

RESOLUTION 2023-34

A RESOLUTION DIVESTING THE CITY OF FRUITA FROM OWNING, MAINTAINING AND MANAGING ALL CITY OF FRUITA MOUNTAIN PROPERTIES

WHEREAS, The City of Fruita owns four reservoirs and dams, including water rights decreed thereto, on the Pinon Mesa near Glade Park, Colorado commonly, referred to as Enoch's Lake, Fruita Reservoir #1, Fruita Reservoir #2, and Fruita Reservoir #3, and springs and pipelines appurtenant thereto, as well as a 125-acre parcel of vacant land (hereinafter “Fruita Mountain Properties”); and

WHEREAS, The Fruita Mountain Properties were originally acquired for the purpose of supplying domestic drinking water to the City of Fruita via a hand-built wooden pipeline through the Colorado National Monument, which pipeline no longer exists; and

WHEREAS, In 1983, the City of Fruita contracted with Ute Water Conservancy District for domestic water service for the City because the water owned by the City on Pinon Mesa was no longer sufficient and could not be delivered to provide for the City’s growing population which was approximately 3,668 at the time, the pipeline from Pinon Mesa could no longer be maintained through the Colorado National Monument, and there was no other way to deliver the water; and

WHEREAS, The City of Fruita provides free irrigation water from its Pinon Mesa water rights to over 50 households in Glade Park as part of the Glade Park Pipeline Water Users Association (GPPWUA) via an agreement that can be terminated by the City; and

WHEREAS, Enoch’s Lake is surrounded by private property and Fruita Reservoirs #1, #2, and #3 are surrounded by and located upon U.S. Forest Service land; and

WHEREAS, www.fruita.org/mountainproperties provides current updates and historical information, including expenses, challenges, historical timeline, and details regarding the Fruita Mountain Properties; and

WHEREAS, The City of Fruita has faced many challenges and costs managing these resources located approximately 36 miles outside of the city limits and thus limiting resources that could otherwise be used in Fruita city limits; and

WHEREAS, The City of Fruita’s primary goal is to provide necessary core services to residents and businesses in the city limits. As an organization, the city is focused on aligning resources, time, and talent to provide the highest quality services while positively impacting and increasing the quality of place, economic health, and lifestyle of the Fruita community; and

WHEREAS, For well over a decade, staff has engaged with local, State, and Federal land agencies and none have been willing to own or maintain the Fruita Mountain Properties; and

WHEREAS, The challenges with these Fruita Mountain Properties includes managing significant hazards and jurisdictional dams, a “No Fill Order” by the State of Colorado Division

of Water Resources on Fruita Reservoir #2, illegal camping, trespassing, theft, vandalism, and other damages to private property, fires outside fire pits and left unattended, illegal fireworks, discharging firearms, discarding trash on private and public property, using private property to discard human fecal waste, and numerous calls to law enforcement over the years, which led to day use only restrictions; and

WHEREAS, Such challenges, specifically at Enoch’s Lake, led to the City restricting overnight camping and designating Enoch’s Lake as a day-use only recreation, the City to more thoroughly engaging with the Glade Park community and public lands agencies (US Forest Service, Colorado Parks and Wildlife, and Bureau of Land Management), the City holding a community open house in 2017, the City educating residents via articles in the City’s newsletter sent to all residents, and to the City holding public meetings to discuss the challenges surrounding the Fruita Mountain Properties; and

WHEREAS, The City of Fruita contracted with Arnie Butler & Associates in 2023 to conduct an appraisal of Enoch Lake, which resulted in a value of \$425,000; and

WHEREAS, The Fruita City Council directed staff to complete request for proposals for breaching Fruita Reservoir #2 and to compare such costs with the costs of repairing its dam to satisfy the state of Colorado’s “No-Fill” order; and

WHEREAS, In 2022, the City qualified for a Natural Resource Conservation Service (NRCS) for a preliminary investigative feasibility report (PIFR) for the East Creek watershed of the Fruita Mountain Properties, which provides options and estimates as follows: \$2.5 million to repair Reservoir #2 dam, \$4 million to repair Reservoir #2 dam and the pipeline infrastructure, and \$1.3 million to breach and decommission Reservoir #2.

WHEREAS, Due to the challenges, cost, amount of staff-time, resources pulled away from work within city limits, and future liability of costs to maintain jurisdictional dams, the City of Fruita is seeking to divest its interest in the Fruita Mountain Properties by selling or donating these properties to another entity allowing the City of Fruita to focus on core services within Fruita city limits; and

WHEREAS, The City prefers the Fruita Mountain Properties remain open to the public; however, the City recognizes the City should no longer be the entity to own, maintain, and manage the properties; and

WHEREAS, The City received an unsolicited offer from surrounding property owners adjacent to Enoch’s Lake to purchase the reservoir and surrounding land for a value of \$500,000 plus the satisfaction of \$140,000 non-monetary performance obligation arising from dam repairs the City currently owes Mr. Ron Tipping for labor and materials in connection with repair work Mr. Tipping completed in 2007, on Enoch Lake and Fruita Reservoir #1, and as outlined in the City’s Charter followed the ordinance process to consider the sale or conveyance of real property; and

WHEREAS, Through the public process, originally noticed June 16, 2023, with a first reading at the June 20, 2023, City Council meeting, and a second reading and public hearing held at the July 18, 2023, City Council meeting and continued to the August 29, 2023, City Council

meeting, the Fruita City Council denied Ordinance 2023-07 regarding the sale of Enoch Lake to further develop a process to take offers for the purchase of Enoch's Lake prior to going into ordinance process; and

WHEREAS, The Fruita City Council established a process at the September 19, 2023, City Council meeting to list Enoch Lake for sale through its realtor, Lori Chesnick, and accept offers through November 8, 2023, at 5pm, to be reviewed by City Council its November 13, 2023, meeting; and

WHEREAS, The Fruita City Council directed staff at its September 19, 2023 City Council meeting to continue working with the Ute Water Conservancy District, US Forest Service, Colorado Parks and Wildlife, Bureau of Land Management, Mesa County, and all other potential partners to seek solutions for Fruita Reservoirs 1, 2, and 3, and the 125-acre parcel of land, specifically to make formal offers of free donation in order of Ute Water Conservancy District, Mesa County, US Forest Service, and Colorado Parks and Wildlife

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

THE FRUITA CITY COUNCIL SEEKS TO DIVEST THE CITY OF FRUITA FROM OWNING, MAINTAINING, AND MANAGING ALL CITY OF FRUITA MOUNTAIN PROPERTIES, INCLUDING WATER RIGHTS, BY FOLLOWING THE STEPS OUTLINED ABOVE AND IF THE PUBLIC ENTITIES DECLINE THE OFFERS OF DONATION, THE CITY WILL PROCEED WITH LISTING THE PROPERTIES AND WATER RIGHTS FOR SALE FOLLOWING THE SAME PROCESS AS IT DID WITH ENOCH LAKE.

**PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL
THIS 13th DAY OF NOVEMBER, 2023**

ATTEST:

CITY OF FRUITA

Margaret Sell, City Clerk

Joel Kincaid, Mayor