

**TOWN OF MEAD, COLORADO
RESOLUTION NO. 21-R-2024**

**A RESOLUTION OF THE TOWN OF MEAD, COLORADO,
AUTHORIZING THE ACQUISITION OF CERTAIN INTERESTS IN REAL
PROPERTY THROUGH EMINENT DOMAIN PROCEEDINGS FOR 2024-2025
CAPITAL PROJECTS AND DELEGATING AUTHORITY TO THE TOWN MANAGER
TO ACCEPT DEEDS, EASEMENTS OR LICENSE AGREEMENTS FOR SUCH
PROPERTY INTERESTS ON BEHALF OF THE TOWN**

WHEREAS, the Town of Mead, Colorado (“Town”) possesses the power of eminent domain pursuant to the provisions of Colorado law including but not limited to Sections 38-1-202(1)(e) and 38-6-101 of the Colorado Revised Statutes (“C.R.S.”); and

WHEREAS, C.R.S. § 38-6-101 authorizes the Town, in relevant part, to exercise its eminent domain powers after passage of a resolution or ordinance to establish, construct, extend, widen, or alter any street, lane, avenue, boulevard, park, playground, parkway, pleasure way, public square, market, viaduct, bridge, sewer, tunnel, or subway or to build, acquire, construct, or establish any public building or any other public work or public improvement; and

WHEREAS, the Town has determined that it may be necessary to acquire certain temporary construction easements, permanent easements, License Agreements (as that term is defined below), or to acquire fee simple title for certain real property (collectively, “Property Interests”) as necessary for the successful completion of the following four (4) capital projects to be undertaken by the Town:

1. WCR 34 Bridge Replacement Project, as more particularly described in **Exhibit A** attached hereto,
2. Town of Mead Regional Trail Extension, Safe Routes to School (SRTS) Project, as more particularly described in **Exhibit B** attached hereto,
3. SH 66 / WCR 7 Pedestrian Crossing Project, as more particularly described in **Exhibit C** attached hereto, and
4. WCR 26 Multipurpose Trail Project, as more particularly described in **Exhibit D** attached hereto,

(collectively, the “Town Projects”); and

WHEREAS, with respect to the Town Projects, the Town may be required to acquire a “*License to Enter Private Property*” or similar right to enter property from certain property owners in the vicinity of the Town Projects (together, the “License Agreements”) in order to support certain surveying and investigatory work related to the Town Projects, including but not limited to:

- Access for survey crews to survey existing property features including, but not limited to, buildings, vegetation, property corners, structures and fence lines;
- Access for consultants/contractors to observe environmental and geotechnical features;

- Access for independent appraisers to photograph and assess property values;
- Access for Town personnel or consultants/contractors performing work on behalf of the Town Projects as it relates to the Town Projects; and,
- Access for various utility companies or their representatives to perform utility location services on behalf of the Town

(collectively, the “Project-Related Work”); and

WHEREAS, the Town has determined that the Town Projects are public projects and that acquiring the Property Interests is necessary to successfully complete the Town Projects; and

WHEREAS, a public purpose exists as the Property Interests will be acquired to permit the construction of the Town Projects and, upon completion, the Projects will be utilized by the public; and

WHEREAS, Board of Trustees finds and declares that the Town Projects are being undertaken for public advantage and public benefit; and

WHEREAS, the Town may retain Transportation Resource Services, Inc., d/b/a TRS Corp. or another qualified third-party consultant (“Property Acquisition Consultant”) to act as the Town’s representative in the acquisition of the Property Interests, if and as necessary; and

WHEREAS, Board of Trustees desires to authorize the Property Acquisition Consultant and the Town Manager, or her designee, to conduct good faith negotiations with the property owners in the vicinity of the Town Projects in accordance with applicable law; and

WHEREAS, in the event that good faith negotiations are successful, and the Property Interests may be acquired by the Town without commencing formal condemnation proceedings, the Board of Trustees desires to delegate all necessary authority to the Town Manager to accept right-of-way deeds, permanent easements, temporary construction easements, or License Agreements for Project-Related Work for the Town Projects on behalf of the Town; and

WHEREAS, Board of Trustees desires to authorize condemnation proceedings to acquire the Property Interests, if necessary, if such good faith negotiations prove unsuccessful, subject to the specific condition set forth in Section 4 of this Resolution below; and

WHEREAS, the delegation of authority to the Town Manager (or her designee, as applicable) is consistent with *Mead Municipal Code* Section 2-3-120(e)(16) which authorizes the Town Manager to “perform such other duties as may be required of, or assigned by the Board of Trustees, consistent with federal and state laws and Town ordinances”; and

WHEREAS, the timely completion of the Town Projects is necessary for the continued health, safety, and welfare of the residents of the Town.

