



**FRUITA CITY COUNCIL  
REMOTE/VIRTUAL MEETING  
APRIL 21, 2020  
7:00 P.M.**

**Public Link to Meeting**

When: April 21, 2020 - 7:00 PM Mountain Time (US and Canada)

Topic: City Council Meeting – 4/21/20

The link to join the meeting electronically will be posted prior to the meeting at [www.fruita.org/covid19](http://www.fruita.org/covid19) under City Council and Boards and Commissions Public Meetings. You may also contact the City of Fruita at (970) 858-3663 for information to connect to the meeting.

<b>1.</b>	<b>INVOCATION AND PLEDGE OF ALLEGIANCE</b>	
<b>2.</b>	<b>CALL TO ORDER AND ROLL CALL</b>	
<b>3.</b>	<b>AGENDA - ADOPT/AMEND</b>	
<b>4.</b>	<b>PROCLAMATIONS AND PRESENTATIONS</b>	
<b>5.</b>	<b>PUBLIC PARTICIPATION</b> This section is set aside for the City Council to LISTEN to comments by the public regarding items that do not otherwise appear on this agenda. Generally, the City Council will not discuss the issue and will not take an official action under this section of the agenda. <b>Please limit comments to a five-minute period.</b>	
<b>6.</b>	<b>OLD BUSINESS - CONSENT AGENDA</b> These are items where all conditions or requirements have been agreed to or met prior to the time they come before the Council for final action. These items will be approved by a single motion of the Council. Members of the Council may ask that an item be removed from the consent section and fully discussed. All items not removed from the consent section will then be approved. A member of the Council may vote no on specific items without asking that they be removed from the consent section for full discussion. Any item that is removed from the consent agenda will be placed at the end of the regular agenda.	
	<b>A.</b>	<b>MINUTES:</b>
	1)	A request to approve the minutes of the March 17, 2020 City Council meeting
	2)	A request to approve the minutes of the March 26, 2020 Special (remote) City Council meeting
	<b>B.</b>	<b>FINANCIAL REPORTS – A request to approve the March 2020 Financial Reports</b>

<b>7.</b>	<b>PRESENTATIONS TO OUTGOING CITY COUNCIL MEMBERS</b>
<b>8.</b>	<b>NEW BUSINESS</b>
<b>A.</b>	<b>SWEARING-IN OF NEWLY ELECTED COUNCIL MEMBERS AND MAYOR</b>
<b>9.</b>	<p><b>NEW BUSINESS – CONSENT AGENDA</b></p> <p>These are items where all conditions or requirements have been agreed to or met prior to the time they come before the Council for final action. <b>A Single Public Hearing</b> will be opened for all items on the Consent Agenda. These items will be approved by a single motion of the Council. The Mayor will ask if there is anyone present who has objection to such procedure as to certain items. Members of the Council may also ask that an item be removed from the consent section and fully discussed. All items not removed from the consent section will then be approved. A member of the Council may vote no on specific items without asking that they be removed from the consent section for full discussion. Any item that is removed from the consent agenda will be placed at the end of the regular agenda.</p>
<b>A.</b>	<b>LIQUOR LICENSE RENEWAL</b> – A request to approve the renewal of a Beer & Wine Liquor License for Camilla’s Kaffe located at 206 E. Aspen Ave.
<b>B.</b>	<b>RESOLUTION 2020-21</b> – Approving the Subdivision Improvements Agreement (SIA) for the Red Cliffs Mobile Home Village #2 Subdivision, Phases 2 and 3
<b>C.</b>	<b>RESOLUTION 2020-22</b> – Approving the purchase of real estate for road right-of-way and approving a Deed and Agreement for multi-purpose easements for the K.4 Road infrastructure improvements project authorizing the City Manager to sign the contracts and agreements
<b>10.</b>	<b>ADMINISTRATIVE AGENDA</b>
<b>A.</b>	Land Use Code Update – Planning & Development Director Dan Caris
<b>B.</b>	COVID-19 Response Update – City Manager Mike Bennett and City Clerk/Finance Director Margaret Sell
<b>11.</b>	<b>CITY MANAGER’S REPORT</b>
<b>12.</b>	<b>COUNCIL REPORTS AND ACTIONS</b>
<b>A.</b>	Election of a Mayor Pro Tem
<b>B.</b>	Discussion regarding Boards and Commissions Liaison positions
<b>C.</b>	Approving a Letter of Support for the Grand Valley Equine Assisted Learning Center to apply for State Historical Funds to purchase Moon Farm located at 1360 18 ½ Road in Fruita ( <i>added to the agenda on April 20, 2020</i> )
<b>D.</b>	Council Reports and Actions
<b>13.</b>	<b>ADJOURN</b>

**FRUITA CITY COUNCIL  
REGULAR MEETING  
MARCH 17, 2020**

**1. INVOCATION AND PLEDGE OF ALLEGIANCE**

Mayor Kincaid excluded from the agenda the moment of silence that is normally observed in lieu of the Invocation at the beginning of the second Council meeting of each month.

**2. CALL TO ORDER AND ROLL CALL**

Council members present in person were Karen Leonhart, Amanda Ewing, Kyle Harvey, Dave Karisny and Lori Buck. Councilor Ken Kreie and City Manager Mike Bennett were video- and audio-conferenced into the meeting. Mayor Kincaid called the meeting to order at 6:58 p.m.

**3. AGENDA – ADOPT/AMEND**

Mayor Kincaid asked if there were any changes to the agenda. City Clerk/Finance Director Margaret Sell noted that there had a been a change earlier in the day to the agenda and that the new agenda and packet had previously been sent to the City Council and all other subscribers to them on the City's website.

- **COUNCILOR LEONHART MOVED TO APPROVE THE AGENDA AS PRESENTED. COUNCILOR EWING SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

**4. PROCLAMATIONS AND PRESENTATIONS**

There were no Proclamations or Presentations on the agenda.

**5. PUBLIC PARTICIPATION**

There were no comments from the public.

**6. CONSENT AGENDA**

- A. MINUTES - A REQUEST TO APPROVE THE MINUTES OF THE MARCH 3, 2020 CITY COUNCIL MEETING**
- B. LIQUOR LICENSE RENEWAL – A REQUEST TO APPROVE THE RENEWAL OF A RETAIL LIQUOR STORE LICENSE – MALT, VINOUS AND SPIRITUOUS FOR BEST BOYS, LLC DBA FRUITA LIQUOR MART LOCATED AT 423 E. HIGHWAY 6 & 50**
- C. SPECIAL EVENTS LIQUOR PERMIT APPLICATION – A REQUEST TO APPROVE A SPECIAL EVENTS LIQUOR PERMIT FOR THE COLORADO**

**PLATEAU MOUNTAIN BIKE TRAIL ASSOCIATION (COPMOBA) TO SELL BEER AT THE GRAND VALLEY BIKE SWAP TO BE HELD ON SATURDAY, APRIL 25, 2020 FROM 11:00 AM TO 4:00 PM AT CIVIC CENTER MEMORIAL PARK**

- D. BOARDS AND COMMISSIONS APPOINTMENT – A REQUEST TO APPROVE THE APPOINTMENT OF KRISTY DRIVER TO THE FRUITA TOURISM ADVISORY COUNCIL FOR A THREE-YEAR TERM TO EXPIRE IN MARCH OF 2023**
- E. BOARDS AND COMMISSIONS APPOINTMENT – A REQUEST TO APPROVE THE APPOINTMENT OF LISA WENCE CONNORS AS A REGULAR MEMBER (FROM THAT OF AN ALTERNATE) TO THE BOARD OF ADJUSTMENT FOR A THREE-YEAR TERM TO EXPIRE IN MARCH OF 2023**
- F. MINI-GRANT AWARDS – A REQUEST TO APPROVE A RECOMMENDATION FROM THE FRUITA TOURISM ADVISORY COUNCIL (FTAC) FOR TWO MINI-GRANT AWARDS TO OVER THE EDGE SPORTS, LTD. FOR THE TRAILS SUMMIT CONFERENCE AND TO THE DOWNTOWN ADVISORY BOARD FOR THE OKTOBERFEST BEER EVENT**
- G. FINANCIAL REPORTS – A REQUEST TO APPROVE THE FEBRUARY 2020 FINANCIAL REPORTS**

Mayor Kincaid opened the public hearing on the consent agenda. Hearing no comments, he closed the public hearing and brought the matter back to the Council.

- COUNCILOR EWING MOVED TO APPROVE THE CONSENT AGENDA AS PRESENTED. COUNCILOR KARISNY SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

## **7. PUBLIC HEARINGS**

There were no public hearings on the agenda.

## **8. ADMINISTRATIVE AGENDA**

### **A. PLANNING & DEVELOPMENT DIRECTOR DAN CARIS**

- 1) REQUEST TO AUTHORIZE THE MAYOR TO SIGN A LETTER TO THE DEPARTMENT OF LOCAL AFFAIRS (DOLA) REQUESTING AN EXTENSION FOR THE LAND USE CODE UPDATE GRANT UNTIL DECEMBER 31, 2021**

City Clerk/Finance Director Margaret Sell explained that there were two reasons for the request to authorize the Mayor to sign a letter to DOLA requesting an extension of time for the grant: one

is that the original timeline is very short with the deadline of May 20<sup>th</sup> and the second is that staff is anticipating further delays with the COVID-19 climate and the challenges of conducting public meetings.

- **COUNCILOR KARISNY MOVED TO AUTHORIZE THE MAYOR TO SIGN A LETTER TO THE DEPARTMENT OF LOCAL AFFAIRS (DOLA) REQUESTING AN EXTENSION FOR THE LAND USE CODE UPDATE GRANT UNTIL DECEMBER 31, 2021. COUNCILOR HARVEY SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

## **9. CITY MANAGER’S REPORT**

### **A. COVID-19 UPDATE – UPDATE ON THE STATUS OF CITY OPERATIONS AS THEY RELATE TO COVID-19 PANDEMIC**

City Manager Mike Bennett stated that he didn’t have many other further updates outside of the e-mails he had already sent out. He noted that the Fruita Police Department and City Shops facilities would be closing to the public the following day because they don’t get many walk-ins, although staff would still be working there.

## **10. COUNCIL REPORTS AND ACTIONS**

### **A. RESOLUTION 2020-19 – ADOPTING AN ELECTRONIC PARTICIPATION POLICY FOR PUBLIC MEETINGS FOR USE IN THE EVENT OF A LOCAL EMERGENCY DECLARATION**

City Manager Mike Bennett stated that City Attorney Paul Wisor drafted Resolution 2020-19 as a formal action of the Council that many other cities across the state of Colorado are taking. The Resolution needs to be adopted formally by the Council for the City of Fruita to have the ability to conduct remote meetings using Zoom Video Conferencing (or other similar products) while making sure that the public is given the opportunity to participate.

Mr. Bennett continued that another part of this discussion would be to potentially move to one meeting of the Council per month (during the COVID-19 pandemic) by consolidating agenda items. Mr. Bennett pointed out that if the Council needs to schedule an emergency meeting, they could do so providing the City gives the public 24-hours’ notice prior to the emergency meeting.

Mr. Bennett added that the only other aspect of the discussion is that depending on how things progress, he may have to issue a Declaration of Emergency, although the City of Fruita is not at that point currently. Mesa County has clarified that a “state of emergency” is when there is a mass spread of the corona virus throughout the county and that is what they are waiting on.

Mr. Bennett continued that he has the authority to declare a state of emergency, but then a Council meeting would need to be scheduled so the Council could ratify it.

Mr. Bennett said that the above three items are what the Council needs to consider before approving the Resolution to have remote meetings.

Councilor Leonhart said that she saw on the news that Montrose declared a state of emergency to have the ability to apply for funds/grant opportunities although there are no cases of the corona virus there. She said she wondered about that.

Mr. Bennett responded that he had a phone conversation with the Mesa County Emergency Manager and all the nearby City Managers and some of the cities are starting to consider declaring a state of emergency later in the week or next week potentially. He added that the declaration by the governor and the declaration by the president would cover all communities whether they declared a state of emergency or not and there could be other types of funding through the Department of Local Affairs (DOLA). Mr. Bennett stated that one of the considerations for not declaring a state of emergency too soon is the fact that it could cause panic.

Mayor Kincaid asked what the trigger point would be for declaring a state of emergency and whether Mesa County has announced what their trigger point is for doing so.

Mr. Bennett responded that Mesa County's trigger point would be having multiple cases of the virus in the county that would be spreading from person to person.

Councilor Karisny pointed out that the motion recommended by staff indicates that the Council, by motion, should "adopt Resolution 2020-19 – Adopting an electronic participation policy for use in the event of a local emergency declaration." He asked if the Resolution could be passed by the Council before the City declares an emergency.

City Clerk/Finance Director Margaret Sell stated that she thought the Resolution requires an Emergency Declaration before electronic meetings can be held. She added that if the Council cancelled the Council workshop scheduled for March 24, 2020 and the April 7, 2020 regular Council meeting, that there shouldn't be a need to have a potential electronic meeting until the second meeting in April (April 21, 2020) when the new Council would be sworn in and take their seats. She pointed out that it was possible that that meeting would be held in person.

After Mayor Kincaid said he was not comfortable declaring an emergency in the City of Fruita because it could cause panic. Staff and the Council then discussed potential language for a motion to adopt the Resolution without having to declare a local emergency and also how to deal with the one Concept Plan public hearing on the April 7<sup>th</sup> agenda being moved to another date even though the public notice has already been posted. Mrs. Sell said she thought staff could publish a notice in the Daily Sentinel and send out notices advising the neighboring public that the public hearing has been either been rescheduled or postponed.

Councilor Karisny suggested that the motion contain only language that the City of Fruita was adopting the Resolution to approve a policy that would allow electronic meetings to be held (and not include any wording about declaring a local emergency). Then, staff could talk to the City Attorney to see if the City would indeed need to declare an emergency before it could hold electronic meetings.

Mr. Bennett tried to contact the City Attorney on his cell phone but was unsuccessful.

Mayor Kincaid said he wanted the Council to know what the triggers would be for declaring a local emergency and what the justification for it would be if the Council had to do that. Mr. Bennett responded that there are two triggers at this point in time: 1) Mesa County was declaring an emergency that would require it's municipalities to do the same if the virus is spreading throughout the county in multiple locations and is being spread from person to person and 2) there is funding for municipalities coming through DOLA or some other source that would require a municipality to declare an emergency in order to access funds that wouldn't already be contained in a state or federal declaration.

Mr. Bennett added that there are two types of funding for disasters; there is response funding (which is not currently the situation in Fruita or Mesa County but could possibly be needed in the future) or economic incentives for residents and businesses. He said he was most concerned about the latter and that it would most likely be the reason he would declare an emergency quickly that the Council would later ratify. Otherwise, there would be no real reason to declare one without one or both of those triggers and Mr. Bennett said that the City is more about focusing on precautionary measures at this time.

Mr. Bennett stated that City Attorney Paul Wisor had just advised (in a text message on his phone) that the Council could reword the Resolution to approve remote meetings without having an emergency declaration because the City isn't required to declare a local emergency in order to adopt a policy allowing electronic meetings. Mr. Bennett also suggested that the Council include the City's other Boards and Commissions meetings in case remote meetings were necessary for them as well, especially the Planning Commission.

- **COUNCILOR KARISNY MOVED TO ADOPT RESOLUTION 2020-19 – ADOPTING AN ELECTRONIC PARTICIPATION POLICY. COUNCILOR BUCK SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**
- **COUNCILOR KARISNY MOVED TO ADOPT AN ELECTRONIC PARTICIPATION POLICY FOR THE CITY COUNCIL AND BOARDS AND COMMISSIONS. COUNCILOR BUCK SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**
- **COUNCILOR KARISNY MOVED TO ALLOW THE CITY MANAGER TO DECLARE AN EMERGENCY DECLARATION. COUNCILOR HARVEY SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**
- **COUNCILOR BUCK MOVED TO CANCEL THE TUESDAY, MARCH 24, 2020 WORKSHOP SESSION OF THE CITY COUNCIL AND THE APRIL 7, 2020 REGULAR CITY COUNCIL MEETING. COUNCILOR KARISNY SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

**B. COUNCIL REPORTS AND ACTIONS****COUNCILOR KAREN LEONHART**

Karen asked if the City Council needed to do anything about Fruita's Election Day. Mayor Kincaid said that they didn't, but he requested that any information received by Council members (that requires input) in the next three or four weeks be shared with all Council members.

**11. ADJOURN**

With no further business before the Council, the meeting was adjourned at 7:28 p.m.

Respectfully submitted,

Debra Woods  
Deputy City Clerk  
City of Fruita

**FRUITA CITY COUNCIL  
SPECIAL REMOTE MEETING  
MARCH 26, 2020  
5:00 P.M.**

**Public Link to Meeting**

When: Mar 26, 2020 05:00 PM Mountain Time (US and Canada)

Topic: City Council Meeting - 3/26/20

The link to join the join the meeting electronically will be posted on 3/26/2020 prior to the meeting at [www.fruita.org/covid19](http://www.fruita.org/covid19) under City Council meetings. You may also contact the City of Fruita at 970 858-3663 for information to connect to the meeting.

**1. INVOCATION AND PLEDGE OF ALLEGIANCE**

Mayor Kincaid excluded the moment of silence from the agenda that is normally observed in lieu of the Invocation at the beginning of the second Council meeting of each month.

**2. CALL TO ORDER AND ROLL CALL**

Council members present via Zoom Video Conferencing were Ken Kreie, Amanda Ewing, Kyle Harvey, Dave Karisny and Lori Buck. Councilor Leonhart was marked as excused absent or potentially running late. Mayor Kincaid called the meeting to order at 5:03 p.m.

**3. AGENDA – ADOPT/AMEND**

Mayor Kincaid asked if there were any changes to the agenda. Deputy City Clerk Deb Woods stated that there were no changes to the agenda.

- **COUNCILOR KARISNY MOVED TO APPROVE THE AGENDA AS PRESENTED. COUNCILOR BUCK SECONDED THE MOTION. THE MOTION PASSED WITH FIVE YES VOTES.**

Councilor Karen Leonhart joined the meeting via the public link above at 5:05 p.m.

**4. ADMINISTRATIVE AGENDA**

**A. CITY MANAGER MIKE BENNETT**

- 1) **RESOLUTION 2020-20 – EXTENSION OF DECLARATION OF LOCAL DISASTER EMERGENCY**

City Manager Mike Bennett said that the item before the Council was a request for the Council to extend the Declaration of Local Disaster Emergency, which he originally declared on March 24, 2020 at 9:20 p.m. This is a formal action that the City of Fruita can take to set the community up

to be eligible for potential aid that could come from higher levels of government for economic hardships or expenditures that are made to limit the spread of COVID-19.

The Declaration describes all the steps that had occurred prior to the point in time in which the City of Fruita declared the local emergency. Many other declarations have occurred at the state and federal levels as well and Mr. Bennett noted that the City enacted its COVID-19 Response Plan on March 10, 2020. The City was holding off on declaring the local emergency until there was an absolute need to do so, but a trigger has recently arisen, just as the Council had discussed in previous meetings.

The trigger that transpired was the request and recommendation of the Mesa County Emergency Services Director for Grand Valley municipalities to declare a local emergency. Mr. recommended that the Council ratify the Declaration of Local Disaster Emergency and approve the extension of it.

- **COUNCILOR EWING MOVED TO APPROVE RESOLUTION 2020-20 – EXTENDING THE DECLARATION OF LOCAL DISASTER EMERGENCY. COUNCILOR LEONHART SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

## 5. CITY MANAGER'S REPORT

Mr. Bennett provided the following updates:

- Staff is providing all of the City updates related to COVID-19 at [fruita.org/covid19](http://fruita.org/covid19).
- Staff is not trying to reissue or summarize most of the information that is being put out by the Mesa County Public Health Department, state government or federal government, but staff has been providing all those links.
- The City of Fruita has links to the Governor's Stay-At-Home Order and there is a FAQ on it that is very helpful for most residents and businesses to assist them in understanding how the Order from Governor Polis applies to each individual.
- The order from the Governor also states the many reasons people can get outside and Mr. Bennett asked residents, City Staff and the Council to continue to support local businesses as much as possible by patronizing those that can stay open.
- The Governor's order also stresses social distancing, but allows people to be outside to get exercise and fresh air.
- The Mesa County Health Department reports six (6) cases of the corona virus in Mesa County. Mr. Bennett noted that this number represents cases of *residents*, but each of the hospitals throughout the Grand Valley have more cases of people who are not residents that they have treated. In one case, the source of the virus is unknown, but for the first five, the Health Department was able to determine the source.
- Mr. Bennett stated that construction and development are still going fairly strong; even though the Fruita Civic Center is closed to walk-ins, the Planning & Development Department has been extremely busy issuing many planning clearances and reviewing plans.

- The Planning & Development Director has worked with each of the applicants that were on the docket for Planning Commission or City Council by giving them alternative dates for rescheduling their public hearings to May.
- The April 21<sup>st</sup> City Council meeting agenda contains some Consent Agenda items and a possible Development Improvements Agreement (DIA).

## **6. COUNCIL REPORTS AND ACTIONS**

### COUNCILOR DAVE KARISNY

Councilor Karisny mentioned that the Grand Valley Regional Transportation Committee (GVRTC) has not decided if they are going to have an April 27<sup>th</sup> meeting, but if they do, it will be a remote (electronic) meeting. The GVRTC is not planning on cutting any services right now but is taking a number of precautions for their drivers and passengers.

### COUNCILOR EWING

Councilor Ewing commended City staff and health care and grocery store workers for how they are handling the corona virus situation. Mayor Kincaid noted that Councilors Ewing's and Karisny's last meeting would be on April 21<sup>st</sup> after the municipal election.

There were no other Council Reports.

## **7. COUNCIL REPORTS AND ACTIONS**

## **8. ADJOURN**

With no further business before the Council, the meeting was adjourned at 5:14 p.m.

Respectfully submitted,

Debra Woods  
Deputy City Clerk  
City of Fruita



# FRUITA

## COLORADO

### AGENDA ITEM COVER SHEET

**TO: FRUITA CITY COUNCIL AND MAYOR**  
**FROM: MARGARET SELL, FINANCE DIRECTOR/CITY CLERK**  
**DATE: APRIL 21, 2020**  
**RE: FINANCIAL REPORTS FOR MARCH 2020**

**BACKGROUND**

**Sales, Use Tax and Lodging Tax Revenues – February 2020.**

The following chart provides a comparison between 2019 and 2020 sales tax, use tax and lodging tax revenues thru February 2020 (pre-COVID). Overall tax revenues are up \$118,206 from the prior year and up \$142,095 over budgeted amounts. The most significant increase is in City sales tax revenues. Sales tax collections from the “remote” retailers represent approximately 8% (\$44,732) of the year to date city sales tax collections.

Summary of Sales and Use Tax Revenues					
Type	Month	Percent (%) Change		Dollar (\$) Change	
		Month	Y-T-D	From prior year	Between actual and budget
City Sales Tax	Feb-20	16.41%	33.10%	\$ 89,069	\$ 99,293
Use tax on Motor Vehicles	Feb-20	68.08%	10.40%	\$ 9,831	\$ 7,185
Use tax on Building Materials	Feb-20	-42.64%	-32.70%	\$ (12,561)	\$ (1,805)
Lodging Tax	Feb-20	6.47%	18.89%	\$ 1,206	\$ 810
County Sales Tax	Feb-20	12.53%	9.01%	\$ 29,742	\$ 34,695
Public Safety Tax	Jan-20	3.60%	3.60%	\$ 919	\$ 1,916
				<b>\$ 118,206</b>	<b>\$ 142,095</b>

The following table shows a 5-year history of sales and use tax revenues by business type.

Sales and Use Tax Revenues by Category (3%) thru February							
Description	2016	2017	2018	2019	2020	1 yr % Chg	5 yr % Chg
<b>Sales taxes</b>							
Other Services	3,738	5,111	5,591	6,635	8,024	21%	115%
Other Miscellaneous	2,676	4,438	3,720	6,213	14,760	138%	452%
Manufacturing	2,280	6,431	2,945	7,068	12,583	78%	452%
Wholesale Trade	1,572	10	3,488	6,495	17,407	168%	1007%
Rental and Leasing	16,543	12,625	14,345	21,304	19,298	-9%	17%
Communications	25,595	26,572	27,772	25,361	23,224	-8%	-9%
Oil and Gas	2,972	2,156	5,689	15,414	16,031	4%	439%
Utilities	57,630	56,358	41,565	66,997	56,799	-15%	-1%
Lodging	9,371	8,729	11,233	11,582	16,666	44%	78%
Food	62,707	64,749	69,962	78,185	87,848	12%	40%
Retail Trade	132,440	137,895	148,576	158,357	264,573	67%	100%
<b>Subtotal</b>	<b>317,524</b>	<b>325,074</b>	<b>334,886</b>	<b>403,611</b>	<b>537,213</b>	<b>33%</b>	<b>69%</b>
<b>Use taxes</b>							
Vehicles	96,892	133,442	125,837	141,749	156,495	10%	62%
Building materials	26,797	23,632	97,863	57,622	38,780	-33%	45%
<b>Subtotal</b>	<b>123,689</b>	<b>157,074</b>	<b>223,700</b>	<b>199,371</b>	<b>195,275</b>	<b>-2%</b>	<b>58%</b>
<b>Total</b>	<b>441,213</b>	<b>482,148</b>	<b>558,586</b>	<b>602,982</b>	<b>732,488</b>	<b>21%</b>	<b>66%</b>

**Community Center Fund – February 2020.** The combination of city sales and use tax revenues for the month of February (pre-COVID) reflect a 20% increase from 2019 revenues and a 21% increase (\$43,169) year to date.

**Revenue vs Expense by Account Type – March 2020.** This report presents summary information on revenues and expenses and budget comparisons for all funds. The report includes revenues and expenses by category or type of revenue/expense and by department. The following is a summary of the report by fund showing actual revenues and expenses as a percentage of budget.

Revenues and Expenses as Percentage of Budget March 2020		
Column	Revenues as a % Budget	Expenses as a % of Budget
General Fund	28%	24%
Conservation Trust Fund	23%	0%
Marketing	8%	22%
Community Center	23%	24%
Capital Projects	1%	6%
Debt Service	25%	28%
Devils Canyon Center	0%	0%
Irrigation Water	2%	38%
Sewer	23%	43%
Trash	25%	17%
Fleet Maintenance Fund	100%	27%
<b>Total</b>	<b>11%</b>	<b>15%</b>

**Lodger's Tax Detail – February 2020**

The following chart shows a breakdown of the Lodger's Tax collected from hotels, motels and campgrounds, and vacation rentals by owner (VRBO's).

2020 City Lodging Tax - 3% (125-3134)					
	Hotels & Campgrounds		VRBO'S		Monthly Total
	Revenue	% of Total	Revenue	% of Total	
Jan	3,261	91%	313	9%	3,573
Feb	3,657	91%	362	9%	4,019
<b>TOTAL</b>	<b>6,918</b>	<b>91%</b>	<b>675</b>	<b>9%</b>	<b>7,592</b>

Staff has completed an analysis of the 2019 sales tax revenues from lodging establishments versus the City Lodger's Tax collected locally. After adjusting the sales tax numbers from the state to exclude food establishments incorrectly categorized as lodging establishments, there is a minor difference of approximately 2.5%. The State collected approximately \$3,500 more than the amount collected locally.

The increase in Lodger's tax, from 3% to 6% approved by the voters at the April 7, election, will go into effect on January 1, 2021. The City will be sending out notification letters to lodging establishments within the next several months.

**FISCAL IMPACT**

None.

**APPLICABILITY TO CITY GOALS AND OBJECTIVES**

These reports provide financial information to the Council to monitor the City's financial position

and may be used as a tool to hold staff accountable for accomplishing goals and objectives set forth in the Budget.

