

ORDINANCE NO. 2015-44

**AN ORDINANCE AUTHORIZING THE
EXERCISE OF THE TOWN'S POWERS OF EMINENT DOMAIN
TO ACQUIRE CERTAIN PROPERTY INTERESTS NECESSARY
FOR THE WISE INFRASTRUCTURE TRANSMISSION LINE PROJECT**

WHEREAS, the Town has determined it is necessary to acquire certain property necessary for the WISE Infrastructure Water Transmission Line project (the "Project"); and

WHEREAS, the Town Council has approved a 2015 budget authorization of \$2,300,000 for property acquisition, design and construction of the Project; and

WHEREAS, the exercise of the Town's powers of eminent domain to acquire the property for the Project is necessary and serves a valid public purpose; and

WHEREAS, the Town finds that if acquisition by condemnation of any parcel described in this Ordinance is commenced, immediate possession by the Town will be necessary for the public health, safety and welfare due in order to meet construction deadlines.

NOW, THEREFORE, IT IS ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CASTLE ROCK:

Section 1. Condemnation Action. The Town Attorney is authorized to take necessary and appropriate action to acquire good title to the property described in *Exhibits 1-28* (collectively, the "Property"), including filing a petition in condemnation in the district court to acquire said Property and to seek immediate possession of the property. The Town Attorney is authorized to retain the services of special condemnation counsel.

Section 2. Just Compensation. The Town Manager is authorized to establish the just compensation to be offered to each Property owner in compliance with applicable law and regulation.

Section 3. Good Faith Negotiations. As appropriate and necessary, Town staff is directed to undertake in an expedient manner and in accordance with the requirements of Article 1, Title 38, C.R.S. and Article 56, Title 24, C.R.S., as applicable, good faith negotiations with the property owner(s) for acquisition of the property described in the attached *Exhibits 1-28* on the basis of appraised value, or such higher amount as may seem just and reasonable to facilitate such acquisition. Should said negotiations fail, the Town Attorney is authorized to forthwith institute eminent domain proceedings to acquire the property rights sought by the Town for the Project.

Section 4. Need, Necessity and Public Use. The Town Council finds and determines it is in the interest of the public's health, safety and welfare for it to acquire, as soon as possible, the property described in *Exhibit 1-28*. The Town finds and

determines there is a public need and necessity for obtaining possession of and acquiring the property.

Section 5. Costs. The Town Manager shall be further authorized to incur reasonable costs associated with acquiring the properties in question, including, without limitation, the cost of title examination, title insurance, appraisal fee payments mandated by statute, normal closing costs, filing fees and charges, and all other related or incidental costs or expenses customarily associated with the quiet title, acquisition or condemnation of property. The costs shall be charged to Account No(s). 211-4375-443-77-72 (WISE Infrastructure; project code WRCRDI).

Section 6. Amendment. The Town’s Director of Utilities, or his designee is hereby authorized to amend the legal descriptions of the properties to be acquired and the nature of the interests to be acquired, including commencement date and duration of any temporary easement.

Section 7. Severability. If any clause, sentence, paragraph, or part of this ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect the remaining provisions of this ordinance.

Section 8. Safety Clause. The Town Council finds and declares that this ordinance is promulgated and adopted for the public health, safety and welfare and this ordinance bears a rational relation to the legislative object sought to be obtained.

APPROVED ON FIRST READING this 6th day of October, 2015 by a vote of 5 for and 1 against, after publication in compliance with Section 2.02.100.C of the Castle Rock Municipal Code; and

PASSED, APPROVED AND ADOPTED ON SECOND AND FINAL READING this 3rd day of November, 2015 by the Town Council of the Town of Castle Rock, Colorado by a vote of ____ for and ____ against.

ATTEST:

TOWN OF CASTLE ROCK

Sally A. Misare, Town Clerk

Paul Donahue, Mayor

Approved as to form:

Approved as to content:

Robert J. Slentz, Town Attorney

Mark Marlowe, Director of Utilities