City of Fruita

Public Works Department

Bid Documents and Construction Specifications for

2026 Chip Seal

Responses Due:
March 30, 2026, before 2:30 PM (MST)

Purchasing Agent:
MacKenzie Erickson, Procurement and Contracts Specialist
merickson@fruita.org
970-858-3663 x 6054

Bidding Instructions

PROJECT: 2026 Chip Seal

OWNER: City of Fruita
325 E. Aspen Avenue.
Fruita, Colorado 81521
Phone: (970) 858-3663

Purchasing Agent: MacKenzie Erickson merickson@fruita.org

These Bidding Instructions (the "Instructions") are general in nature and may be amended or supplemented at any time by the City of Fruita ("Fruita" or the "City"). By submitting a bid in response or further to these Instructions (each a "Bid" and together the "Bids"), the submitting offeror (each an "Offeror" and together the "Offerors") warrants that it is familiar with all provisions of these Instructions, as well as the Bid Schedule, Drawing Set, Construction Specifications, Special Provisions and Item Descriptions, and draft 2026 Chip Seal Contract (such draft or its final, executed version, depending on the context, hereafter being referred to as the "Contract") being provided herewith, and agrees to comply with all the foregoing. **Bid submittal requirements are listed in Section 8 below.**

1.0 General Scope of Work

a. **General:** Contractor shall furnish oil, chips, and compaction; loose chip removal; and fog seal for a total of approximately 60,105 square yards on various streets in the City of Fruita (together, the "Project"). Material substations shall be pre-approved by City of Fruita Public Works before use. Recovered chips are City of Fruita property, unless specified in the final contract. Contractor to pick up loose chips. Contractor shall cover/uncover manholes, valve boxes, and survey pins. Contractor shall provide traffic control. The City of Fruita shall mark and restripe and add thermal plastic, where needed, for this project. Contractor shall notify residents at least three days prior to any work beginning, door hangers are acceptable.

b. Specifications:

i. Contractor shall pre-oil area with HFMS-2P or CRS2R at a rate of .36 gallons per square yard, minimum.
ii. Contractor shall apply 3/8" fractured face rock chip, or approved, applied at a minimum of 22 to 24 lbs. per square yard.
iii. Contractor shall compact with rubber-tired roller within 15 minutes after rock application.
iv. After one week of streets being fully open to normal vehicular traffic, contractor shall recover loose chips and haul to designated site within the City of Fruita city limits.
v. Contractor shall Apply HFMS-2P or CRS2P Fog Seal at a rate of 0.12 gallons per square yard.

c. **Special Instructions:**
   i. Contractor shall remove any oil or fog coat from the sidewalk and keep over spray in gutter, to a minimum.
   ii. Contractor shall remove chips from sidewalk and gutter at all times.
   iii. Contractor shall repair bare spots caused by traffic before fog coat, maintaining completed look after fog coat.
   iv. City of Fruita will provide a map of start and stop points for the chip seal program.

2.0 Form of Bid and General Description of Bid and Award Process

A form Bid Schedule is attached to these Instructions. In general, work tasks for or related to the Project, such as mobilization, testing, and field survey work, must be bid and paid on a fixed price, lump sum basis. Other items for or related to the Project will, in general, be bid and paid on a unit price basis unless otherwise indicated by City. Estimated quantities of items for or related to the Project are shown on the Bid Schedule. Each Offeror acknowledges that actual quantities of items for or related to the Project may be either more or less than those quantities shown on the Bid Schedule. Unit pricing for unit price items shall provide a basis of payment in the event of changes in unit quantities from those shown in the Bid Schedule.

No pre-bid meeting will be held for this project. All questions from prospective Offerors regarding the Project and requiring a response prior to opening of bidding must be submitted to City in writing prior to **3:00 PM on March 13, 2026.** If necessary, all Addenda responding to Project questions and providing necessary clarifications will be issued **by the 4:00 PM on March 17, 2026.**

Sealed Bids must be submitted to City either electronically, through Bidnet Direct's Rocky Mountain E-Purchasing System ("RMEPS"), accessible at https://www.bidnetdirect.com/colorado, or by mail or hand-delivery addressed to the Fruita Civic Center, 325 E. Aspen Avenue, Fruita, Colorado 81521. City does not have access to or control over the vendor side of RMEPS, and City makes no representation or warranty concerning the operability or accessibility of RMEPS. Sealed bids may also be handed in at the main administrative counter or mailed in the Fruita Civic Center, 325 E. Aspen Avenue, Fruita, CO 81521 no later than the submission deadline. It is the sole responsibility of the bidder to see that the quotation is received before the submission deadline. The bidder shall bear all risks associated with delays in the U.S. mail or delivery service.

Bids must be submitted in accordance with the foregoing and received by City on or before **2:30 PM on March 30, 2026**, to be considered. The base bids and certain terms of all Bids deemed responsive by City in its sole discretion will be opened and read publicly at that time ("Bid Opening"). City's evaluation of the Bids, and the selection of the winning Bid, will be based strictly on selecting the lowest cost Bid that is most responsive to and responsible for Project requirements. **To be responsive, a Bid must meet the criteria and requirements discussed in Section 8 below.** Any Bid deemed non-responsive, as determined by City in its sole discretion, will be eliminated from further consideration and such non-responsive Bid will not be publicly read.

Sealed Bids shall be opened publicly and can be attended virtually or physically at the Fruita Civic Center, 325 E. Aspen Avenue, Fruita, CO 81521. Offerors, representatives, and interested persons may be present.

Please join the meeting from a computer, tablet, or smartphone.
https://us02web.zoom.us/j/88001084187?pwd=ma8DK7Ms3Da7udDIjKUN7rEza07odO.1

Meeting ID: 880 0108 4187
Passcode: 549806

Dial by your location
• +1 719 359 4580 US
• +1 669 444 9171 US
• +1 669 900 9128 US (San Jose)
• +1 253 205 0468 US
• +1 253 215 8782 US (Tacoma)
• +1 346 248 7799 US (Houston)
• +1 507 473 4847 US
• +1 564 217 2000 US
• +1 646 558 8656 US (New York)
• +1 646 931 3860 US
• +1 689 278 1000 US
• +1 301 715 8592 US (Washington DC)
• +1 305 224 1968 US
• +1 309 205 3325 US
• +1 312 626 6799 US (Chicago)
• +1 360 209 5623 US
• +1 386 347 5053 US

City anticipates issuing a Notice of Award for the Project to the Offeror of the Bid selected by City (such successful Offeror hereafter being referred to as the "Contractor") by the end-of-day on April 6, 2026. The foregoing dates are estimates, subject to change based upon the needs or requirements of City.

The draft Contract is included with, and is a part of, these Instructions and other bidding materials. An Offeror must provide any objections to or suggested changes for the Contract in a writing received by City by or before the date and time of Bid opening. After issuing the Notice of Award to the Contractor, City will negotiate and finalize the terms of, and enter into, the Contract with the Contractor. Thereafter, City will issue a Notice to Proceed and hold a Project pre-construction meeting with Contractor once all performance and payment bonds required under the Contract, or otherwise required by City, are received.

Notwithstanding the foregoing or anything else herein, City reserves the right, prior to or after entering the Contract with Contractor, to alter or modify the scope of work for, delete work from, or reduce item quantities or types necessary for or related to the Project, and City further reserves the right to select work or item alternatives for or in relation to the Project. None of the foregoing will change City's Bid selection process.

3.0 General Description of Construction Process and Site-Specific Requirements

Immediately after City issues the Notice to Proceed to Contractor, or by such time otherwise required by City, Contractor shall prepare a proposed construction schedule for the Project that Contractor must submit to City's Project Manager for approval. Once a proposed construction schedule is approved by City's Project Manager, and after City issues a Notice of Proceed to Contractor, a pre-construction meeting shall be held between City's Project Manager, City's Engineer, Contractor's Project Manager, Contractor's Field Supervisor(s), a materials testing firm selected by Contractor, and any other major subcontractors desired by Contractor.

4.0 Schedule of Bid and Construction Activities

A tentative Project schedule, which includes certain, anticipated construction deadlines, is included in the **Special Provisions** being provided with these Instructions and other Bid materials. Such schedule and deadlines represent estimates by City and are subject to change to the extent deemed necessary by City in its sole discretion.