**OPTIONS AVAILABLE TO COUNCIL**

Approval of Financial Reports

Approval of Financial Reports with clarification on specific items

**RECOMMENDATION**

It is the recommendation of staff that the Council by motion:

**ACCEPT THE MARCH 2020 FINANCIAL REPORTS AS PRESENTED**



## CITY SALES AND USE TAX REPORTS

City Sales Tax - 2% General Fund (110-3131)							
	2016	2017	2018	2019	2020	\$ Variance	% Variance
Jan	102,654.47	110,073.96	116,622.91	124,973.08	190,392.44	65,419.36	52.35%
Feb	109,027.57	106,532.67	106,634.80	144,100.65	167,749.86	23,649.21	16.41%
Mar	122,491.87	139,574.31	159,114.23	165,160.52			
Apr	130,968.87	143,147.33	158,126.49	191,027.30			
May	146,283.09	164,468.58	167,938.47	198,826.37			
Jun	143,707.98	160,573.33	174,498.93	197,471.05			
Jul	119,795.39	142,369.41	163,430.68	190,974.84			
Aug	142,278.27	144,989.26	175,336.63	200,644.07			
Sep	126,602.05	148,777.11	181,109.36	193,024.68			
Oct	128,845.80	147,596.93	204,845.74	205,934.68			
Nov	116,101.47	144,996.46	153,890.31	192,966.14			
Dec	120,203.83	137,020.73	159,113.63	208,689.86			
<b>TOTAL</b>	<b>1,508,961</b>	<b>1,690,120.08</b>	<b>1,920,662.18</b>	<b>2,213,793.24</b>	<b>358,142.30</b>	<b>89,068.57</b>	<b>33.10%</b>
<b>%</b>	<b>3.09%</b>	<b>12.01%</b>	<b>13.64%</b>	<b>15.26%</b>			

2020 Budget= \$2,130,000, 3.8% decrease from 2019 Actual Revenues

Feb	211,682.04	216,606.63	223,257.71	269,073.73	358,142.30	89,068.57	33.10%
3%	317,523.06	324,909.95	334,886.57	403,610.60	537,213.45	133,602.86	33.10%

Use Tax on Motor Vehicles - 2% General Fund (110-3132)							
	2016	2017	2018	2019	2020	Variance	% Change
JAN	28,122.91	43,562.42	41,597.40	59,067.65	44,776.20	-14,291.45	-24.20%
FEB	36,471.71	45,398.99	42,294.19	35,431.97	59,554.07	24,122.10	68.08%
MAR	40,528.67	52,721.40	46,660.84	56,995.69			
APR	47,068.73	30,578.05	60,910.43	58,679.47			
MAY	43,755.86	67,716.13	36,802.77	90,700.80			
JUN	63,513.86	51,241.39	74,048.50	52,822.10			
JUL	54,218.60	52,317.23	72,501.97	67,463.71			
AUG	45,673.29	61,190.50	37,103.59	66,028.27			
SEP	44,344.61	71,360.98	62,407.47	46,789.04			
OCT	36,179.44	62,492.61	75,929.88	51,469.53			
NOV	43,817.97	39,313.29	41,987.01	58,715.01			
DEC	49,627.81	61,912.59	36,418.95	46,583.89			
<b>YTD</b>	<b>533,323.46</b>	<b>639,805.58</b>	<b>628,663.00</b>	<b>690,747.13</b>	<b>104,330.27</b>	<b>9,830.65</b>	<b>10.40%</b>
<b>%</b>	<b>-3.59%</b>	<b>19.97%</b>	<b>-1.74%</b>	<b>9.88%</b>			

2020 Budget = \$710,000 - 2.8% increase from 2019 Actual revenues

	64,594.62	88,961.41	83,891.59	94,499.62	104,330.27	9,830.65	10.40%
Feb	64,594.62	88,961.41	83,891.59	94,499.62	104,330.27	9,830.65	10.40%
3%	96,891.93	133,442.12	125,837.39	141,749.43	156,495.41	14,745.98	10.40%



## CITY SALES AND USE TAX REPORTS

Use Tax on Building Materials - 2% General Fund (110-3133)							
	2016	2017	2018	2019	2020	Variance	% Change
JAN	3,256	11,966.68	40,827.15	19,357.85	14,922.55	-4,435.30	-22.91%
FEB	14,608	3,788.29	24,414.67	19,056.71	10,930.68	-8,126.03	-42.64%
MAR	14,726	3,558.90	38,328.55	9,936.56			
APR	34,284	13,173.71	20,911.52	24,173.95			
MAY	29,705	11,216.84	37,147.62	32,410.86			
JUN	12,847	4,893.13	105,602.45	26,190.88			
JUL	13,948	7,689.06	15,634.23	16,836.31			
AUG	8,117	32,557.34	18,073.99	8,864.92			
SEP	49,757	7,864.41	19,407.92	3,865.13			
OCT	7,553	11,756.71	12,148.65	16,537.07			
NOV	10,586	35,906.06	19,278.98	12,122.45			
DEC	3,731	2,702.11	9,762.50	19,073.22			
<b>YTD</b>	<b>203,118</b>	<b>147,073.24</b>	<b>361,538.23</b>	<b>208,425.91</b>	<b>25,853.23</b>	<b>-12,561.33</b>	<b>-32.70%</b>
<b>%</b>	<b>93.87%</b>	<b>-27.59%</b>	<b>145.82%</b>	<b>-42.35%</b>			

2020 Budget = \$150,000 - 28% decrease from 2019 Actual revenues

	17,864.57	15,754.97	65,241.82	38,414.56	25,853.23	-12,561.33	-32.70%
<b>Feb</b>	17,864.57	15,754.97	65,241.82	38,414.56	25,853.23	-12,561.33	-32.70%
3%	26,796.86	23,632.46	97,862.73	57,621.84	38,779.85	-18,842.00	-32.70%

City Lodging Tax - 3% (125-3134)							
	2016	2017	2018	2019	2020	Difference	%
Jan	3,010	2,341.15	3,540.60	2,611.13	3,573.20	962.07	36.84%
Feb	3,650	3,694.45	3,635.19	3,774.09	4,018.26	244.17	6.47%
Mar	7,755	7,910.90	8,698.52	8,249.09			
Apr	9,031	10,908.40	10,215.52	8,046.43			
May	14,534	15,483.31	17,781.52	15,242.71			
Jun	14,672	16,653.43	17,755.34	22,312.67			
Jul	12,858	12,908.87	10,384.16	15,335.70			
Aug	12,210	13,751.20	17,768.30	12,712.49			
Sep	14,162	15,445.86	16,495.92	9,427.07			
Oct	7,155	10,637.39	10,668.75	18,400.75			
Nov	7,801	6,251.33	7,492.25	6,398.12			
Dec	4,009	4,895.53	4,288.01	4,558.22			
<b>TOTAL</b>	<b>110,846</b>	<b>120,881.82</b>	<b>128,724.08</b>	<b>127,068.47</b>	<b>7,591.46</b>	<b>1,206.24</b>	<b>18.89%</b>
	<b>3.89%</b>	<b>9.05%</b>	<b>6.49%</b>	<b>-1.29%</b>			

2020 Budget = \$135,000 - 6.2% increase from 2019 actual revenues

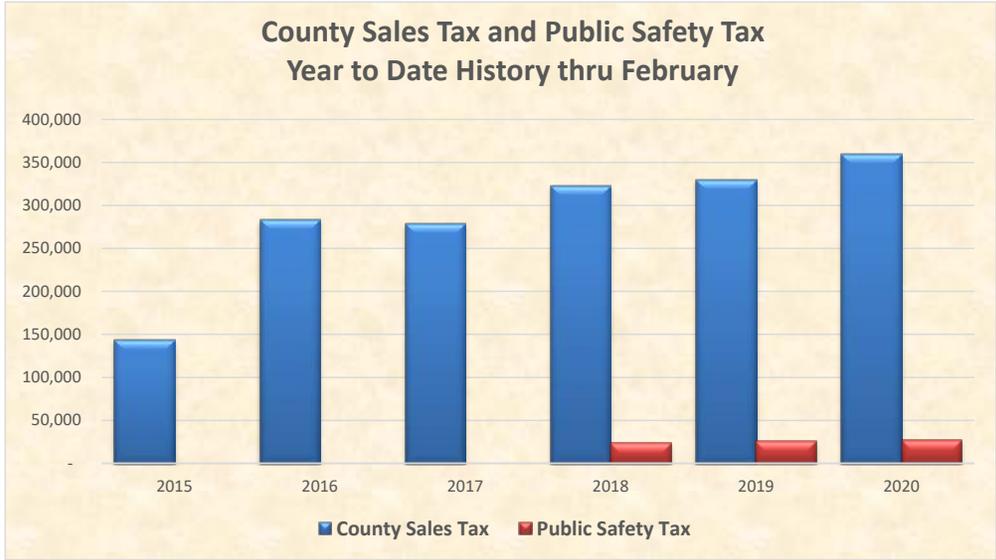
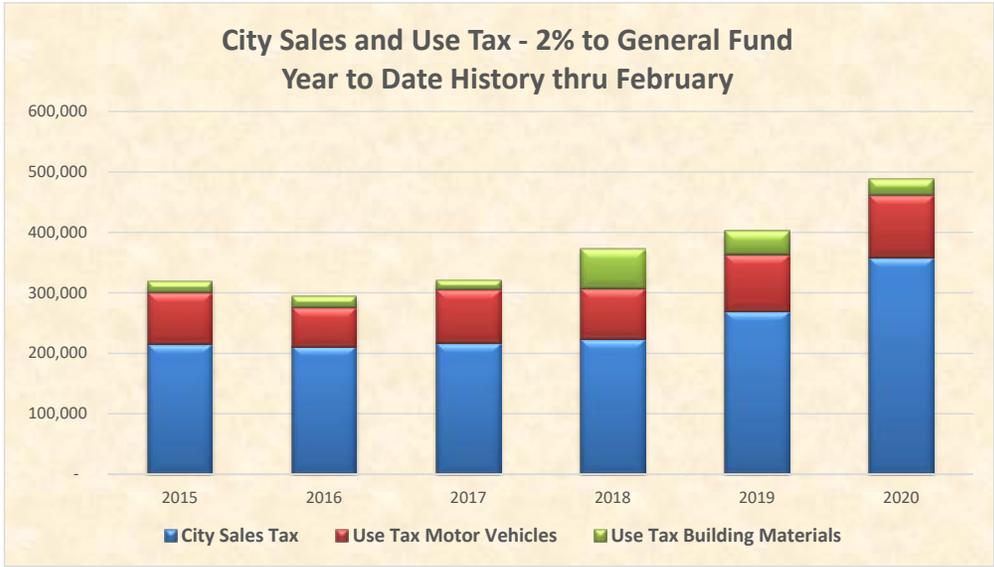
<b>Feb</b>	6,659.85	6,035.60	7,175.79	6,385.22	7,591.46	1,206.24	18.89%
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## CITY SALES AND USE TAX REPORTS

County Sales Tax - 2% (110-3130)							
	2016	2017	2018	2019	2020	\$ Variance	% Variance
Jan	143,234	136,307.24	146,939.45	168,991.80	178,526.13	9,534.33	5.64%
Feb	140,143	142,434.80	176,530.32	161,231.36	181,439.00	20,207.64	12.53%
Mar	155,984	172,028.79	185,516.49	198,980.47			
Apr	159,418	173,380.86	189,469.26	197,897.18			
May	162,276	178,328.17	193,958.66	209,011.45			
Jun	177,343	193,003.33	208,276.71	213,850.33			
Jul	150,781	178,723.35	189,768.49	210,475.42			
Aug	173,860	188,794.09	199,733.45	216,142.51			
Sep	164,869	186,027.87	195,797.26	206,870.89			
Oct	156,670	173,689.04	188,033.02	210,951.31			
Nov	157,683	174,721.72	184,074.04	204,326.68			
Dec	182,095	203,167.47	215,052.48	233,401.07			
<b>TOTAL</b>	<b>1,924,355</b>	<b>2,100,606.73</b>	<b>2,273,149.63</b>	<b>2,432,130.47</b>	<b>359,965.13</b>	<b>29,741.97</b>	<b>9.01%</b>
%	-2.79%	9.16%	8.21%	6.99%			
2020 Budget=\$2,400,000, 1.3% decrease from 2019 actual revenue							
Feb	283,376.49	278,742.04	323,469.77	330,223.16	359,965.13	29,741.97	9.01%

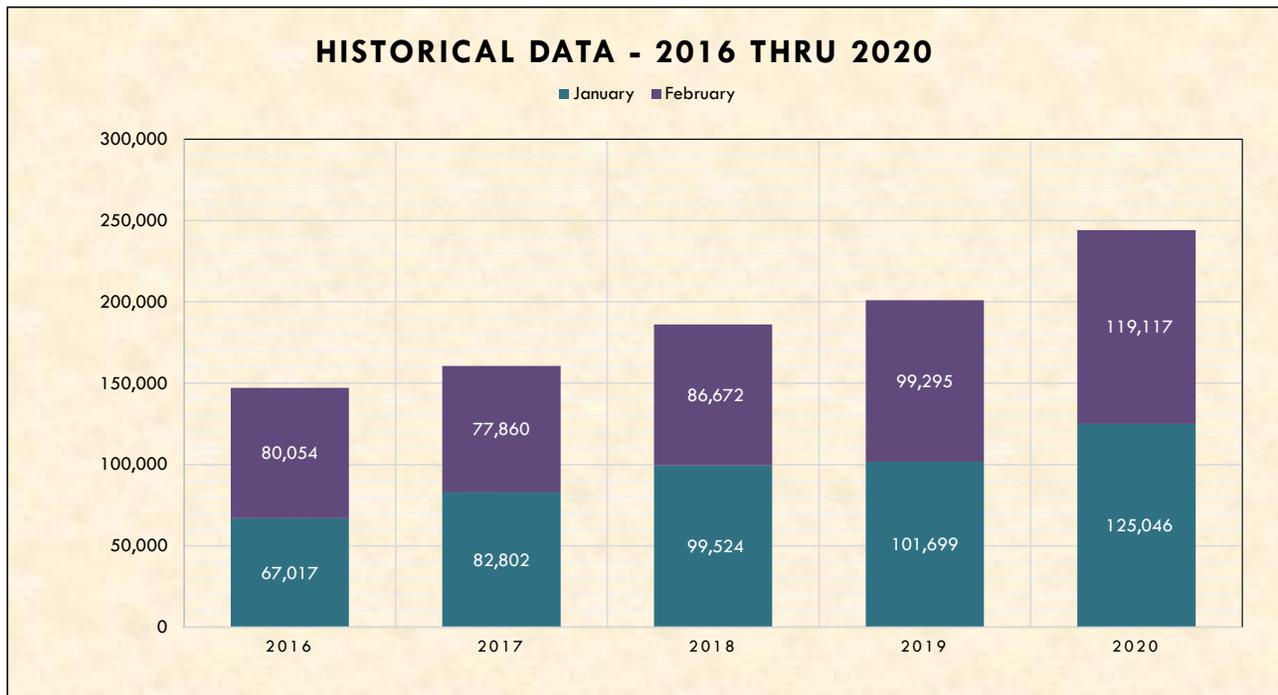
County Sales Tax - 0.37% Public Safety Tax (110-3129)							
	2016	2017	2018	2019	2020	\$ Variance	% Variance
Jan			23,704.20	25,508.99	26,762.07	1,253.08	4.91%
Feb			23,956.30	24,195.07			
Mar			25,560.92	30,317.68			
Apr			28,690.41	30,643.86			
May			29,288.65	32,085.32			
Jun			30,517.49	32,143.50			
Jul			28,181.20	31,495.72			
Aug			29,822.85	32,200.79			
Sep			29,235.41	31,197.04			
Oct			27,412.35	31,996.22			
Nov			27,259.12	30,373.05			
Dec			32,203.19	35,263.78			
<b>TOTAL</b>	<b>0.00</b>	<b>0.00</b>	<b>335,832.09</b>	<b>367,421.02</b>	<b>26,762.07</b>	<b>1,253.08</b>	<b>4.91%</b>



## 2020 COMMUNITY CENTER FUND TAX REVENUES

### February 2020 Report

Month					2020 Tax Revenues						
	2016 Total	2017 Total	2018 Total	2019 Total	City Sales	Use Tax Motor Vehicles	Use Tax Building Materials	Total	\$ Change	% Chg	
January	67,017	82,802	99,524	101,699	95,196.22	22,388.10	7,461.27	125,045.59	23,346	22.96%	
February	80,054	77,860	86,672	99,295	83,874.93	29,777.03	5,465.34	119,117.30	19,823	19.96%	
March	88,873	97,927	122,052	116,046			20,717.91	20,717.91			
April	106,161	93,450	119,974	136,940							
May	109,872	121,701	120,944	160,969							
June	110,034	108,354	177,075	138,242							
July	93,981	101,188	125,783	137,637							
August	98,034	119,369	115,257	137,769							
September	110,352	114,001	131,462	121,839							
October	86,289	110,923	146,462	136,971							
November	85,253	110,108	107,578	131,902							
December	86,781	100,818	102,648	137,173							
<b>TOTAL</b>	<b>1,122,701</b>	<b>1,238,499</b>	<b>1,455,432</b>	<b>1,556,483</b>	<b>179,071.15</b>	<b>52,165.13</b>	<b>33,644.52</b>	<b>264,880.80</b>	<b>43,169</b>	<b>21.48%</b>	
% Change	5.83%	10.31%	17.52%	6.94%							
2020 Budget					1,065,000	361,500	75,000	1,501,500			
% of Budget					16.81%	14.43%	44.86%	17.64%			
	147,071	160,662	186,196	200,994				244,163	43,169	21.48%	



General Ledger  
Actual vs Budget Report

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Period 03 - 03  
Fiscal Year 2020



# FRUITA

## COLORADO

Sort Level	Description	Period Amt	End Bal	Budget	Variance	% ExpendCollect
<b>110</b>	<b>General Fund</b>					
000						
R01	Taxes	-1,099,759.33	-2,212,396.02	-7,763,300.00	-5,550,903.98	28.50
R02	Licenses and permits	-1,302.50	-10,552.50	-32,750.00	-22,197.50	32.22
R03	Intergovernmental revenue	-49,247.61	-118,704.48	-679,500.00	-560,795.52	17.47
R04	Charges for services	-17,241.23	-51,001.94	-183,350.00	-132,348.06	27.82
R05	Fines and forfeitures	-1,138.99	-4,165.83	-18,900.00	-14,734.17	22.04
R06	Interest	-6,620.48	-20,831.12	-60,000.00	-39,168.88	34.72
R07	Donations	-8,147.07	-43,422.07	-14,500.00	28,922.07	299.46
R08	Miscellaneous	-164.82	-24,859.30	-3,000.00	21,859.30	828.64
R09	Transfers from other funds	-60,125.00	-60,125.00	-240,500.00	-180,375.00	25.00
R10	Other financing sources	0.00	0.00	0.00	0.00	0.00
R12	Rents	-1,879.01	-11,052.03	-36,000.00	-24,947.97	30.70
000		-1,245,626.04	-2,557,110.29	-9,031,800.00	-6,474,689.71	28.31
410	<i>General Government Department</i>					
E01	Personnel services, salaries	19,861.87	65,385.46	257,075.00	191,689.54	25.43
E02	Personnel services, benefits	5,099.56	19,236.84	65,300.00	46,063.16	29.46
E03	Purchased professional service	9,190.62	21,040.87	157,750.00	136,709.13	13.34
E04	Purchased property services	369.24	1,292.34	7,450.00	6,157.66	17.35
E05	Other purchased services	425.02	849.04	7,100.00	6,250.96	11.96
E06	Supplies	9,562.33	9,959.23	22,600.00	12,640.77	44.07
E08	Special projects	0.00	29,153.00	46,200.00	17,047.00	63.10
410	<i>General Government Department</i>	44,508.64	146,916.78	563,475.00	416,558.22	26.07
415	<i>Administration Department</i>					
E01	Personnel services, salaries	30,020.51	97,433.45	395,150.00	297,716.55	24.66
E02	Personnel services, benefits	9,549.79	34,516.75	132,425.00	97,908.25	26.07
E03	Purchased professional service	2,598.07	4,314.07	60,150.00	55,835.93	7.17
E04	Purchased property services	9,924.33	57,690.51	150,175.00	92,484.49	38.42
E05	Other purchased services	2,007.69	3,180.57	35,850.00	32,669.43	8.87
E06	Supplies	1,692.64	6,500.33	45,025.00	38,524.67	14.44
E07	Capital	2,040.00	8,700.00	26,800.00	18,100.00	32.46

Sort Level	Description	Period Amt	End Bal	Budget	Variance	% ExpendCollect
415	<i>Administration Department</i>	57,833.03	212,335.68	845,575.00	633,239.32	25.11
418	<i>Engineering Department</i>					
E01	Personnel services, salaries	17,302.48	59,686.64	232,600.00	172,913.36	25.66
E02	Personnel services, benefits	6,801.94	29,395.30	88,650.00	59,254.70	33.16
E03	Purchased professional service	30.00	30.00	8,900.00	8,870.00	0.34
E04	Purchased property services	0.00	1,500.00	4,200.00	2,700.00	35.71
E05	Other purchased services	188.50	198.52	3,250.00	3,051.48	6.11
E06	Supplies	294.50	412.94	4,700.00	4,287.06	8.79
418	<i>Engineering Department</i>	24,617.42	91,223.40	342,300.00	251,076.60	26.65
419	<i>Community Development Dpmt</i>					
E01	Personnel services, salaries	16,262.66	56,627.99	214,100.00	157,472.01	26.45
E02	Personnel services, benefits	6,834.56	26,979.76	86,325.00	59,345.24	31.25
E03	Purchased professional service	342.15	342.15	5,500.00	5,157.85	6.22
E04	Purchased property services	1,400.00	3,900.00	3,900.00	0.00	100.00
E05	Other purchased services	1,228.76	1,660.10	7,800.00	6,139.90	21.28
E06	Supplies	184.56	343.16	7,575.00	7,231.84	4.53
E08	Special projects	4,874.13	11,736.52	112,600.00	100,863.48	10.42
419	<i>Community Development Dpmt</i>	31,126.82	101,589.68	437,800.00	336,210.32	23.20
421	<i>Police Department</i>					
E01	Personnel services, salaries	95,356.20	331,360.58	1,315,450.00	984,089.42	25.19
E02	Personnel services, benefits	38,797.10	177,587.31	554,925.00	377,337.69	32.00
E03	Purchased professional service	15.00	1,284.96	22,025.00	20,740.04	5.83
E04	Purchased property services	73,134.18	77,364.24	100,150.00	22,785.76	77.25
E05	Other purchased services	73,324.72	75,374.63	348,400.00	273,025.37	21.63
E06	Supplies	4,732.42	8,797.25	75,900.00	67,102.75	11.59
E07	Capital	75,064.00	75,064.00	148,300.00	73,236.00	50.62
421	<i>Police Department</i>	360,423.62	746,832.97	2,565,150.00	1,818,317.03	29.11
431	<i>Public Works Department</i>					
E01	Personnel services, salaries	35,452.74	124,506.47	563,500.00	438,993.53	22.10
E02	Personnel services, benefits	15,069.10	78,336.67	224,875.00	146,538.33	34.84
E03	Purchased professional service	340.00	3,072.98	8,200.00	5,127.02	37.48
E04	Purchased property services	171,648.35	187,559.23	480,275.00	292,715.77	39.05
E05	Other purchased services	304.67	376.85	4,150.00	3,773.15	9.08
E06	Supplies	31,590.81	60,583.92	348,500.00	287,916.08	17.38
E07	Capital	0.00	2,917.00	168,300.00	165,383.00	1.73
431	<i>Public Works Department</i>	254,405.67	457,353.12	1,797,800.00	1,340,446.88	25.44
451	<i>Parks and Recreation Dept</i>					
E01	Personnel services, salaries	40,323.49	133,318.85	602,275.00	468,956.15	22.14

Sort Level	Description	Period Amt	End Bal	Budget	Variance	% ExpendCollect
E02	Personnel services, benefits	13,573.87	62,031.12	188,450.00	126,418.88	32.92
E03	Purchased professional service	1,640.65	15,509.15	41,850.00	26,340.85	37.06
E04	Purchased property services	68,302.78	73,312.61	148,850.00	75,537.39	49.25
E05	Other purchased services	1,023.54	1,053.60	9,750.00	8,696.40	10.81
E06	Supplies	13,578.58	27,577.42	145,525.00	117,947.58	18.95
E07	Capital	4,634.25	6,582.00	46,000.00	39,418.00	14.31
E08	Special projects	14,550.94	21,433.26	137,300.00	115,866.74	15.61
451	<i>Parks and Recreation Dept</i>	<i>157,628.10</i>	<i>340,818.01</i>	<i>1,320,000.00</i>	<i>979,181.99</i>	<i>25.82</i>
490	<i>Non-Departmental Expenses</i>					
E02	Personnel services, benefits	-0.11	-0.35	0.00	0.35	0.00
E03	Purchased professional service	14,081.67	14,461.43	81,500.00	67,038.57	17.74
E04	Purchased property services	567.34	1,563.19	8,200.00	6,636.81	19.06
E05	Other purchased services	0.00	127,988.23	155,000.00	27,011.77	82.57
E08	Special projects	11,250.00	13,750.00	73,000.00	59,250.00	18.84
E11	Contingency	0.00	0.00	256,600.00	256,600.00	0.00
E12	Transfers to other funds	23,750.00	23,750.00	944,850.00	921,100.00	2.51
490	<i>Non-Departmental Expenses</i>	<i>49,648.90</i>	<i>181,512.50</i>	<i>1,519,150.00</i>	<i>1,337,637.50</i>	<i>11.95</i>
<b>Revenue Total</b>		<b>-1,245,626.04</b>	<b>-2,557,110.29</b>	<b>-9,031,800.00</b>	<b>-6,474,689.71</b>	<b>-0.2831</b>
<b>Expense Total</b>		<b>980,192.20</b>	<b>2,278,582.14</b>	<b>9,391,250.00</b>	<b>7,112,667.86</b>	<b>0.2426</b>
<b>110</b>	<b>General Fund</b>	<b>-265,433.84</b>	<b>-278,528.15</b>	<b>359,450.00</b>	<b>637,978.15</b>	<b>-77.49</b>

General Ledger  
Actual vs Budget Report

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Fiscal Year 2020



# FRUITA

## COLORADO

Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
<b>121</b>	<b>Conservation Trust Fund</b>					
000						
R03	Intergovernmental revenue	-32,867.50	-32,867.50	-140,000.00	-107,132.50	23.48
R06	Interest	-16.85	-49.45	-100.00	-50.55	49.45
000		-32,884.35	-32,916.95	-140,100.00	-107,183.05	23.50
<b>Revenue Total</b>		<b>-32,884.35</b>	<b>-32,916.95</b>	<b>-140,100.00</b>	<b>-107,183.05</b>	<b>-0.2350</b>
<b>Expense Total</b>		<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.0000</b>
<b>121</b>	<b>Conservation Trust Fund</b>	<b>-32,884.35</b>	<b>-32,916.95</b>	<b>-140,100.00</b>	<b>-107,183.05</b>	<b>23.50</b>

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## COLORADO

Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
<b>125</b>	<b>Marketing and Promotion Fund</b>					
000						
R01	Taxes	-4,018.26	-12,149.68	-135,000.00	-122,850.32	9.00
R04	Charges for services	0.00	-112.00	0.00	112.00	0.00
R06	Interest	-6.57	-19.27	0.00	19.27	0.00
R09	Transfers from other funds	0.00	0.00	-12,000.00	-12,000.00	0.00
000		-4,024.83	-12,280.95	-147,000.00	-134,719.05	8.35
465	<i>Marketing Operations</i>					
E01	Personnel services, salaries	1,263.01	4,368.39	16,450.00	12,081.61	26.56
E02	Personnel services, benefits	296.11	1,118.94	3,850.00	2,731.06	29.06
E03	Purchased professional service	0.00	0.00	2,500.00	2,500.00	0.00
E04	Purchased property services	24.33	80.49	1,800.00	1,719.51	4.47
E05	Other purchased services	0.00	0.00	70,000.00	70,000.00	0.00
E06	Supplies	0.00	0.00	7,000.00	7,000.00	0.00
E08	Special projects	0.00	26,500.00	36,000.00	9,500.00	73.61
E11	Contingency	0.00	0.00	9,400.00	9,400.00	0.00
465	<i>Marketing Operations</i>	1,583.45	32,067.82	147,000.00	114,932.18	21.81
<b>Revenue Total</b>		<b>-4,024.83</b>	<b>-12,280.95</b>	<b>-147,000.00</b>	<b>-134,719.05</b>	<b>-0.0835</b>
<b>Expense Total</b>		<b>1,583.45</b>	<b>32,067.82</b>	<b>147,000.00</b>	<b>114,932.18</b>	<b>0.2181</b>
<b>125</b>	<b>Marketing and Promotion Fund</b>	<b>-2,441.38</b>	<b>19,786.87</b>	<b>0.00</b>	<b>-19,786.87</b>	<b>0.00</b>

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## COLORADO

Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
<b>127</b>	<b>Community Center Fund</b>					
000						
R01	Taxes	-145,691.16	-405,125.83	-1,501,500.00	-1,096,374.17	26.98
R04	Charges for services	-21,360.95	-229,168.97	-1,275,000.00	-1,045,831.03	17.97
R06	Interest	-1,061.66	-1,637.46	-1,250.00	387.46	131.00
R07	Donations	-75.00	-2,625.00	0.00	2,625.00	0.00
R08	Miscellaneous	-32.12	-123.74	-1,000.00	-876.26	12.37
R09	Transfers from other funds	-23,750.00	-23,750.00	-95,000.00	-71,250.00	25.00
R12	Rents	-2,370.41	-19,682.07	-71,200.00	-51,517.93	27.64
000		<b>-194,341.30</b>	<b>-682,113.07</b>	<b>-2,944,950.00</b>	<b>-2,262,836.93</b>	<b>23.16</b>
451	<i>Parks and Recreation Dept</i>					
E01	Personnel services, salaries	85,238.00	289,976.36	1,264,950.00	974,973.64	22.92
E02	Personnel services, benefits	17,615.06	87,705.43	265,725.00	178,019.57	33.01
E03	Purchased professional service	5,811.27	12,245.65	49,050.00	36,804.35	24.97
E04	Purchased property services	10,328.99	45,251.54	122,700.00	77,448.46	36.88
E05	Other purchased services	4,339.98	26,753.66	56,500.00	29,746.34	47.35
E06	Supplies	27,125.31	47,677.04	279,775.00	232,097.96	17.04
E07	Capital	22,669.27	36,617.22	279,100.00	242,482.78	13.12
E08	Special projects	3,815.41	5,508.54	25,000.00	19,491.46	22.03
E11	Contingency	0.00	0.00	40,000.00	40,000.00	0.00
E12	Transfers to other funds	179,525.00	179,525.00	718,100.00	538,575.00	25.00
451	<i>Parks and Recreation Dept</i>	<b>356,468.29</b>	<b>731,260.44</b>	<b>3,100,900.00</b>	<b>2,369,639.56</b>	<b>23.58</b>
<b>Revenue Total</b>		<b>-194,341.30</b>	<b>-682,113.07</b>	<b>-2,944,950.00</b>	<b>-2,262,836.93</b>	<b>-0.2316</b>
<b>Expense Total</b>		<b>356,468.29</b>	<b>731,260.44</b>	<b>3,100,900.00</b>	<b>2,369,639.56</b>	<b>0.2358</b>
<b>127</b>	<b>Community Center Fund</b>	<b>162,126.99</b>	<b>49,147.37</b>	<b>155,950.00</b>	<b>106,802.63</b>	<b>31.51</b>

