

RESOLUTION NO. 23-03

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF
RIDGWAY, COLORADO AUTHORIZING THE EXERCISE OF
THE TOWN'S EMINENT DOMAIN AUTHORITY TO ACQUIRE
REAL PROPERTY FOR A RECREATIONAL TRAIL**

WHEREAS, the Town of Ridgway, Colorado (the "Town") is a Colorado home rule municipality and political subdivision organized and existing under a home rule charter pursuant to Article XX of the Colorado Constitution; and

WHEREAS, the Town possesses the power of eminent domain pursuant to Article II, § 15 and Article XX, §§ 1 and 6 of the Colorado Constitution, Article 1-4 and Article 1-5 of the Town's Home Rule Charter, C.R.S. § 38-1-101, *et seq.*, C.R.S. § 38-6-101, *et seq.*, and C.R.S. §29-7-104, *et seq.*; and

WHEREAS, the citizens and the Town Council of the Town of Ridgway (the "Ridgway Town Council") seek to maximize the Town's natural beauty and recreational opportunities; and

WHEREAS, the Town may exercise the power of eminent domain for the public purpose of constructing and maintaining recreational trails; and

WHEREAS, the Town seeks to acquire by condemnation the real property interest(s) necessary to construct and maintain a recreational trail; and

WHEREAS, the Town seeks to acquire by condemnation a perpetual non-exclusive easement interest in the real property addressed as 539 Marion Overlook to construct and maintain a recreational trail; and

WHEREAS, the ten foot wide recreational trail easement will extend along the entire length of the east property boundary of 539 Marion Overlook; and

WHEREAS, the recreational trail easement will be used by the Town's residents and the general public for walking, biking and other outdoor recreational pursuits; and

WHEREAS, the Town Council finds this Resolution to be in the best interest and welfare of the residents of the Town.

NOW THEREFORE, BE IT RESOLVED by the Town Council of the Town of Ridgway, Colorado:

Section 1. The above recitals are incorporated herein by reference and adopted as findings of the Ridgway Town Council.

Section 2. As diagram of the real property sought to be condemned is in the attached **Exhibit 1.**

Section 3. The Ridgway Town Council hereby finds the acquisition of an easement interest in the property addressed as 539 Marion Overlook for use as a recreational trail will serve a proper, public and municipal purpose and use, and that such acquisition is necessary and essential to this public purpose and use. The Ridgway Town Council hereby declares its intent to acquire an easement interest in, and through, the property addressed as 539 Marion Overlook for the purposes stated herein and, if necessary, to do so through the exercise of the power of eminent domain.

Section 4. The Town Manager, the Town Attorney, the Town Manager's designated representative(s), and any and all persons retained or employed by the Town in the prosecution of this matter are hereby directed to comply with all notice and good faith negotiation requirements set forth in C.R.S. § 38-1-101, *et seq.*

Section 5. The Town Manager is authorized to make reasonable and good faith offers to purchase from the affected landowner an easement interest in the property addressed as 539 Marion Overlook for use as a recreational trail, and the Town Manager is further authorized to execute agreements for the acquisition of same.

Section 6. If, after engaging in good-faith negotiations, the Town is unable to acquire the necessary property rights, the Town Attorney is hereby authorized to institute and prosecute eminent domain proceedings in the name of the Town so as to acquire a recreational trail easement in the property addressed as 539 Marion Overlook by condemnation. In the prosecution of any eminent domain action to acquire a non-exclusive easement interest in the westerly portion of 539 Marion, the Town shall have and retain all rights and powers lawfully delegated to it by Article II, § 15 and Article XX, §§ 1 and 6 of the Colorado Constitution, Article 1-4 and Article 1-5 of the Town's Home Rule Charter, C.R.S. § 38-1-101, *et seq.*, C.R.S. § 38-6-101, *et seq.*, and C.R.S. §29-7-104, *et seq.*

Section 7. The Town Manager, in consultation with the Town Attorney, is authorized to retain such expert witnesses, including appraisers, as the Town determines are necessary for the eminent domain proceedings.

Section 8. The Town Manager or his designee, in consultation with the Town Attorney, are hereby specifically authorized to make such reasonable or necessary amendments and corrections to the terms and/or legal descriptions of the property interests to be acquired, including authorization to include such additional or other property rights necessary or desirable for the Town. The Town Manager and Town Clerk are hereby authorized and directed to execute an acceptance of the interests in real property when acquired.

