



BOARD OF TRUSTEES

REGULAR MEETING AGENDA

December 12, 2018
7:00 PM
151 Grant Avenue
Firestone, CO 80520

- 1. Call to Order & Roll Call**
- 2. Pledge of Allegiance**
- 3. Approval of Agenda**
- 4. Public Comment** *(maximum time permitted for all Public Comment is 30 minutes)
- 5. Consent Agenda**
 - 5.a.** Approval of the November 28, 2018 Regular Meeting Minutes and December 6, 2018 Special Meeting Minutes
 - 5.b.** Approval of December 12, 2018 Accounts Payable
 - 5.c.** 2019 Independent Consulting Agreement with Leonard Rice Engineers, Inc. for Engineering Services
 - 5.c.i.** Agreement with Leonard Rice Engineers, Inc. for Engineering Service for the Proposed Work Order No. 2019-01
 - 5.c.ii.** Agreement with Leonard Rice Engineers, Inc. for Engineering Service for the Proposed Work Order No. 2019-02
 - 5.c.iii.** Agreement with Leonard Rice Engineers, Inc. for Engineering Service for the Proposed Work Order No. 2019-03
 - 5.c.iv.** Agreement with Leonard Rice Engineers, Inc. for Engineering Service for the Proposed Work Order No. 2019-04
 - 5.d.** 2019 Independent Consulting Agreement with FEI Engineers, Inc. for Engineering Services
 - 5.e.** Gould Property Alluvial Well Field Analysis - Amendment 2
 - 5.f.** Mountain Shadows Park Irrigation Well Design - Amendment 1

* Individuals that desire to address the Board of Trustees are requested to sign up at the table at the entrance to the meeting room. Each individual will be provided an opportunity to speak (limited to three minutes) during Public Comment. Maximum time permitted for all Public Comment is 30 minutes.

If you need special assistance in order to participate in a Board of Trustees meeting, please contact the Town Manager's Office at 303-833-3291 in advance of the meeting to make arrangements. A forty-eight-hour notice is requested.

- 5.g. Second Amendment to the Town Clerk Employment Agreement
- 5.h. **Resolution 18-56**: A RESOLUTION CONCERNING REVISIONS TO THE EMPLOYEE HANDBOOK AND REPEALING THE AUTHORITY OF THE TOWN MANAGER TO MAKE REVISIONS THERETO
- 5.i. **Resolution 18-56**: A RESOLUTION CONCERNING REVISIONS TO THE EMPLOYEE HANDBOOK AND REPEALING THE AUTHORITY OF THE TOWN MANAGER TO MAKE REVISIONS

6. Public Hearing

- 6.a. 2019 Firestone Budget Adoption
 - 6.a.i. **Resolution 18-46**: A RESOLUTION SUMMARIZING EXPENDITURES AND REVENUES FOR EACH FUND AND ADOPTING A BUDGET FOR THE TOWN OF FIRESTONE, COLORADO, FOR THE CALENDAR YEAR BEGINNING ON THE FIRST DAY OF JANUARY, 2019 AND ENDING ON THE LAST DAY OF DECEMBER, 2019.
 - 6.a.ii. **Resolution 18-47**: A RESOLUTION APPROPRIATING SUMS OF MONEY TO THE VARIOUS FUNDS AND SPENDING AGENCIES, IN THE AMOUNTS AND FOR THE PURPOSES AS SET FORTH BELOW, FOR THE TOWN OF FIRESTONE, COLORADO, FOR THE 2019 BUDGET YEAR
 - 6.a.iii. **Resolution 18-48**: A RESOLUTION LEVYING GENERAL PROPERTY TAXES FOR THE 2018 TAX YEAR, TO HELP DEFRAY THE COSTS OF GOVERNMENT FOR THE TOWN OF FIRESTONE, COLORADO FOR THE 2019 BUDGET YEAR
- 6.b. **Resolution 18-49**: A RESOLUTION APPROVING AN APPLICATION FOR A SPECIAL USE PERMIT FOR CRESTONE PEAK RESOURCES TO LOCATE NINETEEN OIL AND GAS WELLS WITHIN THE TOWN OF FIRESTONE.
- 6.c. **Resolution 18-53**: A RESOLUTION AUTHORIZING THE APPROPRIATE TOWN OFFICIAL TO SIGN THE FIRST AMENDMENT TO THE COMPATIBLE DEVELOPMENT AND SURFACE USE AGREEMENT.

* Individuals that desire to address the Board of Trustees are requested to sign up at the table at the entrance to the meeting room. Each individual will be provided an opportunity to speak (limited to three minutes) during Public Comment. Maximum time permitted for all Public Comment is 30 minutes.

If you need special assistance in order to participate in a Board of Trustees meeting, please contact the Town Manager's Office at 303-833-3291 in advance of the meeting to make arrangements. A forty-eight-hour notice is requested.

- 6.d. **Resolution 18-54**: A RESOLUTION APPROVING COOPERATIVE DEVELOPMENT PLAN AGREEMENT
- 6.e. **Resolution 18-50**: A RESOLUTION CONCERNING A PETITION FOR THE ANNEXATION OF PROPERTY TO THE TOWN OF FIRESTONE, COLORADO, KNOWN AS THE GOULD ANNEXATION TO THE TOWN OF FIRESTONE, AND FINDING THE AREA PROPOSED TO BE ANNEXED ELIGIBLE FOR ANNEXATION
- 6.f. **Ordinance 947**: AN ORDINANCE APPROVING AN ANNEXATION KNOWN AS THE GOULD ANNEXATION TO THE TOWN OF FIRESTONE, COLORADO
- 6.g. **Ordinance 948**: AN ORDINANCE APPROVING AN INITIAL ZONING OF PROPERTY ANNEXED TO THE TOWN OF FIRESTONE AND KNOWN AS THE GOULD ANNEXATION, AND APPROVING AN OUTLINE DEVELOPMENT PLAN FOR SUCH PROPERTY

7. Discussion/Action

- 7.a. **Resolution 18-51**: A RESOLUTION PRESCRIBING WATER RATES, FEES, TOLLS AND CHARGES FOR THE TOWN OF FIRESTONE, COLORADO
- 7.b. **Resolution 18-52**: A RESOLUTION APPROVING A THIRD AMENDMENT TO THE FACILITY USE LICENSE AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND CARBON VALLEY HELP CENTER
- 7.c. **Resolution 18-55**: A RESOLUTION APPROVING AN OPTION TO PURCHASE AGREEMENT
- 7.d. **Resolution 18-57**: A RESOLUTION AUTHORIZING THE INTERIM TOWN MANAGER TO EXECUTE AN ENGAGEMENT AGREEMENT FOR INTERIM TOWN ATTORNEY LEGAL SERVICES

8. Public Comment *(maximum time permitted for all Public Comment is 30 minutes)

9. Reports

10. Executive Session

* Individuals that desire to address the Board of Trustees are requested to sign up at the table at the entrance to the meeting room. Each individual will be provided an opportunity to speak (limited to three minutes) during Public Comment. Maximum time permitted for all Public Comment is 30 minutes.

If you need special assistance in order to participate in a Board of Trustees meeting, please contact the Town Manager's Office at 303-833-3291 in advance of the meeting to make arrangements. A forty-eight-hour notice is requested.

- 10.a.** An **Executive Session** for (1) a conference with the Town Attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. § 24-6-402(4)(b); and (2) for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators under C.R.S. § 24-6-402(4)(e), regarding Town Manager recruitment.

11. Report from the Executive Session

12. Adjournment

* Individuals that desire to address the Board of Trustees are requested to sign up at the table at the entrance to the meeting room. Each individual will be provided an opportunity to speak (limited to three minutes) during Public Comment. Maximum time permitted for all Public Comment is 30 minutes.

If you need special assistance in order to participate in a Board of Trustees meeting, please contact the Town Manager's Office at 303-833-3291 in advance of the meeting to make arrangements. A forty-eight-hour notice is requested.

TOWN OF FIRESTONE, COLORADO
Board of Trustees Regular Meeting
November 28, 2018

1. CALL TO ORDER & ROLL CALL

The Board of Trustees of the Town of Firestone met for a Regular Meeting on November 28, 2018, at the Town Hall, 151 Grant Avenue, Firestone, Colorado. Mayor Sindelar called the meeting to order at 7:00 p.m.

The following were present upon the call of the roll:

Mayor: Bobbi Sindelar

Mayor Pro-tem: Drew Peterson

Trustees: Don Conyac
George Heath
Samantha Meiring
Frank A. Jimenez
Doug Sharp

Staff: **Present:** Kathleen Kelly, Town Attorney; Jan Sloat, Director of Human Resources; Katie Hansen, Director of Marketing & Communications; Todd Bjerkaas, Director of Planning & Development; Dave Lindsay, Engineer; David Montgomery, Chief of Police; Leah Vanarsdall, Town Clerk; Julie Pasillas, Director of Community Resources; Theo Abkes, Director of Public Works; Jessica Clanton, Director of Finance; & A. J. Krieger, Interim Town Manager

2. PLEDGE OF ALLEGIANCE

Pledge was led by Mayor Sindelar

3. APPROVAL OF AGENDA

Motion by Trustee Jimenez, **second** by Trustee Conyac, to approve the Agenda. All in Favor, **Motion carried.**

4. PUBLIC COMMENT

Ron Martin – 6466 Sage Ave, Firestone – Spoke re: New 4-H established in Firestone

5. CONSENT AGENDA

Motion by Trustee Heath, **second** by Mayor Pro-tem Peterson, to approve the Consent Agenda. **Roll Call Vote:** Trustee Heath – yes, Trustee Sharp – yes, Trustee Conyac – yes, Mayor Pro-tem Peterson – yes, Trustee Meiring – yes, Trustee Jimenez – yes. All in Favor, **Motion carried.**

6. PRESENTATION

Frederick-Firestone Fire Protection District 3rd Quarter Service Report – Chief Steve Iacino

7. LOCAL LICENSING AUTHORITY

Open: 7:20 pm **Close:** 7:23 pm

Brandon Sandberg with Dillon & Dillon, Pat Adams – Safeway District Manager & Gary Jones – Safeway Store Manager

Modification of Premises – Safeway Store #1828

Motion by Trustee Sharp, **second** by Trustee Conyac, to approve the application for

Modification of Premises as outlined by Safeway Store #1828. **Roll Call Vote:** Trustee Sharp – yes, Trustee Conyac – yes, Mayor Pro-tem Peterson – yes, Trustee Meiring – yes, Trustee Jimenez – yes, Trustee Heath – yes. All in Favor, **Motion carried.**

8. DISCUSSTION/ACTION ITEMS

a. Draft Letter Responding to Citizen Request

Motion by Trustee Heath, **second** by Trustee Conyac, to approve the Draft Letter Responding to Citizen Request be sent. All in Favor, **Motion carried.**

9. PUBLIC COMMENT * (maximum time permitted for all Public Comment is 30 minutes)

None

10. REPORTS

- a. Staff – Introduction of new Director: Paula Mehle, Director of Economic Development & FURA
- b. Mayor – near future Work Session re: artificial grass/height of grass (maybe at Dev Regs Work Session)
- c. Trustees
- d. Committee Updates

9. EXECUTIVE SESSION **Open:** 8:10 pm **Closed:** 9:05 pm

a. **Executive Session** for the purpose of discussing a personnel matter under C.R.S. Section 24-6-402(4)(f) and not involving; any specific employees who have requested discussion of the matter in open session; any member of the Board of Trustees; or personnel policies that do not require discussion of matters personal to particular employees. Specifically, for the Board to conduct the Town Clerk's performance review.

Staff asked to participate: Jennifer Weinberger; Asst Manager (joined at 8:40 pm), Leah Vanarsdall, Town Clerk and Jan Sloat, Director of Human Resources

Motion by Trustee Sharp, **second** by Trustee Meiring, to adjourn into **Executive Session** for the purpose of discussing a personnel matter under C.R.S. Section 24-6-402(4)(f) and not involving; any specific employees who have requested discussion of the matter in open session; any member of the Board of Trustees; or personnel policies that do not require discussion of matters personal to particular employees. Specifically, for the Board to conduct the Town Clerk's performance review. **Roll Call Vote:** Mayor Pro-tem Peterson – yes, Trustee Meiring – yes, Trustee Jimenez – yes, Trustee Heath – yes, Trustee Sharp – yes, Trustee Conyac – yes. All in Favor, **Motion carried.**

Report from Executive Session

Motion by Trustee Meiring, **second** by Trustee Heath regarding the performance evaluation for the Town Clerk and based on that review, we want to instruct our Town Attorney to draw up a formal change of contract to reflect a 4% increase for the Town Clerk Meeting and Exceeding Expectations, the standard increase for meeting that level of performance for 2019. And in addition in the last two months, our Clerk received her Master Municipal Clerk Certificate and

based on that, we will be providing a 5% increase in recognition of that accomplishment, effective the first pay period in January 2019. **Roll Call Vote:** Trustee Heath – yes, Trustee Sharp – yes, Trustee Conyac – yes, Mayor Pro-tem Peterson – yes, Trustee Jimenez – yes, Trustee Meiring – yes. All in Favor, **Motion carried.**

Open: 9:08 pm **Closed:** pm

b. **Executive Session** for a conference with the Town's Attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. 24-6-402(4)(b) regarding a potential claim.

Staff asked to participate: Kathleen Kelly, Town Attorney; Courtney Kramer, CIRSA

Motion by Mayor Pro-tem Peterson, **second** by Trustee Conyac to enter into **Executive Session** for a conference with the Town's Attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. 24-6-402(4)(b) regarding a potential claim.

Roll Call Vote: Trustee Heath – yes, Trustee Sharp – yes, Trustee Conyac – yes, Mayor Pro-tem Peterson – yes, Trustee Meiring – yes, Trustee Jimenez - yes. All in Favor, **Motion carried.**

Report from Executive Session

No Report

Open: 10:30 pm **Closed:** 11:37 pm

c. An Executive Session for (1) a conference with the Town Attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. 24-6-402(4)(b); and (2) for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators under C.R.S. 24-6-402(4)(e), regarding Town Manager recruitment.

Staff asked to participate: Kathleen Kelly, Town Attorney for Section (1) & Jennifer Weinberger, Asst Town Manager to join for Section (2).

Motion by Trustee Meiring, **second** by Trustee Sharp, to adjourn into An Executive Session for (1) a conference with the Town Attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. 24-6-402(4)(b); and (2) for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators under C.R.S. 24-6-402(4)(e), regarding Town Manager recruitment. **Roll Call Vote:** Trustee Meiring – yes, Trustee Jimenez – yes, Mayor Pro-tem Peterson – yes, Trustee Conyac – yes, Trustee Sharp – yes, Trustee Heath – yes. All in Favor, **Motion carried.**

Report from Executive Session

No Action taken

11. ADJOURNMENT

Motion by Trustee Sharp, **second** by Mayor Pro-tem Peterson, to adjourn meeting at 11:39 pm. **Motion passed**, all in favor.

Introduced and Approved this 12th day of December, 2018.

TOWN OF FIRESTONE, COLORADO

Bobbi Sindelar, Mayor

ATTEST

Leah Vanarsdall, Town Clerk

UNAPPROVED

TOWN OF FIRESTONE, COLORADO
Board of Trustees Special Meeting
December 6, 2018

1. CALL TO ORDER & ROLL CALL

The Board of Trustees of the Town of Firestone met for a Special Meeting on December 6, 2018, at the Town Hall, 151 Grant Avenue, Firestone, Colorado. Mayor Sindelar called the meeting to order at 6:32 p.m.

The following were present upon the call of the roll:

Mayor: Bobbi Sindelar

Mayor Pro-tem: Drew Peterson

Trustees: Don Conyac
George Heath
Samantha Meiring
Frank A. Jimenez
Doug Sharp

Staff: **Present:** Kathleen Kelly, Town Attorney; Leah Vanarsdall, Town Clerk; & A. J. Krieger, Interim Town Manager

2. EXECUTIVE SESSION Open: 6:35 pm Closed: 10:11 pm

a. **Executive Session** for a conference with the Town Attorneys for the purpose of receiving legal advice on specific legal questions under C.R.S. 24-6-402(4)(b) regarding a potential claim matter and potential liabilities.

Staff asked to participate: Kathleen Kelly, Town Attorney & Cortney Kramer, CIRSA

Motion by Trustee Conyac, **second** by Trustee Sharp, to adjourn into **Executive Session** for a conference with the Town Attorneys for the purpose of receiving legal advice on specific legal questions under C.R.S. 24-6-402(4)(b) regarding a potential claim matter and potential liabilities.

Roll Call Vote: Mayor Pro-tem Peterson – yes, Trustee Meiring – yes, Trustee Jimenez – yes, Trustee Heath – yes, Trustee Sharp – yes, Trustee Conyac – yes. All in Favor, **Motion carried.**

Report from Executive Session

Resolution 18-56 will be drafted by the Town Attorney as directed by the Board for the December 12, 2018 meeting.

Open: 10:15 pm **Closed:** 11:45 pm

b. **Executive Session** for discussion of a personnel matter under C.R.S. 24-6-402(4)(f) and not involving: any specific employees who have requested discussion of the matter in open session; any member of this body or any elected official; the appointment of any person to fill an office of this body or of an elected official; or personnel policies that do not require the discussion of matters personal to particular employees; specifically, to discuss Town Attorney.

Staff asked to participate: AJ Krieger, Interim Town Attorney and Jennifer Weinberger, Asst Town Manager

Motion by Trustee Sharp, **second** by Trustee Meiring, to enter into **Executive Session** for discussion of a personnel matter under C.R.S. 24-6-402(4)(f) and not involving: any specific employees who have requested discussion of the matter in open session; any member of this body or any elected official; the appointment of any person to fill an office of this body or of an

elected official; or personnel policies that do not require the discussion of matters personal to particular employees; specifically, to discuss Town Attorney.

Roll Call Vote: Trustee Heath – yes, Trustee Sharp – yes, Trustee Conyac – yes, Mayor Pro-tem Peterson – yes, Trustee Meiring – yes, Trustee Jimenez - yes. All in Favor, **Motion carried.**

Report from Executive Session

Mayor Pro-tem Peterson left and was not part of the Executive Session

No Report

3. ADJOURNMENT

Motion by Trustee Jimenez, **second** by Sharp, to adjourn meeting at 11:45 pm. **Motion passed**, all in favor.

Introduced and Approved this 12th day of December, 2018.

TOWN OF FIRESTONE, COLORADO

Bobbi Sindelar, Mayor

ATTEST

Leah Vanarsdall, Town Clerk

Payables Summary

Accounts Payable Report

December 12, 2018

of Invoices - 205

\$ 322,114.75

COMPANY NAME	DESCRIPTION	Pass-Through \$	Total Amt.
Total of Invoices under \$25,000.00		\$	164,837.72
Acuity, LLC	Firestone Reservoir No 1 Pump Design	\$	25,157.36
Central Weld County Water District	November 2018 Water Treatment and Delivery	\$	37,569.42
Leonard Rice Engineers	November 2018 Water Engineering Services	\$	60,610.50
Timberlan	November 2018 IT Services	\$	33,939.75
Total Invoices, Current		\$ -	\$ 322,114.75
AP Adjustments between Invoice Register, Unpaid Report, Paid Report			
Kerr McGee	Past small \$.30 invoice, hold on paying	\$	0.41
		\$	-
Total (to match Board AP Detail Reports)			\$ 322,115.16

For further detail please see Finance Department.

Please direct any questions to Judy Scott ext. 256.

Vendor	Amount
Total 4 RIVERS EQUIPMENT:	1,174.94
Total 5280 DIGITAL, INC:	450.00
Total ACCENT BRANDING SOLUTIONS:	11.50
Total ACE HARDWARE OF FIRESTONE:	941.83
Total Acuity, LLC:	25,157.36
Total ADAMSON POLICE PRODUCTS:	192.00
Total ALLIANCE FOR INNOVATION:	1,860.00
Total AMERICAN DISPOSAL SERVICES OF COLORADO:	170.00
Total AUSMUS LAW FIRM, P.C.:	600.00
Total B K TIRE, INC:	3.94
Total Black Hills Energy:	2,124.96
Total BROWNELLS, INC.:	273.90
Total CENTRAL WELD COUNTY WATER DISTRICT:	20.00
Total CENTRAL WELD COUNTY WATER DISTRICT.-TREA:	37,569.42
Total CESARE, INC:	7,220.00
Total COALRIDGE ANIMAL HOSPITAL, INC:	49.49
Total COLORADO CIVIL GROUP INC.:	47,090.68
Total COMCAST CABLE-0319130- SEATTLE.:	297.35
Total COMCAST-PHILADELPHIA:	261.36
Total ELDORADO ARTESIAN SPRINGS, INC.:	207.50
Total EMPLOYEE REIMBURSEMENTS & PER DIEMS:	181.38
Total EMPLOYERS COUNCIL SERVICES, INC:	199.00
Total ENVIROTECH SERVICES, INC.:	11,253.76
Total EWING AUTO PARTS, INC.:	11.76
Total FACTORY MOTOR PARTS CO.:	84.03
Total FRONT RANGE COMPLIANCE SERVICE, LLC:	1,545.00
Total FRONTIER BUSINESS PRODUCTS:	724.41
Total GRAINGER:	776.18
Total GREEN GIRL RECYCLING SERVICES:	197.00
Total HARDLINE EQUIPMENT LLC:	2,577.46
Total INTERSTATE BATTERY OF THE ROCKIES:	210.17
Total J & S CONTRACTORS SUPPLY CO:	2,379.00
Total KATHLEEN A. OATIS:	1,250.00
Total KELLY, P.C.:	14,392.30
Total KERR-MCGEE OIL & GAS ONSHORE:	.41
Total KG CLEAN, INC:	1,706.50
Total KINSCO, LLC:	8,966.40
Total LEONARD RICE ENGINEERS, INC:	60,610.50

Vendor	Amount
Total LIFE SAFETY TECHNOLOGIES LLC:	257.00
Total MACDONALD EQUIPMENT:	1,572.65
Total MAIN STREET MAT COMPANY, INC:	234.29
Total MCDONALD FARMS ENTERPRISES, INC:	320.53
Total MCI:	51.42
Total MISC VENDOR:	10,000.00
Total MUNICIPAL CODE CORPORATION:	743.00
Total OFFICE DEPOT INC:	94.19
Total O'REILLY AUTO PARTS:	52.16
Total ORKIN PEST CONTROL, INC:	191.52
Total PEPPERS FIRESIDE GRILLE	2095.00
Total PITNEY BOWES PURCHASE POWER:	1,845.34
Total RESTITUTION / COURT REFUNDS:	25.00
Total ROAD SAFE TRAFFIC SYSTEMS:	990.26
Total S & B PORTA-BOWL RESTROOMS, INC:	196.00
Total ST VRAIN VALLEY SCHOOL DISTRICT:	239.00
Total STEVE BALCEROVICH:	1,250.00
Total TERRACON CONSULTANTS INC:	7,761.50
Total THK ASSOCIATES, INC.:	440.00
Total TIMBERLAN, INC:	33,939.75
Total TRACTOR SUPPLY COMPANY:	165.52
Total UME CUSTOM EMBROIDERY:	135.00
Total UNITED POWER:	9,064.05
Total UNITED POWER – BRIGHTON	750.00
Total UNITED STATES POSTAL SERVICE:	116.00
Total VALLEY HEATING & AIR CONDITIONING:	808.45
Total VERIZON WIRELESS:	55.86
Total WAGNER WELDING SUPPLY CO.:	87.91
Total WELD COUNTY DEPT OF PUBLIC HEALTH & ADMI:	2,483.00
Total WEX BANK:	10,745.38
Total WHITESIDE'S BOOTS & CLOTHING 2 - BRIGHTO:	1,030.89
Total WORKWELL OCCUPATIONAL MEDICINE LLC:	25.00
Total XPRESS BILL PAY / XPRESS SOLUTIONS:	1,608.00
Total :	322,115.16
Grand Totals:	322,115.16

AGENDA INFORMATION MEMORANDUM

FIRESTONE TOWN BOARD OF TRUSTEES



AIM#: 5.c.

Consent Agenda

Meeting Date: December 12, 2018

Initiated By: Julie Pasillas

Dept: Community Resources

AGENDA TITLE

2019 Independent Consulting Agreement with Leonard Rice Engineers, Inc. for Engineering Services

SUMMARY

This 2019 Agreement is to continue Leonard Rice Engineers, Inc.'s (LRE) representation of the Town in 2019. Gregg Ten Eyck of LRE has been serving the Town as a Program Manager for water resources matters, reporting to Julie Pasillas, Director of Community Resources, since 2017. In addition to the Agreement for general water team matters, at least nine separate work orders for specific tasks are envisioned and budgeted for 2019. Four of those work orders are being presented to the Trustees on December 12, 2019, and the others will come for approval when needed.

HISTORY AND PREVIOUS BOARD ACTION

The Board of Trustee approved Agreements on June 14, 2017 and December 13, 2018 to retain Leonard Rice Engineers, Inc. (LRE) to serve the Town in a Program Management role. From February through May 2017 LRE worked under an agreement signed by the Town Manager.

In 2018 the Board of Trustees approved six work orders under the 2018 Agreement, directing LRE to complete specific tasks. All of those work orders will be completed by January 2019.

RECOMMENDATION

Staff recommends Board adopt a motion to approve the attached independent contractor agreement with LRE for engineering services.

ALTERNATIVES

The Board may choose not to approve the agreement and provide Staff with additional direction.

ATTACHMENTS

1. 2019 Independent Consulting Agreement with Leonard Rice Engineers, Inc. for Engineering Services

FINANCIAL CONSIDERATIONS

The agreement includes an amount not to exceed \$170,400 for the monthly services LRE will be providing. Sufficient funds have been budgeted and appropriated in the Town's Water Fund to cover these costs.

**AN AGREEMENT BY AND BETWEEN THE TOWN OF FIRESTONE
AND LEONARD RICE ENGINEERS, INC.
FOR ENGINEERING SERVICES**

1.0 PARTIES

The parties to this Agreement are the **Town of Firestone**, a Colorado municipal corporation, hereinafter referred to as the “Town”, and **Leonard Rice Engineers, Inc.**, a Colorado corporation, hereinafter referred to as the “Consultant”.

2.0 RECITALS AND PURPOSE

- 2.1 The Town desires to engage the Consultant for the purpose of providing engineering services as further set forth in the Consultant’s Scope of Services (which services are hereinafter referred to as the “Services”).
- 2.2 The Consultant represents that it has the special expertise, qualifications and background necessary to complete the Services.

3.0 SCOPE OF SERVICES

3.1 The Consultant agrees to provide the Town with the specific Services and to perform the specific tasks, duties and responsibilities set forth in Scope of Services attached hereto as Exhibit “A” and incorporated herein by reference. The Consultant shall furnish all tools, labor and supplies in such quantities and of the proper quality as are necessary to professionally and timely perform the Services. The Consultant acknowledges that this Agreement does not grant any exclusive privilege or right to supply Services to the Town. In its sole discretion, the Town may contract with other consultants to provide the same or similar services during the term of this Agreement.

3.2 In addition to the services described in Exhibit A, the Town may prepare, with the assistance of LRE, work orders, containing, at a minimum, the following information: (1) the specific tasks and deliverables LRE must perform; (2) LRE's budget; (3) the Town's maximum payment obligation under the subject work order; (4) the completion date for the subject work order; and (5) LRE's schedule of fees to remain in effect until the identified completion date of the subject work order. Notwithstanding the foregoing, if a work order is a multi-year work order, LRE may revise its schedule of fees annually. After the work order has been finalized, agreed to by the Town and LRE, and approved by the Firestone Board of Trustees in its sole discretion, the Town may issue a notice to proceed obligating LRE to begin performance of the subject work order. LRE shall not commence work on any work order until it has received the applicable notice to proceed. Notice to proceed may be sent by email. All Town-approved work orders shall be subject to the terms and conditions of this Agreement.

3.3 The Town reserves the right to amend any work order that has been issued under this Agreement by altering, reducing, increasing, or eliminating specific tasks and deliverables. If the Town desires to amend a work order that has been issued, then the Town shall notify LRE of the

contemplated change ("Notice of Change Order"). Upon receiving the Notice of Change Order LRE shall provide: (1) an estimate of the increase or decrease, if any, to LRE's budget due to the contemplated change and (2) the estimated change in the completion date of the subject work order, if any. The Town may instruct LRE in the Notice of Change Order to suspend work on any identified task or deliverable affected by a contemplated change, pending the Town's decision to proceed with the change. When instructed, LRE shall suspend work on any identified task or deliverable affected by a contemplated change. If it elects to make the change, the Town shall issue a change order amending the subject work order and providing LRE with a corresponding Notice to Proceed. LRE shall not commence work on any change order until it has received the applicable notice to proceed.

4.0 COMPENSATION

- 4.1 The Town shall pay the Consultant for Services under this Section 3.1 of this Agreement a total not to exceed \$170,400 ("Maximum Agreement Price") as set forth in Exhibit "A" attached hereto and incorporated herein by this reference. Compensation for services provided under work orders approved in accordance with Section 3.2 of this Agreement shall be as set forth in the work order. For services compensated at hourly or per unit rates, or on a per-task basis, such rates or costs per task shall not exceed the amounts mutually agreed by the Town and Consultant. The Town shall pay mileage and other reimbursable expenses (such as meals, parking, travel expenses, necessary memberships, etc.) which are deemed necessary for performance of the services and which are pre-approved by the Town Manager. The foregoing amounts of compensation shall be inclusive of all costs of whatsoever nature associated with the Consultant's efforts, including but not limited to salaries, benefits, overhead, administration, profits, expenses, and outside consultant fees. The Scope of Services and payment therefor shall only be changed by a properly authorized amendment to this Agreement. No Town employee has the authority to bind the Town with regard to any payment for any services which exceeds the amount payable under the terms of this Agreement.
- 4.2 The Consultant shall submit monthly an invoice to the Town for one-twelfth (1/12) of the Maximum Agreement Price, and a detailed expense report for pre-approved, reimbursable expenses incurred during the previous month. If during the previous month the Consultant provided services under a work order(s) approved in accordance with Section 3.2 of this Agreement, the Consultant shall also request payment under the terms of said work order(s). The invoice shall document the Services provided during the preceding month, identifying by work category and subcategory the work and tasks performed and such other information as may be required by the Town. The Consultant shall provide such additional backup documentation as may be required by the Town. The Town shall pay the invoice within thirty (30) days of receipt unless the Services or the documentation therefor are unsatisfactory. Payments made after thirty (30) days may be assessed an interest charge of one percent (1%) per month unless the delay in payment resulted from unsatisfactory work or documentation therefor.

5.0 PROJECT REPRESENTATION

- 5.1 The Town designates Julie Pasillas, Director of Community Resources, as the responsible Town staff to provide direction to the Consultant during the conduct of the Services. The Consultant shall comply with the directions given by the Director of Community Development and such person's designees.
- 5.2 The Consultant designates Gregg S. Ten Eyck, P.E., Senior Project Manager as its project manager and as the principal in charge who shall be providing the Services under this Agreement. Should any of the representatives be replaced, particularly Gregg S. Ten Eyck, and such replacement require the Town or the Consultant to undertake additional reevaluations, coordination, orientations, etc., the Consultant shall be fully responsible for all such additional costs and services.

6.0 TERM

The term of this Agreement shall be December 26, 2018 to December 25, 2019, unless sooner terminated pursuant to Section 13, below. The Consultant's services under this Agreement shall commence upon execution of this Agreement by the Town and shall progress so that the Services are completed in a timely fashion consistent with the Town's requirements. Nothing in this Agreement is intended or shall be deemed or construed as creating any multiple-fiscal year direct or indirect debt or financial obligation on the part of the Town within the meaning of Colorado Constitution Article X, Section 20 or any other constitutional or statutory provision. All financial obligations of the Town under this Agreement are subject to annual budgeting and appropriation by the Firestone Board of Trustees, in its sole discretion. Notwithstanding anything in this Agreement to the contrary, in the event of a non-appropriation, this Agreement shall terminate December 31 of the then-current fiscal year.

7.0 INSURANCE

- 7.1 The Consultant agrees to procure and maintain, at its own cost, the policies of insurance set forth in Subsections 7.1.1 through 7.1.4. The Consultant shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to this Agreement by reason of its failure to procure or maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations, or types. The coverages required below shall be procured and maintained with forms and insurers acceptable to the Town. All coverages shall be continuously maintained from the date of commencement of services hereunder. The required coverages are:
 - 7.1.1 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 work under this contract. Evidence of qualified self-insured status may be substituted.

- 7.1.2 Comprehensive Automobile Liability insurance with minimum combined single limits for bodily injury and property damage of not less than \$400,000 per person in any one occurrence and \$1,000,000 for two or more persons in any one occurrence, and auto property damage insurance of at least \$50,000 per occurrence, with respect to each of Consultant's owned, hired or non-owned vehicles assigned to or used in performance of the services. The policy shall contain a severability of interests provision. If the Consultant has no owned automobiles, the requirements of this paragraph shall be met by each employee, principal or officer of the Consultant providing services to the Town under this Agreement.
 - 7.1.3 Professional liability insurance against errors and omissions with minimum combined single limits of \$2,000,000.00 each occurrence and \$2,000,000.00 aggregate.
 - 7.1.4 General liability insurance with minimum combined single limits of \$2,000,000.00 each occurrence and \$2,000,000.00 aggregate.
- 7.2 The Consultant's general liability insurance, automobile liability and physical damage insurance, and professional liability insurance shall be endorsed to include the Town, and its elected and appointed officers and employees, as additional insureds, unless the Town in its sole discretion waives such requirement. Every policy required above shall be primary insurance, and any insurance carried by the Town, its officers, or its employees, shall be excess and not contributory insurance to that provided by the Consultant. Such policies shall contain a severability of interests provision. The Consultant shall be solely responsible for any deductible losses under each of the policies required above.
- 7.3 Certificates of insurance shall be provided by the Consultant as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect, and shall be subject to review and approval by the Town. No required coverage shall be cancelled, terminated or materially changed until at least 30 days prior written notice has been given to the Town. The Town reserves the right to request and receive a certified copy of any policy and any endorsement thereto.
- 7.4 Failure on the part of the Consultant to procure or maintain policies providing the required coverages, conditions, and minimum limits shall constitute a material breach of contract upon which the Town may immediately terminate the 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 Town shall be repaid by Consultant to the Town upon demand, or the Town may offset the cost of the premiums against any monies due to Consultant from the Town.
- 7.5 The parties understand and agree that the Town 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, § 24-10-

101 et seq., C.R.S., as from time to time amended, or otherwise available to the Town, its officers, or its employees.

8.0 INDEMNIFICATION

To the fullest extent permitted by law, the Consultant agrees to indemnify and hold harmless the Town, and its elected and appointed officers and its employees, from and against all liability on account of any injury, loss, or damage, which arise out of or are connected with the services hereunder, if such injury, loss, or damage is caused by the negligent act, omission, or other fault of the Consultant or any subcontractor of the Consultant, or any officer, employee, or agent of the Consultant or any subcontractor, or any other person for whom Consultant is responsible. The Consultant shall bear all other costs and expenses incurred by the Town or Consultant and related to any such liability including but not limited to court costs, expert witness fees and attorneys' fees if the court determines that these incurred costs and expenses are related to such negligent acts, errors, and omissions or other fault of the Consultant. The Town shall be entitled to its costs and attorneys' fees incurred in any action to enforce the provisions of this Section 8.0. The Consultant's indemnification obligation shall not be construed to extend to any injury, loss, or damage which is caused by the act, omission, or other fault of the Town.

9.0 QUALITY OF WORK

Consultant's professional services shall be in accordance with the prevailing standard of practice normally exercised in the performance of services of a similar nature in the Denver metropolitan area.

10.0 INDEPENDENT CONTRACTOR

Consultant and any persons employed by Consultant for the performance of work hereunder shall be independent contractors and not agents of the Town. Any provisions in this Agreement that may appear to give the Town the right to direct Consultant as to details of doing work or to exercise a measure of control over the work mean that Consultant shall follow the direction of the Town as to end results of the work only. **As an independent contractor, Consultant is not entitled to workers' compensation benefits except as may be provided by the independent contractor nor to unemployment insurance benefits unless unemployment compensation coverage is provided by the independent contractor or some other entity. The Consultant is obligated to pay all federal and state income tax on any moneys earned or paid pursuant to this contract.**

11.0 ASSIGNMENT

Consultant shall not assign or delegate this Agreement or any portion thereof, or any monies due to or become due hereunder without the Town's prior written consent.

12.0 DEFAULT

Each and every term and condition hereof shall be deemed to be a material element of this Agreement. In the event either party should fail or refuse to perform according to the terms of this Agreement, such party may be declared in default.

13.0 TERMINATION

- 13.1 This Agreement may be terminated by either party for material breach or default of this Agreement by the other party not caused by any action or omission of the other party by giving the other party written notice at least thirty (30) days in advance of the termination date. Termination pursuant to this subsection shall not prevent either party from exercising any other legal remedies which may be available to it.
- 13.2 In addition to the foregoing, this Agreement may be terminated by the Town for its convenience and without cause of any nature by giving written notice at least fifteen (15) days in advance of the termination date. In the event of such termination, the Consultant will be paid for the reasonable value of the services rendered to the date of termination, not to exceed a pro-rated daily rate, for the services rendered to the date of termination, and upon such payment, all obligations of the Town to the Consultant under this Agreement will cease. Termination pursuant to this Subsection shall not prevent either party from exercising any other legal remedies which may be available to it.

14.0 INSPECTION AND AUDIT

The Town and its duly authorized representatives shall have access to any books, documents, papers, and records of the Consultant that are related to this Agreement for the purpose of making audits, examinations, excerpts, and transcriptions.

15.0 DOCUMENTS

All computer input and output, analyses, plans, documents photographic images, tests, maps, surveys, electronic files and written material of any kind generated in the performance of this Agreement or developed for the Town in performance of the Services are and shall remain the sole and exclusive property of the Town. All such materials shall be promptly provided to the Town upon request therefor and at the time of termination of this Agreement, without further charge or expense to the Town. Consultant shall not provide copies of any such material to any other party without the prior written consent of the Town.

16.0 ENFORCEMENT

- 16.1 In the event that suit is brought upon this Agreement to enforce its terms, the prevailing party shall be entitled to its reasonable attorneys' fees and related court costs.
- 16.2 Colorado law shall apply to the construction and enforcement of this Agreement. The parties agree to the jurisdiction and venue of the courts of Weld County, and of no other court, in connection with any dispute arising out of or in any matter connected with this Agreement.

17.0 COMPLIANCE WITH LAWS; WORK BY ILLEGAL ALIENS PROHIBITED

- 17.1 Consultant shall be solely responsible for compliance with all applicable federal, state, and local laws, including the ordinances, resolutions, rules, and regulations of the Town; for payment of all applicable taxes; and obtaining and keeping in force all applicable permits and approvals.
- 17.2 Exhibit B, the “Town of Firestone Public Services Contract Addendum-Prohibition Against Employing Illegal Aliens”, is attached hereto and incorporated herein by reference. There is also attached hereto a copy of Consultant’s Pre-Contract Certification which Consultant has executed and delivered to the Town prior to Consultant’s execution of this Agreement.

