



**City of Delta
Administration Department
360 Main Street
Delta, CO 81416**

HOT TUB FILTER REPLACEMENT – 2026-2

Issue Date: January 28, 2026

Agent/Contact: Renee Ealey renee@cityofdelta.net

Submissions must be received by: February 9, 2026 at 11:00 am (MST)

Introduction:

The City of Delta is accepting sealed bids to replace a commercial hot tub filter at the Bill Heddles Recreation Center.

Administrative Instructions:

Bids shall be submitted electronically to lindsay@cityofdelta.net. All electronic submissions must be ADA-compliant and are subject to the Colorado Open Records Act.

Bids will be publicly opened at 11:00 am on February 9, 2026 (MST), in the City of Delta Conference Room located on the ground floor of City Hall. **LATE BIDS WILL NOT BE ACCEPTED AND IT IS THE RESPONSIBILITY OF THE RESPONDENT TO ENSURE THAT BIDS (INCLUDING SIGNED ADDENDA IF ISSUED) ARRIVE BY 11:00 AM ON FEBRUARY 9, 2026 (MST).**

Complete bid packets can be downloaded from the City webpage at [City of Delta RFP](#). **ADDENDA WILL BE POSTED TO THE WEBSITE, AND IT IS THE BIDDER'S RESPONSIBILITY TO DOWNLOAD, REVIEW, SIGN, AND INCLUDE ADDENDA WITH THEIR BID.**

The City reserves the right to amend this IFB by an addendum at any time prior to the date set for receipt of bids. Addenda will be posted on the City website under the "Bids and RFP" tab at [City of Delta RFP](#).

The City reserves the right to reject any or all bids without disclosing the reason, to waive any informalities in the bids received, and to accept the bid deemed most advantageous and in the best interest of the City.

SCOPE OF WORK

Minimum Specs

Purpose: Replace Commercial Hot Tub Filter (2200 gallons)

1. Filter Replacement – Provide and install a Neptune Benson High-Rate Sand Filter (48CCFG Series) or a filter meeting equal or greater specifications. Installation must fit within an existing concrete equipment pad measuring 42" x 72".
2. Demolition and Removal – Demolish and remove the existing sand filter and properly dispose of all removed materials. The City will remove the existing sand before Contractor arrives to replace the filter.
3. Plumbing – Furnish and install all new plumbing between the filter and the return/backwash lines, including all required valves, piping, flanges, gaskets, and related components.
4. Hardware – Provide all necessary new hardware for installation. Hardware specifications shall be clearly identified (e.g., stainless steel, carbon steel, or equivalent).
5. Installation and Media – Include all labor required for installation of the new filter, installation of new filter media (approximately 1,900 lbs), and completion of all plumbing connections between the filter, circulation pump, and return/backwash lines.
6. Electrical – Provide electrical connection for the circulation pump, including all labor and materials required for proper operation. Filter must be compatible with a PH 3 motor, 5HP, 208-230/460 VOLTS, 12.5-13 AMPS, 14/7 SF AMPS
7. Equipment and Rentals – Include all tools, equipment, and any required equipment rentals necessary to complete the project.
8. Startup and Commissioning – Perform system startup, including flushing and purging all air from the lines to ensure proper operation.
9. Warranty – Provide a minimum ten (10) year manufacturer's parts warranty and a minimum one (1) year labor warranty. Include pricing and details for any optional extended warranty, if available.

GENERAL TERMS AND CONDITIONS

These General Terms and Conditions apply to all offers made to the City of Delta (hereafter “City”) by all prospective vendors (hereinafter referred to as “Bidder”) regarding City solicitations, including but not limited to Invitations to Bid, Requests for Proposals, Requests for Quotes, and Requests for Qualifications. The following "Project Special Conditions" shall govern in case of any discrepancies in any or all of the following specifications, and the intent, either expressed or implied in these General Terms and Conditions, shall govern in the interpretation of the plans and specifications.

Contents of Bid

It is the responsibility of each Bidder before submitting a Bid to: (a) Examine the Contract Documents thoroughly, (b) Visit the site(s) to become familiar with local conditions that may affect the cost, progress, performance, or furnishing of the Work, (c) Consider federal, state, and local Laws and Regulations that may affect cost, progress, performance, or furnishing of the Work, (d) Study and carefully correlate Bidder's Observations with the Contract Documents, and (e) Notify City Engineer/Project Manager of all conflicts, errors, or discrepancies in the Contract Documents. Bidders are responsible for confirming and verifying all project lines, grades, dimensions, specifications, plans, and project areas prior to submitting a bid.

