilcox several times, including as follows:

December 7, 2017. Notice of Intent to Acquire Property (presented)

January 4, 2018. Draft versions of Permanent and Temporary Easement documents for owner review (email)

January 24, 2018. Offer Package (FedEx at owner request)

February 13, 2018. Letter from owner requesting lost business compensation (USPS)

April 20, 2018. Revised Notice of Intent to Acquire Property (presented)

May 18, 2018. Rescind Existing Offer (presented and sent FedEx per owner request)
Offer Package (presented and sent FedEx per owner request)

May 21, 2018. FedEx tracking shows delivery of package.

June 4, 2018. Final offer (FedEx per owner request). Owner's position remains the same regarding loss of business.

Financial Implications:

This Property will be acquired using PPRTA funds. Robert T. Wilcox and Diane Y. Wilcox will be afforded just compensation for their Property, either through a negotiated settlement or a court proceeding.

Board/Commission Recommendation:

N/A

Stakeholder Process:

City and El Paso County Engineering Staff and their consultant FHU have performed an extensive

public involvement process for the West Colorado Avenue Reconstruction, 31st Street to U.S. Highway 24, Project. Outreach processes included new releases, stakeholder meetings, project meetings, open houses, individual business meetings, and the website www.westsideplan.com.

Alternatives:

The City Council may approve, modify or deny approval of the attached resolution.

Proposed Motion:

Motion to approve the Resolution authorizing the City Attorney to take all action necessary to acquire the Property and to seek immediate possession of the Property by eminent domain, or other appropriate proceedings.

N/A