

ORDINANCE NO. 2019-009

**AN ORDINANCE AUTHORIZING THE
EXERCISE OF THE TOWN'S POWERS OF EMINENT DOMAIN
TO ACQUIRE CERTAIN REAL PROPERTY INTERESTS NECESSARY FOR
THE PLUM CREEK PARKWAY WIDENING/ROUNDBOUT PROJECT;
AND PROVIDING FOR ITS EMERGENCY ADOPTION ON
SECOND AND FINAL READING**

WHEREAS, the Town Council has determined that there is a compelling public need and purpose for the construction of the Plum Creek Parkway Widening/Roundabout Project ("Project"); and

WHEREAS, the Town Council has approved a 2019 budget authorization of \$4,667,500 for right-of-way acquisition, design and construction of the Project; and

WHEREAS, the Town has entered into an agreement with Kimley-Horn and Associates, Inc. ("Kimley-Horn"), dated April 3, 2018 for the design of the Project; and

WHEREAS, Kimley-Horn has completed design of the Project to a sufficient detail to enable delineation of the real property interests the Town will need in order to construct and maintain the Project; and

WHEREAS, the identified property interests necessary for the Project are described in the attached *Exhibit A* ("Properties"); 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,

WHEREAS, in order to meet construction schedules for the Project, it is necessary for this Ordinance to become effective upon its adoption on second and final reading.

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

Section 1. Acquisition Authorization. The Town Attorney is authorized to take necessary and appropriate action to acquire good title to the property interests described in *Exhibit A* in accordance with Article 1, Title 38, C.R.S. and Article 56, Title 24, C.R.S., subject to compliance with Section 3.B of this Ordinance, as applicable. 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 for the Properties to be offered to each Property owner in compliance with applicable law and regulation.

Section 3. Good Faith Negotiations.

A. 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) to acquire the Properties on the basis of fair and reasonable value.

B. Should such good faith negotiations fail to result in 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 Council authorization to institute eminent domain proceedings and acquire immediate possession of the Property. Upon receipt of such request, the Town Council at a regular or special Town Council meeting shall consider the request at which time the Property owner will have the opportunity to be heard. Upon conclusion of the hearing, the Town Council shall approve or deny the request for commencement of filing a petition in condemnation. If the request is denied, the Town Attorney will continue negotiations with the Property owner.

Section 4. Need, Necessity and Public Use. The Town Council finds and determines it is in the interest of the public health, safety and welfare for the Town to acquire, as soon as possible, the Properties described in *Exhibit A*. The Town Council finds and determines there is a public need and necessity for obtaining possession of and acquiring the Properties.

Section 5. Costs. The Town Manager shall be further authorized to incur reasonable costs associated with acquiring the Properties, 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 the Properties.

Section 6. Amendment. The Town's Director of Public Works, or his designee is authorized, if necessary, 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. Emergency Clause. For the reasons stated in the recitals to this Ordinance, it is declared that an emergency exists and it is necessary for the preservation of the immediate public health and safety for this Ordinance to take effect upon its adoption on second and final reading.

Section 9. 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 16th day of April, 2019 by a vote of 6 for and 0 against, after publication in compliance with Section 2.02.100.C of the Castle Rock Municipal Code; and

PASSED, APPROVED AND ADOPTED AS AN EMERGENCY ORDINANCE ON SECOND AND FINAL READING this 7th day of May, 2019, by a vote of the Town Council of the Town of Castle Rock of ____for and ____ against, constituting the extra-majority required by Section 2.02.100 of the Castle Rock Municipal Code.

ATTEST:

TOWN OF CASTLE ROCK

Lisa Anderson, Town Clerk

Jason Gray, Mayor

Approved as to form:

Approved as to content:

Robert J. Slentz, Town Attorney

Robert Goebel, P.E., Director of Public Works