Complete sets of Bidding Documents must be used in preparing Bids. The Owner does not assume any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.

Clarification and Modification of Bid Solicitation

Interpretations or clarifications considered necessary by the Engineer in response to such questions will be issued by Addenda and posted to the City webpage. Questions must be submitted in writing to Renee Ealey (renee@cityofdelta.net). Only questions answered by formal written Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect. Addenda may also be issued to modify the Bidding Documents as deemed advisable by the City. The City reserves the right to amend this IFB by an addendum at any time prior to the date set for receipt of bids. **ADDENDA WILL BE POSTED ON THE CITY WEBSITE UNDER THE NEWS “RFP” TAB AT [CITY OF DELTA RFP](#).**

Pricing Collusion and Taxes

All lump sum, alternate, and unit prices must include all required General Conditions line items necessary to complete the Work, including but not limited to the following (as required): all permits, insurance, supervision; layout and survey as needed; equipment and personnel; off-site management and administrative assistance; trash removal/demo material disposal/haul off to a separate dumpster or off-site location; miscellaneous equipment; mobilization; as-built drawings;



fuel, watchmen, flagmen, and site security; scheduling; small tools; drawings and printing expenses, and mailing costs.

The City is exempt from Colorado State Sales and Use Taxes on materials and equipment to be incorporated in the work. Said taxes shall not be included in the bid price.

Preparation and Submission of Bid

The Bid Form is included with the Bidding Documents; additional copies may be obtained on the City of Delta website at [City of Delta RFP](#).

Bids by corporations must be executed in the corporate name by the president or a vice president (or other corporate officer accompanied by evidence of authority to sign) and the corporate seal must be affixed and attested by the secretary or an assistant secretary. The corporate address and state of incorporation must be shown below the signature.

Bids by partnerships must be executed in the partnership name and signed by a partner whose title must appear under the signature and the official address of the partnership must be shown below the signature. All names must be typed or printed below the signature.

The Bid shall contain an acknowledgment of receipt of all Addenda, if applicable, on the Bid Form. The address and telephone number for communications regarding the Bid must be shown.

Bid Security

All bid submissions for more than \$50,000 shall include bid security in an amount equal to at least five percent (5%) of the amount of the bid. Bid security shall be accompanied by a certified check or bid bond equal to five percent (5%) of the bid amount, which shall also be enclosed within a sealed envelope, to be forfeited to the City if a bid is accepted and the bidder fails to sign a contract within fifteen (15) days of acceptance; provided, however, that this deadline may be extended by the Purchasing Agent in their discretion. All bids submitted without the necessary bid security will be rejected as nonresponsive.

Modification of Withdrawal of Legitimate Offers

Bids may be modified or withdrawn by an appropriate document duly executed (in the manner that a Bid must be executed) and delivered to the place where Bids are to be submitted at any time prior to the Opening of Bids.

If within twenty-four (24) hours after Bids are opened any Bidder files a duly signed written notice with City and Engineer and promptly thereafter demonstrates to the reasonable satisfaction of City and Engineer that there was a material and substantial mistake in the presentation of its Bid, that Bidder may withdraw its Bid.

No bids may be withdrawn after the opening of bids without consent of the City of Delta for a period of sixty (60) days after the scheduled time of opening of bids. The successful bidder or



bidders will be required to furnish satisfactory performance and payment bonds equal to the full amount of each bid or proposal

Evaluation of Offers and Criteria

City reserves the right to reject any and all Bids, to waive any and all informalities not involving price, time, or changes in the work, and the right to disregard all nonconforming, nonresponsive, unbalanced, or conditional Bids. Also, City reserves the right to reject the Bid of any Bidder if City believes that it would not be in the best interest of the Project to make an award to that Bidder, whether because the Bid is not responsive or the Bidder is unqualified or of doubtful financial ability or fails to meet any other pertinent standard or criteria established by City. Discrepancies in the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.

In evaluating Bids, City will consider the qualifications of the Bidders, whether or not the Bids comply with the prescribed requirements, and such alternates, unit prices, and other data as may be requested herein and/or in the Bid Form or prior to the Notice of Award.