5.0 Addenda

Any interpretations, corrections, or changes to these Instructions, or to any bidding or Project materials being provided herewith, and any extensions or changes to the deadlines or other dates set forth herein or in any of the bidding or Project materials being provided herewith, will be made by way of written Addenda to these Instructions issued by City's Project Manager, who shall have sole and absolute authority to issue and authorize such Addenda. Such Addenda will be, and shall be considered, added to and a part of these Instructions and shall be retained at City's administrative offices, and copies of such Addenda shall also be emailed to all prospective Offerors reasonably identified by City as having received a copy of these Instructions. All Addenda shall be acknowledged on the Bid Schedule, and by submitting a Bid an Offeror shall thereby acknowledge receipt of all Addenda.

All questions about these Instructions, or the bidding or Project materials being provided herewith, must be submitted to City's Purchasing Agent by email at: MacKenzie Erickson, merickson@fruita.org. To the extent interpretations of or clarifications to these Instructions or such other materials are deemed necessary by City in its sole discretion based upon such questions, such interpretations or clarifications will be issued by Addenda hereto that shall be emailed to all prospective Offerors reasonably identified by City as having received a copy of these Instructions. Any questions or requests for clarification concerning these Instructions or other materials provided herewith that are not actually received by City by **3:00 PM on March 13, 2026,** shall not be answered or addressed by City prior to Bid opening at **2:30 PM on March 30, 2026**. Only the questions about these Instructions or other materials provided herewith that are answered by City in written Addenda will be binding on City. Oral and other interpretations or clarifications provided by City concerning these Instructions and other materials will be without legal effect and shall not be binding.

6.0 Exceptions and Substitutions

Offerors are responsible for reviewing in their entirety these Instructions, the draft Contract, and the other bidding and Project materials being provided herewith. An Offeror may take exception to, or request substitutions for or alternatives to, any provision contained herein or therein, but such Offeror shall do so at its own risk and any such exceptions, substitutions, or alternatives shall not be binding on City. City reserves the right to accept or reject any and all exceptions, substitutions, or alternatives to these Instructions, the Contract, or any other bidding or Project materials provided herewith or therewith in its sole discretion. When offering an exception, substitution, or alternative to these Instructions, the Contract, or any other bidding or Project materials provided herewith or therewith, the Offeror shall state such exceptions, substitutions, or alternatives on a separate sheet of paper included with such Offeror's Bid.

7.0 Confidential Materials

All Bids and other materials submitted by Offerors and prospective Offerors in response to these Instructions or the Project and bidding materials provided herewith will become public record in accordance with the Colorado Open Records Act, C.R.S. §§ 24-72-200.1 – 24-72-206 (the "Records Act"), and that such Bids and other materials will be subject to public inspection and review after City and Contractor execute and enter the Contract; provided, however, that financial disclosures, trade secrets, and other confidential information that are clearly and conspicuously marked by a submitting Offeror as a "**Confidential Disclosure**", that are separated or segregated from the non-confidential portions of a Bid (by being included in a separate envelope, for example), and that include a written justification of confidentiality deemed reasonable by City in its sole discretion, shall be treated as confidential by City to the extent allowed under the Records Act ("Confidential Information"). In no event shall complete Bids, nor unit pricing included in a Bid, be considered Confidential Information. In all circumstances, all Bids shall become the property of City with the exception of Confidential Information. City shall only return a Bid to an Offeror if City so elects.

8.0 Required Submittals

a. Each Bid shall contain a completed Bid Schedule in accordance with this Section 8. A Bid Schedule will not be considered by City to be complete unless all spaces for inserting either unit prices or total prices are filled in and completed. Lump sums and unit costs included in a Bid Schedule shall be, at City's election, contractual obligations binding on the submitting Offeror. The total Project base bid included in a Bid will be used by City to compare Bids and thereby determine and identify the lowest responsive Bid. Any blank on a Bid Schedule that is not completely filled in or completed by the submitting Offeror shall be treated by City as a zero or none (as the case may be).

b. Each Bid shall contain a completed and signed copy of the Solicitation Response Form found at the end of this bidding packet. Bidder shall acknowledge all Addenda on this form and shall signed by a principal, officer, or other authorized signer of submitting Offeror, which principal, officer, or authorized signer must have the necessary authority to enter into contractual relationships on behalf of such Offeror.

c. Each Bid shall include a copy of insurance certificates or other evidence of the following minimum insurance requirements:

    i. Workers' Compensation insurance to cover obligations imposed by the Workers' Compensation Act of Colorado and any other applicable laws for any employee engaged in the performance of Project work pursuant to these Instructions or under the Contract, and Employers' Liability insurance with minimum limits of FIVE HUNDRED THOUSAND DOLLARS ($500,000) each accident, FIVE HUNDRED THOUSAND DOLLARS ($500,000) disease - policy limit, and FIVE HUNDRED THOUSAND DOLLARS ($500,000) disease - each employee.

    ii. Comprehensive General Liability insurance with minimum combined single limits of ONE MILLION DOLLARS ($1,000,000) each occurrence and ONE MILLION DOLLARS ($1,000,000) aggregate. Such policy shall be applicable to all premises and operations of Offeror. Additionally, such 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 liability, independent contractors; products; completed operations; explosion; collapse; and underground hazards. Such policy must also contain a severability of interests provision.

    iii. Comprehensive Automobile Liability insurance with minimum combined single limits for bodily injury and property damage of not less than ONE MILLION DOLLARS ($1,000,000) each occurrence and ONE MILLION DOLLARS ($1,000,000) aggregate with respect to each of Offeror’s owned, hired, and/or non-owned vehicles that will be assigned to or used in performance of Project work. Such policy must also contain a severability of interests provision.

d. Each Bid shall include a bid bond or other form of guaranty equal to 5% of the total base bid as shown on the bottom of the submitting Offeror’s Bid Form. The bid bonds or other forms of guaranties provided by the Offerors of the three lowest, most responsive Bids, as determined by City in its sole discretion, shall be retained by City until Contractor executes the Contract and provides City with guaranties or other performance security required by the Contract, but in no event shall City retain such bid bonds or other guaranties longer than forty-five (45) days after receipt thereof. The bid bonds or other guaranties of all other Offerors shall be returned by City within seven (7) days following selection by City of the winning Bid (i.e., selecting the Contractor).

e. Each Bid shall include a list of objections to or suggested changes for the draft Contract. If a Bid does not include a list of such objections and changes, City may elect to treat the submitting Offeror as having agreed to all terms of the draft Contract being provided herewith. To list objections to or suggested changes for the Contract as part of a Bid, an Offeror may use the form provided herewith or submit such objections or changes through another format or method acceptable to City.

f. Each Bid must be either provided to City in a sealed envelope that is clearly and conspicuously marked with **"2026 Chip Seal"** on its face or submitted electronically through RMEPS or provided to City at its main administrative counter located in the Fruita Civic Center at 325 E. Aspen Avenue, Fruita, Colorado 81521. Late or unsigned Bids will not be accepted or considered by City.

g. Any handwritten or other alteration to a Bid must be initialed by the signer for the Offeror submitting such Bid. Bids cannot be altered or amended after the Bid submission deadline (2:30 PM on March 30, 2026). However**,** an Offeror may withdraw its Bid at any time prior to the execution of the Contract.

h. Information detailing the qualifications of the Offeror submitting a Bid, or such Offeror's personnel, is not required to be included with a Bid, but City may require such qualifications or other information at any time from any Offeror prior to entering into and executing the Contract.

i. All Bids **must be** received by City by or before **2:30 PM on March 30, 2026.** To be received by City, a Bid must be submitted electronically through RMEPS or provided to City at its main administrative counter located in the Fruita Civic Center at 325 E. Aspen Avenue, Fruita, Colorado 81521. Late or unsigned Bids will not be accepted or considered by City.

j. At Bid Opening, each Bid will be evaluated by City for responsiveness according to the checklist below. City reserves the right to waive minor discrepancies in the form or content of a Bid, but the following materials **must be** included with a Bid for City to deem such Bid responsive and to review and consider the same. City may reject as non-responsive any Bid that does not include each and all of the following:

   i. Bid Schedule;
   ii. Signed Solicitation Response Form;
   iii. Total base bid amount;
   iv. A bid bond or other form of guaranty that satisfies Section 8(e) herein; and
   v. Copies of all insurance certificates necessary to satisfy Section 8(d) herein.

9.0 Conflict of Interest

No City public official or City employee shall have a direct personal or proprietary interest in any Offeror submitting a Bid pursuant to these Instructions. Any indirect interest of a City public official or City employee in an Offeror must be disclosed within such Offeror's Bid.