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## COLORADO

Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
<b>130</b>	<b>Capital Projects Fund</b>					
000						
R06	Interest	-2,013.11	-6,545.71	0.00	6,545.71	0.00
000		-2,013.11	-6,545.71	0.00	6,545.71	0.00
733	<i>Sidewalk Replacement</i>					
E07	Capital	0.00	0.00	30,000.00	30,000.00	0.00
R09	Transfers from other funds	0.00	0.00	-30,000.00	-30,000.00	0.00
733	<i>Sidewalk Replacement</i>	0.00	0.00	0.00	0.00	0.00
735	<i>Overlays</i>					
E07	Capital	0.00	0.00	200,000.00	200,000.00	0.00
R09	Transfers from other funds	0.00	0.00	-200,000.00	-200,000.00	0.00
735	<i>Overlays</i>	0.00	0.00	0.00	0.00	0.00
737	<i>K.4 Road Improvements</i>					
E07	Capital	2,421.17	2,421.17	698,000.00	695,578.83	0.35
R09	Transfers from other funds	0.00	0.00	-340,500.00	-340,500.00	0.00
R11	Development impact fees	0.00	0.00	-157,500.00	-157,500.00	0.00
737	<i>K.4 Road Improvements</i>	2,421.17	2,421.17	200,000.00	197,578.83	1.21
742	<i>Hwy 340 and I-70 Improvements</i>					
E03	Purchased professional service	0.00	0.00	23,700.00	23,700.00	0.00
E07	Capital	0.00	0.00	55,525.00	55,525.00	0.00
R09	Transfers from other funds	0.00	0.00	-79,225.00	-79,225.00	0.00
742	<i>Hwy 340 and I-70 Improvements</i>	0.00	0.00	0.00	0.00	0.00
749	<i>Department</i>					
E03	Purchased professional service	0.00	0.00	410,000.00	410,000.00	0.00
R03	Intergovernmental revenue	0.00	0.00	-205,000.00	-205,000.00	0.00
R09	Transfers from other funds	0.00	0.00	-205,000.00	-205,000.00	0.00
749	<i>Department</i>	0.00	0.00	0.00	0.00	0.00
783	<i>Civic Center Improvements</i>					

Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
E07	Capital	0.00	0.00	17,000.00	17,000.00	0.00
R09	Transfers from other funds	0.00	0.00	-17,000.00	-17,000.00	0.00
783	<i>Civic Center Improvements</i>	<i>0.00</i>	<i>0.00</i>	<i>0.00</i>	<i>0.00</i>	<i>0.00</i>
790	<i>Kokopelli Trail</i>					
E07	Capital	0.00	103,187.96	590,000.00	486,812.04	17.49
R03	Intergovernmental revenue	0.00	0.00	-590,000.00	-590,000.00	0.00
790	<i>Kokopelli Trail</i>	<i>0.00</i>	<i>103,187.96</i>	<i>0.00</i>	<i>-103,187.96</i>	<i>0.00</i>
841	<i>Big Salt Wash Trail</i>					
E07	Capital	5,261.52	9,734.72	27,000.00	17,265.28	36.05
R09	Transfers from other funds	0.00	0.00	-27,000.00	-27,000.00	0.00
841	<i>Big Salt Wash Trail</i>	<i>5,261.52</i>	<i>9,734.72</i>	<i>0.00</i>	<i>-9,734.72</i>	<i>0.00</i>
<b>Revenue Total</b>		<b>-2,013.11</b>	<b>-6,545.71</b>	<b>-1,851,225.00</b>	<b>-1,844,679.29</b>	<b>-0.0035</b>
<b>Expense Total</b>		<b>7,682.69</b>	<b>115,343.85</b>	<b>2,051,225.00</b>	<b>1,935,881.15</b>	<b>0.0562</b>
<b>130</b>	<b>Capital Projects Fund</b>	<b>5,669.58</b>	<b>108,798.14</b>	<b>200,000.00</b>	<b>91,201.86</b>	<b>54.40</b>

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## COLORADO

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<b>140</b>	<b>Debt Service Fund</b>					
000						
R06	Interest	-1,023.54	-3,329.68	-13,000.00	-9,670.32	25.61
R09	Transfers from other funds	-178,025.00	-178,025.00	-712,100.00	-534,075.00	25.00
000		-179,048.54	-181,354.68	-725,100.00	-543,745.32	25.01
470	<i>Debt Service</i>					
E09	Debt service principal	0.00	0.00	320,000.00	320,000.00	0.00
E10	Debt interest & bond issuance	202,300.00	202,300.00	405,100.00	202,800.00	49.94
470	<i>Debt Service</i>	202,300.00	202,300.00	725,100.00	522,800.00	27.90
<b>Revenue Total</b>		<b>-179,048.54</b>	<b>-181,354.68</b>	<b>-725,100.00</b>	<b>-543,745.32</b>	<b>-0.2501</b>
<b>Expense Total</b>		<b>202,300.00</b>	<b>202,300.00</b>	<b>725,100.00</b>	<b>522,800.00</b>	<b>0.2790</b>
<b>140</b>	<b>Debt Service Fund</b>	<b>23,251.46</b>	<b>20,945.32</b>	<b>0.00</b>	<b>-20,945.32</b>	<b>0.00</b>

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## COLORADO

Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
<b>210</b>	<b>Devils Canyon Center Fund</b>					
000						
R06	Interest	-48.76	-143.10	0.00	143.10	0.00
000		-48.76	-143.10	0.00	143.10	0.00
450	DCC Administration					
E12	Transfers to other funds	0.00	0.00	43,875.00	43,875.00	0.00
450	DCC Administration	0.00	0.00	43,875.00	43,875.00	0.00
	<b>Revenue Total</b>	<b>-48.76</b>	<b>-143.10</b>	<b>0.00</b>	<b>143.10</b>	<b>0.0000</b>
	<b>Expense Total</b>	<b>0.00</b>	<b>0.00</b>	<b>43,875.00</b>	<b>43,875.00</b>	<b>0.0000</b>
<b>210</b>	<b>Devils Canyon Center Fund</b>	<b>-48.76</b>	<b>-143.10</b>	<b>43,875.00</b>	<b>44,018.10</b>	<b>-0.33</b>

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## COLORADO

Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
<b>211</b>	<b>Irrigation Water Fund</b>					
000						
R04	Charges for services	-948.54	-2,857.66	-122,000.00	-119,142.34	2.34
R06	Interest	-6.56	-19.25	0.00	19.25	0.00
000		-955.10	-2,876.91	-122,000.00	-119,123.09	2.36
431	<i>Public Works Department</i>					
E01	Personnel services, salaries	4,667.93	17,011.21	58,400.00	41,388.79	29.13
E02	Personnel services, benefits	2,677.41	11,295.05	24,275.00	12,979.95	46.53
E04	Purchased property services	2,100.00	2,100.00	2,100.00	0.00	100.00
E05	Other purchased services	1,080.90	1,351.36	8,400.00	7,048.64	16.09
E06	Supplies	119.23	10,622.42	15,125.00	4,502.58	70.23
E12	Transfers to other funds	2,625.00	2,625.00	10,500.00	7,875.00	25.00
431	<i>Public Works Department</i>	13,270.47	45,005.04	118,800.00	73,794.96	37.88
<b>Revenue Total</b>		<b>-955.10</b>	<b>-2,876.91</b>	<b>-122,000.00</b>	<b>-119,123.09</b>	<b>-0.0236</b>
<b>Expense Total</b>		<b>13,270.47</b>	<b>45,005.04</b>	<b>118,800.00</b>	<b>73,794.96</b>	<b>0.3788</b>
<b>211</b>	<b>Irrigation Water Fund</b>	<b>12,315.37</b>	<b>42,128.13</b>	<b>-3,200.00</b>	<b>-45,328.13</b>	<b>-1,316.50</b>

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## COLORADO

Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
<b>212</b>	<b>Sewer Fund</b>					
000						
R03	Intergovernmental revenue	0.00	0.00	-342,225.00	-342,225.00	0.00
R04	Charges for services	-346,134.40	-957,667.54	-3,780,000.00	-2,822,332.46	25.34
R06	Interest	-4,208.48	-13,870.64	-45,000.00	-31,129.36	30.82
R08	Miscellaneous	0.00	0.00	-1,500.00	-1,500.00	0.00
000		-350,342.88	-971,538.18	-4,168,725.00	-3,197,186.82	23.31
433	<i>Sewer</i>					
E01	Personnel services, salaries	44,753.35	154,395.06	618,150.00	463,754.94	24.98
E02	Personnel services, benefits	18,532.90	86,404.10	265,100.00	178,695.90	32.59
E03	Purchased professional service	2,332.95	3,729.90	52,500.00	48,770.10	7.10
E04	Purchased property services	24,098.41	33,201.64	56,000.00	22,798.36	59.29
E05	Other purchased services	8,418.94	51,334.77	159,100.00	107,765.23	32.27
E06	Supplies	42,336.71	76,640.77	327,600.00	250,959.23	23.39
E07	Capital	0.00	0.00	106,800.00	106,800.00	0.00
E09	Debt service principal	0.00	422,500.00	845,000.00	422,500.00	50.00
E10	Debt interest & bond issuance	0.00	237,063.34	474,150.00	237,086.66	50.00
E11	Contingency	0.00	0.00	6,100.00	6,100.00	0.00
E12	Transfers to other funds	41,250.00	41,250.00	165,000.00	123,750.00	25.00
433	<i>Sewer</i>	181,723.26	1,106,519.58	3,075,500.00	1,968,980.42	35.98
600	<i>Treatment System</i>					
E03	Purchased professional service	0.00	0.00	27,125.00	27,125.00	0.00
E07	Capital	0.00	0.00	350,000.00	350,000.00	0.00
600	<i>Treatment System</i>	0.00	0.00	377,125.00	377,125.00	0.00
601	<i>Lift Stations</i>					
E07	Capital	380.34	380.34	83,200.00	82,819.66	0.46
601	<i>Lift Stations</i>	380.34	380.34	83,200.00	82,819.66	0.46
602	<i>Lagoons</i>					
E07	Capital	0.00	0.00	100,000.00	100,000.00	0.00
602	<i>Lagoons</i>	0.00	0.00	100,000.00	100,000.00	0.00

<b>Sort Level</b>	<b>Description</b>	<b>Period Amt</b>	<b>End Bal</b>	<b>Budget</b>	<b>Variance</b>	<b>% Expend/Collect</b>
603	<i>Sewer Line Upgrades</i>					
E07	Capital	0.00	0.00	225,000.00	225,000.00	0.00
603	<i>Sewer Line Upgrades</i>	0.00	0.00	225,000.00	225,000.00	0.00
605	<i>Sewer Line Extensions</i>					
E07	Capital	785,006.19	1,279,324.69	1,625,750.00	346,425.31	78.69
605	<i>Sewer Line Extensions</i>	785,006.19	1,279,324.69	1,625,750.00	346,425.31	78.69
<b>Revenue Total</b>		<b>-350,342.88</b>	<b>-971,538.18</b>	<b>-4,168,725.00</b>	<b>-3,197,186.82</b>	<b>-0.2331</b>
<b>Expense Total</b>		<b>967,109.79</b>	<b>2,386,224.61</b>	<b>5,486,575.00</b>	<b>3,100,350.39</b>	<b>0.4349</b>
<b>212</b>	<b>Sewer Fund</b>	<b>616,766.91</b>	<b>1,414,686.43</b>	<b>1,317,850.00</b>	<b>-96,836.43</b>	<b>107.35</b>

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<b>215</b>	<b>Trash Fund</b>					
000						
R04	Charges for services	-67,910.57	-204,414.04	-805,000.00	-600,585.96	25.39
R06	Interest	-7.44	-21.84	0.00	21.84	0.00
000		-67,918.01	-204,435.88	-805,000.00	-600,564.12	25.40
432	<i>Sanitation Department</i>					
E05	Other purchased services	124,358.36	124,358.36	746,000.00	621,641.64	16.67
E12	Transfers to other funds	14,750.00	14,750.00	59,000.00	44,250.00	25.00
432	<i>Sanitation Department</i>	139,108.36	139,108.36	805,000.00	665,891.64	17.28
<b>Revenue Total</b>		<b>-67,918.01</b>	<b>-204,435.88</b>	<b>-805,000.00</b>	<b>-600,564.12</b>	<b>-0.2540</b>
<b>Expense Total</b>		<b>139,108.36</b>	<b>139,108.36</b>	<b>805,000.00</b>	<b>665,891.64</b>	<b>0.1728</b>
<b>215</b>	<b>Trash Fund</b>	<b>71,190.35</b>	<b>-65,327.52</b>	<b>0.00</b>	<b>65,327.52</b>	<b>0.00</b>

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## COLORADO

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<b>220</b>	<b>Fleet Maintenance Fund</b>					
000						
R04	Charges for services	-329,775.00	-329,775.00	-329,775.00	0.00	100.00
000		-329,775.00	-329,775.00	-329,775.00	0.00	100.00
431	<i>Public Works Department</i>					
E01	Personnel services, salaries	9,842.69	34,186.36	137,400.00	103,213.64	24.88
E02	Personnel services, benefits	4,940.01	21,753.03	64,825.00	43,071.97	33.56
E03	Purchased professional service	0.00	114.00	1,500.00	1,386.00	7.60
E04	Purchased property services	2,129.52	5,078.49	32,300.00	27,221.51	15.72
E06	Supplies	13,388.24	26,570.49	91,750.00	65,179.51	28.96
E07	Capital	0.00	1,900.00	2,000.00	100.00	95.00
431	<i>Public Works Department</i>	30,300.46	89,602.37	329,775.00	240,172.63	27.17
<b>Revenue Total</b>		<b>-329,775.00</b>	<b>-329,775.00</b>	<b>-329,775.00</b>	<b>0.00</b>	<b>-1.0000</b>
<b>Expense Total</b>		<b>30,300.46</b>	<b>89,602.37</b>	<b>329,775.00</b>	<b>240,172.63</b>	<b>0.2717</b>
<b>220</b>	<b>Fleet Maintenance Fund</b>	<b>-299,474.54</b>	<b>-240,172.63</b>	<b>0.00</b>	<b>240,172.63</b>	<b>0.00</b>

General Ledger  
Actual vs Budget Report

User: msell  
Printed: 04/17/20 09:45:48  
Period 03 - 03  
Fiscal Year 2020



# FRUITA

## COLORADO

<u>Sort Level</u>	<u>Description</u>	<u>Period Amt</u>	<u>End Bal</u>	<u>Budget</u>	<u>Variance</u>	<u>% Expend/Collect</u>
	<i>Revenue Total</i>	-2,406,977.92	-4,981,090.72	-20,265,675.00	-15,284,584.28	-0.2458
	<i>Expense Total</i>	2,698,015.71	6,019,494.63	22,199,500.00	16,180,005.37	0.2712



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## **AGENDA ITEM COVER SHEET**

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**TO: FRUITA CITY COUNCIL AND MAYOR**

**FROM: MIKE BENNETT, CITY MANAGER**

**DATE: APRIL 21, 2020**

**RE: PRESENTATIONS TO OUTGOING CITY COUNCIL MEMBERS DAVE  
KARISNY AND AMANDA EWING**

### **BACKGROUND**

The Mayor and City Council will recognize Councilors Dave Karisny and Amanda Ewing for their past service on the Fruita City Council and other various City Boards and Commissions. Dave and Amanda will be presented with plaques of appreciation from the City that detail the Boards and Commissions that they served on as well as the years of service for each, including the Fruita City Council.



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## AGENDA ITEM COVER SHEET

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**TO:** FRUITA CITY COUNCIL AND MAYOR  
**FROM:** MIKE BENNETT, CITY MANAGER  
**DATE:** APRIL 21, 2020  
**RE:** SWEARING IN OF NEWLY ELECTED COUNCIL MEMBERS AND  
THE MAYOR

**BACKGROUND**

Following the presentation to outgoing City Council members:

1. Mayor Kincaid will be sworn in by the City Clerk.
2. Upon taking his seat, the Mayor may say a few words.
3. The Mayor will ask Heather O'Brien, Ken Kreie and Matthew Breman to be sworn in by the City Clerk. Upon taking their seats, the Mayor will offer the newly elected Council members the opportunity to say a few words.

Attached is a copy of the Abstract of Votes Cast and Certificate of Determination for the April 7, 2020 Regular Municipal Election (Official Results).





# FRUITA COLORADO

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## AGENDA ITEM COVER SHEET

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**TO: FRUITA CITY COUNCIL AND MAYOR**

**FROM: DEBRA WOODS, DEPUTY CITY CLERK**

**DATE: APRIL 21, 2019**

**RE: A & C, INC. DBA CAMILLA'S KAFFE – A REQUEST TO APPROVE THE RENEWAL OF A BEER AND WINE LIQUOR LICENSE FOR CAMILLA'S KAFFE LOCATED AT 206 E. ASPEN**

### **BACKGROUND**

The Beer and Wine Liquor License for Camilla's Kaffe located at 206 E. Aspen is up for renewal. Their current license expires on **May 13, 2020**.

The Police Department had nothing to report regarding this establishment. The City Clerk's office has not been advised of any issues or concerns related to the liquor license during the past year. The City Clerk's office has no current TIPS certificates on file for employees of Camilla's Kaffe.

The following information is provided as background on the liquor license renewal process:

Pursuant to State Statutes, the local licensing authority (City Council) may cause a hearing on the application for renewal to be held. No renewal hearing shall be held until a notice of hearing has been conspicuously posted on the licensed premises for a period of ten days and notice of the hearing has been provided the applicant at least ten days prior to the hearing. The licensing authority may refuse to renew any license for good cause, subject to judicial review.

This item is placed on the Consent agenda for the Council to determine if there is any cause for a hearing to be held on the renewal of the liquor license. If there is no cause for a hearing, the City Council should approve the renewal of the existing license. If there is cause for a hearing, the City Council should set a date to hold a quasi-judicial hearing to determine if there are sufficient grounds for suspension or revocation of the liquor license. The City Council may also temporarily suspend any license, without notice, pending any prosecution, investigation or public hearing. No such suspension shall be for a period of more than 15 days.

### **FISCAL IMPACT**

None.

### **APPLICABILITY TO CITY GOALS AND OBJECTIVES**

The City of Fruita is charged with protection of the public health, safety and welfare. The review and renewal of liquor licenses ensures that licensed establishments are operating by the rules and regulations adopted by the City and State concerning the sale or service of beer and alcoholic beverages.

**OPTIONS AVAILABLE TO THE COUNCIL**

Renew the Beer and Wine Liquor License for A & C Inc., dba Camilla's Kaffe located at 206 E. Aspen.

Schedule a hearing date to determine if there is good cause for the license to be suspended or revoked.

**RECOMMENDATION**

It is the recommendation of staff that the Council move to:

**RENEW THE BEER AND WINE LIQUOR LICENSE FOR A & C INC. DBA  
CAMILLA'S KAFFE LOCATED AT 206 E. ASPEN**

**Submit to Local Licensing Authority**

**CAMILLA'S KAFFE  
206 E ASPEN STREET  
Fruita CO 81521-2206**

Fees Due	
Renewal Fee	351.25
Storage Permit \$100 X _____	\$
Sidewalk Service Area \$75.00	\$ <del>18.00</del>
Additional Optional Premise Hotel & Restaurant \$100 X _____	\$
Related Facility - Campus Liquor Complex \$160.00 per facility	\$
Amount Due/Paid	\$ 351.25

Make check payable to: Colorado Department of Revenue. The State may convert your check to a one-time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department may collect the payment amount directly from your banking account electronically.

**Retail Liquor or Fermented Malt Beverage License Renewal Application**

Please verify & update all information below

Return to city or county licensing authority by due date

Licensee Name <b>A &amp; C INC</b>		Doing Business As Name (DBA) <b>CAMILLA'S KAFFE</b>		
Liquor License # <b>35-22190-0000</b>	License Type <b>Beer &amp; Wine (city)</b>	Sales Tax License # <b>35221900000</b>	Expiration Date <b>05/13/2020</b>	Due Date <b>03/29/2020</b>
Business Address <b>206 E ASPEN STREET Fruita CO 81521-2206</b>				Phone Number <sup>970-</sup> <del>9702608409</del> <b>858 7950</b>
Mailing Address <b>206 E ASPEN STREET Fruita CO 81521-2206</b>			Email <b>Camilla76us@yahoo.com</b>	
Operating Manager <b>Camilla Smith</b>	Date of Birth <b>01/25/76</b>	Home Address <b>129 S Peach street</b>	Phone Number <b>970-296 4077</b>	
1. Do you have legal possession of the premises at the street address above? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Are the premises owned or rented? <input checked="" type="checkbox"/> Owned <input type="checkbox"/> Rented* *If rented, expiration date of lease _____				
2. Are you renewing a storage permit, additional optional premises, sidewalk service area, or related facility? If yes, please see the table in upper right hand corner and include all fees due. <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				
3a. Since the date of filing of the last application, has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant, been found in final order of a tax agency to be delinquent in the payment of any state or local taxes, penalties, or interest related to a business? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
3b. Since the date of filing of the last application, has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant failed to pay any fees or surcharges imposed pursuant to section 44-3-503, C.R.S.? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
4. Since the date of filing of the last application, has there been any change in financial interest (new notes, loans, owners, etc.) or organizational structure (addition or deletion of officers, directors, managing members or general partners)? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders, owners (other than licensed financial institutions), officers, directors, managing members, or general partners are materially interested. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
5. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been convicted of a crime? If yes, attach a detailed explanation. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
6. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
7. Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				

**Affirmation & Consent**

I declare under penalty of perjury in the second degree that this application and all attachments are true, correct and complete to the best of my knowledge.

Type or Print Name of Applicant/Authorized Agent of Business <b>CAMILLA NILSSON-SMITH</b>	Title <b>OWNER</b>
Signature <i>Cam</i>	Date <b>03/28/2020</b>

**Report & Approval of City or County Licensing Authority**

The foregoing application has been examined and the premises, business conducted and character of the applicant are satisfactory, and we do hereby report that such license, if granted, will comply with the provisions of Title 44, Articles 4 and 3, C.R.S., and Liquor Rules.

**Therefore this application is approved.**

Local Licensing Authority For <b>The City of Fruita</b>	Date
Signature	Title <b>JOEL KINCAID, MAYOR</b>
	Attest

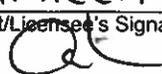
## Tax Check Authorization, Waiver, and Request to Release Information

I, Camilla Smith am signing this Tax Check Authorization, Waiver and Request to Release Information (hereinafter "Waiver") on behalf of A+C Inc (the "Applicant/Licensee") to permit the Colorado Department of Revenue and any other state or local taxing authority to release information and documentation that may otherwise be confidential, as provided below. If I am signing this Waiver for someone other than myself, including on behalf of a business entity, I certify that I have the authority to execute this Waiver on behalf of the Applicant/Licensee.

The Executive Director of the Colorado Department of Revenue is the State Licensing Authority, and oversees the Colorado Liquor Enforcement Division as his or her agents, clerks, and employees. The information and documentation obtained pursuant to this Waiver may be used in connection with the Applicant/Licensee's liquor license application and ongoing licensure by the state and local licensing authorities. The Colorado Liquor Code, section 44-3-101. et seq. ("Liquor Code"), and the Colorado Liquor Rules, 1 CCR 203-2 ("Liquor Rules"), require compliance with certain tax obligations, and set forth the investigative, disciplinary and licensure actions the state and local licensing authorities may take for violations of the Liquor Code and Liquor Rules, including failure to meet tax reporting and payment obligations.

The Waiver is made pursuant to section 39-21-113(4), C.R.S., and any other law, regulation, resolution or ordinance concerning the confidentiality of tax information, or any document, report or return filed in connection with state or local taxes. This Waiver shall be valid until the expiration or revocation of a license, or until both the state and local licensing authorities take final action to approve or deny any application(s) for the renewal of the license, whichever is later. Applicant/Licensee agrees to execute a new waiver for each subsequent licensing period in connection with the renewal of any license, if requested.

By signing below, Applicant/Licensee requests that the Colorado Department of Revenue and any other state or local taxing authority or agency in the possession of tax documents or information, release information and documentation to the Colorado Liquor Enforcement Division, and its duly authorized employees, to act as the Applicant's/Licensee's duly authorized representative under section 39-21-113(4), C.R.S., solely to allow the state and local licensing authorities, and their duly authorized employees, to investigate compliance with the Liquor Code and Liquor Rules. Applicant/Licensee authorizes the state and local licensing authorities, their duly authorized employees, and their legal representatives, to use the information and documentation obtained using this Waiver in any administrative or judicial action regarding the application or license.

Name (Individual/Business) <u>A+C Inc</u>		Social Security Number/Tax Identification Number <u>26-1919538</u>	
Address <u>206 E Aspen ave</u>			
City <u>FRUITA</u>		State <u>CO</u>	Zip <u>81521</u>
Home Phone Number <u>970-2964077</u>		Business/Work Phone Number <u>970-8587950</u>	
Printed name of person signing on behalf of the Applicant/Licensee <u>CAMILLA SMITH</u>			
Applicant/Licensee's Signature (Signature authorizing the disclosure of confidential tax information) 			Date signed <u>03/28/2020</u>

### Privacy Act Statement

Providing your Social Security Number is voluntary and no right, benefit or privilege provided by law will be denied as a result of refusal to disclose it. § 7 of Privacy Act, 5 USCS § 552a (note).

**CITY OF FRUITA  
LIQUOR LICENSE RENEWAL MEMORANDUM**

<b>TO:</b>	FRUITA POLICE DEPARTMENT
<b>FROM:</b>	DEBRA WOODS, DEPUTY CITY CLERK
<b>DATE:</b>	APRIL 1, 2020
<b>RE:</b>	A & C INC. DBA CAMILLA'S KAFFE - BEER AND WINE LIQUOR LICENSE RENEWAL

**License Information**

<b>Licensee:</b>	A & C Inc., dba Camilla's Kaffe
<b>Location:</b>	206 E Aspen Ave
<b>Type of License:</b>	Beer and Wine
<b>Expiration Date of Current License:</b>	May 13, 2020
<b>City Council Hearing Date :</b>	April 21, 2020
<b>DUE DATE FOR POLICE REPORT:</b>	April 17, 2020

**Tips certificates on File**

<b>Employee:</b>	<b>Date:</b>
(None on file)	

**Report of Fruita Police Department**

A)	Have there been any reported violation(s) of the Liquor or Beer Code in the last year?	Yes	<input checked="" type="radio"/> No
B)	Have there been any incidents reported to the Police Dept in the last year that would pertain to the liquor license and the establishment's control of alcoholic beverages and their patrons?	Yes	<input checked="" type="radio"/> No
C)	Are there other concerns that need to be brought to the attention of the City Council?	Yes	<input checked="" type="radio"/> No

**Please attach documentation to support the above noted violation(s), incidents or comments.**

<b>Signature:</b> <i>Paula Rajewich</i>	<b>Date:</b> 4-1-20
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Fax: 858-0210

e-mail: dwoods@fruita.org



**FRUITA**  
COLORADO

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## **AGENDA ITEM COVER SHEET**

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**TO: FRUITA CITY COUNCIL AND MAYOR**

**FROM: PLANNING & DEVELOPMENT DEPARTMENT**

**DATE: APRIL 21, 2020**

**RE: RESOLUTION 2020-21, A RESOLUTION OF THE FRUITA CITY COUNCIL APPROVING THE SUBDIVISION IMPROVEMENTS AGREEMENT FOR THE RED CLIFFS MOBILE HOME VILLAGE #2 SUBDIVISION, PHASES 2 AND 3.**

### **BACKGROUND**

This is a request for approval of the Subdivision Improvements Agreement (SIA) for the Red Cliffs Mobile Home Village #2 Subdivision, Phases 2 and 3. The Red Cliffs Mobile Home Village Subdivision was originally platted in 1981 and zoned Planned Unit Development (PUD) and only a portion of the original development was constructed. In 2001 the subdivision was re-platted to include 3 separate Phases. Since this time, only Phase 1 was constructed. This included the construction of the usual infrastructure accompanied with a subdivision (utilities and right-of-way). With the re-plat of this subdivision in 2001, the lots were all platted but infrastructure was not completed for Phases 2 and 3. The timing of approving this Subdivision Improvements Agreement is a little different because the Preliminary Plan and Final Plat applications were approved a number of years ago.