City will consider the qualifications and experience of Subcontractors, Suppliers, and other persons and organizations through the request of written documentation of relevant experience with reference to a minimum of three (3) projects of similar scope and size. The statement shall include equipment and manpower available for utilization on the project. City also may consider the operating costs, maintenance requirements, performance data, and guarantees of major items of materials and equipment proposed for incorporation in the Work when such data is required to be submitted prior to the Notice of Award.

The City reserves the right to reject any or all proposals without disclosing the reason, to waive any information in the proposals received, and to accept the proposal deemed most advantageous and in the best interest of the City. The City will refer to the Evaluation Guide below in evaluating each Bidder. The criteria below will be weighted in the evaluation of the bids accordingly. Although some of the elements listed below will be weighted more heavily than others, all requirements are considered necessary for evaluation.

City of Delta Request for Proposals Evaluation Guide				
Assessment Criteria	Firm A	Firm B	Firm C	Firm D
Pricing (1-10 points)				
Experience and Qualifications (1-10 points)				
Understanding of the Project (1-10 points)				
Capacity to fulfill Contract Terms & Conditions (1-10 points)				



Reference (1-10 points)				
Total Maximum Points (Total Points - 50)	0	0	0	0

Award of Contract

When the City gives a Notice of Award to the successful Bidder, it will be accompanied by the required number of unsigned counterparts of the Agreement with all other written Contract Documents attached. Within ten business days thereafter, Contractor shall sign and deliver the required number of counterparts of the Agreement and attached documents to the Owner with the required Bonds. The City shall deliver one fully signed counterpart to the Contractor after approval by City Council at the next regularly scheduled meeting.

If the contract is to be awarded, it will be awarded to the lowest Bidder whose evaluation by City indicates that the award will be in the best interests of the Project.

Local Contractor Preference

Whenever competitive bidding is required by law for any contract involving materials, services, and/or labor furnished to the City for which appropriation or expenditure may be reasonably expected not to exceed five hundred thousand dollars (\$500,000) in the aggregate for any fiscal year, preference shall be given to each qualified local business in the manner more particularly described in this Section.

A qualified local business means an individual or entity who, at the time of submitting a bid for a contract relating to a City of Delta purchase or work project, maintains a principal place of business located within the City for primary preference or within Delta County for secondary preference. Businesses which maintain satellite offices within the City shall not be considered local for purposes of this definition.

Notwithstanding other provisions of this Chapter, in the course of evaluating bids or proposals pertaining to any contract for the purchase or lease of supplies, materials, equipment, or other personal property, and/or any contract for labor to be performed on a public works project, and/or any professional services contract, the City shall provide the following percentage preferences for local goods and services provided by local vendors when quality, delivery time, and services are judged by the Purchasing Agent to be essentially equal: five percent (5%) primary preference for goods/services in the City and two point five percent (2.5%) secondary preference for goods/services in Delta County.

Each otherwise eligible contract bidder must sufficiently demonstrate ownership of a qualified local business in the related bid proposal documents.

When applying this provision to specific contract settings, the City will continue to give appropriate consideration and weight to all other relevant information and factors customarily used for comparison of bids in the process of selecting the lowest responsible bidder, including but not limited to the following:



- The relative quality of any proposed material items and their conformity with pertinent contract specifications.
- The relative benefit to the City of proposed delivery and discount terms and conditions, and proposed terms of warranty and repair for material items.
- The overall experience, qualification, and reputation of the bidder for performance of similar contracts.

SPECIAL TERMS AND CONDITIONS

IFB Package: Available online at the City of Delta RFP web page [City of Delta RFP](#).

Question Deadline: February 2, 2026, at 11:00 am (MST). All questions regarding this IFB are to be emailed to renee@cityofdelta.net. Any questions received after the deadline will not be addressed. Written responses to questions will be posted on the City webpage via addendum no later than February 4, 2026, at 4:00 pm (MST).

Bid Submission Cut-Off: February 9, 2026, at 11:00 am (MST). All bids shall be submitted electronically via email to lindsay@cityofdelta.net. The subject line must state "BID ENCLOSED – HOT TUB FILTER REPLACEMENT". Do not include any bid information in the body of the email.

