

**RESOLUTION OF THE TOWN OF MOUNTAIN VILLAGE, COLORADO
AUTHORIZING THE TOWN ATTORNEY TO NEGOTIATE THE PURCHASE OF AND, IF
NECESSARY, CONDEMN LOT 615-1CR FOR THE PURPOSE OF CONSTRUCTING AFFORDABLE
HOUSING AND THE CONTINUED USE OF THE PUBLIC TRAIL THEREON**

RESOLUTION NO. 2022-0519-06

WHEREAS, the Town of Mountain Village, Colorado possesses the power of eminent domain pursuant to Article XX, §§1 and 6 of the Colorado Constitution, Section 11.1 of the Town of Mountain Village Home Rule Charter, C.R.S. §38-1-101, *et seq.*, and C.R.S. § 38-6-101, *et seq.*; and

WHEREAS, pursuant to C.R.S. § 38-6-101, so long as it serves a public purpose, the Town may condemn private property to build, acquire, construct, or establish any public building or any other public work or improvement; and

WHEREAS, it is necessary and in the public interest for the Town to acquire the real property known as Lot 615-1CR, San Miguel County Parcel No. 456533321019, and more particularly described in Exhibit A (the "Subject Property") to construct and maintain affordable housing and related facilities and improvements including, but not limited to, public trail purposes; and

WHEREAS, acquiring the Subject Property to construct and maintain affordable housing and for trail purposes serves a public purpose and public use and benefits the residents of the Town of Mountain Village and the general public; and

WHEREAS, the Subject Property is necessary for the construction of affordable housing and also includes an existing public trail known as the Meadows Trail, easement rights for which the present owners have refused to acknowledge, and there is an immediate need to take possession of same; and

WHEREAS, the Town of Mountain Village has complied and intends to continue to comply with all applicable provisions of C.R.S. § 38-1-101, *et seq.*, including, but not limited to, the notice and good faith negotiation requirements and provisions thereof.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Mountain Village, Colorado, that:

Section 1. The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the Town Council.

Section 2. The term "Subject Property" means the real property described in attached Exhibit A.

Section 3. The Town Council hereby finds that the acquisition of the Subject Property for the purpose of constructing affordable housing and for continued use of the Meadows Trail will serve a proper, public, and municipal purpose and use, and that such acquisition is necessary and essential to this public purpose and use. The Town Council hereby declares its intent to acquire the Subject Property for the purposes stated herein.

Section 4. The Town Manager, in consultation with the Town Attorney, is directed to provide notice of the Town's intent to acquire the Subject Property to the owners of said property, and to thereafter conduct good faith negotiations with the owners for the acquisition of the property rights sought. The Town Manager is authorized to make offers for all or portions of the Subject Property based upon the appraisal or fair market valuation of the same, and is further authorized to execute agreements for the acquisition of all or portions of the Subject Property.

Section 5. If, after making good faith offers to acquire the Subject Property, the Town is unable to acquire the necessary property rights by negotiation and/or voluntary purchase, the Town Attorney is hereby authorized to institute and prosecute eminent domain proceedings in the name of the Town so as to acquire the Subject Property by condemnation. In the prosecution of any eminent domain actions to acquire the Subject Property, the Town shall have and retain all rights and powers lawfully delegated to it by the Colorado Constitution, the Town of Mountain Village Home Rule Charter, and C.R.S. § 38-1-101, *et seq.* and C.R.S. § 38-6-101, *et seq.*

Section 6. The Town Manager, in consultation with the Town Attorney, is authorized to seek and to take immediate possession of the Subject Property as may be necessary for constructing affordable housing and for continued use of the Meadows Trail, and to make such deposits or other payments as may be necessary in connection therewith. If eminent domain proceedings are instituted, the Town Manager, in consultation with the Town Attorney, is authorized to retain such expert witnesses, including appraisers, as the Town determines are necessary for the condemnation proceedings.

Section 7. The Town Manager, in consultation with the Town Attorney, is hereby specifically authorized to make such reasonable or necessary amendments and corrections to the terms and/or legal descriptions of the Subject Property to be acquired, including authorization to include such additional or other property rights necessary or desirable for the Town to acquire so as to construct, install, maintain, and use the public improvements for multimodal improvements.

Section 8. The Town Council hereby finds, determines, and declares that this Resolution is promulgated under the general police power of the Town of Mountain Village, that it is adopted for the health, safety, and welfare of the public, and that this Resolution is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Resolution bears a rational relation to the proper legislative object sought to be obtained.

Section 9. If any clause, sentence, paragraph, or part of this Resolution 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 application to other persons or circumstances.

Section 10. This Resolution shall be in full force and effect upon its passage and adoption.

ADOPTED AND APPROVED by the Town of Mountain Village Town Council at a regular public meeting held on the 19th day of May 2022.

TOWN OF MOUNTAIN VILLAGE, COLORADO

By: 
Laila Benitez, Mayor

ATTEST:


Susan Johnston, Town Clerk

APPROVED AS TO FORM:

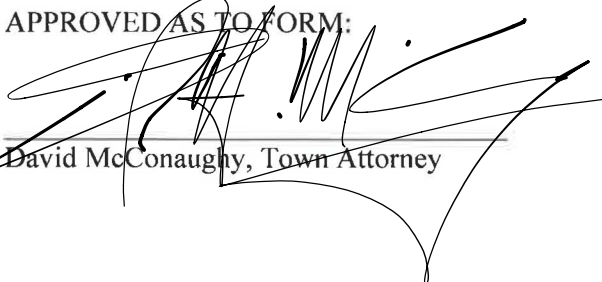

David McConaughy, Town Attorney

Exhibit A

LOT 615 1CR TOWN OF MOUNTAIN VILLAGE ACC TO A REPLAT OF LOTS BC110 BC513A 615 1C 615
2CR 615 3AR TRACT 21 AR TRACT OSP 21 TRACTS OS 615A B AND C AND OLD HIGHWAY RD
LOCATED WITHIN N1 2S1 2 OF SEC 33 T43N R9W NMPM SAN MIGUEL COUNTY CO ZONING 3
CONDOMINIUM