

**RESOLUTION AUTHORIZING THE ACQUISITION
AND IMMEDIATE POSSESSION OF REAL
PROPERTY THROUGH CONDEMNATION FOR
THE CRYSTAL VALLEY INTERCHANGE
(HYPERION FUND L.P. PARCEL)**

MAY 2, 2023



CRYSTAL VALLEY INTERCHANGE PROJECT



CVI PROPERTY ACQUISITION MAP - HYPERION PARCEL



CRYSTAL VALLEY INTERCHANGE

- Intersection of Interstate 25 and Crystal Valley Parkway
- Construction of CVI is the primary transportation priority for the Town
- Subject of local and regional planning efforts for more than 35 years

CVI PROPERTY ACQUISITION

- Ordinance 2019-008 authorizes the exercise of the Town's eminent domain powers to acquire property for CVI
- A parcel owned by Hyperion Fund L.P. in unincorporated Douglas County was identified as one of the properties to be acquired
- Only 0.675 acres of the 4.685-acre Hyperion property was needed for the original CVI design
- In March 2020, the Town sent Hyperion Fund L.P an offer to purchase the 0.675-acre parcel – an offer that was never accepted

CVI NEW DESIGN

- In January 2022 the Town held a workshop to evaluate alternate designs for CVI
- The Town selected a new design, which includes an EB to NB loop ramp to I-25 and a roundabout at the E. Frontage Rd/Crystal Valley Pkwy. intersection
- The new design improves the operations of the EB to NB traffic movement to I-25, thereby increasing pedestrian and vehicle safety and decreasing traffic delays and queues

HYPERION FUND PROPERTY

- As a result of the design changes, Town staff determined that it needed to acquire fee simple title to the entire Hyperion Property
- On November 15, 2022, Town Council adopted Ordinance 2022-029 authorizing a “full take” of the Hyperion Property
- On November 17, 2022, the Town sent Hyperion Fund L.P. notice of (i) the Town’s interest to acquire the entire Hyperion Property and (ii) the Owner’s right to obtain an appraisal at the Town’s cost

HYPERION FUND PROPERTY

- In November 2022, the Town's appraiser valued the Hyperion Property at \$816,228.00
- In March 2023, Hyperion's appraiser valued the Hyperion Property at \$1,228,556.00 – approximately 50% higher than the Town's appraisal
- On April 10, 2023, the Town sent Hyperion Fund L.P. a final offer to pay the sum of \$816,228.00 as total compensation for the Property, setting a deadline of April 21, 2023, by which to accept the offer
- Thus far, Hyperion Fund L.P. has not responded to our final offer letter

CONDEMNATION PROCESS

- **When the Town cannot reach an agreement with the Owner**
 - Non-responsive Owner
 - Owner's counter-offer not supported
- **Town Council Intervention (Town Code Section 14.02.070)**
 - Council advised of negotiations
 - Hearing scheduled on Town Council agenda
 - Notice given to Owner of right to address Council
 - Council decides whether to authorize Town Attorney to file Petition to Condemn

CURRENT STATUS

- 50% disparity between appraisals of fair market value
- Condemnation will allow Court-appointed commission or jury to determine fair market value of the property
- Town will be able to acquire possession of the property interest at the outset of the Court process
- Condemnation is required to timely proceed with groundbreaking of the CVI Project in June 2023

RECOMMENDATION

- Proceed with condemnation of property owned by Hyperion Fund L.P.
- Seek immediate possession of property interests
- File Petition in Condemnation and Motion for Immediate Possession with the Douglas County District Court

PROPOSED MOTIONS

- I move to approve resolution No. 2023-061 as introduced by title.
- I move to approve resolution No. 2023-061 as introduced by title, with the following conditions: _____.
- I move to continue resolution No. 2023-061 to the Town council meeting on _____.