

**TOWN OF MEAD, COLORADO
RESOLUTION NO. 34-R-2023**

**A RESOLUTION OF THE TOWN OF MEAD, COLORADO,
AUTHORIZING THE ACQUISITION OF CERTAIN INTERESTS IN REAL
PROPERTY THROUGH EMINENT DOMAIN PROCEEDINGS FOR THE 3RD STREET
AND WELKER AVENUE INTERSECTION IMPROVEMENTS PROJECT AND
DELEGATING AUTHORITY TO THE TOWN MANAGER TO ACCEPT DEEDS OR
EASEMENTS 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 or avenue; and

WHEREAS, the Town has determined that it is necessary to acquire fee simple title to certain real property, and to acquire certain temporary construction easements for certain other real property, all as more particularly described in **Exhibit A** attached hereto (collectively, the “Property Interests”), in order to complete the 3rd Street and Welker Avenue Intersection Improvements Project (the “Project”); and

WHEREAS, the Town has determined that the Project is a public project and that acquiring the Property Interests is necessary to successfully complete the Project; and

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

WHEREAS, Board of Trustees finds and declares that the Project is being undertaken for public advantage and public benefit; and

WHEREAS, the Town intends to acquire the Property Interests identified in **Exhibit A** for the Project; and

WHEREAS, Transportation Resource Services, Inc., d/b/a TRS Corp. (“TRS”) has been retained to act as the Town’s representative in the acquisition of the Property Interests; and

WHEREAS, Board of Trustees desires to authorize TRS and the Town Manager, or her designee, to continue to conduct good faith negotiations with the property owners 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, and temporary construction easements for the Project 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; 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 Project 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 the Property Interests described in **Exhibit A** is needed and required for public use and public purposes.

Section 3. The Town Manager, or her designee, and TRS shall be authorized to continue to conduct good faith negotiations with the property owners of the Property Interests 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 TRS 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 2023 budget, as the same may be amended from time to time. The description of the Property Interests in **Exhibit A** may be modified by the Town Manager and TRS if necessary to accommodate the Project.

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.

Section 5. If eminent domain proceedings are commenced, 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 Project, 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 Project, and that any such amendment(s) shall be included in the definition of the Property Interests described in **Exhibit A**.

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 Project. The Town Manager or her designee shall also be authorized to execute any “acceptance” signature block on any right-of-way deeds related to the Project, or approve any permanent or temporary easements required for the Project, following review and approval as to the form of such documents by the Town Attorney. The Town Manager or her designee shall also be authorized to execute possession and use agreements, or other similar or related documents necessary to permit the Project to remain on schedule. Following execution, the Town Clerk or TRS shall cause a copy of any right-of-way deed(s) or easement(s) related to the Project to be recorded in the real property records of Weld County, Colorado.

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

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 8TH DAY OF MAY, 2023.

ATTEST:

By:


Mary E. Strutt, MMC, Town Clerk



TOWN OF MEAD:

By:


Colleen G. Whitlow, Mayor

EXHIBIT A
Property Interests

3rd Street and Welker Avenue Intersection Improvements Project

PARCEL TYPE	#	OWNER	ADDRESS	AREA SF
PERMANENT EASEMENT	1	Great Western Railway	Welker Ave	2575
PERMANENT EASEMENT	2	Great Western Railway	Welker Ave	1560
PERMANENT EASEMENT	2A	Great Western Railway	3 rd St.	2635
PERMANENT EASEMENT	2B	Great Western Railway	3 rd St.	4118
RIGHT OF WAY	3	McIntosh Farm	400 Welker	4419
RIGHT OF WAY	4	USAISA, Inc	Corner of 3 rd and Welker	45583
PERMANENT EASEMENT	5	Gary & Heather Pias	102 2 nd St. Mead	1330
PERMANENT EASEMENT	6	Cory E. Ciaranello	101 Welker Ave.	399
RIGHT OF WAY	7	Debra Johnson	242 Dillingham Ave.	8250
PERMANENT EASEMENT	8	Tharin Ross Wilson	206 3 rd St.	920
TEMPORARY EASEMENT	9	Ronald Gene Frost	214 3 rd St.	920
TEMPORARY EASEMENT	10	Agfinity, Inc.	201 3 rd St.	1840
TEMPORARY EASEMENT	11	Agfinity, Inc.	3 rd St.	1840
TEMPORARY EASEMENT	12	Archdiocese of Denver	15995 CR 7	625