



STAFF REPORT

To: Honorable Mayor and Members of Town Council

Through: David L. Corliss, Town Manager

From: Mark Marlowe, P.E., Director of Castle Rock Water
David Van Dellen, P.E., Assistant Director
Roy Gallea, P.E., Engineering Manager
Josh Hansen, P.E., Project Manager

Title: **Ordinance Authorizing the Exercise of the Town's Powers of Eminent Domain for the Plum Creek to Rueter-Hess Reservoir Pipeline Project**
[Northern Castle Rock and Eastern Castle Pines]

Executive Summary

Castle Rock Water (CRW) is seeking Town Council adoption of an Ordinance (***Attachment A***) authorizing the exercise of the Town's power of eminent domain for the Plum Creek to Rueter-Hess Reservoir Pipeline Infrastructure Project, if necessary. This ordinance authorizes CRW staff to follow the property acquisition process consistent with the potential use of eminent domain, however, any use of eminent domain on any specific property will require CRW staff to return to Council for additional authorization in the form of an ordinance specific to that property. During this additional public hearing, Council will be provided with the details of that specific property, the offers made to the property owner for that specific property and all the other information associated with the final use of eminent domain to acquire that needed property.

CRW's Water Resources Strategic Master Plan identifies pipeline infrastructure (pipeline, pump station, and outlet structure) needed to convey renewable and reuseable water from the Plum Creek Basin to Rueter-Hess Reservoir (RHR) for storage during periods when available supply exceeds demand. Storage of this water is critical for responding to future irrigation season demands. The proposed infrastructure is being sized to move 1,000 acre-feet per year from the Plum Creek basin to RHR.

An engineering consultant, Providence Infrastructure Consultants (Providence), was retained to complete a pipeline alignment study and preliminary infrastructure design in 2021. The alignment study was completed in late 2021, and the Town selected a proposed pipeline alignment. Providence was retained to complete final design services for the project in 2022, and the design work is being completed concurrently with survey of the pipeline corridor.

The proposed pipeline is approximately 7 miles in length and crosses 38 properties (**See Attachment B**). Some have common property ownerships, and there are approximately 21 different ownership entities. Staff has completed numerous onsite meetings and phone conversations with property owners to discuss potential project impacts and gather feedback regarding specific property owner concerns. A land acquisition consultant, Western States Land Services (Western States), was retained to assist with property owner coordination and begin good-faith negotiations to acquire the necessary easements.

The project is scheduled for completion of construction bid documents in April 2024. Based on current schedule for the project design and past experience on other projects, approval for the use of eminent domain is recommended upfront in property negotiations to facilitate easement acquisition in advance of final design completion and construction commencement to avoid project delays which could impact CRW's ability to meet irrigation demands in the future.

Given project schedule and experience on other projects, Staff requests adoption of this ordinance to allow property negotiations to commence immediately upon adoption. Legal descriptions are being prepared, and the Town's consultant is ready to begin the negotiation process.

Notification and Outreach Efforts

In order to obtain right of entry agreements to complete survey and geotechnical investigations in the pipeline corridor, staff has conducted numerous meetings and discussions with individual property owners. During these discussions, staff has worked to understand property owner concerns regarding the project and proposed pipeline. In response to feedback and input from property owners, the design team has made several significant refinements to the originally selected alignment. These revisions have lengthened the project design schedule but have led to a more collaborative approach with the overall community.

In the Promenade area, the design team has shifted the alignment multiple times to avoid impacts to development plans and to seek to minimize traffic disruptions to existing businesses in the area.

In the Silver Heights area, the proposed alignment has been shifted from Evalena Road to a shorter trenchless construction option that significantly reduces the number of residential properties that will be impacted. The route adjustment makes use of a large parcel that was acquired by the Town after the initial route had been selected.

In the Happy Canyons Ranch neighborhood, the design team solicited input from all potentially impacted property owners to refine the alignment to the least impactful route through the neighborhood as a whole.

The design team has been working with Shea Homes, North Canyons, and Castle Pines to adjust the proposed alignment as the development plans for the communities immediately south of RHR have evolved.

The Town is also beginning the Location and Extent permitting process with Douglas County which will notify and solicit additional information from surrounding property owners.

As of July 20, 2023, all of the property owners potentially impacted by this Ordinance authorizing the exercise of the Town's power of eminent domain for the Plum Creek to Rueter-Hess Reservoir Pipeline Infrastructure Project have been contacted via phone and email to provide them with the dates for the Castle Rock Water Commission meeting discussing this item as well as packet materials and dates for the Council meeting for this item.

History of Past Town Council, Boards & Commissions, or Other Discussions

On March 23, 2022 Castle Rock Water Commission voted unanimously to recommend award of a services agreement in the amount of \$1,262,595 with Providence along with authorization of \$126,300 in staff-managed contingency to complete final design for the proposed Plum Creek to RHR Pipeline Infrastructure.

On April 5, 2022 Town Council voted unanimously to approve Resolution 2022-043 awarding a services agreement in the amount of \$1,262,595 with Providence along with authorization of \$126,300 in staff-managed contingency to complete final design for the proposed Plum Creek to RHR Pipeline Infrastructure.

On July 27, 2022, Castle Rock Water Commission voted to table the recommendation to Council on an Ordinance Authorizing the Exercise of the Town's Powers of Eminent Domain for the Plum Creek to Rueter-Hess Reservoir Pipeline Infrastructure Project [Northern Castle Rock and Eastern Castle Pines] to provide CRW staff with more time to discuss the project with property owners that might be impacted. CRW staff met with several of the potentially impacted property owners after the meeting.

