

## **ORDINANCE 2017-12**

AN ORDINANCE AUTHORIZING AND APPROVING THE EXECUTION AND DELIVERY BY THE CITY OF A SITE AND IMPROVEMENT LEASE AND A LEASE PURCHASE AGREEMENT AND RELATED DOCUMENTS, CONCERNING THE LEASING BY THE CITY OF CERTAIN PROPERTY OWNED BY THE CITY TO REFINANCE THE CITY'S SALES AND USE TAX REVENUE BONDS (FEDERALLY TAXABLE – ISSUER SUBSIDY – BUILD AMERICA) SERIES 2009B; SETTING FORTH CERTAIN PARAMETERS AND RESTRICTIONS; RATIFYING ACTION PREVIOUSLY TAKEN; AND PROVIDING OTHER MATTERS RELATED THERETO.

**WHEREAS**, the City of Fruita, Colorado (the “City”) is a home rule municipality and political subdivision of the State of Colorado (the “State”) organized and existing under a home rule charter (the “Charter”) pursuant to Article XX of the Constitution of the State; and

**WHEREAS**, pursuant to section 8.25 of the Charter, the City is authorized to enter into long-term rental or leasehold agreements, payment for such agreements may be made by general appropriations, by imposition of usage fees or a combination of both; and

**WHEREAS**, article X, section 20 of the Constitution of the State of Colorado requires the City to have voter approval in advance for the creation of any multiple-fiscal year direct or indirect debt or other financial obligation whatsoever; and

**WHEREAS**, At the general election held on Tuesday, November 4, 2008 (the “Election”), in accordance with law and pursuant to due notice, a majority of the eligible electors of the City voting in said election approved the following ballot issue (the “Community Center Ballot Issue”) authorizing the issuance of sales and use tax bonds for purpose of constructing, improving, equipping, operating and maintaining a community center, with such bonds to be paid from an increase in the sales and use tax of the City; and

**WHEREAS**, following the approval of the Community Center Ballot Issue, the City Council duly passed and adopted Ordinance No. 2008-15, which ordinance amended the Fruita Municipal Code (the “Municipal Code”) to implement provisions of the Community Center Ballot Issue; and

**WHEREAS**, pursuant to section 8.21 of the Charter, the City Council may, by ordinance, issue securities made payable from, among other things, the available proceeds of any sales or use tax; and

**WHEREAS**, pursuant to section 8.24 of the Charter, the City Council may, by ordinance, refund any securities as provided by Colorado statute.

**WHEREAS**, pursuant to the authorization granted to the City at the Election, the City has issued its Sales and Use Tax Revenue Bonds, Series 2009A, in the aggregate principal

amount of \$2,440,000, and which are currently outstanding in the aggregate principal amount of \$2,230,000 (the “Series 2009A Bonds”); and

**WHEREAS**, pursuant to the authorization granted to the City at the Election, the City has issued its Sales and Use Tax Revenue Bonds (Federally Taxable – Issuer Subsidy – Build America Bonds), Series 2009B, in the aggregate principal amount of \$10,125,000, and which are currently outstanding in the aggregate principal amount of \$10,125,000 (the “Series 2009B Bonds, and, together with the 2009A Bonds, the “2009 Bonds”); and

**WHEREAS**, the proceeds of the 2009 Bonds were used to acquire, construct and improve certain property and facilities located in the City and commonly known as the Fruita Community Center (the “2009 Project”); and

**WHEREAS**, the City Council of the City (the “City Council”) has determined and now hereby determines that it is in the best interests of the City and its inhabitants to refinance the 2009 Project and advance refund all the outstanding 2009B Bonds (the “Refunding Project”); and

**WHEREAS**, the City owns, in fee title, the site and the buildings and improvements located thereon, which presently serve as the City’s Community Center (the “Leased Property”); and

**WHEREAS**, the City Council has determined and hereby determines that it is in the best interests of the City and its inhabitants to provide for the financing of the Refunding Project by entering into a Site and Improvement Lease between the City, as lessor, and the Trustee, acting solely in its capacity of trustee, as lessee (the “Site Lease”), pursuant to which the City will lease the Leased Property to the Trustee, and a Lease Purchase Agreement between the Trustee, as lessor, and the City, as lessee (the “Lease”), pursuant to which the Trustee will lease the Leased Property back to the City; and