18.0 INTEGRATION AND AMENDMENT

This Agreement represents the entire Agreement between the parties and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the parties.

19.0 NOTICES

All notices required or permitted under this Agreement shall be in writing and shall be given by hand delivery, by United States first class mail, postage prepaid, registered or certified, return receipt requested, or by national overnight carrier, addressed to the party for whom it is intended at the following address:

If to the Town:

Town of Firestone
Attn: Director of Community Resources
151 Grant Ave.
Firestone, Colorado 80520
Telephone: (303) 833-3291

If to the Consultant:

Gregg S. Ten Eyck, PE
Leonard Rice Engineers, Inc.
1221 Auraria Parkway
Denver, CO 80204

Any such notice or other communication shall be effective when received as indicated on the delivery receipt, if by hand delivery or overnight carrier, or on the United States mail return receipt, if by United States mail. Either party may by similar notice given, change the address to which future notices or other communications shall be sent.

20.0 EQUAL OPPORTUNITY EMPLOYER

- 20.1 Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, disability or national origin. Consultant will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their 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. Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notice to be provided by an agency of the federal government, setting forth the provisions of the Equal Opportunity Laws.
- 20.2 Consultant shall be in compliance with the applicable provisions of the American with Disabilities Act of 1990 as enacted and from time to time amended and any other applicable federal, state, or local laws and regulations. A signed, written certificate stating compliance with the Americans with Disabilities Act may be requested at any time during the life of this Agreement or any renewal thereof.

In witness whereof, the parties have executed this Agreement to be effective as of the day and year of signed by the Town.

TOWN OF FIRESTONE,
a Colorado Municipal Corporation

By: _____
Mayor

Date

Attest: _____
Town Clerk

LEONARD RICE ENGINEERS, INC.
a Colorado corporation

By: _____

Title: _____

Exhibit A – Scope of Services

Program Management: Gregg Ten Eyck will work at the direction of Julie Pasillas as a member of a Water Team to develop strategies and tactics and to manage and direct projects and initiatives related to water rights and water supply, water delivery and water treatment projects, to work with other parties as needed, and to evaluate and create other initiatives. The specific tasks Consultant shall perform, include but are not limited to:

Participate in two to three water team meetings each month.

Work with Brad Grasmick on augmentation plan and substitute water supply plan applications, water right purchase opportunities, and other water agreements.

Continue efforts towards the St. Vrain Water Authority or towards a Town of Firestone water treatment plant to be located in the Town of Firestone.

Review and update as necessary strategies for delivery of CBT, Windy Gap, NISP, Rural Ditch, Lower Boulder Ditch and other sources to Firestone.

Develop strategies for reuse of those water supplies that will be reusable to extinction (Windy Gap, NISP, certain native St. Vrain rights).

Continue to work with the water team to create or update and amend intergovernmental agreements with water districts, sanitation districts and others as needed.

Respond to inquiries from other Firestone consultants on water supply and storage infrastructure projects.

Continue to evaluate opportunities for other water supplies such as additional NISP water, additional raw water storage facilities or additional senior water rights as they are presented to the Town or as the water team develops strategies.

Management of projects for 2019 that will be covered by separate work orders include:

- Support Brad Grasmick's office to submit a 2019 water court filing. (Work Order 2019-01)
- Support Brad Grasmick's office to submit and negotiate a substitute water supply plan filing in 2019. (Work Order 2019-02)
- Continue and update the water quality sampling plan that was started in 2017. (Work Order 2019-03)
- Implementation of water rights and raw water supply accounting system for Substitute Water Supply Plan. (Work Order 2019-04)
- Recommend an NPDES permitting strategy and timeline, and initiate the permit process in 2019. (Work Order 2019-05)

- Lawn irrigation return flow (LIRF) study to claim returns of reusable water from irrigation. (Work Order 2019-07.)
- Provide technical reports and litigation support for the Water court filing. (Work Order 2019-08)
- Develop application for the Town of Firestone to be included in the South Platte Water Related Activities Program to address South Platte endangered species issues in Federal permits. (Work Order 2019-09)
- Engineering analysis of historical use and depletions of additional water rights acquired by the Town. (Not defined at this time.)

Program Management under this Agreement will be billed under LRE Project 1527TWF02.

Consideration

We will invoice the Town of Firestone \$14,200 per month for the period of December 26, 2018 through December 25, 2019, not to exceed \$170,400. Compensation for periods less than one month shall be prorated based on the number of working days in the month. Consultant's lump sum fee and budgets for time and materials work orders in 2019 are based on the following hourly rates for its employees:

LEONARD RICE ENGINEERS, INC.

2019 RATE SCHEDULE

Effective December 26, 2018

	<u>Hourly Rate</u>
Student Intern	\$60 - \$85
Data Processor	\$70 - \$120
Technician/IT Support.....	\$90 - \$115
Staff I	
Engineer/Hydrologist/Geologist/Scientist	\$100 - \$120
Staff II	
Engineer/Hydrologist/Geologist/Scientist	\$115 - \$135
Staff III	
Engineer/Hydrologist/Geologist/Scientist	\$130 - \$160
Project	
Engineer/Hydrologist/Geologist/Scientist	\$130 - \$160
Senior Project	
Engineer/Hydrologist/Geologist/Scientist	\$155 - \$175
Project Manager.....	\$170 - \$195
Senior Project Manager	\$190 - \$245
Principal, Senior Advisor	\$205 - \$260

Automobile mileage, prints, copies, computer and plotter time, telephone and facsimile costs are indirect expenses and are included in the above rates. Outside expenses such as laboratory analysis, obtaining aerial photos, or other special services incurred directly in connection with the project are billed at cost plus 5 percent to cover handling and administration. Reimbursable expenses billed at cost include airfares, automobile rental, and other travel or per diem costs for projects more than 100 miles from the office site, billed at the current IRS rate (rounded up to the nearest \$0.05). Subconsultants to LRE are billed at cost plus 10 percent.

Any changes to Consultant's hourly rates will be communicated to the Town, and shall not take effect unless and until such changes are approved by the Firestone Town Board.

Exhibit B

Town of Firestone Public Services Contract Addendum Prohibition Against Employing Illegal Aliens

Prohibition Against Employing Illegal Aliens. Contractor shall not knowingly employ or contract with an illegal alien to perform work under this contract. Contractor shall not enter into a contract with a subcontractor that fails to certify to the Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract.

Contractor will participate in either the E-verify program or the Department program, as defined in C.R.S. § 8-17.5-101(3.3) and 8-17.5-101(3.7), respectively, in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under the public contract for services. Contractor is prohibited from using the E-verify program or the Department program procedures to undertake pre-employment screening of job applicants while this contract is being performed.

If Contractor obtains actual knowledge that a subcontractor performing work under this contract for services knowingly employs or contracts with an illegal alien, Contractor shall:

- a. Notify the subcontractor and the Town within three days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
- b. Terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to this paragraph the subcontractor does not stop employing or contracting with the illegal alien; except that the Contractor shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

Contractor shall comply with any reasonable request by the Department of Labor and Employment made in the course of an investigation that the Department is undertaking pursuant to the authority established in C.R.S. § 8-17.5-102(5).

If Contractor violates a provision of this Contract required pursuant to C.R.S. § 8-17.5-102, Town may terminate the contract for breach of contract. If the contract is so terminated, the Contractor shall be liable for actual and consequential damages to the Town.

**Pre-Contract Certification
in Compliance with C.R.S. Section 8-17.5-102(1)**

From: _____
(Prospective Contractor)

To: Town of Firestone

As a prospective independent contractor for the above-identified project, I (we) do hereby certify that, as of the date of this certification, the undersigned does not knowingly employ or contract with an illegal alien; and that the undersigned will participate in the E-Verify employment verification program administered jointly by the United States Department of Homeland Security and the Social Security Administration or the employment verification program of the Colorado Department of Labor and Employment Program, as defined in C.R.S. § § 8-17.5-101(3.3) and 8-17.5-101(3.7), respectively, in order to confirm the employment eligibility of any employees hired since the date of this contract to perform work under this contract.

Executed this _____ day of _____, 2018.

Prospective Contractor _____

By: _____
Title: _____
State of Colorado

ACKNOWLEDGMENT

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing Certification was acknowledged before me this _____ day of _____, 2018, by [Name] _____, for [Company Name] _____.

Witness my hand and official seal.

My commission expires: _____

(SEAL)

Notary Public

AGENDA INFORMATION MEMORANDUM

FIRESTONE TOWN BOARD OF TRUSTEES



AIM#: 5.c.i

2019 Independent Consulting Agreement with Leonard

Meeting Date: December 12, 2018

Initiated By: Julie Pasillas

Dept: Community Resources

AGENDA TITLE

Agreement with Leonard Rice Engineers, Inc. for Engineering Service for the Proposed Work Order No. 2019-01

SUMMARY

This Work Order 2019-01 under the 2019 Agreement directs Leonard Rice Engineers, Inc. to assist counsel with drafting and submitting an application to water court. The water court application will be to create a plan for augmentation that will allow the Town to pump wells, both for non-potable irrigation of parks and for supply to the St Vrain Water Treatment Plant. The application will also be changing senior water rights purchased in 2017 (Lower Boulder Ditch and Rural Ditch shares) from irrigation to municipal uses.

HISTORY AND PREVIOUS BOARD ACTION

The Town of Firestone has previously purchased water shares in the New Consolidated Lower Boulder Reservoir and Ditch Company and in the Rural Ditch Company, along with Firestone Reservoir #1. During 2018, the Board had approved contracts for well field testing.

RECOMMENDATION

Staff recommends Board adopt a motion to approve the attached work order agreement for LRE to provide information and supporting documentation, as requested, for the water court filing.

ALTERNATIVES

The Board may choose not to approve the work orders, and provide Staff with additional direction.

ATTACHMENTS

1. Work Order # 2019-01

FINANCIAL CONSIDERATIONS

The agreement includes an amount not to exceed \$40,000. Sufficient funds have been budgeted and appropriated in the Town's Water Fund to cover these costs.

**Work Order 2019-01 under
AN AGREEMENT BY AND BETWEEN THE TOWN OF FIRESTONE
AND LEONARD RICE ENGINEERS, INC. FOR ENGINEERING SERVICES
Date: December 12, 2018**

1.0 General. This is Work Order 2019-01 under AN AGREEMENT BY AND BETWEEN THE TOWN OF FIRESTONE AND LEONARD RICE ENGINEERS, INC. FOR ENGINEERING SERVICES, between Leonard Rice Engineers, Inc. (LRE) and the Town of Firestone (Firestone), signed by Firestone on December 12, 2018 (“2019 Agreement”). The general purpose of this Work Order 2019-01 is for LRE to support Lawrence Jones Custer Grasmick in filing an augmentation plan and change of water rights in the Division 1 water court.

This project will be managed under LRE Project Number 1527TWF06, Task 1.

2.0 Scope of Services.

We will provide information and supporting documentation, as requested, for the water court filing.

3.0 Budget

The total budget and maximum payment obligation for Work Order 2019-01 under LRE Project Number 1527TWF06, Task 1 will not exceed \$40,000. This project will be billed monthly based on hours expended in that month, at the rates included in the 2019 Agreement.

4.0 Schedule

Work will begin in the 1st quarter of 2019, or upon receiving a notice to proceed, whichever is later. The work authorized by Work Order 2019-01 will be completed by December 25, 2019.

Work Order under
AN AGREEMENT BY AND BETWEEN THE TOWN OF FIRESTONE
AND LEONARD RICE ENGINEERS, INC. FOR ENGINEERING SERVICES

NOTICE TO PROCEED

You are hereby given notice to proceed with:

Work Order Number:

2019-01

Dated:

December 12, 2018

Not to Exceed Budget:

\$40,000.00

Signature:

Title:

Date:

AGENDA INFORMATION MEMORANDUM

FIRESTONE TOWN BOARD OF TRUSTEES



AIM#: 5.c.ii

2019 Independent Consulting Agreement with Leonard

Meeting Date: December 12, 2018

Initiated By: Julie Pasillas

Dept: Community Resources

AGENDA TITLE

Agreement with Leonard Rice Engineers, Inc. for Engineering Service for the Proposed Work Order No. 2019-02

SUMMARY

This Work Order 2019-02 under the 2019 Agreement directs Leonard Rice Engineers, Inc. to assist counsel with drafting of a substitute water supply plan (SWSP) and to assist with negotiations with the State and others to approve the SWSP.

HISTORY AND PREVIOUS BOARD ACTION

The Mountain Shadows Park well that will be used to provide non-potable irrigation water for Mountain Shadows Park is anticipated to be usable during the 2019 irrigation season. Before the well can be used the State Engineer's Office has to approve a substitute water supply plan or the water court has to approve an augmentation plan. The substitute water supply plan (SWSP) is the mechanism that will allow the Town to use water rights purchased in 2017 (Lower Boulder Ditch and Rural Ditch shares) to augment pumping from that well while the water court augmentation plan approval process is proceeding.

RECOMMENDATION

Staff recommends Board adopt a motion to approve the attached work order agreement for LRE to provide information and supporting documentation, as requested, for the substitute water supply plan.

ALTERNATIVES

The Board may choose not to approve the work orders, and provide Staff with additional direction.

ATTACHMENTS

1. Work Order # 2019-02

FINANCIAL CONSIDERATIONS

The agreement includes an amount not to exceed \$40,000. Sufficient funds have been budgeted and appropriated in the Town's Water Fund to cover these costs.

**Work Order 2019-02 under
AN AGREEMENT BY AND BETWEEN THE TOWN OF FIRESTONE
AND LEONARD RICE ENGINEERS, INC. FOR ENGINEERING SERVICES
Date: December 12, 2018**

1.0 General. This is Work Order 2019-02 under AN AGREEMENT BY AND BETWEEN THE TOWN OF FIRESTONE AND LEONARD RICE ENGINEERS, INC. FOR ENGINEERING SERVICES, between Leonard Rice Engineers, Inc. (LRE) and the Town of Firestone (Firestone), signed by Firestone on December 12, 2018 (“2019 Agreement”). The general purpose of this Work Order 2019-02 is for LRE to support Lawrence Jones Custer Grasmick in filing a substitute water supply plan with the Division 1 Office of the State Engineer to allow pumping of Firestone wells while the water court process for the plan of augmentation proceeds.

This project will be managed under LRE Project Number 1527TWF06, Task 2.

2.0 Scope of Services.

We will provide information and supporting documentation, as requested, for the substitute water supply plan. We will respond to questions from the State and objectors to develop terms and conditions that will allow the plan to be approved.

3.0 Budget

The total budget and maximum payment obligation for Work Order 2019-02 under LRE Project Number 1527TWF06, Task 2 will not exceed \$40,000. This project will be billed monthly based on hours expended in the month, at the rates included in the 2019 Agreement.

4.0 Schedule

Work will begin in the 1st quarter of 2019, or upon receiving a notice to proceed, whichever is later. The work will be completed by December 25, 2019.

Work Order under
AN AGREEMENT BY AND BETWEEN THE TOWN OF FIRESTONE
AND LEONARD RICE ENGINEERS, INC. FOR ENGINEERING SERVICES

NOTICE TO PROCEED

You are hereby given notice to proceed with:

Work Order Number:

2019-02

Dated:

December 12, 2018

Not to Exceed Budget:

\$40,000.00

Signature:

Title:

Date:

AGENDA INFORMATION MEMORANDUM

FIRESTONE TOWN BOARD OF TRUSTEES



AIM#: 5.c.iii

2019 Independent Consulting Agreement with Leonard

Meeting Date: December 12, 2018

Initiated By: Julie Pasillas

Dept: Community Resources

AGENDA TITLE

Agreement with Leonard Rice Engineers, Inc. for Engineering Service for the Proposed Work Order No. 2019-03

SUMMARY

This Work Order 2019-03 under the 2019 Agreement directs Leonard Rice Engineers, Inc. to continue the water quality sampling plan started in 2017. Based on data collected and on evolving water supply options, the plan will generally be continued as it was modified in 2018. Sampling now includes the Lower Boulder Ditch, the Rural Ditch, test wells at the alluvial well field on the Gould property, St Vrain Creek and occasional sampling from other locations such as the Central Colorado Water Conservancy District Shores Reservoir.

HISTORY AND PREVIOUS BOARD ACTION

The Board of Trustees approved the 2017 sampling plan on June 14, 2017 and the 2018 sampling plan on January 10, 2018.

RECOMMENDATION

Staff recommends Board adopt a motion to approve the attached work order agreement for LRE to continue the water quality sampling plan to collect data from the Gould Well and the St Vrain Creek.

ALTERNATIVES

The Board may choose not to approve the work orders, and provide Staff with additional direction.

ATTACHMENTS

1. Work Order # 2019-03

FINANCIAL CONSIDERATIONS

The agreement includes an amount not to exceed \$63,240. Sufficient funds have been budgeted and appropriated in the Town's Water Fund to cover these costs.

**Work Order 2019-03 under
AN AGREEMENT BY AND BETWEEN THE TOWN OF FIRESTONE
AND LEONARD RICE ENGINEERS, INC. FOR ENGINEERING SERVICES**

December 12, 2018

1.0 General. This is Work Order 2019-03 under AN AGREEMENT BY AND BETWEEN THE TOWN OF FIRESTONE AND LEONARD RICE ENGINEERS, INC. FOR ENGINEERING SERVICES, between Leonard Rice Engineers, Inc. (LRE) and the Town of Firestone (Firestone), signed by Firestone on December 12, 2018 (“2019 Agreement”). The general purpose of this Work Order 2019-03 is for LRE to collect and analyze water quality samples in 2019 to provide continuing data to the water treatment plant feasibility study.

This project will be managed under LRE Project Number 1527TWF06, Task 3.

2.0 Scope of Services.

Water quality sampling and analysis

We will generally 63,240We expect to make some modifications to the number of constituents analyzed, possibly reducing the frequency of sampling of the Gould Well and adding sampling of the Last Chance Ditch, for example.

Deliverable: Deliverable will be a tabulation of the data collected in 2019.

3.0 Budget

The total budget and maximum payment obligation for Work Order 2019-03 under LRE Project Number 1527TWF06, Task 3 will not exceed \$63,240.00. We will bill in twelve equal installments of \$5,270.00 each.

4.0 Schedule

Work will begin January 2, 2019, or upon receiving a notice to proceed, whichever is later. The work authorized by Work Order 2019-03 will be completed by December 25, 2019.

Work Order under
AN AGREEMENT BY AND BETWEEN THE TOWN OF FIRESTONE
AND LEONARD RICE ENGINEERS, INC. FOR ENGINEERING SERVICES

NOTICE TO PROCEED

You are hereby given notice to proceed with:

Work Order Number:

2019-03

Dated:

December 12, 2018

Not to Exceed Budget:

\$63,240.00

Signature:

Title:

Date:

AGENDA INFORMATION MEMORANDUM

FIRESTONE TOWN BOARD OF TRUSTEES



AIM#: 5.c.iv

2019 Independent Consulting Agreement with Leonard

Meeting Date: December 12, 2018

Initiated By: Julie Pasillas

Dept: Community Resources

AGENDA TITLE

Agreement with Leonard Rice Engineers, Inc. for Engineering Service for the Proposed Work Order No. 2019-04

SUMMARY

This Work Order 2019-04 under the 2019 Agreement directs Leonard Rice Engineers, Inc. to implement the water rights accounting system that will be required to operate the substitute water supply plan.

HISTORY AND PREVIOUS BOARD ACTION

The Town authorized the creation of a water rights accounting system template on July 31, 2017. That project was successfully completed in December 2017.

RECOMMENDATION

ALTERNATIVES

ATTACHMENTS

1. Work Order # 2019-04

FINANCIAL CONSIDERATIONS

**Work Order 2019-04 under
AN AGREEMENT BY AND BETWEEN THE TOWN OF FIRESTONE
AND LEONARD RICE ENGINEERS, INC. FOR ENGINEERING SERVICES**

December 12, 2018

1.0 General. This is Work Order 2019-04 under AN AGREEMENT BY AND BETWEEN THE TOWN OF FIRESTONE AND LEONARD RICE ENGINEERS, INC. FOR ENGINEERING SERVICES, between Leonard Rice Engineers, Inc. (LRE) and the Town of Firestone (Firestone), signed by Firestone on December 12, 2018 (“2019 Agreement”). The general purpose of this Work Order 2019-04 is for LRE to implement the water rights and water supply accounting system as needed to support the substitute water supply plan.

This project will be managed under LRE Project Number 1527TWF06, Task 4.

2.0 Scope of Services.

The template of an accounting system was developed in 2017; the portions that system necessary to account for water use and replacement under the terms of the substitute water supply plan will be made functional.

Deliverable: Deliverable will be a substitute water supply plan accounting system if the data collected in 2019.

3.0 Budget

The total budget and maximum payment obligation for Work Order 2019-04 under LRE Project Number 1527TWF06, Task 4 will not exceed \$14,000.00. This project will be billed monthly based on hours expended in that month, at the rates included in the 2019 Agreement.

4.0 Schedule

Work will begin January 2, 2019, or upon receiving a notice to proceed, whichever is later. The work authorized by Work Order 2019-04 will be completed by December 25, 2019.

Work Order under
AN AGREEMENT BY AND BETWEEN THE TOWN OF FIRESTONE
AND LEONARD RICE ENGINEERS, INC. FOR ENGINEERING SERVICES

NOTICE TO PROCEED

You are hereby given notice to proceed with:

Work Order Number:

2019-04

Dated:

December 12, 2018

Not to Exceed Budget:

\$14,000.00

Signature:

Title:

Date:

AGENDA INFORMATION MEMORANDUM

FIRESTONE TOWN BOARD OF TRUSTEES



AIM#: 5.d.

Consent Agenda

Meeting Date: December 12, 2018

Initiated By:

Dept: Water/Sewer

AGENDA TITLE

2019 Independent Consulting Agreement with FEI Engineers, Inc. for Engineering Services

SUMMARY

This 2019 Agreement is to continue FEI Engineering, Inc.'s (FEI) services on design and construction phase of the St Vrain Water Treatment Plant for the Town of Firestone.

HISTORY AND PREVIOUS BOARD ACTION

During 2018, FEI provided services to the Town of Firestone through Work Order Agreements the between Leonard Rice Engineering, Inc. and the Town of Firestone. Work orders 2018-04 for Conceptual Planning, 2018-05 for 2018 portion of the Preliminary Design and 2018-06 for 2018 portion of the CDPHE Design Phase were approved by the Board on March 14, 2018.

RECOMMENDATION

Staff recommends Board adopt a motion to approve the attached independent contractors agreement with FEI for engineering services.

ALTERNATIVES

The Board may choose not to approve the agreement and provide Staff with additional direction.

ATTACHMENTS

1. 2019 Independent Consulting Agreement with FEI Engineers, Inc. for Engineering Services

FINANCIAL CONSIDERATIONS

The agreement includes an amount not to exceed \$510,000 for the service FEI will be providing. Sufficient funds have been budget and appropriated in the Town's Water Fund to cover these costs.

**AN AGREEMENT BY AND BETWEEN THE TOWN OF FIRESTONE
AND FEI ENGINEERS, INC.
FOR ENGINEERING SERVICES**

1. PARTIES

The parties to this Agreement are the **Town of Firestone**, a Colorado municipal corporation, hereinafter referred to as the "Town", and **FEI Engineers, Inc.**, a Colorado corporation, hereinafter referred to as the "Consultant".

2. RECITALS AND PURPOSE

- 2.1. The Town desires to engage the Consultant for the purpose of providing engineering services as further set forth in the Consultant's Scope of Services (which services are hereinafter referred to as the "Services").
- 2.2. The Consultant represents that it has the special expertise, qualifications and background necessary to complete the Services.

3. SCOPE OF SERVICES

- 3.1. The Consultant agrees to provide the Town with the specific Services and to perform the specific tasks, duties and responsibilities set forth in Scope of Services attached hereto as Exhibit "A" and incorporated herein by reference. The Consultant shall furnish all tools, labor and supplies in such quantities and of the proper quality as are necessary to professionally and timely perform the Services. The Consultant acknowledges that this Agreement does not grant any exclusive privilege or right to supply Services to the Town. In its sole discretion, the Town may contract with other consultants to provide the same or similar services during the term of this Agreement.
- 3.2. In addition to the Services described in Exhibit A, the Town may prepare, with the assistance of FEI, work orders, containing, at a minimum, the following information: (1) the specific tasks and deliverables FEI must perform; (2) FEI's budget; (3) the Town's maximum payment obligation under the subject work order; and (4) the completion date for the subject work order. FEI shall be compensated for work orders on an hourly basis at the hourly rates set forth in Exhibit A, subject to the agreed upon maximum payment obligation. After the work order has been finalized and agreed to by the Town and FEI, the Town may issue a notice to proceed obligating FEI to begin performance of the subject work order. FEI shall not commence work on any work order until it has received the applicable notice to proceed. Notice to proceed may be sent by email.
- 3.3. The Town reserves the right to amend any work order that has been issued under this Agreement by altering, reducing, increasing, or eliminating specific tasks and deliverables. If the Town desires to amend a work order that has been issued, then the Town shall notify FEI of the contemplated change ("Notice of Change Order"). Upon receiving the Notice of Change Order FEI shall provide: (1) an estimate of the increase or decrease, if any, to FEI's budget due to the contemplated change and (2) the estimated change in the completion date of the subject work order, if any. The Town may instruct FEI in the Notice of Change Order to suspend work on any identified task or deliverable affected by a contemplated change, pending the Town's decision to proceed with the change. When instructed, FEI shall suspend work on any identified task or deliverable affected by a contemplated change. If it elects to make the change, the Town shall issue a change order

amending the subject work order and providing FEI with a corresponding Notice to Proceed. FEI shall not commence work on any change order until it has received the applicable notice to proceed.

4. COMPENSATION

- 4.1. The Town shall pay the Consultant for services requested and rendered under this Agreement as set forth in Exhibit "A". The Town's maximum payment obligation under this Agreement, excluding work orders finalized and agreed to by the Town and FEI, shall not exceed the not-to-exceed amount set forth in Exhibit A. The Town shall pay mileage and other reimbursable expenses (such as meals, parking, travel expenses, necessary memberships, etc.) which are deemed necessary for performance of the services and which are pre-approved by the Town Manager. The foregoing amounts of compensation shall be inclusive of all costs of whatsoever nature associated with the Consultant's efforts, including but not limited to salaries, benefits, overhead, administration, profits, expenses, and outside consultant fees. The Scope of Services and payment therefor shall only be changed by a properly authorized amendment to this Agreement. No Town employee has the authority to bind the Town with regard to any payment for any services which exceeds the amount payable under the terms of this Agreement.
- 4.2. The Consultant shall submit monthly an invoice to the Town for the per-month amount set forth in Exhibit A for Services rendered in the previous month, and a detailed expense report for pre-approved, reimbursable expenses incurred during the previous month. The invoice shall document the Services provided during the preceding month, identifying by work category and subcategory the work and tasks performed and such other information as may be required by the Town. The Consultant shall provide such additional backup documentation as may be required by the Town. The Town shall pay the invoice within thirty (30) days of receipt unless the Services or the documentation therefor are unsatisfactory. Payments made after thirty (30) days may be assessed an interest charge of one percent (1%) per month unless the delay in payment resulted from unsatisfactory work or documentation therefor.

5. PROJECT REPRESENTATION

- 5.1. The Town designates Julie Pasillas, Director of Community Resources, as the responsible Town staff to provide direction to the Consultant during the conduct of the Services. The Consultant shall comply with the directions given by the Director of Community Development and such person's designees.
- 5.2. The Consultant designates Patrick O'Brien, Principal, as its principal in charge who shall be providing the Services under this Agreement. Should any of the representatives be replaced, particularly Patrick O'Brien, and such replacement require the Town or the Consultant to undertake additional reevaluations, coordination, orientations, etc., the Consultant shall be fully responsible for all such additional costs and services.

6. TERM

The term of this Agreement shall be _____ to _____, unless sooner terminated pursuant to Section 13, below. The Consultant's services under this Agreement shall commence upon execution of this Agreement by the Town and shall progress so that the Services are completed in a timely fashion consistent with the Town's requirements. Nothing in this Agreement is intended or shall be deemed or construed as creating any multiple-fiscal year direct or indirect debt or financial

obligation on the part of the Town within the meaning of Colorado Constitution Article X, Section 20 or any other constitutional or statutory provision. All financial obligations of the Town under this Agreement are subject to annual budgeting and appropriation by the Firestone Board of Trustees, in its sole discretion. Notwithstanding anything in this Agreement to the contrary, in the event of non-appropriation, the Town shall immediately notify Consultant of such occurrence, and this Agreement shall terminate effective December 31 of the then-current fiscal year.

7. INSURANCE

- 7.1. The Consultant agrees to procure and maintain, at its own cost, the policies of insurance set forth in Subsections 7.1.1 through 7.1.4. The Consultant shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to this Agreement by reason of its failure to procure or maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations, or types. The coverages required below shall be procured and maintained with forms and insurers acceptable to the Town. All coverages shall be continuously maintained from the date of commencement of services hereunder. The required coverages are:
- 7.1.1. 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 work under this contract. Evidence of qualified self-insured status may be substituted.
- 7.1.2. Automobile liability and physical damage insurance and physical damage insurance for any vehicle used in performing services for the Town, in amounts not less than prescribed by Colorado law (currently \$25,000 per person/\$50,000 per accident bodily injury and \$15,000 per accident property damage).
- 7.1.3. Professional liability insurance against errors and omissions with minimum combined single limits of \$2,000,000.00 each occurrence and \$2,000,000.00 aggregate.
- 7.1.4. General liability insurance with minimum combined single limits of \$2,000,000.00 each occurrence and \$2,000,000.00 aggregate.
- 7.2. The Consultant's general liability insurance and automobile liability and physical damage insurance shall be endorsed to include the Town, and its elected and appointed officers and employees, as additional insureds, unless the Town in its sole discretion waives such requirement. Every policy required above shall be primary insurance, and any insurance carried by the Town, its officers, or its employees, shall be excess and not contributory insurance to that provided by the Consultant. Such policies shall contain a severability of interests' provision. The Consultant shall be solely responsible for any deductible losses under each of the policies required above.
- 7.3. Certificates of insurance shall be provided by the Consultant as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect, and shall be subject to review and approval by the Town. No required coverage shall be cancelled, terminated or materially changed until at least 30 days prior written

notice has been given to the Town. The Town reserves the right to request and receive a certified copy of any policy and any endorsement thereto.

- 7.4. Failure on the part of the Consultant to procure or maintain policies providing the required coverages, conditions, and minimum limits shall constitute a material breach of contract upon which the Town may immediately terminate the 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 Town shall be repaid by Consultant to the Town upon demand, or the Town may offset the cost of the premiums against any monies due to Consultant from the Town.
- 7.5. The parties understand and agree that the Town 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, § 24-10-101 et seq., C.R.S., as from time to time amended, or otherwise available to the Town, its officers, or its employees.

8. INDEMNIFICATION

To the fullest extent permitted by law, the Consultant agrees to defend, indemnify and hold harmless the Town, and its elected and appointed officers and its employees, from and against all liability on account of any injury, loss, or damage, which arise out of or are connected with the services hereunder, if and to the extent such injury, loss, or damage is caused by the negligent act, or omission, of the Consultant or any subcontractor of the Consultant, or any officer, employee, or agent of the Consultant or any subcontractor, or any other person for whom Consultant is responsible. The Consultant shall bear all other costs and expenses incurred by the Town or Consultant and related to any such liability including but not limited to court costs, expert witness fees and reasonable attorneys' fees if the court determines that these incurred costs and expenses are related to such negligent acts, errors, and omissions or other fault of the Consultant. Notwithstanding the foregoing, Consultant's duty to defend, indemnify and hold harmless the Town, and its elected and appointed officials and its employees as set forth in this section shall only arise upon determination, by adjudication, alternative dispute resolution, or mutual agreement between Consultant and the Town, of the Consultant's liability or fault. The Consultant's indemnification obligation shall not be construed to extend to any injury, loss, or damage which is caused by the act, omission, or other fault of the Town or its elected and appointed officers and its employees.

9. QUALITY OF WORK

Consultant's professional services shall be in accordance with the prevailing standard of practice normally exercised in the performance of services of a similar nature in the Denver metropolitan area.

10. INDEPENDENT CONTRACTOR

Consultant and any persons employed by Consultant for the performance of work hereunder shall be independent contractors and not agents of the Town. Any provisions in this Agreement that may appear to give the Town the right to direct Consultant as to details of doing work or to exercise a measure of control over the work mean that Consultant shall follow the direction of the Town as to end results of the work only. **As an independent contractor, Consultant is not entitled to workers' compensation benefits except as may be provided by the independent contractor nor to unemployment insurance benefits unless unemployment compensation coverage is provided by the independent contractor or some other entity. The Consultant is obligated to pay all federal and state income tax on any moneys earned or paid pursuant to this contract.**

11. ASSIGNMENT

Consultant shall not assign or delegate this Agreement or any portion thereof, or any monies due or to become due hereunder without the Town's prior written consent.

12. DEFAULT

Each and every term and condition hereof shall be deemed to be a material element of this Agreement. In the event either party should fail or refuse to perform according to the terms of this Agreement, such party may be declared in default.

13. TERMINATION

- 13.1. This Agreement may be terminated by either party for material breach or default of this Agreement by the other party not caused by any action or omission of the other party by giving the other party written notice at least thirty (30) days in advance of the termination date. Termination pursuant to this subsection shall not prevent either party from exercising any other legal remedies which may be available to it.
- 13.2. In addition to the foregoing, this Agreement may be terminated by the Town for its convenience and without cause of any nature by giving written notice at least fifteen (15) days in advance of the termination date. In the event of such termination, the Consultant will be paid for the reasonable value of the services rendered to the date of termination, not to exceed a pro-rated daily rate, for the services rendered to the date of termination, and upon such payment, all obligations of the Town to the Consultant under this Agreement will cease. Termination pursuant to this Subsection shall not prevent either party from exercising any other legal remedies which may be available to it.

14. INSPECTION AND AUDIT

The Town and its duly authorized representatives shall have access to any books, documents, papers, and records of the Consultant that are related to this Agreement for the purpose of making audits, examinations, excerpts, and transcriptions.

15. DOCUMENTS

All computer input and output, analyses, plans, documents photographic images, tests, maps, surveys, electronic files and written material of any kind generated in the performance of this Agreement or developed for the Town in performance of the Services ("Consultant Deliverables") are and shall remain the exclusive property of the Town. All Consultant Deliverables shall be promptly provided to the Town upon request therefor and at the time of termination of this Agreement, without further charge or expense to the Town. Consultant shall not provide copies of any such material to any other party without the prior written consent of the Town.

The Town shall not make any modification to the Consultant Deliverables without the prior written authorization of the Consultant. Any and all liability arising out of unauthorized changes made to Consultant Deliverables by the Town or persons other than Consultant, its employees, officers, agents or subcontractors, is waived against Consultant.

16. ENFORCEMENT

In the event that suit is brought upon this Agreement to enforce its terms, the prevailing party shall be entitled to its reasonable attorneys' fees and related court costs.

17. COMPLIANCE WITH LAWS; WORK BY ILLEGAL ALIENS PROHIBITED

- 17.1. Consultant shall be solely responsible for compliance with all applicable federal, state, and local laws, including the ordinances, resolutions, rules, and regulations of the Town; for

payment of all applicable taxes; and obtaining and keeping in force all applicable permits and approvals.

- 17.2. Exhibit B, the "Town of Firestone Public Services Contract Addendum-Prohibition Against Employing Illegal Aliens", is attached hereto and incorporated herein by reference. There is also attached hereto a copy of Consultant's Pre-Contract Certification which Consultant has executed and delivered to the Town prior to Consultant's execution of this Agreement.

18. INTEGRATION AND AMENDMENT

This Agreement represents the entire Agreement between the parties and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the parties.

19. NOTICES

All notices required or permitted under this Agreement shall be in writing and shall be given by hand delivery, by United States first class mail, postage prepaid, registered or certified, return receipt requested, by national overnight carrier, or by email, addressed to the party for whom it is intended at the following addresses:

If to the Town:

Town of Firestone
Attn: Director of Community Resources
151 Grant Ave.
Firestone, Colorado 80520
Telephone: (303) 833-3291
Email: jpasillas@firestoneco.gov

If to the Consultant:

Patrick O'Brien
FEI Engineers, Inc.
5325 South Valentia Way
Greenwood Village, CO 80111
Telephone: (303) 928-1348
Email: patrick.obrien@feiengineers.com

Any such notice or other communication shall be effective when received as indicated on the delivery receipt, if by hand delivery or overnight carrier; on the United States mail return receipt, if by United States mail; or on email receipt. Either party may by similar notice given, change the address to which future notices or other communications shall be sent.

20. EQUAL OPPORTUNITY EMPLOYER

- 20.1. Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, disability or national origin. Consultant will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their 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. Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notice to be provided by an agency of the federal government, setting forth the provisions of the Equal Opportunity Laws.

- 20.2. Consultant shall be in compliance with the applicable provisions of the American with Disabilities Act of 1990 as enacted and from time to time amended and any other applicable federal, state, or local laws and regulations. A signed, written certificate stating compliance with the Americans with Disabilities Act may be requested at any time during the life of this Agreement or any renewal thereof.

21.0 GOVERNING LAW, DISPUTE RESOLUTION, VENUE & SEVERABILITY

The laws of the State of Colorado shall govern the interpretation, validity, performance and enforcement of this Agreement. For the resolution of any dispute arising hereunder that cannot be resolved through negotiation between the parties, the Town and the Consultant agree that the dispute shall be submitted to nonbinding mediation prior to either party resorting to litigation. Mediation costs shall be borne equally by the parties. Notwithstanding the foregoing, nonbinding mediation shall not be required for determinations of liability or fault pursuant to section 8 of this Agreement. Any dispute not resolved through negotiation or mediation shall be resolved in the District Court of Weld County of the State of Colorado, and in no other court. If any provision of this Agreement shall be held to be invalid or unenforceable, the validity and enforceability of the remaining provisions of this Agreement shall not be affected thereby.

22.0 NO THIRD PARTY BENEFICIARIES

Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Town or the Consultant. The Consultant's services under this Agreement are being performed solely for the Town's benefit, and no other party or entity shall have any claim against the Consultant because of this Agreement or the performance or nonperformance of Services hereunder.

In witness whereof, the parties have executed this Agreement to be effective as of the day and year of signed by the Town.

Town:

TOWN OF FIRESTONE

By: _____

Print Name: _____

Title: _____

Date Signed: _____

Consultant:

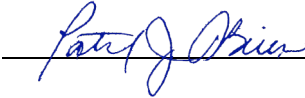
FEI Engineers, Inc.