Due to the amount of time between approval of the plat and timing of construction of the remaining infrastructure, the Planning & Development Staff felt that it was necessary to inform the property owners within this subdivision, by legal notice postcards, that there was a plan to complete the infrastructure and build out the remainder of the subdivision. Staff did receive feedback from the neighborhood by phone call and visitors at the front counter and it did appear that those who Staff talked to understood that the subdivision had not yet been completed.

Additionally, since the subdivision construction drawings were originally approved in 2001 there have been modifications in regulations from a number of review agencies like stormwater detention and water quality. Staff sent out all construction drawings to the appropriate review agencies (Ute Water, Xcel Energy, Lower Valley Fire Department, City Engineer and Public Works, 5-2-1 Drainage Authority) to make sure there were no additional comments that needed to be addressed. It did not appear that there were any additional review comments that required major changes to the original subdivision.

## **FISCAL IMPACT**

The SIA requires the developer to construct public and other required improvements to serve the subdivision. Acceptance of the SIA means that the City will accept responsibility for maintenance of the public improvement after the improvements are completed as required. There also will be a two-year warranty period against defects in materials and workmanship once the improvements are complete and accepted by the city. Although this will have a financial impact on the city for maintenance costs, the required impact fees help off-set the costs of development.

## **APPLICABILITY TO CITY GOALS AND OBJECTIVES**

The SIA for the Red Cliffs Mobile Home Village #2 Subdivision, Phases 2 and 3 meets all of the City's requirements including requirements of the Land Use Code. The Land Use Code (along with other portions of the Municipal Code and other regulatory documents such as Fruita's Design Criteria and Construction Specifications Manual) implements the City's goals and policies as outlined in the City's Master Plan including the Fruita Community Plan.

## **OPTIONS AVAILABLE TO THE COUNCIL:**

### **Subdivision Improvements Agreement:**

1. Approve Resolution 2020-21
2. Deny Resolution 2020-21

## **RECOMMENDATION:**

It is the recommendation of staff that the Council by motion:

**ADOPT RESOLUTION 2020-21 APPROVING THE SUBDIVISION IMPROVEMENTS AGREEMENT FOR THE RED CLIFFS MOBILE HOME VILLAGE #2 SUBDIVISION, PHASES 2 AND 3.**

**RESOLUTION 2020-21**

**A RESOLUTION OF THE FRUITA CITY COUNCIL APPROVING THE SUBDIVISION IMPROVEMENTS AGREEMENT FOR THE RED CLIFFS MOBILE HOME VILLAGE #2 SUBDIVISION, PHASES 2 AND 3**

**WHEREAS**, the Red Cliffs Mobile Home Village No. 2 was approved and platted in 2001, and

**WHEREAS**, the Red Cliffs Mobile Home Village No. 2 Subdivision was proposed to be constructed in three phases with Phase 1 being the only Phase that was constructed, and

**WHEREAS**, Phases 2 and 3 are now being proposed to be constructed at this time and are more particularly described in the legal description provided with the Subdivision Improvements Agreement which is attached hereto as Exhibit A, and

**WHEREAS**, staff has administratively reviewed the construction drawings including the Subdivision Improvements Agreement and has found it to be in compliance with all requirements, and

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

- A. The Red Cliffs Mobile Home Village #2 Subdivision, Phases 2 and 3 Subdivision Improvements Agreement, attached hereto as Exhibit A, is hereby approved.
- B. This Resolution shall become effective upon delivery of the financial guarantee for the Subdivision Improvements Agreement.
- C. The City Clerk shall record Resolution 2020-21 along with Exhibit A with the Mesa County Clerk & Records Office.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF FRUITA, COLORADO THIS 21<sup>st</sup> DAY OF APRIL, 2020.**

ATTEST:

City of Fruita

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Margaret Sell, City Clerk

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Joel Kincaid, Mayor

EXHIBIT A TO RESOLUTION 2020-21

**CITY OF FRUITA SUBDIVISION IMPROVEMENTS AGREEMENT**  
Red Cliffs Mobile Home Village #2 Subdivision, Phases 2 and 3  
(Name of Development)

**THIS AGREEMENT** is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the CITY OF FRUITA, COLORADO, a municipal corporation, whose address is 325 E. Aspen Ave., Fruita, Colorado (hereinafter referred to as the "City"), and Sunshine of Delta, Inc. whose address is PO Box 516. Fruita, CO 81521 (hereinafter referred to as the "Developer".)

**RECITALS**

**WHEREAS**, Developer is the fee simple owner of real property described in Exhibit "A" attached hereto and incorporated herein by this reference (the "Property") and

**WHEREAS**, Developer has filed an application with the City for the development of certain property to be known as Red Cliffs Mobile Home Village #2 Subdivision, Phases 2 and 3, a tract of land located in the City of Fruita, County of Mesa, State of Colorado, containing approximately 5.56 acres, as more fully described in Exhibit "A", attached hereto, herein referred to as the "Project" or the "Property", which Developer intends to improve as single family detached residential development; and

**WHEREAS**, the Developer, as a condition of approval of the Red Cliffs Mobile Home Village #2 Subdivision, Phases 2 and 3 (together with accompanying documents, drawings, and plans the "Approval Document"), together with desires to enter into a Subdivision Improvements Agreement, as provided for by Chapter 17.21 of the Fruita Municipal Code; and

**WHEREAS**, the City seeks to protect the health, safety and general welfare of the community by requiring the completion of various improvements in the Project and limit the harmful effects of substandard developments; and

**WHEREAS**, pursuant to Section 17.21.010 of the Fruita Municipal Code, the Developer is required to provide security or collateral sufficient to ensure completion of the public improvements and other necessary development improvements described in the accompanying documents, drawings, and plans; and

**WHEREAS**, the purpose of this Agreement is to protect the City from the cost of completing development improvements itself and is not executed for the benefit of material supplier, laborers, or others providing work, services or material to the Project or for the benefit of occupants in the Project; and

**WHEREAS**, the mutual promises, covenants and obligations contained in this Agreement are authorized by State law and Title 17 of the Fruita Municipal Code.

**NOW, THEREFORE**, for and in consideration of the mutual promises and covenants

contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and the Developer agree as follows:

## **SECTION 1** **DEFINITIONS**

- 1.1 Agreement. This Subdivision Improvements Agreement for the Red Cliffs Mobile Home Village #2 Subdivision, Phases 2 and 3, between the Owner, the Developer and the City.
- 1.2 City. The City of Fruita, Colorado, a municipal corporation.
- 1.3 City Council. The governing body of the City of Fruita, Colorado.
- 1.4 Developer. Sunshine of Delta, Inc., and its successors and assigns.
- 1.5 Property or Project. The real property known as the Red Cliffs Mobile Home Village #2 Subdivision, Phases 2 and 3, as more fully described in Exhibit "A", attached hereto and incorporated herein by this reference.

## **SECTION 2** **TERM**

The term of this Agreement shall commence on the effective date of the City ordinance or resolution approving this Agreement and shall continue until the second (2<sup>nd</sup>) anniversary of the effective date, if Developer has not commenced the public and other required Project improvements, and if said improvements have commenced, this Agreement shall continue until the completion of all improvements. After the expiration of the term, this Agreement may be terminated and will then be of no further force or effect except as to any maintenance requirements for the public and any common improvements, and the warranty of public and other Project improvements; provided, however, that any such termination shall not affect (a) the annexation of the Property to the City; (b) any common law vested rights obtained prior to such termination; (c) the prior conveyance of any lots or parcels within the Project; or (d) any right arising from other City permits, approvals or other entitlements for the Property which were granted or approved prior to, concurrently with, or subsequent to the approval of this Agreement.

## **SECTION 3** **SCOPE OF THIS AGREEMENT**

3.1 Purpose. This Agreement is intended to set forth the parties' understanding and agreement as to the nature of the development; as to the procedures, limitations and standards applicable to the construction of public and private improvements to be installed to serve the Project; as to the responsibilities of the parties for various costs, fees and charges; and as to such other matters the parties believe can be adequately addressed at this time. This Agreement is not intended to address those matters which are more appropriately considered at the time of actual issuance of building

permits for the Property. The City reserves all rights to review, approve, or deny any future permit applications submitted in accordance with the ordinances and policies of the City then in effect.

3.2 City's Rights Reserved. It is not the intention of the parties in any way to diminish or limit the City's legislative, quasi-judicial, or other non-delegable discretionary powers or to impose on the City any duty, beyond its ordinances and regulations as they may from time to time exist, nor to impose any special obligation on the City to approve or accept any future applications, plans, drawings, security documents, improvements, and conveyances. It is furthermore the express intention of the parties that nothing in this Agreement shall be construed to void the rights and obligations of the parties as set forth herein, to the extent such rights and obligations are consistent with law. The parties expressly agree they will fully perform this Agreement to the extent it is consistent with the law.

3.3 Limited Applicability. This Agreement applies only to the Approved For Construction Drawings for the Property.

#### **SECTION 4** **NATURE OF THE PROJECT**

This Project is zoned Planned Unit Development and consists of 40 lots on 5.56 acres, and 1 other Tract on 0.28 acres, with 0 acres of dedicated open space, parks, trails and 1.38 acres of dedicated public streets.

#### **SECTION 5** **IMPROVEMENTS AND WARRANTY - GENERAL PROVISIONS**

5.1 Construction of Improvements. In accordance with Chapter 17.15 of the Fruita Municipal Code: all water services lines and laterals, water mains, fire hydrants and other water distribution facilities necessary to provide treated water service for this Project; all irrigation lines and related appurtenances, laterals and mains necessary to provide non-potable irrigation service for this Project; all wastewater collection lines and related improvements necessary to provide wastewater collection service for this Project; other required utilities for this Project, any drainage structures required for this Project; street improvements within the Project including pavement, curbs, gutters and sidewalks, survey monuments, and other on-site or off-site public or required development improvements, as shown in the accompanying plans applicable to the Property including any field changes required by the City due to unknown site conditions; this Agreement, and; any other improvements required by Title 17 of the Fruita Municipal Code and the City's Design Criteria and Construction Specifications Manual shall be installed and completed at the expense of the Developer. The public and other necessary Project improvements shall be designed and built in conformance with all City engineering design standards and all requirements contained in Title 17 of the Fruita Municipal Code. All such public or other required development improvements shall be designed and approved by a registered professional engineer retained by the Developer unless required otherwise by the Fruita Municipal Code. All drawings and plans for such improvements shall be stamped by the engineer unless required otherwise by the Fruita Municipal Code.

5.2 Compaction Standards. Trench compaction and road sub-grade and base course compaction standards and criteria shall be reviewed and approved by the City prior to the

commencement of construction.

5.3 Schedule of Improvements to be Constructed by Developer – Commencement of Work on Improvements. The schedule of on-site and off-site improvements to be constructed by the Developer, showing in detail the public and other required development improvements, including shallow utilities, that the Developer is responsible for constructing, and the costs therefor, as required by Section 17.21.030 of the Fruita Municipal Code, is attached hereto as Exhibit "B" and incorporated herein by this reference. Unless otherwise authorized by the City, no work shall be commenced on such improvements by the Developer until such time as the performance guarantee pursuant to Section 9 of this Agreement and Section 17.21.100 of the Fruita Municipal Code has been furnished to the City.

Not Applicable unless INITIALED by City ( )

5.3.1 Separate Exhibits, ("B-1", "B-2", etc., incorporated as a part of Exhibit "B"), are provided for the construction of improvements for which the Developer will receive a credit against impact fees otherwise payable, or for which a subsequent recapture agreement will be executed, as delineated in other Sections of this Agreement.

5.4 Warranty by Developer. In accordance with Section 17.21.080 of the Fruita Municipal Code, the Developer shall warrant any and all required improvements constructed by Developer pursuant to this Agreement and the Approval Document and all accompanying documents, drawings, and plans for a period of twenty-four (24) months from the date the City certifies that the same conform with the approved specifications. The warranty period begins on the day City Council approves the Partial Release of Security per subsection 9.5 below. In addition, but not by way of limitation, the Developer shall warrant the following:

5.4.1 The Developer shall warrant that the title conveyed shall be good and its transfer rightful; and

5.4.2 The Developer shall warrant any and all facilities conveyed shall be free from any security interest or other lien or encumbrance.

5.4.3 The Developer shall warrant that any and all facilities so conveyed shall be free of any and all defects in materials or workmanship.

5.5 City Inspections. In accordance with Section 17.21.050 of the Fruita Municipal Code, the City shall have the right to make inspections and require testing during construction of the public and other required Project improvements in such reasonable intervals as the City may request in accordance with the City's street construction regulations and sewer construction regulations or as otherwise determined by the City. Inspection, acquiescence and approval of any inspector of the construction of physical facilities, at any particular time, shall not constitute the approval by the City of any phase of the construction of such public and other required improvements. Such approvals shall be made by the City only after completion of construction and the establishment of property pins for each lot or parcel, and in the manner hereinafter set forth.

5.6 Final Approval by City. In accordance with Section 17.21.060 of the Fruita Municipal Code, upon completion of construction of such public and other required Project improvements, the

City shall perform a final inspection of the improvements and certify with specificity its conformity or lack thereof to the approved specifications. The Developer shall make all corrections necessary to bring the improvements into conformity with City standards and the utility, drainage and street improvement plans and others, as approved. The City shall be under no obligation to release the performance guarantee, or provide any wastewater collection service, street maintenance, to issue planning clearances, or certificates of occupancy until all such facilities are brought into conformance with the specifications and finally approved by the City.

5.7 Provision of As-Built Drawings. In accordance with Section 17.15.180 of the Fruita Municipal Code, Developer shall provide all necessary engineering designs, surveys, field surveys, and "as built" drawings for all public improvements and other utilities improvements approved by the City. All "as built" drawings shall be prepared in the manner required by the City. The Developer shall pay for any incidental services related to the construction of the public improvements and other required improvements, at its sole cost and expense.

5.8 Conveyance of Public Improvements. In accordance with Section 17.21.070 of the Fruita Municipal Code, all public improvements constructed in accordance with this Agreement, including but not limited to all wastewater collection mains, laterals and related improvements; public street improvements including required pavement, curbs, gutters and sidewalks shall be dedicated or conveyed to the City. Upon completion of construction in conformity with the plans, and any properly approved changes, the Developer shall convey to the City, by bill of sale, all physical facilities necessary for the extension, maintenance and repair of municipal utility services and other public facilities. Acceptance of said conveyance shall be made by the City by majority vote of the City Council. Following such dedication or conveyance, the City shall be solely responsible for the maintenance of such improvements, unless otherwise provided in this Agreement, except for any correction work required during the warranty period set forth in subsection 5.4 above.

5.9 Construction Schedule. Construction of such public and other required Project improvements shall be completed by the Developer no later than the dates set forth in Exhibit "B". Where Developer is prevented from commencing or completing any of the public and other required Project improvements within the time frame identified in Exhibit "B" due to an unforeseeable cause or delay beyond the control and without the fault or negligence of the Developer, the times for commencement and/or completion of such improvements shall be extended in an amount equal to the time lost due to such delay if a request is made in writing to the City by the Developer. Delays beyond the control of Developer shall include, but not be limited to, acts of neglect by the City, fires, floods, epidemics, abnormal weather conditions, strikes, freight embargos or acts of God. Time extensions, however, will not be granted for rain, snow, wind or other natural phenomena at normal intensity within Mesa County. Delays attributable to and within the control of the Developer's contractors, subcontractors or suppliers shall be deemed to be delays within the control of the Developer.

5.10 Improvements Required Prior to Issuance of Planning Clearances for Building Permits and Certificates of Occupancy. No planning clearance necessary to obtain a building permit for construction of any building within the Project shall be issued until all of the required improvements, as specified in Section 17.15.180 of the Fruita Municipal Code, and this Agreement, have been installed and approved by the City, as evidenced by applicable signatures on the Planning Clearance Release Form.

5.11 Dogs Prohibited During Construction. The Developer shall prohibit its contractors and subcontractors from bringing dogs onto the Property, even if such dogs are to be kept inside motor vehicles. Violation of this policy shall result in the immediate eviction of the dog and the dog's owner or harborer by the Developer from the Property. In the event of a second violation by the same dog and/or the same dog's owner or harborer, the dog and the dog's owner or harborer shall be immediately evicted from the Property by the Developer and the offending person shall be prohibited from entering or working within the Property for the following seven (7) consecutive calendar days. In the event of a third violation, the offending person shall be prohibited by the Developer from entering or working within the Property for the following six (6) calendar months.

## **SECTION 6**

### **OFF-SITE STREET IMPROVEMENTS**

Pursuant to subsection 17.15.140(B) of the Fruita Municipal Code and conditions imposed by the City Council, the Developer shall: Not Applicable in accordance with the Approved for Construction Drawings signed by the City Engineer.

Developer acknowledges that such requirement(s) are roughly proportional to the impacts generated from development of the Property.

## **SECTION 7**

### **DRAINAGE IMPROVEMENTS**

Pursuant to subsection 17.15.140(B) of the Fruita Municipal Code and conditions imposed by the City Council, the Developer shall: complete drainage improvements in accordance with the Approved for Construction Drawings signed by the City Engineer.

Developer acknowledges that such requirement(s) are roughly proportional to the impacts generated from development of the Property.

## **SECTION 8**

### **WATER AND WASTEWATER SERVICES AND IMPROVEMENTS**

8.1 Domestic Water Service. The City understands that the Ute Water Conservancy District intends to provide domestic water service to the Property consistent with an agreement between the Developer and the District. The terms and conditions of any such agreement are incorporated herein by this reference.

8.2 Construction of Treated Water Distribution System. Pursuant to subsection 17.15.140(F) of the Fruita Municipal Code, the Developer, at its sole expense, shall design, purchase, and install all elements of a municipal treated water distribution system to fully service the Project including but not limited to water mains, fire hydrants, pipe lines, and service line laterals to lot lines as required by the Ute Water Conservancy District's regulations, off-site water main extensions, and all other appurtenant facilities necessary to provide treated municipal water service to the Project. All required improvements and the construction and installation of such improvements shall be in

accordance with the Approved for Construction Drawings, plans and specifications and as approved by the Ute Water Conservancy District. Upon completion of the municipal distribution system, said system shall be inspected and approved by the Ute Water Conservancy District.

8.3 Construction and Conveyance of Irrigation System. Pursuant to subsection 17.15.140(K) of the Fruita Municipal Code, the Developer, at its sole expense, shall design, purchase and install all elements of a non-potable irrigation system to fully service the Project including all lines, valves, service lines to the lot lines and service risers as required by the City's regulations, and all off-site improvements as necessary to maintain the delivery system. All required improvements and the construction and installation of such improvements shall be in accordance with the Approved for Construction Drawings, plans and specifications approved by the City, and in accordance with applicable provisions of the City of Fruita's Design Criteria and Construction Specifications Manual and Title 17 of the Fruita Municipal Code.

Pursuant to subsection 17.15.140(K) of the Fruita Municipal Code, prior to the sale of any lot within the Project, the Developer shall convey to the applicable owners association or homeowners association by separate legal instrument(s) the irrigation system, all real property and associated easements necessary for operation and maintenance of the irrigation system, and shall also transfer to such association sufficient irrigation water rights as approved by the City.

#### 8.4 Construction of Wastewater Collection System.

8.4.1 On-Site Improvements. Pursuant to subsection 17.15.140(D) of the Fruita Municipal Code, the Developer, at its sole expense, shall design, purchase, and install all elements of the wastewater collection system to fully service the Project, including service lines to the lot lines, pursuant to the provisions of this Agreement and applicable provisions of the City's engineering design standards. Such wastewater collection system shall be constructed in accordance with the Approved for Construction Drawings, plans and specifications, and City wastewater system regulations.

8.4.2 Off-Site Improvements. Developer shall install the following off-site wastewater collection system components in accordance with the Approved for Construction Drawings: Not Applicable

Developer acknowledges that such requirement(s) are roughly proportional to the impacts generated from development of the Property.

8.5 Provision of Wastewater Service by the City. Upon completion of the wastewater collection system and upon approval and acceptance by the City, the City agrees to provide wastewater treatment and collection service to the Project upon Developer or other property owner making a written request for such service and the payment of any required plant investment (tap) fees and connection charges. Provision of wastewater service by the City within the Project shall be made pursuant to agreement by the City and on a first come/first served basis with other wastewater service customers, subject to system capacity and any prior commitments, and at the then applicable rate. Except as may otherwise be provided in this Agreement, a person shall not receive any preferences for or assurance of the availability of wastewater service from the City until the plant investment (tap) fee

is paid.

8.6 Developer acknowledges that the development is subject to a sewer recapture amount of \$0.00 per unit, payable at time of planning clearance sewer service application.

## **SECTION 9** **PERFORMANCE GUARANTEE**

9.1 Security Required. In order to secure the construction and installation of the public and other required Project improvements, whether on-site or off-site, above described and as shown in the development plan for the Property and all accompanying documents, drawings and plans submitted for the Project Plat, for which Developer is responsible, and in accordance with Section 17.21.100 of the Fruita Municipal Code, Developer shall furnish the City with: (a) \_\_ cash to be deposited in an escrow account that is acceptable to the City pursuant to the Escrow and Disbursement Agreement attached hereto as Exhibit " \_\_ " and incorporated herein by this reference; or (b)\_\_\_ an irrevocable standby letter of credit that is acceptable to the City; or (c)\_\_\_ a performance bond issued by a surety approved by the City, in an amount equal to one hundred ten percent (110%) of the estimated cost of said facilities.

9.2 Delivery of Security. Developer shall furnish to the City the security required by this Section and subsection 17.21.100(B) of the Fruita Municipal Code prior to issuance of and planning clearance for the Property. Unless expressly authorized by the City, the Developer shall not commence any work within the Project until such approved security is furnished to the City. Developer shall not convey any lot within the Project to any third party until such approved security is delivered to the City.

9.3 Special Letter of Credit Standards. In the event the Developer elects to deliver to the City an irrevocable letter of credit as a performance guarantee, the letter of credit shall be payable at sight to the City, or its designee, and will bear an expiration date of not earlier than two (2) years from the date of issuance. The Developer shall renew such letter of credit as necessary in order to secure the performance and completion of the public and other required Project improvements for which Developer is responsible in accordance with this Agreement, without further notice from the City. If the Developer fails to provide the City a satisfactory substitute letter of credit at least thirty (30) days prior to the expiration date of the letter of credit previously delivered, the City may, at its sole option, draw the full amount of the letter of credit and hold the proceeds thereof as a performance guarantee deposit. The proceeds of such draw shall be deposited in a federally insured interest-bearing account, and all interest earned thereon shall be added to and become part of the performance guarantee deposit.

9.4 Security Standards; Payment Upon Default. The initial performance bond or letter of credit, if applicable, issued pursuant to this Agreement shall bear an expiration date of not earlier than two (2) years from the date of issuance. The Developer shall renew such security as necessary in order to secure the performance and completion of the public and other required on-site and off-site Project improvements in accordance with this Agreement and Section 17.21.100 of the Fruita Municipal Code, without further notice from the City. The performance bond, letter of credit, or escrow funds shall be payable at any time upon presentation of an affidavit by the City stating Developer is in default under this Agreement, has received notice of such default as required by subsection 9.7 of this Agreement and subsection 17.21.100(E) of the Fruita Municipal Code, and has failed to cure such default within the

time set forth in subsection 9.7 of this Agreement and subsection 17.21.100(E) of the Fruita Municipal Code, or in the case of a letter of credit, the Developer has failed to renew the letter of credit as required herein. The performance bond, or letter of credit, or Escrow and Disbursement Agreement shall be in good and sufficient form as approved by the City. In the event of a default by the Developer and compliance with the terms of subsection 9.7 of this Agreement and subsection 17.21.100(E) of the Fruita Municipal Code, the surety or financial institution shall disperse funds, upon written request by the City, or the escrow fund may be drawn upon, showing the proposed payee and the amount to be paid. Copies of any such request shall be sent to the Developer at its last known address.

9.5 Partial Release of Security. In accordance with subsection 17.21.100(C) of the Fruita Municipal Code, upon completion of a certain class of the improvements by the Developer, such as wastewater facilities by way of example, evidenced by a detailed cost breakdown of the completed improvements, the amount of any security issued pursuant to this Agreement may be reduced by up to one hundred percent (100%) of the approved estimated cost for the installation of such class of improvements, upon application of the Developer, and approval by the City. Upon completion of all of the public and other required Project improvements by the Developer, and upon final inspection and approval by the City of all such improvements, the City Council shall further authorize the reduction of the amount of the security guaranteeing the public and other required Project improvements to ten percent (10%) of the total actual cost of such improvements pursuant to subsection 17.21.100(C) of the Fruita Municipal Code.

9.6 Full Release of Security. In accordance with subsection 17.21.100(D) of the Fruita Municipal Code, any performance guarantee issued pursuant to this Agreement shall be fully released and discharged by action of City Council upon expiration of the twenty-four (24) month warranty period, and the correction of any defects discovered during such warranty period. In the event that the correction of defects are not satisfactorily completed upon the expiration of the twenty-four (24) months, the City may require a new performance guarantee and withhold the issuance of planning clearances until a new improvements guarantee is recorded. The warranty period begins on the day City Council approves the Partial Release of Security per subsection 9.5 above.

9.7 Notice of Default. In accordance with subsection 17.21.100(E) of the Fruita Municipal Code, upon the Developer's failure to perform its obligations under this Agreement, as applicable to the Project, all other applicable plans, drawings, specifications and other documents as approved, within the time periods set forth in this Agreement, the City may give written notice to Developer of the nature of the default and an opportunity to be heard before the City Council concerning such default. If such default has not been remedied within thirty (30) days of receipt of the notice or of the date of any hearing before the City Council, whichever is later, (or such reasonable time period as is necessary to cure the default provided that Developer has commenced in good faith to cure the default), the City may then give written notice to the Developer and any surety on the performance bond, issuer of a letter of credit, or escrow agent that the City, as agent for the Developer, is proceeding with the task of installing the public and other required Project improvements in whole or in part.

9.8 Power of Attorney Granted. In accordance with subsection 17.21.100(F) of the Fruita Municipal Code, the Developer hereby designates and irrevocably appoints the Fruita City Manager, as its Attorney-In-Fact and agent for the purpose of completing all public and other necessary improvements required by this Agreement in the event of a default by the Developer. This Agreement

shall be filed in the office of the Clerk and Recorder of Mesa County, Colorado, and shall constitute constructive notice of this Agreement and the power of attorney provided herein. This Agreement and power of attorney contained herein may be enforced by the City pursuant to all legal and equitable remedies available, including an action for specific performance in a court of competent jurisdiction.

9.9 Increase in Amount of Security. In accordance with subsection 17.21.100(G) of the Fruita Municipal Code, if a substantial amount of time elapses between the time of posting of the security and actual construction of the improvements, the City reserves the right to require a reasonable increase in the amount of the applicable security, if necessary because of estimated increased costs of construction.

9.10 Cost Estimate Not Binding. The purpose of the cost estimate described in subsection 9.1 above is solely to determine the amount of security required and may be revised from time to time to reflect the actual costs. No representations are made as to the accuracy of these estimates, and the Developer agrees to pay the actual cost of all such public and other required on-site and off-site Project improvements. Neither the estimated costs nor the amount of the security establishes the maximum amount of the Developer's liability.

9.11 Attorney's Fees. If any legal proceedings are commenced concerning the City's election to complete the public and/or other required Project improvements, as agent for the Developer, against the Developer, its surety, or issuer of the letter of credit, the substantially prevailing party shall be entitled to its costs and reasonable attorney's fees (including legal assistant ' s fees) or the reasonable value of a salaried attorney's time (including legal assistant's time).

## **SECTION 10**

### **INDEMNIFICATION AND INSURANCE**

10.1 Indemnification By Contractors. In accordance with Section 17.21.110 of the Fruita Municipal Code, any contractor employed by the Developer who performs work within rights-of-way or easements dedicated to the City or within other property owned by the City shall indemnify and hold harmless the City of Fruita, its officers, employees, insurers, and self-insurance pool, from and against all liability, claims, and demands, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with work performed by such contractor for the Developer within City rights-of-way, easements or other property, if such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, the act, omission, error, professional error, mistake, negligence, or other fault of such contractor, any subcontractor of the contractor, or any officer, employee, representative, or agent of such contractor or of any subcontractor of the contractor, or which arise out of any workers compensation claim of any employee of the contractor or of any employee of any subcontractor of the contractor. The contractor shall agree to investigate, handle, respond to, and provide a defense for and defend against, any such liability, claims or demands at the sole expense of such contractor. The contractor shall also agree to bear all other costs and expenses related thereto, including court costs and attorney fees, including legal assistant's fees, whether or not any such liability, claims, or demands alleged are groundless, false, or fraudulent.

10.2 Insurance Required. Any contractor employed by the Developer to perform work within rights-of-way or easements dedicated to the City or within any other property owned by the City, shall agree to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands and other obligations assumed by such contractor pursuant to subsection 10.1 of this Agreement and Section 17.21.110 of the Fruita Municipal Code. Such insurance shall be in addition to any other insurance requirements imposed by the Developer or by law. Any such contractor shall not be relieved of any liability, claims, demands or other obligations to be assumed pursuant to subsection 10.1 above or Section 17.21.110 of the Fruita Municipal Code by reason of its failure to procure or maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations, or types.