**WHEREAS**, pursuant to the Lease, and subject to the right of the City to terminate the Lease and other limitations as therein provided, the City will pay certain Base Rentals and Additional Rentals (as such terms are defined in the Lease) in consideration for the right of the City to use the Leased Property; and

**WHEREAS**, the City’s obligation under the Lease to pay Base Rentals and Additional Rentals shall be from year to year only; shall constitute currently budgeted expenditures of the City; shall not constitute a mandatory charge or requirement in any ensuing budget year; and shall not constitute a general obligation or other indebtedness or multiple fiscal year financial obligation of the City within the meaning of any constitutional, statutory or Charter limitation or requirement concerning the creation of indebtedness or multiple fiscal year financial obligation, nor a mandatory payment obligation of the City in any ensuing fiscal year beyond any fiscal year during which the Lease shall be in effect; and

**WHEREAS**, contemporaneously with the execution and delivery of the Site Lease and the Lease, the Trustee will execute and deliver an Indenture of Trust (the “Indenture”) pursuant to which there will be executed and delivered a series of certificates of participation to effectuate the Refunding Project (the “2017 Certificates”); and

**WHEREAS**, the 2017 Certificates will evidence proportionate interests in the right to receive certain revenues under the Lease, shall be payable solely from the sources therein provided and shall not directly or indirectly obligate the City to make any payments beyond those appropriated for any fiscal year during which the Lease shall be in effect; and

**WHEREAS**, the net proceeds of the 2017 Certificates, together with other available money of the City, will be used to refinance the 2009 Project and effectuate the Refunding Project; and

**WHEREAS**, there has been presented to the City Council and are on file with the City Clerk the following: (i) the proposed form of the Site Lease; (ii) the proposed form of the Lease; (iii) the proposed form of the Continuing Disclosure Certificate to be provided by the City in connection with the execution and delivery of the 2017 Certificates (the “Disclosure Certificate”); (iv) the proposed form of the Certificate Purchase Agreement (the “Certificate Purchase Agreement”) among the City, the Trustee and the initial purchaser of the 2017 Certificates; (v) the proposed form of Escrow Agreement (the “Escrow Agreement”) with UMB Bank, n.a., Denver, Colorado, as escrow agent; and (vi) the Preliminary Official Statement (the “Preliminary Official Statement”) relating to the 2017 Certificates; and

**WHEREAS**, capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Lease and the Site Lease; and

**WHEREAS**, Section 11-57-204 of the Supplemental Public Securities Act, constituting Title 11, Article 57, Part 2, Colorado Revised Statutes (the “Supplemental Act”), provides that a public entity, including the City, may elect in an act of issuance to apply all or any of the provisions of the Supplemental Act.

**BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRUITA, COLORADO:**

Section 1. Ratification and Approval of Prior Actions. All action heretofore taken (not inconsistent with the provisions of this Ordinance) by the City Council or the officers, agents or employees of the City Council or the City relating to the Site Lease, the Lease, the implementation of the Refunding Project, and the execution and delivery of the 2017 Certificates is hereby ratified, approved and confirmed.

Section 2. Finding of Best Interests. The City Council hereby finds and determines, pursuant to the Constitution, the laws of the State of Colorado and the Charter, that the implementation of the Refunding Project and financing the costs thereof pursuant to the terms set forth in the Site Lease, the Lease and the Indenture, together with other available moneys of the City, are necessary, convenient, and in furtherance of the City’s purposes and are in the best interests of the inhabitants of the City, and the City Council hereby authorizes and approves the same.

Section 3. Supplemental Act; Parameters. The City Council hereby elects to apply all of the Supplemental Act to the Site Lease and the Lease and in connection therewith delegates to each of the City Manager and the Finance Director of the City (the “Finance Director”) the independent authority to make any determination delegable pursuant to

Section 11-57-201(1)(a-i), Colorado Revised Statutes, in relation to the Site Lease and the Lease, and to execute a sale certificate (the "Sale Certificate") setting forth such determinations, including without limitation, the term of the Site Lease, the rental amount to be paid by the Trustee pursuant to the Site Lease, the term of the Lease and the rental amount to be paid by the City pursuant to the Lease, the Certificates which may be redeemed at the option of the City, the dates upon which such optional redemption may occur, and the prices at which such Certificates may be optionally redeemed; subject to the following parameters and restrictions:

