

RESOLUTION 2025-05

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FRUITA AUTHORIZING STAFF TO COMMENCE EMINENT DOMAIN PROCEEDINGS IN COURT AGAINST PROPERTY COMMONLY REFERRED TO AS 966 19 ROAD, FRUITA, COLORADO TO ACQUIRE RIGHT-OF-WAY FOR 19 ROAD

WHEREAS, the City of Fruita (“City”) is a home-rule municipality; and

WHEREAS, the City, through long range planning and analysis, has determined that it is in the public interest to improve 19 Road from the intersection with Highway 6&50 to J.2 Road to include wider travel lanes, pedestrian and bicycle friendly lanes and sidewalks, and the burying of utilities (“19 Road Project”); and

WHEREAS, the City has determined that additional right-of-way from private property owners is necessary for the 19 Road Project; and

WHEREAS, the City is authorized to use eminent domain, sometimes referred to as condemnation, to acquire private property for public purposes, pursuant to C.R.S. § 38-1-101 *et seq.* and Article II, § 15 of the Colorado Constitution; and

WHEREAS, the process by which the City can condemn private property for additional right-of-way is governed by C.R.S. § 38-1-101 *et seq.*; and

WHEREAS, the City has engaged a right-of-way acquisition specialist to assist City staff in following the process set forth in C.R.S. § 38-1-101 *et seq.* and engage with private property owners; and

WHEREAS, prior to initiating court proceedings for condemnation, the City must obtain appraisals for the private property needed for right-of-way and engage and negotiate with private property owners to try and reach an agreement;

WHEREAS, the City has engaged and negotiated in good faith since February 1, 2024 with Richard J. Bedow (“Bedow”), owner of property located at 966 19 Road, Fruita, Colorado, and more fully described on **Exhibit A** attached hereto, for the purchase of 6000 square feet thereof, as described on **Exhibit B** attached hereto, for the 19 Road Project (“Bedow ROW Property”); and

WHEREAS, on December 17, 2024, the City sent Bedow its written final good faith offer to purchase the Bedow ROW Property, which Bedow rejected, in writing, on January 1, 2025;

WHEREAS, the Bedow ROW Property is necessary for completion of the 19 Road Project; and

WHEREAS, the City has complied with all conditions precedent such that in order to be able to acquire the Bedow ROW Property, the City must commence court proceedings as set forth in C.R.S. § 38-1-101 *et seq.*

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

Section 1. The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the City Council of the City of Fruita, Colorado (“City Council”).

Section 2. The term “Bedow ROW Property” means the real property described in attached Exhibit B.

Section 3. The City Council hereby finds that the acquisition of the Bedow ROW Property for the purpose of completing the 19 Road Project will serve a proper, public purpose and use, and that such acquisition is necessary and essential to this public purpose and use. The City Council hereby declares its intent to commence eminent domain court proceedings to acquire the Bedow ROW Property for the purposes stated herein.

Section 4. The Interim City Manager (City Manager if hired during the proceedings) and Planning Director, in consultation with the City Attorney, are directed to file any and all documents necessary to commence and prosecute eminent domain proceedings in the name of the City in Mesa County District Court pursuant to C.R.S. § 38-1-101 *et seq.* and take all actions to pursue the same to acquire the Bedow ROW Property. In the prosecution of any eminent domain actions to acquire Bedow ROW Property, the City shall have and retain all rights and powers lawfully delegated to it by the Colorado Constitution and Colorado Revised Statutes.

Section 5. The Interim City Manager (City Manager if hired during the proceedings) and Planning Director, in consultation with the City Attorney, is authorized to seek and to take immediate possession of the Bedow ROW Property as may be necessary for constructing the 19 Road Project improvements, and to make such deposits or other payments as may be necessary in connection therewith. Once eminent domain proceedings are instituted, the this same Staff, in consultation with the City Attorney, is authorized to retain such expert witnesses, including appraisers, as the City determines are necessary for the condemnation proceedings.

Section 6. The City Council hereby finds, determines, and declares that this Resolution is promulgated under the general police power of the City, 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.

Section 7. 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 8. This Resolution shall be in full force and effect upon its passage and adoption.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FRUITA AT A REGULAR PUBLIC MEETING HELD ON THE 21ST DAY OF JANUARY, 2025.

CITY OF FRUITA

Matthew Breman, Mayor

ATTEST:

Secretary

APPROVED AS TO FORM:

City Attorney

ATTACH EXHIBITS
(A – FULL PROPERTY; B – ROW Property)