



ENGINEERING & COMMUNITY DEVELOPMENT DEPARTMENT(S)
STAFF REPORT
JANUARY 17, 2025

Application #: 2025-05
Project Name: 19 Road Right-of-Way Acquisition Project
Application Type: Acquisition of Right-of-Way
Representative: Richard & Shelby Bedow
Location: 966 19 Road
Request: This is a request for approval of Resolution 2025-5 to authorize the filing of Eminent Domain proceedings to acquire 6,000 square feet of Right-of-Way needed for the 19 Road Improvement Project.

Summary & Timeline of Right-of-Way Acquisition – 19 Road Project:

During the summer of 2022, the City of Fruita began preparations to complete a road improvement project on 19 Road to accommodate increased traffic on 19 Road due to school traffic and increasing development on the East end of the City's urban growth boundary area, to provide safe pedestrian and bicycle access along the corridor and to allow safe installation and burial of utilities (the "Project"). As the project would require the acquisition of additional right-of-way ("ROW") from private property owners, the City started by identifying the affected parcels of land and reaching out to the landowners for permission to survey the property needed.

In March of 2023 City contracts with A Project Resources (Matt Sheader, Principal) for ROW acquisition for the Project to be completed by March 2024.

- 22 properties from which right-of-way would need to be acquired requiring verification of title and a survey.
- City commits to making each landowner whole through the acquisition process and being fair and consistent with each of the individual negotiations.

January 17, 2024 City had mailed letters to irrigation headgate owners within the Project area and held a public meeting to discuss Project impacts and City's accommodations for same. (Rick Bedow was in attendance).

- First public meeting concerning the Project
- Staff members in attendance also answered many questions about the scope of the road project as well as questions about right-of-way acquisition.

January 23, 2024, A Project Resources contracted with two appraisal firms for the City's appraisals for each ROW parcel needed

- at Matt Sheader's request, completion date for the land acquisition changed from March of 2024 to August 1, 2024.

February 1, 2024, A Project Resources sent "intent to purchase" packages to each property owner from which the City needed to acquire ROW.

- communicated to the landowners the City would perform an appraisal to determine the fair market value of the proposed ROW to be acquired.
- Informed landowners they could hire their own appraiser (at the City's expense) and included a list of appraisers.
- Notified landowners that there was a ninety-day timeline for private appraisals to be completed by April 30, 2024, to allow for several months of negotiations before the August 1st deadline.

March 29, 2024. Steve Martinez, the project manager for the City of Fruita, along with Matt Sheader of A Project Resources, met onsite with multiple landowners, along with Lisa Roberts and JP Nisley, the City's appraisers contracted by A Project Resources.

- Shelby Bedow of 966 19 Road was present and conveyed concerns with the irrigation runoff and how the City and its contractor would handle getting the irrigation runoff water off the Bedow property as Ms. Bedow wanted to find a way to flood the pasture and be able to control draining of the pasture. Mr. Martinez took that information and drafted a preliminary plan to install a culvert and gate that would allow the Bedow property to control flooding and draining the Southwest corner of the pasture.

April – May 2024. The appraisers proceeded with their valuations of land to be acquired for ROW

- On behalf of the City, JP Nisley performed an appraisal of the ROW needed from the Bedow property
- Bedows hired Bruce Buchan to perform their own appraisal of the ROW area.
- The appraisal process went past the 90-day deadline, so the City granted the Bedows a 30-day extension for their private appraisal to June 1, 2024 (although the City did not receive the appraisal report until July 1, 2024).

July-August 2024. After receipt of the Nisley and Buchan appraisals for the Bedow ROW, the City and A Project Resources prepared an offer to the Bedows for the City's purchase thereof

- On the Bedows' property, the City needs to acquire a total of 20 feet east from the existing right-of-way along 19 Road for a length of 300 feet, resulting in 6,000 square feet of property in order to expand the existing thirty-foot ROW to fifty feet, to accommodate the Project as well as the future final road section in the Circulation Plan.
- This 6000 square foot area is already burdened by a 14' wide multi-purpose easement for utilities for the benefit of Mesa County.