- (a) the total amount of rental payments to be received by the City from the Trustee under the Site Lease shall not be less than \$9,000,000;
- (b) the Site Lease Term shall not extend beyond December 31, 2049;
- (c) the aggregate principal amount of the Base Rentals payable by the City pursuant to the Lease shall not exceed \$11,925,000;
- (d) the maximum annual repayment amount of the Base Rentals payable by the City pursuant to the Lease shall not exceed \$1,295,412;
- (e) the maximum total repayment amount of Base Rentals payable by the City pursuant to the Lease shall not exceed \$18,190,580;
- (f) the Lease Term shall not extend beyond December 31, 2039;
- (g) the maximum net effective interest rate on the interest component of the Base Rentals relating to the 2017 Certificates shall not exceed 4.30%; and

Pursuant to §11-57-205 of the Supplemental Act, the City Council hereby delegates to the City Manager or the Finance Director the authority to sign a contract for the purchase of the Certificates or to accept a binding bid for the Certificates and to execute any agreement or agreements in connection therewith. In addition, the City Manager or the Finance Director is hereby authorized to determine if obtaining an insurance policy for all or a portion of the Certificates is in the best interests of the City, and if so, to select an insurer to issue an insurance policy, execute a commitment relating to the same and execute any related documents or agreements required by such commitment. The City Manager or the Finance Director is also hereby authorized to determine if obtaining a reserve fund insurance policy for the Certificates is in the best interests of the City, and if so, to select a surety provider to issue a reserve fund insurance policy and execute any related documents or agreements required by such commitment. The City Manager or the Finance Director is also hereby authorized to determine if establishing a debt service reserve fund for the Certificates is in the best interest of the City to prevent a default in the payment of the principal of, premium if any, and interest on the Base Rentals when due, and, if so, to establish such debt service reserve fund.

The delegation set forth in this Section 3 shall be effective for one year following the date hereof.

The City Council hereby agrees and acknowledges that the net proceeds of the 2017 Certificates, together with other available money of the City, will be used to finance the Refunding Project.

Section 4. Approval of Documents. The Site Lease, the Lease, the Continuing Disclosure Undertaking and the Escrow Agreement, in substantially the forms on file with the City Clerk, are in all respects approved, authorized and confirmed. The Mayor is hereby authorized and directed to execute and deliver the Site Lease, the Lease, the Disclosure Certificate and the Escrow Agreement, for and on behalf of the City, in substantially the forms and with substantially the same contents as on file with the City Clerk, provided that such documents may be completed, corrected or revised as deemed necessary by the parties thereto in order to carry out the purposes of this Ordinance. The execution of the Site Lease, the Lease, the Disclosure Certificate and the Escrow Agreement by the Mayor shall be conclusive evidence of the approval by the City Council of such documents in accordance with the terms hereof and thereof.

Section 5. Official Statement. The designation of the Preliminary Official Statement by the City Manager or the Finance Director as a “nearly final Official Statement” for purposes of Rule 15c2-12 of the Securities and Exchange Commission is hereby authorized and confirmed. A final Official Statement, in substantially the form of the Preliminary Official Statement on file with the City Clerk, is in all respects approved and authorized. The Mayor or Mayor Pro Tem is hereby authorized and directed to execute and deliver the final Official Statement, for and on behalf of the City, in substantially the form and with substantially the same content as the Preliminary Official Statement on file with the City Clerk, provided that such document may be completed, corrected or revised as deemed necessary by the City Manager, the Finance Director or the City Attorney of the City. The distribution of the Preliminary Official Statement and the final Official Statement (in substantially the form of the Preliminary Official Statement) to prospective purchasers of the Series 2017 Certificates is hereby ratified, approved and authorized.

Section 6. Direction to Act. The City Clerk is hereby authorized and directed to attest all signatures and acts of any official of the City in connection with the matters authorized by this Ordinance and to place the seal of the City on any document authorized and approved by this Ordinance. The Mayor, the Mayor Pro-Tem of the City Council, the City Manager, the Finance Director, the City Clerk and other appropriate officials or employees of the City are hereby authorized to execute and deliver for and on behalf of the City any and all additional certificates, documents, instruments and other papers, and to perform all other acts that they deem necessary or appropriate, in order to implement and carry out the transactions and other matters authorized by this Ordinance. The approval hereby given to the various documents referred to above includes an approval of such additional details therein as may be necessary and appropriate for their completion, deletions therefrom and additions thereto as may be approved by bond counsel prior to the execution of the documents. The execution of any document or instrument by the aforementioned officials or employees of the City or members of the City Council shall be conclusive evidence of the approval by the City Council of such document or instrument in accordance with the terms hereof and thereof.