10.0 Only One Bid Accepted

An Offeror may only submit one Bid, and City will not consider more than one Bid from an Offeror, whether submitted under the same or different names. Evidence that an Offeror has an interest in more than one Bid (or in the Offeror of another Bid) will be cause for rejection by City of all such Bids. Evidence of collusion or other illegal activities between Offerors will be considered sufficient cause for the rejection of all Bids so affected by such collection or other illegal activities. Notwithstanding the foregoing, a subcontracted person or entity (for example only, a surveyor or traffic control firm) that has quoted prices to one Offeror is not disqualified from quoting prices to other Offerors, but such subcontracted person may not submit a Bid on its own behalf.

City reserves the right to reject any or all Bids, and to waive any informalities or irregularities in any or all Bids, for any reason, including past project performance by a submitting Offeror.

11.0 Description of Bid Items

Bid Item Descriptions are described and included Section 3 to the Special Provisions being provided with these Instructions. All Bid Items must be priced as complete, in place.

12.0 Public Funds/Non-Appropriation of Funds

Funds for the payment of the Project have been provided through City's budget approved by its City Council for the current fiscal year only. The Taxpayers' Bill of Rights ("TABOR") in Article X, Section 20 to the Colorado Constitution prohibits the obligation and expenditure of public funds by City beyond the fiscal year for which a budget has been approved. Therefore, anticipated orders or other obligations that may arise under the Contract or otherwise past the end of the City's current fiscal year shall be subject to further budget approval. The Contract must and will be subject to, and must contain, a governmental non-appropriation of funds clause. Contractor, by entering the Contract, agrees and acknowledges and shall agree and acknowledge that any failure by City to fund Project obligations as a result of TABOR-related monetary constraints shall not give rise to any legal or equitable cause of action against City whatsoever.

13.0 Keep Jobs in Colorado Act

Keep Jobs in Colorado Act: Contractor shall be responsible for ensuring compliance with Article 17 of Title 8, Colorado Revised Statutes (C.R.S.) requiring 80% of the laborers on public projects to be residents of Colorado. Contractor shall, upon reasonable notice provided by the City, permit the City to inspect documentation of identification and residency required by C.R.S. §8-17-101(2)(a). If Contractor claims it is entitled to a waiver pursuant to C.R.S. §8-17-101(1), Contractor shall state that there is insufficient Colorado labor to perform the Project work such that compliance with Article 17 would create an undue burden that would substantially prevent a project from proceeding to completion and shall include evidence demonstrating the insufficiency and undue burden in its response.

Unless expressly granted a waiver by the City pursuant to C.R.S. §8-17-101(1), Contractor shall be responsible for ensuring compliance with Article 17 of Title 8, C.R.S. requiring 80% of the laborers on public projects to be residents of . Contractor shall, upon reasonable notice provided by the City, permit the City to inspect documentation of identification and residency required by C.R.S. §8-17-101(2)(a).

"Public project" is defined as: (a) any construction, alteration, repair, demolition, or improvement of any land, building, structure, facility, road, highway, bridge, or other public improvement suitable for and intended for use in the promotion of the public health, welfare, or safety and any maintenance programs for the upkeep of such projects. (b) for which appropriate or expenditure of moneys may be reasonably expected to be $500,000.00 or more in the aggregate for any fiscal year (c) except any project that receives federal moneys.

END OF BID INSTRUCTIONS

SPECIAL PROVISIONS

The Special Provisions listed hereafter are specific to this contract only and do not apply to any other contract. Any provisions stated herein shall take precedence over any other sections of this document. Any conflicting segment shall be void while the special provision is applicable. The Contractor is to review these special provisions and include any costs of these provisions in the applicable pay items of the bid.

1. Project Specifications

a. General: Contractor shall furnish oil, chips, and compaction; loose chip removal; and fog seal for a total of approximately 60,105 square yards on various streets in the City of Fruita (together, the "Project"). Material substations shall be pre-approved by City of Fruita Public Works before use. Recovered chips are City of Fruita property, unless specified in the final contract. Contractor to pick up loose chips. Contractor shall cover/uncover manholes, valve boxes, and survey pins. Contractor shall provide traffic control. The City of Fruita shall mark and restripe and add thermal plastic, where needed, for this project. Contractor shall notify residents at least three days prior to any work beginning, door hangers are acceptable.

b. Specifications:

i. Contractor shall pre-oil area with HFMS-2P or CRS2R at a rate of .36 gallons per square yard, minimum.
ii. Contractor shall apply 3/8" fractured face rock chip, or approved, applied at a minimum of 22 to 24 lbs. per square yard.
iii. Contractor shall compact with rubber-tired roller within 15 minutes after rock application.
iv. After one week of streets being fully open to normal vehicular traffic, contractor shall recover loose chips and haul to designated site within the City of Fruita city limits.
v. Contractor shall Apply HFMS-2P or CRS2P Fog Seal at a rate of 0.12 gallons per square yard.

c. Special Instructions:

i. Contractor shall remove any oil or fog coat from the sidewalk and keep over spray in gutter, to a minimum.
ii. Contractor shall remove chips from sidewalk and gutter at all times.
iii. Contractor shall repair bare spots caused by traffic before fog coat, maintaining completed look after fog coat.
iv. City of Fruita will provide a map of start and stop points for the chip seal program.

2. Pre - Bid Conference

No pre-bid meeting will be held for this project.

3. Tentative Project Schedule

The following schedule provides the general timeline and/or milestones for which the project is anticipated to proceed. The dates presented below are subject to change at the direction of the City. Project schedule to be determined and agreed upon following the acceptance of the bid and negotiation of the contract terms.

Event / Deadline	Date & Time
Advertisement Dates – GJ Sentinel	Saturdays, February 28th, and March 7th, 2026
Plans and Bid Documents Available	February 27, 2026
Project Questions Deadline	Friday, March 13, 2026, by 3:00 PM
Final Addenda Issued	Tuesday, March 17, 2026, by 4:00 PM
Bid Opening	Monday, March 30, 2026, at 2:30 PM
Notice of Award	Monday, April 6, 2026
Pre-Construction Meeting	Prior to commencement of work
Begin Construction	Anytime after May 21, 2026
Substantial Completion	Friday, August 7, 2026
Completion Date	Friday, August 14, 2026

1. Hours of Operation

Contractor may perform work Monday through Friday during daylight hours but may not start or operate equipment and machinery before 7:00 AM. Special approvals for weekend or night-time work, if needed, will be considered on a case-by-case basis.

2. Road Closures, Detours, and Traffic Control

Traffic Control is a Lump Sum bid item. Traffic Control shall be placed in accordance with an approved Traffic Control Plan (TCP). The TCP must be submitted for approval to the City of Fruita Public Works Department with the *Right Of Way Permit*.

The contractor shall insure that access to individual parcels / residences (within and adjacent to the construction zone) be maintained at all times, minor delays excepted. Contractor shall provide notification of construction schedule to all residents affected at least three days in advance. Door hangers are acceptable.

3. Item Descriptions

The following descriptions delineate the work, materials, and how measurements of completed work will be made and paid for regarding each bid item listed in the Bid Schedule. The Bidder is to read these definitions and price their proposal accordingly. The City of Fruita may choose to add, reduce, or eliminate any bid item or combination of bid items so the construction contract shall not exceed the encumbered funds allocated for this project.

Item 1 Mobilization & Demobilization
This pay item includes the Contractor's cost of moving all materials, equipment, and labor onto the job site, setup, providing a temporary sanitary facility, tear down and removing all debris, materials, equipment, and labor off the job site, dust abatement during the project, and final cleanup. The price for this item shall include all costs incorporated in performing the work described herein. Payment will be made at 50% of the Lump Sum amount upon initial mobilization, up to 90% during the work, and the final 10% after demobilization and advertisement.

Item 2 Pre-Oil, Apply, Compact
This pay item includes pre-oiling the area with HFMS-2P or CRS2R at a rate of .36 gallons per square yard, minimum. Applying 3/8" fractured face rock chip, or approved alternative, applied at a minimum of 22 to 24 lbs per square yard. Then compacting the area with rubber-tired roller within 15 minutes of rock application.

Item 3 Double Pin Chipseal with Prime Oil and ¾" Chipseal and Fog
This pay item includes double chipseal on Snooks Bottom Drive. Prime oil and double application of ¾" chipseal and fog coat.

Item 4 Recover Loose Chips
This pay item includes recovery of the loose chips and haul to designated site within City of Fruita limits.

Item 5 Fog Seal
This pay item is for application of HFMS-2P or CRS2P Fog Seal at a rate of 0.12 gallons per square yard.

Item 6 Traffic Control
This pay item for Traffic Control is a lump sum bid item. Traffic Control shall be placed in accordance with an approved Traffic Control Plan (TCP). The TCP must be submitted for approval to the City of Fruita Public Works Department with the Right Of Way Permit.

