



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: July 25, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Daniel C. Kogovsek, City Attorney

SUBJECT: AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A LETTER OF UNDERSTANDING BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AS BUYER, AND THE UNION PACIFIC RAILROAD COMPANY, A DELAWARE CORPORATION, AS SELLER, PERTAINING TO THE CONVEYANCE OF REAL PROPERTY TO FACILITATE THE PUEBLO LEVEE RESTORATION PROJECT

SUMMARY:

Attached is an Ordinance approving and authorizing the Mayor to sign an agreement for the City to purchase approximately 2.05 acres of land from the Union Pacific Railroad Company ("UPRR") located near the confluence of Fountain Creek and the Arkansas River. The purpose of the purchase is to allow the Pueblo Levee Restoration Project ("PLRP") to be undertaken and completed in a timely manner.

PREVIOUS COUNCIL ACTION:

Not applicable to this Ordinance.

BACKGROUND:

Pursuant to C.R.S. § 32-11.5-201, the Fountain Creek Watershed, Flood Control and Greenway District ("District") was created and established as a political subdivision of the State of Colorado with the stated purpose of providing management, administration and to fund capital improvements necessary in the Fountain Creek watershed to prevent and mitigate flooding, sedimentation, and erosion; improve water quality and otherwise address water quantity issues; improve drainage; fund the acquisition and protection of open space; develop public recreational opportunities, including parks, trails, and open space; and improve wildlife and aquatic habitat and restore, enhance, establish, and preserve wetlands.

The District established Fountain Creek Watershed Water Activity Enterprise ("Enterprise") to hold, manage and expend funds made available to the District for flood control projects on Fountain Creek in El Paso and Pueblo Counties. The current funds held and managed by the Enterprise are for flood control projects in the City and Pueblo County. The Enterprise is a separate legal entity but is controlled by and works on projects approved by the District.

The District and the Enterprise have approved and authorized the PLRP. The Enterprise has engaged Matrix Design Group, Inc. ("Matrix") to provide planning and design services for the construction, administration, implementation and observation of the PLRP. The goals of the PLRP are (1) to improve flood conveyance capacity by the removal of relic railroad infrastructure; (2) the grading of overbank areas; (3) to encourage natural "flow-through" wetland function; and (4) to remove noxious vegetation and establish native vegetation.

The relic railroad infrastructure is situated on land owned by UPRR. This Ordinance approves the acquisition of such land by the City to allow the Enterprise to remove the infrastructure as part of the PLRP.

FINANCIAL IMPLICATIONS:

The property is being donated by UPRR at no cost to the City. The title insurance premium and closing costs will be paid by the City.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

City Council could decide not to accept the parcel of land being donated by UPRR to facilitate the PLRP.

RECOMMENDATION:

Approval of this Ordinance.

Attachments:

Proposed Ordinance

Proposed Letter of Understanding regarding the conveyance of real property

ORDINANCE NO. _____

AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A LETTER OF UNDERSTANDING BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AS BUYER, AND THE UNION PACIFIC RAILROAD COMPANY, A DELAWARE CORPORATION, AS SELLER, PERTAINING TO THE CONVEYANCE OF REAL PROPERTY TO FACILITATE THE PUEBLO LEVEE RESTORATION PROJECT

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The Letter of Understanding (“Agreement”) between the City of Pueblo, a Colorado municipal corporation (“City”) and the Union Pacific Railroad Company, a Delaware corporation (“UPRR”) dated July 11, 2022, relating to the Pueblo Levee Restoration Project, a copy of which Agreement is attached hereto and is incorporated herein by this reference, having been approved as to form by the City Attorney, is hereby approved.

The Mayor is authorized to execute and deliver said Agreement in the name of the City and the City Clerk is authorized to affix the seal of the City thereto and attest same. The Mayor is further authorized to execute and deliver documents related to this transaction at closing, purchasing the property owned by UPRR, as identified in and in the manner described in the attached Agreement.

SECTION 2.

The officers and staff of the City are authorized to perform any and all acts consistent with this Ordinance and the attached Agreement which are necessary or appropriate to implement the transactions described therein.

SECTION 3.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on _____.

Final adoption of Ordinance by City Council on _____.

President of City Council

Action by the Mayor:

- Approved on _____.
- Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

- Council did not act to override the Mayor's veto.
- Ordinance re-adopted on a vote of _____, on _____
- Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

City Clerk