10.3 Nature and Amounts of Insurance. Any contractor employed by the Developer to perform work within rights-of-way and easements dedicated to the City or other property owned by the City shall procure and maintain, and shall cause any subcontractor of such contractor to procure and maintain, the minimum insurance coverages listed below. Such coverages shall be procured and maintained with forms and insurers acceptable to the City. All coverages shall be continuously maintained to cover all liability, claims, demands and other obligations to be assumed by such contractor pursuant to subsection 10.1 above and Section 17.21.110 of the Fruita Municipal Code. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

10.3.1 Workers Compensation Insurance to cover obligations imposed by applicable Colorado law for any employee engaged in the performance of work, and Employers' Liability insurance with minimum limits of \$500,000.00 each accident, \$500,000.00 disease-policy limit, and \$500,000.00 disease-each employee. Evidence of qualified self-insured status may be substituted for the Workers' Compensation requirements of this paragraph.

10.3.2 General Liability Insurance with minimum combined single limits of \$1,000,000.00 each occurrence and \$1,000,000.00 aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual, and employee acts), blanket contractual independent contractors, products, and completed operations. The policy shall include coverage for explosion, collapse, and underground hazards. The policy shall contain a severability of interests provision.

10.3.3 Comprehensive Automobile Liability Insurance with minimum combined single limits for bodily injury and property damage of not less than \$1,000,000.00 each occurrence and \$1,000,000.00 aggregate with respect to each of a contractor's owned, hired or non-owned vehicles assigned to or used in performance of services within the City's rights-of-way, easements and other property. The policy shall contain a severability of interests provision.

The policies required by subsections 10.3.2 and 10.3.3 above shall be endorsed to include the City of Fruita and the City's officers and employees as additional insureds. Every policy required above shall be primary insurance, and any insurance carried by the City, its officers, or its employees, or carried by or provided through any insurance pool of the City, shall be excess and not contributory

insurance to that provided by the Developer's contractors. No additional insured endorsement to the policy required by subsection 10.3.2 above shall contain any exclusion for bodily injury or property damage arising from completed operations. A contractor shall be solely responsible for deductible losses under any policy required above.

Upon request by the City, the Developer shall provide the City with a certificate of insurance to be completed by the contractor's insurance agent as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect. The certificate shall identify the contract and shall provide that the coverages afforded under the policy shall not be canceled, terminated or materially changed until at least thirty (30) days prior written notice has been given to the City.

10.4 Indemnification by Developer. In addition to the indemnification required in subsection 10.1 above and Section 17.21.110 of the Fruita Municipal Code, the Developer hereby expressly agrees to indemnify and hold the City harmless from and against all claims, costs and liability of every kind and nature, for injury or damage received or sustained by any person or entity, excluding City officers, agents or employees, in connection with, or on account of the performance of work within the Project and elsewhere by such parties, or their agents, contractors or employees pursuant to this Agreement. The Developer further agrees to aid and defend the City in the event that the City is named as a defendant in any action concerning the performance of work by the Developer, or its agents, contractors or employees pursuant to this Agreement except where such suit is brought by the Developer. The Developer shall not be considered an agent or employee of the City for any purpose.

10.5 Governmental Immunity. The parties hereto understand and agree that the City is relying on, and does not waive or intend to waive by any provision contained in this Section, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, Sections 24-10-101, *et. seq.*, C.R.S., as from time to time amended, or otherwise available to the City, its officers, or its employees.

## **SECTION 11**

### **PUBLIC PARKS, OPEN SPACE AND TRAILS**

A Parks, Open Spaces and Trails Impact Fee shall be paid pursuant to Section 17.19.090 of the Fruita Municipal Code. Such fee will be deferred until the time of Planning Clearance for a Building Permit for each individual primary dwelling unit in this subdivision. The impact fee required to be paid for each primary dwelling unit in this subdivision shall be based on the fees in effect at the time of approval of a Planning Clearance for a Building Permit for each individual primary dwelling unit. Such fee shall be paid before approval of a Planning Clearance for a Building Permit for each individual primary dwelling unit in this subdivision.

The Developer acknowledges that such requirements are roughly proportional to the impacts resulting from development of the Property.

**SECTION 12**  
**SCHOOL LAND DEDICATION**

A School Land Dedication Fee shall be paid pursuant to Section 17.19.110 of the Fruita Municipal Code. Such fee will be deferred until the time of Planning Clearance for a Building Permit for each individual primary dwelling unit in this subdivision. The impact fee required to be paid for each primary dwelling unit in this subdivision shall be based on the fees in effect at the time of approval of a Planning Clearance for a Building Permit for each individual primary dwelling unit. Such fee shall be paid before approval of a Planning Clearance for a Building Permit for each individual primary dwelling unit in this subdivision.

The Developer acknowledges that such requirements are roughly proportional to the impacts resulting from development of the Property.

**SECTION 13**  
**TRANSPORTATION IMPACT FEE**

A Transportation Impact Fee shall be paid pursuant to Section 17.19.130 of the Fruita Municipal Code. Such fee will be deferred until the time of Planning Clearance for a Building Permit for each individual primary dwelling unit in this subdivision. The impact fee required to be paid for each primary dwelling unit in this subdivision shall be based on the fees in effect at the time of approval of a Planning Clearance for a Building Permit for each individual primary dwelling unit. Such fee shall be paid before approval of a Planning Clearance for a Building Permit for each individual primary dwelling unit in this subdivision.

The Developer acknowledges that such requirements are roughly proportional to the impacts resulting from development of the Property.

**SECTION 14**  
**CHIP AND SEAL IMPACT FEE**

A Chip & Seal Fee shall be paid pursuant to Section 17.19.140 of the Fruita Municipal Code. Such fee will be deferred until the time of Planning Clearance for a Building Permit for each individual primary dwelling unit in this subdivision. The impact fee required to be paid for each primary dwelling unit in this subdivision shall be based on the fees in effect at the time of approval of a Planning Clearance for a Building Permit for each individual primary dwelling unit. Such fee shall be paid before approval of a Planning Clearance for a Building Permit for each individual primary dwelling unit in this subdivision. Such fee shall be shared proportionately over the 40 primary dwelling units in this subdivision.

Pursuant to Section 17.19.140 of the Fruita Municipal Code, a Chip and Seal Impact Fee shall be paid based on 2,939 square yards of new asphalt pavement. The cost of the Chip and Seal Impact Fee shall be proportionally applied over the 40 (number of dwelling units in this subdivision) dwelling units which equates to 73.48 square yards per dwelling unit.

**SECTION 15**  
**DRAINAGE IMPACT FEE**

Pursuant to Section 17.19.150 of the Fruita Municipal Code, a Drainage Impact Fee shall be paid for each building lot in this subdivision. The Drainage Impact Fee required for the entire Subdivision based on the fees currently in effect is \$22,615.82.

The Drainage Impact Fee identified above will be deferred until the time of Planning Clearance for a Building Permit for each individual primary dwelling unit in this subdivision. The impact fee required to be paid for each primary dwelling unit in this subdivision shall be based on the fees in effect at the time of approval of a Planning Clearance for a Building Permit for each individual primary dwelling unit. Such fee shall be paid before approval of a Planning Clearance for a Building Permit for each primary individual dwelling unit in this subdivision. Such fee shall be shared proportionately over the 40 primary dwelling units in this Subdivision which equates to \$565.40 per dwelling unit.

The Developer acknowledges that such requirement(s) are roughly proportional to the impacts generated from development of the Property.

**SECTION 16**  
**WASTEWATER RECOVERY FEES**  
**AND REIMBURSEMENT/RECAPTURE AGREEMENTS**

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**SECTION 17**  
**REIMBURSEMENT OF COSTS**

17.1 Review Costs and Fees. In accordance with Section 17.01.110 of the Fruita Municipal Code, the Developer shall pay to the City all required review fees. In addition, pursuant to subsection 17.01.110(D) of the Fruita Municipal Code, the Developer shall be responsible for all extraordinary review costs. Provided, however, upon request, the Developer shall receive detailed invoices reflecting the nature and description of each such charge so incurred by the City.

17.2 Inspection Costs. Pursuant to subsection 17.01.110(C) of the Fruita Municipal Code, prior to the approval and acceptance of the construction and installation of the required public and other Project improvements, the Developer shall pay to the City the inspection review fee for all inspections of such improvements made by or conducted at the direction of the City. In addition, the Developer shall be responsible for any extraordinary inspection costs.

**SECTION 18**  
**ENFORCEMENT**

18.1 Default; Notice; Termination. In accordance with Section 17.21.120 of the Fruita Municipal Code, in the event of any default or breach by the Developer of an applicable covenant, term, condition, or obligation under this Agreement, and if such default or breach continues after notice thereof and opportunity of a hearing as set forth in subsection 9.7 of this Agreement and subsection 17.21.100(E) of the Fruita Municipal Code, this Agreement may be forthwith terminated, at the option of the City. Any declaration of termination of the Agreement shall be effective only after and upon a resolution to that effect duly adopted by the City Council. All rights concerning remedies or attorney's fees shall survive any termination of this Agreement.

18.2 Legal Action. The parties to this Agreement shall have all rights available at law or in equity to enforce the terms of this Agreement, including the right of specific performance. In the event that any action is filed or maintained by any party in relation to this Agreement, the substantially prevailing party shall be entitled to its costs and reasonable attorney's fees (including legal assistant's fees) or the reasonable value of a salaried attorney's time (including legal assistant's time).

18.3 Other Remedies Available to City. In the event the Developer fails to construct any public or other required on-site and off-site Project improvements in accordance with the terms and conditions of this Agreement, following the issuance of the performance guarantee as set forth in Section 9 of this Agreement, the City may exercise any of the remedies set forth in Section 9 of this Agreement or Section 17.21.100 of the Fruita Municipal Code. Alternatively, the City may assign the proceeds of the letter of credit, performance bond, or escrow funds to a subsequent developer or a lender who has acquired the Project by purchase, foreclosure or otherwise who will then have the same rights of completion as the City if and only if the subsequent developer or lender agrees in writing to complete the unfinished improvements. In addition, the City also may suspend Subdivision Final Plat approval during which time the Developer will have no right to sell, transfer, or otherwise convey tracts or lots within the Subdivision without the express written approval of the City or until the improvements are completed and accepted by the City provided, however, such suspension shall not affect (a) the annexation of the Subdivision to the City; (b) the prior conveyance of any lots or parcels within the Subdivision; (c) any right arising from City permits, approvals or other entitlements for the Property which were granted or approved prior to, concurrently with, or subsequent to the approval of this Agreement and the Subdivision Final Plat; or (d) the parties' rights pursuant to subsection 22.5 below. These remedies are cumulative in nature.

**SECTION 19**  
**FINAL PLAT APPROVAL**

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**SECTION**  
**20**  
**CONVEYANCES**  
**PROHIBITED**

20.1 Recording of Subdivision Final Plat Required. The Owner shall not grant, sell or convey any lot, lots, or other properties subject to this Agreement in compliance with subsection 9.3 above.

20.2 Improvements Agreement Required. If this Agreement is only for a portion or Phase of a Subdivision for which a valid Subdivision Final Plat already exists, the Developer shall not grant, sell or convey any lot or lots not covered by this or a previous Improvements Agreement without the express written consent of the City. The intent of this subsection is to prevent the sale of legally platted lots within the Subdivision for which public infrastructure does not exist or for which an Improvements Agreement has not yet been executed.

**SECTION 21**  
**VESTED RIGHTS - VACATION OF FINAL**  
**PLAT**

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**SECTION 22**  
**MISCELLANEOUS PROVISIONS**

22.1 Waiver of Defects. In executing this Agreement, Developer waives all rights it may have concerning defects, if any, of the form or substance of this Agreement, and the formalities whereby it is executed; concerning the power of the City to impose conditions on Developer as set forth herein; and concerning the procedure, substance and form of the ordinances or resolutions adopting this Agreement.

22.2 Non-Suit. The City's approval of the Approval Document and this Agreement shall not make it liable for any loss or damage suffered within or by use of the Project for any act, condition or omission occurring or arising out of or in connection with the City's approval of the Approval Document. Neither Developer nor anyone acting through it shall attempt to hold the City liable for any loss or damages arising out of or in connection with the City's approval or the Approval Document or the Project.

22.3 Failure to Exercise Rights. No waiver of any provision of this Agreement will be deemed or constitute a waiver of any other provision, nor will it be deemed or constitute a continuing waiver unless expressly provided for by written amendment to this Agreement signed by the City and Developer nor will the waiver of any default under this Agreement be deemed a waiver of any subsequent default or defaults of the same type. The City's failure to exercise any right under this Agreement will not constitute the approval of any wrongful act by the Developer or the acceptance of any improvement.

22.4 Complete Agreement. This Agreement together with the Approval Document contain all of the understandings, conditions and agreements between the City and the Developer relating to

the Project at this time, and no other prior or current representation, oral or written, shall be effective or binding upon the City or the Developer, except for representations made by the Developer, or its agents, or the City Council, or City staff members at public hearings concerning approval of the Project, not in conflict with the express provisions of this Agreement.

22.5 Enabling Ordinances Required. To the extent required by law and by the terms of this Agreement, the obligations and covenants of the City are conditional upon the adoption by the City of appropriate enabling ordinances.

22.6 Attorneys Fees. In the event that any action is filed or maintained by any party in relation to this Agreement, the substantially prevailing party shall be entitled to its costs and reasonable attorney fees (including legal assistant's fees) or the reasonable value of a salaried attorney's time (including legal assistant's time). All rights concerning remedies or attorney's fees shall survive termination of this Agreement.

22.7 Authorization. The signatories to this Agreement affirm and warrant that they are fully authorized to enter into and execute this Agreement, and all necessary actions, notices, meetings, and/or hearings pursuant to any law required to authorize their execution of this Agreement have been made.

22.8 Amendments. This Agreement may be amended from time to time by written Agreement duly authorized by the parties to this Agreement.

22.9 Representations of City Officials. It is expressly understood that the City cannot be legally bound by the representations of any of its officers or agents or their designees except in accordance with the Fruita Municipal Code and ordinances, and that the Developer when dealing with the City, act at their own risk as to any representation or undertaking by the City or its officers or agents or their designees which is subsequently held unlawful by a court of law, which is in accordance with the laws of the State of Colorado. Provided, however, that this subsection shall not be construed to limit the rights and remedies of the parties otherwise provided by law.

22.10 Covenants. The provisions of this Agreement shall be binding on all subsequent owners of the Property as covenants running with the Property, to be released only by the City of Fruita, and the benefits and burdens of this Agreement shall bind and inure to the benefit of all estates and interests in the Property and all successors in interest to the parties to this Agreement, except as otherwise provided herein.

22.11 Notices. Any notice required or permitted by this Agreement will be deemed effective when personally delivered in writing, or three (3) days after notice is deposited with the U.S. Postal Service, postage prepaid, certified, return receipt requested, addressed as follows:

If to City:                   325 E. Aspen Ave.  
Fruita, Colorado 81521  
Attn: Community Development Department Director

If to Developer:           Sunshine of Delta, Inc.

Attn: PO Box 516, Fruita, CO 81521  
John Moir

These addresses shall remain valid until notice of a change of address is given to the other party in accordance herewith.

22.12 Time of the Essence. Time is of the essence of this Agreement.

22.13 Jurisdiction of Courts. This Agreement is made and delivered within the State of Colorado, and the laws of the State of Colorado shall govern its interpretation, validity, and enforceability. Personal jurisdiction and venue for any civil action commenced by any of the parties to this Agreement whether arising out of or relating to the Agreement, a letter of credit, Escrow and Disbursement Agreement, or performance bond will be deemed to be proper only if such action is commenced in the District Court for Mesa County, Colorado. The Developer and issuer of any letter of credit or performance bond pursuant to this Agreement, expressly waive their right to bring such action in or to remove such action to any other court, whether State or federal.

22.14 Rights of Persons Not a Party. No person or entity who or which is not a party to this Agreement will have any right of action under this Agreement.

22.15 Provisions Deemed Severable. If any part, term or provision of this Agreement is held by the courts to be illegal or otherwise unenforceable, such illegality or unenforceability will not affect the validity of any other part, term, or provision, and the rights of the parties will be construed as if the part, term, or provision was never part of the Agreement.

22.16 Assignment of Rights; Release of Obligations. The benefits of this Agreement to the Developer are personal and may not be assigned without the express written approval of the City. Such approval may not be unreasonably withheld, but any unapproved assignment is void. Notwithstanding the foregoing, the burdens of this Agreement are personal obligations of the Developer and also will be binding on the heirs, successors, and assigns of the Developer. There is no prohibition on the right of the City to assign its rights under this Agreement. The City will release the original Developer's performance guarantee if it accepts new security from any developer or lender who obtains the Property. However, no act of the City will constitute a release of the original Developer from its liability under this Agreement.

22.17 No Waiver of Immunity. Nothing contained in this Agreement constitutes a waiver of the City's sovereign immunity or governmental immunity under any applicable State law.

22.18 Recordation of Agreement. The City shall record a copy of this Agreement in the office of the Clerk and Recorder of Mesa County, Colorado.

22.19 Execution of Other Documents. The parties agree to execute any additional documents and to take any additional actions necessary to carry out the terms of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the day and year first above written.

CITY OF FRUITA, COLORADO, a home rule municipality acting by and through its City Council,

By: \_\_\_\_\_  
Mayor

ATTEST:  
\_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
Developer

Title: \_\_\_\_\_

STATE OF COLORADO )  
 ) ss.  
COUNTY OF MESA )

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, Mayor, and \_\_\_\_\_, City Clerk, respectively, of the City of Fruita, Colorado.

WITNESS MY HAND AND OFFICIAL SEAL.

My commission expires:

\_\_\_\_\_  
Notary Public

STATE OF COLORADO )  
 ) ss.  
COUNTY OF MESA )

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ and \_\_\_\_\_.

WITNESS MY HAND AND OFFICIAL SEAL.

My commission expires:

\_\_\_\_\_  
Notary Public

EXHIBIT A TO THE SUBDIVISION IMPROVEMENTS AGREEMENT

**PROPERTY DESCRIPTION**

Lots 1 through 14 in Block 1, Lots 1 through 9 in Block 2, Lots 13 through 20 in Block 2 and Lots 11 through 19 in Block 3, inclusive, of RED CLIFFS MOBILE HOME VILLAGE NO. 2.

**EXHIBIT B TO THE SUBDIVISION IMPROVEMENTS AGREEMENT**

**EXHIBIT B**

**IN RE: Red Cliffs Mobile Home Village No. 2 Phase 2**

Name of Subdivision

**LOCATION: Red Cliffs Drive & Clements Way**

Location of Subdivision

Intending to be legally bound, the undersigned Developer hereby agrees to provide throughout the above-named Subdivision the following improvements that shall be constructed in accordance with the City of Fruita or applicable special district standards.

<b>Class of Improvements</b>	<b>Qty</b>	<b>Unit</b>	<b>Unit Cost</b>	<b>Total Cost</b>	<b>Compl. Date</b>
(1) Mobilization	1.00	L.S.	\$ 5,000.00	\$ 5,000.00	
(2) Utility relocation		L.S.		\$ -	
(3) Stormwater control features		L.S.		\$ -	
Earth berm	1,700.00	L.F.	\$ 3.00	\$ 5,100.00	
Vehicle track pad	1.00	Ea.	\$ 1,500.00	\$ 1,500.00	
(4) Site grading (original brush, ground leveling)	1.00	L.S.	\$ 16,982.16	\$ 16,982.16	
Excavation & embankment	1,500.00	C.Y.	\$ 5.88	\$ 8,820.00	
(5) Sanitary Sewer				\$ -	
Trenching		L.F.		\$ -	
Pipe, 8" dia.	1,329.00	L.F.	\$ 23.68	\$ 31,470.72	
Pipe, 10" dia.		L.F.		\$ -	
Pipe, ____" dia.		L.F.		\$ -	
Manholes, 4' dia., standard	4.00	L.F.	\$ 2,880.20	\$ 11,520.80	
Manholes, ____' dia., standard		L.F.		\$ -	
Manholes, ____' dia., drop		L.F.		\$ -	
Laterals, (service lines) 4" dia.		L.F.		\$ -	
Laterals ____ dia.		L.F.		\$ -	
Sewer services (laterals)	40.00	Ea.	\$ 854.86	\$ 34,194.40	
Sewer accessories (lift station, holding tank sand/oil interceptors)				\$ -	
_____		Ea.		\$ -	
_____		Ea.		\$ -	
_____		Ea.		\$ -	
Other				\$ -	
Connect to existing sewer manhole	2.00	Ea.	\$ 2,017.08	\$ 4,034.16	
Adjust manholes to grade	4.00	Ea.	\$ 450.00	\$ 1,800.00	
(6) Domestic Water				\$ -	
Trenching		L.F.		\$ -	
Main, 8" dia.	855.00	L.F.	\$ 24.06	\$ 20,571.30	
Laterals (service lines)	40.00	Ea.	\$ 885.64	\$ 35,425.60	
Meter boxes		Ea.		\$ -	
Fire hydrants (Ts, valves, lateral)	2.00	Ea.	\$ 5,899.16	\$ 11,798.32	
Valves (8" gate valves)	3.00	Ea.	\$ 2,149.51	\$ 6,448.53	
Other				\$ -	
Connect to Existing Water Line	2.00	Ea.	\$ 651.00	\$ 1,302.00	
Adjust Valve Box to Grade	4.00	Ea.	\$ 450.00	\$ 1,800.00	

Class of Improvements	Qty	Unit	Unit Cost	Total Cost	Compl. Date
(7) Storm Sewer					
Trenching		L.F.		\$ -	
Pipe, main, _____ dia.	157.00	L.F.	\$ 55.99	\$ 8,790.43	
Pipe, main, _____ dia.		L.F.		\$ -	
Pipe, lateral, _____ dia.		L.F.		\$ -	
Pipe, lateral, _____ dia.		L.F.		\$ -	
Drain inlet, single		Ea.		\$ -	
Drain inlet, double		Ea.		\$ -	
Drain inlet, triple		Ea.		\$ -	
Storm drain inlet modification	1.00	Ea.	\$ 3,172.56	\$ 3,172.56	
Manholes, shallow, 4' dia.		Ea.		\$ -	
Manholes, shallow, ____ dia.		Ea.		\$ -	
Manholes, standard, 4' dia.		Ea.		\$ -	
Manholes, standard, ____' dia.		Ea.		\$ -	
Water Quality Basin	1.00	Ea.	\$ 5,601.63	\$ 5,601.63	
Excavation		L.S.		\$ -	
Pipe, _____ dia.		L.F.		\$ -	
Outlet boxes and controls		Ea.		\$ -	
Manholes _____ dia.		Ea.		\$ -	
Other _____				\$ -	
_____				\$ -	
(8) Irrigation					
Trenching	1,300.00	LF	\$ 8.00	\$ 10,400.00	
Existing ditch or pipe removal				\$ -	
Gravity flow pipe, _____ dia.				\$ -	
Pressurized pipe, 4" dia.	1,300.00	LF	\$ 3.00	\$ 3,900.00	
Mains, _____ dia.				\$ -	
Diversion structure				\$ -	
Flow meter				\$ -	
Risers and valves	40.00	EA	\$ 100.00	\$ 4,000.00	
Pumps and controls				\$ -	
Pumphouse				\$ -	
Storage vault				\$ -	
Other _____				\$ -	
_____				\$ -	







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## AGENDA ITEM COVER SHEET

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**TO:** FRUITA CITY COUNCIL, MAYOR

**FROM:** SAM ATKINS, CITY ENGINEER

**DATE:** APRIL 21, 2020

**RE:** RESOLUTION 2020-22 APPROVAL OF THE PURCHASE OF REAL ESTATE FOR ROAD RIGHT OF WAY AND APPROVAL OF A DEED AND AGREEMENT FOR MULTI-PURPOSE EASEMENTS FOR THE K.4 ROAD INFRASTRUCTURE IMPROVEMENTS PROJECT AUTHORIZING THE CITY MANAGER TO SIGN THE CONTRACTS & AGREEMENTS

### **BACKGROUND**

Mesa County Valley School District 51 prioritized the construction of a new elementary school (Monument Ridge Elementary) in Fruita and selected a parcel of land northeast of the intersection of K.4 Road and Fremont Street for its construction. The school is scheduled to open for the fall semester of 2020. With potentially 450 students or more and the newly generated traffic associated with the school, the City prioritized the construction of K.4 Road from Pine St. to Fremont St. and applied for a Department of Local Affairs Grant in 2019 to help with construction costs. Unfortunately, the City was not successful in being awarded the grant and therefore adjusted the scope of improvements to fit the available budget.

The revised scope includes constructing full pavement width and curb, gutter, and sidewalk on both sides of K.4 Road from Fremont St. to Capricorn Ave./Carlotta Ct.

In completing this construction work, there are 4 locations where additional right of way is required in order to construct the improvements to the City design standards and maintain the improvements within the right of way and multi-purpose easements.

### **FISCAL IMPACT**

This project was budgeted in the 2020 budget and funds for right of way and easement acquisition will be drawn from the K.4 Road budget.

### **APPLICABILITY TO CITY GOALS AND OBJECTIVES**

This project meets a wide variety of goals established and has been specifically prioritized by the City Staff.

### **OPTIONS AVAILABLE TO COUNCIL**

The City Council is required to take formal action to approve and accept these rights-of-way and easements. The City Council has the following options:

- 1. APPROVE RESOLUTION 2020-22 TO APPROVE A CONTRACT TO BUY REAL ESTATE, AND TO APPROVE THE PURCHASE OF RIGHT OF WAY AND MULTI-PURPOSE EASEMENTS FOR THE CONSTRUCTION OF K.4 ROAD IMPROVEMENTS AUTHORIZING THE CITY MANAGER TO SIGN THE CONTRACTS & AGREEMENTS**
  
- 2. DENY RESOLUTION 2020-22 TO APPROVE A CONTRACT TO BUY REAL ESTATE, AND TO APPROVE THE PURCHASE OF RIGHT OF WAY AND MULTI-PURPOSE EASEMENTS FOR THE CONSTRUCTION OF K.4 ROAD IMPROVEMENTS AUTHORIZING THE CITY MANAGER TO SIGN THE CONTRACTS & AGREEMENTS**

**RECOMMENDATION**

It is the recommendation of staff that Council:

**APPROVE RESOLUTION 2020-22 TO APPROVE A CONTRACT TO BUY REAL ESTATE, AND TO APPROVE THE PURCHASE OF RIGHT OF WAY AND MULTI-PURPOSE EASEMENTS FOR THE CONSTRUCTION OF K.4 ROAD IMPROVEMENTS AUTHORIZING THE CITY MANAGER TO SIGN THE CONTRACTS & AGREEMENTS**

**RESOLUTION 2020-22**

**A RESOLUTION APPROVING A CONTRACT TO BUY REAL ESTATE FOR ROAD RIGHT OF WAY AND APPROVING A DEED AND AGREEMENT FOR MULTI-PURPOSE EASEMENTS FOR THE K.4 ROAD INFRASTRUCTURE IMPROVEMENTS PROJECT**

**WHEREAS**, Mesa County Valley School District 51 prioritized the completion of a new elementary school located at 1501 K.4 with an anticipated opening in the fall of 2021; and

**WHEREAS**, the City has prioritized the construction of improvements to K.4 Road to provide safer vehicular and pedestrian travel; and

**WHEREAS**, the City of Fruita has expended considerable resources toward the planning and design processes necessary for the road improvements construction; and

**WHEREAS**, the owners of the property subject to the right of way and multi-purpose easement acquisition required to construct the improvements on K.4 Road are:

703 Carlotta Ct. (2697-093-46-003) - Jerry O'Brien and Dorothy L. O'Brien  
702 Carlotta Ct. (2697-093-46-012) - Russell H. Bingham and Marnie Bingham  
No Address (2697-093-45-000) - Monument Glen HOA  
No Address (2697-093-56-000) – Monument Glen HOA; and

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL, THAT THE CITY OF FRUITA HEREBY APPROVES A CONTRACT TO BUY REAL ESTATE FOR ROAD RIGHT OF WAY AND APPROVE A DEED AND AGREEMENT FOR MULTI-PURPOSE EASEMENTS FOR THE K.4 ROAD INFRASTRUCTURE IMPROVEMENTS PROJECT AND AUTHORIZES THE CITY MANAGER TO SIGN THE CONTRACTS AND AGREEMENTS**

**PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL OF THE CITY OF FRUITA, COLORADO THIS 21<sup>st</sup> DAY OF APRIL, 2020.**

CITY OF FRUITA, COLORADO

\_\_\_\_\_  
Joel Kincaid, Mayor

ATTEST:

\_\_\_\_\_  
Margaret Sell, City Clerk

**CONTRACT TO BUY AND SELL REAL ESTATE IN LIEU OF  
CONDEMNATION FOR COUNTY ROAD RIGHT-OF-WAY AT  
702 CARLOTTA CT. – CITY OF FRUITA, MESA COUNTY, COLORADO**

THIS CONTRACT is made and entered into this 11 day of APRIL, 2020 by and between **THE CITY OF FRUITA, COLORADO**, a political subdivision of the State of Colorado (“Buyer”), and **Russell H. and Marnie Bingham**, whose legal address is 702 Carlotta Ct., Fruita, CO 81521 (“Seller”).