Castle Rock Water staff presented this item to the Castle Rock Water Commission at their meeting held on July 26, 2023, and the Castle Rock Water Commission voted unanimously 6 to 0 to recommend Town Council approval of the Resolution as presented.

Discussion

A need for a sustainable long-term water supply was identified in CRW's Water Resources Strategic Master Plan, and one of the major goals of that plan is establishment of a renewable, sustainable water supply that accounts for 75% of the annual demand for water in Castle Rock by 2050 and 100% renewable supply in an average hydrologic year by 2065. Renewable water sources for Castle Rock include a combination of existing surface water rights along East and West Plum Creek, reusable lawn irrigation and reclaimed water flows, and imported surface water from outside of the Plum Creek Basin.

A critical component of the Town's long-term water supply is its diversion structure on Plum Creek near Sedalia. The structure is downstream of the Plum Creek Water Reclamation Authority (PCWRA) outfall where the majority of the Town's fully reusable water is reclaimed. A pump station and 30-inch pipeline were recently completed and are now operating to convey raw water from the Plum Creek Diversion to the Plum Creek Water Purification Facility (PCWPF) in Castle Rock. In addition to using this diverted water for on demand raw water

supply, the Town desires the capability to transfer this water to RHR for storage during periods when the available supply exceeds demand. The stored water will provide an additional supply that can later be pumped back to the Town after treatment through Parker's RHR Water Purification Facility and then through the local WISE pipeline to help meet peak season demands.

In March 2021, through a competitive Request for Proposal process, the Town retained Providence to complete an alignment study and preliminary design of new pipeline infrastructure to convey renewable water to RHR. The study evaluated 4 different alternative alignments based on factors including cost, schedule, operational flexibility, environmental impacts, property impacts, and constructability. Providence completed the study in late 2021 and staff selected a pipeline alignment for the project. In April 2022, Town Council approved a contract with Providence to complete final design services for the pipeline infrastructure.

In April 2022, the Town retained Precision Survey to complete a pipeline corridor survey. The survey data will allow completion of final design of the infrastructure. The selected pipeline corridor is roughly 7 miles in length and runs northeast from East Plum Creek through the Promenade Development and around the western and northern edges of Sapphire Point before turning north through The Canyons and North Canyons developments to the south shores of RHR (see *Attachment B*).

In June 2022, the Town retained a consultant, Western States, to assist with obtaining right of entry agreements needed to complete the corridor survey and to assist with acquiring temporary and permanent pipeline easements needed from property owners.

The current design has identified 18 permanent easements and 18 temporary easements required for construction of the project. Portions of the pipeline in properties owned by the Colorado Department of Transportation and Union Pacific Railroad will require different types of agreements and permits. In general, the Town will be seeking 30-foot width permanent pipeline easements and up to 30-foot width additional temporary construction easements from property owners. Legal descriptions and exhibits are being prepared for each parcel. These legal descriptions and exhibits will be used for property valuations and negotiations. The majority of easements on the project have estimated values greater than \$5,000 which will require formal appraisals at typical costs around \$6,500 per appraisal. The Town will contract an independent appraiser to complete this work. The Town may also be required to reimburse property owners for their own appraisals with costs for those ranging as high as \$20,000. Easements with estimated values less than \$5,000 will have a value finding conducted by Western States. Once easement values are determined, the Town will make initial offers based on these values.

The Town will make every effort to negotiate with the property owner on a voluntary basis by means of communicating the need and benefit of the project and offering fair and equitable compensation. As with any land acquisition, the property owner often has questions or concerns regarding impacts to the property and any existing improvements. The Town, through its acquisition agent, Western States, will respond to these questions and concerns in an effort to negotiate an equitable solution and acquire the needed easement.

The negotiation process can be concluded relatively quickly for some parcels, but in other cases the process can be drawn out, and in rare situations a compromise cannot be reached at all, and property must be acquired through condemnation in order for the project to proceed. If the parties are unable to negotiate a solution regarding the easements, the project schedule and CRW's ability to meet irrigation demands in the future could be impacted. Therefore, an ordinance authorizing condemnation is recommended for approval at this time. It is important to understand that before proceeding with final condemnation on any specific property parcel easement, CRW staff will be required to return to Council for additional authorization for that specific parcel. Regardless of how the Town obtains the easement, the property owner will be compensated with a fair and equitable payment based on current market value.

Budget Impact

\$1,939,388 was budgeted for the project in 2023 in account 211-4375-443.78.04 Water Resources, CIP - PlumCreek-RueterHes PL & PS. This account has an amended budget balance of approximately \$1,774,936 for 2023. The project is being funded with Series 2022 Bond Funds. A summary of expenditures to date and current estimated project costs is provided below.

Alignment Study/Preliminary Design	\$200,697	Spent
Geotechnical Engineering Services	\$64,823	Spent
Corridor Survey	\$174,175	Encumbered
Final Design	\$1,388,895	Encumbered
Right of Way Acquisition Services	\$190,050	Encumbered
Right of Way Appraisal Services	\$150,000	Estimated
Property Owner Appraisal Reimbursement	150,000	Estimated
Right of Way Acquisition	\$1,750,000	Estimated
Construction Phase Engineering	\$800,000	Estimated
Construction	\$16,000,000	Estimated
Total Estimated Cost:	\$20,868,640	

Staff Recommendation

Staff recommends Town Council approval of the ordinance authorizing the use of eminent domain to acquire the required easements, if necessary.

Proposed Motion

"I move to approve the Ordinance as introduced by title."

Alternative Motions

"I move to approve the ordinance as introduced by title, with the following conditions: (list conditions)."

"I move to continue this item to the Town Council meeting on _____ date to allow additional time to (list information needed)."

Attachments

Attachment A: Ordinance
Attachment B: Alignment Corridor Map