July 17, 2024. The City hosted a second public meeting to explain the project and answer questions. Shelby Bedow attended this meeting.

- Based on feedback from Ms. Bedow and some of the other property owners along 19 Road, the City decided to revise the road design to be less intrusive to the landowners on the East side of 19 Road by eliminating the detached trail and ditch from the original design and replace it with curb, gutter and attached sidewalk- reducing the width of the total improvements on the East side of 19 road. The current design reflects those changes.
- The City authorized Matt Sheader to offer the Bedows a purchase price, which included a summary statement of the per square foot land value and per square foot value for improvements (landscaping, irrigation, fencing pasture and gravel driveway) As purchase amounts varied for each ROW parcel needed, the amounts offered are not being shared publicly.

October 3, 2024. City held a third public meeting at the Civic Center to answer questions and discuss the Project. Postcards were sent to residents in the area of the project and the City also advertised the meeting online. Only one resident of 19 Road showed up for this meeting.

October 8, 2024. the Bedows declined the City's offer via email to Matt Sheader and communicated that they would prepare a counteroffer.

November 19, 2024. Staff met with Council in executive session to discuss the status of the acquisition project ahead of construction starting on the first of December. At this update, Steve Martinez communicated that Staff was still waiting on a counteroffer from the Bedows, but felt there was no indication that a settlement couldn't be reached and that the purchase transaction would not be completed.

- City staff and Council planned to reconvene on December 3, 2024, for a second update. Mr. Martinez called the Bedows on the afternoon of December 3rd to get an update on the counteroffer ahead of the City Council meeting and left a voicemail with no response.

On **December 5, 2024.** A Project Resources sent the Bedows a 5-day final notice reiterating the City's previous offer.

- Ms. Bedow responded to Matt Sheader via email, suggesting that there were items from the appraisal that had not been acknowledged in the offer and concern that the land acquisition could negatively impact their farm business by reducing the number of dairy cows allowed on the property under Mesa County zoning.
- The City later verified with Mesa County that the number of cows used for the dairy business would not be affected by the land acquisition and communicated this information to the Bedows on December 10, 2024.

December 5, 2024 (later in the day). Steve Martinez received an emailed counteroffer from the Bedows. requesting an amount representing the full value of all of the Bedow property.

- Steve Martinez thanked Ms. Bedow for the counteroffer and told her that Matt Sheader would send them a response on behalf of the City.

December 10, 2024. Matt Sheader responded to the counteroffer stating that the final offer sent on December 5, 2024, stands with an expiration date of December 12, 2024.

December 12, 2024. The Bedows rejected the City's final offer.

