



Legislation Text

File #: 21-482, **Version:** 1

A Resolution Authorizing the Use of Eminent Domain to Acquire a Permanent Easement on Real Property Owned by the Garden Valley Water and Sanitation District needed for the Circle Drive Bridge Replacement Project

Presenter:

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Summary:

The attached resolution authorizes staff to utilize a possession and use agreement and/or eminent domain to acquire a permanent easement from the Garden Valley Water and Sanitation District ("Garden Valley") for the Circle Drive Bridge Replacement Project ("Project").

Despite repeated attempts by the City to negotiate an amicable acquisition of the permanent easement, the City has been unable to reach an agreement for the purchase. Staff will continue to make all reasonable efforts to reach a negotiated settlement with Garden Valley. However, obtaining the authority to proceed with a possession and use agreement and eminent domain will allow the City to meet Project construction deadlines and avoid Project delays if an agreement cannot be reached. The owner will still receive fair and reasonable compensation for the property impacts.

Background:

The City of Colorado Springs ("City") is working to complete the Circle Drive Bridge Replacement Project. The Project consists of capital improvements to the eastbound and westbound lanes of Circle Drive over Fountain Creek and Hancock Expressway and related drainage improvements. The Project was identified by the Pikes Peak Rural Transportation Authority ("PPRTA") as a Priority "A" Individual Project in 2012.

The improvements planned for the Project will require the acquisition of a permanent easement upon the real property owned by Garden Valley. The Garden Valley property is located at 0 Circle Drive, Tax Schedule Number 6428300003 (the "Subject Property"). The Subject Property is approximately 0.421 acres; the permanent easement will apply to the entire property and will allow the City to install, maintain, repair and replace public improvements associated with the Project.

Because the estimated value of the Permanent Easement was less than \$5,000, the City, through its consultant HDR Engineering, Inc., prepared a value finding for the permanent easement based on credible evidence of market value. Based on that value finding, the City offered Garden Valley \$3,440 for the Permanent Easement on November 11, 2020. Garden Valley rejected the offer. In an effort to reach an agreement with Garden Valley, the City made a counteroffer of \$10,000 to purchase the Permanent Easement on April 29, 2021.

Anticipating potential litigation, the City hired a certified appraiser to appraise the Permanent Easement and, although not required by law or the City's Real Estate Manual, offered to pay for an independent appraisal for Garden Valley. The City anticipates that the City's appraisal will be

available by the end of September 2021. Garden Valley has offered to accept \$50,000 for the Subject Property in fee.

To keep the Project on schedule, Public Works is seeking City Council approval to pursue a possession and use agreement and eminent domain to obtain the Permanent Easement. The Project is scheduled to begin construction in early 2022 and be complete by late 2024. The Project will need use of the Garden Valley Permanent Easement from the start of construction through project completion to access the existing bridges for their demolition and to construct the new bridges.

Previous Council Action:

N/A

Financial Implications:

The Permanent Easement will be acquired using PPRTA funds. Garden Valley will be afforded just compensation for the Permanent Easement, either through a negotiated settlement or a court proceeding.

City Council Appointed Board/Commission/Committee Recommendation:

N/A

Stakeholder Process:

N/A

Alternatives:

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

Proposed Motion:

Approve the resolution to use proceed with a possession and use agreement and eminent domain to acquire a permanent easement on real property owned by the Garden Valley Water and Sanitation District needed for the Circle Drive Bridge Replacement Project.

N/A