Section 7. No General Obligation Debt. No provision of this Ordinance, the Site Lease, the Lease, the Indenture, the Disclosure Certificate, the Escrow Agreement, the Certificate Purchase Agreement, the Series 2017 Certificates, the Preliminary Official Statement or the final Official Statement shall be construed as creating or constituting a general obligation or other indebtedness or multiple fiscal year financial obligation of the City within the meaning of any constitutional, statutory or Charter provision, nor a mandatory charge or requirement against the City in any ensuing fiscal year beyond the then current fiscal year. The City shall not have any obligation to make any payment with respect to the Series 2017 Certificates except in connection with the payment of the Base Rentals and certain other payments under the Lease, which payments may be terminated by the City in accordance with the provisions of the Lease. The Series 2017 Certificates shall not constitute a mandatory charge or requirement of the City in any ensuing fiscal year beyond the then current fiscal year, and shall not constitute or give rise to a general obligation or other indebtedness of the City within the meaning of any constitutional, statutory or Charter debt limitation and shall not constitute a multiple fiscal year direct or indirect City debt or other financial obligation whatsoever. No provision of the Site Lease, the Lease or the Series 2017 Certificates shall be construed or interpreted as creating an unlawful delegation of governmental powers nor as a donation by or a lending of the credit of the City within the meaning of Sections 1 or 2 of Article XI of the Colorado Constitution. Neither the Site Lease, the Lease nor the Series 2017 Certificates shall directly or indirectly obligate the City to make any payments beyond those budgeted and appropriated for the City's then current fiscal year.

Section 8. Reasonableness of Rentals. The City Council hereby determines and declares that the Base Rentals due under the Lease, in the maximum amounts authorized pursuant to Section 3 hereof, constitute the fair rental value of the Leased Property and do not exceed a reasonable amount so as to place the City under an economic compulsion to renew the Lease or to exercise its option to purchase the Trustee's leasehold interest in the Leased Property pursuant to the Lease. The City Council hereby determines and declares that the period during which the City has an option to purchase the Trustee's leasehold interest in the Leased Property (i.e., the entire maximum term of the Lease) does not exceed the useful life of the Leased Property and does not exceed forty (40) years. The City Council hereby further determines that the amount of rental payments to be received by the City from the Trustee pursuant to the Site Lease is reasonable consideration for the leasing of the Leased Property to the Trustee for the term of the Site Lease as provided therein.

Section 10. No Recourse against Officers and Agents. Pursuant to Section 11-57-209 of the Supplemental Act, if a member of the City Council, or any officer or agent of the City acts in good faith, no civil recourse shall be available against such member, officer, or agent for payment of the principal, interest or prior redemption premiums on the 2017 Certificates. Such recourse shall not be available either directly or indirectly through the City Council or the City, or otherwise, whether by virtue of any constitution, statute, rule of law, enforcement of penalty, or otherwise. By the acceptance of the Series 2017 Certificates and as a part of the consideration of their sale or purchase, any person purchasing or selling the Series 2017 Certificates specifically waives any such recourse.

Section 11. Severability. If any section, subsection, paragraph, clause or provision of this Ordinance or the documents hereby authorized and approved (other than

provisions as to the payment of Base Rentals by the City during the Lease Term, provisions for the quiet enjoyment of the Leased Property by the City during the Lease Term and provisions for the conveyance of the Trustee's leasehold interest in the Leased Property to the City under the conditions provided in the Lease) shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, subsection, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance or such documents, the intent being that the same are severable.

Section 12. Repealer. All orders, resolutions, bylaws, ordinances or regulations of the City, or parts thereof, inconsistent with this Ordinance are hereby repealed to the extent only of such inconsistency.

Section 13. Recording and Authentication. This Ordinance as adopted shall be authenticated by the signature of the Mayor and the City Clerk. A true copy of this authenticated Ordinance shall be numbered and recorded in the official records of the City, as required by the Charter.

Section 14. Charter. Pursuant to Article XX of the State Constitution and the Charter, all State statutes that might otherwise apply in connection with the provisions of this Ordinance are hereby superseded to the extent of any inconsistencies between the provisions of this Ordinance and such statutes. Any such inconsistency is intended by the City Council and shall be deemed made pursuant to the Charter.