NOW THEREFORE, BE IT RESOLVED by the Board of Trustees of the Town of Mead, Weld County, Colorado, that:

Section 1. The foregoing recitals and findings are incorporated herein as findings and conclusions of the Board of Trustees.

Section 2. The acquisition of Property Interests for the timely completion of the specific Town Projects identified in **Exhibits A – D** attached hereto is needed and required for public use and public purposes.

Section 3. The Town Manager, or her designee, and the Property Acquisition Consultant shall be authorized to conduct good faith negotiations with property owners in the vicinity of the Town Projects, as applicable, in accordance with applicable law and shall be further authorized to make offers of just compensation to the owners of the Property Interests for the voluntary acquisition thereof. In the event that good faith negotiations are successful, the Town Manager, or her designee, and the Property Acquisition Consultant shall be authorized to schedule and conduct closings with the property owners of the Property Interests. The Town Manager shall be authorized to cause compensation to be paid to the property owners of the Property Interests, in such amounts as may be negotiated between the Town and the property owners of the Property Interests, provided that such amounts in the aggregate shall not exceed the amount(s) appropriated for said purpose in the Town’s approved 2024 and 2025 budgets, as the same may be amended from time to time.

Section 4. If compensation to be paid for any of the Property Interests cannot be agreed upon by the interested parties, or in case the owner or owner(s) of any of the Property Interests are incapable of consenting, then the Town Attorney shall be authorized to institute and prosecute to conclusion such proceedings as are available under Article 1 of Title 38, Colorado Revised Statutes, through the exercise of the power of eminent domain. In the event that acquisition by eminent domain is deemed necessary, the Town Attorney shall be authorized to request immediate possession of the Property Interests in furtherance of the purpose of this Resolution. The Town Attorney shall not be authorized to proceed under this Section 4 unless and until the Board of Trustees has considered and approved a separate resolution (or resolutions) identifying the specific Property Interests to be acquired through the power of eminent domain.

Section 5. If eminent domain proceedings are commenced following the satisfaction of the condition set forth in Section 4 of this Resolution above, the Town Manager and Town Attorney shall be authorized to employ all necessary persons for this purpose including special eminent domain counsel, appraisers, surveyors, engineers, and other experts as deemed necessary.

Section 6. The Town Manager, or the Town’s consultants, consistent with the intent of the Town Projects, shall have the authority to amend or modify the legal descriptions of the Property Interests to be acquired, the nature of the interests to be acquired, and may add or delete parcels, in whole or in part, as deemed necessary for the timely completion of the Town Projects.

Section 7. The Town Manager (or the Town Manager’s designee, which designation shall be in writing and filed of record with both the Town Clerk and Town Attorney) shall be authorized to execute and the Town Clerk to attest any document necessary for the acquisition of the Property Interests required for the Town Projects. The Town Manager or her designee shall also be authorized to execute any “acceptance” signature block on any right-of-way deeds or other deeds related to the Town Projects, or approve any permanent or temporary easements required for the Town Projects, or approve any License Agreements for Project-Related Work following review and approval as to the form of such documents by the Town Attorney. Following execution, the Town Clerk or the Property Acquisition Consultant shall cause a copy of any right-of-way deed(s), other deed(s) or permanent easement(s) related to the Town Project to be recorded in the real property records of Weld County, Colorado. Temporary construction

easements and License Agreements (as necessary for the Town Projects) shall not be recorded in the County records unless specifically requested by the property owner(s) of the Property Interests.

Section 8. During the pendency of the Town Project, the Town Manager shall provide periodic updates to Board of Trustees regarding the status of the Town Projects.

Section 9. The Board of Trustees shall indemnify, hold harmless, and defend the Town Manager in the exercise of the powers granted by this Resolution provided that such exercise is made in a reasonable and good faith reliance on the authority granted by this Resolution and such exercise is within the scope of the Town Manager’s duties and authorities as the chief administrative officer of the Town of Mead.

Section 10. Effective Date. This resolution shall be effective immediately upon adoption.

Section 11. Repealer. All resolutions, or parts thereof, in conflict with this resolution are hereby repealed, provided that such repealer shall not repeal the repealer clauses of such resolution nor revive any resolution thereby.

Section 12. Certification. The Town Clerk shall certify to the passage of this resolution and make not less than one copy of the adopted resolution available for inspection by the public during regular business hours.

INTRODUCED, READ, PASSED, AND ADOPTED THIS 26TH DAY OF FEBRUARY, 2024.

ATTEST:

TOWN OF MEAD:

By: _____
Mary E. Strutt, MMC, Town Clerk

By: _____
Colleen G. Whitlow, Mayor