

ORDINANCE NO. 2021-021

**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 PHASE 2 PROJECT**

WHEREAS, the Town Council of the Town of Castle Rock, Colorado (the "Town"), determined that there is a compelling public need and purpose for the widening of Plum Creek Parkway (the "Project"); and

WHEREAS, the Town Council has adopted Resolution Nos. 2018-030 and 2018-084, approving and thereafter amending an agreement with Kimley-Horn Associates, Inc., for the Project design; and

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

WHEREAS, as the Project serves a valid public purpose, the exercise of the Town's powers of eminent domain may be necessary to acquire certain real property described in the attached *Exhibit 1* (the "Property").

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

Section 1. Acquisition Authorization. The Town Attorney is authorized to take necessary and appropriate action to acquire good title to the Property in accordance with Section 38-1-101, *et seq.*, C.R.S., and Section 24-56-101, *et seq.*, C.R.S., subject to compliance with Section 3 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 to be offered to each Property owner in compliance with applicable laws and regulations.

Section 3. Good Faith Negotiations.

A. Town staff is directed to undertake negotiations in an expedient manner and in accordance with the requirements of Section 38-1-101, *et seq.*, C.R.S., and Section 24-56-101, *et seq.*, C.R.S., for fair and reasonable value.

B. Should such good faith negotiations fail to result in agreement with any Property owner on value of such owner's Property, 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, Town staff will seek to continue negotiations with the Property owner.

Section 4. Need, Necessity, and Public Use. The Town Council determines it is in the interest of the public's health, safety and welfare for the Town to acquire, as soon as possible, the Property described in *Exhibit 1*. The Town Council determines there is a public need and necessity for acquiring the Property.

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

Section 6. Amendment. The Town's Director of Public Works or designee is authorized to amend the legal descriptions of any Property to be acquired and the nature of the interests to be acquired, including the 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 relationship to the legislative object sought to be obtained.

APPROVED ON FIRST READING this 7th day of September, 2021, by the Town Council of the Town of Castle Rock, Colorado by a vote of 7 for and 0 against, after publication; and

PASSED, APPROVED AND ADOPTED ON SECOND AND FINAL READING this 21st day of September, 2021, by the Town Council of the Town of Castle Rock, Colorado 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

David L. Corliss, Town Manager