SUMMARY
This concludes the pay items listed in the proposal. Please be aware that the only payments made under this contract are for the pay items listed in the proposal and no other payments or additional payments will be made to the contractor for work specified and shown in these documents unless otherwise pre-approved via a contract change order approved by the City's project manager. If any discrepancies exist, the contractor should notify the project manager in writing, requesting clarification as soon as practical. The following items have not been included as specific pay items and are considered incidental to the construction for which they are required, unless otherwise identified in a bid item:

- Dust control
- Erosion and Environmental control
- Watering / Dewatering
- Temporary facilities and utilities
- Barricades and other required safety provisions
- Cold weather protection
- Construction Contract Administration including completion and submittal of required forms and other paperwork

END OF SPECIAL PROVISIONS

Solicitation Response Form
Bid Date: ________________________________
Project: 2026 Chip Seal
Bidding Company: ____
Name of Authorized Agent____
Email____
Telephone___________________________ Address_________________________________
City____State__________Zip______________

The undersigned Offeror, in compliance with the Bid and having examined the Bidding Instructions, Special Provisions, Bid Schedule, and other portions of the Bid, as well as any and all Addenda to the Bid, and having investigated the location of, and conditions affecting, the proposed Project work, hereby proposes to furnish all labor, materials and supplies, and to perform all work, for the Project in accordance with Project Contract, within the time set forth and at the prices stated below. These prices are to cover all expenses incurred in performing the Project work required under the Project Contract, of which the Bid and this Solicitation Response Form are a part.

The undersigned Offeror does hereby declare and stipulate that its Bid is made in good faith without collusion or connection to any other Offerors and that its Bid is made pursuant and subject to all terms and conditions of the Bid and any Addenda thereto, all of which have been examined by the undersigned Offeror. The undersigned Offeror also agrees, if awarded the Project Contract, to provide insurance certificates within ten (10) working days of the date of notification of award from City. Submission of this form with the undersigned Offeror's Bid will be taken by City as a binding covenant that Offeror is and will be prepared to complete the Project in its entirety.

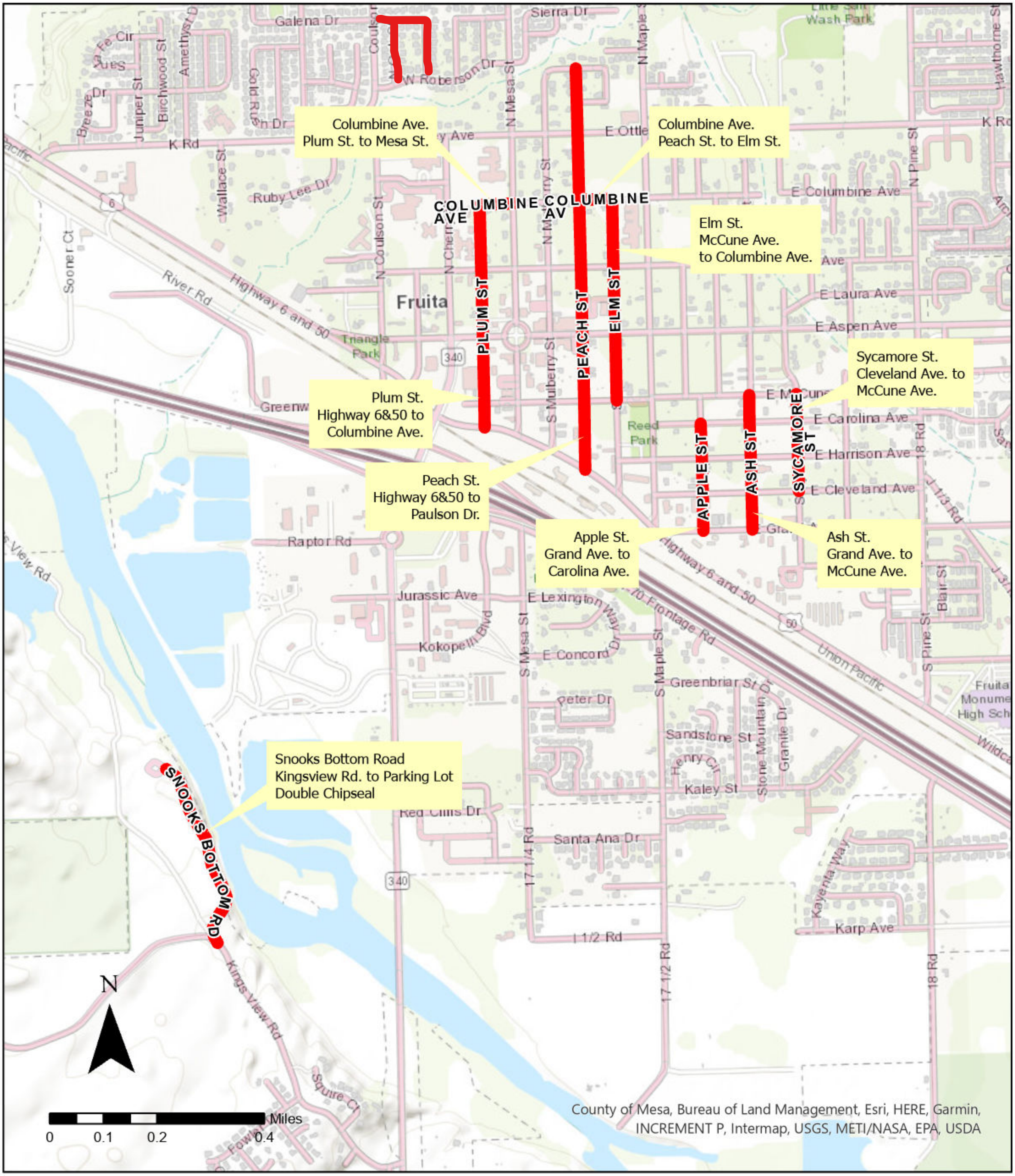
City reserves the right to select a Contractor on the basis of such Contractor's Bid being deemed most favorable, to waive any formalities or technicalities, and to reject any or all Bids or other offers. It is further agreed that this form may not be withdrawn by an Offeror for a period of sixty (60) calendar days after the Submission Deadline. Closing time. Submission by Offerors of clarifications and revised Bids automatically establish a new thirty-day (30) non-withdrawal period.

- Prices in the undersigned Bid have not knowingly been disclosed with another Offeror and will not be disclosed prior to selection of an Offeror by City as Contractor.
- Prices in this Bid have been arrived at independently, without consultation, communication, or agreement for the purpose of restricting competition between Offerors.
- No attempt has been or will be made to induce any other Offeror, whether person or firm, to submit a Bid for the purpose of restricting competition.
- The individual signing this Bid on behalf of Offeror certifies they are a legal agent of the Offeror, authorized to represent the Offeror, and is legally responsible for the Bid with regard to supporting documentation and prices provided.
- Direct purchases by City are tax exempt from Colorado sales or use taxes (Tax exempt No. 09801205). The undersigned Offeror certifies that no federal, state, county, or municipal tax will be added to the quoted prices in the Bid.
- City payment terms for the Project Contract shall be Net 30 days.

RECEIPT OF ADDENDA: the undersigned Offeror acknowledges receipt of Addenda to the Bid. State number of Addenda received: __________.

It is the responsibility of Offeror to ensure all Addenda have been received and acknowledged. By signing below, the undersigned Offeror agrees to comply with all terms and conditions contained herein.

Authorized Signature: ____________________________Title: _____________________________



2026 Fruita Chipseal Project
Vicinity Map

2026 Chipseal Project

2026 Chipseal Project

2026 Chip Seal

THIS CONTRACT is made this _____ day of ________________________, 2026 by and between the City of Fruita, herein after referred to as the "City" or "Owner", and *CONTRACTOR NAME HERE*, herein after referred to as the "Contractor".

