

## **RESOLUTION 2024-20**

### **A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN AMENDMENT TO THE MEMORANDUM OF UNDERSTANDING WITH 2 FORKS VENTURES, INC TO EXTEND THE ONE-YEAR EXCLUSIVE RIGHT TO NEGOTIATE A PUBLIC-PRIVATE PARTNERSHIP AGREEMENT TO DEVELOP CERTAIN CITY-OWNED PROPERTY**

**WHEREAS**, the City of Fruita, Colorado (the “City”) previously entered into a Memorandum of Understanding (the “MOU”) with 2 Forks Ventures, Inc (the “Developer”) to set forth the Developer and the City’s understanding with respect to the possible development of certain real property owned by the City and located within the boundaries of the City as described in Exhibit A to the MOU (the “Property”); and

**WHEREAS**, the MOU provides that the Developer shall have a one-year exclusive right from the date of the MOU to negotiate a Public Private-Partnership Agreement (“PPP Agreement”) acceptable to the City to achieve a development proposal for the Property; and

**WHEREAS**, the City and the Developer have been working together in good faith to negotiate a PPP Agreement, but such negotiations will not be complete before the Developer’s exclusive right expires under the terms of the current MOU; and

**WHEREAS**, the City desires to enter into a First Amendment to Memorandum of Understanding (the “First Amendment”), in substantially the form attached hereto as Exhibit A, in order to extend the period during which the Developer has an exclusive right to negotiate a PPP Agreement acceptable to the City to achieve a development proposal for the Property.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FRUITA, COLORADO, THAT:**

**Section 1. Recitals Incorporated.** The foregoing recitals are hereby incorporated by reference and adopted as findings and determinations of the City Council.

**Section 2. Approval of First Amendment.** The City Council hereby approves the First Amendment to Memorandum of Understanding in substantially the form attached hereto as Exhibit A; provided, however, such First Amendment to Memorandum of Understanding may be completed, corrected or revised as deemed necessary by the parties thereto in order to carry out the purposes of this Resolution and as the City Manager shall approve; the execution thereof being deemed conclusive approval of any such changes by the City. The City Manager is hereby authorized and directed to execute the First Amendment to Memorandum of Understanding for the City.

**Section 3. Effective Date.** This Resolution shall be in full force and effect upon its passage and adoption.

**PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL THIS 17<sup>TH</sup> DAY OF JUNE, 2024.**

**CITY OF FRUITA, COLORADO**

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Matthew Breman, Mayor

**ATTEST:**

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Margaret Sell, City Clerk

## EXHIBIT A

### FIRST AMENDMENT TO MEMORANDUM OF UNDERSTANDING

THIS FIRST AMENDMENT TO MEMORANDUM OF UNDERSTANDING (this “First Amendment”), dated June \_\_, 2024, is between 2 Forks Ventures, Inc (the “Developer”), with an address at PO Box 2050, Carbondale, Colorado 81623, Attention: Gavin Brooke, and the City of Fruita, Colorado (the “City”), with an address at 325 E. Aspen Avenue, Fruita, Colorado 81521, Attention: City Manager.

### RECITALS

WHEREAS, the City and the Developer previously entered into a Memorandum of Understanding (the “MOU”) to set forth the Developer and the City’s understanding with respect to the possible development of certain real property owned by the City and located within the boundaries of the City as described in Exhibit A to the MOU (the “Property”); and

WHEREAS, the MOU provides that the Developer shall have a one-year exclusive right from the date of the MOU to negotiate a Public-Private Partnership Agreement (“PPP Agreement”) acceptable to the City to achieve a development proposal for the Property; and

WHEREAS, the City and the Developer have been working together in good faith to negotiate a PPP Agreement, but such negotiations will not be completed before the Developer’s exclusive right expires under the terms of the current MOU; and

WHEREAS, the City and the Developer desire to enter into this First Amendment in order to extend the period during which the Developer has an exclusive right to negotiate a PPP Agreement acceptable to the City to achieve a development proposal for the Property.

NOW, THEREFORE, for and in consideration of the covenants and mutual agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

### AGREEMENT

1. MOU. The MOU is hereby amended by this First Amendment to the extent provided herein and, except as specifically provided herein, the MOU shall remain in full force and effect in accordance with its terms.

2. Exclusive Right to Negotiate. The Developer shall have an exclusive right from the date of the MOU until September 20, 2024, to negotiate a PPP Agreement acceptable to the City to achieve a development proposal for the Property. The parties agree to work together in good faith to agree to a PPP Agreement.

3. Assignment. The Developer may assign the MOU, as amended by this First Amendment, and the rights associated to another entity for the purpose of developing the Property. Any assignment is subject to the City's agreement.

4. Counterparts. This First Amendment may be executed in counterparts and/or facsimile counterparts, each of which shall be deemed to be an original, and all of which together shall be deemed to be one and the same instrument.

5. Governing Law. The laws of the State of Colorado shall govern this First Amendment.

**IN WITNESS WHEREOF**, the parties hereto have set forth their respective hands as of the date first written above.

**DEVELOPER:**

2 FORKS VENTURES, INC a Colorado  
Corporation

By: \_\_\_\_\_  
Name: Gavin Brooke  
Title: President

**CITY:**

CITY OF FRUITA

By: \_\_\_\_\_  
Name: Mike Bennett  
Title: City Manager