By: _____

Print Name: _____

Title: _____

Date Signed: _____



Patrick O'Brien

Principal

12/07/18

Attest

Print Name: _____

Title: _____

Attest

Print Name: _____

Title: _____



Heather Harris

Executive Assistant

Exhibit A – Scope of Services

FEI will provide professional services based upon our understanding of the project and its objectives. The proposed scope of services is based upon the attached schedule.

Preliminary Design Phase:

The Preliminary Design Phase will be based upon the recommendations from the Conceptual Design Phase. We will develop the following preliminary design phase components.

- Preliminary Engineering
- Preliminary Drawings
- Outline Technical Specifications
- Preliminary Opinion of Probable Cost

Meetings: we have planned for one progress meeting and one review meeting during the preliminary design phase.

We will email meeting agendas and supporting documents a minimum of two working days before the meeting; and prepare and email meeting notes within one week after the meeting concludes.

Budget: \$35,000

60% Design Phase (CDPHE REVIEW SET)

The 60% (CDPHE REVIEW SET) Design Phase will follow the preliminary design phase. Based upon the comments received from the preliminary design review meeting, we will develop the 60% Design Phase components.

- 60% Engineering
- 60% Drawings
- 60% Technical Specifications
- CDPHE Basis of Design Report
- CMAR collaboration.
- Review of the CMAR GMP; provide recommendation of award.
- Prepare and execute construction phase CMAR documents.

Meetings: we have planned for two progress meetings and one review meetings during the 60% design phase.

We will email meeting agendas and supporting documents a minimum of two working days before the meeting; and prepare and email meeting notes within one week after the meeting concludes.

Budget: \$190,000

Final Design Phase

The Final Phase will run concurrently with the Construction Phase and the continued progression through the CDPHE approval process of the 60% Design Phase and the Select a Construction Manager at Risk (CMAR) Phase.

Based upon the comments received from the 60% design review meeting, we will develop the final design phase components.

- Final Engineering
- Final Drawings
- Final (Abbreviated) Technical Specifications

Meetings: we have planned for one review meeting during the final design phase (the remainder are assigned to the construction phase).

Budget: \$130,000

Construction Phase

The Construction Phase services will include:

- Progress Meetings
- Office Engineering (RFI's, WCD's, FO's, RFCO's)
- Periodic Site Visits and Start Up Assistance
- Submittal Reviews
- CMAR Application for Payment Reviews
- Substantial Completion Inspection and Reporting
- Final Completion Inspection and Reporting

Budget: \$155,000

This Agreement will be billed under FEI Project _____.

Consideration

We will invoice the Town of Firestone on a time and material basis per month for the period of December 26, 2018 through December 25, 2019, not to exceed \$ 510,000. Compensation for periods less than one month shall be prorated based on the number of working days in the month. Consultant's lump sum fee is based on the following hourly rates for its employees:

2019 Rates

*Billing rates effective 1/1/2019
through 12/31/2019*

*Billing rates adjusted
annually*

*Direct expenses will be
invoiced along with monthly
labor costs*

Management & Engineering Personnel

Rate per Hour, \$

Principal Engineer

225-290

Senior Technical Specialist

182

Senior Project Manager

182-240

Discipline Lead

182-270

Project Manager

160-195

Senior Engineer

155-170

Project Engineer II

140-145

Project Engineer I

135-140

Engineer III

125

Engineer II

120

Engineer I

115

Specialty

Senior Resident Project Representative

125

Resident Project Representative

120

Senior Designer

120-140

CAD Designer

110-120

CAD Technician

85-90

Support Personnel

Administrative

85-120

Direct expenses will be charged at actual cost plus 10% for handling and insurance. Incidental expenses such as miscellaneous copying, telephone service and computer equipment are included in the engineer's fee. Reimbursable (direct) expenses may include but are not limited to: Additional outside professional services provided beyond those stipulated in the scope of work; Additional copies of reports, drawings, etc. beyond those stipulated in the scope of work; Postage, courier fees, and shipping; Project vehicle mileage (which will be charged at the current IRS rate); Owner-approved, project-related purchases; Project business meals and lodging; Resident project engineer equipment and rental; and Printed photos.

Any changes to Consultant's hourly rates will be communicated to the Town, and shall not take effect unless and until such changes are approved by the Firestone Town Board.

Exhibit B

Town of Firestone Public Services Contract Addendum Prohibition Against Employing Illegal Aliens

Prohibition Against Employing Illegal Aliens. Contractor shall not knowingly employ or contract with an illegal alien to perform work under this contract. Contractor shall not enter into a contract with a subcontractor that fails to certify to the Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract.

Contractor will participate in either the E-verify program or the Department program, as defined in C.R.S. § § 8-17.5-101(3.3) and 8-17.5-101(3.7), respectively, in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under the public contract for services. Contractor is prohibited from using the E-verify program or the Department program procedures to undertake pre-employment screening of job applicants while this contract is being performed.

If Contractor obtains actual knowledge that a subcontractor performing work under this contract for services knowingly employs or contracts with an illegal alien, Contractor shall:

- a. Notify the subcontractor and the Town within three days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
- b. Terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to this paragraph the subcontractor does not stop employing or contracting with the illegal alien; except that the Contractor shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

Contractor shall comply with any reasonable request by the Department of Labor and Employment made in the course of an investigation that the Department is undertaking pursuant to the authority established in C.R.S. § 8-17.5-102(5).

If Contractor violates a provision of this Contract required pursuant to C.R.S. § 8-17.5-102, Town may terminate the contract for breach of contract. If the contract is so terminated, the Contractor shall be liable for actual and consequential damages to the Town.

AGENDA INFORMATION MEMORANDUM

FIRESTONE TOWN BOARD OF TRUSTEES



AIM#: 5.e.

Consent Agenda

Meeting Date: December 12, 2018

Initiated By: Dave Lindsay

Dept: Community Resources

AGENDA TITLE

Gould Property Alluvial Well Field Analysis - Amendment 2

SUMMARY

Field work and data collection portion of the project are completed. During the course of the work McGrane Water Engineering (MWE) encountered two items that increased their scope and costs. 1) MWE decided to install the test well pump themselves rather than hire an outside contractor as previously budgeted, and 2) MWE had spend significantly more time operating and monitoring the Rural Ditch lateral that delivered water to the recharge test pits. There was also some addition time spent in the monitoring of the recharge test and some costs in procuring flow measurement equipment for the test.

Staff has reviewed the information provided by MWE and presented the attached Second Amendment to their agreement for consideration by the Board of Trustees.

HISTORY AND PREVIOUS BOARD ACTION

The Board of Trustees entered into the Original Agreement for the study with MWE at the regular meeting on June 13, 2018.

The Board of Trustees approved the First Amendment to the Agreement with MWE to add in the recharge test at the regular meeting on August 22, 2018.

RECOMMENDATION

Staff recommends the Board of Trustees approve the Second Amendment to an Agreement By and Between the Town of Firestone and McGrane Water Engineering, LLC increasing the contract amount by \$37,000.00 to a new total amount of \$205,500.00.

ALTERNATIVES

The additional services were time sensitive and have already been complete. The increased contract amount is needed to allow MWE to complete the final modeling efforts and to prepare the final technical memorandums associated with the work.

ATTACHMENTS

1. Gould Property Alluvial Well Field Analysis - Amendment 2 (2018.12.07)

FINANCIAL CONSIDERATIONS

The 2018 Budget for the work at the Gould Property was \$353,500.00 and included work for 3 contracts, including the Alluvial Well Field Study. The total of all of these project, including the adjusted contract amount for the Alluvial Well Field Study is \$370,050.00. The total project is now \$20,550.00 over the 2018 Budget. The project is being funded from the Water Fund which has sufficient balance to cover the additional costs.

**SECOND AMENDMENT TO AN AGREEMENT BY AND BETWEEN THE TOWN OF
FIRESTONE AND McGRANE WATER ENGINEERING, LLC
FOR ENGINEERING SERVICES
(Gould Property Alluvial Well Field Analysis)**

THIS FIRST AMENDMENT TO CONSULTING SERVICES AGREEMENT is made and entered into effective as of the ____ day of _____, 2018, by and between the **TOWN OF FIRESTONE**, a Colorado municipal corporation, hereinafter referred to as the “Town”, and **McGrane Water Engineering, LLC**, a Colorado limited liability company doing business as McGrane Water Engineering, LLC, hereinafter referred to as the “Consultant” with reference to that certain Consulting Services Agreement between the Town and Consultant executed by the Town on June 13, 2018 and hereinafter referred to as the “Original Agreement.”

WHEREAS, during the course of the work the Consultant undertook some tasks that had previously been budgeted to be performed by an outside contractor and because the Consultant had to expend additional time on the project site coordinating and monitoring irrigation ditch flows in the recharge test pits, the parties believe it to be in the best interest to amend the Original Agreement, as previously amended once, as set forth herein.

NOW, THEREFORE, for good and valuable consideration, the Parties agree as follows:

1. Section 4.1 of the Original Agreement is hereby amended to read as follows (words added are underlined; words deleted are shown in ~~strikeout~~):

4.1 The Town shall pay the Consultant for services requested and rendered under this Agreement at the hourly rates set forth in Exhibit A provided, however, that the total amount payable for Services under this Agreement shall in no event exceed ~~\$168,500.00~~ \$205,500.00. For services compensated at hourly rates, or on a per-task basis, such rates or costs per task shall not exceed the amounts set forth in Exhibit A and Exhibit A1 and Exhibit A2. The Town shall pay mileage and other reimbursable expenses which are deemed necessary for performance of the services and which are identified in Exhibit A and Exhibit A1 and Exhibit A2. The foregoing amounts of compensation shall be inclusive of all costs of whatsoever nature associated with the Consultant’s efforts, including but not limited to salaries, benefits, overhead, administration, profits, expenses, and outside consultant fees. The Scope of Services and payment therefor shall only be changed by a properly authorized amendment to this Agreement. No Town employee has the authority to bind the Town with regard to any payment for any services which exceeds the amount payable under the terms of this Agreement.

2. Exhibit A of the Original Agreement and Exhibit A1 of the First Amendment are hereby amended to include the attached Exhibit A2 – Revised Budget.

3. The Original Agreement, as previously amended, and as further herein amended by this Second Amendment, is hereby ratified and confirmed and remains in full force and effect in accordance with its terms.

IN WITNESS WHEREOF, the Parties have executed this Second Amendment to Consulting Agreement effective as of the day and year first above set forth.

TOWN OF FIRESTONE,
a Colorado Municipal Corporation

By: _____
Bobbi Sindelar, Mayor

Attest: _____
Leah Vanarsdall, Town Clerk

CONSULTANT:
McGRANE WATER ENGINEERING, LLC
a Colorado limited liability company, doing business as McGrane Water Engineering, LLC

By: _____

Title: _____

Exhibit A2 – Revised Budget

[See Following 1 Page]

EXHIBIT A2

Amendment 2 - Cost Estimate Summary					
Change Order Task	Description	Engineering	Engineering Expenses	Contractor Work	Task Total
1	Develop Recharge Scope of Work				
1d	Develop Scope of Work				\$0
1e	Prepare Contractor Specifications				\$0
1f	Meetings and Proposal				\$0
Task 1 Subtotal		\$0	\$0	\$0	\$0
2	Site Work				
2b	Install pump	\$8,000			\$8,000
2c	Install recharge trenches			-\$22,006	-\$22,006
2d	Flow metering equipment, electrical starter and pump.		\$3,960		\$3,960
Task 2 Subtotal		\$8,000	\$3,960	-\$22,006	-\$10,046
3	Monitor Test				
3c	Additional Monitoring	\$25,040			\$25,040
3d	Pumping Equipment rental				\$0
Task 3 Subtotal		\$25,040	\$0	\$0	\$25,040
4	Analysis, Computer Modeling and				
4e	Analyze and Interpret Recharge data				\$0
4f	Recalibrate Groundwater model to recharge data				\$0
4g	Incorporate Recharge Test into Report				\$0
Task 4 Subtotal		\$0	\$0	\$0	\$0
Amendment 2 Request		\$33,040	\$3,960	-\$22,006	\$14,994
Original Contract		\$94,000	\$8,500	\$43,000	\$145,500
Contract Amount w/Amendment 1		\$149,000	\$19,500	\$51,000	\$219,500
Contract Amount w/Amendment 2		\$182,040	\$23,460	\$28,994	\$234,494

AGENDA INFORMATION MEMORANDUM

FIRESTONE TOWN BOARD OF TRUSTEES



AIM#: 5.f.

Consent Agenda

Meeting Date: December 12, 2018

Initiated By: Dave Lindsay

Dept: Community Resources

AGENDA TITLE

Mountain Shadows Park Irrigation Well Design - Amendment 1

SUMMARY

As work had started on the development of a combined alluvial well in Mountain Shadows Park that would be used to irrigate the park and adjacent trail and to deliver water to Firestone Reservoir No. 1, several issues arose that the Town needed McGrane Water Engineers (MWE) assistance with. Some of the traditional services were related to Mountain Shadows Park and some were not, all of them were tied to developing a reliable and high production well field for the planned water treatment plant.

The Town did not have a general consultation agreement in place with MWE and because of the time sensitive nature of the evaluations that were needed MWE was directed to invoice for those services under their Mountain Shadows Park Irrigation Production Well design contract. Staff has prepared the attached First Amendment to the MWE agreement to correct the project fee and allow for the completion of the planned irrigation well.

HISTORY AND PREVIOUS BOARD ACTION

The Board of Trustees entered into the Original Agreement with MWE at the regular meeting on September 27, 2017.

RECOMMENDATION

Staff recommends the Board of Trustees approve the First Amendment to and Agreement Between the Town of Firestone and McGrane Water Engineering, LLC and authorize the Mayor to execute the agreement on behalf of the Town.

ALTERNATIVES

The work has already been completed because of the time sensitive nature of the analysis and the design of the water treatment plant. Unless there is a concern about the performance of the work the amendment should be approved.

ATTACHMENTS

1. Mountain Shadows Park Irrigation Production Well Engineering - Amendment 1 (2018.12.06 executable)

FINANCIAL CONSIDERATIONS

The original overall budget for the work at Mountain Shadows Park (design and construction) was \$310,900.00. This amendment, combined with some savings we found in the drilling portion of the project result in net increase in the project budget of \$20,117.50, to a new total of \$331,017.50. This work is all being paid for from the Water Fund. The budget to complete the project in 2019 is \$135,900 and is included in the proposed 2019 Budget.

**FIRST AMENDMENT TO AN AGREEMENT BY AND BETWEEN THE TOWN OF
FIRESTONE AND McGRANE WATER ENGINEERING, LLC
FOR ENGINEERING SERVICES
(Mountain Shadows Park Irrigation Production Well)**

THIS FIRST AMENDMENT TO CONSULTING SERVICES AGREEMENT is made and entered into effective as of the ____ day of _____, 2018, by and between the **TOWN OF FIRESTONE**, a Colorado municipal corporation, hereinafter referred to as the “Town”, and **McGrane Water Engineering, LLC**, a Colorado limited liability company doing business as McGrane Water Engineering, LLC, hereinafter referred to as the “Consultant” with reference to that certain Consulting Services Agreement between the Town and Consultant executed by the Town on September 29, 2017 and hereinafter referred to as the “Original Agreement.”

WHEREAS, during the course of the work the Town required additional services of the Consultant beyond the scope of services of the Original Agreement, the parties believe it to be in the best interest to amend the Original Agreement as set forth herein.

NOW, THEREFORE, for good and valuable consideration, the Parties agree as follows:

1. Section 4.1 of the Original Agreement is hereby amended to read as follows (words added are underlined; words deleted are shown in ~~strikeout~~):

4.1 The Town shall pay the Consultant for services requested and rendered under this Agreement at the hourly rates set forth in Exhibit A provided, however, that the total amount payable for Services under this Agreement shall in no event exceed ~~\$128,000.00~~ \$166,725.00. For services compensated at hourly rates, or on a per-task basis, such rates or costs per task shall not exceed the amounts set forth in Exhibit A and Exhibit A1. The Town shall pay mileage and other reimbursable expenses which are deemed necessary for performance of the services and which are identified in Exhibit A and Exhibit A1. The foregoing amounts of compensation shall be inclusive of all costs of whatsoever nature associated with the Consultant’s efforts, including but not limited to salaries, benefits, overhead, administration, profits, expenses, and outside consultant fees. The Scope of Services and payment therefor shall only be changed by a properly authorized amendment to this Agreement. No Town employee has the authority to bind the Town with regard to any payment for any services which exceeds the amount payable under the terms of this Agreement.

2. Exhibit A of the Original Agreement is hereby amended to include the attached Exhibit A1 – Supplemental Scope of Services.

3. The additional services required of Consultant included:
(a) Examination of the feasibility of adding a second well specific to the task of delivering alluvial well water from the Mountain Shadows Park site to the planned water treatment plant.

(b) Design of a well specific to the irrigation of the park and the associated trail property. Also, during the drilling of this well it was determined that additional well development was needed to improve the well capacity.

(c) Examination of the feasibility of developing a well field specific to the task of delivering alluvial well water from the Mountain Shadows Park site to the planned Firestone Reservoir No. 1. This effort included coordination of additional test well drilling, drilling observation and data logging, and additional groundwater modeling modeling.

(d) Visit all 11 of the original alluvial monitoring wells to collect updated water level data for the planned enhanced groundwater model to be included in a planned Alluvial Well Field Study for the Gould Property. Since Consultant was visiting each well location they were instructed to install Town locks on the well caps to prevent vandalism.

(e) Examination of the feasibility of developing an alluvial well field on the Gould site, including a cursory investigation into the potential for groundwater recharge system. This effort resulted in a presentation by the Consultant to the Town's water team that led to the selection of the Gould site for the water treatment plant alluvial well field.

4. The Original Agreement, as herein amended by this First Amendment, is hereby ratified and confirmed and remains in full force and effect in accordance with its terms.

IN WITNESS WHEREOF, the Parties have executed this First Amendment to Consulting Agreement effective as of the day and year first above set forth.

TOWN OF FIRESTONE,
a Colorado Municipal Corporation

By: _____
Bobbi Sindelar, Mayor

Attest: _____
Leah Vanarsdall, Town Clerk

CONSULTANT:
McGRANE WATER ENGINEERING, LLC
a Colorado limited liability company, doing business as McGrane Water Engineering, LLC

By: _____

Title: _____

Exhibit A1 – Supplemental Scope of Services

[See Following 2 Pages]

Exhibit A1

McGrane Water Engineering, LLC

1669 Apple Valley Rd. • Lyons, CO 80540 • Office: (303) 823-5933, Cell: (303) 917-1247
E-Mail: dennis@mcgranewater.com Web: <http://www.mcgranewaterengineering.com>



August 13, 2018

Mr. David Lindsay, President
Colorado Civil Group
5110 Granite St. Suite 200
Loveland, CO 80538

Via email at: dlindsay@ccginc.com

RE: Firestone Mountain Shadows Park Well Drilling - Change Order No. 1 Request

Dave:

At your request, we are submitting a change order request to establish our original budget for the Firestone Mountain Shadows Park Well Drilling project.

A considerable amount of out-of-scope work was conducted over the past 10 months for the Phase II drilling project, the Cost Benefit project and evaluating recharge options. CCG requested we bill those tasks to this project until the Town decided whether to pursue one or more wells at Mountain Shadows Park. A detailed description of the out-of-scope work was provided in previous invoices for this project. Now that the Town has decided to continue with the original project (a single well), we will request a change order this month to reestablish the task budgets.

Table 1 summarizes all the out-of-scope work as described in previous invoices for this project totaling \$38,725.

Table 1- Out of Scope Services Summary

Out-of-Scope Engineering Services Summary	
Date	Total
July 10, 2018 Invoice	\$1,200.00
June 10, 2018 Invoice	\$5,487.50
May 10, 2018 Invoice	\$2,425.00
April 10, 2018 Invoice	\$1,070.00
March 10, 2018 Invoice	\$3,375.00
February 10, 2018 Invoice	\$3,375.00
January 10, 2018 Invoice	\$7,575.00
December 10, 2017 Invoice	\$7,162.50
November 10, 2017 Invoice	\$7,055.00
Total	\$38,725.00

Mtn Shadows Park Well – Change Order Request No. 1

August 13, 2018

Page 2 of 2.

Detailed descriptions are provided in the ten invoices listed in Table 1. We also request an extension of the project until March, 2019.

If you have any questions, comments or concerns, please give me a call.

Sincerely,

McGrane Water Engineers, Inc.

A handwritten signature in blue ink that reads "Dennis McGrane". The signature is written in a cursive style with a large "D" and "M".

Dennis McGrane, P.E., C.P.G

AGENDA INFORMATION MEMORANDUM

FIRESTONE TOWN BOARD OF TRUSTEES



AIM#: 5.g.

Consent Agenda

Meeting Date: December 12, 2018

Initiated By: Jennifer Weinberger

Dept: Administration

AGENDA TITLE

Second Amendment to the Town Clerk Employment Agreement

SUMMARY

The Town Clerk second amendment to the agreement is to change the compensation given to the Town Clerk after a review of the performance of the clerk for the 2018 year.

The Town Clerk has also completed her Master Clerk certification in 2018, which was a consideration by the Board of Trustees when deciding the compensation amount.

The Town Clerk received a meets expectations to exceeds expectations rating conducted by the Board of Trustees.

HISTORY AND PREVIOUS BOARD ACTION

The Board of Trustees entered into a contract with the Town Clerk on July 10, 2017 with the first amendment to the contract occurring on March 3, 2018.

RECOMMENDATION

Staff recommends the Board of Trustees approve the second amendment to the Town Clerk contract.

ALTERNATIVES

The Board of Trustees can provide staff with further direction.

ATTACHMENTS

1. 5h - SECOND AMENDMENT TO TOWN CLERK EMPLOYMENT AGREEMENT 112818

FINANCIAL CONSIDERATIONS

SECOND AMENDMENT TO TOWN CLERK EMPLOYMENT AGREEMENT

THIS SECOND AMENDMENT TO TOWN CLERK EMPLOYMENT AGREEMENT ("Second Amendment") is made and entered effective as of the 12th day of December, 2018, by and between the Town of Firestone, a Colorado municipal corporation (the "Town") and Leah Vanarsdall ("Employee").

WITNESSETH:

WHEREAS, the Town and Employee previously entered into a Town Clerk Employment Agreement dated July 10, 2017 for the employment of Leah Vanarsdall as Town Clerk of the Town of Firestone Colorado, as amended by that certain First Amendment dated March 3, 2018 (collectively, the "Agreement"); and

WHEREAS, the Board of Trustees of the Town and Employee desire to amend the Agreement to increase the annual base salary of Employee by four percent (4%) for exceeding expectations and then by an additional five percent (of the adjusted salary) for receiving her certified municipal clerk certification, with such increase to commence with the pay period starting December 29, 2018;

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties agree as follows:

A. Section 3 of the Agreement is hereby amended to read in full as follows:

3. Compensation. The Town agrees to pay to the Town Clerk for the Town Clerk's services rendered pursuant hereto an annual base salary of Eighty-Two Thousand Four Hundred Forty-Six Dollars and Eleven Cents (\$82,446.11), commencing with the pay period that starts January 5, 2019 and payable in biweekly installments at the same time as other employees of the Town are paid.

B. Except as amended by this Second Amendment, the Agreement shall remain in full force and effect in accordance with its terms.

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

TOWN OF FIRESTONE, COLORADO

EMPLOYEE

By: _____
Bobbi Sindelar, Mayor

By: _____
Leah Vanarsdall

Date: _____

Date: _____

RESOLUTION NO. 18-56

A RESOLUTION CONCERNING REVISIONS TO THE EMPLOYEE HANDBOOK AND REPEALING THE AUTHORITY OF THE TOWN MANAGER TO MAKE REVISIONS THERETO

WHEREAS, the Board of Trustees previously adopted the Town of Firestone Employee Handbook dated September 1, 2013; and

WHEREAS, the Employee Handbook provides the following with respect to amending the Employee Handbook: “The Town Manager may make changes to policies contained in the Employee Handbook which changes shall be in writing and take effect upon the date specified therein. The Board of Trustees shall be notified of such changes no later than fifteen (15) days prior to the change taking effect;” and

WHEREAS, by Resolution No. 18-44 adopted on October 24, 2018, the Board of Trustees acknowledged certain revisions to the Employee Handbook as proposed by the Interim Town Manager, with such authority as set forth in Resolution No. 18-44 to cease after December 31, 2018; and

WHEREAS, the Board desires to repeal such authority set forth in the Employee Handbook, such that any and all revisions to the Employee Handbook must be approved by the Board of Trustees before such become effective; and

WHEREAS, the Board further desires that the revisions to the Employee Handbook made by the Interim Town Manager and acknowledged by the Board by Resolution No. 18-44 be repealed.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO:

Section 1. The Town of Firestone Employee Handbook, “Legal Statement and Disclaimer,” is hereby amended to be revised to read as follows (words to be added underlined; words to be deleted ~~stricken~~):

~~THE TOWN MANAGER MAY MAKE CHANGES TO POLICIES CONTAINED IN THE EMPLOYEE HANDBOOK WHICH CHANGES SHALL BE IN WRITING AND TAKE EFFECT UPON THE DATE SPECIFIED THEREIN. THE BOARD OF TRUSTEES SHALL BE NOTIFIED OF SUCH CHANGES NO LATER THAN FIFTEEN (15) DAYS PRIOR TO THE CHANGE TAKING EFFECT.~~

Section 2. The Town of Firestone Employee Handbook, “Legal Statement and Disclaimer,” is hereby amended to be revised to read as follows (words to be added underlined; words to be deleted ~~stricken~~):

THERE IS NO GUARANTEE OF EMPLOYMENT FOR ANY SPECIFIC DURATION. NO REPRESENTATIVE OF THE TOWN OF FIRESTONE, ~~OTHER THAN THE TOWN MANAGER,~~ HAS AUTHORITY TO ENTER INTO AN AGREEMENT OF EMPLOYMENT FOR ANY SPECIFIED PERIOD ~~AND SUCH AGREEMENT MUST BE IN WRITING, AND SIGNED BY THE TOWN MANAGER AND EMPLOYEE.~~

Section 3. The Town of Firestone Employee Handbook is hereby amended to be revised to read as follows (words to be added underlined; words to be deleted ~~stricken~~):

Employment Agreements

In connection with the recruitment and selection of employees, the Town Manager is authorized to enter into employment agreements with his or her direct reports in a form approved by the Town Board. Such agreements shall be in writing and be signed by the Town Manager and employee ~~and may include provisions concerning duration of employment, severance upon termination of employment, paid time off and employment benefits.~~ Except as expressly altered by an employment agreement, all provisions of the Employee Handbook shall apply to the employees described in this section.

Section 4. This Resolution and the amendments to the Employee Handbook described herein shall go into effect immediately upon adoption of this Resolution by the Board of Trustees.

INTRODUCED, READ, and ADOPTED this 12th day of December, 2018.

TOWN OF FIRESTONE, COLORADO

Bobbi Sindelar
Mayor

Attest:

Leah Vanarsdall
Town Clerk

RESOLUTION NO. 18-56

A RESOLUTION CONCERNING REVISIONS TO THE EMPLOYEE HANDBOOK AND REPEALING THE AUTHORITY OF THE TOWN MANAGER TO MAKE REVISIONS THERETO

WHEREAS, the Board of Trustees previously adopted the Town of Firestone Employee Handbook dated September 1, 2013; and

WHEREAS, the Employee Handbook provides the following with respect to amending the Employee Handbook: “The Town Manager may make changes to policies contained in the Employee Handbook which changes shall be in writing and take effect upon the date specified therein. The Board of Trustees shall be notified of such changes no later than fifteen (15) days prior to the change taking effect;” and

WHEREAS, by Resolution No. 18-44 adopted on October 24, 2018, the Board of Trustees acknowledged certain revisions to the Employee Handbook as proposed by the Interim Town Manager, with such authority as set forth in Resolution No. 18-44 to cease after December 31, 2018; and

WHEREAS, the Board desires to repeal such authority set forth in the Employee Handbook, such that any and all revisions to the Employee Handbook must be approved by the Board of Trustees before such become effective; and

WHEREAS, the Board further desires that the revisions to the Employee Handbook made by the Interim Town Manager and acknowledged by the Board by Resolution No. 18-44 be repealed.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO:

Section 1. The Town of Firestone Employee Handbook, “Legal Statement and Disclaimer,” is hereby amended to be revised to read as follows (words to be added underlined; words to be deleted ~~stricken~~):

~~THE TOWN MANAGER MAY MAKE CHANGES TO POLICIES CONTAINED IN THE EMPLOYEE HANDBOOK WHICH CHANGES SHALL BE IN WRITING AND TAKE EFFECT UPON THE DATE SPECIFIED THEREIN. THE BOARD OF TRUSTEES SHALL BE NOTIFIED OF SUCH CHANGES NO LATER THAN FIFTEEN (15) DAYS PRIOR TO THE CHANGE TAKING EFFECT.~~

Section 2. The Town of Firestone Employee Handbook, “Legal Statement and Disclaimer,” is hereby amended to be revised to read as follows (words to be added underlined; words to be deleted ~~stricken~~):

THERE IS NO GUARANTEE OF EMPLOYMENT FOR ANY SPECIFIC DURATION. NO REPRESENTATIVE OF THE TOWN OF FIRESTONE, ~~OTHER THAN THE TOWN MANAGER,~~ HAS AUTHORITY TO ENTER INTO AN AGREEMENT OF EMPLOYMENT FOR ANY SPECIFIED PERIOD ~~AND SUCH AGREEMENT MUST BE IN WRITING, AND SIGNED BY THE TOWN MANAGER AND EMPLOYEE.~~

Section 3. The Town of Firestone Employee Handbook is hereby amended to be revised to read as follows (words to be added underlined; words to be deleted ~~stricken~~):

Employment Agreements

In connection with the recruitment and selection of employees, the Town Manager is authorized to enter into employment agreements with his or her direct reports in a form approved by the Town Board. Such agreements shall be in writing and be signed by the Town Manager and employee ~~and may include provisions concerning duration of employment, severance upon termination of employment, paid time off and employment benefits.~~ Except as expressly altered by an employment agreement, all provisions of the Employee Handbook shall apply to the employees described in this section.

Section 4. This Resolution and the amendments to the Employee Handbook described herein shall go into effect immediately upon adoption of this Resolution by the Board of Trustees.

INTRODUCED, READ, and ADOPTED this 12th day of December, 2018.

TOWN OF FIRESTONE, COLORADO

Bobbi Sindelar
Mayor

Attest:

Leah Vanarsdall
Town Clerk

2017 ACTUAL	2018 BUDGET	2018 ESTIMATED	2019 PROJECTED
----------------	----------------	-------------------	-------------------

\$	6,453,523	\$	15,780,890	\$	16,152,781	\$	14,782,184
	1,415,101		1,400,949		1,451,953		1,544,523
	110,069		87,966		87,966		94,416
	3,850,310		4,445,570		4,107,826		4,296,060
	676,138		442,500		928,076		593,710
	87,930		87,772		82,256		84,724
	6,139,548		6,464,758		6,658,076		6,613,433
	401,994		397,952		421,326		419,545
	196,954		197,886		197,886		212,396
	59,266		61,146		65,690		75,957
	80,794		80,794		137,951		137,950
	18,187		15,400		21,000		21,000
	50,665		54,700		55,300		58,600
	38,197		39,004		38,723		39,835
	250,000		-		1,866		-
	1,096,057		846,882		939,743		965,282
	21,550		15,800		18,000		18,500
	7,700		7,250		7,700		7,700
	2,415,307		2,144,112		2,877,765		2,107,683
	648,433		564,000		659,200		516,250
	229,224		90,600		325,000		234,201
	-		70,000		-		70,000
	376,780		380,940		402,000		516,894
	53,933		39,100		80,423		55,600
	3,752,927		3,311,802		4,370,088		3,526,828
	212,529		222,572		218,922		225,490
	212,529		222,572		218,922		225,490
	1,995		2,000		2,000		2,000
	3,372		4,000		4,000		4,000
	-		800,000		336,000		464,000
	5,367		806,000		342,000		470,000
	517,269		563,800		523,900		560,500
	8,936		4,800		9,500		10,000
	167,688		169,750		176,000		186,000
	170,459		100,000		100,000		100,000
	36,200		45,000		45,000		45,000
	132,322		70,023		70,023		65,217
	26,030		-		20,000		20,000
	113,072		125,000		240,000		125,000
	183,461		75,000		80,000		75,000
	1,355,437		1,153,373		1,264,423		1,186,717
	12,561,865		12,805,388		13,793,251		12,987,750

**GENERAL FUND
FORECASTED 2019 BUDGET
WITH 2017 ACTUALS AND 2018 ESTIMATED**

2017 ACTUAL	2018 BUDGET	2018 ESTIMATED	2019 PROJECTED
----------------	----------------	-------------------	-------------------

TRANSFERS IN

Capital Improvement Fund	5,776,858	-	-	-
Sales Tax Capital Improvement Fund (1%)	2,114,909	1,515,606	1,457,090	1,572,499
Sales and Use Tax - Police Facilities Capital Improvement Fund (.6%)	-	10,100,000	6,398,133	9,065,900
Firestone Urban Renewal Authority - Southern	-	495,503	495,503	-
Conservation Trust Fund	201,235	-	-	-
Open Space Fund	186,192	-	-	-
Highway Fund	873,666	-	-	-
Total Transfers In	9,152,860	12,111,109	8,350,726	10,638,399
Total Funds Available	28,168,248	40,697,386	38,296,758	38,408,334

EXPENDITURES

General Government				
Salaries and benefits	1,001,464	1,215,600	1,252,800	1,634,000
Board of Trustee expenditures	42,452	90,032	90,926	97,460
Legal - Contracted	272,634	221,155	221,155	235,023
Legal (Out of Scope) - Contracted	-	130,000	130,000	70,000
Legal Human Resources - Contracted	-	-	-	30,000
Legal (Special) - Contracted	-	50,000	50,000	50,000
Finance - Contracted	336,681	355,350	235,000	200,000
Finance (Out of Scope) - Contracted	61,658	50,000	30,000	-
Human resources	6,539	80,450	120,450	26,450
General consulting services	-	25,000	25,000	25,000
Dues and memberships	25,833	21,010	21,010	22,510
Town elections	10,836	60,000	65,500	5,000
Municipal code and publishing	4,523	16,000	10,000	10,000
County Treasurer's fees	13,750	21,014	21,779	23,168
Insurance	118,117	114,000	135,000	250,000
Audit	26,293	19,000	25,390	18,500
Vehicle purchases and leases	-	40,000	12,359	12,359
Vehicle repairs and maintenance	610	2,700	2,700	2,700
General office and administration	511,741	719,180	851,760	633,076
Annual Town events	130,125	130,000	115,000	105,260
Community communications	5,885	6,000	6,000	7,500
Community involvement	46,885	-	-	10,000
Public relations	84,944	50,000	90,000	15,000
Economic development	21,788	45,205	23,205	100,000
Emergency maintenance	-	5,000	3,000	2,000
Miscellaneous	102,298	155,360	148,575	147,625
Total General Government	2,825,058	3,622,056	3,686,610	3,732,631
Municipal Court				
Salaries and benefits	72,219	117,800	123,600	142,700
Municipal judge	12,800	15,000	15,000	30,000
Legal - defense attorney	8,276	15,000	15,000	30,000
Court interpreter	1,380	1,400	1,500	1,500
Jury and trial fees	-	500	500	500
General office and administration	5,837	8,475	8,975	6,500
Miscellaneous	3,961	7,350	10,900	11,000
Total Municipal Court	104,474	165,525	175,475	222,200

**GENERAL FUND
FORECASTED 2019 BUDGET
WITH 2017 ACTUALS AND 2018 ESTIMATED**

	2017 ACTUAL	2018 BUDGET	2018 ESTIMATED	2019 PROJECTED
Planning and Development				
Salaries and benefits	250,142	299,100	347,500	909,700
Planner - Contracted	21,532	83,000	83,000	-
Building review and inspections - Contracted	431,944	475,000	475,000	490,000
Developer chargebacks	383,367	380,940	402,000	516,894
General office and administration	2,572	11,125	14,125	120,504
Miscellaneous	8,497	4,150	14,325	15,650
Total Planning	1,098,054	1,253,315	1,335,950	2,052,748
Public Safety				
Salaries and benefits	2,588,119	3,238,300	3,389,800	3,485,000
Uniforms and cleaning	19,247	30,000	30,000	30,000
Training	8,148	25,000	25,000	25,000
Municipal and state code	776	5,500	5,500	5,500
Equipment	70,492	74,925	78,940	57,550
Vehicle purchases and leases	278,155	196,100	216,865	138,456
Vehicle repairs and maintenance	95,676	135,500	135,500	140,500
General office and administration	51,841	44,875	74,875	152,459
Community programs - County	10,227	11,000	11,000	12,205
Weld County dispatch services	26,293	41,850	41,850	50,100
Carbon Vally Emergency Management	-	-	-	33,295
Investigations	10,643	16,000	16,000	16,000
Police annual events	44,035	37,500	37,500	37,500
K-9 maintenance	2,567	6,000	6,000	6,500
Animal control	12,693	17,000	17,000	17,000
Miscellaneous	5,876	19,200	19,600	18,700
Total Public Safety	3,224,787	3,898,750	4,105,430	4,225,765
Public Works				
Salaries and benefits	498,166	592,200	508,000	886,700
Engineering - Contracted	250,632	240,540	240,540	240,540
Road maintenance & repairs	532,055	793,500	622,500	797,500
Street signs	42,706	16,000	12,000	12,000
Traffic calming	-	12,000	12,000	12,000
Street lights	88,643	95,600	93,200	96,900
Signal lights	15,282	9,000	29,000	29,000
Snow removal	24,665	50,000	40,000	40,000
Landscaping - common area	13,101	-	-	-
Vehicle and equipment purchases and leases	51,284	242,232	305,340	247,037
Vehicle maintenance and repairs	55,264	56,000	56,000	63,200
General office and administration	54,299	55,575	67,375	75,665
Miscellaneous	13,517	19,050	26,450	28,900
Total Public Works	1,639,613	2,181,697	2,012,405	2,529,442
Parks and Recreation				
Salaries and benefits	269,043	558,600	459,300	876,300
Engineering - Contracted	1,401	6,690	6,690	6,891
Park maintenance	87,376	131,000	135,000	528,500
Park consulting	28,848	34,450	50,000	-
Vehicle and equipment purchases and leases	-	65,000	163,410	315,733
Vehicle maintenance and repairs	35,047	56,000	56,000	60,000
General park equipment	1,148	5,000	3,000	5,000
General office and administration	2,334	12,500	16,100	14,731
Miscellaneous	9,868	7,500	11,125	21,375
Total Parks and Recreation	435,065	876,740	900,625	1,828,530

