

RESOLUTION NO. 2023-061

**A RESOLUTION AUTHORIZING THE ACQUISITION AND
IMMEDIATE POSSESSION OF CERTAIN REAL PROPERTY
THROUGH THE STATUTORY CONDEMNATION PROCESS IN
FURTHERANCE OF THE CONSTRUCTION OF THE CRYSTAL
VALLEY INTERCHANGE PROJECT
(Hyperion Fund L.P. Parcel)**

WHEREAS, the construction of a new interchange at Interstate 25 and Crystal Valley Parkway (the “Project”) is the primary transportation priority for the Town of Castle Rock, Colorado (the “Town”), having been the subject of local and regional planning efforts for more than 35 years; and

WHEREAS, the Project will (i) improve access to Interstate 25 for one of the fastest growing areas of the Town and Douglas County, (ii) enhance emergency response and the resilience of existing highway infrastructure, (iii) improve safety by removing an at-grade railroad crossing, and (iv) increase regional mobility by providing a local roadway crossing of Interstate 25 within the seven-mile segment between the Plum Creek Parkway and Tomah Road interchanges; and

WHEREAS, the Town Council has budgeted and appropriated sufficient funds in for property acquisition necessary for construction of the Project; and

WHEREAS, on May 7, 2019, the Town Council adopted Ordinance No. 2019-008 (the “2019 Ordinance”), finding that there is a compelling public need and purpose for the Project’s construction and authorizing the Town to exercise its powers of eminent domain for the acquisition of real property interests necessary for the Project; and

WHEREAS, among the real property interests to be acquired pursuant to the 2019 Ordinance was a portion of a parcel owned by Hyperion Fund, L.P. (the “Owner”), and located near the southeast corner of the intersection of the East Frontage Road and Crystal Valley Parkway (the “Property”); and

WHEREAS, in 2022, for the purpose of improving the operational efficiencies of the Project, Town staff, working in partnership with its consultants, Jacobs Engineering Group, Inc., and Pinyon Environmental, Inc., recommended a preferred alternate design for the Project; and

WHEREAS, the preferred alternate design includes a roundabout at the intersection of the East Frontage Road and Crystal Valley Parkway, as well as a loop on-ramp from the west side of the Interstate to northbound Interstate 25; and

WHEREAS, as a result of these design changes, the Town will need to acquire fee simple title to the entire Property, which property is more specifically described in the attached ***Exhibit A***; and

WHEREAS, to this end, on November 15, 2022, the Town Council adopted Ordinance No. 2022-029 amending the 2019 Ordinance (the “2022 Ordinance”) to authorize the Town Attorney to take all necessary and appropriate action to acquire the Property, in accordance with Section 38-1-101, et seq., C.R.S., and Section 24-56-101, et seq., C.R.S.; and

WHEREAS, pursuant to Section 3.B. of the 2019 Ordinance, as amended by the 2022 Ordinance, the exercise of the power of eminent domain to acquire the Property is further subject to the requirements of Section 14.02.070 of the Castle Rock Municipal Code (“CRMC”); and

WHEREAS, according to CRMC Section 14.02.070, should good faith negotiations fail to result in an agreement with the property owner on value of the property or other terms of the acquisition, the Town Attorney shall so advise the Town Council and request Town Council authorization to institute eminent domain proceedings and acquire immediate possession of the property; and

WHEREAS, upon receipt of such request, the Town Council shall consider the request at a regular or special Town Council meeting, at which time the property owner will have the opportunity to be heard; and

WHEREAS, upon conclusion of the hearing, the Town Council shall approve or deny the request for commencement of filing a petition in condemnation; and

WHEREAS, Town staff has negotiated in good faith to acquire by agreement with the Owner to acquire the Property; and

WHEREAS, Town staff and the Owner are unable to reach agreement on just compensation for the Property; and

WHEREAS, the Town Attorney has requested that Town Council authorize the filing of a petition in condemnation to both acquire and seek immediate possession of the Property; and

WHEREAS, the Owner has been given notice and the opportunity to address Town Council at tonight’s regular Town Council meeting; and

WHEREAS, the Town Council finds that the request of the Town Attorney for proceeding under the statutory process for acquisition and immediate possession of the Property is merited pursuant to the 2019 Ordinance, as amended by the 2022 Ordinance, and CRMC Section 14.02.070.

NOW, THEREFORE BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF CASTLE ROCK, COLORADO AS FOLLOWS:

Section 1. Authorization. Pursuant to the 2019 Ordinance, as amended by the 2022 Ordinance, and the findings contained therein, the Town Attorney is authorized to forthwith commence statutory eminent domain proceedings to pursue the acquisition and immediate possession of the Property to enable the timely commencement of construction of the Project.

PASSED, APPROVED AND ADOPTED this 2nd day of May, 2023, by the Town Council of the Town of Castle Rock, Colorado, on first and final reading by a vote of _____ for and _____ against.

ATTEST:

TOWN OF CASTLE ROCK

Lisa Anderson, Town Clerk

Jason Gray, Mayor

Approved as to form:

Approved as to content:

Michael J. Hyman, Town Attorney

Daniel Sailer, Director of Public Works