Public Bid Opening: Bids will be open publicly on February 9, 2026, at 11:00 am (MST) in the downstairs conference room of Delta City Hall at 360 Main Street, Delta, CO 81416.

Rejection of Bids: The City of Delta reserves the right to reject any or all bids without disclosing the reason.

Late Bids: Bids not received by the Bid Submission deadline of February 9, 2026, at 11:00 am (MST) are late and will not be accepted. The City Council reserves the right to reject any or all bids, waive any informalities in bids, and accept the bid that is in the best interest of the City of Delta, Colorado.

Compliance with OSHA

Bidder agrees that all item(s) offered comply with all applicable Federal and State Occupational Safety and Health Act laws, standards, and regulations, and that Bidder will indemnify and hold the City of Delta harmless for any failure to so conform.



BID FORM

PROJECT IDENTIFICATION:

Bid Submission Cut-Off: February 9, 2026, at 11:00 am (MST). All bids shall be submitted electronically via email to lindsay@cityofdelta.net, must be ADA-compliant, and are subject to the Colorado Open Records Act.

Public Bid Opening: February 9, 2026, at 11:00 am (MST) at the City of Delta City Hall, 360 Main Street, Delta, CO 81416.

Name of Vendor: _____

Total Bid Amount: \$ _____

Total Written Bid Amount: _____

Estimated Start Date: _____

SUBMITTED on: _____ 2026

End Bid Form

ADDITIONAL REQUIREMENTS:

INSURANCE REQUIREMENTS: The successful bidder must provide proof of insurance coverage, including general liability and worker's compensation, as specified in the procurement code.

REFERENCES: The bid must include 3 references of equal type and scope within the past 3 years.

PROJECT SCHEDULE: The bid must include a proposed project schedule, detailing the timeline for completion of the work.

PERFORMANCE AND PAYMENT BONDS. If the Contract Price exceeds \$50,000, Contractor shall submit a performance bond and payment bond for the Work under this Contract. Each bond shall be in the amount of the total Contract Price and shall be in a form as approved by the City. Each bond shall comply with the requirements of C.R.S. §§ 38-26-105 and 106.

CONSTRUCTION CONTRACT
(Name of Project)

THIS CONSTRUCTION CONTRACT ("Contract") is made and entered into this ____ day of _____, 202__ ("Effective Date"), by and between CITY OF DELTA, a Colorado home rule municipality (the "City"), and _____, a Colorado _____ with an address of _____ ("Contractor").

RECITALS

WHEREAS, the City owns certain real property known as 531 N. Palmer St, Delta, Colorado (the "Property"); and

WHEREAS, pursuant to Delta Municipal Code Chapter 3.14, the City sought bids for the Hot Tub Filter Replacement on the Property (the "Project");

WHEREAS, Contractor submitted a bid for the Project, and the City has accepted Contractor's bid; and

WHEREAS, the parties desire to complete the Project in accordance with the terms set forth below.

NOW, THEREFORE, for good and valuable consideration of the mutual covenants set forth herein, the receipt and sufficiency of which is hereby acknowledged, the City and Contractor agree as follows:

Article 1. SCOPE OF WORK.

1.01 **Specifications and Scope of Work.** The specifications and scope of work for the Project to be completed by Contractor pursuant to this Contract are set forth in Exhibit A, attached hereto and incorporated by reference herein (the "Work"). Contractor shall complete the Work in accordance with Contractor's proposal, attached hereto as Exhibit B and incorporated by reference herein (the "Proposal").

Article 2. CONTRACT TIMES.

2.01 **Completion Date.** The term of this Contract shall commence on the Effective Date and shall run until payment to Contractor is made under Section 3.02 below, unless terminated earlier pursuant to the terms of the Contract. Final completion of the Work shall be achieved by May 29, 2026 (the "Completion Date"). Time is of the essence in all dates and deadlines set forth in this Contract.

Article 3. CONTRACT PRICE.

3.01 **Contract Price.** The City agrees to pay Contractor for satisfactory completion of the Work as follows:

Total Project cost not to exceed \$ _____, to be invoiced by Contractor to the City (the "Contract Price").

- 3.02 **Payment.** Upon completion of all the Work ("Final Completion"), the City shall conduct a thorough inspection of the Work for compliance with this Contract and applicable codes and regulations. Upon acceptance of the Work by the City, the City shall pay Contractor the Contract Price within 45 days.