**GENERAL FUND
FORECASTED 2019 BUDGET
WITH 2017 ACTUALS AND 2018 ESTIMATED**

	2017 ACTUAL	2018 BUDGET	2018 ESTIMATED	2019 PROJECTED
Capital Outlay				
Capital projects				
Streets	692,099	3,376,500	3,128,635	1,211,100
Buildings	381,627	12,325,863	6,743,000	9,587,000
Parks and recreation	97,159	1,135,000	337,827	860,000
Other	61,754	20,000	58,500	-
Developer infrastructure shareback	673,326	667,921	706,992	728,202
Total Capital Outlay	1,905,964	17,525,284	10,974,954	12,386,302
Total Expenditures	11,233,015	29,523,367	23,191,448	26,977,618
TRANSFERS OUT				
Parks Fund	62,938	-	-	-
Firestone Finance Authority	144,514	148,425	148,125	149,575
Stormwater Fund	-	-	-	55,575
Water Fund	575,000	250,000	175,000	-
Total Transfers Out	782,452	398,425	323,125	205,150
Total Required Appropriation	-	29,921,792	23,514,573	27,182,768
ENDING FUND BALANCE	\$ 16,152,781	\$ 10,775,594	\$ 14,782,184	\$ 11,225,566
FUND BALANCE SUMMARY				
Nonspendable - Prepays	\$ 63,850	\$ -	\$ -	\$ -
Restricted				
TABOR (3%)	268,496	332,214	329,896	400,825
Impact Fees - Roadway	2,483,941	526,074	705,280	117,989
Impact Fees - Regional Parks	1,000,015	15,501	1,431,716	1,114,731
Impact Fees - Municipal Facilities	2,296,689	50,370	2,752,353	2,784,703
Impact Fees - Drainage	205,524	76,004	483,190	623,559
Impact Fees - Raw Water Irrigation	1,180,255	947,538	1,405,690	1,688,256
Conservation Trust Fund	260,501	311,550	216,914	98,271
Open Space	274,122	359,180	356,378	441,102
Assigned				
Working Reserve	2,237,466	2,863,688	2,849,630	3,469,433
Capital Reserve	-	49,429	-	-
Unassigned and Unrestricted	5,881,923	5,244,045	4,251,137	486,698
ENDING FUND BALANCE	\$ 16,152,781	\$ 10,775,594	\$ 14,782,184	\$ 11,225,566

TOWN OF FIRESTONE
SALES TAX CAPITAL IMPROVEMENT FUND (1.0%)
FORECASTED 2019 BUDGET
WITH 2017 ACTUALS AND 2018 ESTIMATED

	2017 ACTUAL	2018 BUDGET	2018 ESTIMATED	2019 PROJECTED
BEGINNING FUND BALANCE	\$ 809,646	\$ -	\$ -	\$ -
REVENUES				
Sales taxes	1,566,960	1,768,824	1,710,308	1,826,617
Interest earnings	3,122	10,000	10,000	11,000
Total Revenue	1,570,082	1,778,824	1,720,308	1,837,617
TRANSFERS IN				
Total Transfers In	-	-	-	-
Total Funds Available	2,379,728	1,778,824	1,720,308	1,837,617
EXPENDITURES				
2014 Revenue Bonds - Principal	155,000	155,000	155,000	160,000
2014 Revenue Bonds - Interest	109,819	106,718	106,718	103,618
Administrative fee	-	1,500	1,500	1,500
Total Expenditures	264,819	263,218	263,218	265,118
TRANSFERS OUT				
General Fund	2,114,909	1,515,606	1,457,090	1,572,499
Total Transfers Out	2,114,909	1,515,606	1,457,090	1,572,499
Total Required Appropriation	-	1,778,824	1,720,308	1,837,617
ENDING FUND BALANCE	\$ -	\$ -	\$ -	\$ -
FUND BALANCE SUMMARY				
Restricted for Parks and Streets	\$ -	\$ -	\$ -	\$ -
ENDING FUND BALANCE	\$ -	\$ -	\$ -	\$ -

TOWN OF FIRESTONE
SALES AND USE TAX - POLICE FACILITIES CAPITAL IMPROVEMENT FUND (.6%)
FORECASTED 2019 BUDGET
WITH 2017 ACTUALS AND 2018 ESTIMATED

	2017 ACTUAL	2018 BUDGET	2018 ESTIMATED	2019 PROJECTED
BEGINNING FUND BALANCE	\$ -	\$ -	\$ -	\$ 9,848,462
REVENUES				
Sales taxes	-	1,061,295	1,095,970	1,158,849
Certificates of Participation	-	10,400,000	16,113,343	-
Interest earnings	-	8,000	185,000	75,000
Total Revenue	-	11,469,295	17,394,313	1,233,849
TRANSFERS IN				
Total Transfers In	-	-	-	-
Total Funds Available	-	11,469,295	17,394,313	11,082,311
EXPENDITURES				
2018 Certificates of Participation - Principal	-	320,000	610,000	360,000
2018 Certificates of Participation - Interest	-	529,600	391,718	637,600
Certificates of Participation - issuance costs	-	300,000	125,500	-
Administrative fee	-	-	20,500	15,000
Total Expenditures	-	1,149,600	1,147,718	1,012,600
TRANSFERS OUT				
General Fund	-	10,100,000	6,398,133	9,065,900
Total Transfers Out	-	10,100,000	6,398,133	9,065,900
Total Required Appropriation	-	11,249,600	7,545,851	10,078,500
ENDING FUND BALANCE	\$ -	\$ 219,695	\$ 9,848,462	\$ 1,003,811
FUND BALANCE SUMMARY				
Restricted for Debt Service - Reserve Fund	\$ -	\$ -	\$ 1,003,823	\$ 1,003,811
Restricted for Debt Service and PD Facility	-	219,695	8,844,639	-
ENDING FUND BALANCE	\$ -	\$ 219,695	\$ 9,848,462	\$ 1,003,811

**FIRESTONE FINANCE AUTHORITY
FORECASTED 2019 BUDGET
WITH 2017 ACTUALS AND 2018 ESTIMATED**

	2017 ACTUAL	2018 BUDGET	2018 ESTIMATED	2019 PROJECTED
BEGINNING FUND BALANCE	\$ 2,281	\$ -	\$ -	\$ -
REVENUES				
Total Revenues	-	-	-	-
TRANSFERS IN				
General Fund	144,514	148,425	148,125	149,575
Total Transfers In	144,514	148,425	148,125	149,575
Total Funds Available	146,795	148,425	148,125	149,575
EXPENDITURES				
2005 COPs - Principal	105,000	110,000	110,000	115,000
2005 COPs - Interest	40,595	36,925	36,925	33,075
Administration Fee	1,200	1,500	1,200	1,500
Total Expenditures	146,795	148,425	148,125	149,575
TRANSFERS OUT				
Total Transfers Out	-	-	-	-
Total Required Appropriation	-	148,425	148,125	149,575
ENDING FUND BALANCE	\$ -	\$ -	\$ -	\$ -
FUND BALANCE SUMMARY				
Assigned for Future Repayment of 2005 COPs	\$ -	\$ -	\$ -	\$ -
ENDING FUND BALANCE	\$ -	\$ -	\$ -	\$ -

FIRESTONE URBAN RENEWAL AUTHORITY - SOUTHERN
FORECASTED 2019 BUDGET
WITH 2017 ACTUALS AND 2018 ESTIMATED

	2017 ACTUAL	2018 BUDGET	2018 ESTIMATED	2019 PROJECTED
BEGINNING FUND BALANCE	\$ -	\$ 495,503	\$ 495,503	\$ -
REVENUE				
Property taxes - TIF	-	-	-	-
Interest earnings	-	-	-	-
Total Revenue	-	-	-	-
TRANSFERS IN				
Firestone Urban Renewal Authority - Central	-	-	-	-
Firestone Urban Renewal Authority	495,503	-	-	-
Total Transfers In	495,503	-	-	-
Total Funds Available	495,503	495,503	495,503	-
EXPENDITURES				
Administration	-	-	-	-
Legal - Contracted	-	-	-	-
Property taxes - TIF shareback	-	-	-	-
Total Expenditures	-	-	-	-
TRANSFERS OUT				
General Fund	-	495,503	495,503	-
Total Transfers Out	-	495,503	495,503	-
Total Required Appropriation	-	-	-	-
ENDING FUND BALANCE	\$ 495,503	\$ -	\$ -	\$ -
FUND BALANCE SUMMARY				
Restricted for FURA - Southern Improvements	\$ 495,503	\$ -	\$ -	\$ -
ENDING FUND BALANCE	\$ 495,503	\$ -	\$ -	\$ -

**FIRESTONE URBAN RENEWAL AUTHORITY - NORTHERN
FORECASTED 2019 BUDGET
WITH 2017 ACTUALS AND 2018 ESTIMATED**

	2017 ACTUAL	2018 BUDGET	2018 ESTIMATED	2019 PROJECTED
BEGINNING FUND BALANCE	\$ -	\$ 633,843	\$ 578,834	\$ 1,019,244
REVENUE				
Property taxes - TIF	890,319	1,348,107	1,416,105	1,557,715
Interest earnings	-	-	-	17,280
Total Revenue	890,319	1,348,107	1,416,105	1,574,995
TRANSFERS IN				
Firestone Urban Renewal Authority - Central	-	-	-	-
Firestone Urban Renewal Authority	238,712	-	-	-
Total Transfers In	238,712	-	-	-
Total Funds Available	1,129,031	1,981,950	1,994,939	2,594,239
EXPENDITURES				
Salaries and benefits	-	-	22,401	130,676
Engineering - Contracted	-	-	-	-
Legal - Contracted	-	-	-	182,725
IT - Hardware	-	-	-	4,000
Property taxes - TIF shareback	550,197	765,775	894,053	983,458
IGA remediation reimbursement	-	-	38,000	-
County Treasurer's fees	-	-	21,242	23,366
Capital outlay	-	150,000	-	-
Total Expenditures	550,197	915,775	975,695	1,324,225
TRANSFERS OUT				
Total Transfers Out	-	-	-	-
Total Required Appropriation	-	915,775	975,695	1,324,225
ENDING FUND BALANCE	\$ 578,834	\$ 1,066,175	\$ 1,019,244	\$ 1,270,014
FUND BALANCE SUMMARY				
Restricted for FURA - Northern Improvements	\$ 578,834	\$ 1,066,175	\$ 1,019,244	\$ 1,270,014
ENDING FUND BALANCE	\$ 578,834	\$ 1,066,175	\$ 1,019,244	\$ 1,270,014

**FIRESTONE URBAN RENEWAL AUTHORITY - CENTRAL
FORECASTED 2019 BUDGET**

	2017 ACTUAL	2018 BUDGET	2018 ESTIMATED	2019 PROJECTED
BEGINNING FUND BALANCE	\$ -	\$ (38,296)	\$ (38,302)	\$ (27,386)
REVENUE				
Property taxes - TIF	439	51,123	53,768	59,145
Interest earnings	-	-	-	-
Total Revenue	439	51,123	53,768	59,145
Total Funds Available	439	12,827	15,466	31,759
EXPENDITURES				
Administration	-	-	-	-
Legal - Contracted	-	-	-	2,725
Property taxes - TIF shareback	285	40,077	42,046	46,251
County Treasurer's fees	-	-	807	887
Total Expenditures	285	40,077	42,853	49,863
TRANSFERS OUT				
Firestone Urban Renewal Authority	38,456	-	-	-
Firestone Urban Renewal Authority - Southern	-	-	-	-
Firestone Urban Renewal Authority - Northern	-	-	-	-
Total Transfers Out	38,456	-	-	-
Total Required Appropriation	-	40,077	42,853	49,863
ENDING FUND BALANCE	\$ (38,302)	\$ (27,250)	\$ (27,386)	\$ (18,104)
FUND BALANCE SUMMARY				
Restricted for FURA - Central Improvements	\$ (38,302)	\$ (27,250)	\$ (27,386)	\$ (18,104)
ENDING FUND BALANCE	\$ (38,302)	\$ (27,250)	\$ (27,386)	\$ (18,104)

TOWN OF FIRESTONE
WATER FUND
FORECASTED 2019 BUDGET
WITH 2017 ACTUALS AND 2018 ESTIMATED

	2017 ACTUAL	2018 BUDGET	2018 ESTIMATED	2019 PROJECTED
BEGINNING FUNDS AVAILABLE	\$ 7,862,859	\$ 7,949,255	\$ 7,608,898	\$ 10,562,893
REVENUES				
Charges for services	3,520,820	3,325,900	3,676,748	3,540,160
Tap fees - Residential	1,724,105	1,763,200	2,339,200	1,763,200
State and local grants	22,616	106,060	106,060	30,000
Meter and yoke fees	128,046	115,000	162,000	115,000
Water leases	45,334	22,500	75,000	22,500
CWCB Loan proceeds	1,580,000	8,420,000	3,482,400	1,388,411
Intergovernmental revenue - Little Thompson Water District	4,945	8,500	8,500	12,080
Water credit bidding	-	11,680,000	11,815,889	-
Property sale	-	689,000	-	-
Other	18,443	13,000	5,000	13,000
Interest earnings	56,947	30,000	330,000	50,000
Total Revenue	7,406,506	26,173,160	22,000,797	6,934,351
TRANSFERS IN				
General Fund	575,000	250,000	175,000	-
Total Transfers In	575,000	250,000	175,000	-
 Total Funds Available	15,844,365	34,372,415	29,784,695	17,497,244

TOWN OF FIRESTONE
WATER FUND
FORECASTED 2019 BUDGET
WITH 2017 ACTUALS AND 2018 ESTIMATED

2017 ACTUAL	2018 BUDGET	2018 ESTIMATED	2019 PROJECTED
----------------	----------------	-------------------	-------------------

EXPENDITURES

Operations				
Salaries and benefits	112,695	129,500	132,300	157,700
CWCWD water treatment	706,658	668,000	681,000	720,000
NOCOWT water assessments	221,287	250,000	250,000	257,500
Windy Gap water assessments	-	-	300	105,880
Ditch right assessment fees	-	-	4,000	260,000
Water line repairs and maintenance	20,471	32,100	32,100	34,200
Water testing	9,007	20,500	20,500	20,500
Equipment	288,174	161,000	208,000	162,000
Vehicle repairs and maintenance	10,914	28,000	28,000	28,000
Water master plan	201,907	-	-	-
Scada system maintenance	2,345	26,640	26,640	1,000
Utilities	10,172	4,700	5,000	5,000
811 Charges	-	-	-	3,400
General office and administration	1,826	-	1,600	1,600
Miscellaneous	15,038	11,625	13,225	13,475
Administration				
Salaries and benefits	171,853	305,800	291,300	300,400
Conservation program	19,510	22,525	22,525	24,525
Legal - Contracted	99,233	140,500	140,500	140,200
Legal - Out of scope	-	100,000	50,000	50,000
General office and administration	29,266	26,975	27,425	28,695
Miscellaneous	101,422	115,100	89,900	95,400
Engineering - Contracted	103,591	97,130	97,130	100,044
Engineering - Special	261,565	723,100	512,900	508,900
CWCWD tap fees	1,302,247	1,291,200	1,733,000	1,293,000
Gould property sales commission/expenses	2,821	39,000	39,000	-
Repayment of CWCB loan	-	-	-	-
Capital outlay	4,543,463	15,337,150	14,815,457	5,364,411
Total Expenditures	8,235,467	19,530,545	19,221,802	9,675,830

TRANSFERS OUT

Total Transfers Out	-	-	-	-
Total Required Appropriation	-	19,530,545	19,221,802	9,675,830

ENDING FUNDS AVAILABLE

\$	7,608,898	\$	14,841,870	\$	10,562,893	\$	7,821,414
----	-----------	----	------------	----	------------	----	-----------

FUNDS AVAILABLE SUMMARY

Assigned for NISP	\$	5,023,965	\$	5,675,889	\$	5,469,708	\$	5,675,889
Unassigned and Unrestricted		2,584,933		9,165,981		5,093,185		2,145,525
ENDING FUNDS AVAILABLE	\$	7,608,898	\$	14,841,870	\$	10,562,893	\$	7,821,414

**TOWN OF FIRESTONE
STORMWATER FUND
FORECASTED 2019 BUDGET
WITH 2017 ACTUALS AND 2018 ESTIMATED**

	2017 ACTUAL	2018 BUDGET	2018 ESTIMATED	2019 PROJECTED
BEGINNING FUNDS AVAILABLE	\$ 429,204	\$ 713,854	\$ 852,529	\$ 1,277,833
REVENUES				
Storm water fees	503,901	534,000	553,000	570,000
Interest earnings	4,608	2,000	7,500	7,500
Total Revenue	508,509	536,000	560,500	577,500
TRANSFERS IN				
General Fund	-	-	-	55,575
Total Transfers In	-	-	-	55,575
Total Funds Available	937,713	1,249,854	1,413,029	1,910,908
EXPENDITURES				
Operations				
Salaries and benefits	64,736	89,000	83,800	162,000
Engineering - Contracted	13,714	28,498	28,498	35,000
Legal - Contracted	359	1,073	1,073	1,180
Vehicle purchases and leases	-	-	-	425,000
Repairs and maintenance	935	10,000	5,000	10,000
General office and administration	362	-	375	375
Miscellaneous	928	1,950	3,250	2,750
Administration				
Salaries and benefits	4,151	7,700	7,600	7,800
Miscellaneous	-	500	500	500
Capital outlay	-	250,000	5,100	375,500
Total Expenditures	85,185	388,721	135,196	1,020,105
TRANSFERS OUT				
Total Transfers Out	-	-	-	-
Total Required Appropriation	-	388,721	135,196	1,020,105
ENDING FUNDS AVAILABLE	\$ 852,529	\$ 861,133	\$ 1,277,833	\$ 890,803
FUNDS AVAILABLE SUMMARY				
Unassigned and Unrestricted	\$ 852,529	\$ 861,133	\$ 1,277,833	\$ 890,803
ENDING FUNDS AVAILABLE	\$ 852,529	\$ 861,133	\$ 1,277,833	\$ 890,803

RESOLUTION NO. 18-46

A RESOLUTION SUMMARIZING EXPENDITURES AND REVENUES FOR EACH FUND AND ADOPTING A BUDGET FOR THE TOWN OF FIRESTONE, COLORADO, FOR THE CALENDAR YEAR BEGINNING ON THE FIRST DAY OF JANUARY, 2019 AND ENDING ON THE LAST DAY OF DECEMBER, 2019.

WHEREAS, the Board of Trustees of the Town of Firestone has directed the Town Manager to prepare and submit a proposed budget to said governing body at the proper time; and

WHEREAS, the Town Manager has submitted a final proposed budget to this governing body on December 12, 2018 for its consideration; and

WHEREAS, upon due and proper notice, published or posted in accordance with the law, said proposed budget was open for inspection by the public at a designated place, and interested taxpayers were given the opportunity to file or register any objections to said proposed budget; and

WHEREAS, in accordance with Article X, Section 20 of the Colorado Constitution, approved by the voters on November 3, 1992, an “Amendment One Emergency Reserve” is included in the budget in a total amount estimated to equal three percent (3%) of the Town’s fiscal year spending excluding bonded debt service; and

WHEREAS, whatever increases may have been made in expenditures, like increases were added to the revenues, so that the budget remains in balance as required by law.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO:

Section 1. That the budget as submitted, amended, and as attached to this Resolution, be, and the same hereby is, approved and adopted as the budget of the Town of Firestone for the calendar year beginning on the first day of January 2019 and ending on the last day of December 2019.

Section 2. The Board of Trustees hereby confirms that as part of said 2019 Budget, there is designated a portion of Water Fund net assets for future Northern Integrated Supply Project (NISP) participation costs, as set forth on the “*Calculation for Unrestricted Board Designated Water Net Assets for NISP Project Costs*” within such Budget.

Section 3. That the budget hereby approved and adopted shall be signed by the Mayor and Town Clerk and made a part of the public records of the Town.

INTRODUCED, READ AND ADOPTED this 12th day of December, 2018.

TOWN OF FIRESTONE, COLORADO

Bobbie Sindelar, Mayor

Attest:

Leah Vanarsdall, Town Clerk

RESOLUTION NO. 18-47

A RESOLUTION APPROPRIATING SUMS OF MONEY TO THE VARIOUS FUNDS AND SPENDING AGENCIES, IN THE AMOUNTS AND FOR THE PURPOSES AS SET FORTH BELOW, FOR THE TOWN OF FIRESTONE, COLORADO, FOR THE 2019 BUDGET YEAR.

WHEREAS, the Board of Trustees has adopted the annual budget in accordance with the Local Government Budget Law, on December 12, 2018; and

WHEREAS, the Board of Trustees has made provision therein for revenues in an amount equal to total proposed expenditures as set forth in said budget; and

WHEREAS, it is required by law but also necessary to appropriate the revenues provided in the budget to and for the purposes described below, so as not to impair the operation of the Town.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO:

Section 1. That the following sums are hereby appropriated from the revenues of each fund, for the purposes stated:

General Fund	\$ 27,182,768
Sales Tax Capital Improvement Fund (1%)	\$ 1,837,617
Sales and Use Tax – Police Facilities Capital Improvement Fund (.6%)	\$ 10,078,500
Firestone Finance Authority	\$ 149,575
Firestone Urban Renewal Authority – Southern	\$ 0
Firestone Urban Renewal Authority – Northern	\$ 1,324,225
Firestone Urban Renewal Authority – Central	\$ 49,863
Water Fund	\$ 9,675,830
Stormwater Fund	\$ <u>1,020,105</u>
<u>Total Appropriations & Transfers:</u>	<u>\$ 51,318,483</u>

INTRODUCED, READ, and ADOPTED this 12th day of December, 2018.

TOWN OF FIRESTONE

Bobbie Sindelar, Mayor

Attest:

Leah Vanarsdall, Town Clerk

RESOLUTION NO. 18-48

A RESOLUTION LEVYING GENERAL PROPERTY TAXES FOR THE 2018 TAX YEAR, TO HELP DEFRAY THE COSTS OF GOVERNMENT FOR THE TOWN OF FIRESTONE, COLORADO FOR THE 2019 BUDGET YEAR.

WHEREAS, the Board of Trustees of the Town of Firestone on December 12, 2018 adopted the annual budget for the 2019 budget year in accordance with the Local Government Budget Law; and

WHEREAS, a general property tax mill levy is necessary to defray the general expenses of Town government for the 2019 budget year; and

WHEREAS, the 2018 valuation for assessment for the Town of Firestone as certified by the County Assessor is \$217,538,150; and

WHEREAS, the Town is exempt from the statutory property tax revenue limitation (5.5% limit) due to voter approval of Ballot Issue A at the April 2, 1996 regular municipal election; and

WHEREAS, the Town is exempt from the fiscal year spending limitation imposed by Article X, Section 20 to the Colorado Constitution, due to voter approval of Ballot Issue A at the April 2, 1996, regular municipal election; and

WHEREAS, the Board of Trustees must certify the mill levies for the 2019 budget year by December 15, 2018, and by this Resolution desires to so certify its general mill levy.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO:

Section 1. That for the purpose of meeting all general operating expenses of the Town of Firestone during the 2019 budget year, there is hereby levied a tax of 6.805 mills upon each dollar of the total valuation for assessment of all taxable property within the Town for the year 2018.

Section 2. That the Town Director of Finance is hereby authorized and directed to immediately certify to the County Commissioners of Weld County, Colorado, the mill levy for the Town of Firestone as herein above determined and set.

INTRODUCED, READ, and ADOPTED this 12th day of December, 2018.

TOWN OF FIRESTONE, COLORADO

Bobbie Sindelar, Mayor

Attest:

Leah Vanarsdall, Town Clerk



Staff Report

Bighorn 17H-P267

Special Use Permit

**Prepared by the
Town of Firestone for the
Board of Trustees**

December 12, 2018

Applications

This staff report is for the Bighorn 17H-P267 Special Use Permit application. The applicant for this submittal is Crestone Peak Resources.

Notice

Pursuant to the Town Code and Development Regulations, proper notification of the public hearings was published. Proof of notification to owners of interest and surrounding property owners and a property posting log will be provided by the applicants prior to the hearings.

Location and Process

The approximate location of the site is within the boundaries of Sable Avenue (WCR 22) to the north and Pine Cone Avenue (WCR 20) to the south. Per Firestone's Municipal code it is required that before any person drills a well they must obtain a special use permit that has been granted by the Town.

Site Analysis

The entire proposed site will be approximately 19 acres in temporary disturbance, with the drill site being 6.5 acres. Construction of this site will require leveling the location of the pad to accommodate the drilling rig. The site will be accessed by an asphalt road and a temporary recycled asphalt road to be accessed from Pine Cone Avenue to the south.

Plan Analysis

Bighorn 17H-P267 is a well pad containing 19 wells whose location is not considered a high density area as described per COGCC Rule 603.a. The plan is proposed in three phases: Temporary Disturbance Phase, Interim Phase and Reclamation Phase. During the Temporary Disturbance Phase, the site will include a drill pad enclosed in fencing and a completions pad to be accessed by a temporary road (road base). Additionally, there will be an enclosed facility pad and tank pad with 30 tanks. In the Interim Phase, the drill pad, completion pad and proposed temporary road will be removed. In the Reclamation Phase all items will be removed and the site will be regraded to restore previous drainage patterns.

Fiscal Analysis

The Special Use Permit will provide revenue through taxes to the community and promote the local economy of the Town of Firestone.

Planning and Zoning Commission and Board of Trustees Conditions and Standards for Approval

For your general reference, attached are the conditions and standards of approval for a Special Use Permit (SUP) that are stated in Chapter 15.48 of the Firestone Town Code.

Conditions and Standards for Approval

The Planning Commission and the Town Board of Trustees shall approve a SUP application if it complies with the Town Code and other controlling regulations and documents. The Planning Commission and Town Board shall consider the following in making their decision for approval, approval with conditions, or denial of a SUP:

- A. The site plan for a well site application complies with the requirements of Section 15.48.040A.
 1. The proposed location of production site facilities or well site facilities associated with the well in the event production is established, if applicable. Future development of the resource shall be considered in the location of the tank battery. Existing tank batteries and transmission and gathering lines within six hundred sixty feet of the well site shall be shown.
 2. The location of layout including, without limitation, the position of the drilling equipment and related facilities and structures, if applicable.
 3. True north arrow.
 4. Existing improvements, if any, within a radius of six hundred sixty feet of the proposed well.
 5. Existing utility easements and other rights-of-way of record, if any, within a radius of six hundred sixty feet of the proposed well.
 6. Existing irrigation or drainage ditches within four hundred feet of the well site or production site, if any.
 7. Applicant's drainage and erosion control plans for the well site or production site and the area immediately adjacent to such site, if applicable.
 8. Location of access roads.
 9. Well site or production site and existing lease boundaries.
 10. The names of abutting subdivisions or the names of owners of abutting, unplatted property within four hundred feet of the well site or production site.
 11. The name and address of the operator and the name of the person preparing the site plan or map.

B. The vicinity map for a well site application complies with the requirements of Section 15.48.040B.

1. Location of all existing waterbodies and watercourses, including direction of water flow. This information shall be submitted on USGS 7.5 minute series or assessor base maps which indicate topographic detail and show all existing waterbodies and watercourses with a physically defined channel within a four-hundred-foot radius of the proposed well.

2. Location of existing oil and gas wells as reflected in OGCC records. This information shall be submitted on a map and shall include any and all wells within a one-thousand-foot radius of the proposed location for the well.

3. Location of Drill Site - The information to be submitted shall be Commission Form 2 and shall include the Parcel Tax Identification Number.

C. The narrative for a well site application complies with the requirements of Section 15.48.040C.

1. The operator's and surface owner's names and addresses, copies of any required OGCC Form 2 and designation of agent, if applicable.

2. An operating plan.

3. A list of all permits or approvals obtained or yet to be obtained from local, state or federal agencies other than OGCC.

4. An emergency response plan that is mutually acceptable to the operator and the appropriate fire district that includes a list of local telephone numbers of public and private entities and individuals to be notified in the event of an emergency, the location of the well and provisions for access by emergency response entities.

5. A plan for weed control at the well site.

6. A fire protection plan that is mutually acceptable to the operator and the appropriate fire district that includes planned actions for possible emergency events and any other pertinent information. Prior to the application to the town, a proposed fire protection plan and emergency response plan shall be submitted to and reviewed by the fire district.

7. Sanitary facilities must comply with Section 602(g) of the OGCC regulations.

D. The well location and setbacks comply with Section 15.48.080.

A. All wells shall be set at a distance not less than the minimum setback allowed by OGCC rules and regulations.

B. Notwithstanding the foregoing, but subject to the exception in subsection C hereof, in all areas of the town, the following apply:

1. A wellhead location shall be set back not less than three hundred fifty feet from any occupied building or occupied building permitted for construction and shall be set back not less than seventy-five feet from any public right-of-way.

2. Production tanks and/or associated on-site production equipment shall be set back not less than three hundred fifty feet from any occupied building or occupied building permitted for construction and shall be set back not less than seventy-five feet from any public right-of-way.

C. Location and setback requirements will be waived if an exception has been granted by the Director pursuant to Rule 603(b) of the Commission, and a copy of waivers from each person owning an occupied building or building permitted for construction within three hundred fifty feet of the proposed location is submitted as part of the application for use by special review.

E. When applicable, compliance with the provisions for mitigation of noise required in Section 15.48.100.

- A. The approval of a special use permit shall not relieve an operator from complying with all applicable state laws and regulations concerning noise.

- B. Exhaust from all engines, motors, coolers and other mechanized equipment shall be vented in a direction away from all occupied buildings to the extent practicable.

- C. Where a well and well site do not comply with the required setback or other requirements of this chapter or where the well and well site are in an area of particular noise sensitivity, additional noise mitigation may be required. An area of particular noise sensitivity includes but is not limited to the following: hospitals, dwelling units, nursing homes, hotels, churches and designated wildlife preserves. In determining noise mitigation, specific site characteristics shall be considered, including but not limited to the following:

1. Nature, proximity, location and type of adjacent development;
2. Prevailing weather patterns, including wind directions;
3. Vegetative cover on or adjacent to the site; or
4. Topography.

- D. The level of required mitigation may increase with the proximity of the well and well site to areas of particular noise sensitivity or the level of noise emitted by the well and well site. One or more of the following additional noise abatement measures may be required:

1. Acoustically insulated housing or cover enclosing the motor or engine;
2. Noise management plan identifying hours of maximum noise emissions, type, frequency and level of noise to be emitted, and proposed mitigation measures; or

3. Any abatement measures required by the Commission for high-density areas, if applicable.
- F. When applicable, compliance with the provisions for visual special mitigation required in Section 15.48.110.

A. Visual Impacts and Aesthetics.

1. To the maximum extent practicable, oil and gas facilities shall be located away from prominent natural features, such as distinctive rock and land forms, vegetative patterns, ditch crossings, town-approved open space areas and other approved landmarks.
2. To the maximum extent practicable, oil and gas facilities shall be located to avoid crossing hills and ridges or silhouetting.
3. To the maximum extent practicable, the applicant shall use structures of minimal size to satisfy present and future functional requirements.
4. To the maximum extent practicable, when clearing trees and vegetation for construction of oil and gas facilities, the applicant shall feather and thin edges of vegetation.
5. To the maximum extent practicable, the applicant shall locate facilities at the base of slopes to provide a background of topography and/or natural cover.
6. The applicant shall replace earth adjacent to water crossings at slopes less than the normal angle of repose with the soil type of the site.
7. To the maximum extent practicable, the applicant shall align access roads to follow existing grades and minimize cuts and fills.
8. Facilities shall be painted as follows:
 - a. Uniform, noncontrasting, nonreflective color-tones.
 - b. Color matched to land, not sky, slightly darker than adjacent landscape.
 - c. Exposed concrete colored to match soil color.

B. Special Mitigation Measures - Visual. Where a well or well site does not comply with the required setback or other requirements of this chapter, or in areas of increased visual sensitivity, such as a location near an occupied subdivision, the applicant shall submit a visual mitigation plan including one or more of the following standards, as appropriate:

1. To the maximum extent practicable, exterior lighting shall be directed away from residential areas, or shielded from said areas to eliminate glare.
2. One or more of the following landscaping practices may be required, where practicable, on a site specific basis:
 - a. Establishment and proper maintenance of ground covers, shrubs and trees.

- b. Shaping cuts and fills to appear as natural forms.
- c. Cutting rock areas to create irregular forms.
- d. Designing the facility to utilize natural screens.
- e. Construction of fences for use with or instead of landscaping.

C. Other Special Mitigation Measures. The applicant shall keep town and private streets or roads reasonably free of mud or other materials during drilling and completion operations and during well operations. The applicant shall use its best efforts to keep the well site free of trash, litter and other refuse during and at the completion of drilling and shall not in any case bury said trash. The operator shall construct and manage pits in accordance with applicable state and federal regulations.

- G. When applicable, compliance with the provisions for geologic hazards, floodplains or floodway required in Section 15.48.160.

All equipment at well sites and production sites in geological hazard and floodplain areas shall be anchored to the extent necessary to resist flotation, collapse, lateral movement or subsidence and to the extent necessary to comply with the Federal Emergency Management Act.

- H. When applicable, compliance with the provisions for wildlife mitigation procedures required in Section 15.48.180.

A. Wildlife. When a well site or production site is located within a designated moderate (blue) or high impact zone (red) on the 1987 Cumulative Impact Maps prepared by the Colorado Division of Wildlife, the applicant shall consult with the Colorado Division of Wildlife to obtain recommendations for appropriate site specific and cumulative impact mitigation procedures. The operator shall implement such mitigation procedures as are recommended by the Colorado Division of Wildlife after consultation with the town.

B. Endangered Species. The applicant shall not engage in activities which, in the opinion of the Colorado Division of Wildlife, threaten endangered species.

- A. The board of trustees' decision shall be based upon evidence presented in the application and at public hearing. Following the conclusion of the public hearing, the board of trustees may proceed to render its provisional decision orally on the application, or it may take the matter under advisement until an announced date certain not to exceed fourteen days, at which time it shall orally render its decision. In the event that an application is granted with conditions, the applicant may, within fourteen days of the board's decision, request a rehearing to demonstrate that removal or modification of one or more of the conditions is necessary to prevent waste or protect owners of correlative rights in a common source to a fair share of production profits or that the decision is otherwise inconsistent with state laws and regulations. Following the board of trustees' oral announcement of its decision, and any subsequent rehearing, a written resolution shall be adopted as its final action or decision on the application. This written resolution shall set forth findings of the board of trustees. Such written resolution shall be adopted within twenty-one days of the announcement of the board of trustees' oral decision, unless the

applicant requests rehearing, in which case the written resolution shall be adopted within thirty days of the oral decision. For the purposes of judicial review, the board of trustees' final action or decision on an application shall be deemed to have been made as of the date upon which the board of trustees executes the written resolution, which shall constitute the final decision of the board of trustees.

Planning Commission or Board of Trustees Action

The Planning Commission Board or Board of Trustees has the following options relative to the action on applications in general. As necessary additional information relative to continuances, etc. can be provided by the Town Attorney.

- A. Make a decision and vote on the application, using the draft resolution previously prepared, as may be amended during the hearing; or
 - B. Make a decision and vote on the application, but request the Town Attorney to prepare findings of fact and conclusions for approval and adoption at the next regular meeting; or
 - C. Defer a decision and direct the Town Attorney to prepare findings of fact and conclusions to be submitted to the Board of Trustees at its next regular meeting, with final deliberation, decision and adoption of the findings of fact and conclusion at that meeting; or
 - D. Defer a decision until a date certain, as is mutually agreed upon by the Applicant and the Board of Trustees, by which time the record and all evidence can be reviewed. At that time the Board of Trustees can either adopt findings of fact and conclusions or direct the Town Attorney to prepare findings of fact and conclusions for adoption at the next regular meeting after the meeting to which the matter has been deferred.
-

RECOMMENDATION

The Town staff recommends the Board of Trustees approve the Bighorn 17H-P267 Special Use Permit application by approving Resolution 18-49 with conditions.

RESOLUTION NO. 18-49

A RESOLUTION APPROVING AN APPLICATION FOR A SPECIAL USE PERMIT FOR CRESTONE PEAK RESOURCES TO LOCATE NINETEEN OIL AND GAS WELLS WITHIN THE TOWN OF FIRESTONE

WHEREAS, Crestone Peak Resources (hereinafter “Crestone” or “Applicant”) has submitted an application and supporting materials to the Town of Firestone, pursuant to Chapter 15.48 of the Firestone Municipal Code, for special use permits to locate within the Town oil and gas wells referred to as the proposed Bighorn 4A-17H P267 through Bighorn 4S-17H P267 Wells (“Application”); and

WHEREAS, the Application was reviewed by Town Staff and found with conditions to be in compliance with Town of Firestone subdivision, zoning, and oil and gas ordinances, Development Regulations, and related Town ordinances, regulations, and policies; and

WHEREAS, pursuant to Chapter 17.32 of the Firestone Municipal Code, the Firestone Planning and Zoning Commission held a properly noticed public hearing on the Application; and

WHEREAS, after the public hearing of the Planning and Zoning Commission, at which evidence and testimony were entered into the record, the Planning and Zoning Commission found the special use request for the well should be approved subject to certain conditions, and made its recommendation of approval by resolution to the Board of Trustees; and

WHEREAS, pursuant to Chapter 17.32 of the Firestone Municipal Code, the Firestone Board of Trustees held a properly noticed public hearing on the special use application, at which evidence and testimony were entered into the record; and

WHEREAS, the Board of Trustees has duly considered the Application, the evidence and testimony presented at the hearing, and the resolution of the Planning and Zoning Commission, finding the Application to conform to the review criteria set forth in Section 15.48.050 of the Firestone Municipal Code, and desires to approve the Application subject to certain conditions, pursuant to Chapters 15.48 and 17.32 of the Firestone Municipal Code.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO:

Section 1. The Board of Trustees has reviewed Crestone Peak Resources’s (hereinafter “Crestone” or “Applicant”) application for special use permits to locate within the Town oil and gas wells referred to as the proposed Bighorn 4A-17H P267 through Bighorn 4S-17H P267 Wells (“Application”), in relation to the review criteria set forth in Sections 15.48.050 and 17.32.030 of the Firestone Municipal Code, and finds that the use proposed in the Application is compatible and beneficial to the surrounding properties and inhabitants and not detrimental.