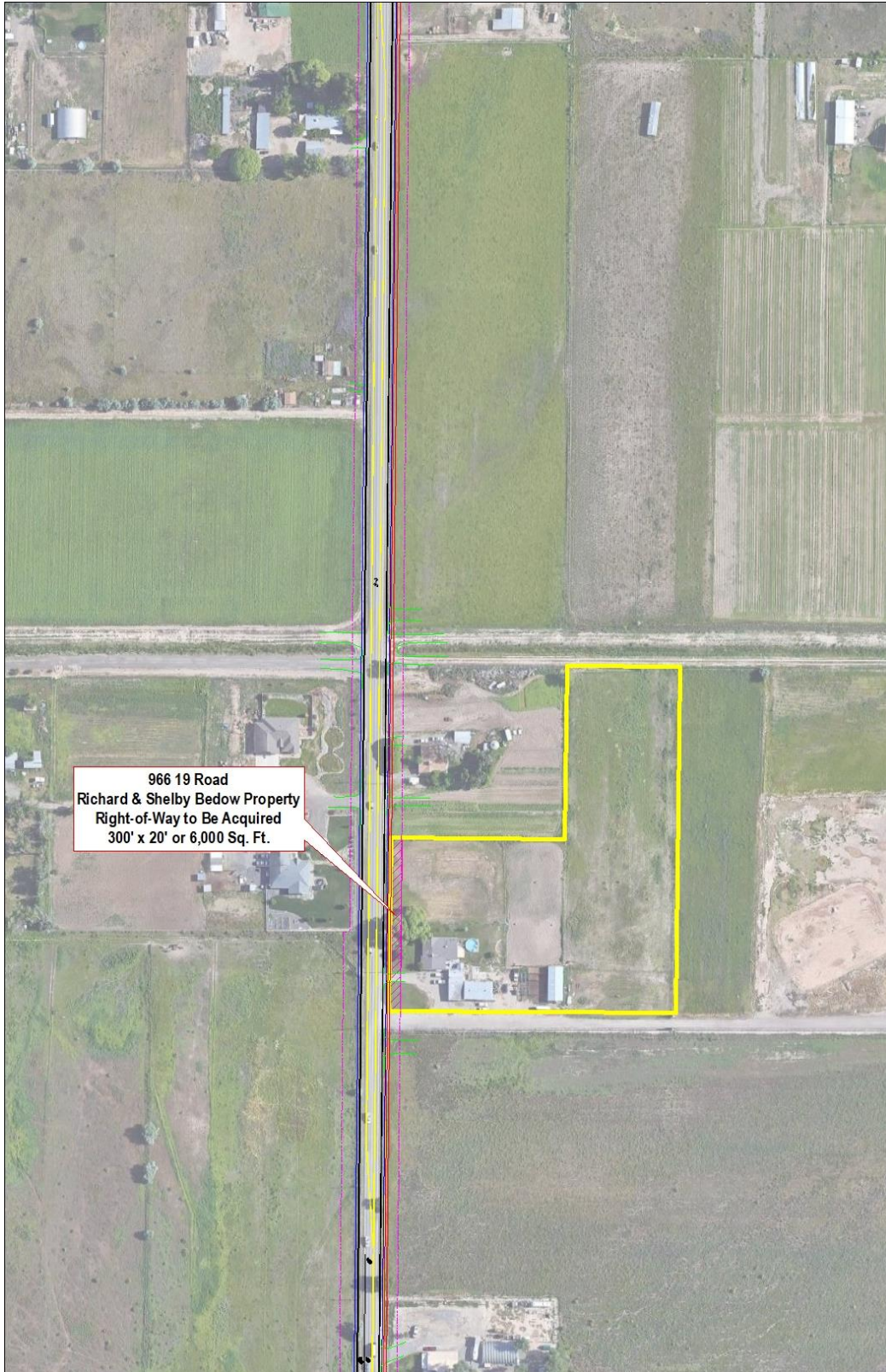
December 17, 2024, Matt Sheader sent to the Bedows the last and final offer from the City explaining that if they did not accept, the City may commence condemnation proceedings to acquire the 6000 square feet necessary for the ROW. This last offer had an expiration date of January 2, 2025.

January 1, 2025. At 8:59pm Matt Sheader received an email from Ms. Bedow declining the City's offer.

Attachments with Staff Report:

City of Fruita Urban Growth Boundary Map
City of Fruita Future Land Use Map
City of Fruita Circulation Plan Map
Street Classification Cross Section for Major Arterial Road
Weaver Simple Subdivision Plat
Sketch Presented to the Bedows for Irrigation Runoff Solutions
Aerial Photo of 19 Road at Bedow Property
Exhibit "A" Right-of-Way Survey Legal
966 19 Road Warranty Deed

LOCATION MAP



FINANCIAL IMPACT:

The City has budgeted for ROW acquisitions for the Project, so the financial impact will include the acquisition costs and the attorneys' fees and costs for the court proceedings.

STAFF RECOMMENDATION:

The City engaged directly with the Bedows for ten months, trying to reach a good faith settlement to purchase the 6000 square feet needed for right-of-way. As this land is necessary for the 19 Road project, the City has no choice but to commence condemnation proceedings in court to acquire it in accordance with C.R.S. § 38-1-101, et seq.

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