Article 4. CONTRACTOR'S REPRESENTATIONS AND WARRANTIES.

- 4.01 **Representations.** In order to induce the City to enter into this Contract, Contractor makes the following representations:

- A. Contractor has the knowledge and expertise necessary to perform the Work and Project for the City.
- B. Contractor is familiar with all federal, state, and local laws and regulations that may affect cost, progress, and performance of the Work for the Project. In the performance of this Contract, Contractor shall comply with all applicable federal, state, and local laws governing safety, health, and sanitation.
- C. The Contractor shall supervise and direct the Work, using its best skill and attention. The Contractor shall be solely responsible for all construction means, methods, techniques, sequences, and procedures and for coordinating all portions of the Work under the Contract.
- D. The Contractor shall be responsible for the acts and omissions of all its employees and all subcontractors and suppliers, their agents and employees, and all other persons performing any of the Work under a contract with the Contractor.
- E. The Contractor at all times shall keep the Property free from accumulation of waste materials or rubbish caused by its operations. At the completion of the Work Contractor shall remove all its waste materials and rubbish from and about the Property as well as its tools, construction equipment, machinery, and surplus materials, and shall leave the Work in "broom clean" condition or its equivalent.
- F. The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. It shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury, or loss to (1) all employees on the Work and other persons who may be affected thereby, (2) all the Work and all materials and equipment to be incorporated therein, and (3) other property at the site or elsewhere. Contractor shall comply with all applicable laws, ordinances, rules, regulations and orders of any public authority having jurisdiction for the safety of persons or property or to protect them from damage, injury, or loss. All damage or loss to any property caused in whole or in part by the Contractor, any subcontractor, or anyone

directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, shall be remedied by the Contractor, except damage or loss attributable to the acts or omissions of the City or its officers, agents, or employees, but which are not attributable to the fault or negligence of the Contractor.

- G. It is the policy of the City of Delta that no person shall on the grounds of race, color, national origin, sex, disability, religion, or age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in any operation of the City. In accordance therewith, the Contractor will not discriminate against any employee, applicant for employment, or subcontractor because of race, color, national origin, sex, disability, religion, or age.

4.02 Warranties. Contractor guarantees and warrants to the City all work as follows:

- A. That all materials and equipment furnished under this Contract will be new and the best of its respective kind unless otherwise specified;
- B. That all Work will be first-class quality and free of omissions and faulty, poor quality, imperfect or defective materials or workmanship;
- C. That where no standard is specified for such workmanship or materials, they shall be the best of their respective kinds;
- D. That the Work, including but not limited to mechanical and electrical machines, devices and equipment, shall be fit and fully usable for its intended and specified purpose and shall operate satisfactorily with ordinary care;
- E. That consistent with requirements of the Contract, the Work shall be installed and oriented in such a manner as to facilitate unrestricted access for the operation and maintenance of fixed equipment; and
- F. That the Work will be free of abnormal or unusual deterioration that occurs because of poor quality materials, workmanship, or unsuitable storage.

4.03 Defective Work. Any Work not conforming to the representations and warranties specified in the Contract, including substitutions not properly approved and authorized, may be considered defective. If required by the City, Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

4.04 Survival. The warranties set forth herein shall survive the satisfaction or termination of this Contract.

4.05 Corrective Work. If, within one year after the date of Final Completion of the Work, any of the Work is found to be defective, not in accordance with the Contract, or not in accordance with the representations and warranties specified in the Contract, Contractor

shall correct or replace it within five working days after receipt of written notice from the City to do so.

- A. If at any time deficiencies in the Work are discovered that are found to have resulted from latent defects, gross mistakes, fraud, or misrepresentation by Contractor or any subcontractor or supplier, Contractor will be liable for replacement or correction of such Work.
- B. Any materials or other portions of the Work installed, furnished, or stored on the Property that are not of the character or quality required by the specifications, or are otherwise not acceptable to the City shall be immediately removed and replaced by Contractor to the satisfaction of the City.

Article 5. TERMINATION AND LIMITATION ON DAMAGES.