Section 2. The Board of Trustees hereby approves the Application and the special use permit request therein for the placement of nineteen oil and gas wells on the parcel more particularly described in Exhibit A, attached hereto and incorporated herein by this reference, subject to the terms and conditions set forth in said permit, which is incorporated herein by this reference, and subject the following conditions:

1. The Town's special use approval shall expire on the date of expiration of the Colorado Oil and Gas Conservation Commission ("COGCC") Permit to drill the well or one year from the date of Town approval, whichever is later, if operations for the well are not commenced by such date. In the event special use approval expires, the Applicant shall apply for a new special use permit pursuant to Chapter 15.48 of the Firestone Town Code.
2. Oil and gas operations shall be conducted in compliance with all federal, state, and local laws, rules and regulations, including but not limited to the COGCC permit for such well and the final special use permit application materials approved and incorporated herein by this resolution. Applicant shall provide to the Town copies of all state approved permits, waivers, variances and subsequent notices filed with the state and affecting the well.
3. Prior to entering the site, Applicant shall obtain from the Town necessary building permits and notices to proceed.
4. Prior to commencement of any work within the Town, the Applicant, including contractors and subcontractors, shall obtain necessary Contractor's Licenses from the Town.
5. Prior to moving the drilling rig onto the well site, Applicant shall obtain from the Town and Weld County necessary permits to move the drilling rig equipment within the Town and County, including but not limited to a Town of Firestone Overweight Permit.
6. In the exercise of its rights pursuant to this special use approval, Applicant shall avoid any damage or interference with any Town installations, structures, utilities, or improvements. Applicant shall be responsible for all damages to such interests of the Town that are caused by the Applicant.
7. Applicant at its sole expense shall control fugitive dust at the well site and on private access roads on an as-needed basis. Methods and chemicals used for dust control shall comply with Town ordinances and COGCC regulations.
8. The oil/gas well facilities shall utilize setbacks as specified in COGCC Rules. The well site and tank battery and separator areas shall be secured and screened by chain link fencing with "solid" tan aluminum or vinyl lathing using the Town's standard fence and screening detail.
9. Machinery at the site shall be maintained to mitigate noise.

10. Deliveries and construction traffic to and from the site shall, whenever possible, be scheduled during daylight hours.
11. The use of pump jacks shall be limited to those running on electric motors.
12. Oil and gas operations at the well site shall comply with COGCC Rule 802, noise abatement regulations. Operations are subject to the maximum permissible noise levels for Residential/Agricultural/Rural Zones, as measured at a point twenty-five (25) feet from an occupied structure, toward the noise source. Short-term increases shall be allowable as described in COGCC Rule 802.c. Stimulation or re-stimulation operations are governed by COGCC Rule 802. All rig engines are to be muffled with the exhaust directed away from adjacent residences in the vicinity, and the door to the engine kept closed to the extent reasonably possible.
13. Revise application materials to include on the Vicinity Map the location of the proposed drill site within the larger site boundary.
14. Revise application materials to include on the Vicinity Map the name and address of the operator and the name of the person preparing the site plan or map.
15. As a result of anticipated impacts to the Town's roadway system and the bridge over the Coal Ridge Ditch, Applicant must enter a special use permit agreement with the Town, in a form to be approved by the Town Attorney, to contribute to the 2.5-inch asphalt overlay for the roadway between the drill site access point and the bridge over the Coal Ridge Ditch and replacement of the bridge over Coal Ridge Ditch next to the drill site access point.
16. Revise application materials to reflect all access and roadways will be a minimum of 26 feet in width, constructed of all weather surface, and capable of supporting 75,000 pounds.

INTRODUCED, READ AND ADOPTED this 12th day of December, 2018.

TOWN OF FIRESTONE, COLORADO

Bobbi Sindelar, Mayor

ATTEST:

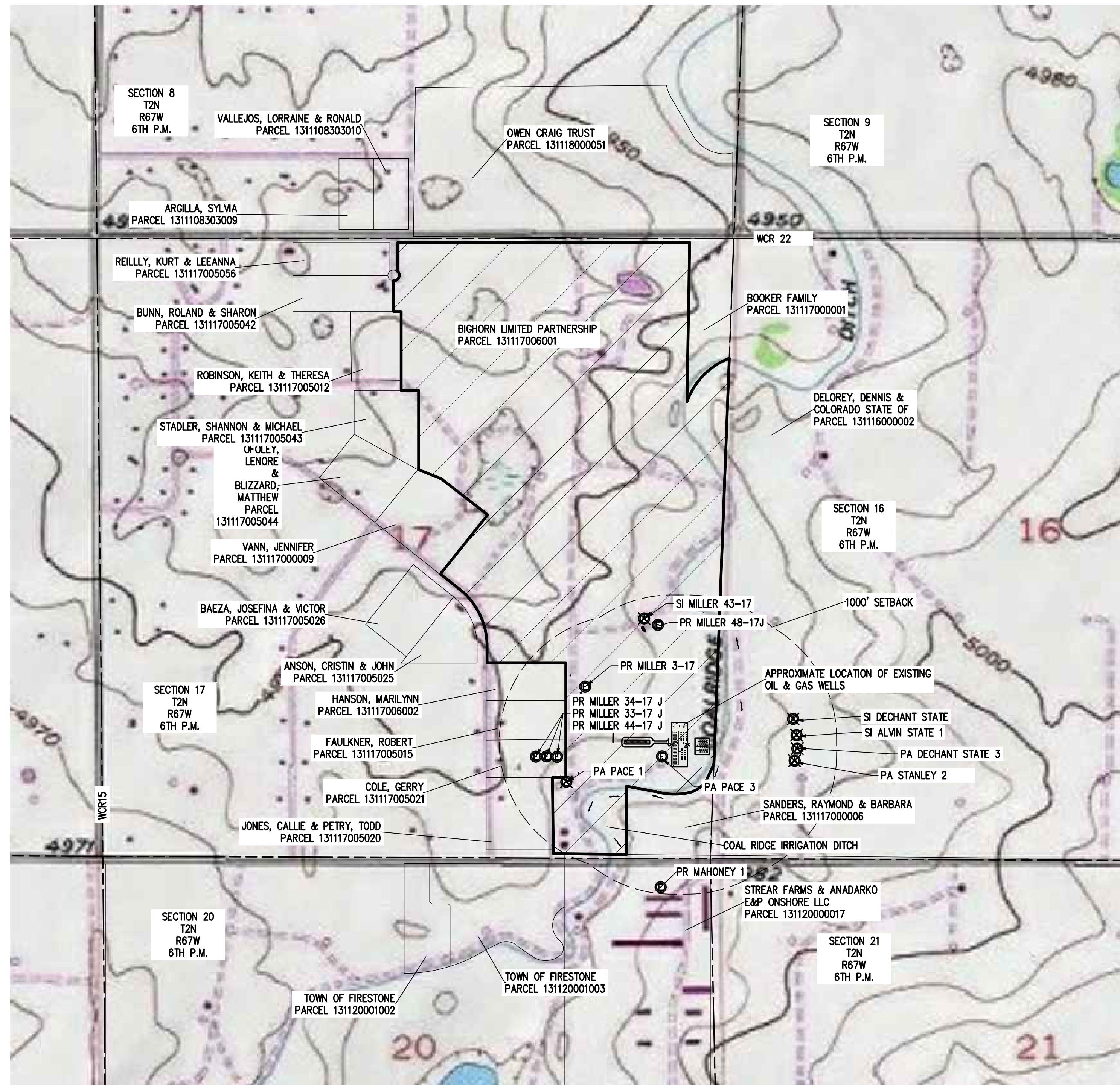
Leah Vanarsdall, Town Clerk

EXHIBIT A
Legal Description

A parcel of land located in the Southeast Quarter of the Southeast Quarter of Section 17, Township 2 North, Range 67 West of the 6th Principle Meridian, Town of Firestone, Weld County, Colorado.

SITE SPECIFIC DEVELOPMENT PLAN SPECIAL USE PERMIT
DEVELOPMENT STANDARDS
CRESTONE PEAK RESOURCES
BIGHORN 17H-P267 PAD

A PARCEL OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 17,
TOWNSHIP 2 NORTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN,
TOWN OF FIRESTONE, WELD COUNTY, COLORADO



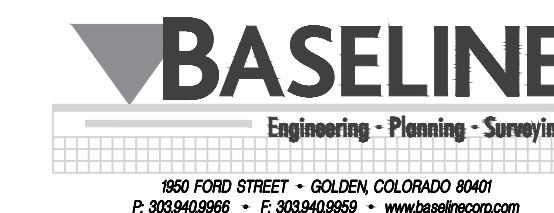
VICINITY MAP
SCALE: 1" = 500'

CONTACTS:

CRESTONE PEAK RESOURCES
1801 CALIFORNIA STREET, SUITE 2500
DENVER, CO 80202
CONTACT: ERIN LIND
720-410-8478



BASELINE ENGINEERING
1950 FORD STREET
GOLDEN, CO 80401
CONTACT: NOAH NEMMERS, P.E.
303-940-9966



TOWN OF FIRESTONE
PLANNING & BUILDING DEPARTMENT
8308 COLORADO BLVD, SUITE 200
FIRESTONE, CO 80504
303-833-3291



FREDERICK-FIRESTONE FIRE PROTECTION DISTRICT
8426 KOSMERL PLACE
FREDERICK, CO 80504
303-833-2742



COLORADO OIL & GAS CONSERVATION COMMISSION
1120 LINCOLN STREET, #801
DENVER, CO 80203
303-894-2100



DRAWING INDEX			
PAGE #	DRAWING TITLE	REV.	REV. DATE
18-BH-1001	VICINITY MAP & DEVELOPMENT STANDARDS	B	10/12/2012
18-BH-1002	OVERALL SITE PLOT PLAN	B	10/12/2012
18-BH-1003	ENLARGED SITE PLOT PLAN - DRILLING PHASE	B	10/12/2012
18-BH-1004	ENLARGED SITE PLOT PLAN - PRODUCTION PHASE	B	10/12/2012
18-BH-1005	ENLARGED SITE PLOT PLAN - RECLAMATION PHASE	B	10/12/2012
18-BH-1006	STANDARD FACILITIES LAYOUT	B	10/12/2012
18-BH-1007	DETAILS	B	10/12/2012

SOIL CLASSIFICATION

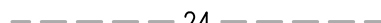
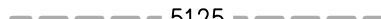
VONA LOAMY SAND, 1% - 5% SLOPES, AREA = 96.5%
WATER, AREA = 3.5%

NOTES:	REFERENCE DRAWINGS		REVISIONS						 CRESTONE PEAK RESOURCES		BIGHORN 17H-P267 PAD VICINITY MAP & DEVELOPMENT STANDARDS SPECIAL USE PERMIT			

--	--	--	--

A PARCEL OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 17,
TOWNSHIP 2 NORTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN,
TOWN OF FIRESTONE, WELD COUNTY, COLORADO



- | | |
|---|--|
|  | SECTION LINE |
|  | PROPERTY BOUNDARY |
|  | EXISTING GAS LINE |
|  | EXISTING UNDERGROUND ELECTRIC LINE |
|  | EXISTING WATER LINE |
|  | EXISTING EDGE OF GRAVEL |
|  | EXISTING FENCE |
|  | EXISTING MINOR CONTOUR |
|  | EXISTING MAJOR CONTOUR |
|  | PROPOSED MINOR CONTOUR |
|  | PROPOSED MAJOR CONTOUR |
|  | PROPOSED IMPASSE II GAUNTLET |
|  | DRAINAGE FLOW DIRECTION |
|  | PROPOSED SLOPE |
|  | PROPOSED ACCESS ROAD
(FULL DEPTH ASPHALT) |
|  | PROPOSED ACCESS ROAD
(RECYCLED ASPHALT) |
|  | PROPOSED ACCESS ROAD
(ROAD BASE) |
| PR | PRODUCING WELL |
| SI | SHUT IN WELL |
| PA | PLUGGED AND ABANDONED WELL |

NOTES

- NOTES**
1. PERMANENT ROAD WILL BE IN PLACE ONCE PRODUCTION STARTS. TEMPORARY ACCESS ROAD WILL BE USED DURING THE CONSTRUCTION, DRILLING, AND COMPETITION PHASES.
 2. TANKS AND PRODUCTION EQUIPMENT WILL BE PAINTED "CRESTONE TAN". PLEASE SEE DETAILS. PAGE 6

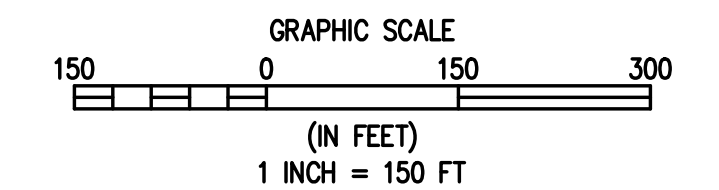
AREA OF DISTURBANCE:

TOTAL AREA OF DISTURBANCE = 22.0 ACRES

DRILL PAD= 5.87 ACRES (TEMPORARY)
0.53 ACRES (PERMANENT)

COMPLETIONS AREA= 3.67 ACRES (TEMPORARY)

FACILITY PAD= 3.44 ACRES (PERMANENT)



NOTES:

[illegible]

CRESTONE PEAK
RESOURCES



1950 FORD STREET GOLDEN, COLORADO 80401
P: 303.940.9966 F: 303.940.9959 www.baselinecorp.com

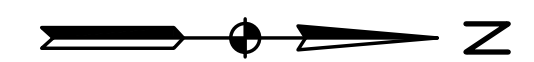
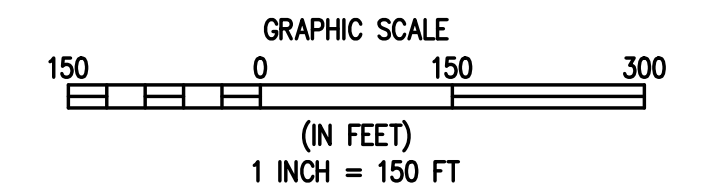
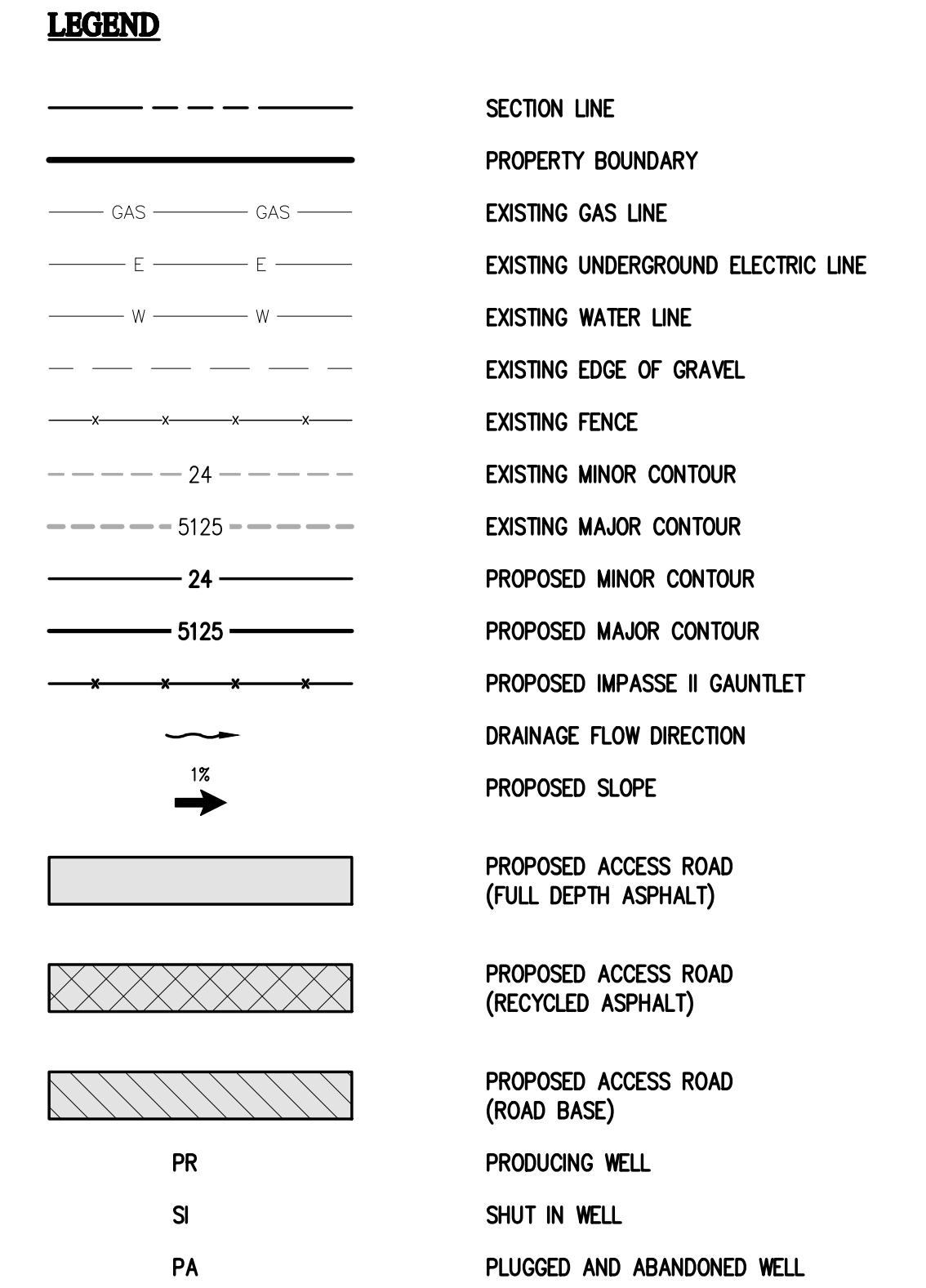
BIGHORN 17H-P267 PAD
OVERALL SITE PLOT PLAN
SPECIAL USE PERMIT

DRAWN BY: LTV		CREATION DATE: 1/11/18		AFE No.:	
APPROVED: NJN		APPR. DATE:			
101 om	DWG. No.:			SHEET No.	
	SCALE: AS NOTED			2 OF 7	
			18-BH-1001		

FILE LOCATION:

A PARCEL OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 17,
TOWNSHIP 2 NORTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN,
TOWN OF FIRESTONE, WELD COUNTY, COLORADO

A PARCEL OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 17,
TOWNSHIP 2 NORTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN,
TOWN OF FIRESTONE, WELD COUNTY, COLORADO



REFERENCE DRAWINGS		REVISIONS						
DWG. NO.	TITLE							
			TOWN OF FIRESTONE SUBMITTAL #2	LTV	10/12/18	NUN	10/12/18	NUN
			TOWN OF FIRESTONE SUBMITTAL #1	LTV	6/14/18	NUN	6/14/18	NUN
				BY	DATE	CHK.	DATE	APPR.



CRESTONE PEAK
RESOURCES



1950 FORD STREET GOLDEN, COLORADO 80401
P: 303.940.9966 F: 303.940.9959 www.baselinecorp.com

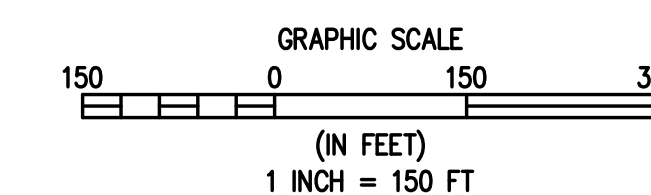
DRAWN BY: LTV	CREATION DATE: 1/11/18	AFE No.:
APPROVED: NJN	APPR. DATE:	
SCALE: AS NOTED	DWG. No.: 18-BH-1003	SHEET No. 3 OF 7
		

FILE LOCATION:

A PARCEL OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 17,
TOWNSHIP 2 NORTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN,
TOWN OF FIRESTONE, WELD COUNTY, COLORADO

LEGEND

SECTION LINE
PROPERTY BOUNDARY
EXISTING GAS LINE
EXISTING UNDERGROUND ELECTRIC LINE
EXISTING WATER LINE
EXISTING EDGE OF GRAVEL
EXISTING FENCE
EXISTING MINOR CONTOUR
EXISTING MAJOR CONTOUR
PROPOSED MINOR CONTOUR
PROPOSED MAJOR CONTOUR
PROPOSED IMPASSE II GAUNTLET
DRAINAGE FLOW DIRECTION
PROPOSED SLOPE
PROPOSED ACCESS ROAD
(FULL DEPTH ASPHALT)
PROPOSED ACCESS ROAD
(RECYCLED ASPHALT)
PROPOSED ACCESS ROAD
(ROAD BASE)
PRODUCING WELL
SHUT IN WELL
PLUGGED AND ABANDONED WELL



REFERENCE DRAWINGS

REVISIONS

		REVISIONS					
DWG. NO.	TITLE	NO.	DESCRIPTION	BY	DATE	CHK.	DATE
			TOWN OF FIRESTONE SUBMITTAL #2	LTV	10/12/18	NUN	10/12/18
			TOWN OF FIRESTONE SUBMITTAL #1	LTV	6/14/18	NUN	6/14/18



CRESTONE PEAK
RESOURCES

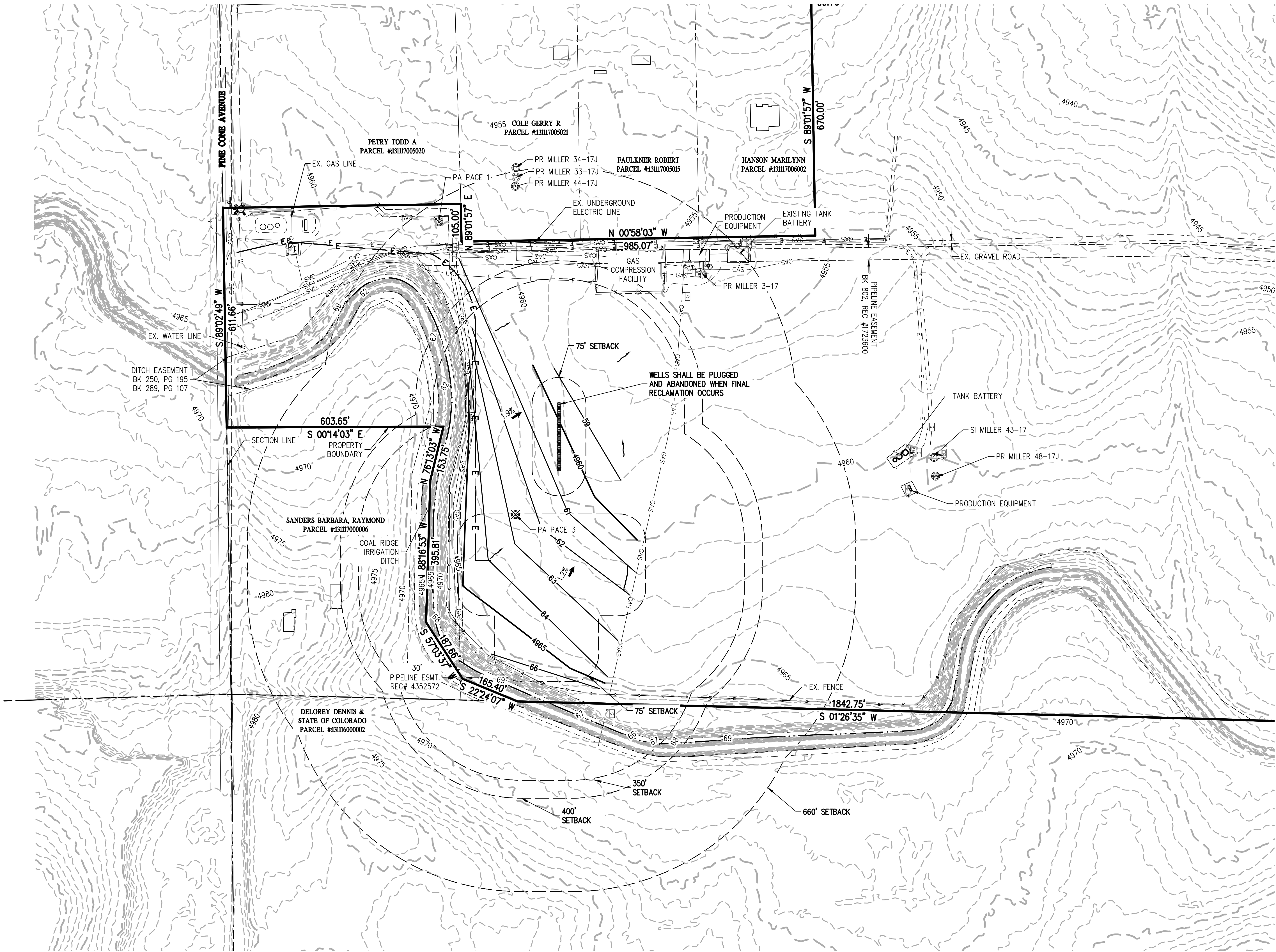


1950 FORD STREET GOLDEN, COLORADO 80401
P: 303.940.9966 F: 303.940.9959 www.baselinecorp.com

DRAWN BY: LTV	CREATION DATE: 1/11/18	AFE No.:
APPROVED: NJN	APPR. DATE:	
DWG. No.:	18-BH-1004	SHEET No. 4 OF 7
SCALE: AS NOTED		

BIGHORN 17H-P267 PAD
SPECIAL USE PERMIT

A PARCEL OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 17,
TOWNSHIP 2 NORTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN,
TOWN OF FIRESTONE, WELD COUNTY, COLORADO



LEGEND

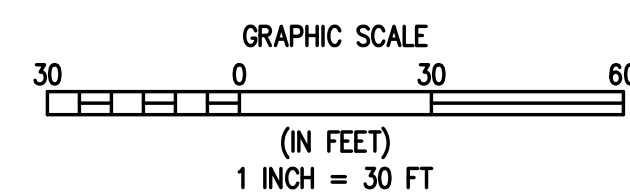
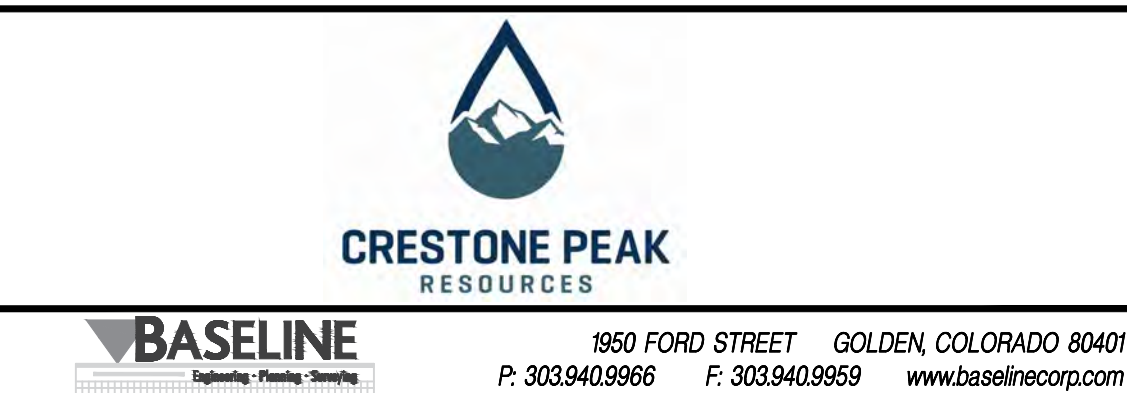
---	SECTION LINE
---	PROPERTY BOUNDARY
---	EXISTING GAS LINE
---	EXISTING UNDERGROUND ELECTRIC LINE
---	EXISTING WATER LINE
---	EXISTING EDGE OF GRAVEL
---	EXISTING FENCE
---	EXISTING MINOR CONTOUR
---	EXISTING MAJOR CONTOUR
---	PROPOSED MINOR CONTOUR
---	PROPOSED MAJOR CONTOUR
---	DRAINAGE FLOW DIRECTION
1%	PROPOSED SLOPE
PR	PRODUCING WELL
SI	SHUT IN WELL
PA	PLUGGED AND ABANDONED WELL

GRAPHIC SCALE
150 0 150 300
(IN FEET)
1 INCH = 150 FT

N

NOTES:	REFERENCE DRAWINGS		REVISIONS						 CRESTONE PEAK RESOURCES  BASELINE Engineering • Planning • Consulting	BIGHORN 17H-P267 PAD ENLARGED SITE PLOT PLAN - RECLAMATION PHASE SPECIAL USE PERMIT <table><tr><td>DRAWN BY: LTV</td><td>CREATION DATE: 1/11/18</td><td>AFE No.:</td></tr><tr><td>APPROVED: NJN</td><td>APPR. DATE:</td><td></td></tr><tr><td>SCALE: AS NOTED</td><td>DWG. No.: 18-BH-1005</td><td>SHEET No. 5 OF 7</td></tr></table>	DRAWN BY: LTV	CREATION DATE: 1/11/18	AFE No.:	APPROVED: NJN	APPR. DATE:		SCALE: AS NOTED	DWG. No.: 18-BH-1005	SHEET No. 5 OF 7
	DRAWN BY: LTV	CREATION DATE: 1/11/18	AFE No.:																
	APPROVED: NJN	APPR. DATE:																	
	SCALE: AS NOTED	DWG. No.: 18-BH-1005	SHEET No. 5 OF 7																
							</												

A PARCEL OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 17,
TOWNSHIP 2 NORTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN,
TOWN OF FIRESTONE, WELD COUNTY, COLORADO

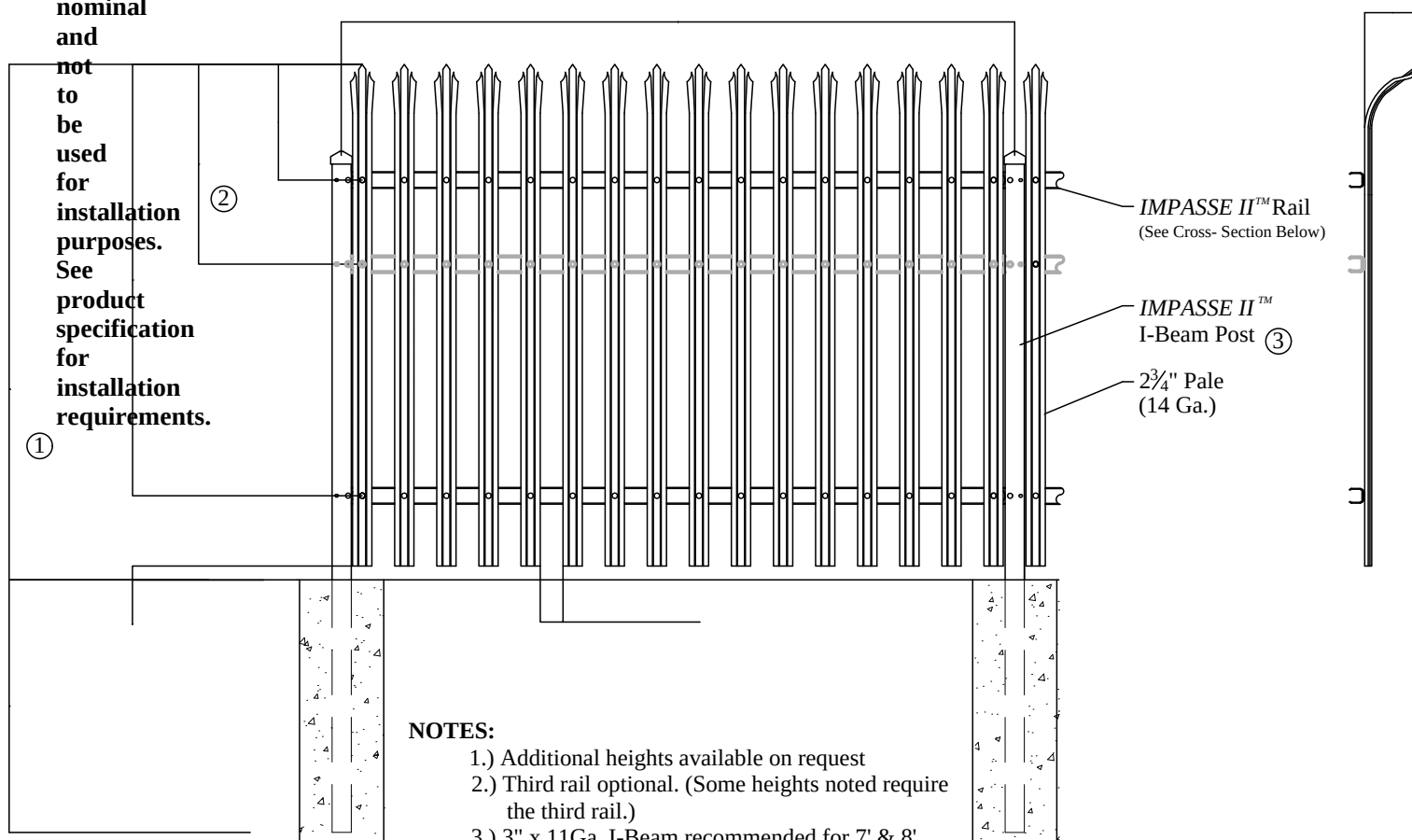
[illegible]

101 om	DRAWN BY: LTV	CREATION DATE: 1/11/18	AFE No.:
	APPROVED: NUN	APPR. DATE:	
	SCALE: AS NOTED	DWG. No.:	18-BH-1006
			SHEET No. 6 OF 7
			

BIGHORN 17H-P267 PAD SPECIAL USE PERMIT

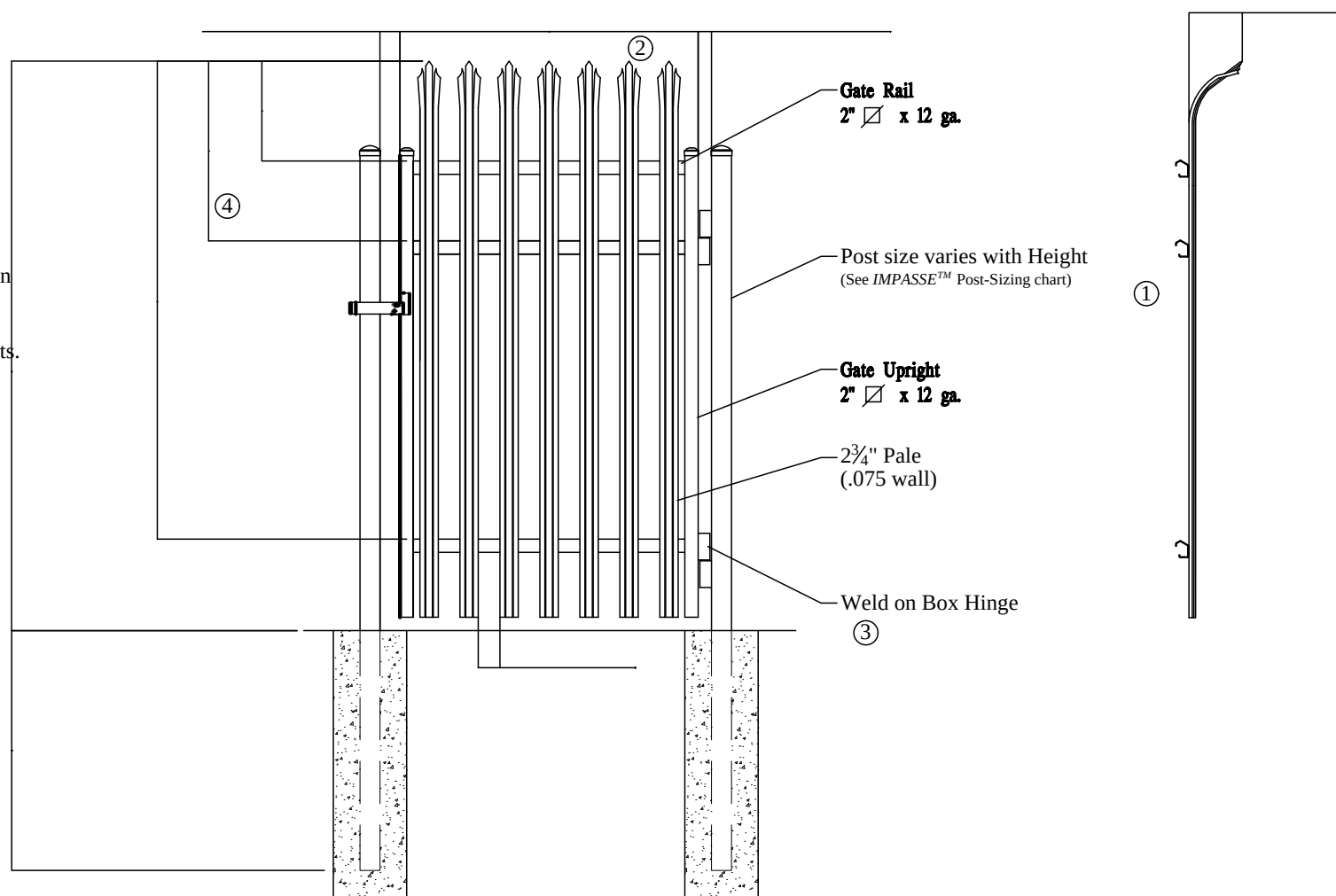
A PARCEL OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 17,
TOWNSHIP 2 NORTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN,
TOWN OF FIRESTONE, WELD COUNTY, COLORADO

Values shown are nominal and not to be used for installation purposes. See product specification for installation requirements.



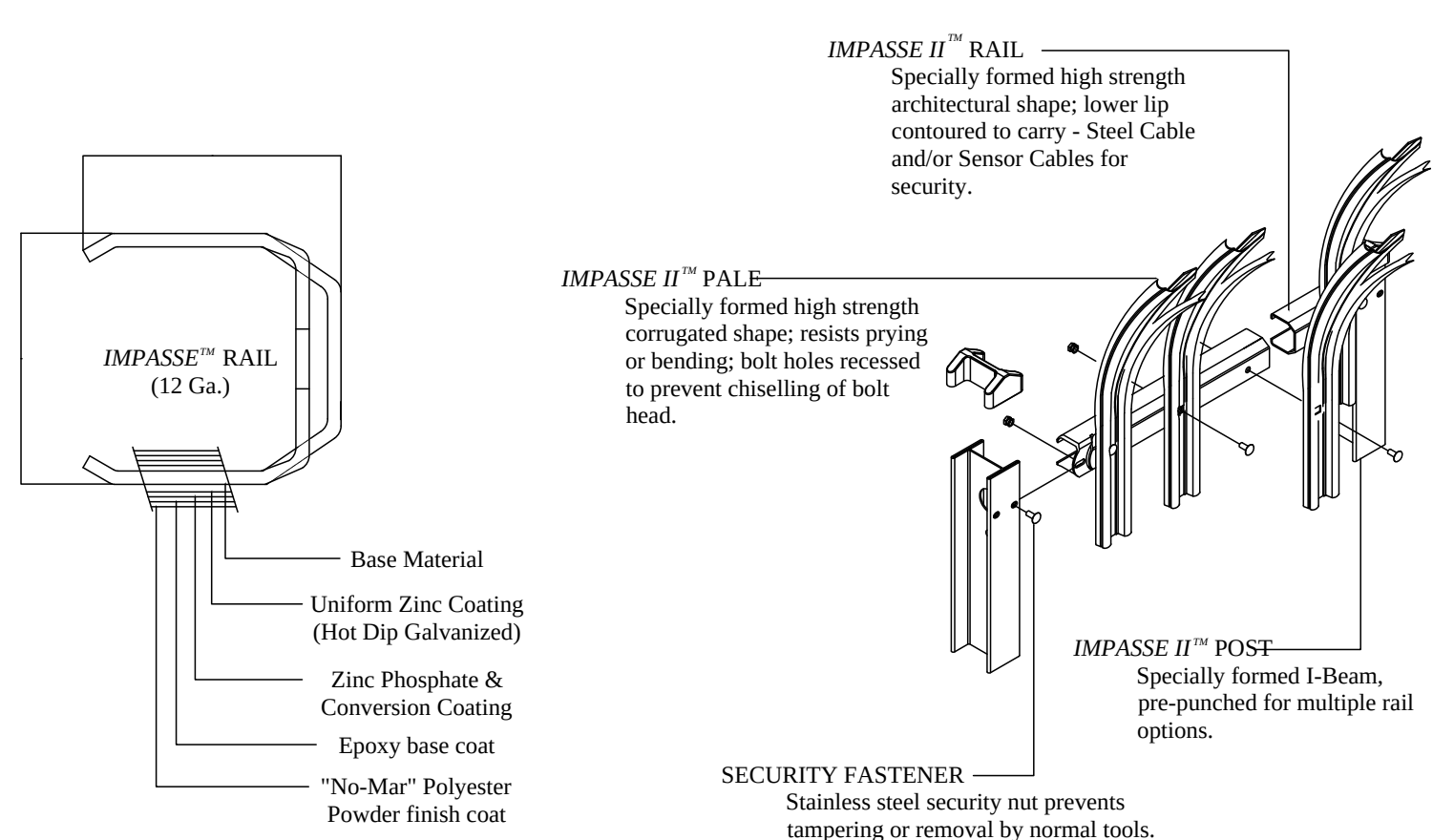
- NOTES:
- 1.) Additional heights available on request
 - 2.) Third rail optional. (Some heights noted require the third rail.)
 - 3.) 3" x 11 Ga. I-Beam recommended for 7' & 8' heights, 4" x 11 Ga. I-Beam recommended for 9' & 10' heights.

