

**CITY OF FRUITA, COLORADO
RESOLUTION NO. 2022-11**

**A RESOLUTION OF THE FRUITA CITY COUNCIL ACCEPTING THE
PUBLIC IMPROVEMENTS RELATED TO IRON WHEEL SUBDIVISION
FILING ONE**

WHEREAS, on August 7, 2018, Bookcliff Orchards, LLC, a Colorado limited liability company (“Developer”) obtained approval for a Major Subdivision Preliminary Plan (“Plan”) for the property located at 953 19 Road in the City of Fruita, Colorado (“Property”); and

WHEREAS, as part of the Subdivision approval, the City and Developer entered into that certain City of Fruita Development Improvements Agreement – Iron Wheel Subdivision Filing 1 offsite dated September 17, 2019 (“Development Agreement”), a copy of which was recorded on July 7, 2021, in the Mesa County real property records at Reception No. 2989278; and

WHEREAS, the Development Agreement required Developer to build, construct, and otherwise install certain Public Improvement (as that term is defined in the Development Agreement) off site of the Property for the benefit of the residents of the Property and the City; and

WHEREAS, the construction of the Public Improvements was secured by a final plat hold; and

WHEREAS, one hundred percent (100%) of all Public Improvements required by the Development Agreement have been certified complete by Developer’s engineer and have been recommended for acceptance by the City Engineer; and

WHEREAS, the City has received as-built drawings, a summary of actual construction costs related to the Public Improvements, and a bill of sale for all personal property required to be installed by the Development Agreement; and

WHEREAS, as part of the Subdivision approval, the City and Developer entered into that certain City of Fruita Subdivision Improvements Agreement – Iron Wheel Subdivision Filing 1 offsite dated September 17, 2019 (“Subdivision Improvements Agreement”), a copy of which was recorded on July 7, 2021, in the Mesa County real property records at Reception No. 2989279; and

WHEREAS, the Subdivision Improvements Agreement required Developer to build, construct, and otherwise install certain Public Improvement (as that term is defined in the Subdivision Improvements Agreement) off site of the Property for the benefit of the residents of the Property and the City; and

WHEREAS, the construction of the Public Improvements was secured by a final plat hold; and

WHEREAS, one hundred percent (100%) of all Public Improvements required by the Subdivision Improvements Agreement have been certified complete by Developer’s engineer and have been recommended for acceptance by the City Engineer; and

WHEREAS, the City has received as-built drawings, a summary of actual construction costs related to the Public Improvements and a bill of sale for all personal property required to be installed by the Subdivision Improvements Agreement; and

WHEREAS, pursuant to the Development Agreement and the Subdivision Improvements Agreement, the City is ready to accept the public improvements constructed by Developer pursuant thereto and commence the warranty period on the same.

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

1. Recitals. The foregoing recitals are incorporated by reference herein as findings and determinations of the City Council.

2. Final Acceptance of Improvements. The Public Improvements required by the Development Agreement and Subdivision Improvements Agreement are hereby deemed accepted. The effective date of this Resolution shall constitute the “Final Acceptance Date” for purposes of the Development Agreement and Subdivision Improvements Agreement for all public improvements. A copy of the Bill of Sale conveying such to the City is attached hereto as **Exhibit A**.

3. Warranty. The two (2) year warranty period outlined in Paragraph 5.4 of the Development Agreement and Paragraph 5.4 of the Subdivision Improvements Agreement commences on the date of the City Council vote to approve this Resolution.

4. Effective Date. This Resolution shall be effective immediately upon passage, subject to the conditions set forth above.

THIS RESOLUTION was adopted by the Fruita City Council at its regular meeting held on the 3rd day of May, 2022.

FRUITA CITY COUNCIL

By: _____
Joel Kincaid, Mayor

ATTEST:

Margaret Sell, City Clerk