RECITALS:

WHEREAS, the City desires to obtain services of a Contractor for the purpose of chipseal installation on existing streets through rights-of-way and easements owned by the City of Fruita(the "Project"), and

WHEREAS, this Contract sets forth the terms under which Contractor will undertake and execute the Project for City, including as to design criteria, special provisions, budget matters, and submittals; and

WHEREAS, the Contractor is a licensed qualified construction contractor, capable of providing the professional services required to complete the Project, and

WHEREAS, the Contractor agrees to provide the Owner with all services for or related to the Project as described herein and in the other Project agreements and documents as further described below, and the Contractor agrees to and accepts pricing and payment for the Project consistent with this Contract, and

NOW THEREFORE, in consideration of the terms of this Contract, Contractor and City (collectively hereinafter, the "Parties") agree as follows:

1. SCOPE OF SERVICES

1.1. The Contractor shall provide to the City all necessary services for the 2026 Chip Seal Project as defined by and described in the Project plans and specifications (collectively, the "Project Plans"), and all other documents, and agreements for or related to the Project, including without limitation the Contractor's Bid Schedule dated _______________, 2026, which Contractor submitted to City as part of Contractor's bid for the Project (the "Bid Schedule"), the Bidding Instructions the Contractor received from the City with respect to the Project (the "Instructions"), the Special Provisions the City circulated and distributed to Contractor along with the Bidding Instructions and other Project materials City circulated as part of the Project bidding process (the "Special Provisions"), and the 2009 City of Fruita Design Criteria and Construction Specifications Manual. This Contract, together with the Project Plans, Bid Schedule, the Instructions, the Special Provisions, and all other documents, and agreements for or related to the Project, whether specifically identified herein and whether provided by City as part of the Project bidding process or subsequently entered into or adopted by City or Contractor, or both of them, for or in relation to the Project, are hereafter referred to as the “Project Documents.” The Project Documents, and each of them, are incorporated herein in their entirety by this reference. The Contractor represents, acknowledges, and agrees that it has received and approved all Project Documents.

1.2. Project services provided by Contractor shall include, without limitation, contracting for, coordinating, and scheduling other contractors or sub-contractors as needed to complete the Project and accomplish all work related thereto as described in the Project Documents, specifically including, but without limitation, as depicted in the Project Plans, the Bid Schedule, and the Special Provisions provided by City as part of the Project bidding process, irrespective of whether the work performed by these other contractors and sub-contractors are explicitly identified within Contractor’s bid for the Project.

1.3. All engineering work for the Project shall be completed by, or under the direct supervision of, a professional engineer (“P.E.”) licensed in the State of Colorado.

1.4. Specific Project deliverables, and a schedule for these deliverables, to which Contractor acknowledges and agrees are shown on the Project Plans and further described in the Special Provisions.

1.5. In case of any conflict between the Contractor's representations or understandings and the Project Plans, the Project Plans shall control.

1.6. The Contractor shall be responsible for insuring the safety of the public during the performance of all Project work in accordance with the Manual on Uniform Traffic Control Devices (incorporated herein by this reference) and all other requirements of the City, and Contractor shall further be responsible for maintaining access through the areas in which Project work is to be performed, except as otherwise agreed to by City in writing or to the extent such obligations are excluded or negated based upon the specifications, depictions, and drawings in the Project Plans or in the Special Provisions.

1.7. The costs of the performance and payment bonds, and the costs of the warranty bonds, described in Subsection 15.3.8 herein shall not exceed two and one-half percent (2.5%) of the Contract Amount defined in Subsection 3.4 herein.

2. DELIVERABLES AND SCHEDULE

2.1. The Contractor agrees to and shall submit and deliver to the City all deliverables specified in the Special Provisions, subject to approval and acceptance by the City.

3. COMPENSATION

3.1. The Contractor shall be compensated for providing the services described in Section 1 of this Contract according to the Project rate schedules provided by the City and agreed to by Contractor and as otherwise reflected in the Bid Schedule. Project subcontracting expenses for other professional engineering services, specifically including but without limitation for geotechnical engineering services and surveying services, shall be billed and paid at rates not exceeding the rates proposed and submitted by the Contractor in the Bid Schedule. The Contractor is free to select sub-consultants to work on the Project, but Contractor shall not bill rates for such sub-consultants that exceed the rates submitted by Contractor in the Bid Schedule.

3.2. All Project rates shall be fixed at the rates shown on the Bid Schedule throughout the term of this Agreement.

3.3. Specific billable matters and items such as travel time, direct costs, and other reimbursable items applicable to the Project shall be billed at the rates shown on the Bid Schedule.

3.4. The City agrees to pay, and Contractor agrees to accept, as payment for completion of the Project in accordance with Section 1 of this Contract, and as Contractor's final bid to undertake Project work, the amount of ***cost in text*** **dollars and *cost* cents** ***<u>($XXX,XXX.XX)</u>*** (the "Contract Amount").

3.5. The Contract Amount does not and shall not include the following: costs of delays, rework, overruns, and/or all other costs specifically excluded by the Project Documents;

3.6. Subject to the terms of this Contract concerning the appropriation by City of Project funds, and subject to Section 24 herein, compensation for individual Project work items may exceed the proposed dollar amounts shown on the Bid Schedule, so long as all such increased amounts are agreed upon in the form of one (1) or more approved change orders signed by both Parties.

3.7. Additional Project services or modifications of Project services, and associated adjustments of compensation, shall be agreed to by the Parties and approved through one (1) or more approved change orders signed by both Parties, prior to execution or performance of such additional services or modifications. Contractor acknowledges and agrees that Project change orders may need to be reviewed and approved by City Manager for the City.

3.8. <u>Project material and/or labor costs that exceed those identified in the Bid Schedule, the use by Contractor of items or materials for the Project different</u>

than as identified in the Project Documents or in Contractor's Project bid, and other Project services/modifications that differ from those set out herein and in the other Project Documents, must be processed by change orders agreed to and signed by the Parties **prior** to execution or performance of any of the foregoing by Contractor.

3.9. Payment by City under this Section 3 shall be due thirty (30) days from the date of receipt of an invoice from the Contractor.

3.10. By executing this Contract, City states that it has appropriated money equal to or in excess of the Contract Amount. The Parties acknowledge and agree that no change order, work order, modification, or other directive which requires additional compensable Project work to be performed by Contractor and additional compensation to be owed by City, and which causes the aggregate Contract Amount to exceed the amount appropriated by City to satisfy the same, shall be issued unless appropriation for the costs thereof has been made and appropriations are available to cover the costs of the additional Project work contemplated in or required by the change order, work order, modification, or other directive.

4. REPRESENTATION, DURATION, AND TERMINATION

4.1. As an inducement to the City to enter into this Contract, the Contractor represents and warrants as follows:

4.1.1. The Contractor has familiarized itself with the nature and the extent of the Project work, the Project's locality, and all physical characteristics of the Project area, including without limitation, all existing improvements, soil conditions, drainage, topography, and all other features of the terrain, and Contractor has also familiarized itself with the local Project conditions and federal, state, and local laws, ordinances, rules, and regulations that in any manner may affect cost, progress, or performance of Project work, or apply in any manner whatsoever to the Project.

4.1.2. Contractor has carefully considered all physical conditions at the Project site and existing facilities affecting cost, progress, or performance of the Project work.

4.1.3. Contractor has given the City written notice of all conflicts, errors, or discrepancies that it has discovered in this Contract and the other Project Documents, and all the foregoing are acceptable to and agreed upon by the Contractor.

4.2. The Contractor accepts the relationship of trust and confidence established between it and the City by this Contract. The Contractor covenants with the City to furnish the Contractor's best skill and judgment and to cooperate with the City's Project Manager and all other persons and entities in furthering the interests of the City. The Contractor agrees to furnish efficient business administration and superintendence in completing and administering the Project and to use its best efforts to furnish at all times an adequate supply of workers and materials for the Project, and to perform the Project work in the best way and in the most expeditious and economical manner consistent with the interests of the City.

4.3. The City's Project Manager and point of contact for this Contract and the Project is the following, or such other person as the City may hereafter designate in writing:

EMPLOYEE NAME ______
City Project Manager
325 E. Aspen Ave., Suite 155
Fruita, CO 81521
EMPLOYEE PHONE #
EMPLOYEE EMAIL________

5. TIME OF COMPLETION, LIQUIDATED DAMAGES, AND INCENTIVES FOR EARLY COMPLETION:

5.1. No Project work shall be commenced by the Contractor until after a pre-construction meeting between the Contractor, the City's Engineer, and other City representatives or personnel determined by City in its sole discretion as necessary or appropriate. All Project work shall be performed Monday through Friday, during daylight hours only, except as agreed to in writing by the City.

5.2. The Contractor acknowledges and understands that prompt completion of the Project is essential to the City. Time is of the essence in all respects regarding this Contract and the Project work. The Contractor shall carry out construction of the Project with all due diligence in compliance with the schedules included in the Project Documents or otherwise agreed upon by the City in writing. In all cases, the Contractor acknowledges and agrees that substantial completion of the Project work must be achieved prior to **Friday, August 7, 2026.**

As used in this Contract, "Substantial completion" of the Project work is defined as the date by which all Project deliverables have been accepted by the City and the Contractor has completed Project construction.