**RECITALS**

1. Buyer is currently acquiring real property necessary for county road right-of-way at K.4 Rd. Improvements Project in Mesa County, Colorado (the “Project”); and
2. Seller presently owns and has title to certain property, all or a portion of which is required by Buyer necessary for county road right-of-way at K.4 Rd.; and
3. Buyer has authority pursuant to the laws of the State of Colorado to acquire by eminent domain proceedings any property or property interest necessary for county road right-of-way; and
4. The parties desire that Buyer acquire the necessary property or property interest through negotiation rather than by the exercise of the powers of eminent domain; and
5. The amount of money and/or other considerations set forth herein have been mutually established as just compensation;

**NOW, THEREFORE**, in consideration of the promises and other consideration set forth herein, the receipt and adequacy of which is acknowledged, Buyer and Seller agree as follows:

1. **Transfer of Title:** At closing, subject to the tender of payment as required herein, Seller shall execute and deliver a good and sufficient General Warranty Deed to Buyer, conveying fee title interest in the real property described on **Exhibit A** and depicted on **Exhibit B**, both of which are attached hereto and incorporated herein by this reference (the “Property”), free and clear of all liens, including any governmental liens for special improvements installed as of the date of Buyer’s signature hereon, whether assessed or not. Buyer shall prepare the General Warranty Deed. Title shall be conveyed subject to specific Exceptions described by reference to recorded documents as reflected in the Title Documents, utility easements, and the inclusion of the Property within any special taxing district.
2. **Fence Construction:** Upon the written request of Seller, the Buyer agrees to reconstruct a fence on the new right-of-way boundary in accordance with the plans and specifications agreed upon by the parties in writing prior to construction. The Seller shall have the obligation for maintenance of the fence. The Buyer does not make any warranties that the fence will be suitable for any particular purpose, or that the fence complies with the lawful fence requirements of the Colorado Fence Law, C.R.S. § 35-46-101, *et seq.*, and

3. Purchase Price: At closing, Buyer shall **\$2,232.00** to the Seller, pursuant to this Contract, as full satisfaction and full consideration of this Contract (the "Purchase Price"). No earnest money or prepayment is required.
4. Additional Provisions:
  - Buyer agrees to replace the Split-rail fence affected by the Project;
  - Buyer agrees to replace landscaping and curbing to like condition and design;
5. Settlement of Damages: The payment by Buyer of the Purchase Price constitutes full settlement of all and any damages, including any damages to the remainder, occurring to Seller or Seller's property, and includes full compensation for Seller's interest, either present or future, the interest of lienors, and any and all interests, legal or equitable, which are or may be outstanding. Seller shall pay any encumbrance required to be paid at or before closing from the proceeds of this transaction or from any other source.
6. Taxes: Personal property taxes, if any, special taxing district assessments, if any, and general real estate taxes for the year of closing, based on taxes for the calendar year immediately preceding closing, shall be paid by the property owner.
7. Closing Costs: Buyer shall pay all closing service fees, transfer fees and other closing costs, if any.
8. Evidence of Title: Buyer, at Buyer's sole discretion and expense, may obtain a title commitment and purchase title insurance. Buyer reserves the right to object to the status of title to the Property at any time prior to closing, and if Buyer objects to title, Buyer may, at Buyer's sole option, treat this Contract as canceled.
9. Releases and Subordination: Seller shall take all required actions and execute all documents necessary to secure releases of any outstanding liens or encumbrances against, or affecting, the Property. This Contract is expressly subject to the execution of releases or subordinations pertaining to any interests relating to the Property by all outstanding lienors, lessees, or any others with legal or equitable interests in the Property. Failure of Seller to secure the release or subordination of all outstanding interests to the satisfaction of Buyer prior to closing may, Buyer may, at Buyer's sole option, treat this Contract as canceled.
10. Closing: Upon Buyer receiving and recording partial release documents of that certain Deed of Trust United Community Mortgage Corporation signed on December 14, 2011, recorded at the Mesa County Clerk & Recorder's Office on December 20, 2011 at Reception #2594962, and also from that Deed of Trust U.S. Bank National Association signed on August 8, 2017, recorded at the Mesa County Clerk & Recorder's Office on September 1, 2017 at Reception #2812864.

11. Default: If Buyer is in default, Seller may elect to treat this Contract as cancelled and Seller may recover such damages as may be proper. If Seller is in default, Buyer may elect to treat this Contract as cancelled, and Buyer may recover such damages as may be proper, or Buyer may elect to treat this Contract as being in full force and effect and Buyer has the right to specific performance.

12. Time is of the essence in the performance of this Contract.

13. Entire Agreement: This Contract, together with the grant and conveyance documents and covenants referenced herein, constitute the entire agreement between the parties and supersedes and cancels any and all prior Contracts, agreements or proposals, whether written or oral, between the parties relating to the subject matter hereof.

14. Choice of Law, Venue and Attorney's Fees: This Contract shall be construed according to the laws of the State of Colorado and venue for any dispute hereunder shall be in the District Court of the County of Mesa, Colorado. In the event any legal action is instituted to interpret or enforce this Contract, the substantially prevailing party shall be entitled to payment from the other party of its reasonable attorney's fees and costs incurred therein.

15. Binding Effect: When this Contract is executed by Seller and thereafter approved by resolution of the City Council of the City of Fruita, which date of approval shall constitute, the Effective Date, this Contract shall be binding upon Seller and Seller's heirs, devisees, executors, administrators, legal representatives, successors and assigns.

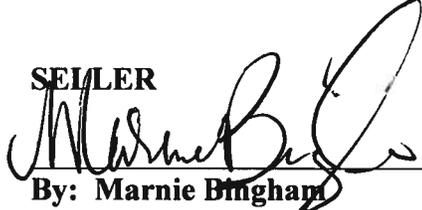
16. Possession: Possession of the Property shall be delivered at closing, or such earlier time as Buyer may determine, in Buyer's sole discretion, provided that prior to taking position prior to closing, Buyer shall deposit the Purchase Price into an escrow account for the benefit of Seller.

WHEREFORE, the parties have executed this Contract as of the date and year first above written.

**SELLER**

  
By: **Russell H. Bingham**

**SELLER**

  
By: **Marnie Bingham**

**BUYER**

By: \_\_\_\_\_

Buyer's Address: 325 E. Aspen Ave., Fruita, Colorado 81521

Buyer's Telephone No: (970) 858-8377 Buyer's Fax No: (970) 858-0210

## **Exhibit "A"**

**Parcel 2697-093-46-012  
Russel & Marnie Bingham  
702 Carlotta Ct.  
Fruita, CO 81521**

### **Legal Description:**

A parcel of land for roadway, utility, and all other public purposes, located in Section 9, T1N R2W, Ute Meridian, in the City of Fruita, Mesa County, Colorado, being more particularly described as follows:

Beginning at the southwest corner of said lot 12;

Thence along the western boundary line of said lot 3 N 0° 07' 52.0" W a distance of 20.00';

Thence S 45° 06' 33.5" E a distance of 28.30';

Thence S 89° 54' 45.0" W a distance of 20.00' to the point of beginning.

Described strip contains:

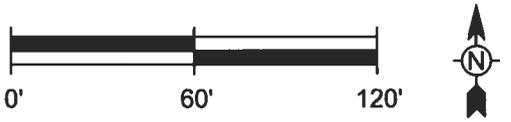
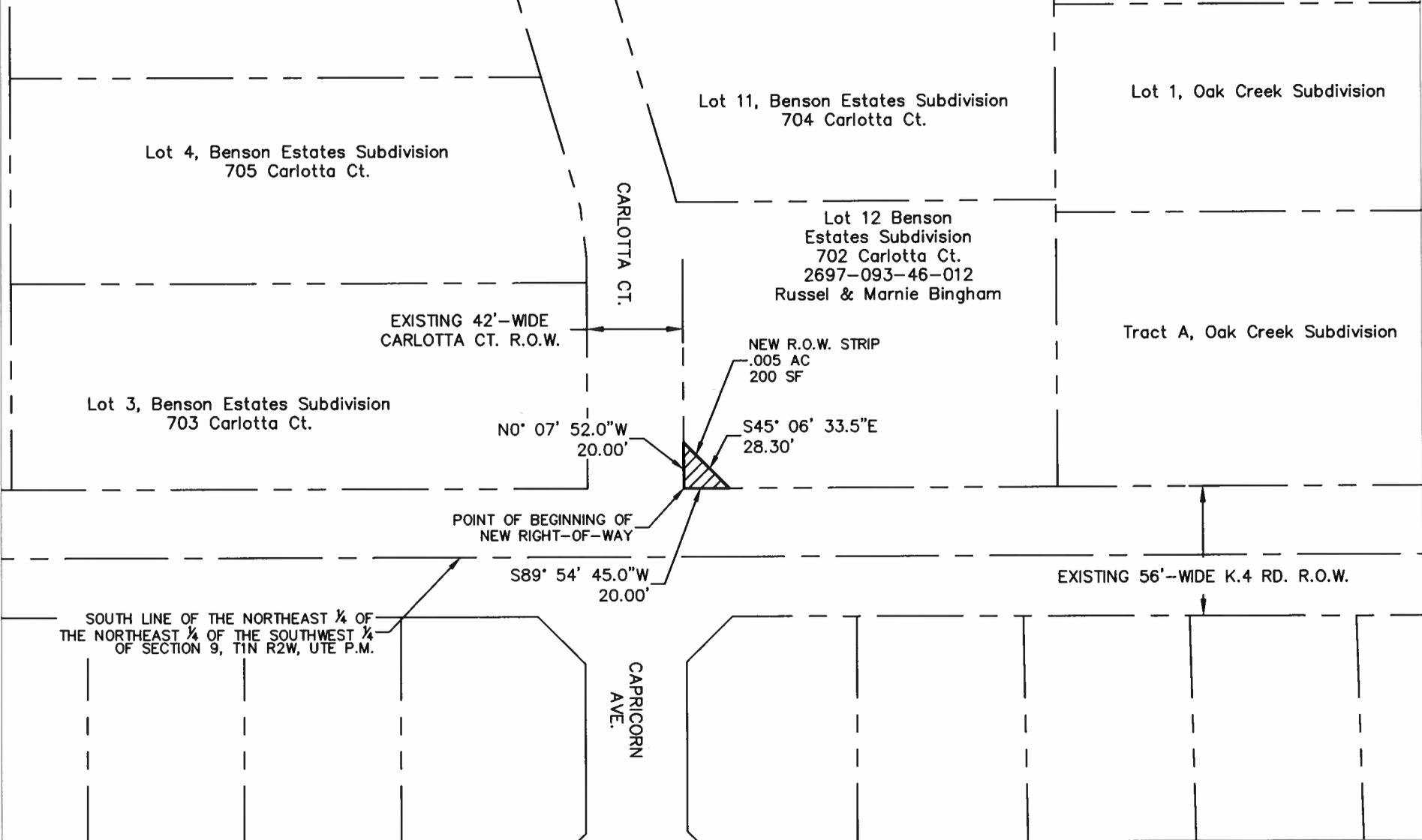
Area: 200.0 SF (.005 AC)

Perimeter: 68.3'

Description authored by Chris Dehmel for the City of Fruita, 325 E. Aspen Ave. Fruita, CO 81521

2697-093-46-012 (BINGHAM)  
Exhibit "B"  
NE1/4 SW1/4 OF SECTION 9  
TOWNSHIP 1 NORTH, RANGE 2 WEST  
UTE MERIDIAN, MESA COUNTY, COLORADO

The sketch and description shown hereon has been derived from subdivision plats and deed descriptions as they appear in the office of the Mesa County Clerk and Recorder. This sketch does not constitute a legal survey, and is not intended to be used as a means for establishing or verifying property boundary lines.



**LOT 12, BENSON ESTATES  
RIGHT-OF-WAY DEDICATION  
EXHIBIT B**

*City of Fruita Engineering Department  
325 E. Aspen Ave.  
Fruita, Colorado 81501  
(970) 858-8377*

**CITY OF FRUITA, COLORADO**  
**MULTI-PURPOSE EASEMENT DEED AND AGREEMENT**

---

This Multi-Purpose Easement Deed and Agreement is made this 11 day of April, 2019, by and between **RUSSELL H. AND MARNIE BINGHAM**, whose legal address 702 Carlotta Ct., Fruita, CO 81521 (“Grantor”) and **THE CITY OF FRUITA, COLORADO**, a political subdivision of the State of Colorado, whose legal address is 325 E. Aspen Ave. Fruita, CO 81521 (“Grantee”).

In exchange for and in consideration of **\$1,000.00**, the receipt and sufficiency of which is hereby acknowledged, Grantor hereby grants and conveys to Grantee and its successors and assigns, a perpetual easement for the installation, operation, maintenance, repair and replacement of public utilities and appurtenances related thereto, together with the right of ingress and egress for persons and equipment, at any time and from time to time, on, along, over, under, through and across that certain real property located in the NE ¼ SW ¼ Section 9, Township 1 north, Range 2 west of the Ute P.M., Mesa County, State of Colorado, as more specifically described as follows, to wit (“Easement Property”):

**See Exhibits A and B**, attached hereto and incorporated herein.

Grantee has the right to enter upon Easement Property, to survey, maintain, operate, repair, replace, control and use the Easement Property, and to remove objects interfering therewith, including the trimming of trees and bushes as may be required to permit the operation of standard utility construction and repair, or the free and unobstructed access to the Easement Property, subject to the terms and conditions contained herein.

Grantor reserves the right to use and occupy the Easement Property for any lawful purpose which is not inconsistent with and which will not interfere with the full use and quiet enjoyment of the rights herein granted; provided however, that Grantors hereby agree that the Easement Property shall not be burdened or overburdened by the installation, construction or placement of any structure or any other item or fixture which may be detrimental to the utilities or facilities of Grantee (or Grantee’s assigns) or which may act to impede or prevent reasonable ingress and egress for workers and equipment on, along, over, under, through and across the Easement Property.

Grantee agrees the work and act of installing, maintaining and repairing utilities and related appurtenances shall be performed with due care using commonly accepted standards and techniques, taking precautions for the protection of persons and property. To the extent allowed by law, all damages to persons or property located on the Easement Property that result from Grantee’s failure to exercise due care, shall be paid for and repaired at the expense of Grantee.

*{Signature & Notary on the Following Page}*

This Multi-Purpose Easement Deed and Agreement, and its terms and conditions shall inure to the benefit of Grantee and shall be binding upon the heirs, successors and assigns of the parties.

GRANTOR

*Russell H. Bingham*  
By: Russell H. Bingham

GRANTOR

*Marnie Bingham*  
By: Marnie Bingham

STATE OF COLORADO )  
COUNTY OF Mesa )



The foregoing instrument was acknowledged before me this 11 day of April, 2019, by Russel H. and Marnie Bingham, Grantor.

Witness my hand and official seal: *Shawn Burd*  
Notary Public

My commission expires: 10/20/21.

## **Exhibit "A"**

**Parcel 2697-093-46-012  
Russel & Marnie Bingham  
702 Carlotta Ct.  
Fruita, CO 81521**

### **Legal Description:**

A strip of land for the installation, operation, maintenance, repair and replacement of public utilities and appurtenances related thereto, together with the right of ingress and egress for persons and equipment, located in Section 9, T1N R2W, Ute Meridian, in the City of Fruita, Mesa County, Colorado, being more particularly described as follows:

Beginning at the southwest corner of said parcel, thence

N 44° 53' 33.5" W a distance of 19.79' to the point of beginning;

Thence N 89° 54' 45.0" W a distance of 11.81';

Thence N 45° 06' 33.5" E a distance of 16.70';

Thence S 0° 07' 52.0" E a distance of 11.81' to the point of beginning.

Described strip contains:

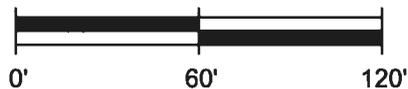
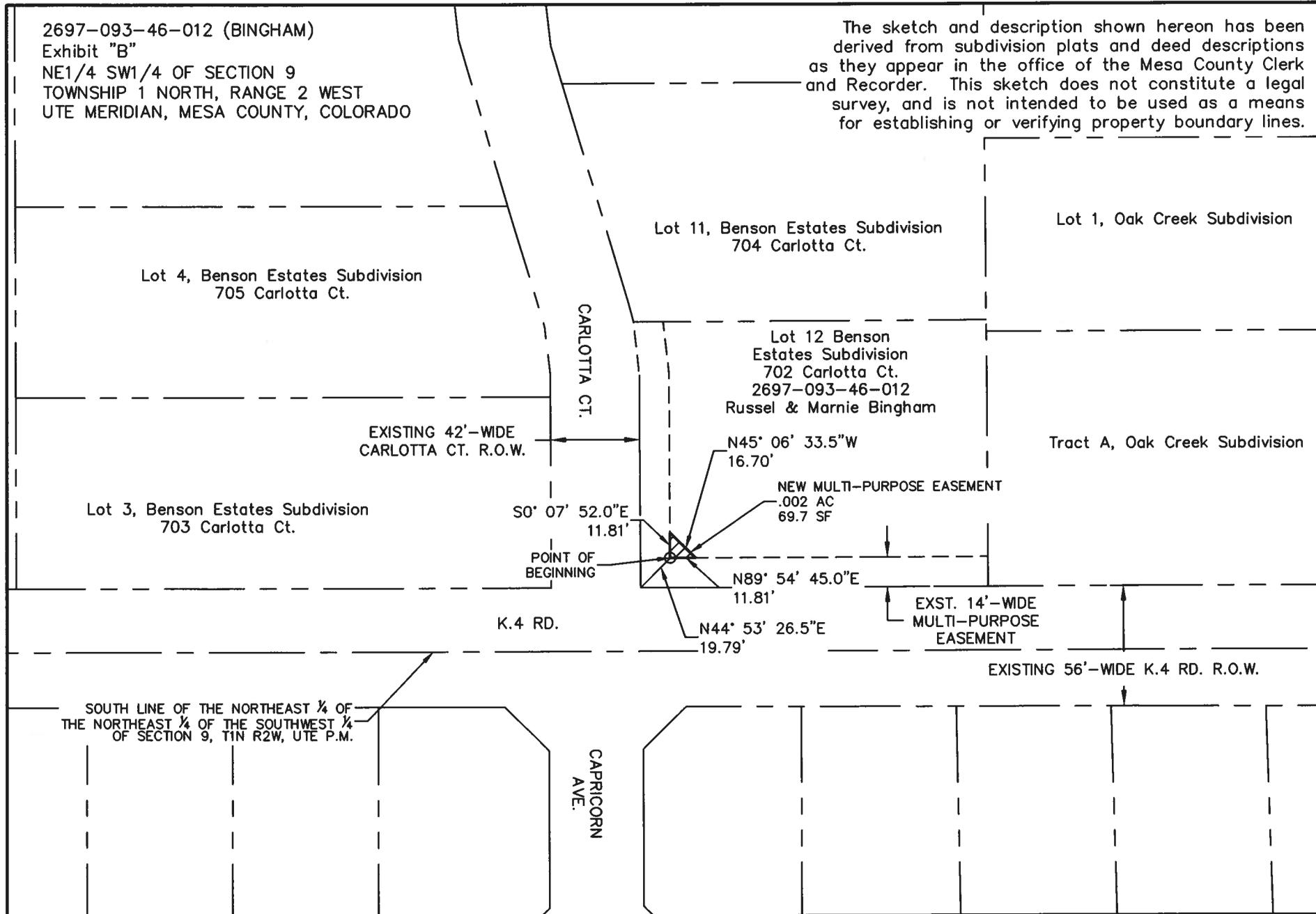
Area: 69.7 SF (.002 AC)

Perimeter: 40.3'

Description authored by Chris Dehmel for the City of Fruita, 325 E. Aspen Ave. Fruita, CO 81521

2697-093-46-012 (BINGHAM)  
 Exhibit "B"  
 NE1/4 SW1/4 OF SECTION 9  
 TOWNSHIP 1 NORTH, RANGE 2 WEST  
 UTE MERIDIAN, MESA COUNTY, COLORADO

The sketch and description shown hereon has been derived from subdivision plats and deed descriptions as they appear in the office of the Mesa County Clerk and Recorder. This sketch does not constitute a legal survey, and is not intended to be used as a means for establishing or verifying property boundary lines.



**LOT 12, BENSON ESTATES MULTI-PURPOSE EASEMENT DEDICATION**  
**EXHIBIT B**

City of Fruita Engineering Department  
 325 E. Aspen Ave.  
 Fruita, Colorado 81501  
 (970) 858-8377

**CONTRACT TO BUY AND SELL REAL ESTATE IN LIEU OF  
CONDEMNATION FOR COUNTY ROAD RIGHT-OF-WAY AT  
703 CARLOTTA CT. – CITY OF FRUITA, MESA COUNTY, COLORADO**

THIS CONTRACT is made and entered into this 26 day of March, 2020 by and between **THE CITY OF FRUITA, COLORADO**, a political subdivision of the State of Colorado (“Buyer”), and **JERRY D. AND DOROTHY L. O’BRIEN**, whose legal address is 703 Carlotta Ct., Fruita, CO 81521 (“Seller”).

**RECITALS**

1. Buyer is currently acquiring real property necessary for county road right-of-way at K.4 Rd. Improvements Project in Mesa County, Colorado (the “Project”); and
2. Seller presently owns and has title to certain property, all or a portion of which is required by Buyer necessary for county road right-of-way at K.4 Rd.; and
3. Buyer has authority pursuant to the laws of the State of Colorado to acquire by eminent domain proceedings any property or property interest necessary for county road right-of-way; and
4. The parties desire that Buyer acquire the necessary property or property interest through negotiation rather than by the exercise of the powers of eminent domain; and
5. The amount of money and/or other considerations set forth herein have been mutually established as just compensation;

**NOW, THEREFORE**, in consideration of the promises and other consideration set forth herein, the receipt and adequacy of which is acknowledged, Buyer and Seller agree as follows:

1. Transfer of Title: At closing, subject to the tender of payment as required herein, Seller shall execute and deliver a good and sufficient General Warranty Deed to Buyer, conveying fee title interest in the real property described on **Exhibit A** and depicted on **Exhibit B**, both of which are attached hereto and incorporated herein by this reference (the “Property”), free and clear of all liens, including any governmental liens for special improvements installed as of the date of Buyer’s signature hereon, whether assessed or not. Buyer shall prepare the General Warranty Deed. Title shall be conveyed subject to specific Exceptions described by reference to recorded documents as reflected in the Title Documents, utility easements, and the inclusion of the Property within any special taxing district.
2. Fence Construction: Upon the written request of Seller, the Buyer agrees to reconstruct a fence on the new right-of-way boundary in accordance with the plans and specifications agreed upon by the parties in writing prior to construction. The Seller shall have the obligation for maintenance of the fence. The Buyer does not make any warranties that the fence will be suitable for any particular purpose, or that the fence complies with the lawful fence requirements of the Colorado Fence Law, C.R.S. § 35-46-101, *et seq.*, and

3. Purchase Price: At closing, Buyer shall **\$2,232.00** to the Seller, pursuant to this Contract, as full satisfaction and full consideration of this Contract (the "Purchase Price"). No earnest money or prepayment is required.

4. Additional Provisions:

- None

5. Settlement of Damages: The payment by Buyer of the Purchase Price constitutes full settlement of all and any damages, including any damages to the remainder, occurring to Seller or Seller's property, and includes full compensation for Seller's interest, either present or future, the interest of lienors, and any and all interests, legal or equitable, which are or may be outstanding. Seller shall pay any encumbrance required to be paid at or before closing from the proceeds of this transaction or from any other source.

6. Taxes: Personal property taxes, if any, special taxing district assessments, if any, and general real estate taxes for the year of closing, based on taxes for the calendar year immediately preceding closing, shall be paid by the property owner.

7. Closing Costs: Buyer shall pay all closing service fees, transfer fees and other closing costs, if any.

8. Evidence of Title: Buyer, at Buyer's sole discretion and expense, may obtain a title commitment and purchase title insurance. Buyer reserves the right to object to the status of title to the Property at any time prior to closing, and if Buyer objects to title, Buyer may, at Buyer's sole option, treat this Contract as canceled.

9. Releases and Subordination: Seller shall take all required actions and execute all documents necessary to secure releases of any outstanding liens or encumbrances against, or affecting, the Property. This Contract is expressly subject to the execution of releases or subordinations pertaining to any interests relating to the Property by all outstanding lienors, lessees, or any others with legal or equitable interests in the Property. Failure of Seller to secure the release or subordination of all outstanding interests to the satisfaction of Buyer prior to closing may, Buyer may, at Buyer's sole option, treat this Contract as canceled.

10. Closing: Upon Buyer receiving and recording partial release documents of that certain Deed of Trust Wells Fargo Bank, N.A. – Mortgage signed on June 15, 2017, recorded at the Mesa County Clerk & Recorder's Office on June 21, 2017 at Reception #2804289.

11. Default: If Buyer is in default, Seller may elect to treat this Contract as cancelled and Seller may recover such damages as may be proper. If Seller is in default, Buyer may elect to treat this Contract as cancelled, and Buyer may recover such damages as may be proper, or Buyer may elect to treat this Contract as being in full force and effect and Buyer has the right to specific performance.

12. Time is of the essence in the performance of this Contract.

13. Entire Agreement: This Contract, together with the grant and conveyance documents and covenants referenced herein, constitute the entire agreement between the parties and supersedes and cancels any and all prior Contracts, agreements or proposals, whether written or oral, between the parties relating to the subject matter hereof.

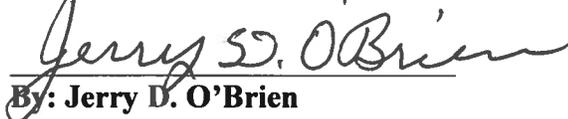
14. Choice of Law, Venue and Attorney's Fees: This Contract shall be construed according to the laws of the State of Colorado and venue for any dispute hereunder shall be in the District Court of the County of Mesa, Colorado. In the event any legal action is instituted to interpret or enforce this Contract, the substantially prevailing party shall be entitled to payment from the other party of its reasonable attorney's fees and costs incurred therein.

15. Binding Effect: When this Contract is executed by Seller and thereafter approved by resolution of the City Council of the City of Fruita, which date of approval shall constitute, the Effective Date, this Contract shall be binding upon Seller and Seller's heirs, devisees, executors, administrators, legal representatives, successors and assigns.

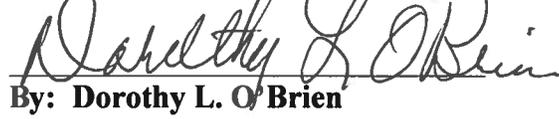
16. Possession: Possession of the Property shall be delivered at closing, or such earlier time as Buyer may determine, in Buyer's sole discretion, provided that prior to taking position prior to closing, Buyer shall deposit the Purchase Price into an escrow account for the benefit of Seller.

WHEREFORE, the parties have executed this Contract as of the date and year first above written.

SELLER

  
By: Jerry D. O'Brien

SELLER

  
By: Dorothy L. O'Brien

BUYER

  
By:

Buyer's Address: 325 E. Aspen Ave., Fruita, Colorado 81521

Buyer's Telephone No: (970) 858-8377  
0210

Buyer's Fax No: (970) 858-

## **Exhibit "A"**

**Parcel 2697-093-46-003  
Jerry & Dorothy O'Brien  
703 Carlotta Ct.  
Fruita, CO 81521**

### **Legal Description:**

A parcel of land for roadway, utility, and all other public purposes, located in Section 9, T1N R2W, Ute Meridian, in the City of Fruita, Mesa County, Colorado, being more particularly described as follows:

Beginning at the southeast corner of said lot 3;

Thence along the southern boundary line of said lot 3 S 89° 54' 45.0" W a distance of 20.00';

Thence N 44° 53' 26.5" E a distance of 28.27';

Thence S 0° 07' 52.0" E a distance of 20.00' to the point of beginning.

