

**RESOLUTION NO. 22**  
**Series 2022**

**A RESOLUTION OF THE VAIL TOWN COUNCIL AUTHORIZING THE EXERCISE OF THE  
TOWN'S EMINENT DOMAIN AUTHORITY TO ACQUIRE OPEN SPACE**

WHEREAS, the Town of Vail, Colorado (the "Town") possesses the power of eminent domain pursuant to Article II, § 15 and Article XX, §§ 1 and 6 of the Colorado Constitution, Sections 1.2 and 13.11 of the Town's Home Rule Charter, C.R.S. § 38-1-101, *et seq.*, and C.R.S. § 38-6-101, *et seq.*;

WHEREAS, the Town may exercise the power of eminent domain for the public purpose of acquiring open space;

WHEREAS, the Town values open space for the public welfare and holds as part of its mission environmental stewardship and the care of our wildlife and natural resources;

WHEREAS, the Town seeks to acquire as open space a fee interest in the Booth Heights parcels;

WHEREAS, upon acquisition, the Booth Heights parcels will likely be eligible to be designated open space pursuant to Section 13.11 of the Town's Home Rule Charter; and

WHEREAS, the Town's acquisition, by condemnation, of a fee interest in the Booth Heights parcels as open space is necessary and serves a public purpose.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF VAIL:**

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

Section 2. The term "Booth Heights parcels" means the real property more particularly described in the attached **Exhibit 1**.

Section 3. The Town Council hereby finds the acquisition of a fee interest in the Booth Heights parcels 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 a fee interest in the Booth Heights parcels for the purposes stated herein and, if necessary, to do so through the exercise of the power of eminent domain.

Section 4. The Town Manager, the Town Attorney, the Town Manager's designated representative(s), and any and all persons retained or employed by the Town in the prosecution of this matter are hereby directed to comply with all notice and good faith negotiation requirements set forth in C.R.S. § 38-1-101, *et seq.*

Section 5. The Town Manager is authorized to make reasonable and good faith offers to offers to purchase from the affected landowner(s) the necessary interests in the Booth Heights parcels, and the Town Manager is further authorized to execute agreements for the acquisition of same.

Section 6. If, after engaging in good-faith negotiations, the Town is unable to acquire the necessary property rights, the Town Attorney and the Town's special counsel are hereby authorized to institute and prosecute eminent domain proceedings in the name of the Town so as to acquire a fee interest in the Booth Heights parcels by condemnation. In the prosecution of any eminent domain actions to acquire a fee interest in the Booth Heights parcels, the Town shall have and retain all rights and powers lawfully delegated to it by Article II, § 15 and Article XX, §§ 1 and 6 of the Colorado Constitution, Sections 1.2 and 13.11 of the Town's Home Rule Charter, C.R.S. § 38-1-101, *et seq.*, and C.R.S. § 38-6-101, *et seq.*

Section 7. If eminent domain proceedings are instituted, the Town Manager or designee, in consultation with the Town Attorney and the Town's special counsel, is authorized to retain such expert witnesses, including appraisers, as the Town determines are necessary for the eminent domain proceedings.

Section 8. The Town Manager or designee, in consultation with the Town Attorney and the Town's special counsel, are hereby specifically authorized to make such reasonable or necessary amendments and corrections to the terms and legal descriptions of the property interests to be acquired, including authorization to include such additional or other property rights necessary or desirable for the Town. The Town Manager and Town Clerk are hereby authorized and directed to execute an acceptance of the interests in real property when acquired.

Section 9. The Town Council hereby finds, determines and declares that this Resolution is promulgated under the general police power of the Town, 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 10. 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 11. This Resolution shall become effective immediately upon adoption.

INTRODUCED, READ, APPROVED AND ADOPTED this 3<sup>rd</sup> day of May 2022.

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Kim Langmaid, Mayor

ATTEST:

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Tammy Nagel, Town Clerk

**EXHIBIT 1**

**Legal Description of Real Property to be Condemned as Open Space**

**East Vail Workforce Housing Subdivision, Lot 1**

**East Vail Workforce Housing Subdivision, Tract A**