As used in this Contract, "Project final completion" is defined as the effective date, or, if different, the date of City Engineer execution and delivery, of a Notice of Final Acceptance and Warranty for the Project. The Contractor acknowledges and agrees City will not issue a Notice of Final Acceptance and Warranty for the Project without installation and testing of all Project concrete, asphalt, and pavement improvements, final Project cleanup and remediation, demobilization of Contractor and all subcontractors, and removal of any and all traffic control devices implemented in relation to the Project. In all cases, the Contractor acknowledges and agrees that Project final completion must be on or before **Friday, August 14, 2026.**

5.3. Liquidated Damages. The Parties agree liquidated damages will be assessed on the Project and charged to Contractor in the amount of Two Hundred Fifty Dollars ($250.00) per day for each day in which the Contractor continues work on the Project past the dates set out herein or in the Project Documents or as otherwise mutually agreed to by written change orders executed by the Parties. When weather conditions exist such that the Contractor cannot reasonably perform Project work activities for a given day, the Contract schedule and timeline will be commensurately extended.

5.4. Incentive for Early Completion. The Parties acknowledge and agree that it is in Contractor's interest to complete the Project as early as possible; provided, however, the Contractor understands and agrees it shall not receive monetary or other incentives for early completion of the Project.

6. SCOPE OF PAYMENT

6.1. The Contractor shall accept the compensation provided herein in full payment for furnishing all materials, equipment, labor, tools, and incidentals necessary to complete the Project and for performing all Project work contemplated and described in this Contract and the other Project Documents. Compensation for Project work shall also include loss or damage caused by the nature of the work, the action of the elements, or any unforeseen difficulties which may be encountered during the prosecution of Project work, for all expenses incurred in consequence of the suspension or discontinuance of Project work as herein specified, and for any infringement of patent, trademark, or copyright. Compensation paid to Contractor shall be for completing Project work according to this Contract and the other Project Documents. Neither the payment by City of any estimate or progress payment, nor the payment by City of any retained percentage, shall relieve the Contractor of any obligations to correct any defective work or material for or related to the Project. No funds, payable under this Contract or any part hereof, shall become due and payable, if the City so elects, until the Contractor establishes to the City's sole but reasonable satisfaction that Contractor has fully settled or paid for all materials and equipment used in or upon the work and labor done in connection therewith. The City may pay any or all such claims or bills, wholly or in part, and deduct the amount or amounts so paid from any funds due Contractor hereunder. In the event the surety on any contract, performance bond, payment bond, or warranty bond given by the Contractor becomes insolvent, or is placed in the hands of a receiver, or has its right to do business in the state revoked, the City may withhold payment of funds due Contractor until the Contractor has provided a bond or other security to the satisfaction of the City in lieu of the bond so executed by such surety.

6.2. The Parties agree that the City's payment of any monies under this Contract is subject to annual budget appropriations as required by provisions of the Taxpayers' Bill of Rights ("TABOR") contained in Article X, Section 20 of the Colorado Constitution, as amended. The Parties further agree that any failure to fund the obligations set forth herein as a result of TABOR-related monetary constraints shall not give rise to any legal or equitable cause of action whatsoever.

7. PROGRESS PAYMENTS AND RETAINAGE

7.1. By the fifth (5th) day of each month during the term of this Contract, Contractor shall submit to the City for review and approval an application for payment fully completed and signed by Contractor and covering the Project work completed through the last day of the prior month and accompanied by such supporting documentation as is required by this Contract and the other Project Documents, including without limitation, all time sheets, invoices, receipts, bills of lading, and all other documents the City may require. Project materials on hand but not complete in place may not be included for payment at the discretion of the City. Each subsequent application for payment by Contractor shall include an affidavit of Contractor providing that all previous progress payments received on account of Project work have been applied to discharge in full all of Contractor's obligations reflected in prior applications for payment.

7.2. Contractor acknowledges and agrees that retainage is and shall be withheld by City from any contract exceeding fifty thousand dollars ($50,000.00). Notwithstanding the progress payments contemplated and provided for herein, or anything else to the contrary herein or in the Project Documents, City shall withhold at least five percent (5%) of the amount of this Contract and deducted from each payment to the Contractor as retainage in accordance with Article 91, Title 24, Colorado Revised Statutes.

8. OWNERSHIP OF PLANS, SPECIFICATIONS, AND DOCUMENTS

8.1. Except for Contractor's executed set, the Project Plans and all other Project Documents are the property of the City. The Parties agree that Contractor shall be provided Project Plans, other Project plans and specifications and Project permits, and other Project documents and materials as required to perform the

Project work. Contractor shall not use or retain any of the foregoing for any other work, and the Project Plans and all other foregoing items sets shall be returned to City at the completion or cessation of Project work or the termination of this Agreement.

9. NO PERSONAL LIABILITY

9.1. Contractor acknowledges and agrees that, in carrying out any of the provisions of this Contract or in exercising any power or authority afforded herein or in the other Project Documents, there shall be no personal liability of the City or City's governing body, staff, consultants, officials, attorneys, representatives, agents, or employees.

10. OBSERVATION OF ALL LAWS

10.1. Contractor represents and warrants it is familiar with all federal, state, and local laws, codes, ordinances, and regulations that in any manner may affect those engaged or employed in Project work, the material or equipment used in or upon the Project sites, or that in any way affect the conduct of Project work or construction of the Project. No pleas or claims of misunderstanding or ignorance by Contractor as to any of the foregoing shall in any way serve to modify the provisions of this Contract or the other Project Documents. Contractor shall at all times observe and comply with all federal, state, county, local, and municipal laws, codes, ordinances, and regulations in any manner affecting the conduct of Project work or the Project more generally. It is not the responsibility of Contractor to determine that this Contract and the Project Documents are in accordance with applicable laws, statutes, building codes, and regulations; however, if Contractor knows, or should have reason to know, that anything in this Contract or in any of the Project Documents are at variance therewith in any respect, Contractor shall promptly notify the City in writing, and any necessary changes shall be made as provided herein.

11. AGREEMENT PROVISIONS PREVAIL

11.1. The Parties acknowledge and agree that the intent and purpose of this Contract and the other Project Documents is, to the maximum extent possible, to complement each other; however, the terms and provisions of this Contract shall prevail regarding differences in, discrepancies with, or conflicts of, terms or provisions contained in other Project Documents.

12. CONTRACTOR'S RESPONSIBILITY FOR WORK

12.1. Until the final acceptance of Project work by the City in writing, the Contractor shall have the charge and care thereof, and Contractor shall take every necessary precaution against injury or damage to any part thereof by the effects of the elements or from any other cause. The Contractor, at its own expense, shall rebuild, repair, restore, and correct all injuries or damages to any portion of Project work occasioned by any causes before its completion and acceptance thereof by the City. In case of the suspension of Project work from or due to any cause whatsoever, the Contractor shall be responsible for all Project materials and items and shall properly store same, if necessary, and Contractor shall provide suitable drainage, barricades, and warning signs where and as necessary in relation to the foregoing. The Contractor shall correct or replace, at its own expense and as required by City, any material which may be destroyed, lost, damaged, or in any way made useless for the purpose and use intended by this Contract or the other Project Documents prior to final acceptance of Project work or any portions thereof. The Contractor shall be relieved of the responsibilities provided in this Subsection 12.1 upon final acceptance of the Project and all work therefor by the City, except no such relief shall apply to damages or injuries caused by or related to the actions of the Contractor or its subcontractors.

13. TERMINATION OF CONTRACTOR'S RESPONSIBILITY

13.1. The Project will be considered complete when all work has been finished, final inspections made, and all Project work accepted by City in writing by way of the issuance of a signed Notice of Final Acceptance and Warranty, and all claims for payment of labor, materials, or services of any kind used in connection with Project work have been paid or settled in full by the Contractor or its surety. Upon satisfaction of all the foregoing, the Contractor will then be released from further Project obligations except as set forth in the surety bond and except as required in this Contract and the Project Documents regarding the Contractor's guaranty of Project work.

14. INDEMNIFICATION

14.1. To the fullest extent permitted by law, the Contractor agrees to indemnify and hold harmless the City, and its elected officials, officers, and employees, from and against all liability, claims, and demands arising or on account of any injury, loss, or damage, which arise out of or be connected with Project work, if such injury, loss, or damage, or any portion thereof, is caused by, or claimed to be caused by, the act, omission, or other fault of the Contractor or any subcontractor of the Contractor, or any officer, employee, or agent of the Contractor, any subcontractor of the Contractor, or any other person for whom Contractor is responsible. The Contractor shall investigate, handle, respond to, and provide defense for and defend against any such liability, claims, and demands, and the Contractor shall bear all other costs and expenses related thereto, including court costs and attorneys' and paralegals' fees. The Contractor's indemnification obligations herein do not extend to any injury, loss, or damage which is caused by the act, omission, or other fault of the City.