Section 15. Posting and Publication. This Ordinance shall be posted and published as required by the Charter following approval on first reading and following final passage. Such posting and publication shall be by title and shall contain a summary of this Ordinance and shall contain a notice to the public that copies of the Ordinance are available at the office of the City Clerk.

Section 16. Public Hearing. Prior to final passage of this Ordinance, the City Council shall hold a public hearing on this Ordinance. Notice of the public hearing, specifying the day, hour and place of the public hearing, shall be included in the posting and first publication of this Ordinance. The public notice shall state that copies of this Ordinance are available for inspection at the office of the Clerk.

Section 17. Effective Date. This Ordinance shall take effect thirty (30) days after publication following final passage.

In accordance with Section 13.6 of the Charter, the effective date of any sale or lease authorized by this Ordinance shall be at least thirty (30) days after the passage of this Ordinance by the City Council and no documents related to the transactions authorized by this Ordinance shall be executed prior to such thirty (30) day period.

INTRODUCED AND APPROVED ON FIRST READING ON AUGUST 1,  
2017.

INTRODUCED, FINALLY PASSED, ADOPTED AND APPROVED ON  
SECOND READING ON AUGUST 15, 2017.

CITY OF FRUITA, COLORADO

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Lori Buck, Mayor  
Fruita City Council

ATTEST:

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Margaret Sell  
City Clerk

APPROVED AS TO FORM:

By \_\_\_\_\_  
Edward P. Sands, City Attorney

STATE OF COLORADO )  
 ) SS.  
 CITY OF FRUITA )

I, Margaret Sell, the City Clerk of the City of Fruita, Colorado (the “City”), do hereby certify that:

1. The foregoing pages are a true and correct copy of Ordinance No. 2017-12 (the “Ordinance”).
2. Copies of the Ordinance were made available to the City Council and to the public.
3. The Ordinance was proposed on at a regular meeting of the City Council on August 1, 2017 and a public hearing was requested and set for August 15, 2017.
4. Following the request for public hearing, the Ordinance was duly posted by title at City Hall, 325 Aspen Ave., Fruita, Colorado 81521, in the City, on August 5, 2017 and was published by title in the Daily Sentinel, a newspaper of general circulation published in the City in its issue of August 5, 2017, as evidenced by the certificate of the publisher attached hereto as Exhibit A. The posting and publication contained a summary of the subject matter of the Ordinance and contained a notice that copies of the Ordinance are available at the office of the City Clerk. Such posting and publication contained a notice of public hearing on the Ordinance, specifying the day, hour, and place of the public hearing.
5. The Ordinance was duly introduced, read by title, moved and seconded, and finally adopted and approved by the City Council at a regular meeting of the City Council at City Hall, 325 Aspen Ave., Fruita, Colorado 81521 the regular meeting place thereof, on Tuesday, the 15th day of August, 2017, by an affirmative vote of a majority of the membership of the entire City Council as follows:

Name	“Yes”	“No”	Absent	Abstain
Bruce Bonar, Mayor Pro-Tem				
Joel Kinkaid				
Kyle Harvey				
Dave Karisny				
Ken Kreie				
Louis Brackett				

6. Prior to taking final action on the Ordinance, the City Council held a public hearing on the Ordinance.
7. The members of the City Council were present at such meetings and voted on the passage of such Ordinance as set forth above.

8. A true copy of the Ordinance has been authenticated by the Mayor of the Council and by myself as City Clerk of the City, sealed with the seal of the City, and numbered and recorded in the official records of the City.

9. Notices of the meeting of August 15, 2017, in the form attached hereto as Exhibit B was posted at City Hall not less than twenty-four (24) hours prior to the meeting in accordance with law.

WITNESS my hand and the seal of the City affixed this \_\_\_\_\_, 2017.