- 5.01 **Termination.** This Contract may be terminated by either party upon a material breach of any provision of this Contract by the other party. In the event of a material breach of any provision of this Contract, the non-breaching party shall give written notice of such breach to the breaching party. The breaching party shall have ten days from receipt of such notice to cure its breach. If the breach is not so cured, the non-breaching party may terminate this Contract immediately upon written notice to the breaching party and may pursue any and all other remedies available at law or in equity. In the event of a termination of this Contract, the City shall pay Contractor any amounts due and owing under this Contract for Work actually and satisfactorily performed prior to such termination.
- 5.02 **Limitation on Damages.** The parties agree that Contractor's remedies for any claims asserted against the City shall be limited to proven direct damages in an amount not to exceed amounts due under this Contract and that the City shall not be liable for indirect, incidental, special, consequential, or punitive damages, including but not limited to lost profits.

Article 6. INDEMNIFICATION AND INSURANCE.

- 6.01 **Indemnification by Contractor.** Contractor agrees to indemnify, defend, and hold harmless the City from any and all claims and damages to property and injury to persons that may arise out of or relate to Work under this Contract, whether such Work be by Contractor or by any subcontractor, or anyone directly or indirectly employed by Contractor or any subcontractor, except to the extent caused by the negligent acts or omissions of the City, its officers, agents and/or employees. This indemnification obligation shall survive the satisfaction, expiration, or termination of this Contract.
- 6.02 **Insurance Requirements.**
 - A. Workers' Compensation Insurance. Contractor shall maintain Workers' Compensation Insurance required by state law and Employer's Liability Insurance

covering all of Contractor's employees acting within their course and scope of employment.

- B. Commercial General Liability Insurance. Contractor shall maintain Commercial General Liability Insurance coverage in the minimum amounts of \$1,421,000 each occurrence and \$3,000,000 general aggregate, naming the City as an additional insured.
- C. Comprehensive Automobile Liability Insurance. Contractor shall maintain Comprehensive Automobile Liability insurance with minimum combined single limits for bodily injury and property damage of not less than \$1,421,000 each occurrence and \$3,000,000 general aggregate, naming the City as an additional insured.
- D. General Insurance Information. Insurance coverage shall be maintained through the expiration of the term of the Contract. Contractor shall provide the City a certificate of insurance evidencing the insurance coverages required herein. Such certificate of insurance must state that the carrier is responsible for notifying the City in writing, a minimum of 45 days in advance of any lapse in or termination of coverage. Contractor's policies are primary and non-contributory for all claims arising from Contractor's work hereunder.

Article 7. CHANGES IN THE WORK

- 7.01 **Change Orders.** The City, without invalidating the Contract, may order changes in the Work consisting of additions, deletions, or modifications, with the Contract Price being adjusted accordingly (via cost or credit to the City). Any such changes in the Work shall only be authorized by written change order signed by the City and Contractor ("Change Orders"). Any Change Orders must be accompanied by a written assurance from the City stating that lawful appropriations to cover the costs of the Change Order have been made and that said appropriations are available prior to the performance of the additional work.
- 7.02 **Reimbursement.** If the City requests a change in the Work, the City will reimburse the Contractor on a periodic basis for costs incurred prior to finalizing the Change Order. In no event will periodic reimbursement be required before the Contractor has provided an estimate of the cost for the additional, compensable work to be performed.

Article 8. PERFORMANCE AND PAYMENT BONDS.

- 8.01 **Performance and Payment Bonds.** If the Contract Price exceeds \$50,000, Contractor shall submit a performance bond and payment bond for the Work under this Contract. Each bond shall be in the amount of the total Contract Price and shall be in a form as approved by the City. Each bond shall comply with the requirements of C.R.S. §§ 38-26-105 and 106.

- 8.02 **Letter of Credit.** At the City's sole discretion and approval, a clean irrevocable letter of credit to the City from a bank acceptable to the City may be substituted for the payment and performance bonds, should such bonds be required pursuant to this Contract. Such letter of credit shall not expire prior to one year following Final Completion.

Article 9. INDEPENDENT CONTRACTOR.