Values shown are nominal and not to be used for installation purposes. See product specification for installation requirements.



Single gate Arrangement

- NOTES:
- 1.) Post size depends on fence height, weight and wind loads. See IMPASSE™ post sizing chart.
 - 2.) See Ameristar gate table for standard out to outs. Custom gate openings available for special out to outlet widths.
 - 3.) Additional styles of gate hardware are available on request. This could change the Latch & Hinge Clearance.
 - 4.) Third rail optional. (Some heights noted require the third rail.)



- NOTES:
1. FENCE TO BE INSTALLED AS PER MANUFACTURERS RECOMMENDATIONS, CONTACT AMERISTAR FOR FULL SPECIFICATIONS AND INSTALLATION REQUIREMENTS
 2. FENCE TO BE FINISHED IN A BRONZE OR BLACK COLOR.

AMERISTAR
1555 N. Mingo
Tulsa, OK 74116
1-888-333-3422
www.ameristarfence.com

1 IMPASSE II GAUNTLET 2/3 – RAIL, RAIL SGL & DBL GATE

Protective & Marine Coatings

ACROLON™ 218 HS
ACRYLIC POLYURETHANE

PART A B65-600
PART B B65-650
B65V600

GLOSS SERIES
SEMI-GLOSS SERIES
HARDENER

PRODUCT INFORMATION 5.22

PRODUCT DESCRIPTION
ACROLON 218 HS is a polyester modified, aliphatic, acrylic polyurethane formulated specifically for in-shop applications. Available for industrial applications. A fast drying, urethane that provides color and gloss retention for exterior exposure. Can be used directly over organic zinc rich primers (epoxy zinc primer and moisture cure urethane zinc primer). Fast dry. Outstanding application properties.

RECOMMENDED USES
Specifically formulated for in-shop applications. For use over prepared metal and masonry surfaces in industrial environments such as:
• Structural steel
• Rail cars and locomotives
• Conveyors
• Bridges
• Wind Towers - onshore and offshore
• Offshore platforms - exploration and production
• Suitable for use in USA inspected facilities
• Conforms to AWS D12. Outside Coating Systems #4 (OC-S) & #5 (OC-S) & #6 (OC-S)
• Acceptable for use in high performance architectural applications
• A component of INFINITANK
• Over FIRETEX Hydrocarbon systems
• Suitable for use in the Mining & Minerals Industry

FINISH: Gloss or Semi-Gloss
COLOR: Wide range of colors available
VOLUME SOLIDS: 65% ± 2%, mixed, may vary by color
WEIGHT SOLIDS: 78% ± 2%, mixed, may vary by color
VOC (EPA Method 24): Unreduced: <200 g/L (2.6 lb/gal)
Reduced 10% with R7K15: <340 g/L (2.8 lb/gal)
Reduced 9% with MEK, R6K10: <340 g/L (2.8 lb/gal)
Mix Ratio: 6:1 by volume, 1 gallon or 5 gallon minus premixed components

PERFORMANCE CHARACTERISTICS
Substrate: Steel
Surface Preparation: SSPC-SP10/NACE 2
System Tested:
1 ct. Macropony 646 @ 6.0 mils (150 microns) dft
1 ct. Acrolon 218 HS Gloss @ 4.0 mils (100 microns) dft
*Unless otherwise noted below

Test Name	Test Method	Results
Wet mils (microns)	ASTM D480, CS17	43 mg loss
Abrasion	wheel, 1000 cycles, 1 kg load	
Adhesion ¹	ASTM D4541	1878 psi
Corrosion	ASTM D5894, 27 cycles, 9072 hours	Rating 10 per ASTM D610, for rusting
Weathering	ASTM D2798	Rating 10 per ASTM D714, for blistering
Direct Impact Resistance ²	ASTM D2485, Method A	50 in. lb.
Dry Heat Resistance ³	ASTM D2522, 100° bend, 18" mandrel	Passes
Flexibility ⁴	ASTM D4585, 100°F (80°F), 1000 hours	Rating 10 per ASTM D610, for rusting
Humidity Resistance ⁵	ASTM D1177, 15,000 hours	Rating 10 per ASTM D610, for rusting
Pencil Hardness	ASTM D3363	3H
Salt Fog Resistance ⁶	ASTM B117, 15,000 hours	Rating 10 per ASTM D610, for rusting

Recommended Spreading Rate per coat:

Wet mils (microns)	Minimum	Maximum
4.5 (112.5)	3.0 (75)	6.0 (150)
~Coverage sq ft/gal (mL)	175 (4.3)	346 (8.5)

Drying Schedule @ 6.0 mils wet (150 microns):

@ 35°F/1.7°C	@ 77°F/25°C	@ 120°F/49°C	
To touch:	4 hours	30 minutes	20 minutes
To handle:	18 hours	6 hours	4 hours
To recoat:	minimum: 18 hours	8 hours	6 hours
maximum:	3 months	3 months	3 months
To cure:	14 days	7 days	5 days
Pot Life:	4 hours	2 hours	45 minutes
Sweat-In-Time:	None		

Notes:
If maximum recoat time is exceeded, abrade surface before recoating.
Drying time is temperature, humidity, and film thickness dependent.
Paint temperature must be at least 40°F (4.5°C) minimum.

Shelf Life: Part A* - 36 months, unopened
Part B - 24 months, unopened
Part C - 12 months, unopened
Paint temperature must be at least 40°F (4.5°C) minimum.

***Aluminum (Part A, Rex # B65V600) has a shelf life of 24 months.**
Flash Point: SST (15°C), Seta, mixed
Reducer/Clean Up: 1. Primer
2. Macropony 646
3. Intermediate
4. Acrolon 218 HS
5. Finish
6. Zinc-Clean III HS

www.sherwin-williams.com/protective continued on back

Protective & Marine Coatings

ACROLON™ 218 HS
ACRYLIC POLYURETHANE

PART A B65-600
PART B B65-650
B65V600

GLOSS SERIES
SEMI-GLOSS SERIES
HARDENER

APPLICATION BULLETIN 5.22

SURFACE PREPARATIONS
Surface must be clean, dry, and in sound condition. Remove all oil, dust, grease, dirt, loose rust, and other foreign material to ensure adequate adhesion.
Iron & Steel
Remove all oil and grease from surface by Solvent Cleaning per SSPC-SP1. Minimum surface preparation is Commercial Blast Cleaning per SSPC-SP10/NACE 2. For better performance, use Near White Metal Blast Cleaning per SSPC-SP10/NACE 2. Blast clean all surfaces using a sharp, angular abrasive for optimum surface profile (1-2 mils / 25-50 microns). Prime any bare steel the same day as it is cleaned or before flash rusting occurs.
Aluminum
Remove all oil, grease, dirt, oxide and other foreign material by Solvent Cleaning per SSPC-SP1. Primer required.
Galvanized Steel
Allow to weather a minimum of six months prior to coating. Solvent Clean per SSPC-SP1. When weathering is not possible, or the surface has been treated with chromates or silicates, first Solvent Clean per SSPC-SP1 and apply a test patch. Allow paint to dry at least one week before testing adhesion. If adhesion is poor, brush blasting per SSPC-SP7 is necessary to remove these treatments. Rusty galvanizing requires a minimum of Hand Tool Cleaning per SSPC-SP2, prime the area the same day as cleaned or before flash rusting occurs. Primer required.
Concrete and Masonry
For surface preparation, refer to SSPC-SP13/NACE 6, or ICR1 No. 310.2R, CSP 1-3. Surfaces should be thoroughly clean and dry. Concrete and mortar must be cured at least 28 days @ 75°F (24°C). Remove all loose mortar and foreign material. Surface must be free of balance, concrete dust, dirt, form release agents, moisture curing membranes, loose cement and hardeners. Fill bug holes, air pockets and other voids with Steel-Seam FT910. Primer required.
Follow the standard methods listed below when applicable:
ASTM D4258 Standard Practice for Cleaning Concrete
ASTM D4258 Standard Practice for Abrading Concrete
ASTM D4258 Standard Practice for Etching Concrete
ASTM F1889 Standard Test Method for Measuring Moisture Vapor Emission Rate of Concrete
SSPC-SP 13/NACE 6 Surface Preparation of Concrete
ICR1 No. 310.2R Concrete Surface Preparation.

APPLICATION CONDITIONS
Temperature: 35°F (1.7°C) minimum, 120°F (49°C) maximum (air and surface)
40°F (4.5°C) minimum, 120°F (49°C) maximum (material)
At least 5°F (2.8°C) above dew point
Relative humidity: 85% maximum
APPLICATION EQUIPMENT
The following is a guide. Changes in pressures and tip sizes may be needed for proper spray characteristics. Always purge spray equipment before use with listed reducer. Any reduction must be compliant with existing VOC regulations and compatible with the existing environmental and application conditions.
Reducer/Clean Up:
Spray: Reducer R7K15, MEK, Reducer #58, or R7K11
Brush/Roll: Reducer #132, R7K132, Reducer #58, or R7K11
If reducer is used, reduce at time of catalyzation.
Airless Spray
Pressure: 2000 - 2800 psi
Hose: 3/8" ID
Tip: 013" - 017"
Filter: 60 mesh
Reduction: As needed up to 10% by volume with R7K15 or R7K11, or up to 9% with MEK, R6K10
Conventional Spray
Gun: Binks 95
Cap: 63P
Atomization Pressure: 50 - 70 psi
Fluid Pressure: 20 - 25 psi
As needed up to 10% by volume with R7K15 or R7K11, or up to 9% with MEK, R6K10
Brush
Brush: Natural Bristle
Reduction: As needed up to 10% by volume*
Roller
Cover: 3/8" woven with solvent resistant core
Reduction: As needed up to 10% by volume*

If specific application equipment is not listed above, equivalent equipment may be substituted.

* Note: Reducing more than maximum recommended level will result in VOC exceeding 340g/L.

www.sherwin-williams.com/protective continued on back

Protective & Marine Coatings

ACROLON™ 218 HS
ACRYLIC POLYURETHANE

PART A B65-600
PART B B65-650
B65V600

GLOSS SERIES
SEMI-GLOSS SERIES
HARDENER

PRODUCT INFORMATION 5.22

RECOMMENDED SYSTEMS
Steel:
1 ct. Macropony 646
1-2 cts. Acrolon 218 HS Polyurethane
Steel:
1 ct. Zinc Clad II Plus
1 ct. Macropony 646
1-2 cts. Acrolon 218 HS Polyurethane
Steel:
1 ct. Zinc Clad IV
1-2 cts. Acrolon 218 HS Polyurethane
Steel:
1 ct. Corothane I-GalvalPac Zinc Primer
1-2 cts. Acrolon 218 HS Polyurethane
Steel:
1 ct. Epoxy Mastic Aluminum II
1-2 cts. Acrolon 218 HS Polyurethane
Steel:
1 ct. Recoatable Epoxy Primer
1-2 cts. Acrolon 218 HS Polyurethane
Concrete/Masonry:
1 ct. Kern Cell-Coat HS Epoxy
1-2 cts. Acrolon 218 HS Polyurethane
Aluminum/Galvanizing:
1 ct. DTM Wash Primer
1-2 cts. Acrolon 218 HS Polyurethane

RECOMMENDED USES
Surface must be clean, dry, and in sound condition. Remove all oil, dust, grease, dirt, loose rust, and other foreign material to ensure adequate adhesion. Refer to product Application Bulletin for detailed surface preparation information.
Minimum recommended surface preparation:
• Iron & Steel: SSPC-SP10/NACE 3, 1-2 mil (25-50 micron) profile
• Galvanizing: SSPC-SP13/NACE 6, or ICR1 No. 310.2R, CSP 1-3
• Concrete & Masonry: SSPC-SP13/NACE 6, or ICR1 No. 310.2R, CSP 1-3
• Primer required

PERFORMANCE CHARACTERISTICS
Substrate: Steel
Surface Preparation: SSPC-SP10/NACE 2
System Tested:
1 ct. Macropony 646 @ 6.0 mils (150 microns) dft
1 ct. Acrolon 218 HS Gloss @ 4.0 mils (100 microns) dft
*Unless otherwise noted below

Test Name	Test Method	Results
Wet mils (microns)	ASTM D480, CS17	43 mg loss
Abrasion	wheel, 1000 cycles, 1 kg load	
Adhesion ¹	ASTM D4541	1878 psi
Corrosion	ASTM D5894, 27 cycles, 9072 hours	Rating 10 per ASTM D610, for rusting
Weathering	ASTM D2798	Rating 10 per ASTM D714, for blistering
Direct Impact Resistance ²	ASTM D2485, Method A	50 in. lb.
Dry Heat Resistance ³	ASTM D2522, 100° bend, 18" mandrel	Passes
Flexibility ⁴	ASTM D4585, 100°F (80°F), 1000 hours	Rating 10 per ASTM D610, for rusting
Humidity Resistance ⁵	ASTM D1177, 15,000 hours	Rating 10 per ASTM D610, for rusting
Pencil Hardness	ASTM D3363	3H
Salt Fog Resistance ⁶	ASTM B117, 15,000 hours	Rating 10 per ASTM D610, for rusting

Recommended Spreading Rate per coat:

Wet mils (microns)	Minimum	Maximum
4.5 (112.5)	3.0 (75)	6.0 (150)
~Coverage sq ft/gal (mL)	175 (4.3)	346 (8.5)

Drying Schedule @ 6.0 mils wet (150 microns):

@ 35°F/1.7°C	@ 77°F/25°C	@ 120°F/49°C	
To touch:	4 hours	30 minutes	20 minutes
To handle:	18 hours	6 hours	4 hours
To recoat:	minimum: 18 hours	8 hours	6 hours
maximum:	3 months	3 months	3 months
To cure:	14 days	7 days	5 days
Pot Life:	4 hours	2 hours	45 minutes
Sweat-In-Time:	None		

Notes:
If maximum recoat time is exceeded, abrade surface before recoating.
Drying time is temperature, humidity, and film thickness dependent.
Paint temperature must be at least 40°F (4.5°C) minimum.

Shelf Life: Part A* - 36 months, unopened
Part B - 24 months, unopened
Part C - 12 months, unopened
Paint temperature must be at least 40°F (4.5°C) minimum.

***Aluminum (Part A, Rex # B65V600) has a shelf life of 24 months.**
Flash Point: SST (15°C), Seta, mixed
Reducer/Clean Up: 1. Primer
2. Macropony 646
3. Intermediate
4. Acrolon 218 HS
5. Finish
6. Zinc-Clean III HS

www.sherwin-williams.com/protective continued on back

Protective & Marine Coatings

ACROLON™ 218 HS
ACRYLIC POLYURETHANE

PART A B65-600
PART B B65-650
B65V600

GLOSS SERIES
SEMI-GLOSS SERIES
HARDENER

APPLICATION BULLETIN 5.22

APPLICATION PROCEDURES
Surface preparation must be completed as indicated.
Mix contents of each component thoroughly with low speed power agitation. Make certain no pigment remains on the bottom of the can to avoid holidays, bare areas, and pinholes. If necessary, cross spray at a right angle.
If reducer is used, add only after both components have been thoroughly mixed.
Apply paint at the recommended film thickness and spreading rate as indicated below.

APPLICATION CONDITIONS
Temperature: 35°F (1.7°C) minimum, 120°F (49°C) maximum (air and surface)
40°F (4.5°C) minimum, 120°F (49°C) maximum (material)
At least 5°F (2.8°C) above dew point
Relative humidity: 85% maximum
APPLICATION EQUIPMENT
The following is a guide. Changes in pressures and tip sizes may be needed for proper spray characteristics. Always purge spray equipment before use with listed reducer. Any reduction must be compliant with existing VOC regulations and compatible with the existing environmental and application conditions.
Reducer/Clean Up:
Spray: Reducer R7K15, MEK, Reducer #58, or R7K11
Brush/Roll: Reducer #132, R7K132, Reducer #58, or R7K11
If reducer is used, reduce at time of catalyzation.
Airless Spray
Pressure: 2000 - 2800 psi
Hose: 3/8" ID
Tip: 013" - 017"
Filter: 60 mesh
Reduction: As needed up to 10% by volume with R7K15 or R7K11, or up to 9% with MEK, R6K10
Conventional Spray
Gun: Binks 95
Cap: 63P
Atomization Pressure: 50 - 70 psi
Fluid Pressure: 20 - 25 psi
As needed up to 10% by volume with R7K15 or R7K11, or up to 9% with MEK, R6K10
Brush
Brush: Natural Bristle
Reduction: As needed up to 10% by volume*
Roller
Cover: 3/8" woven with solvent resistant core
Reduction: As needed up to 10% by volume*

If specific application equipment is not listed above, equivalent equipment may be substituted.

* Note: Reducing more than maximum recommended level will result in VOC exceeding 340g/L.

www.sherwin-williams.com/protective continued on back

PERFORMANCE TIPS
Strip coat all crevices, welds, and sharp angles to prevent early failure in these areas.
When using spray application, use a 50% overlap with each pass of the gun to avoid holidays, bare areas, and pinholes. If necessary, cross spray at a right angle.
Spreading rates are calculated on surface solids and do not include an application loss factor due to surface profile, roughness or porosity of the surface, skill and technique of the applicator, method of application, various surface irregularities, material lost during mixing, spillage, overthinning, climatic conditions, and excessive film build.
Excessive reduction of material can affect film build, appearance, and adhesion.
Do not apply the material beyond recommended pot life.
Do not mix previously catalyzed material with new.
In order to avoid blockage of spray equipment, clean equipment before use or before periods of extended downtime with Reducer #15, R7K15 or MEK, R6K10.
Mixed coating is sensitive to water. Use water traps in all air lines. Moisture contact can reduce pot life and affect gloss and color.
Quick-Thane Urethane Accelerator is acceptable for use. See data page 5.97 for details.
E-Z Roll Urethane Deformer is acceptable for use. See data page 5.97 for details.
Refer to Product Information sheet for additional performance characteristics and safety precautions.

SAFETY PRECAUTIONS
Refer to the MSDS sheet before use.
Published technical data and instructions are subject to change without notice. Contact your Sherwin-Williams representative for additional technical data and instructions.
WARRANTY
The Sherwin-Williams Company warrants our products to be free of manufacturing defects in accordance with applicable Sherwin-Williams quality control procedures. Liability for product proven defective, if any, is limited to replacement of the defective product or the refund of the purchase price paid for the defective product. NO OTHER WARRANTY OR GUARANTEE OF ANY KIND IS MADE BY SHERWIN-WILLIAMS. EXCEPTED ON WHOLESALE STATUTORY BY OPERATION OF LAW OR OTHERWISE, INCLUDING MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

NOTES:	REFERENCE DRAWINGS		REVISIONS						 CRESTONE PEAK RESOURCES BASILINE Engineering - Planning - Consulting 1850 FORD STREET GOLDEN, COLORADO 80401 P. 303.940.9966 F. 303.940.9959 www.baselinecorp.com		BIGHORN 17H-P267 PAD DETAILS SPECIAL USE PERMIT			
	</													

AGENDA INFORMATION MEMORANDUM

FIRESTONE TOWN BOARD OF TRUSTEES



AIM#: 6.c.

Public Hearing

Meeting Date: December 12, 2018

Initiated By: Todd Bjerkaas

Dept: Planning & Zoning

AGENDA TITLE

Resolution 18-53: A RESOLUTION AUTHORIZING THE APPROPRIATE TOWN OFFICIAL TO SIGN THE FIRST AMENDMENT TO THE COMPATIBLE DEVELOPMENT AND SURFACE USE AGREEMENT.

SUMMARY

Staff has prepared a resolution for consideration by the Board to amend the existing Compatible Development and Surface Use Agreement with Crestone Peak Resources LLC.

The amendment agreement allows for the plugging, abandoning, and removal of certain existing wells and lines in the Northeast 1/4 of Section 18, T2N, R67, also known as the western half of the Town-owned Central Park property. In addition, the existing Oil and Gas Operation Areas (OGOAs) shall be reduced and a new Oil and Gas Operation Area shall be designated in the southeast corner of the property. Crestone shall be responsible for relocating the existing walking path around the new OGOA.

HISTORY AND PREVIOUS BOARD ACTION

The Town of Firestone and the Firestone Finance Authority entered into the original Compatible Development and Surface Use Agreement for this property on September 25, 2006.

RECOMMENDATION

Staff recommends that the Board approve the attached resolution authorizing the Mayor to sign the First Amendment to Compatible Development and Surface Use Agreement.

ALTERNATIVES

ATTACHMENTS

1. 6c - Firestone CDSUA 1st Amendment 2N 67 W Sec 18 N2 Crestone Execut
2. 6c - Reso 18-53 Crestone-Kugel SUP Amendment Approval

FINANCIAL CONSIDERATIONS

None.

FIRST AMENDMENT TO COMPATIBLE DEVELOPMENT AND SURFACE USE AGREEMENT

(Changes to Existing Oil and Gas Operations Area as to the NE/4 of Section 18 and Creation and Establishment of New Oil and Gas Operations Area in the S/2NE/4 of Section 18)

THIS FIRST AMENDMENT TO COMPATIBLE DEVELOPMENT AND SURFACE USE AGREEMENT ("First Amendment") is effective as of the ____ day of _____, 2018 (the "Effective Date"), by and between the **Town of Firestone** and the **Firestone Finance Authority** (hereinafter referred to individually as "Town" and "FFA", respectively, and collectively referred to as "Owner") with an address of 151 Grant Avenue, P.O. Box 100, Firestone, Colorado 80520-0100, and **Crestone Peak Resources Holdings LLC** ("Crestone"), which has an address at 1801 California Street, Suite 2500, Denver, Colorado 80202. Owner and Crestone may be referred to as a "Party" or collectively, as the "Parties." Capitalized terms not otherwise defined in this First Amendment shall have the meanings provided in the Compatible Development and Surface Use Agreement.

RECITALS

- A. WHEREAS, on September 25, 2006, Owner, Foundation Energy Management, LLC, and EnCana Oil & Gas (USA) Inc. entered into a Compatible Development and Surface Use Agreement covering a portion of the N/2 of Section 18, Township 2 North, Range 67 West, Weld County, Colorado (the "Property"). The Compatible Development and Surface Use Agreement was recorded in the records of the Clerk and Recorder of Weld County, Colorado at Reception No. 3427732 on October 16, 2006;
- B. WHEREAS, Crestone is the successor-in-interest to the mineral operating working interests of Foundation Energy Management, LLC and EnCana Oil & Gas (USA) Inc. in the Property and under the Compatible Development and Surface Use Agreement; and
- C. WHEREAS, Owner and Crestone now wish to amend the Compatible Development and Surface Use Agreement to: (1) create and establish a New Oil and Gas Operations Area in a portion of the S/2NE/4 of Section 18, Township 2 North, Range 67 West for the drilling, completion, and production of Future Wells and related operations; (2) decrease the Existing Oil and Gas Operations Area to a 50' radius circle around the plugged and abandoned wellhead(s), but insofar and only insofar as it pertains to the NE/4 of Section 18, Township 2 North, Range 67 West, so long as Future Wells are drilled in the New Oil and Gas Operations Area; and (3) provide for the plugging and abandonment of wells and any and all Crestone owned pipelines, gathering lines, and flowlines located on, in or under the NE/4 of Section 18, Township 2 North, Range 67 West insofar and only insofar as they pertain to the Existing Oil and Gas Operations Area, as well as the removal of any Crestone owned oil and gas facilities located in the NE/4 of Section 18, Township 2 North, Range 67 West that are no longer needed or useful to operations upon the New Oil and Gas Operations Area.

NOW THEREFORE, in consideration of the covenants and mutual promises of the Parties set forth herein, including the recitals, and for other good and valuable consideration, the receipt

and sufficiency of which are hereby acknowledged, the Parties hereby amend the Compatible Development and Surface Use Agreement as follows:

1. Establishment of New Oil and Gas Operations Area:

- a. The Parties agree that, as to the NE/4 of Section 18, Township 2 North, Range 67 West, Crestone, upon completion of its obligations provided below in Section 2.a., will limit all of its current and future oil and gas operations in the NE/4 of Section 18, Township 2 North, Range 67 West to the locations depicted on **Exhibit A** attached hereto and by this reference incorporated herein and identified as "New Oil and Gas Operations Area". The New Oil and Gas Operations Area may be used for drilling, completion, production and maintenance of Wells, equipment, production and storage operations, workovers, well recompletions and deepenings, fracturing, twinning, the drilling of replacement wells, plugging and abandoning Wells and the location of associated oil and gas production, storage and other facilities and for drilling oil and gas wells that produce from and drain the Described Premises as well as lands which are pooled or communitized with the Described Premises and/or are directionally or horizontally drilled to bottomhole locations outside the Described Premises. Operations on the New Oil and Gas Operations Area may occur concurrently with Crestone's work on the Existing Oil and Gas Operations Area. "Existing Oil and Gas Operations Area" as used in this First Amendment is defined as the Oil and Gas Operations Area depicted on Exhibit D attached to the Compatible Development and Surface Use Agreement insofar and only insofar as it pertains to the NE/4 of Section 18, Township 2 North, Range 67 West. The New Oil and Gas Operations Area shall be accessed and limited in size and configuration as depicted on Exhibit A.

2. Removal and Release of Existing Oil and Gas Operations Area as to the NE/4 of Section 18 Only:

- a. Subject to the terms and conditions of Section 2.c. below, the Parties agree that when Crestone completes the plugging and abandonment of each and every one of the below described Crestone operated oil and gas Wells (the "Subject Wells"), reclaims the well sites and Existing Oil and Gas Operations Area and obtains the required abandonment and reclamation approvals from the Commission, the Existing Oil and Gas Operations Area, insofar and only insofar as it pertains to the NE/4 of Section 18, Township 2 North, Range 67 West, is decreased to a 50' radius circle around each plugged and abandoned wellhead, insofar as and only insofar as it pertains to the NE/4 of Section 18, Township 2 North, Range 67 West:

- i. Kugel 41-18 (API No. 05-123-20528)
- ii. Wandell 4-6-7 (API No. 05-123-30820)
- iii. Wandell 6-8-7 (API No. 05-123-31039)
- iv. Wandell 34-7 (API No. 05-123-22395)
- v. Kugel 31-18 (API No. 05-123-19698)
- vi. Kugel 2-18 (API No. 05-123-15282)

- vii. Miller 12-17 (API No. 05-123-20871)
- viii. Kugel 42-18 (API No. 05-123-20307).

- b. The Parties agree that the decrease in size of the Existing Oil and Gas Operations Area as to the NE/4 of Section 18, Township 2 North, Range 67 West will in no way impact or affect Crestone's right and ability to use the New Oil and Gas Operations Area as described on Exhibit A hereto. No permanent building structures shall be constructed within the 50' Existing Oil and Gas Operations Area, but streets, driveways, sidewalks, landscaping, fencing, and such are permitted within the 50'.
- c. Crestone agrees to begin plugging and abandonment operations on the Subject Wells within 12 months of the beginning of production from Future Wells that are drilled within the New Oil and Gas Operations Area. The Parties agree that Crestone is under no obligation to plug and abandon any of the Subject Wells if Future Wells are not drilled, at Crestone's sole discretion, within the New Oil and Gas Operations Area, in which case the Existing Oil and Gas Operations Area is not decreased, and the terms and conditions of the Compatible Development and Surface Use Agreement remain in effect.

3. Removal of Pipelines, Gathering Lines, Flowlines, and Facilities from the Existing Oil and Gas Operations Area as to the NE/4 of Section 18 Only:

- a. Subject to the terms and conditions of Section 2.c. above, the Parties agree that, in conjunction with plugging and abandonment of the Subject Wells and their related pipelines, gathering lines, flowlines and facilities, Crestone shall cut, clean and remove all Crestone owned and operated pipelines, gathering lines, and flowlines servicing the Subject Wells located on, in or under the NE/4 of Section 18, Township 2 North, Range 67 West pertaining to the Existing Oil and Gas Operations Area. For any such lines that cross Town road right-of-way, Crestone shall structural flow fill said lines within the road right-of-way. Subject to the terms and conditions of Section 2.c. above, Crestone will remove any Crestone owned oil and gas facilities located in the NE/4 of Section 18, Township 2 North, Range 67 West and perform reclamation obligations as required by Commission rules.

4. Existing Walking Path:

- a. The Parties acknowledge the existence of a pedestrian walking path bordering and passing through the New Oil and Gas Operations Area. Prior to Crestone beginning construction and/or drilling activities in the New Oil and Gas Operations Area, Owner shall close the walking path through the New Oil and Gas Operations Area. Simultaneous with the grading of the drill pad, the Parties shall work together to reroute the walking path around the New Oil and Gas Operations Area with the intent that the looped path is not out of service for an extended period of time.

Crestone shall be responsible for all costs to reroute the path around the New Oil and Gas Operations Area as agreed to by both Parties.

5. Notices:

- a. Any notice or other communication required or permitted under this First Amendment will be given in writing either by: i) personal delivery; ii) expedited delivery service with proof of delivery; iii) United States mail, postage prepaid, and registered or certified mail with return receipt requested; or iv) prepaid telecopy or fax, the receipt of which will be acknowledged, addressed as follows:

(1) If to Owner, to:

Town of Firestone and
Firestone Finance Authority
151 Grant Avenue
P.O. Box 100
Firestone, Colorado 80520

(2) If to Crestone, to:

Crestone Peak Resources Operating LLC
1801 California Street
Suite 2500
Denver, Colorado 80202

Notices will be effective upon receipt and either party may change its address by notice to the other party.

Except as specifically amended by this First Amendment, the terms and conditions of the Compatible Development and Surface Use Agreement shall continue in full force and effect and remain enforceable in accordance with its terms.

This First Amendment and the interests granted and covered herein shall be binding upon and inure to the benefit of the heirs, successors and assigns of the Owner and Crestone.

Each party represents that he/she/it has the full right and authority to enter into this First Amendment with respect to the surface rights, oil and gas interests, or oil and gas leasehold interests that he/she/it owns in the Property, as applicable.

Crestone shall record a memorandum of this First Amendment with the Clerk and Recorder of Weld County and provide evidence to the Owner of the recording.

This First Amendment may be executed in any number of counterparts, each of which shall be considered an original for all purposes and together of which shall constitute one and the same instrument.

The provisions and agreements contained in this First Amendment shall be deemed covenants running with the Property.

[Signatures on the following page]

IN WITNESS WHEREOF, the undersigned Parties have executed this First Amendment as of the Effective Date.

The Town of Firestone

By: _____
Name: _____
Title: _____

Firestone Finance Authority

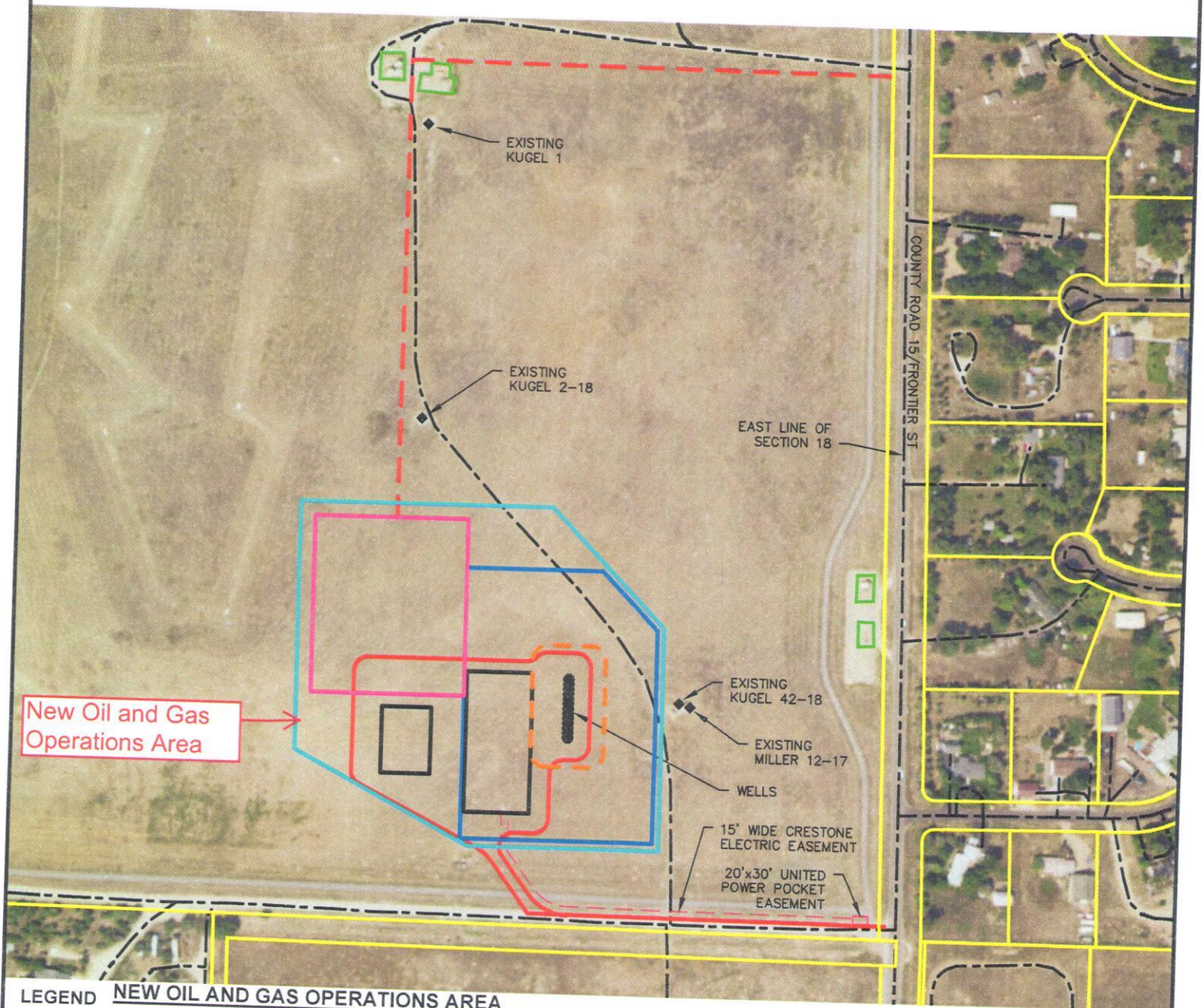
By: _____
Name: _____
Title: _____

Crestone Peak Resources Operating LLC

By: 
Name: David Stewart
Title: VP, EHS&R and External Affairs

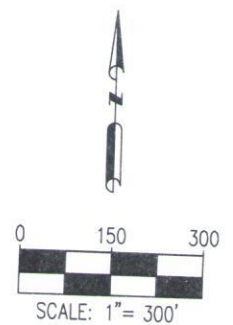
EXHIBIT "A"

Attached hereto and made part hereof that certain First Amendment to the Compatible Development and Surface Use Agreement dated the ____ of _____, 2018, by and between Firestone Finance Authority, Town of Firestone, and Crestone Peak Resources Holdings LLC, covering the below described lands to-wit:



- LEGEND NEW OIL AND GAS OPERATIONS AREA**
- = 14 PROPOSED WELLS
 - ◆ = EXISTING WELL
 - [Blue Outline] = TEMPORARY WELLSITE: 6.0 ACRES
 - [Pink Outline] = TEMPORARY COMPLETIONS AREA: 3.5 ACRES
 - [Black Outline] = PROPOSED FACILITIES PERMANENT DISTURBANCE: 3.5 ACRES
 - [Green Outline] = EXISTING FACILITIES
 - [Orange Outline] = PERMANENT WORKOVER AREA: 1.0 ACRES
 - [Light Blue Outline] = PROPOSED DISTURBANCE AREA
 - [Yellow Outline] = PROPERTY LINE
 - [Red Dashed Line] = PROPOSED TEMPORARY ACCESS ROAD
 - [Red Solid Line] = PROPOSED PERMANENT ACCESS ROAD
 - [Black Dashed Line] = EXISTING ROAD


CRESTONE PEAK
 RESOURCES
 TOWNSHIP 2 NORTH, RANGE 67 WEST
 SECTION 18: SE ¼ NE ¼
 WELD COUNTY, COLORADO
 OCTOBER 10, 2018



RESOLUTION NO. 18-53

**A RESOLUTION AUTHORIZING THE APPROPRIATE TOWN OFFICIAL
TO SIGN THE FIRST AMENDMENT TO THE COMPATIBLE
DEVELOPMENT AND SURFACE USE AGREEMENT.**

WHEREAS, on September 25, 2006, Foundation Energy Management, LLC, and EnCana Oil & Gas (USA) Inc. entered into a Compatible Development and Surface Use Agreement with the Town of Firestone and the Firestone Finance Authority and such agreement was recorded in the records of the Clerk and Recorder of Weld County, Colorado at Reception No. 3427732 on October 16, 2006; and

WHEREAS, Crestone is the successor-in-interest to the mineral operating working interests of Foundation Energy Management, LLC and EnCana Oil & Gas (USA) Inc. in the Property and under the Compatible Development and Surface Use Agreement; and

WHEREAS, Crestone and the Town of Firestone now wish to amend the Compatible Development and Surface Use Agreement; and

WHEREAS, the Board of Trustees of the Town of Firestone, Colorado, considered the acceptance of the First Amendment to Compatible Development and Surface Use Agreement on December 12, 2018; and

WHEREAS, the Board of Trustees believes it is in the best interest of the Town and its citizens to accept the First Amendment to Compatible Development and Surface Use Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO:

Section 1. The Board of Trustees of the Town of Firestone hereby approves the First Amendment to Compatible Development and Surface Use Agreement, and authorizes the appropriate Town Official to sign and bind the Town to the Agreement.