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City Clerk

(SEAL)

Exhibit A

(Attach Affidavit of Publication after First Reading)

Exhibit B

(Attach form of Notice of August 15, 2017 Meeting)

ORDINANCE 2017-12  
EXHIBIT A

NOTICE OF PUBLIC HEARING  
Pursuant to Article 2, Paragraph 13C of the Fruita City Charter, a public hearing(s) will be held before the Fruita City Council at 7:00 p.m. on August 15, 2017 in the Council Chambers located at the Fruita Civic Center at 325 E. Aspen, Fruita, Colorado to consider the following proposed summarized ordinance(s). Following the hearing, consideration will be given to the final passage and adoption of the Ordinance(s). In case of any discrepancy between the summary of the ordinance(s) printed here and the official text of the ordinance(s), the official text shall control. Copies of the proposed ordinance(s) are available for inspection at the City Clerk's Office located in the Civic Center at 325 E. Aspen, Suite 155, Fruita, Colorado during regular business hours. Physically disadvantaged persons who wish to obtain information or who need assistance in attending the hearing may call (970) 858-3663 or 1-800-659-2666 for hearing impaired TTY Relay Colorado.

ORDINANCE 2017-11 - SECOND READING - AN ORDINANCE OF THE CITY OF FRUITA, COLORADO, AUTHORIZING THE ISSUANCE OF THE CITY'S SALES AND USE TAX REVENUE REFUNDING AND IMPROVEMENT BONDS, SERIES 2017 IN THE AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$2,650,000; PROVIDING FOR THE FORM AND OTHER DETAILS IN CONNECTION WITH THE BONDS; FIXING THE MAXIMUM NET EFFECTIVE INTEREST RATES ON THE BONDS; PROVIDING FOR PAYMENT OF THE BONDS FROM A PLEDGE OF CERTAIN SALES AND USE TAX REVENUES; AUTHORIZING, APPROVING AND DIRECTING THE EXECUTION AND DELIVERY OF DOCUMENTS RELATING TO THE BONDS; CREATING CERTAIN FUNDS AND ACCOUNTS; RATIFYING ACTIONS PREVIOUSLY TAKEN IN CONNECTION WITH THE ISSUANCE OF THE BONDS; AND PROVIDING OTHER MATTERS PROPERLY RELATING THERETO

ORDINANCE 2017-12 - SECOND READING - AN ORDINANCE AUTHORIZING AND APPROVING THE EXECUTION AND DELIVERY BY THE CITY OF A SITE AND IMPROVEMENT LEASE AND A LEASE PURCHASE AGREEMENT AND RELATED DOCUMENTS, CONCERNING THE LEASING BY THE CITY OF CERTAIN PROPERTY OWNED BY THE CITY TO REFINANCE THE CITY'S SALES AND USE TAX REVENUE BONDS (FEDERALLY TAXABLE - ISSUER SUBSIDY - BUILD AMERICA) SERIES 2009B; SETTING FORTH CERTAIN PARAMETERS AND RESTRICTIONS; RATIFYING ACTION PREVIOUSLY TAKEN; AND PROVIDING OTHER MATTERS RELATED THERETO.

Publish Grand Junction Sentinel, August 5, 2017  
/s/ Debra Woods, Deputy City Clerk  
Published: August 5, 2017.

ATION

STATE OF COLORADO

County of (Mesa)

Terry Flanagan

Being duly sworn, says that I am Legal Secretary of The Daily Sentinel, a daily newspaper, published and duly printed in The County of Mesa, State of Colorado; that said newspaper has a general circulation in said County and has been continuously and uninterruptedly published therein, during a period of at least fifty-two consecutive weeks next prior to the first publication of the annexed notice; that said newspaper is a newspaper within the meaning of the act of the general Assembly of the State of Colorado, entitled "An Act to regulate the printing of legal notices and advertisements," and amendments thereto; that the notice of which the annexed is a printed copy taken from said newspaper, was published in said newspaper, and in the regular and entire issue of every number thereof once a week for 1 successive week; that said notice was so published in said newspaper proper and not in any supplement thereof, and that first publication of said notice as aforesaid, was on the 5th day of August, 2017, and the last, on the 5th day of August 2017. Copies of each number of said paper in which said notice and/or list was published were delivered by carriers or transmitted by mail to each of the subscribers of said newspaper, The Daily Sentinel, according to the accustomed mode of business in this office.