Section 9. The Town Council hereby finds, determines and declares that this Resolution is promulgated under the general police power of the Town of Ridgway, 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. The Ridgway Town Council further determines that the Resolution bears a rational relation to the proper legislative object sought to be obtained.

Section 10. 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 11. This Resolution shall become effective immediately upon adoption.

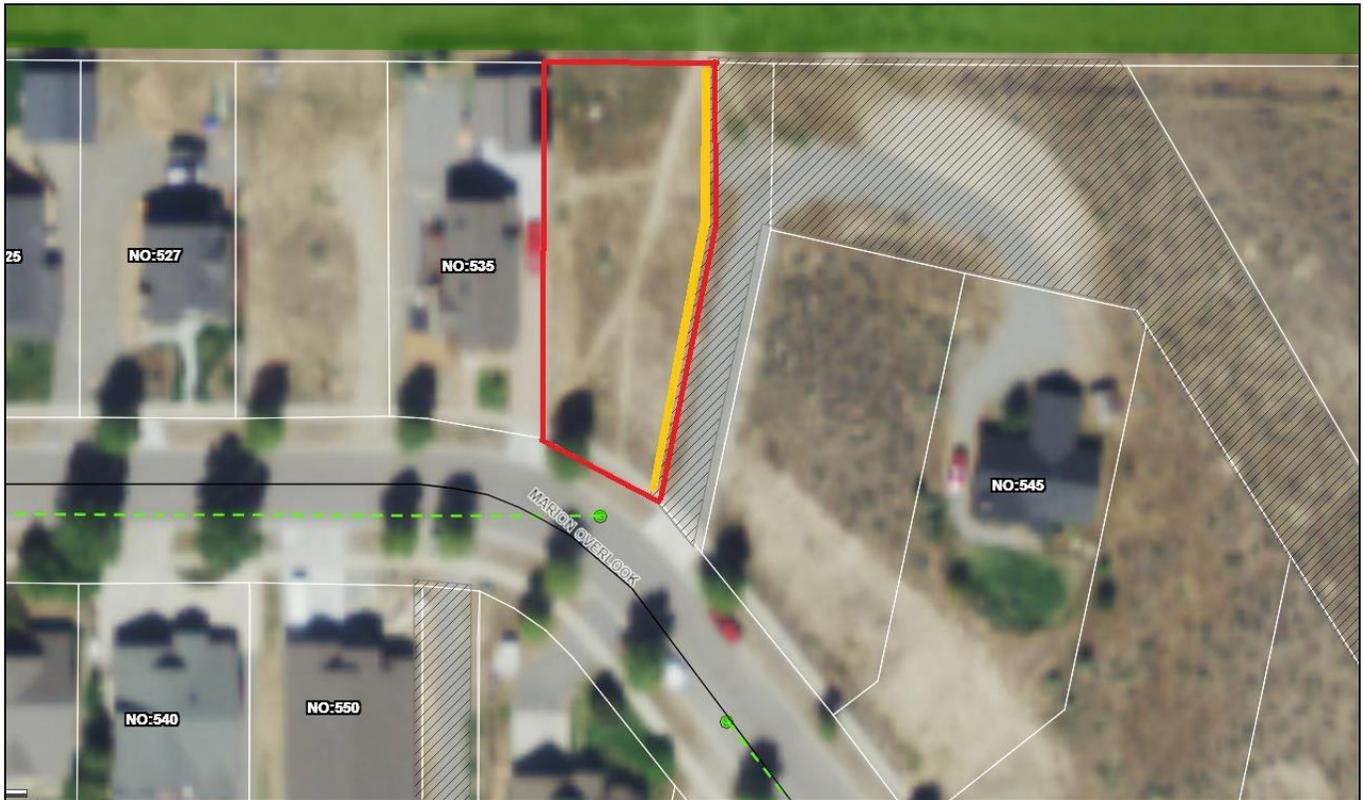
ADOPTED AND APPROVED this _____ day of February, 2023.

John Clark, Mayor

ATTEST:

Pam Kraft, Town Clerk

EXHIBIT 1



539 Marion Overlook outlined in red

Recreational trail easement (10 ft. wide) depicted in orange