INTRODUCED, READ AND ADOPTED this 12th day of December, 2018.

TOWN OF FIRESTONE, COLORADO

Bobbi Sindelar, Mayor

ATTEST:

Leah Vanarsdall, Town Clerk

RESOLUTION 18-54

A RESOLUTION APPROVING COOPERATIVE DEVELOPMENT PLAN AGREEMENT

WHEREAS, the Town and Crestone Peak Resources LLC (Crestone) value a balanced approach to oil and gas development that protects community health, safety, and welfare; and

WHEREAS, the Town and Crestone have jointly negotiated a Cooperative Development Plan Agreement that seeks to mitigate impacts from oil and gas development; and

WHEREAS, the Board of Trustees finds that this Cooperative Development Plan Agreement is in the best interest of the Town and its citizens and desires to authorize its execution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO:

Section 1. The proposed Cooperative Development Plan Agreement (the “Agreement”) between the Town of Firestone and Crestone is hereby approved in essentially the same form as the copy of such Agreement accompanying this Resolution.

Section 2. The Mayor is hereby authorized to execute and deliver the Agreement on behalf of the Town.

INTRODUCED, READ AND ADOPTED this 12th day of December, 2018.

TOWN OF FIRESTONE, COLORADO

Bobbi Sindelar, Mayor

ATTEST:

Leah Vanarsdall, Town Clerk

COOPERATIVE DEVELOPMENT PLAN AGREEMENT

This Cooperative Development Plan Agreement ("Agreement") is made and entered into this ____ day of December, 2018 (the "Effective Date"), by and between the Town of Firestone, a Colorado municipal corporation ("Firestone" or "Town"), whose address is 151 Grant Ave, P.O. Box 100, Firestone, Colorado 80520, and Crestone Peak Resources LLC, a Delaware limited liability company ("Crestone"), whose address is 1801 California Street, Suite 2500, Denver, Colorado 80202. Crestone and Firestone may be referred to individually as a "Party" or collectively as the "Parties."

BACKGROUND

Firestone and Crestone value a balanced approach to oil and gas development that protects human health, safety and welfare, as well as the environment and wildlife, and that offsets any impacts from such development. To achieve such mutual objectives in a cooperative manner, Firestone and Crestone enter into this Agreement to accomplish the following:

1. To site new well pads that Crestone plans to develop within Firestone at locations that will protect public safety and the environment, while allowing for the efficient development of oil and gas;
2. To further mitigate the potential environmental and land use effects associated with this development by adopting best management practices ("BMPs") that supplement state environmental requirements in an efficient and cost-effective manner, including BMPs for odor mitigation, noise mitigation, lighting installation, road maintenance, and landscape restoration, all to benefit the Town and its residents; and
3. To make contributions for urban renewal planning and park and infrastructure improvements that will likewise benefit the Town and its residents and will also offset any remaining impacts from this development.

NOW THEREFORE, the Parties agree as follows:

ARTICLE I. GENERAL PROVISIONS

1. **Effective Date.** This Agreement will be effective as of the Effective Date.
2. **Intent to Supplement State Rules and Regulations.** The Parties recognize that pursuant to the Colorado Oil and Gas Conservation Act, Colo. Rev. Stat. § 34-60-101 et seq., the Colorado Oil and Gas Conservation Commission ("COGCC") regulates the development and production of oil and gas resources in Colorado, and the Act authorizes the COGCC to adopt statewide rules and regulations, which the COGCC has done. The BMPs developed jointly by the Parties and identified in this Agreement are intended to supplement and are in addition to these state rules and regulations.

3. Exercise of Local Land Use Authority. The Parties further recognize that Firestone has enacted land use regulations pursuant to the Local Government Land Use Enabling Act, Colo. Rev. Stat. § 31-15-401 et seq., and the Land Planning Act, Colo. Rev. Stat. § 29-20-101 et seq., which authorize local governments to enact land use regulations that regulate, *inter alia*, oil and gas development, provided that such regulations are not preempted by state law. The Parties also recognize that Crestone's activities covered by this Agreement are best addressed in a collaborative manner, as set forth in this Agreement.

4. Applicability. This Agreement and the BMPs will apply to all new wells that Crestone drills on the Identified Well Pads during the Term of this Agreement. This Agreement will not apply to any wells for which Crestone is not the operator.

5. Term. The term of this Agreement will commence upon the Effective Date and will remain in effect for five (5) years (the "First Term"), which may be extended from time to time by mutual agreement of the Parties (the "Term").

6. Effect of Termination on Obligations. If the Agreement is terminated by either Party, any development approved by the Town will continue to be authorized under and subject to this Agreement.

7. Drilling Plan. In consultation with Firestone, Crestone has developed a Drilling Plan that includes both: (i) the four (4) well pad sites identified as the Bighorn, Kugel, Johnson, and Sheley on the Cooperative Development Area Map, that Crestone plans to develop during the First Term (the "Identified Well Pads"); and (ii) the BMPs that will apply to such development. The BMPs are listed on the Best Management Practices for Pad Site Locations attached as Appendix A, and the Identified Well Pads are depicted in the Cooperative Development Area Map attached as Appendix B. Crestone will not drill more than sixty (60) wells total from the Bighorn, Kugel, Johnson, and Sheley well pad sites collectively.

8. Urban Growth Boundary. If Crestone acquires additional real property interest during the Term at a location outside the Firestone town limits, but within the urban growth boundary as set forth on Appendix C, and Crestone intends to use such location as a pad for drilling one or more oil and gas wells, then Crestone will support Firestone's annexation of such location. If the location is annexed by Firestone, then the well pad will be considered an Identified Well Pad under this Agreement, effective as of the date of annexation. Contributions under Article II, Section 4(b) will not apply to the annexed Identified Well Pads, and the Parties will instead negotiate in good faith any contributions by Crestone to the Town related to the annexed Identified Well Pads at the time of annexation.

ARTICLE II. APPROVAL PROCESS, OPERATIONS, AND CONSIDERATION

1. Special Use Permit Submission Requirements. For each new well Crestone drills on the Identified Well Pads, the Parties will follow the requirements and procedures outlined in Section 15.48.030 of the Firestone Municipal Code (the "Code") for special use permits, all applications submitted by Crestone will contain the elements prescribed by Section 15.48.040 of the Code, and

the Town's board of trustees will review the application using the review criteria outlined in Section 15.48.050 of the Code and the BMPs, as applicable. If the applicable provisions of the Code are amended, Crestone will comply with the most current requirements and procedures for its operations effective at the time of submission. The Town recognizes that time is of the essence with respect to approval of special use permits and will use its best efforts to process Crestone's applications submitted pursuant to this Article II, Section 1 in a prompt and timely manner. To that end, the Town agrees that Town staff review of the applications will take no longer than sixty (60) calendar days after the Town staff determines the application is complete.

2. Crestone's Operations. For each new well Crestone drills on the Identified Well Pads, Crestone will operate such well to comply with the BMPs and Sections 15.48.060 through 15.48.200 of the Code. If the applicable provisions of the Code are amended, Crestone will comply with the most current requirements and procedures for its operations effective at the time.

3. Crossing Permits. The Parties intend to minimize the use of tanks by Crestone for development under this Agreement. For all facilities associated with Crestone's oil and gas development, including flowlines, gathering lines, access roads, utility lines, storage tanks, processing and separation facilities, and other production, processing, transportation, and marketing facilities, that require a permit under Section 15.44.010 of the Code, Crestone will follow the procedures and rules set forth in Sections 15.44.020 through 15.44.100 and 15.44.120 through 15.44.150 of the Code. Crestone will make a one-time payment for each crossing permit based on the right-of-way pricing set forth on Appendix D, without minimum consideration. If the applicable provisions of the Code are amended, Crestone will comply with the most current requirements and procedures for its operations effective at the time. The Town will render a decision on each crossing permit application within ninety (90) calendar days after the application is deemed complete.

4. Crestone's Contributions. To offset potential impacts from the Identified Well Pads and associated wells, Crestone will make contributions to the Town as follows:

a. Contribution to the Urban Renewal Authority. A one-time contribution of one hundred thousand dollars (\$100,000) to the Firestone Urban Renewal Authority for the preparation of an Urban Renewal Plan, which contribution will be made within thirty (30) calendar days after the Effective Date; and

b. Contributions for Park and Infrastructure Improvements. A one-time contribution to Firestone of two hundred fifty thousand dollars (\$250,000) for each Identified Well Pad (excluding any Identified Well Pads included pursuant to Article I, Section 8), paid within ninety (90) calendar days after the date of first production from such Identified Well Pad as reported by Crestone to the COGCC on Crestone's Completed Interval Report, Form 5A. For planning purposes, Crestone anticipates dates of first production from two (2) Identified Well Pads to occur in 2019 and from two (2) Identified Well Pads to occur in 2020.

5. Submissions to the COGCC. Firestone will not object to any of Crestone's submissions to the COGCC pertaining to the Identified Well Pads and related wells, and, upon Town approval

of operations pertaining to a new well, Firestone will promptly notify the COGCC in writing that the Town has approved such operations under its land use review procedures and pursuant to this Agreement.

ARTICLE III. OTHER PROVISIONS

1. No Waiver of Rights. The Parties acknowledge and agree that this Agreement will not be used as evidence that either Party has waived any rights to assert its claims concerning the validity of Firestone's land use authority or jurisdiction or Crestone's rights to develop its mineral resources. Nothing herein will be construed as an admission by either Party of any legal right or obligation.

2. Force Majeure. Neither Party will be liable for any delay or failure in performing under this Agreement in the event and to the extent that the delay or failure arises out of causes beyond a Party's reasonable control, including, without limitation, war, civil commotion, act of God, strike or other stoppage (whether partial or total) of labor, any law, decree, regulation or order of any government or governmental body (including any court or tribunal), or inability to obtain permits, licenses, consents, easements, or rights-of way. If any Party is rendered, wholly or in part, unable to carry out its obligations under this Agreement due to any such force majeure event, it is agreed that, upon the affected Party's giving notice and a description of such delay in reasonable detail in writing to the other Party as soon as reasonably possible after the occurrence of the causes relied on, the obligation of the Party giving such notice, so far as it is affected by such condition or event, will be suspended and any time periods will be extended for a period equal to the period of the continuance of the event or condition.

3. Authority to Execute Agreement. Each Party represents that it has the full right and authority to enter into this Agreement.

4. Governing Law. This Agreement will be governed and construed in accordance with the laws of the State of Colorado without reference to its conflicts of laws provisions.

5. No Third-Party Beneficiaries. This Agreement is not intended to, and does not, create any right, benefit, responsibility or obligation that may be enforced by any non-party. Additionally, nothing in this Agreement will entitle any third party to any claims, rights or remedies of any kind.

6. Notices. All notices and other correspondence related to this Agreement will be in writing and will be delivered by: (i) certified mail with return receipt, (ii) hand delivery with signature or delivery receipt provided by a third party courier service (such as FedEx, UPS, etc.), (iii) fax transmission if verification of receipt is obtained, or (iv) email with return receipt, to the designated representative of the Party as indicated below. A Party may change its designated representative for notice purposes at any time by written notice to the other Party. The initial representatives of the Parties are as follows:

Firestone: Town of Firestone
 151 Grant Ave
 P.O. Box 100

Firestone, Colorado 80520
Attn: Town Manager
Telephone: 303.833.3291
Fax: 303.833.4863
Email: []

Crestone: Crestone Peak Resources LLC
1801 California Street, Suite 2500
Denver, Colorado 80202
Attn: David Stewart
720-410-8500
Email: David.Stewart@crestonepr.com

7. **Dispute Resolution.** If either Party believes that the other Party has violated any provision of this Agreement, the Party claiming that a violation has occurred will send written notice to the other Party, identifying the violation and invoking the dispute resolution process in this Section. Upon receiving such written notice, the other Party will have thirty (30) calendar days to remedy the alleged violation, unless such violation involves operations at a well pad site, in which case the time period will be ten (10) days. If the other Party denies the alleged violation, then the Parties will meet to resolve the alleged violation within ten (10) or thirty (30) calendar days (as the case may be) of the date of delivery of the initial written notice. If a resolution of the matter cannot be achieved at the meeting, both Parties agree to make a reasonable effort to work through and with a mutually acceptable mediator to attempt to resolve the dispute. Notwithstanding the foregoing, if either Party believes that the dispute will not otherwise be resolved in a sufficiently prompt and effective manner, such Party may, at its discretion, institute a legal proceeding in a court of proper jurisdiction to seek appropriate remedies. Such remedies may include, without limitation, an injunction to stop an alleged violation or an order requiring the performance of all acts and things required by the Agreement. Provided, however, that no such legal proceeding will be initiated for a period of at least thirty (30) calendar days after delivery of the initial written notice.

11. **Amendments to Agreement.** No changes, alterations or modifications to any of the provisions hereof will be effective unless contained in a written agreement signed by both Parties.

12. **Assignment.** Crestone may convey or assign its rights and obligations for any or all of the Identified Well Pads, related facilities, special use permits, and/or associated crossing permits, provided that such conveyance or assignment includes both Crestone's rights and its obligations for the subject Identified Well Pads, related facilities, special use permits, and/or crossing permits. For purposes of this paragraph, Crestone's rights include without limitation its vested development rights upon Town approval, and Crestone's obligations include without limitation its BMP obligations under Appendix A.

13. **Surface Use Agreement.** Crestone's predecessors-in-interest regarding certain lands in the N/2 of Section 18, Township 2 North, Range 67 West, Weld County, Colorado, the Firestone Finance Authority ("FFA"), and the Town entered into that certain Compatible Development and Surface Use Agreement dated September 25, 2006, which addresses Crestone's use of surface property owned by the Town. Concurrently with execution of this Agreement, Crestone, FFA, and

the Town will execute an amendment to such Compatible Development and Surface Use Agreement to address uses of Town property associated with the Identified Well Pads. This Agreement will not be effective until Crestone, FFA, and the Town execute such amendment.

[Signature page follows.]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by a duly authorized representative on the day and year first above written.

FIRESTONE:

THE TOWN OF FIRESTONE

By: _____
Name: Bobbi Sindelar
Title: Mayor
Date: Dec. 12, 2018

CRESTONE:

CRESTONE PEAK RESOURCES LLC

By: David Stewart 
Name: David Stewart
Title: VP EHS and External Affairs
Date: 12/6/18

APPENDIX A
BEST MANAGEMENT PRACTICES FOR PAD SITE LOCATIONS

1. Odor Mitigation. To mitigate the effects of odor from Crestone's operations, Crestone will consult with the Town regarding the selection and implementation of appropriate mitigation measures. These mitigation measures may include the following:

- A. Erect walls around the Identified Well Pads to limit air flow through the well sites during the drilling and completion of wells. These walls will have a minimum height of thirty-two (32) feet, and Crestone will consult with Firestone regarding whether the walls should have a height of more than thirty-two (32) feet at the Johnson, Kugel, and Sheley well pad sites;
- B. Add odor-suppression liquid to its drilling mud to neutralize odors;
- C. Install a chiller to cool the drilling fluid as it is piped through the recirculation system before routing to the suction tanks;
- D. Enclose the suction tank and shaker tanks;
- E. Continue to evaluate different additive formulations that have the potential to better suppress odors, including but not limited to non-diesel based additives;
- F. During flowback and well completions, utilize closed-loop green completion techniques to the maximum extent practicable to minimize emissions and the flaring of natural gas; and
- G. In order to reduce airflow and evaporation, cover trucks transporting drill cuttings, cover the drilling fluid mixing tanks, use a squeegee to remove drilling fluids from pipes as they exit the wellbore, and ensure that all drilling fluid is removed from pipes before storage.

2. Noise Mitigation. To reduce the noise effects on the Town and its residents during drilling, and to provide cost benefits to Crestone, all permanent equipment with engines or motors that can be electrified will be electrified from the power grid, except that operations pertaining to the Bighorn well pad will not be subject to this requirement if electricity from the power grid is not available at the site. If electricity from the power grid is unavailable at the Bighorn well pad, Crestone will use quiet design mufflers (also referred to as hospital grade or dual dissipative) or equivalent, or acoustically insulated housing or covers to enclose the motor or engine at the Bighorn well pad site. Additionally,

- A. Crestone agrees to use the Liberty Quiet Fleet or comparable technology from an alternative vendor on all well sites for completion operations;

- B. Crestone will install sound walls on all four sides of the Identified Well Pads during the drilling and completion at a minimum height as set forth in BMP 1.A; and
- C. Crestone will develop and implement in consultation with the Town a Noise Mitigation and Monitoring Plan that provides for continuous monitoring and modeling from four (4) sides of the facility at least 350 feet from the sound wall where possible provided that approval from surrounding surface owners can be obtained. The plan should identify site-specific noise mitigation techniques such as dirt moving to attenuate noise, and source-based noise mitigation. Crestone will share all information and reports from such monitoring and modeling with the Town.

3. **Lighting.** Crestone will install down cast lighting or some other form of lighting that mitigates light pollution and spill-over onto adjacent properties; provided, however, that Crestone may still use lighting that is necessary for public and occupational safety.

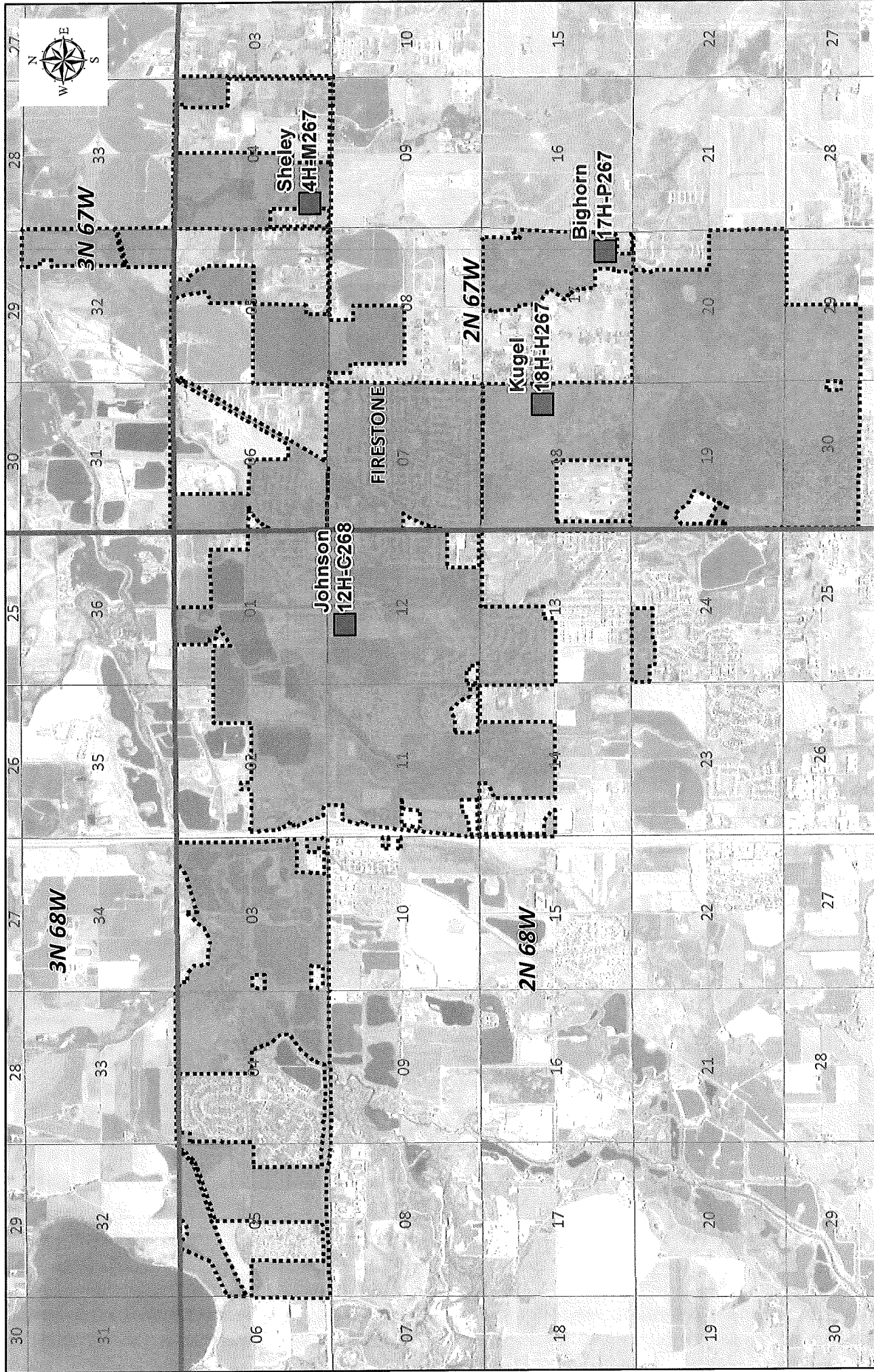
4. **Road Repairs.** The Parties recognize that truck traffic accessing the Identified Well Pads may cause damage to Firestone roads and that road repairs may be needed to mitigate such damage. Crestone will arrange for a qualified outside consultant to perform a road impact study for all Firestone roads that are used to access an Identified Well Pad during the Term. The consultant will conduct the first part of the study prior to Crestone's drilling and completions phase of operations at such Identified Well Pad and the second part of the study after Crestone completes all drilling and completions at such Identified Well Pad. The Parties will use these studies to determine the extent of any damage accruing to the road during the study period. Crestone will then promptly pay Firestone to repair such damage or else arrange and pay the cost of such repairs itself based on Firestone's preference.

5. **Drilling Pipe and other Large Tubulars Loading.** Crestone will not load large tubulars between 7:00 pm and 7:00 am Mountain Time.

6. **Kugel Landscape Restoration.** Crestone will consult with the Town to reduce the Kugel well pad footprint to the extent practicable and to mitigate potential visual effects of the Kugel pad site. A payment for landscaping at the Kugel pad site will be negotiated with and approved by the Town as part of the associated special use permit.

APPENDIX B
COOPERATIVE DEVELOPMENT AREA MAP

[See attached.]



Legend

- Crestone Locations
- Town of Firestone
- Township (PLSS)
- Section (PLSS)

Cooperative Development Area Map

Weld County, Colorado



APPENDIX C

URBAN GROWTH BOUNDARY

[See attached.]

FIRESTONE BOUNDARY EXHIBIT





LEGEND

 TOWN GROWTH PLANNING BOUNDARY
(Area=47.1 square miles)

 JAN. 2016 TOWN LIMITS
(Area=14.2 square miles)

APPENDIX D
RIGHT OF WAY PRICING

[See attached.]



Right-of-way Pricing

Summary:

This pricing will be used as a minimum charge for all rights-of-way delegated to staff for review and approval. The new pricing practices accomplish the following:

1. The pricing procedures align with the objective stated in Right-of-way Policy #400-001. That is, *"To accommodate rights-of-way on state trust lands in a manner that minimizes encumbrances while preserving long-term real estate value, protecting natural values, allowing multiple uses and achieving appropriate market based returns".*
2. The right-of-way pricing differentiates between uses that have different impacts on the land.
3. The right-of-way pricing encourages applicants to request the narrowest right-of-way possible to accommodate the desired use.
4. The right-of-way pricing charges for rights-of-way that cross virgin land.

Right-of-way Pricing:

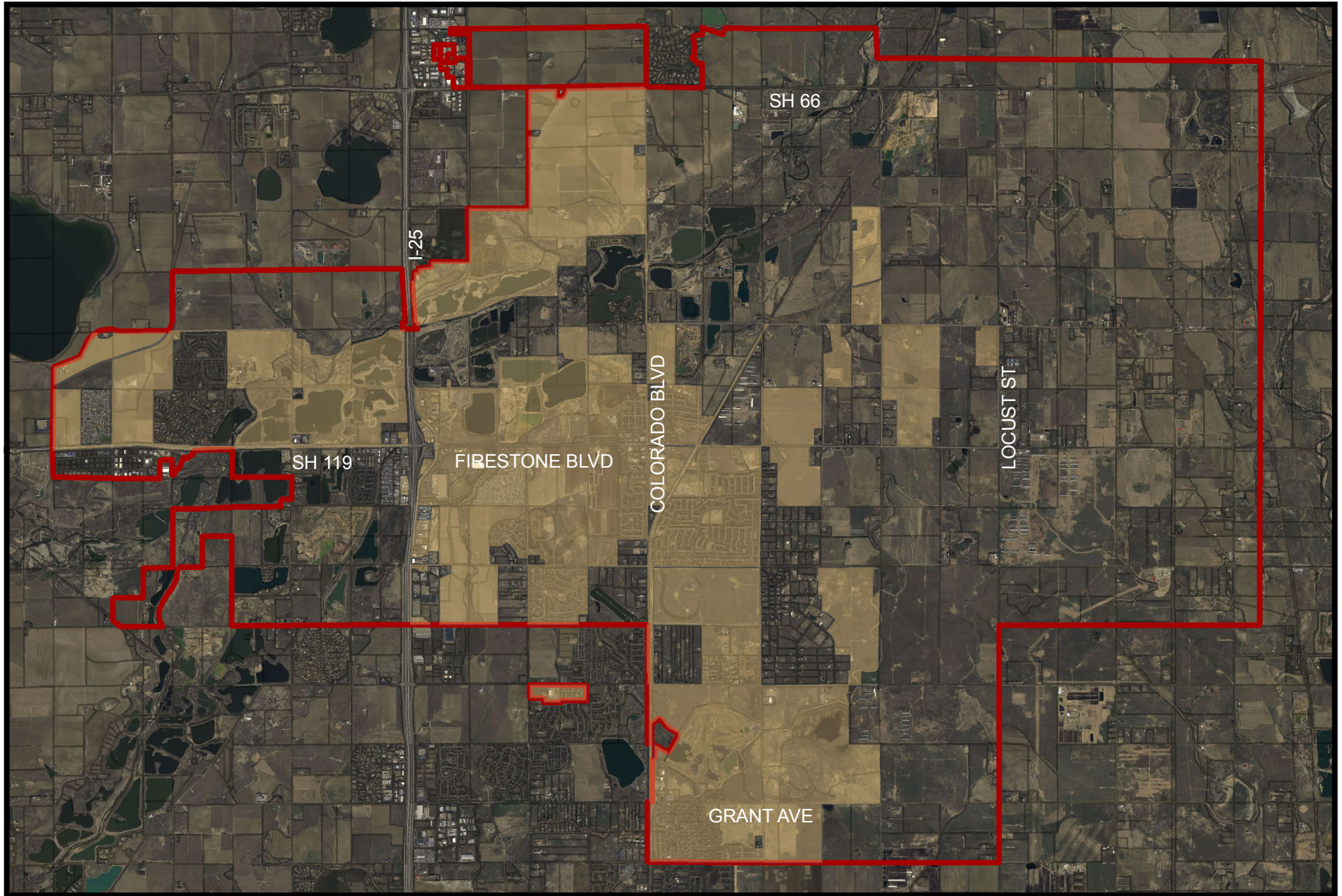
The Colorado State Land Board's (SLB) approach to pricing rights-of-way on state trust land uses a three step process.

1. Determines a value for the proposed right-of-way based on a fixed-value per measure of length using Table 1 below. The standard measure of length used to describe a right-of-way is the rod. A rod is 16.5 feet in length.
2. Calculate the value of the right-of-way based on the estimated market value of the property that will be encumbered.
3. Factor in any other variables unique to the trust land being encumbered. Use the greater of the two values as the consideration charge.
4. The minimum consideration for any right of way is \$5,000.

Table 1: ROW Pricing

Proposed Use	ROW Width in Feet and Consideration Charge per Rod							
	0 to 20	21 to 25	26 to 30	31 to 35	36 to 40	41 to 45	46 to 50	Over 50
Underground Installations	\$ 34.00	\$ 42.50	\$ 51.00	\$ 59.50	\$ 68.00	\$ 76.50	\$ 85.00	Board Decision
Private Roads, Ditches and Canals	\$ 36.00	\$ 45.00	\$ 54.00	\$ 63.00	\$ 72.00	\$ 81.00	\$ 90.00	Board Decision
Public Roads, railroads, reservoirs	Board Decision							
Electric Power Transmission Lines with capacity of 230 Kv or less	\$ 38.00	\$ 47.50	\$ 57.00	\$ 66.50	\$ 76.00	\$ 85.50	\$ 95.00	Board Decision
Electric Power Transmission Lines with capacity greater than 230 Kv	Board Decision							

FIRESTONE BOUNDARY EXHIBIT



LEGEND



TOWN GROWTH PLANNING BOUNDARY
(Area=47.1 square miles)



JAN. 2016 TOWN LIMITS
(Area=14.2 square miles)



Staff Report

Firestone Gould Annexation

Annexation Eligibility

**Prepared by the
Town of Firestone for the
Board of Trustees**

December 12, 2018

This staff report is for the property known as the Firestone Gould Annexation. The applicant for this submittal is the Town of Firestone.

Pursuant to the Town Code and Development Regulations, proper notification of the public hearings was published. Proof of notification to owners of interest and surrounding property owners and a property posting log will be provided by the applicant prior to the hearings.

The approximate location of the Firestone Gould Annexation property is north of Zinnia Avenue and east of Colorado Boulevard. This property is currently zoned Weld County A-Agricultural. The zoning requested by the applicant is Planned Unit Development with Employment Center (EC) land uses. The applicant is also requesting approval of an Outline Development Plan for the property.



The area to be annexed is approximately 37.32 acres and is comprised of vacant land with two vacant properties and numerous agricultural out buildings. The property is generally flat and would be appropriate for the proposed zoning requested.

Gould Annexation Annexation Eligibility Staff Report

Plan Analysis

The applicant acquired the property in 2017, and has planned to date, to include on the property a public utility facility. The property was a working farm and used for single family residences as well as agricultural activities with related accessory uses. The land uses proposed are generally consistent with the Firestone Development Regulations.

Board of Trustees Conditions and Standards for Approval

The Board of Trustees may approve an annexation application if it meets the intent of these Regulations, complies with Town Code and C.R.S. 31-12-101, et seq.

Board of Trustees Action

The Board of Trustees has the following options relative to the action on applications in general. As necessary additional information relative to continuances, etc. can be provided by the Town Attorney.

- A. Make a decision and vote on the application, using the draft resolution previously prepared, as may be amended during the hearing; or
 - B. Make a decision and vote on the application, but request the Town Attorney to prepare findings of fact and conclusions for approval and adoption at the next regular meeting; or
 - C. Defer a decision and direct the Town Attorney to prepare findings of fact and conclusions to be submitted to the Board of Trustees at its next regular meeting, with final deliberation, decision and adoption of the findings of fact and conclusion at that meeting; or
 - D. Defer a decision until a date certain, as is mutually agreed upon by the Applicant and the Board of Trustees, by which time the record and all evidence can be reviewed. At that time the Board of Trustees can either adopt findings of fact and conclusions or direct the Town Attorney to prepare findings of fact and conclusions for adoption at the next regular meeting after the meeting to which the matter has been deferred.
-

RECOMMENDATION

The Town staff recommends the Board of Trustees find that the Gould property is eligible for annexation into the Town of Firestone by approving Resolution 18-50.

RESOLUTION NO. 18-50

A RESOLUTION CONCERNING A PETITION FOR THE ANNEXATION OF PROPERTY TO THE TOWN OF FIRESTONE, COLORADO, KNOWN AS THE GOULD ANNEXATION TO THE TOWN OF FIRESTONE, AND FINDING THE AREA PROPOSED TO BE ANNEXED ELIGIBLE FOR ANNEXATION

WHEREAS, a petition for annexation of property described in Exhibit A attached hereto has been filed with the Board of Trustees of the Town of Firestone; and

WHEREAS, pursuant to state law, the Town Board has held a hearing and desires to adopt by Resolution its findings in regard to the petition and eligibility for annexation.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN BOARD OF THE TOWN OF FIRESTONE, COLORADO:

Section 1. The Town Board finds and concludes that:

1. It is desirable and necessary that the territory described in Exhibit A attached hereto and incorporated herein be annexed to the Town of Firestone.
2. The applicable requirements of Sections 31-12-104 and 31-12-105, C.R.S., as amended, exist or have been met, including without limitation:
 - a. Not less than one-sixth of the perimeter of the area proposed to be annexed is contiguous with the Town of Firestone, in accordance with Section 31-12-104(1)(a), C.R.S.
 - b. A community of interest exists between the area proposed to be annexed and the Town of Firestone.
 - c. The area proposed to be annexed is urban or will be urbanized in the near future.
 - d. The area proposed to be annexed is integrated with or is capable of being integrated with the Town of Firestone.
 - e. No land within the boundary of the territory proposed to be annexed which is held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, has been divided into separate parts or parcels without the written consent of the landowner or landowners thereof, unless such tracts or parcels were separated by a dedicated street, road, or other public way.

- f. No land within the boundary of the area proposed to be annexed which is held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, comprising twenty acres or more, and which, together with the buildings and improvements situated thereon, has an assessed value in excess of two hundred thousand dollars (\$200,000.00) for ad valorem tax purposes for the year next preceding the annexation, has been included within the area proposed to be annexed without the written consent of the landowners.
 - g. No annexation proceedings have been commenced for any portion of the territory proposed to be annexed for the annexation of such territory to another municipality.
 - h. The annexation of the territory proposed to be annexed will not result in the detachment of area from any school district.
 - i. The annexation of the territory proposed to be annexed will not have the effect of extending the boundary of the Town of Firestone more than three miles in any direction from any point of the boundary of the Town of Firestone in any one year.
 - j. The territory proposed to be annexed is 37.32 acres, more or less.
 - k. The Master Plan adopted by the Board of Trustees of the Town of Firestone shall serve as the plan for the area proposed to be annexed, in accordance with Section 31-12-105(1)(e), C.R.S.
 - l. Any portion of a platted street or alley to be annexed will result in the entire width of the street or alley having been included within and made a part of the Town of Firestone and reasonable access will not be denied to any landowners, owners of any easement, or the owners of any franchise adjoining any platted street or alley which is to be annexed to the Town of Firestone but is not bounded on both sides by the Town of Firestone.
 - m. An impact report has been prepared and filed with the Weld County Board of County Commissioners pursuant to Section 31-12-108.5, C.R.S.
- 3. Four copies of an annexation map of each of the area proposed to be annexed have been submitted to the Town Board and are on file with the Town.
 - 4. Upon the annexation ordinance becoming effective, all land within the area proposed to be annexed will become subject to all ordinances, resolutions, rules, and regulations of the Town of Firestone, except that general property taxes of the Town of Firestone, if applicable, shall become effective as of the January 1 next ensuing.

5. No election for annexation of the area proposed to be annexed has been held in the preceding twelve months, and no election is required under Sections 31-12-107(2) or -112, C.R.S.
6. No additional terms and conditions are to be imposed.
7. The landowners of one hundred percent (100%) of the area proposed to be annexed signed the petition requesting annexation, in compliance with Article II, Section 30 of the Colorado Constitution and Section 31-12-107(1), C.R.S.

Section 2. The Town Board concludes that all statutory requirements have been met, that the proposed annexation is proper under the laws of the State of Colorado and the area proposed to be annexed is eligible for annexation to the Town. The Town Board, acting in its legislative capacity and pursuant to authority granted to it by state law, may adopt one or more ordinances annexing the subject property to the Town of Firestone.

INTRODUCED, READ, and ADOPTED this 12th day of December, 2018.

Bobbi Sindelar, Mayor

ATTEST:

Leah Vanarsdall, Town Clerk

11/26/18 2:41 PM [ncb] R:\Firestone\Annexation\Gould\Eligibility.reso.docx

EXHIBIT A - LEGAL DESCRIPTION
Gould Annexation

A part of Lot B of Recorded Exemption 1209-31-3-RE 2340, an recorded exemption recorded December 21, 1998, as Reception No. 2661939 of the records of Weld County, Colorado, and Subdivision Exemption SE-734, a subdivision exemption recorded December 21, 1998, as Reception No. 2661938 of the records of Weld County, Colorado, all located in the SW1/4 of Section 31, T3N, R67W of the 6th P.M., County of Weld, State of Colorado, described as follows:

COMMENCING at the Southwest Corner of said Section 31, from which the E1/4 Corner of said Section 31 bears N00°07'56"E, 2651.27 feet (Basis of Bearing), thence N00°07'56"E, 30.00 feet along the West Line of the SW1/4 of said Section 31 to the Northerly Right-of-way Line extended Westerly of Zinnia Avenue (Weld County Road 26), according to BROOKS FARM FIRST & SECOND ADDITIONS, an annexation to the Town of Firestone recorded June 15, 2001, as Reception No. 2857771 of the records of Weld County, Colorado; Thence S89°30'04"E, 30.00 feet along the Northerly Right-of-way Line extended Westerly of said Zinnia Avenue (Weld County Road 26) to the Easterly Right-of-way Line of Colorado Blvd. (Weld County Road 13), also being the Easterly Line of FIRESTONE NORTH ANNEXATION, an annexation to the Town of Firestone recorded January 16, 2015, as Reception No. 4076118 of the records of Weld County, Colorado, and the POINT OF BEGINNING;

Thence N00°07'56"E, 1439.33 feet along the Easterly Right-of way Line of said Colorado Blvd. (Weld County Road 13) and along the Easterly Line of said FIRESTONE NORTH ANNEXATION to the Northerly Line of said Lot B;

Thence S88°57'49"E, 1063.26 feet along the Northerly Line of said Lot B to the Northeasterly Corner thereof;

Thence S00°15'26"W, 107.00 feet along the Easterly Line of said Lot B to an angle point thereof;

Thence N88°57'49"W, 36.00 feet along the Easterly Line of said Lot B to an angle point thereof;

Thence S00°15'26"W, 744.44 feet along the Easterly Line of said Lot B to an angle point thereof;

Thence S88°57'49"E, 261.00 feet along the Easterly Line of said Lot B to an angle point thereof;

Thence S00°15'26"W, 575.79 feet along the Easterly Line of said Lot B to the Northerly Right-of-way Line of said Zinnia Avenue (Weld County Road 26);

Thence N89°30'04"W, 1285.01 feet along the Northerly Right-of-way Line of said Zinnia Avenue (Weld County Road 26) and along the Northerly Line of said BROOKS FARM FIRST & SECOND ADDITIONS to the Easterly Right-of-way Line of said Colorado Blvd. (Weld County Road 13) and the POINT OF BEGINNING.

Area = 37.320 acres, more or less.

ANNEXATION MAP

GOULD ANNEXATION

TOWN OF FIRESTONE
COUNTY OF WELD,
STATE OF COLORADO.