15. INSURANCE AND BONDS

15.1. The Contractor shall not commence Project work pursuant to this Contract until Contractor has obtained all insurance required by this Contract and the other Project Documents and such insurance has been approved by City in its sole, reasonable discretion. The Contractor shall not allow any subcontractor to commence Project work until all similar insurance required of or by such subcontractor has been obtained and approved. The Contractor must maintain the insurance coverage required in this Section 15 for the entire term of this Contract and so long as any Project requirements or obligations remain outstanding.

15.2. The Contractor shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to this Contract and the other Project Documents by reason of Contractor's failure to procure or maintain the minimum insurance coverages listed herein, or by reason of the Contractor's failure to procure or maintain insurance in sufficient amounts, durations, or types as required hereby or by the other Project Documents.

15.3. The Contractor shall procure and maintain, and shall cause each subcontractor of the Contractor to procure and maintain (or shall insure the activity of Contractor's subcontractors in Contractor's own policies in satisfaction of), the minimum insurance coverages listed below. Such coverages shall be procured and maintained with forms and insurers acceptable to the City in its sole discretion. All coverages shall be continuously maintained from the date of commencement of Project Work. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

15.3.1. Workers' Compensation insurance to cover obligations imposed by the Workers' Compensation Act of Colorado and any other applicable laws for any employee engaged in the performance of Project work under this Contract, and Employers' Liability insurance with minimum limits of FIVE HUNDRED THOUSAND DOLLARS ($500,000) each accident, FIVE HUNDRED THOUSAND DOLLARS ($500,000) disease - policy limit, and FIVE HUNDRED THOUSAND DOLLARS ($500,000) disease - each employee.

15.3.2. Comprehensive General Liability insurance with minimum combined single limits of ONE MILLION DOLLARS ($1,000,000) each occurrence and ONE MILLION DOLLARS ($1,000,000) aggregate. Such policy shall be applicable to all premises and operations of Contractor. Additionally, such 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. Such policy shall also include coverage for explosion, collapse, and underground hazards and contain a severability of interests provision.

15.3.3. Comprehensive Automobile Liability insurance with minimum combined single limits for bodily injury and property damage of not less than ONE MILLION DOLLARS ($1,000,000) each occurrence and ONE MILLION DOLLARS ($1,000,000) aggregate with respect to each of Contractor's owned, hired and/or non-owned vehicles assigned to or used in performance of Project work. Such policy shall contain a severability of interests provision.

15.3.4. The policies required above, except for the Workers' Compensation insurance and Employers' Liability insurance, shall be endorsed to include the City, and its 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, shall be excess and not contributory insurance to that provided by the Contractor. The additional insured endorsement for the Comprehensive General Liability insurance required above shall not contain any exclusion for bodily injury or property damage arising from completed operations. The Contractor shall be solely responsible for any deductible losses under each of the policies required above.

15.3.5. Certificates of insurance shall be completed by the Contractor's insurance agent as evidence that policies providing the required coverages, conditions, and minimum limits set out above are in full force and effect, and shall be subject to review and approval by the City in its sole, reasonable discretion. Each insurance certificate shall identify the Project and shall provide that the coverages afforded under the relevant policy shall not be canceled, terminated, or materially changed until at least thirty (30) days prior written notice has been given to the City. If the words "endeavor to" appear in the portion of an insurance certificate addressing cancellation, those words shall be stricken from the certificate by the agent(s) completing the certificate. The City reserves the right to request and receive a certified copy of any policy and any endorsement thereto.

15.3.6. Failure on the part of the Contractor to procure or maintain policies providing the required coverages, conditions, and minimum limits shall constitute a material breach of this Contract upon which the City may immediately terminate this Contract, or at its discretion may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the City shall be repaid by Contractor to the City upon demand, or the City may offset the cost of the premiums against any monies due to Contractor from the City under this Contract or the other Project Documents.

15.3.7. The Parties understand and agree that the City is relying on, and does not waive or intend to waive by any provision of this Contract, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101 et seq., as from time to time amended, or otherwise available to the City, its officers, or its employees.

15.3.8. For all contracts exceeding $50,000 in value, Contractor shall furnish both a performance and payment bond. Each bond shall individually be equal to or greater than one half of the contract price. The performance bond shall be security for and conditioned upon Contractor's faithful performance of contractual obligations. All performance bonds must specify that the surety or financial institution will pay any amount due, up to the total amount of the bond, at an interest rate of eight percent (8%) per year. For contracts equal to or exceeding $500,000,000 per year, the performance bond may be not less than one half of the amount to be paid under the contract in any year in which the contract is to be performed. The payment bond shall be security for and conditioned upon the timely payment of all amounts lawfully due to all persons supplying or furnishing labor or materials used or performed in the prosecution of the work. All payment bonds must indemnify the City against any payments that the City would otherwise be compelled to make under the contract. The City reserves the right to require a payment bond compliant with these requirements for contracts of fifty thousand dollars or less when the City determines that it would be in the City's best interest to do so. Contractor shall also furnish a cash warranty or warranty bond in an amount equal to ten percent of the final Contract value, which shall remain in effect for the duration of the guaranty period provided in Section 20. At the Contractors option, the Performance and Payment bonds may be rolled over and substituted for the Warranty Bond, so long as these bonds remain in effect for the duration of the guaranty period provided in Section 20. If a cash warranty is provided, said cash shall be deposited with the City Clerk during the guaranty period provided in Section 20. All bonds shall be executed by such sureties as (i) are licensed to conduct business in the State of Colorado and (ii) are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570, amended, by the Audit Staff, Bureau of Account, U.S. Treasury Department. All bonds signed by an agent must be accompanied by a certified copy of the authority to act. If the surety on any bond furnished by the Contractor is declared bankrupt or becomes insolvent, or its right to do business in Colorado is terminated, or it ceases to meet the requirements of clauses (i) and (ii) of this section, Contractor shall, within five (5) days thereafter, substitute another bond and surety, both of which shall be acceptable to the City.

16. EVIDENCE OF SATISFACTION OF LIENS

16.1. The Contractor shall provide the City with written evidence that all persons who have done Project work or furnished material for the Project, pursuant to this Contract and the other Project Documents, and are entitled to liens therefore under any laws of the State of Colorado, have been fully paid or are not entitled to such liens. Final payment shall not be made to the Contractor until the City is reasonably satisfied that all such claims or liens have been satisfied by the Contractor.

17. ACCEPTANCE OF WORK

17.1. No act of the City, or of any representative thereof, either in superintending or directing the Project work, or any extension of time for the completion of the Project work, shall be regarded as an acceptance by the City of such work or any part thereof, or of materials used therein, either wholly or in part. Acceptance of the Project shall be evidenced only by a Notice of Final Acceptance and Warranty issued by the City. No waiver of any breach of this Contract by City or anyone acting on its behalf shall be held as a waiver of any other subsequent breach thereof. Any remedies provided herein shall be cumulative.

18. GUARANTY OF WORK

18.1. The Contractor agrees to guarantee all work provided or rendered under this Contract for a period of one (1) year from the date City issues a Notice of Final Acceptance and Warranty for the Project. If any unsatisfactory condition or damage develops within the time of this guaranty due to materials or workmanship that are defective, inferior, or not in accordance with this Contract, as reasonably determined by City, then the Contractor shall, when notified by the City, immediately place such guaranteed work in a condition satisfactory to the City. The City shall have all available remedies to enforce this guaranty, except that the City shall not have any work performed independently to fulfill such guaranty, and shall not require the Contractor to pay the City such sums as were expended by the City for such work, unless the City has first given notice to the Contractor of the deficiency and given the Contractor a reasonable opportunity to cure the same.

19. DEFAULT / BREACH OF CONTRACT

19.1. If the Contractor fails to mobilize to the Project site, fails to perform Project work in a continuous and timely manner, performs Project work in a manner substantially contrary to the Project Documents, including without limitation the Project Plans, performs additional Project work without a valid change order or other authorization from the City, performs force account work without authorization from the City, fails to obtain necessary permits for the Project, is found in violation of any state or federal environmental law, or fails to maintain a safe work environment at the Project sites, the City may, at its sole option and discretion, find the Contractor in default and material breach of this Contract. In such instances, the City shall document to the Contractor the nature of the breach, and may, at City's option, specify a remedy and required time in which to cure the breach, or the City may terminate the Contract. If the City chooses to terminate the Contract, the City reserves and retains all rights granted under state law and City ordinances to withhold payments for completed Project work, call bonds, hire replacement contractors, or take other measures deemed in the best interest of the City.