- 9.01 **Independent Contractor.** The parties expressly agree and acknowledge that Contractor is an independent contractor, and this Contract shall not be construed in any way to create any type of employee/employer relationship, master/servant relationship, partnership, or joint venture between Contractor and the City.
- A. **Contractor acknowledges and agrees to report all payments received from the City on its federal and state income tax returns and is obligated to pay any and all resulting federal and state income tax obligations. Contractor shall indemnify the City for any such payments required but not paid.**
- B. **No Insurance or Benefits. Contractor acknowledges and agrees that it is not covered by any of the City's insurance, including the City's workers' compensation coverage, and is not entitled to any benefits otherwise provided to the City's employees, including vacation pay, sick leave, retirement benefits, social security, disability benefits, employee health benefits of any kind, or workers' compensation benefits. During the Term of this Contract, Contractor will carry any insurance required by law at Contractor's own expense.**

Article 10. APPROPRIATION.

- 10.01 **Appropriation.** By executing below, the City states that it has appropriated money equal to or in excess of the Contract Price. The parties acknowledge and agree that no change order that requires additional compensation and causes the aggregate amount payable under this Contract to exceed the appropriated amount shall be issued unless appropriation for the costs thereof has been made. Contractor acknowledges that no City employee has the authority to bind the City with regard to payment for any work that exceeds the amount appropriated for and payable pursuant to this Contract. No provision of this Contract shall be construed or interpreted: (i) to directly or indirectly obligate the City to make any payment in any year in excess of amounts appropriated for such year; (ii) as creating a debt or multiple fiscal year direct or indirect debt or other financial obligation whatsoever within the meaning of Article X, Section 20 of the Colorado Constitution or any other constitutional or statutory limitation or provision; or (iii) as a donation or grant by the City to or in aid of any person, company, or corporation within the meaning of the Colorado Constitution.

Article 11. MISCELLANEOUS.

- 11.01 **Assignment.** Contractor may not assign this Contract without the prior written consent of the City, which the City may withhold in its sole and absolute discretion. Unless

specifically stated to the contrary in any written consent to an assignment, no assignment shall release or discharge Contractor from any duty or responsibility under this Contract.

- 11.02 **Amendment.** This Contract shall only be amended by a writing signed by both parties.
- 11.03 **Successors and Assigns.** This Contract shall be binding upon and inure to the benefit of the parties, their successors, and approved assigns.
- 11.04 **Exhibits.** Exhibit A and Exhibit B are incorporated into and made a part of this Contract. In the event of any conflict between the terms of this Contract and the terms of Exhibit B, the terms of this Contract shall govern and control.
- 11.05. **No Waiver.** No failure to enforce any provision of the Contract on account of any breach thereof, shall be considered as a waiver of any right to enforce provisions of this Contract concerning any subsequent or continuing breach.
- 11.06 **Notice.** Any notices required or permitted under this Contract shall be in writing and shall be deemed given when personally delivered or, if mailed, three (3) days after being deposited in the United States certified mail, postage prepaid, return receipt requested, and addressed as follows. Either party may change the address to which notices should be delivered by providing notice in accordance with this Section.

To City: City of Delta
360 Main Street
Delta, Colorado 81416
Attn: Renee Ealey
Email: renee@cityofdeltanet

To Contractor: _____

Email: _____

- 11.07 **Severability.** Any provision or part of the Contract held to be void or unenforceable by a court of competent jurisdiction shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon the City and Contractor, who agree that the Contract shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- 11.08 **Governing Law; Venue.** This Contract shall be construed and interpreted according to the laws of the State of Colorado. The parties hereby consent to venue lying exclusively with the state courts located in Delta County, Colorado.
- 11.09 **Attorneys Fees.** Should either party institute legal action to enforce this Contract, including without limitation litigation or arbitration, the prevailing party shall be entitled to an award of its legal fees and costs incurred in such action.

11.10 **Immunity.** Nothing herein shall be construed as a waiver, or partial waiver, by the City of any portion of the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*

11.11 **Complete Agreement.** This Contract, including Exhibits A and B, represents the entire and complete understanding and agreement of the parties regarding the subject matter hereof and supersedes and controls over any prior agreements, bids, or understandings of the parties hereto.

IN WITNESS WHEREOF, the parties have executed this Contract as of the Effective Date.

CITY OF DELTA,
a Colorado home rule municipality

_____,
a Colorado _____

By: _____
Mayor

By: _____
Name: _____
Title: _____

ATTEST:

City Clerk

EXHIBIT A

Specifications and Scope of Work (per Request for Bids)

EXHIBIT B
Contractor's Proposal