Containing approximately:

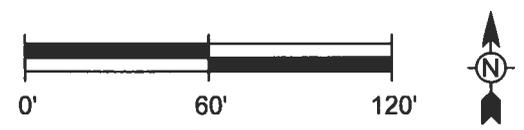
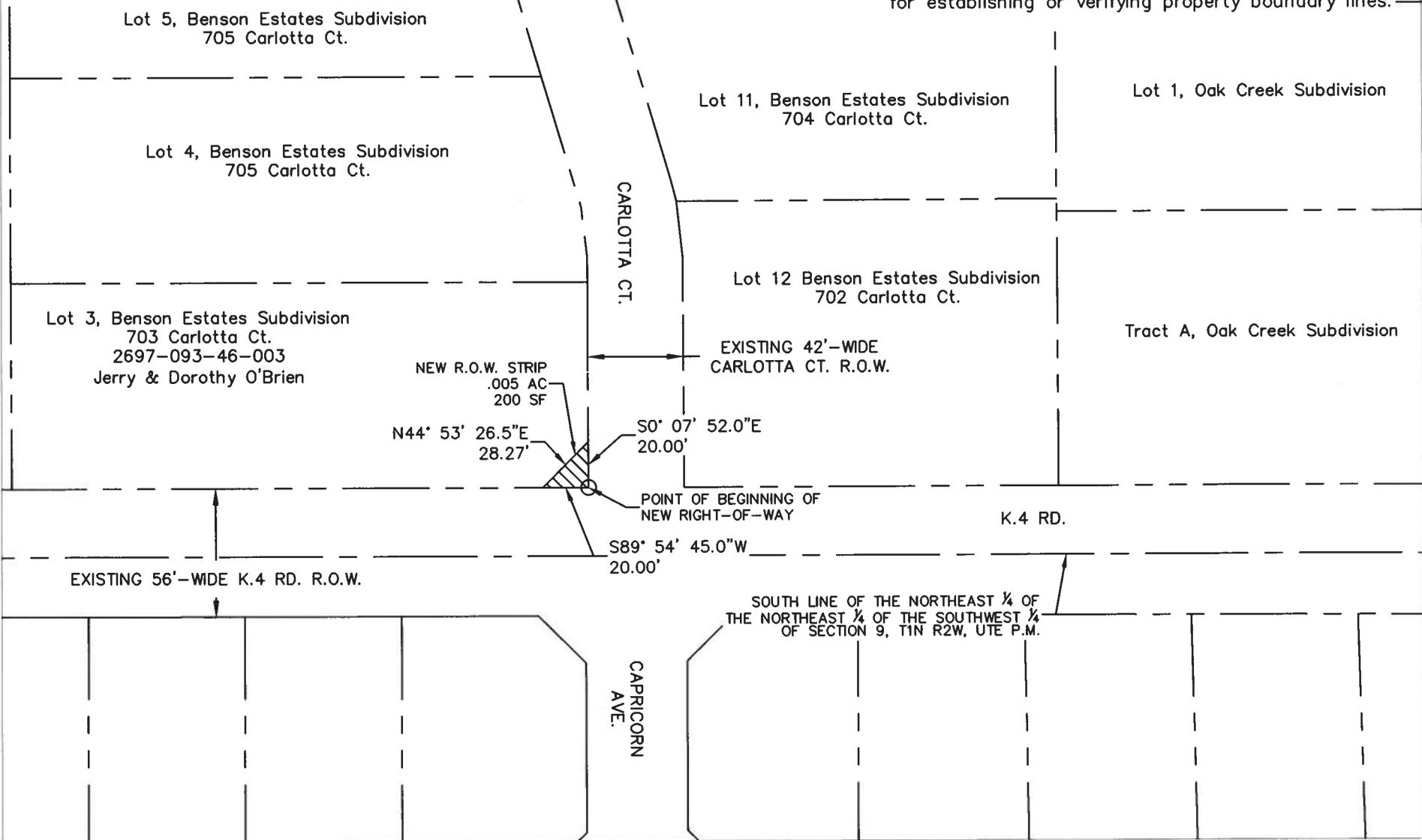
Area: 200 SF (.005 AC)

Perimeter: 68.3'

Description authored by Chris Dehmel for the City of Fruita, 325 E. Aspen Ave. Fruita, CO 81521

2697-093-46-003 (O'BRIEN)  
 Exhibit "B"  
 NE1/4 SW1/4 OF SECTION 9  
 TOWNSHIP 1 NORTH, RANGE 2 WEST  
 UTE MERIDIAN, MESA COUNTY, COLORADO

The sketch and description shown hereon has been derived from subdivision plats and deed descriptions as they appear in the office of the Mesa County Clerk and Recorder. This sketch does not constitute a legal survey, and is not intended to be used as a means for establishing or verifying property boundary lines.



**LOT 3, BENSON ESTATES  
 RIGHT-OF-WAY DEDICATION  
 EXHIBIT B**

City of Fruita Engineering Department  
 325 E. Aspen Ave.  
 Fruita, Colorado 81501  
 (970) 858-8377

**CITY OF FRUITA, COLORADO**  
**MULTI-PURPOSE EASEMENT DEED AND AGREEMENT**

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This Multi-Purpose Easement Deed and Agreement is made this 21 day of March, 2020, by and between **JERRY D. AND DOROTHY L. O'BRIEN**, whose legal address 703 Carlotta Ct., Fruita, CO 81521 ("Grantor") and **THE CITY OF FRUITA, COLORADO**, a political subdivision of the State of Colorado, whose legal address is 325 E. Aspen Ave. Fruita, CO 81521 ("Grantee").

In exchange for and in consideration of **\$505.00**, the receipt and sufficiency of which is hereby acknowledged, Grantor hereby grants and conveys to Grantee and its successors and assigns, a perpetual easement for the installation, operation, maintenance, repair and replacement of public utilities and appurtenances related thereto, together with the right of ingress and egress for persons and equipment, at any time and from time to time, on, along, over, under, through and across that certain real property located in the NE ¼ SW ¼ Section 9, Township 1 north, Range 2 west of the Ute P.M., Mesa County, State of Colorado, as more specifically described as follows, to wit ("Easement Property"):

**See Exhibits A and B**, attached hereto and incorporated herein.

Grantee has the right to enter upon Easement Property, to survey, maintain, operate, repair, replace, control and use the Easement Property, and to remove objects interfering therewith, including the trimming of trees and bushes as may be required to permit the operation of standard utility construction and repair, or the free and unobstructed access to the Easement Property, subject to the terms and conditions contained herein.

Grantor reserves the right to use and occupy the Easement Property for any lawful purpose which is not inconsistent with and which will not interfere with the full use and quiet enjoyment of the rights herein granted; provided however, that Grantors hereby agree that the Easement Property shall not be burdened or overburdened by the installation, construction or placement of any structure or any other item or fixture which maybe detrimental to the utilities or facilities of Grantee (or Grantee's assigns) or which may act to impede or prevent reasonable ingress and egress for workers and equipment on, along, over, under, through and across the Easement Property.

Grantee agrees the work and act of installing, maintaining and repairing utilities and related appurtenances shall be performed with due care using commonly accepted standards and techniques, taking precautions for the protection of persons and property. To the extent allowed by law, all damages to persons or property located on the Easement Property that result from Grantee's failure to exercise due care, shall be paid for and repaired at the expense of Grantee.

*{Signature & Notary on the Following Page}*



## Exhibit "A"

Parcel 2697-093-46-003  
Jerry & Dorothy O'Brien  
703 Carlotta Ct.  
Fruita, CO 81521

### Legal Description:

A strip of land for the installation, operation, maintenance, repair and replacement of public utilities and appurtenances related thereto, together with the right of ingress and egress for persons and equipment, located in Section 9, T1N R2W, Ute Meridian, in the City of Fruita, Mesa County, Colorado, being more particularly described as follows:

Beginning at the southeast corner of said parcel, thence

N 45° 06' 33.5" W a distance of 19.81' to the point of beginning;

Thence S 89° 54' 45.0" W a distance of 11.79';

Thence N 44° 53' 26.5" E a distance of 16.67';

Thence S 0° 07' 52.0" E a distance of 11.79' to the point of beginning.

Described strip contains:

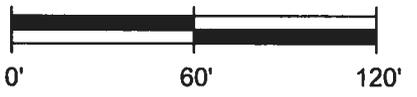
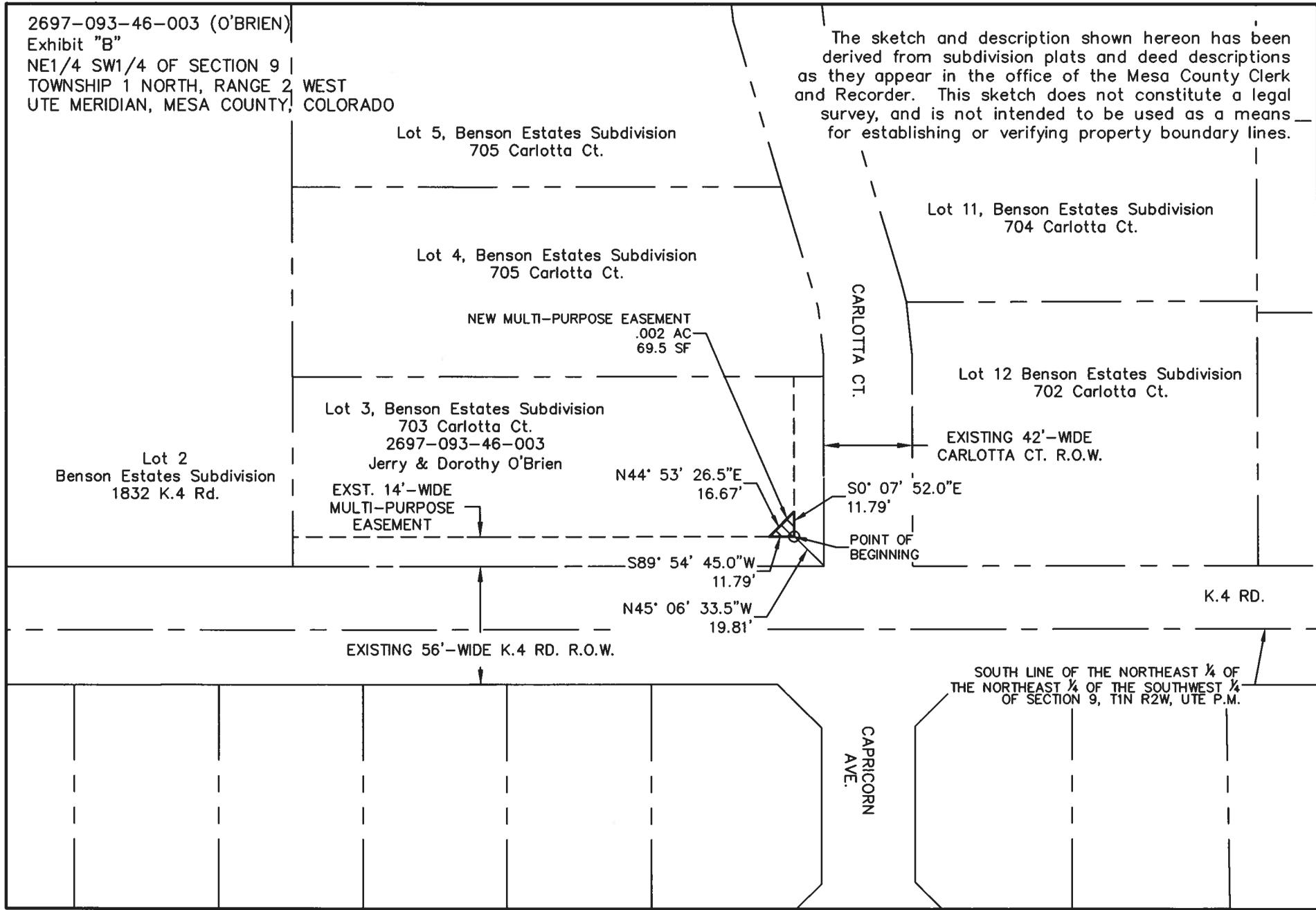
Area: 69.5 SF (.002 AC)

Perimeter: 40.3'

Description authored by Chris Dehmel for the City of Fruita, 325 E. Aspen Ave. Fruita, CO 81521

2697-093-46-003 (O'BRIEN)  
 Exhibit "B"  
 NE1/4 SW1/4 OF SECTION 9  
 TOWNSHIP 1 NORTH, RANGE 2 WEST  
 UTE MERIDIAN, MESA COUNTY, COLORADO

The sketch and description shown hereon has been derived from subdivision plats and deed descriptions as they appear in the office of the Mesa County Clerk and Recorder. This sketch does not constitute a legal survey, and is not intended to be used as a means for establishing or verifying property boundary lines.



**LOT 3, BENSON ESTATES MULTI-PURPOSE EASEMENT DEDICATION EXHIBIT B**

City of Fruita Engineering Department  
 325 E. Aspen Ave.  
 Fruita, Colorado 81501  
 (970) 858-8377

**CONTRACT TO BUY AND SELL REAL ESTATE IN LIEU OF  
CONDEMNATION FOR CITY ROAD RIGHT-OF-WAY AT  
TRACT A, MONUMENT GLEN FILING III, CITY OF FRUITA, MESA  
COUNTY, COLORADO**

THIS CONTRACT is made and entered into this 16 day of April, 2020 by and between **THE CITY OF FRUITA, COLORADO**, a political subdivision of the State of Colorado ("Buyer"), and **Monument Glen, Filing 3 Homeowner's Association, Inc.**, whose mailing address is P.O. Box 592, Fruita, CO 81521 ("Seller").

**RECITALS**

1. Buyer is currently acquiring real property necessary for county road right-of-way at K.4 Rd. Improvements Project in Mesa County, Colorado (the "Project"); and
2. Seller presently owns and has title to certain property, all or a portion of which is required by Buyer necessary for county road right-of-way at K.4 Rd.; and
3. Buyer has authority pursuant to the laws of the State of Colorado to acquire by eminent domain proceedings any property or property interest necessary for county road right-of-way; and
4. The parties desire that Buyer acquire the necessary property or property interest through negotiation rather than by the exercise of the powers of eminent domain; and
5. The amount of money and/or other considerations set forth herein have been mutually established as just compensation;

**NOW, THEREFORE**, in consideration of the promises and other consideration set forth herein, the receipt and adequacy of which is acknowledged, Buyer and Seller agree as follows:

1. **Transfer of Title:** At closing, subject to the tender of payment as required herein, Seller shall execute and deliver a good and sufficient General Warranty Deed to Buyer, conveying fee title interest in the real property described on **Exhibit A** and depicted on **Exhibit B**, both of which are attached hereto and incorporated herein by this reference (the "Property"), free and clear of all liens, including any governmental liens for special improvements installed as of the date of Buyer's signature hereon, whether assessed or not. Buyer shall prepare the General Warranty Deed. Title shall be conveyed subject to specific Exceptions described by reference to recorded documents as reflected in the Title Documents, utility easements, and the inclusion of the Property within any special taxing district.
2. **Fence Construction:** Upon the written request of Seller, the Buyer agrees to reconstruct a fence on the new right-of-way boundary in accordance with the plans and specifications agreed upon by the parties in writing prior to construction. The Seller shall have the obligation for maintenance of the fence. The Buyer does not make any warranties that the fence will be suitable

for any particular purpose, or that the fence complies with the lawful fence requirements of the Colorado Fence Law, C.R.S. § 35-46-101, *et seq.*, and

3. **Purchase Price:** At closing, Buyer shall pay **\$700.00** to the Seller, pursuant to this Contract, as full satisfaction and full consideration of this Contract (the "Purchase Price"). No earnest money or prepayment is required. The purchase price payment shall be directed to the account of the Monument Glen Filing III Homeowners Association, Inc.

4. **Additional Provisions:**

- None

5. **Settlement of Damages:** The payment by Buyer of the Purchase Price constitutes full settlement of all and any damages, including any damages to the remainder, occurring to Seller or Seller's property, and includes full compensation for Seller's interest, either present or future, the interest of lienors, and any and all interests, legal or equitable, which are or may be outstanding. Seller shall pay any encumbrance required to be paid at or before closing from the proceeds of this transaction or from any other source.

6. **Taxes:** Personal property taxes, if any, special taxing district assessments, if any, and general real estate taxes for the year of closing, based on taxes for the calendar year immediately preceding closing, shall be paid by the property owner.

7. **Closing Costs:** Buyer shall pay all closing service fees, transfer fees and other closing costs, if any.

8. **Evidence of Title:** Buyer, at Buyer's sole discretion and expense, may obtain a title commitment and purchase title insurance. Buyer reserves the right to object to the status of title to the Property at any time prior to closing, and if Buyer objects to title, Buyer may, at Buyer's sole option, treat this Contract as canceled.

9. **Releases and Subordination:** Seller shall take all required actions and execute all documents necessary to secure releases of any outstanding liens or encumbrances against, or affecting, the Property. This Contract is expressly subject to the execution of releases or subordinations pertaining to any interests relating to the Property by all outstanding lienors, lessees, or any others with legal or equitable interests in the Property. Failure of Seller to secure the release or subordination of all outstanding interests to the satisfaction of Buyer prior to closing may, Buyer may, at Buyer's sole option, treat this Contract as canceled.

10. **Closing:** Shall occur on or before May 29, 2020, at such date, time and location as may be mutually agreed upon in writing by the parties.

11. **Default:** If Buyer is in default, Seller may elect to treat this Contract as cancelled and Seller may recover such damages as may be proper. If Seller is in default, Buyer may elect to treat this Contract as cancelled, and Buyer may recover such damages as may be proper, or Buyer may

12. Time is of the essence in the performance of this Contract.

13. Entire Agreement: This Contract, together with the grant and conveyance documents and covenants referenced herein, constitute the entire agreement between the parties and supersedes and cancels any and all prior Contracts, agreements or proposals, whether written or oral, between the parties relating to the subject matter hereof.

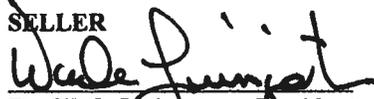
14. Choice of Law, Venue and Attorney's Fees: This Contract shall be construed according to the laws of the State of Colorado and venue for any dispute hereunder shall be in the District Court of the County of Mesa, Colorado. In the event any legal action is instituted to interpret or enforce this Contract, the substantially prevailing party shall be entitled to payment from the other party of its reasonable attorney's fees and costs incurred therein.

15. Binding Effect: When this Contract is executed by Seller and thereafter approved by resolution of the City Council of the City of Fruita, which date of approval shall constitute, the Effective Date, this Contract shall be binding upon Seller and Seller's heirs, devisees, executors, administrators, legal representatives, successors and assigns.

16. Possession: Possession of the Property shall be delivered at closing, or such earlier time as Buyer may determine, in Buyer's sole discretion, provided that prior to taking position prior to closing, Buyer shall deposit the Purchase Price into an escrow account for the benefit of Seller.

WHEREFORE, the parties have executed this Contract as of the date and year first above written.

SELLER



By: Wade Livingston – President of the Monument Glen, Filing III Homeowners Association, Inc.

SELLER

By: Yvonne Hall – Secretary of the Monument Glen, Filing III Homeowners Association, Inc.

BUYER



Buyer

By:



Buyer's Address: 325 E. Aspen Ave., Fruita, Colorado 81521

Buyer's Telephone No: (970) 858-8377 Buyer's Fax No: (970) 858-0210

**Exhibit "A"**

**Parcel 2697-093-45-000  
Monument Glen Filing III HOA, Inc.  
Fruita, CO 81521**

**Legal Description:**

**A parcel of land for roadway, utility, and all other public purposes, located in Section 9, T1N R2W, Ute Meridian, in the City of Fruita, Mesa County, Colorado, being more particularly described as follows:**

**Beginning at the northeast corner of said tract A;**

**Thence along the northern boundary line of said tract A S 89° 55' 18.5" W a distance of 14.98';**

**Thence S 61° 46' 59.6" E a distance of 17.03';**

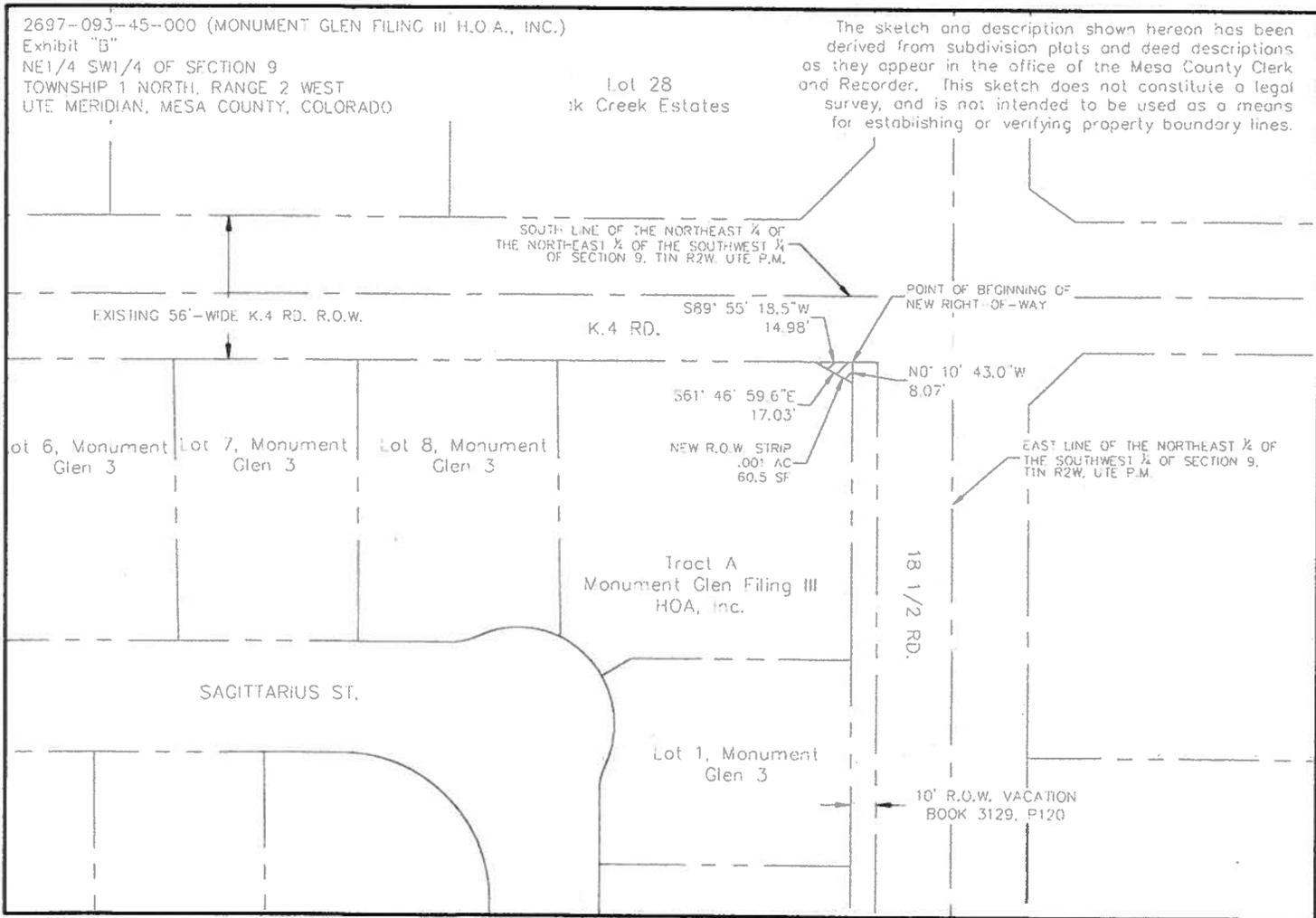
**Thence along the east boundary line of said tract A N 0° 10' 43.0" W a distance of 8.07' to the point of beginning.**

**Described strip contains:**

**Area: 60.5 SF (.001 AC)**

**Perimeter: 40.1'**

**Description authored by Chris Dehmel for the City of Fruita, 325 E. Aspen Ave. Fruita, CO 81521**



**MONUMENT GLEN FILING III H.O.A., INC.**  
**RIGHT-OF-WAY DEDICATION**  
**EXHIBIT B**

*City of Fruita Engineering Department*  
 325 E. Aspen Ave.  
 Fruita, Colorado 81501  
 (970) 858-8377

**Exhibit "A"**

**Parcel 2697-093-56-000  
Monument Glen Filing III HOA, Inc.  
Fruita, CO 81521**

**Legal Description:**

A parcel of land for roadway, utility, and all other public purposes, located in Section 9, T1N R2W, Ute Meridian, in the City of Fruita, Mesa County, Colorado, being more particularly described as follows:

**Beginning at the northeast corner of said tract B;**

**Thence along the northern boundary line of said tract B S 89° 49' 17.0" W a distance of 10' to the northwest corner of said tract B;**

**Thence along the western boundary line of said tract B S 0° 10' 43.0" E a distance of 8.07';**

**Thence S 46° 04' 33.7" E a distance of 13.93';**

**Thence along the eastern boundary line of said tract B N 0° 10' 43.0" W a distance of 17.76' to the point of beginning.**

**Described strip contains:**

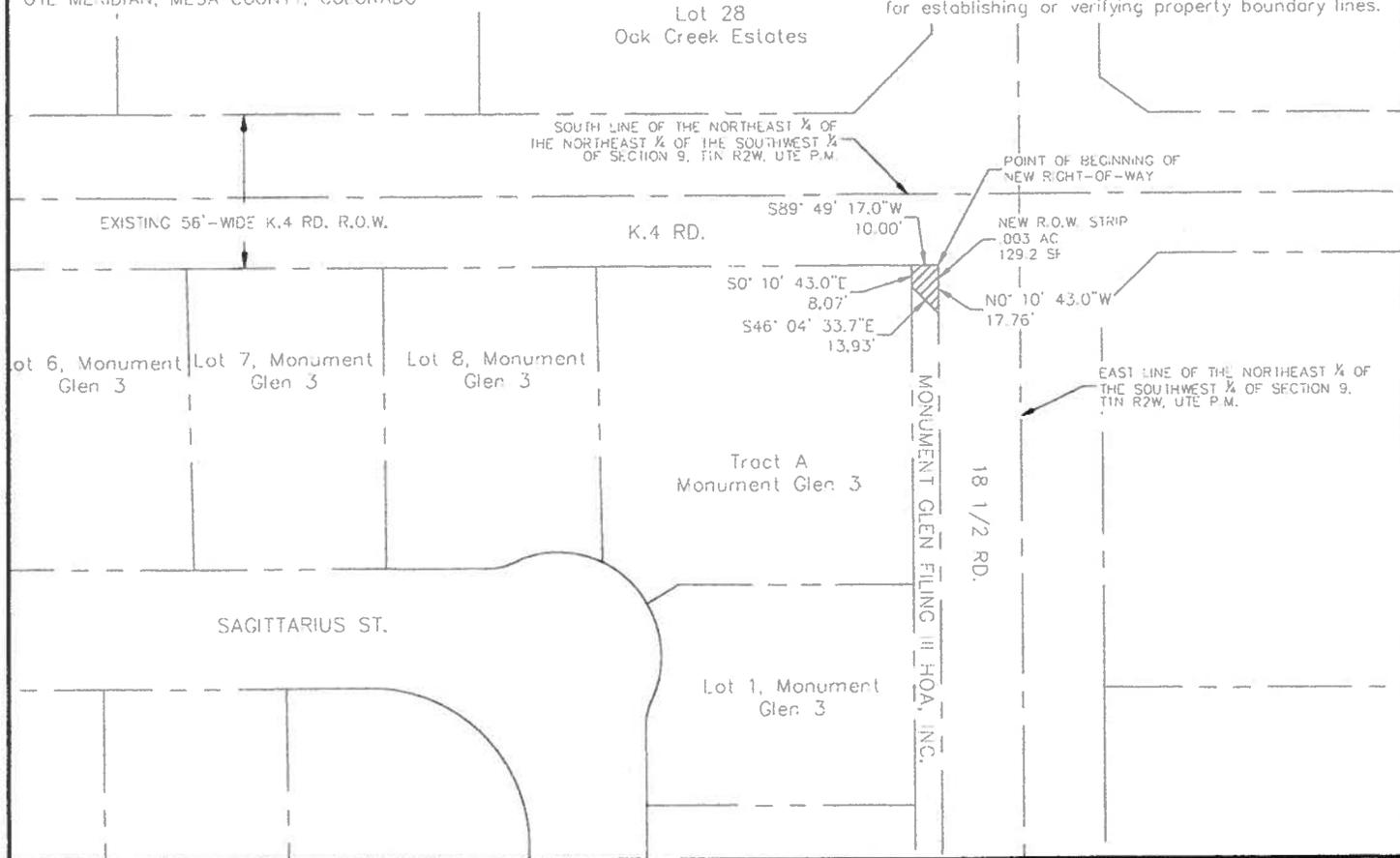
**Area: 129.2 SF (.003 AC)**

**Perimeter: 49.76'**

**Description authored by Chris Dehmel for the City of Fruita, 325 E. Aspen Ave. Fruita, CO 81521**

2697-093-56-000 (MONUMENT GLEN FILING III H.O.A., INC.)  
 Exhibit: "B"  
 NE1/4 SW1/4 OF SECTION 9  
 TOWNSHIP 1 NORTH, RANGE 2 WEST  
 UTE MERIDIAN, MESA COUNTY, COLORADO

The sketch and description shown hereon has been derived from subdivision plats and deed descriptions as they appear in the office of the Mesa County Clerk and Recorder. This sketch does not constitute a legal survey, and is not intended to be used as a means for establishing or verifying property boundary lines.



**MONUMENT GLEN FILING III H.O.A., INC.**  
**RIGHT-OF-WAY DEDICATION**  
**EXHIBIT B**

*City of Fruita Engineering Department*  
 325 E. Aspen Ave.  
 Fruita, Colorado 81501  
 (970) 858-8377

**CONTRACT TO BUY AND SELL REAL ESTATE IN LIEU OF  
CONDEMNATION FOR CITY ROAD RIGHT-OF-WAY AT  
TRACT B, MONUMENT GLEN FILING III, CITY OF FRUITA, MESA  
COUNTY, COLORADO**

THIS CONTRACT is made and entered into this 16 day of April, 2020 by and between **THE CITY OF FRUITA, COLORADO**, a political subdivision of the State of Colorado ("Buyer"), and **Monument Glen, Filing III Homeowner's Association, Inc.**, whose mailing address is P.O. Box 592, Fruita, CO 81521 ("Seller").