Subscribed and sworn to before me, this 7th day of August, 2017

Karen McLeish

**KAREN McLEISH**  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID #20134002084  
My Commission Expires January 17, 2021

**ORDINANCE 2017-12**  
**EXHIBIT B - NOTICE OF MEETING OF AUGUST 15, 2017**

**FRUITA CITY COUNCIL**  
**AUGUST 15, 2017**  
**7:00 P.M.**

<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>A.</b>	Presentation from John Maraschin, Executive Director of the Business Incubator Center	
<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>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. A Single <b>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. <b>Any item that is removed from the consent agenda will be placed at the end of the regular agenda.</b>		
	<b>A.</b>	Minutes	
		1)	A request to approve the minutes of the July 18, 2017 City Council meeting
		2)	A request to approve the minutes of the August 1, 2017 City Council meeting
	<b>B.</b>	LIQUOR LICENSE RENEWAL – A request to approve the renewal of a 3.2% Beer Retail Liquor License (Off Premises) for City Market located at 135 S. Plum	
	<b>C.</b>	RED FLAG POLICY – Annual review of the Red Flag Policy (Identity Theft Prevention Program) adopted by Resolution 2009-31	
	<b>D.</b>	JULY 2017 FINANCIAL REPORTS – A request to approve the July 2017 Financial Reports	
	<b>E.</b>	TABOR CITIZEN REVIEW COMMITTEE – A request to approve the appointments of citizens to the TABOR Review Committee to study the impacts of the TABOR Amendment on the City of Fruita and make recommendations regarding proposed courses of action	
	<b>F.</b>	RESOLUTION 2017-33 – A request to approve the Subdivision Improvements Agreement (SIA) for the Village at Country Creek Filing #5	

	<b>G.</b>	RESOLUTION 2017-34 – A request to approve the First Release of the Subdivision Improvements Agreement (SIA) for the Aspen Village Subdivision (May not be ready yet?)
	<b>H.</b>	RESOLUTION 2017-XX – A request to approve a Resolution for the correction of an easement for the Aspen alley improvements project (John Vasey)
<b>7.</b>	<p><b>PUBLIC HEARINGS</b></p> <p>Public Hearings are the formal opportunity for the city council to LISTEN to the public regarding the issue at hand. For land use hearings and liquor license hearings; the Council is required to act in a quasi-judicial capacity. When acting as a quasi-judicial body, the Council is acting in much the same capacity as a judge would act in a court of law. Under these circumstances, the judicial or quasi-judicial body must limit its consideration to matters which are placed into evidence and are part of the public record. The council must base their decision on the law and evidence presented at the hearing.</p> <ol style="list-style-type: none"> <li>1) <b>Applicant Presentation</b> (15 minutes max) The petitioner is asked to present the proposal. Presentations should be brief and to the point and cover all of the main points of the project.</li> <li>2) <b>Staff presentation</b> (15 minutes max) Staff will present the comments and reports received from review agencies, and offer a recommendation.</li> <li>3) <b>Public Input</b> (limit of 5 minutes per person. If two people in the audience are willing to cede their time to the speaker, that speaker may receive a total of 10 minutes, referred to as banking time). People speaking should step up to the microphone and state their name and address. Speakers should be to the point and try not to repeat the points others have made.</li> <li>4) <b>Applicant Rebuttal (limited to 5 minutes)</b> The Mayor will ask for the applicant's rebuttal. During this brief time, the applicant should answer the questions raised by the public.</li> <li>5) <b>The hearing is then closed to public comments.</b></li> <li>6) <b>Questions from the Council.</b> After a Council member is recognized by the Mayor, they may ask questions of the staff, the applicant, or the public.</li> <li>7) <b>Make a motion.</b> A member of the City Council will make a motion on the issue.</li> <li>8) <b>Discussion on the motion.</b> The City Council may discuss the motion.</li> <li>9) <b>Vote.</b> The City Council will then vote on the motion.</li> </ol>	
	<b>A.</b>	City Clerk/Finance Director Margaret Sell
	1)	ORDINANCE 2017-11 – Second Reading – A request to approve an Ordinance Authorizing issuance of refunding and improvements bonds and setting forth the parameters for the refunding and other details related thereto
	2)	ORDINANCE 2017-12 – Second Reading – A request to approve an Ordinance Authorizing a site and improvement lease and a lease purchase agreement and related documents to refinance the 2009B BAB bonds and setting forth the parameters for the refinancing and other details related thereto
<b>8.</b>	<b>ADMINISTRATIVE AGENDA</b>	
<b>9.</b>	<b>CITY MANAGER'S REPORT</b>	
<b>10.</b>	<b>COUNCIL REPORTS AND ACTIONS</b>	
<b>11.</b>	<b>ADJOURN</b>	