20. FINAL APPLICATION FOR PAYMENT

20.1. After the Contractor has completed all Project corrections to the satisfaction of City's Project Manager and delivered in accordance with this Contract and all other Project Documents all maintenance and operating instructions, schedules, guaranties, bonds, certificates or other evidences of insurance, certificates of inspection, marked-up record documents, and all other documents requested by the City, the Contractor may make application for final payment following the procedure for progress payments set out in Section 7 herein. The final application for payment shall be accompanied (except as previously delivered) by:

i. All documentation called for in this Contract and all other Project Documents, including but not limited to the evidence satisfactory to the City of the continuation of completed operations insurance and any insurance coverage written on a claims-made basis at final payment and one year thereafter;

ii. If necessary, the consent of a surety to final payment and that the performance bond shall remain in effect throughout the guarantee period; and

iii. Complete and legally effective claim releases signed by all suppliers and subcontractors in the form provided in this Contract and other Project Documents certifying that all outstanding claims for payment have been paid. The Contractor shall not receive final payment due under this Contract until the Contractor obtains and files the foregoing items (i), (ii), and (iii).

20.2. LIENS**:** Colorado Statutes do not provide for any right of lien against public facilities. In lieu thereof, Section 38-26-107 of the Colorado Revised Statutes, as amended, provides adequate relief for any claimant having furnished labor, materials, rental machinery, tools, equipment, or services toward construction of a particular public work in that final payment may not be made to a contractor until all such creditors have been put on notice by publication of such pending payment and given opportunity to stop payment to the contractor in the amount of such claims. Pursuant to CR.S. § 38-26-107, any supplier may bring a suit and file a notice of lis pendens against the City within ninety (90) days after the date set for final settlement. If any such supplier or person files any such claim and notice of lis pendens, the City shall withhold retained amounts from final payments to the Contractor as are necessary to satisfy fully such claims. References to liens appearing in this Section 20 shall be deemed as references to claims made pursuant to C.R.S. § 38-26-101, et seq. unless the context requires otherwise.

21. FINAL PAYMENT AND ACCEPTANCE

21.1. If, based on the City Project Manager’s observation of Project work during construction and final inspection, and such Project Manager's review of the Contractor’s final application for payment and accompanying documentation as required by this Contract and other Project Documents, the City Project Manager is satisfied that all Project work has been completed and the Contractor's other obligations under this Contract and other Project Documents have been fulfilled, the City Project Manager will, within fourteen (14) days after receipt of a final application for payment from the Contractor, indicate in writing the City Project Manager's recommendation of payment and present the Contractor’s application to the City Council for payment. At the same time, City’s Project Manager will also give written notice to the Contractor that the Project work is acceptable. Otherwise, City Project Manager will return the Contractor’s application to the Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case the Contractor shall make the necessary corrections and resubmit its final application for payment. Upon receipt of the City Project Manager's recommendation for payment and the Contractor’s final application for payment, the City shall order the publication of a notice of final payment as required by C.R.S. § 38-26-107(1) and shall make final payment in accordance with C.R.S. § 38-26-107(3).

22. DELAYED COMPLETION

22.1. If, through no fault of the Contractor, final completion of the Project is significantly delayed, and if the City's Project Manager so confirms, the City shall, upon receipt of Contractor's final application for payment and recommendation of the City's Project Manager, and without terminating this Contract or the other Project Documents, make payment of the balance due for that portion of Project work fully completed and accepted. If the remaining balance to be held by the City for Project work not fully completed or corrected is less than the retainage stipulated in this Contract or other Project Documents, and if bonds have been furnished as required by this Contract and other Project Documents, the written consent of the surety to the payment of the balance due for that portion of the Project work fully completed and accepted shall be submitted by the Contractor to the City's Project Manager with the Contractor's application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

23. COSTS AND ATTORNEY'S FEES

23.1. In addition to the indemnification provisions of this Contract and other Project Documents, and provided that the City is not in material default of this Contract or the direct cause of litigation involving or related to this Contract or the Project, the Contractor shall be responsible for and pay the City for all of the costs, expenses, and attorneys' fees, specifically including paralegal and legal assistant fees, related to litigation or other forms of dispute resolution arising out of any matter related to this Contract and other Project Documents, including as to any performance and payment bond obligations, or the Project work.

24. CHANGE ORDERS

24.1. The City shall use reasonable efforts to grant or deny change orders required hereunder or under any other Project Documents within twenty-four (24) hours and not later than seventy-two (72) hours of the request of the Contractor. The City's Project Manager shall be authorized to approve individual change orders which do not exceed ten thousand dollars ($10,000.00). Any one (1) or more change orders that increase the price of the Project work above ten thousand dollars ($10,000.00) must be approved by the City's Manager, and the Contractor acknowledges and understands the necessity of such approval.

Change orders must be processed and approved by the City in writing before additional materials, equipment, and/or labor for the Project are expended.

24.2 For any change order, work order, modification, or other directive which requires additional compensable Project work to be performed by Contractor, City shall reimburse Contractor for Contractor's resulting costs on a periodic basis, until a change order, work order, modification, or directive is finalized and executed by the Parties; provided, however, no periodic reimbursement shall be required hereunder before Contractor has submitted an estimate of the costs to City for the additional compensable Project work to be performed.

25. NO ASSIGNMENT

25.1. This Agreement shall not be assigned by the Contractor without the prior written approval of the City.

26. GOVERNING LAW

26.1. This Agreement shall be deemed entered into in Mesa County, Colorado, and shall be governed by the laws of the State of Colorado. The Parties agree to the jurisdiction and venue of the courts of Mesa County, State of Colorado, in connection with any dispute arising out of or in any way connected with this Contract.

27. SUBCONTRACTING

27.1. The Parties agree and acknowledge that the employment of the Contractor by the City for the purposes of the Project shall be exclusive, but the Contractor shall have the right to employ such assistance as may be required for the performance of the Project work and the completion thereof. The Contractor shall be responsible for the compensation, insurance, and all clerical details involved in or related to the employment of said assistance.

28. EQUAL OPPORTUNITY EMPLOYER

28.1. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, disability, or national origin. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment by Contractor without regard to race, color, religion, age, sex, disability, or national origin. Such action shall include but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to all employees and applicants for employment, notice to be provided by an agency of the United States government and setting forth the relevant provisions of the equal employment opportunity laws of the United States.

28.2. At all times during the term of this Contract, the Contractor shall comply with the appropriate provisions of the American with Disabilities Act of 1990 as enacted and amended from time to time, and any other applicable federal laws and regulations. The City may request a signed, written certification from the Contractor stating compliance with the Americans with Disabilities Act at any time during the term of this Contract or any purchase order or other contract entered or executed pursuant or in relation hereto.

29. INDEPENDENT CONTRACTOR

29.1. The Contractor and any persons employed by the Contractor for the performance of Project work hereunder shall be independent contractors and not employees or agents of the City. Nothing herein shall be construed as establishing a quality standard for any individual, or as establishing any right on the part of the City to oversee the actual work of the Contractor or to instruct any individual as to how Project work will be performed.

29.2. The Contractor shall have the right to employ such assistance as may be required for the performance of Project work under this Contract and the other Project Documents. The Contractor shall be responsible for the compensation, insurance, and all clerical details pertaining to the entities or persons providing such assistance, and the Contractor shall be solely responsible for providing any necessary or relevant training, tools, benefits, materials, and equipment.

29.3. THE PARTIES UNDERSTAND THAT THE CONTRACTOR AND THE CONTRACTOR'S EMPLOYEES AND SUBCONTRACTORS ARE NOT ENTITLED TO WORKERS' COMPENSATION BENEFITS UNDER ANY WORKERS' COMPENSATION INSURANCE POLICY OF THE CITY, AND THAT CONTRACTOR IS OBLIGATED TO PAY FEDERAL AND STATE INCOME TAX AND OTHER APPLICABLE TAXES AND OTHER AMOUNTS DUE ON ANY MONEYS PURSUANT TO THIS AGREEMENT.

[SIGNATURE PAGE FOLLOW]

By their signatures, the Parties agree to the terms of this Contract, which is effective as of the:

_________ day of ______________________________, 20____.

CITY OF FRUITA, OWNER

By_______________________________
Shannon Vassen
City Manager

***Contractor Name here*, CONTRACTOR**

By: ________________________ Title: ___________________________