**RECITALS**

1. Buyer is currently acquiring real property necessary for county road right-of-way at K.4 Rd. Improvements Project in Mesa County, Colorado (the "Project"); and
2. Seller presently owns and has title to certain property, all or a portion of which is required by Buyer necessary for county road right-of-way at K.4 Rd.; and
3. Buyer has authority pursuant to the laws of the State of Colorado to acquire by eminent domain proceedings any property or property interest necessary for county road right-of-way; and
4. The parties desire that Buyer acquire the necessary property or property interest through negotiation rather than by the exercise of the powers of eminent domain; and
5. The amount of money and/or other considerations set forth herein have been mutually established as just compensation;

**NOW, THEREFORE**, in consideration of the promises and other consideration set forth herein, the receipt and adequacy of which is acknowledged, Buyer and Seller agree as follows:

1. **Transfer of Title:** At closing, subject to the tender of payment as required herein, Seller shall execute and deliver a good and sufficient General Warranty Deed to Buyer, conveying fee title interest in the real property described on **Exhibit A** and depicted on **Exhibit B**, both of which are attached hereto and incorporated herein by this reference (the "Property"), free and clear of all liens, including any governmental liens for special improvements installed as of the date of Buyer's signature hereon, whether assessed or not. Buyer shall prepare the General Warranty Deed. Title shall be conveyed subject to specific Exceptions described by reference to recorded documents as reflected in the Title Documents, utility easements, and the inclusion of the Property within any special taxing district.
2. **Fence Construction:** Upon the written request of Seller, the Buyer agrees to reconstruct a fence on the new right-of-way boundary in accordance with the plans and specifications agreed upon by the parties in writing prior to construction. The Seller shall have the obligation for maintenance of the fence. The Buyer does not make any warranties that the fence will be suitable

for any particular purpose, or that the fence complies with the lawful fence requirements of the Colorado Fence Law, C.R.S. § 35-46-101, *et seq.*, and

3. **Purchase Price:** At closing, Buyer shall pay **\$1,450.00** to the Seller, pursuant to this Contract, as full satisfaction and full consideration of this Contract (the "Purchase Price"). No earnest money or prepayment is required. The purchase price payment shall be directed to the account of the Monument Glen Filing III Homeowners Association, Inc.

4. **Additional Provisions:**

- None

5. **Settlement of Damages:** The payment by Buyer of the Purchase Price constitutes full settlement of all and any damages, including any damages to the remainder, occurring to Seller or Seller's property, and includes full compensation for Seller's interest, either present or future, the interest of lienors, and any and all interests, legal or equitable, which are or may be outstanding. Seller shall pay any encumbrance required to be paid at or before closing from the proceeds of this transaction or from any other source.

6. **Taxes:** Personal property taxes, if any, special taxing district assessments, if any, and general real estate taxes for the year of closing, based on taxes for the calendar year immediately preceding closing, shall be paid by the property owner.

7. **Closing Costs:** Buyer shall pay all closing service fees, transfer fees and other closing costs, if any.

8. **Evidence of Title:** Buyer, at Buyer's sole discretion and expense, may obtain a title commitment and purchase title insurance. Buyer reserves the right to object to the status of title to the Property at any time prior to closing, and if Buyer objects to title, Buyer may, at Buyer's sole option, treat this Contract as canceled.

9. **Releases and Subordination:** Seller shall take all required actions and execute all documents necessary to secure releases of any outstanding liens or encumbrances against, or affecting, the Property. This Contract is expressly subject to the execution of releases or subordinations pertaining to any interests relating to the Property by all outstanding lienors, lessees, or any others with legal or equitable interests in the Property. Failure of Seller to secure the release or subordination of all outstanding interests to the satisfaction of Buyer prior to closing may, Buyer may, at Buyer's sole option, treat this Contract as canceled.

10. **Closing:** Shall occur on or before May 29, 2020, at such date, time and location as may be mutually agreed upon in writing by the parties.

11. **Default:** If Buyer is in default, Seller may elect to treat this Contract as cancelled and Seller may recover such damages as may be proper. If Seller is in default, Buyer may elect to treat this Contract as cancelled, and Buyer may recover such damages as may be proper, or Buyer may

12. Time is of the essence in the performance of this Contract.

13. Entire Agreement: This Contract, together with the grant and conveyance documents and covenants referenced herein, constitute the entire agreement between the parties and supersedes and cancels any and all prior Contracts, agreements or proposals, whether written or oral, between the parties relating to the subject matter hereof.

14. Choice of Law, Venue and Attorney's Fees: This Contract shall be construed according to the laws of the State of Colorado and venue for any dispute hereunder shall be in the District Court of the County of Mesa, Colorado. In the event any legal action is instituted to interpret or enforce this Contract, the substantially prevailing party shall be entitled to payment from the other party of its reasonable attorney's fees and costs incurred therein.

15. Binding Effect: When this Contract is executed by Seller and thereafter approved by resolution of the City Council of the City of Fruita, which date of approval shall constitute, the Effective Date, this Contract shall be binding upon Seller and Seller's heirs, devisees, executors, administrators, legal representatives, successors and assigns.

16. Possession: Possession of the Property shall be delivered at closing, or such earlier time as Buyer may determine, in Buyer's sole discretion, provided that prior to taking position prior to closing, Buyer shall deposit the Purchase Price into an escrow account for the benefit of Seller.

WHEREFORE, the parties have executed this Contract as of the date and year first above written.

SELLER



By: Wade Livingston - President of the Monument Glen, Filing III Homeowners Association, Inc.

SELLER



By: Yvonne Hall - Secretary of the Monument Glen, Filing III Homeowners Association, Inc.

BUYER

By: \_\_\_\_\_

Buyer's Address: 325 E. Aspen Ave., Fruita, Colorado 81521

Buyer's Telephone No: (970) 858-8377 Buyer's Fax No: (970) 858-0210

**ARTICLES OF INCORPORATION**

**OF**

**MONUMENT GLEN FILING 3 HOMEOWNERS ASSOCIATION, INC.**

In compliance with the requirements of Article 7, Title 121, Section 201, C.R.S., as amended, *et seq.*, the undersigned, acting as incorporator of a corporation under the Colorado Nonprofit Corporation Act, hereby adopts the following Articles of Incorporation for such corporation:

**ARTICLE I  
NAME**

19991232145 M  
30.00  
SECRETARY OF STATE  
12-13-1999 10:58:17

The name of the corporation is Monument Glen Filing 3 Homeowners Association, Inc., hereinafter called the "Association."

**ARTICLE II  
PRINCIPAL PLACE OF BUSINESS**

The principal place of business of the Association is located at 2808 North Avenue, #400, Grand Junction, CO 81501.

**ARTICLE III  
REGISTERED AGENT AND REGISTERED OFFICE**

J. Richard Livingston, is hereby appointed the initial registered agent of this Association with the registered office to be located at 2808 North Avenue, #400, Grand Junction, CO 81501.

**ARTICLE IV  
PURPOSE AND POWERS OF THE ASSOCIATION**

1. This Association does not contemplate pecuniary gain or profit to the members thereof, and the specific purposes for which it is formed are to provide for maintenance, preservation and architectural control of the real property described as:

Monument Glen Subdivision Filing No. 3,  
Mesa County, Colorado

and to promote the health, safety and welfare of the residents within the above-described property and any additions thereto as may hereafter be brought within the jurisdiction of this Association for this purpose to:

a. exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in that certain Declaration of Covenants, Conditions and Restrictions, hereinafter called the "Declaration," applicable to the property and recorded or to be recorded in the Office of the Clerk and Recorder, Mesa County, Colorado, and as the same may be amended from time to time as therein provided, said Declaration being incorporated herein as if set forth at length;

b. fix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association;

c. acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association;

d. borrow money, and with the assent of five-sevenths (5/7) of each class of members, mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

e. dedicate, sell or transfer all or any part of any Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members;

f. participate in mergers and consolidations with other nonprofit corporations organized for the same purposes or annex additional residential property and Common Area;

g. have and to exercise any and all powers, rights and privileges which a corporation organized under the Nonprofit Corporation Law of the State of Colorado by law may now or hereafter have or exercise.

2. No part of the income or net earnings of the corporation shall be distributable to or inure to the benefit of its members, directors, officers or any individual; provided, however, that reasonable compensation may be paid for any services rendered to the corporation, and payments and distributions may be made in furtherance of the purposes set forth in Article III hereof. No substantial part of the activities of the corporation shall be carrying on of propaganda or otherwise attempting to influence legislation, and the corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office. Notwithstanding any other provision of the Articles, the corporation shall not carry on any other activities not permitted to be carried on by a corporation exempt from Federal income taxation under the provisions, applicable to this corporation, of Section 501(c) of the Internal Revenue Code of 1954, as amended, (or the corresponding provision of any future United States or Colorado law).

3. In the event of dissolution of the corporation, the property and assets thereof remaining, after providing for all obligations and liabilities of the corporation, shall then be disposed of exclusively for the purposes of the corporation in such manner, or to such organization or organizations exempt from taxation under Section 501(c) of the Internal Revenue Code of 1954 (or the corresponding provision of any future United States or Colorado law), as shall be determined by the Board of Directors.

#### **ARTICLE V MEMBERSHIP**

Every person or entity who is a record owner of a fee or undivided fee interest in any property which is subject by covenants of record to assessment by the Association, including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association.

#### **ARTICLE VI VOTING RIGHTS**

Members shall be all Owners, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

#### **ARTICLE VII BOARD OF DIRECTORS**

The affairs of this Association shall be managed by a Board of not less than three Directors. The number of directors may be changed by amendment of the Bylaws of the Association.

#### **ARTICLE VIII DISSOLUTION**

The Association may be dissolved with the assent given in writing and signed by not less than five-sevenths (5/7) of the members. Upon dissolution of the Association, other than incident to merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to such similar purposes.

**ARTICLE IX  
DURATION**

The corporation shall exist perpetually.

**ARTICLE X  
AMENDMENTS**

Amendments of these Articles shall require the assent of 75 percent (75%) of the entire membership.

**ARTICLE XI  
INCORPORATOR**

The name and address of the incorporator is:

J. Richard Livingston  
2808 North Avenue, Suite 400  
Grand Junction, CO 81501

**ARTICLE XII  
CONSENT OF AGENT**

The undersigned hereby consents to be appointed as the initial registered agent of the above Association.

  
\_\_\_\_\_  
J. Richard Livingston, Registered Agent

IN WITNESS WHEREOF, for the purpose of forming this corporation under the laws of the State of Colorado, I, the undersigned incorporator of this Association, have executed these Articles of Incorporation this 8th day of December, 1999.

  
\_\_\_\_\_  
J. Richard Livingston, Incorporator

STATE OF COLORADO )  
 ) ss.  
COUNTY OF MESA )

I, the undersigned, a notary public, hereby certify that on December 8, 1999 the above named registered agent and incorporator personally appeared before me and being by me first duly sworn declared that he is the person who signed the foregoing document as registered agent and incorporator, and that the statements therein contained are true.

WITNESS my hand and official seal.

*Joan L Carrico*  
Notary Public



My Commission Expires  
October 24, 2002

## Request for Taxpayer Identification Number and Certification

Give Form to the  
 requester. Do not  
 send to the IRS.

Print or type  
 See Specific Instructions on page 2.

Name (as shown on your income tax return) <b>Monument Glen Filing 3 Homeowners Association, Inc.</b>	
Business name/disregarded entity name, if different from above	
Check appropriate box for federal tax classification: <input type="checkbox"/> Individual/sole proprietor <input checked="" type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ <input type="checkbox"/> Other (see instructions) ▶ _____	
Exemptions (see instructions): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____	
Address (number, street, and apt. or suite no.) <b>PO Box 592</b>	Requester's name and address (optional)
City, state, and ZIP code <b>Fruita, CO 81521</b>	
List account number(s) here (optional)	

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

**Note.** If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

<b>Social security number</b>												
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<b>Employer identification number</b>												
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9	1	-	2									
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**Part II Certification**

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. citizen or other U.S. person (defined below), and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

<b>Sign Here</b>	Signature of U.S. person ▶	Date ▶ <b>4/16/2020</b>
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**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** The IRS has created a page on [www.irs.gov/w9](http://www.irs.gov/w9) for information about Form W-9, at [www.irs.gov/w9](http://www.irs.gov/w9). Information about any future developments affecting Form W-9 (such as legislation enacted after we release it) will be posted on that page.

**Purpose of Form**

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, payments made to you in settlement of payment card and third party network transactions, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and

4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct.

**Note.** If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.



**FRUITA**  
COLORADO

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## **AGENDA ITEM COVER SHEET**

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**TO: FRUITA CITY COUNCIL AND MAYOR**  
**FROM: PLANNING & DEVELOPMENT DEPARTMENT**  
**DATE: APRIL 21, 2020**  
**RE: LAND USE CODE UPDATE**

### **BACKGROUND**

The purpose of this item is to inform Council about the progress of the Land Use Code update. On February 20<sup>th</sup>, City Staff had a strategic kick-off conference call with the Design Workshop team to go over numerous aspects of what to expect as the formal Code updates and amendments start to take place. The planning team was somewhat delayed due to the COVID-19 pandemic but feels that many of the elements within the project can be successfully started remotely. Below is the project broken down into four phases.

The project will be divided into four Phases:

- I. Project Initiation and Administration
- II. Code Audit
- III. Drafting of Land Use Code Changes
  - Rolling Timeline
- IV. Adoption and Implementation

City Staff will be hosting a meeting with the technical advisory committee on May 7<sup>th</sup> to set the stage for the update. This will be a remote meeting utilizing Zoom meetings to help facilitate an interactive discussion. This committee will provide experience and expertise from an industry standpoint to ensure the Land Use Code amendments implement the Fruita In Motion Comprehensive Plan and establish land use planning best practices. We will invite City Council and the Planning Commission to this meeting. The goal is to go through the scope of work, future meetings, establish a timeline for rolling adoption, and review the Code analysis that has been completed.



# FRUITA

COLORADO

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## AGENDA ITEM COVER SHEET

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**TO:** FRUITA CITY COUNCIL AND MAYOR

**FROM:** MIKE BENNETT, CITY MANAGER & MARGARET SELL, FINANCE DIRECTOR

**DATE:** APRIL 21, 2020

**RE:** COVID-19 RESPONSE UPDATE

### **BACKGROUND**

The purpose of this item is for the City Manager and Finance Director to provide City Council and the public an update and discussion of the City's COVID-19 response efforts past, present and future and anticipated financial impacts. While it is still too early to provide specific revenue shortfalls since (1) most revenues are state-collected and at least two months behind normally, and (2) now have extended payment deadlines to assist residents and businesses and (3) are related to an unknown duration of the response, it is anticipated that there will be severe losses in sales tax revenues and lodging tax revenues. In order to shorten the update of the past, below is a timeline of highlights, not all-inclusive, of response efforts through Friday, April 17, 2020.

### **COVID-19 RESPONSE TIMELINE SUMMARY**

- **January 30, 2020** - World Health Organization declared worldwide outbreak of COVID-19 a "public health emergency of international concern."
- **January 31, 2020** - United States Department of Health and Human Services declared COVID-19 a public health emergency.
- **March 5, 2020** - State of Colorado identifies first positive case of COVID-19.
- **March 6, 2020** – City of Fruita made first public announcement on COVID-19, asked public to limit all non-essential visits to City facilities and follow CDC guidelines to limit the spread of diseases.
- **March 9, 2020** - Mesa County launches Emergency Operations Plan in response to emerging threat.
- **March 10, 2020** - Governor Polis declared a state of emergency in response to the spread of COVID-19.
- **March 10, 2020** - City of Fruita activated its COVID-19 Emergency Operations Response Plan. Already able, the City continues the ability to work with utility customers for payment arrangements without penalties to assist with cash flow issues.
- **March 11, 2020** – World Health Organization declared COVID-19 a pandemic.

- **March 12, 2020** – City launches Coronavirus Update web page and begins updating multiple times per day.
- **March 12, 2020** – Began participating in weekly Mesa County Public Health Department virtual meeting updates.
- **March 13, 2020** - President Donald J. Trump declared a National Emergency in response to the COVID-19 events.
- **March 14, 2020** - Mesa County Public Health Department announced first positive case of COVID-19 case in Mesa County.
- **March 14, 2020** – Fruita Community Center closed to the public indefinitely, all recreational programming postponed. Billing for memberships at the Community Center are suspended.
- **March 12, 2020** – City Manager begins conducting daily virtual coordination meetings with Leadership Team.
- **March 16, 2020** – Fruita Mayor, City Council and City Manager provided an update to the public on COVID-19.
- **March 16, 2020** - Colorado Department of Public Health and Environment issued Public Health Order 20-22, closing all bars, restaurants, theaters, gyms, and casinos statewide.
- **March 16, 2020** – Mesa County Valley School District announced all district facilities will be closed until April 10, 2020.
- **March 17, 2020** – City begins participating in weekly coordination calls with all public lands managers.
- **March 18, 2020** – City of Fruita closes Police Department and City Shops facilities to the public.
- **March 18, 2020** – President Donald J. Trump signs Families First Coronavirus Response Act (“FFCRA”), providing paid leave for those affected by the pandemic.
- **March 18, 2020** - City begins participating in weekly White House COVID-19 Briefings with State, Local and Tribal leaders.
- **March 18, 2020** – Fruita Parks & Recreation begins sharing tips, online fitness classes and other activities via Facebook.
- **March 19, 2020** – Fruita Parks & Recreation begins partnering with Food Bank of the Rockies to provide easy drive thru food bank at the Community Center. This evolves into regular Kids Aid distributions and Grey Gourmet Deliveries.
- **March 20, 2020** – Fruita Parks & Recreation begins the daily “Sharing Shelves” program outside the Community Center where people donate and take needed items.
- **March 20, 2020** – City of Fruita began changing marketing to tourists, asked visitors to stay home and postpone any trips to Fruita.
- **March 20, 2020** – City Manager begins participating in twice a week Local Government Coordination calls with the Governor’s Office and State Agencies.
- **March 20, 2020** – Governor Polis issues Executive Order D 2020-12 limiting evictions, foreclosures, and public utility disconnections, expediting unemployment insurance claim processing, and extending deadlines for property tax (including Mesa County/Fruita based on Mesa County decision too) without penalty.
- **March 22, 2020** - Governor Polis issued Executive Order D 2020-013 ordering Colorado Employers to reduce in person workforce by fifty percent due to COVID-19.

- **March 23, 2020** - City of Fruita closed Civic Center to the public, all facilities closed.
- **March 25, 2020** – City coordinates with the Agape Food Bank, located at the Fruita Civic Center, to continue weekly distributions outside Civic Center.
- **March 23, 2020** – City of Fruita reduces in-person staff at all facilities, encourages telecommuting when possible and implemented staggered shifts.
- **March 23, 2020** – City Manager begins participating in weekly calls with the County Emergency Manager and other City/County Managers.
- **March 24, 2020** - City Manager declares Local Disaster Emergency in City of Fruita in response to COVID-19.
- **March 25, 2020** – City of Fruita began short video messaging from Mayor, City Council, City Manager and staff to provide updates on COVID-19 and operations.
- **March 25, 2020** – Governor Polis issued Executive Order D 2020-017 ordering all Colorado to Stay at Home due to COVID-1.
- **March 25, 2020** – City Manager begins participating in weekly Economic Development First Responders virtual meetings.
- **March 26, 2020** -Fruita City Council ratified and extended Local Disaster Emergency Declaration.
- **March 27, 2020** – President Donald J. Trump signs Coronavirus Aid, Relief and Economic Security Act (“CARES Act”), a \$2 trillion relief package.
- **March 31, 2020** – City of Fruita strengthened tourism messaging, strongly asked visitors to stay home and not travel to Mesa County.
- **April 1, 2020** – Mesa County Valley School District announced distance learning until April 30, 2020.
- **April 2, 2020** – City Manager and City Attorney provide virtual Q&A focused on CARES Act impacts to employers and employees.
- **April 3, 2020** – Governor Polis recommended that all Coloradans wear non-medical face masks when in public and participating in essential activities.
- **April 3, 2020** – Over 100 part-time employees from the Community Center and Recreation programs are placed on a job-attached furlough and provided assistance to obtain unemployment and a full pay period ahead of time.
- **April 3, 2020** – State extends sales tax deadline which includes Fruita because Fruita sales taxes are collected by the State and not directly. Deadline for April 20 extended to May 20 with no penalties.
- **April 8, 2020** – City conducts a drive-thru Easter Egg hunt at Community Center giving out over 8,000 eggs filled with candy by employees in masks and gloves.
- **April 6, 2020** – Governor Polis extended Stay at Home order until April 26, 2020.
- **April 7, 2020** – Mesa County COVID-19 Incident Team expanded to include all city managers, hospital CEOs, and City Manager begins meeting weekly with this team. Public Health Department begins hosting M, W, F press briefings with this team.
- **April 8, 2020** – Mesa County Public Health Department announced 32 positive cases of COVID-19, 8 with unknown sources – confirmed community spread of virus.
- **April 8, 2020** – Grrretta begins wearing cloth mask 😊.

- **April 11, 2020** – Mesa County Public Health issued Public Health Order 2020-01 requiring all critical retail establishments to implement social distancing measures, wear face coverings.
- **April 16, 2020** – Mesa county Public Health Department confirms that 30 of 34 confirmed positive cases of COVID-19 in Mesa County are fully recovered.
- **April 16, 2020** – City of Fruita decided to postpone Mike the Headless Chicken Festival, many other Fruita events also postponed.
- **April 17, 2020** – City emails all short-term rental owners (1) urging they honor the Governor’s Stay at Home order and (2) refrain from renting to non-essential travel during this pandemic and (3) thanking those who were already doing this.
- **April 17, 2020** – City launches web page that displays a listing and GIS map of local businesses that are open. Map displays the hours, address and link to website are displayed.



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## AGENDA ITEM COVER SHEET

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**TO: FRUITA CITY COUNCIL AND MAYOR**

**FROM: MIKE BENNETT, CITY MANAGER**

**DATE: APRIL 21, 2020**

**RE: ELECTION OF A MAYOR PRO-TEM**

### **BACKGROUND**

Article 3.05 of the Fruita City Charter states that the Council shall elect from its membership a Mayor Pro Tem who shall act as Mayor during the absence or disability of the Mayor. The Mayor Pro Tem shall serve a two (2) year term. If there is a vacancy in the office of Mayor, the Mayor Pro Tem shall resign his/her Council seat and assume the office of Mayor until the next regular election. If there is a vacancy in the office of Mayor Pro Tem, a Mayor Pro Tem shall be elected by the Council to fill the unexpired term.

This appointment is typically made at the first meeting following the regular municipal election.

1. The Mayor will ask for nominations for Mayor Pro Tem
2. The Mayor will close the nomination process after receiving nominations
3. If there is more than one nominee, the Mayor will offer nominees an opportunity to speak
4. The Mayor will ask for a motion and a vote.

### **FISCAL IMPACT**

None.

### **APPLICABILITY TO CITY GOALS AND OBJECTIVES**

The election of a Mayor Pro Tem ensures that the City business can be conducted in an orderly and efficient manner in the absence of the Mayor.

### **OPTIONS AVAILABLE TO THE COUNCIL**

Elect a member of the City Council to serve as Mayor Pro Tem for a two-year term.

### **RECOMMENDATION**

It is the recommendation of City staff that the Council, by motion:

- **ELECT A MEMBER OF THE CITY COUNCIL TO SERVE AS MAYOR PRO TEM FOR A TWO-YEAR TERM**



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## AGENDA ITEM COVER SHEET

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**TO: FRUITA CITY COUNCIL AND MAYOR**

**FROM: DEBRA WOODS, DEPUTY CITY CLERK**

**DATE: APRIL 21, 2020**

**RE: DISCUSSION REGARDING BOARDS AND COMMISSIONS LIAISON POSITIONS**

### **BACKGROUND**

Boards and Commissions Council liaison positions are appointed following the regular municipal election held every two (2) years. This is an opportunity for the City Council to discuss which Council members are interested in being appointed to which Boards.

Attached is the list of the City of Fruita's Boards and Commissions including information about each one's meeting dates, times and other relative information.

Board/Commission	Current Liaison / Appointment	Final	Requires Elected Official?	Voting or Non-voting	Next Meeting Date	Meeting Time
Board of Adjustments	Vacant (Amanda Ewing)		Yes	Non-voting		As needed
Historic Preservation	Vacant (Kyle Harvey)		Yes	Non-voting		1st Mon/month/11:00am/CC
Parks & Recreation	Vacant (Amanda Ewing)		Yes	Non-voting		1st Mon/month/5:30pm/City Shops
Planning Commission	Vacant (Dave Karisny)		Yes	Non-voting		2nd Tues/month/7pm/CC
Police Commission	Vacant (Karen Leonhart)		Yes	Non-voting		3rd Wed/quarterly/6pm/Police Dept.
Tourism Advisory	Vacant (Joel Kincaid)		Yes	Non-voting		4th Thurs/month/11am/CC
Arts & Culture	Vacant (Kyle Harvey)		Yes	Non-voting		2nd Wed/month/5:30pm/City Shops
Downtown Advisory	Vacant (Ken Kreie)		Yes	Non-voting		2nd Wed/month/6-8pm/various locations
Livability Commission	Vacant (Lori Buck)		Yes	Non-voting		
Grand Valley Regional Transportation	Vacant (Dave Karisny)		Yes	Voting		4th Mon/month/3-5pm/RTPO in GJ 525 S. 6th St.
Chamber of Commerce	Vacant (Joel Kincaid)		Yes	Voting		2nd Wed/month/7-8:30am/Colorado Canyons Board rm.
5-2-1 Drainage Authority	Vacant (Dave Karisny)		Yes	Voting		3rd Wed/month (has been sporadic)/GJ @MC or City of GJ
AGNC	Vacant (Ken Kreie)		Yes	Voting		4th Mon/month/different cities/9am-1:30pm
GJEP Board	Vacant (Lori Buck)		No	Voting		3rd Wed/month/7:30-9am/GJEP offices in GJ
BLM NW Regional Advisory Council	Vacant (Lori Buck)		N/A	Voting		Quarterly, or as needed

**\*For information sake:**

Riverfront Commission	Vacant (Ture Nycum)		No	Non-voting		3rd Tues/month.5:30pm/old Co. Courthouse 544 Rood in GJ
CML Policy Committee	Vacant (Mike Bennett)		CC or Mngr	Recommending		February, October, December in Denver; June at CML conf.
Museum of Western Colorado	Vacant (Ken Haley)		No	Non-voting		4th Tues/month/Museum in GJ/1x/yr. at Cross Orch. & Dino
Colorado Canyon's Association	Ture Nycum		No	Voting		2nd Tues/month/5pm/location varies
Greater Grand Junction Sports	Ture Nycum		No	Voting		Monthly, but no set schedule yet
District 51 Foundation	Mike Bennett		No	Voting		3rd Thurs/month/11:30am/at School District
Outdoor Recreation Coalition Advisory	Mike Bennett		No	Advisory		As needed
Communication Center Board	Dave Krouse		No	Voting		2nd Thurs/month
Enterprise Zone	Dan Caris		No	Voting		Quarterly or as needed



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## **AGENDA ITEM COVER SHEET**

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**TO: FRUITA CITY COUNCIL AND MAYOR**

**FROM: MIKE BENNETT, CITY MANAGER**

**DATE: APRIL 21, 2020**

**RE: A REQUEST TO APPROVE A LETTER OF SUPPORT FOR THE GRAND VALLEY EQUINE ASSISTED LEARNING CENTER TO APPLY FOR STATE HISTORICAL FUNDS TO PURCHASE MOON FARM**

### **BACKGROUND**

The Grand Valley Equine Assisted Learning Center (GVEALC) has applied for grant funds through the State Historical Fund to purchase Moon Farm located at 1360 18 ½ Road and has requested that the City of Fruita provide a letter of support to be included in their grant proposal.

As a general practice, the City Council usually discusses City-provided letters of support at workshop meetings; however, due to the recent changes in the Council's meeting schedule, the letter of support has been placed on the April 21, 2020 agenda for the Council's consideration at the request of Mayor Kincaid and Mayor Pro Tem Buck, who fully support the transaction.

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POLICE DEPARTMENT  
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ENGINEERING  
970.858.8377

HUMAN RESOURCES  
970.858.8373

PUBLIC WORKS  
970.858.9558

PARKS/RECREATION  
970.858.0360

WASTEWATER  
TREATMENT FACILITY  
970.858.4081

LETTER OF SUPPORT

April 21, 2020

State Historical Fund  
1200 Broadway  
Denver, CO 80203

**RE: Letter of Support for the Grand Valley Equine Assisted Learning Center (GVEALC)**

To Whom It May Concern:

The City of Fruita would like to offer this letter as a form of support for the GVEALC to apply for State Historical Funds to purchase Moon Farm located at 1360 18 ½ Road in Fruita.

The partnership between the Grand Valley Equine Assisted Learning Center and Moon Farm is one that will help preserve and maintain a local treasure that is near and dear to many generations in the Fruita area.

Since the 1950's, the farm has been home to many activities including dance classes, day-camps, exploring, and pumpkin patches. It has always had a unique character and adding an Equine component is a natural fit.

We thank the State Historical Fund in advance for considering the GVEALC Proposal for 2020 spring grant funds.

Sincerely,

Joel Kincaid, Mayor  
City of Fruita