SHEET 1 OF 2

LEGAL DESCRIPTION

KNOW ALL MEN BY THESE PRESENTS, THAT TOWN OF FIRESTONE, COLORADO, BEING THE SOLE OWNER AND PROPRIETOR OF THE FOLLOWING DESCRIBED LAND, TO WIT:

A PART OF LOT B OF RECORDED EXEMPTION 1209-31-3-RE 2340, AN RECORDED EXEMPTION RECORDED DECEMBER 21, 1998, AS RECEPTION NO. 2661939 OF THE RECORDS OF WELD COUNTY, COLORADO, AND SUBDIVISION EXEMPTION SE-734, A SUBDIVISION EXEMPTION RECORDED DECEMBER 21, 1998, AS RECEPTION NO. 2661938 OF THE RECORDS OF WELD COUNTY, COLORADO, ALL LOCATED IN THE SW1/4 OF SECTION 31, T3N, R67W OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 31, FROM WHICH THE E1/4 CORNER OF SAID SECTION 31 BEARS N00°07'56"E, 2651.27 FEET (BASIS OF BEARING), THENCE N00°07'56"E, 30.00 FEET ALONG THE WEST LINE OF THE SW1/4 OF SAID SECTION 31 TO THE NORTHERLY RIGHT-OF-WAY LINE EXTENDED WESTERLY OF ZINNIA AVENUE (WELD COUNTY ROAD 26), ACCORDING TO BROOKS FARM FIRST & SECOND ADDITIONS, AN ANNEXATION TO THE TOWN OF FIRESTONE RECORDED JUNE 15, 2001, AS RECEPTION NO. 2857771 OF THE RECORDS OF WELD COUNTY, COLORADO; THENCE S89°30'04"E, 30.00 FEET ALONG THE NORTHERLY RIGHT-OF-WAY LINE EXTENDED WESTERLY OF SAID ZINNIA AVENUE (WELD COUNTY ROAD 26) TO THE EASTERLY RIGHT-OF-WAY LINE OF COLORADO BLVD. (WELD COUNTY ROAD 13), ALSO BEING THE EASTERLY LINE OF FIRESTONE NORTH ANNEXATION, AN ANNEXATION TO THE TOWN OF FIRESTONE RECORDED JANUARY 16, 2015, AS RECEPTION NO. 4076118 OF THE RECORDS OF WELD COUNTY, COLORADO, AND THE POINT OF BEGINNING;

THENCE N00°07'56"E, 1439.33 FEET ALONG THE EASTERLY RIGHT-OF-WAY LINE OF SAID COLORADO BLVD. (WELD COUNTY ROAD 13) AND ALONG THE EASTERLY LINE OF SAID FIRESTONE NORTH ANNEXATION TO THE NORTHERLY LINE OF SAID LOT B;

THENCE S88°57'49"E, 1063.26 FEET ALONG THE NORTHERLY LINE OF SAID LOT B TO THE NORTHEASTERLY CORNER THEREOF;

THENCE S00°15'26"W, 107.00 FEET ALONG THE EASTERLY LINE OF SAID LOT B TO AN ANGLE POINT THEREOF;

THENCE N88°57'49"W, 36.00 FEET ALONG THE EASTERLY LINE OF SAID LOT B TO AN ANGLE POINT THEREOF;

THENCE S00°15'26"W, 744.44 FEET ALONG THE EASTERLY LINE OF SAID LOT B TO AN ANGLE POINT THEREOF;

THENCE S88°57'49"E, 261.00 FEET ALONG THE EASTERLY LINE OF SAID LOT B TO AN ANGLE POINT THEREOF;

THENCE S00°15'26"W, 575.79 FEET ALONG THE EASTERLY LINE OF SAID LOT B TO THE NORTHERLY RIGHT-OF-WAY LINE OF SAID ZINNIA AVENUE (WELD COUNTY ROAD 26);

THENCE N89°30'04"W, 1285.01 FEET ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF SAID ZINNIA AVENUE (WELD COUNTY ROAD 26) AND ALONG THE NORTHERLY LINE OF SAID BROOKS FARM FIRST & SECOND ADDITIONS TO THE EASTERLY RIGHT-OF-WAY LINE OF SAID COLORADO BLVD. (WELD COUNTY ROAD 13) AND THE POINT OF BEGINNING.

AREA = 37.320 ACRES, MORE OR LESS.

HAVE CAUSED THE ABOVE DESCRIBED TRACT OF LAND TO BE ANNEXED UNDER THE NAME "GOULD ANNEXATION".

TOWN OF FIRESTONE

BY: _____
MAYOR

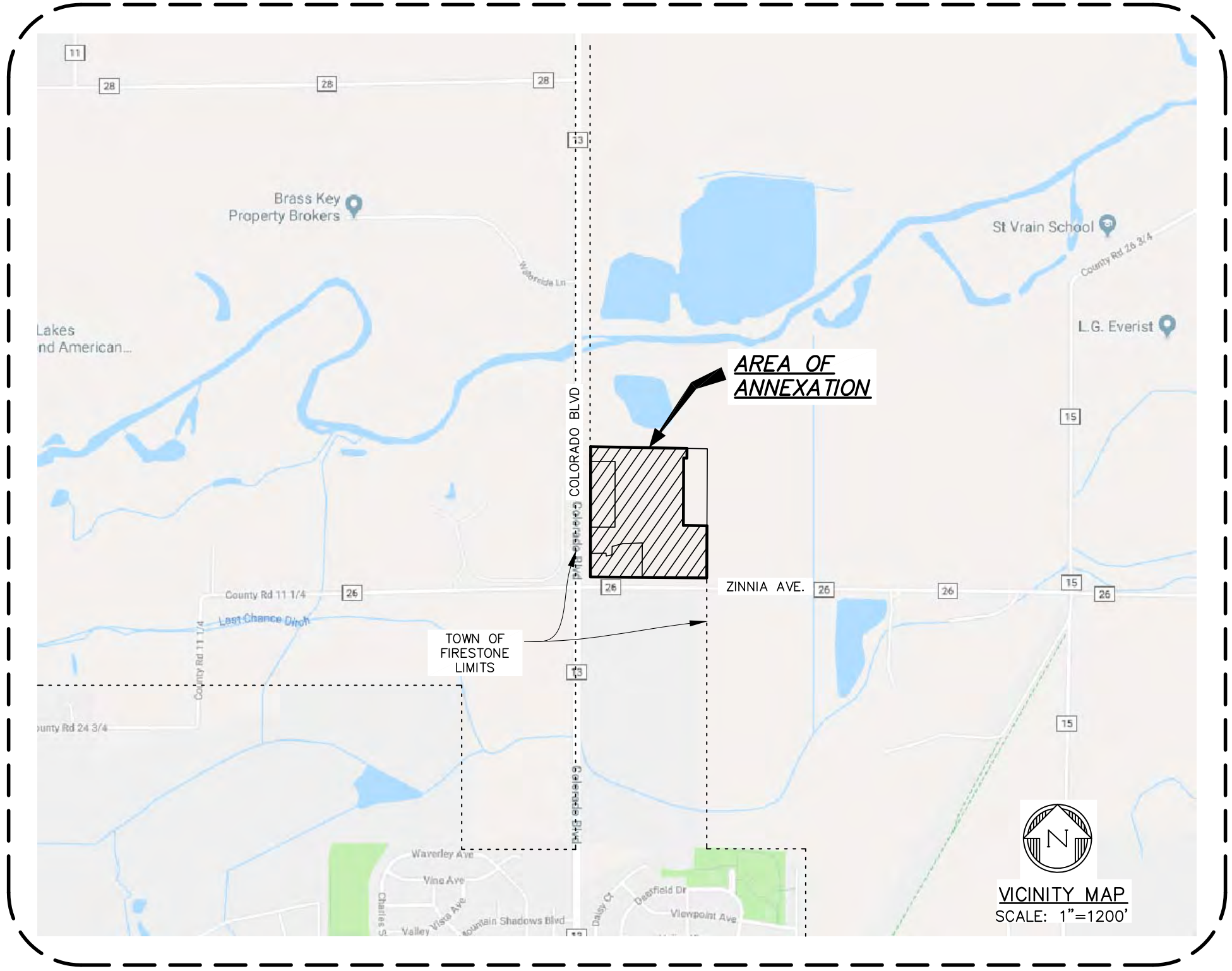
STATE OF COLORADO)
COUNTY OF WELD) SS

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS _____ DAY
OF _____ A.D., 2018, BY _____ AS
_____ FOR TOWN OF FIRESTONE, COLORADO.

WITNESS MY HAND AND OFFICIAL SEAL

NOTARY PUBLIC

MY COMMISSION EXPIRES



NOTES

1. BEARINGS SHOWN ON THIS MAP ARE BASED ON THE ASSUMPTION THAT THE WEST LINE OF THE SW1/4 OF SECTION 31, T3N, R67W OF THE 6TH P.M. BEARS N00°07'56"E AS MONUMENTED AND SHOWN HEREON.
2. THIS MAP WAS PREPARED EXCLUSIVELY FOR ANNEXATION PURPOSES AND IS NOT A LAND SURVEY PLAT ACCORDING TO COLORADO STATUTES.
3. RECORDED EASEMENTS AND RIGHTS-OF-WAY, IF ANY, ARE SHOWN ON THIS PLAT AS DISCLOSED IN LAND TITLE GUARANTEE COMPANY COMMITMENT NO. FC25150501, EFFECTIVE DATE JUNE 16, 2017. NO ADDITIONAL RESEARCH WAS COMPLETED.
4. NO APPARENT EASEMENTS AND RIGHTS-OF-WAY ARE SHOWN ON THIS MAP. NO ADDITIONAL RESEARCH WAS COMPLETED.
5. THAT INSTRUMENT RECORDED APRIL 22, 1907, IN BOOK 258 AT PAGE 195, DESCRIBES A 100-FOOT RAILROAD RIGHT-OF-WAY THAT PURPORTS TO CROSS THE SW1/4 OF SECTION 31. THE RIGHT-OF-WAY IS 50 FEET ON EACH SIDE OF THE PROPOSED RAILWAY TRACK "AS NOW LOCATED". THERE IS NO EVIDENCE OF A RAILROAD EXISTING OVER THE SUBJECT PARCEL BASED ON AN EXAMINATION OF RECENT AERIAL PHOTOGRAPHS AND THEREFORE IS NOT SHOWN ON THIS MAP. THERE IS A REVERSION CLAUSE FOR NON-USE FOR FIVE YEARS.
6. THAT COMMUNICATIONS EASEMENT GRANTED TO AMERICAN TELEPHONE AND TELEGRAPH COMPANY AS DESCRIBED IN INSTRUMENT RECORDED DECEMBER 24, 1927, IN BOOK 833 AT PAGE 438 IS NOT MATHEMATICALLY DEFINED AND THEREFORE IS NOT SHOWN ON THIS MAP.
7. THAT COMMUNICATIONS EASEMENT GRANTED TO AMERICAN TELEPHONE AND TELEGRAPH COMPANY AS DESCRIBED IN INSTRUMENT RECORDED JANUARY 18, 1950, IN BOOK 1261 AT PAGE 61 IS NOT MATHEMATICALLY DEFINED AND THEREFORE IS NOT SHOWN ON THIS MAP.
8. THAT 30' PETROLEUM PIPELINE EASEMENT GRANTED TO SNYDER OIL CORPORATION IN INSTRUMENT RECORDED FEBRUARY 27, 1995, AS RECEPTION NO. 2428069 IS NOT MATHEMATICALLY DEFINED AND THEREFORE IS NOT SHOWN IN THIS MAP. IT GENERALLY RUNS NEAR THE EAST LINE AND THE NORTH LINE OF THE SW1/4 OF THE SW1/4 OF SECTION 31 TO A TANK BATTERY.
9. ACCORDING TO THE FIRM FLOOD INSURANCE RATE MAP, MAP NUMBERS 08123C1890E AND 08123C1895E, EFFECTIVE DATES JANUARY 20, 2016, PANELS 1890 AND 1895 OF 2250, WELD COUNTY, COLORADO AND INCORPORATED AREAS, THE SUBJECT PROPERTY LIES WITHIN: (1) ZONE AE OF SPECIAL FLOOD HAZARD AREAS (SFHAS) SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD (100-YEAR FLOOD) - BASE FLOOD ELEVATION DETERMINED; AND (2) ZONE X OF OTHER AREAS - AREAS DETERMINED TO BE OUTSIDE THE 2% ANNUAL CHANCE FLOODPLAIN.
10. LINEAR UNITS SHOWN ON THIS MAP ARE U.S. SURVEY FEET.
11. LEGAL DESCRIPTION PREPARED BY FRANK N. DREXEL, 1500 KANSAS AVE., SUITE 2-E, LONGMONT, COLORADO, 80501 (CRS 38-35-106.5).

THE POSITION OF ANY AREA DESIGNATED ON THE FIRM MAP RELATIVE TO THE SUBJECT PROPERTY, AS MAY BE NOTED OR SHOWN ON THIS MAP, IS BASED ON GRAPHICALLY SPOTTING OR SCALING THE BOUNDARIES OF THE SUBJECT PROPERTY RELATIVE TO IDENTIFIABLE FEATURES, SUCH AS ROADS, DRAINAGES, OR REFERENCED SECTION LINES, AND MAY NOT BE ACCURATE. CLIENT IS RESPONSIBLE FOR VERIFYING ALL FLOOD MATTERS.

APPLICANT/DEVELOPER/OWNER

TOWN OF FIRESTONE
151 GRANT AVENUE,
P.O. BOX 100
FIRESTONE, CO 80520-0100
(970) 278-0029 (X 108)
ATTN: DAVE LINDSAY, PE

TECHNICAL CONSULTANTS

CIVILARTS
1500 KANSAS AVE., SUITE 2-E
LONGMONT, CO 80501
(303) 682-1131
ATTN: FRANK N. DREXEL, PLS
fdrexel@civilarts.us

DATE OF PREPARATION

JANUARY 19, 2018

DATE OF REVISION

MARCH 23, 2018
JUNE 12, 2018
SEPTEMBER 11, 2018

CONTIGUITY

TOTAL PERIMETER OF AREA TO BE ANNEXED 5511.83 FEET
CONTIGUITY WITH EXISTING TOWN LIMITS 2724.34 FEET
MINIMUM ALLOWABLE CONTIGUITY (1/6 TOTAL PERIMETER) 918.64 FEET
CONTIGUITY EXCEEDING 1/6 MINIMUM REQUIREMENT. 1805.70 FEET
AREA OF ANNEXATION 37.320 ACRES

TOWN APPROVAL

THIS IS TO CERTIFY THAT "GOULD ANNEXATION" WAS APPROVED ON THE _____ DAY OF _____, 20____, BY ORDINANCE NO. _____ AND THAT THE MAYOR OF THE TOWN OF FIRESTONE ON BEHALF OF THE TOWN OF FIRESTONE, HEREBY ACKNOWLEDGES SAID ANNEXATION UPON WHICH THIS CERTIFICATE IS ENDORSED FOR ALL PURPOSES INDICATED THEREON.

MAYOR _____ ATTEST: TOWN CLERK _____

CERTIFICATION DEFINED

THE USE OF THE WORDS "CERTIFY" AND/OR "CERTIFICATION" BY A REGISTERED PROFESSIONAL LAND SURVEYOR CONSTITUTES AN EXPRESSION OF PROFESSIONAL OPINION REGARDING THE FACTS AND FINDINGS WHICH ARE THE SUBJECT OF THE CERTIFICATION; WAS PERFORMED BY OR UNDER THE REGISTERED PROFESSIONAL LAND SURVEYOR IN RESPONSIBLE CHARGE; IS BASED ON THE PROFESSIONAL LAND SURVEYOR'S KNOWLEDGE, INFORMATION, AND BELIEF; IS IN ACCORDANCE WITH APPLICABLE STANDARDS OF PRACTICE; AND DOES NOT CONSTITUTE A GUARANTY OR WARRANTY, EITHER EXPRESSED OR IMPLIED (RULE 6.2.2 OF THE BYLAWS AND RULES OF THE STATE BOARD OF LICENSURE FOR ARCHITECTS, PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS)

NOTICE

ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVERED SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.

SURVEYOR'S CERTIFICATE

I, FRANK N. DREXEL, A DULY REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, THAT AT LEAST ONE-SIXTH (1/6) OF THE PERIPHERAL BOUNDARY OF THE PARCELS SHOWN HEREON IS CONTIGUOUS THE PRESENT BOUNDARY OF THE CITY OF LAFAYETTE, AND THAT THIS PLAT COMPLIES WITH SECTION 31-12-107(d), COLORADO REVISED STATUTES, CONCERNING ANNEXATION PLATS.



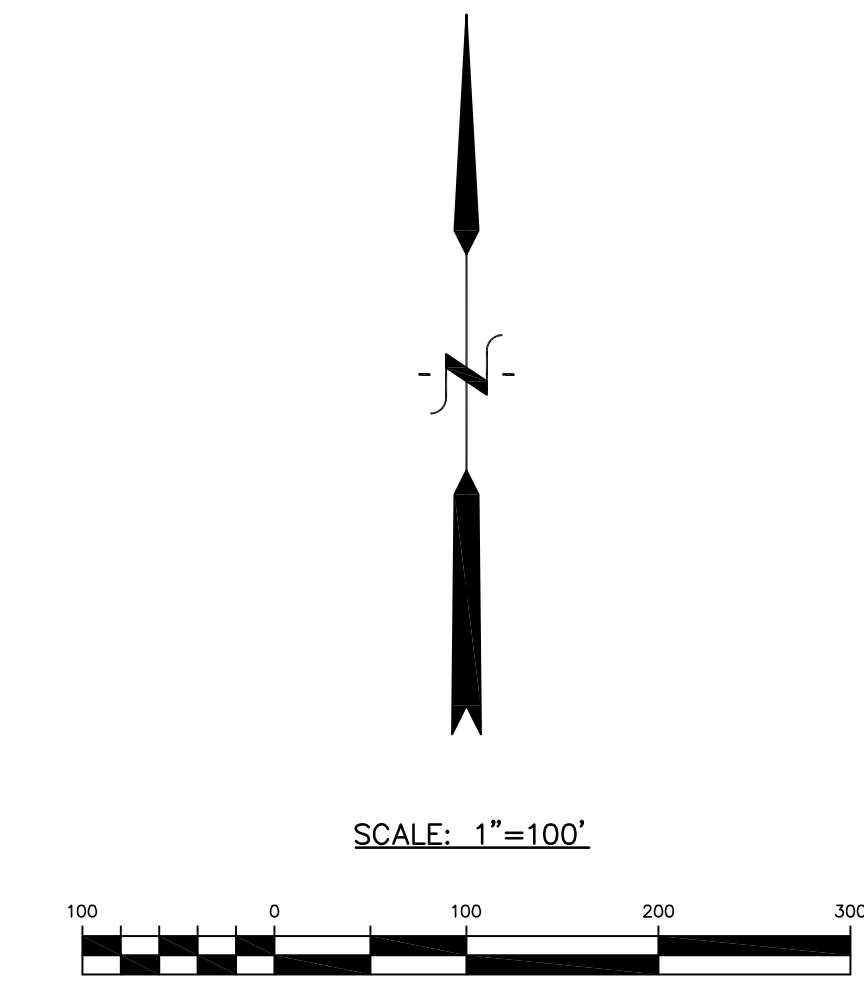
GOULD ANNEXATION ANNEXATION MAP	
NAME OF SUBMITTAL:	GOULD ANNEXATION
TYPE OF SUBMITTAL:	ANNEXATION
FILING NUMBER:	
PHASE NUMBER:	
SHEET TITLE:	GOULD ANNEXATION
PREPARATION DATE:	JANUARY 19, 2018
REVISION DATE:	MARCH 23, 2018
REVISION DATE:	JUNE 12, 2018
REVISION DATE:	SEPTEMBER 11, 2018
REVISION DATE:	

SHEET 1 OF 2

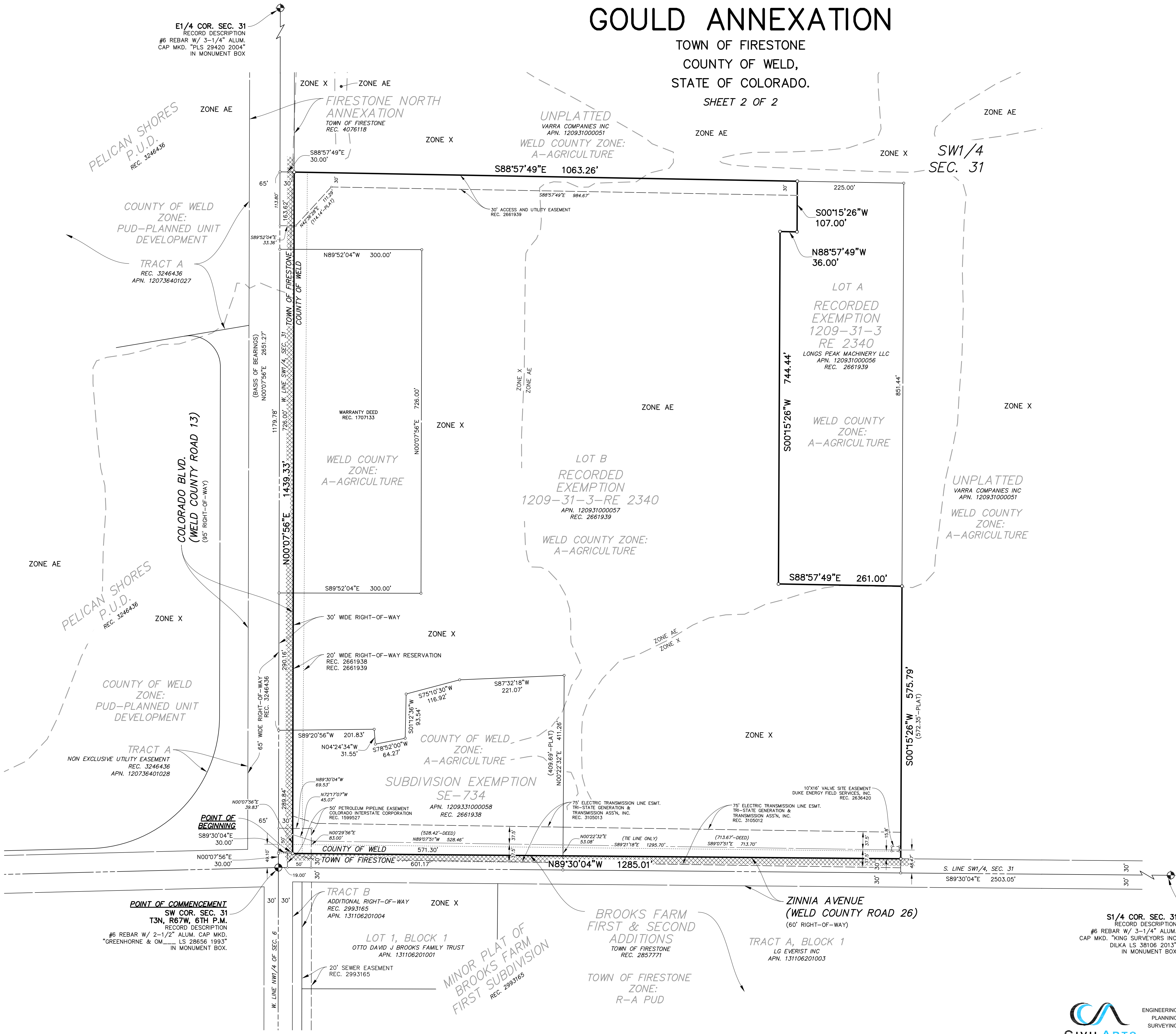


ENGINEERING PLANNING SURVEYING
1500 Kansas Ave., Suite 2-E
Longmont, CO 80501
P 303.682.1131
F 303.682.1149

ANNEXATION MAP
GOULD ANNEXATION
TOWN OF FIRESTONE
COUNTY OF WELD,
STATE OF COLORADO.
SHEET 2 OF 2



LEGEND	
MISC.	
AC	ACRES
ALUM	ALUMINUM
APN	ASSESSOR PARCEL NUMBER
COR	CORNER
ESMT	EASEMENT
MKD	MARKED
±	MORE OR LESS
PG	PAGE
REC	RECEPTION NO.
ROW	RIGHT-OF-WAY
SF	SQUARE FEET
ZONE AE	FIRM FLOOD ZONE AE
ZONE X	FIRM FLOOD ZONE X (OTHER AREAS)
FEATURES	
	ANNEXATION CORNER
	TOWN OF FIRESTONE CORPORATE BOUNDARY



GOULD ANNEXATION ANNEXATION MAP	
NAME OF SUBMITTAL:	GOULD ANNEXATION
TYPE OF SUBMITTAL:	ANNEXATION
FILING NUMBER:	
PHASE NUMBER:	
SHEET TITLE:	GOULD ANNEXATION
PREPARATION DATE:	JANUARY 19, 2018
REVISION DATE:	MARCH 23, 2018
REVISION DATE:	JUNE 12, 2018
REVISION DATE:	SEPTEMBER 11, 2018
REVISION DATE:	



Staff Report

Firestone Gould Annexation

Annexation

**Prepared by the
Town of Firestone for the
Board of Trustees**

December 12, 2018

Applications

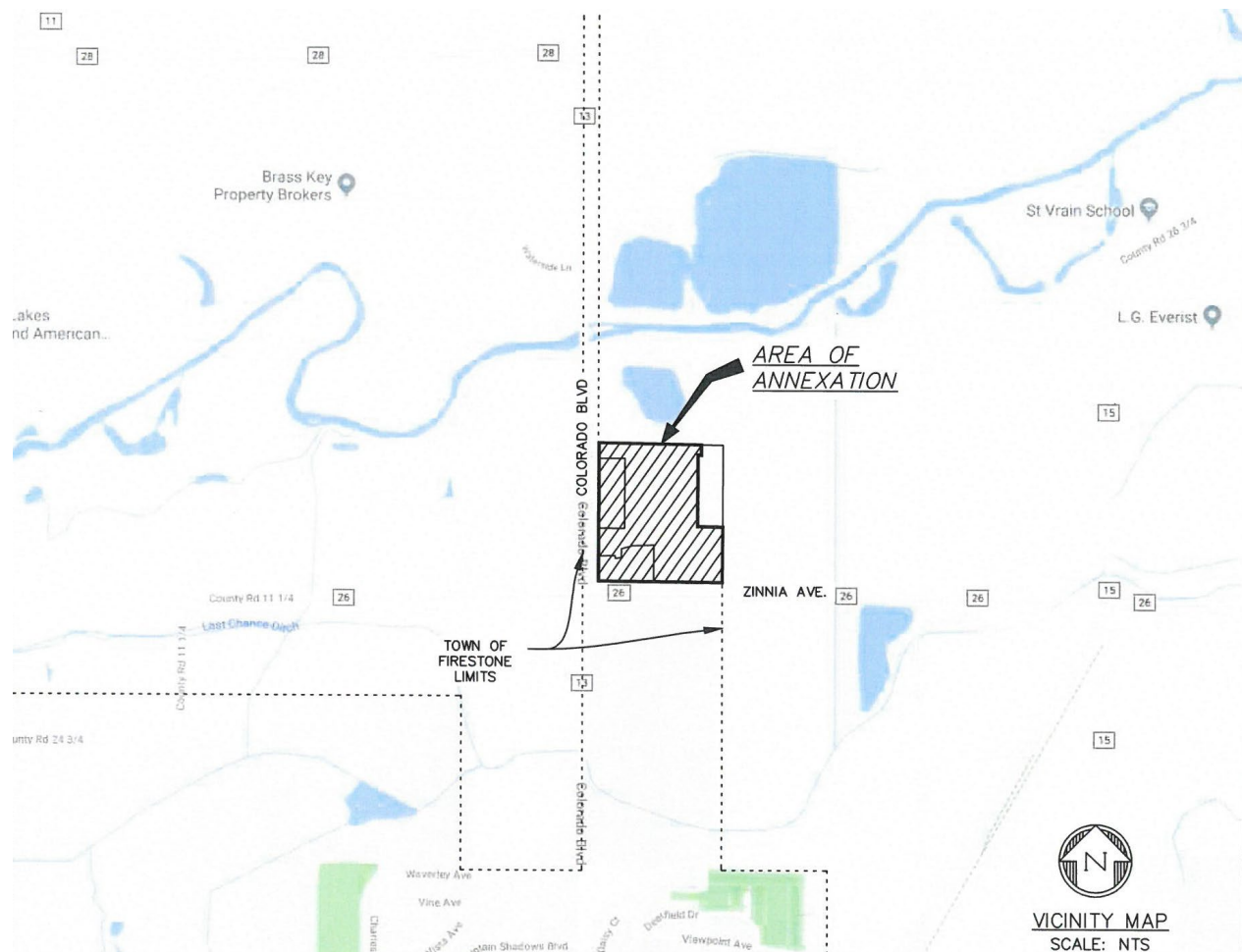
This staff report is for the property known as the Firestone Gould Annexation. The applicant for this submittal is the Town of Firestone.

Notice

Pursuant to the Town Code and Development Regulations, proper notification of the public hearings was published. Proof of notification to owners of interest and surrounding property owners and a property posting log will be provided by the applicant prior to the hearings.

Location and Process

The approximate location of the Firestone Gould Annexation property is north of Zinnia Avenue and east of Colorado Boulevard. This property is currently zoned Weld County A-Agricultural. The zoning requested by the applicant is Planned Unit Development with Employment Center (EC) land uses. The applicant is also requesting approval of an Outline Development Plan for the property.



Site Analysis

The area to be annexed is approximately 37.32 acres and is comprised of vacant land with two vacant properties and numerous agricultural out buildings. The property is generally flat and would be appropriate for the proposed zoning requested.

Gould Annexation
Annexation
Staff Report

Plan Analysis

The applicant acquired the property in 2017, and has planned to date, to include on the property a public utility facility. The property was a working farm and used for single family residences as well as agricultural activities with related accessory uses. The land uses proposed are generally consistent with the Firestone Development Regulations.

Board of Trustees Conditions and Standards for Approval

The Board of Trustees may approve an annexation application if it meets the intent of these Regulations, complies with Town Code and C.R.S. 31-12-101, et seq.

Board of Trustees Action

The Board of Trustees has the following options relative to the action on applications in general. As necessary additional information relative to continuances, etc. can be provided by the Town Attorney.

- A. Make a decision and vote on the application, using the draft resolution previously prepared, as may be amended during the hearing; or
 - B. Make a decision and vote on the application, but request the Town Attorney to prepare findings of fact and conclusions for approval and adoption at the next regular meeting; or
 - C. Defer a decision and direct the Town Attorney to prepare findings of fact and conclusions to be submitted to the Board of Trustees at its next regular meeting, with final deliberation, decision and adoption of the findings of fact and conclusion at that meeting; or
 - D. Defer a decision until a date certain, as is mutually agreed upon by the Applicant and the Board of Trustees, by which time the record and all evidence can be reviewed. At that time the Board of Trustees can either adopt findings of fact and conclusions or direct the Town Attorney to prepare findings of fact and conclusions for adoption at the next regular meeting after the meeting to which the matter has been deferred.
-

RECOMMENDATION

The Town staff recommends the Board of Trustees approve the Gould Annexation into the Town of Firestone by approving Ordinance 947.

ORDINANCE NO. 947

**AN ORDINANCE APPROVING AN ANNEXATION KNOWN AS THE
GOULD ANNEXATION TO THE TOWN OF FIRESTONE, COLORADO**

WHEREAS, a petition for annexation of certain unincorporated, Town-owned property, to be known as the Gould Annexation and described in Exhibit A attached hereto, has been filed with the Board of Trustees of the Town of Firestone; and

WHEREAS, pursuant to C.R.S. §§ 31-12-108 to -110, the Board of Trustees on December 12, 2018, held a duly-noticed public hearing to consider the proposed annexation; and

WHEREAS, notice of the hearing was published November 1, 8, 15, and 22, 2018, in the Daily Times-Call; and

WHEREAS, the Board of Trustees, by resolution, has determined that the petition is in substantial compliance with the applicable laws of the State of Colorado, that the area proposed to be annexed is eligible for annexation in accordance with the applicable laws of the State of Colorado, that an election is not required, and further found that no additional terms and conditions are to be imposed upon said annexation.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO:

Section 1. The annexation to the Town of Firestone of the property described in Exhibit A, attached hereto and incorporated herein by this reference, and known as the Gould Annexation, is hereby approved and such property is made a part of and annexed to the Town of Firestone.

INTRODUCED, READ, ADOPTED, APPROVED AND ORDERED PUBLISHED IN FULL this 12th day of December, 2018.

TOWN OF FIRESTONE, COLORADO

Bobbi Sindelar, Mayor

ATTEST:

Leah Vanarsdall, Town Clerk

EXHIBIT A - LEGAL DESCRIPTION

Gould Annexation

A part of Lot B of Recorded Exemption 1209-31-3-RE 2340, an recorded exemption recorded December 21, 1998, as Reception No. 2661939 of the records of Weld County, Colorado, and Subdivision Exemption SE-734, a subdivision exemption recorded December 21, 1998, as Reception No. 2661938 of the records of Weld County, Colorado, all located in the SW1/4 of Section 31, T3N, R67W of the 6th P.M., County of Weld, State of Colorado, described as follows:

COMMENCING at the Southwest Corner of said Section 31, from which the E1/4 Corner of said Section 31 bears N00°07'56"E, 2651.27 feet (Basis of Bearing), thence N00°07'56"E, 30.00 feet along the West Line of the SW1/4 of said Section 31 to the Northerly Right-of-way Line extended Westerly of Zinnia Avenue (Weld County Road 26), according to BROOKS FARM FIRST & SECOND ADDITIONS, an annexation to the Town of Firestone recorded June 15, 2001, as Reception No. 2857771 of the records of Weld County, Colorado; Thence S89°30'04"E, 30.00 feet along the Northerly Right-of-way Line extended Westerly of said Zinnia Avenue (Weld County Road 26) to the Easterly Right-of-way Line of Colorado Blvd. (Weld County Road 13), also being the Easterly Line of FIRESTONE NORTH ANNEXATION, an annexation to the Town of Firestone recorded January 16, 2015, as Reception No. 4076118 of the records of Weld County, Colorado, and the POINT OF BEGINNING;

Thence N00°07'56"E, 1439.33 feet along the Easterly Right-of way Line of said Colorado Blvd. (Weld County Road 13) and along the Easterly Line of said FIRESTONE NORTH ANNEXATION to the Northerly Line of said Lot B;

Thence S88°57'49"E, 1063.26 feet along the Northerly Line of said Lot B to the Northeasterly Corner thereof;

Thence S00°15'26"W, 107.00 feet along the Easterly Line of said Lot B to an angle point thereof;

Thence N88°57'49"W, 36.00 feet along the Easterly Line of said Lot B to an angle point thereof;

Thence S00°15'26"W, 744.44 feet along the Easterly Line of said Lot B to an angle point thereof;

Thence S88°57'49"E, 261.00 feet along the Easterly Line of said Lot B to an angle point thereof;

Thence S00°15'26"W, 575.79 feet along the Easterly Line of said Lot B to the Northerly Right-of-way Line of said Zinnia Avenue (Weld County Road 26);

Thence N89°30'04"W, 1285.01 feet along the Northerly Right-of-way Line of said Zinnia Avenue (Weld County Road 26) and along the Northerly Line of said BROOKS FARM FIRST & SECOND ADDITIONS to the Easterly Right-of-way Line of said Colorado Blvd. (Weld County Road 13) and the POINT OF BEGINNING.

Area = 37.320 acres, more or less.

ANNEXATION MAP

GOULD ANNEXATION

TOWN OF FIRESTONE

COUNTY OF WELD,

STATE OF COLORADO.

SHEET 1 OF 2

LEGAL DESCRIPTION

KNOW ALL MEN BY THESE PRESENTS, THAT TOWN OF FIRESTONE, COLORADO, BEING THE SOLE OWNER AND PROPRIETOR OF THE FOLLOWING DESCRIBED LAND, TO WIT:

A PART OF LOT B OF RECORDED EXEMPTION 1209-31-3-RE 2340, AN RECORDED EXEMPTION RECORDED DECEMBER 21, 1998, AS RECEPTION NO. 2661939 OF THE RECORDS OF WELD COUNTY, COLORADO, AND SUBDIVISION EXEMPTION SE-734, A SUBDIVISION EXEMPTION RECORDED DECEMBER 21, 1998, AS RECEPTION NO. 2661938 OF THE RECORDS OF WELD COUNTY, COLORADO, ALL LOCATED IN THE SW1/4 OF SECTION 31, T3N, R67W OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 31, FROM WHICH THE E1/4 CORNER OF SAID SECTION 31 BEARS N00°07'56"E, 2651.27 FEET (BASIS OF BEARING), THENCE N00°07'56"E, 30.00 FEET ALONG THE WEST LINE OF THE SW1/4 OF SAID SECTION 31 TO THE NORTHERLY RIGHT-OF-WAY LINE EXTENDED WESTERLY OF ZINNIA AVENUE (WELD COUNTY ROAD 26), ACCORDING TO BROOKS FARM FIRST & SECOND ADDITIONS, AN ANNEXATION TO THE TOWN OF FIRESTONE RECORDED JUNE 15, 2001, AS RECEPTION NO. 2857771 OF THE RECORDS OF WELD COUNTY, COLORADO; THENCE S89°30'04"E, 30.00 FEET ALONG THE NORTHERLY RIGHT-OF-WAY LINE EXTENDED WESTERLY OF SAID ZINNIA AVENUE (WELD COUNTY ROAD 26) TO THE EASTERLY RIGHT-OF-WAY LINE OF COLORADO BLVD. (WELD COUNTY ROAD 13), ALSO BEING THE EASTERLY LINE OF FIRESTONE NORTH ANNEXATION, AN ANNEXATION TO THE TOWN OF FIRESTONE RECORDED JANUARY 16, 2015, AS RECEPTION NO. 4076118 OF THE RECORDS OF WELD COUNTY, COLORADO, AND THE POINT OF BEGINNING;

THENCE N00°07'56"E, 1439.33 FEET ALONG THE EASTERLY RIGHT-OF WAY LINE OF SAID COLORADO BLVD. (WELD COUNTY ROAD 13) AND ALONG THE EASTERLY LINE OF SAID FIRESTONE NORTH ANNEXATION TO THE NORTHERLY LINE OF SAID LOT B;

THENCE S88°57'49"E, 1063.26 FEET ALONG THE NORTHERLY LINE OF SAID LOT B TO THE NORTHEASTERLY CORNER THEREOF;

THENCE S00°15'26"W, 107.00 FEET ALONG THE EASTERLY LINE OF SAID LOT B TO AN ANGLE POINT THEREOF;

THENCE N88°57'49"W, 36.00 FEET ALONG THE EASTERLY LINE OF SAID LOT B TO AN ANGLE POINT THEREOF;

THENCE S00°15'26"W, 744.44 FEET ALONG THE EASTERLY LINE OF SAID LOT B TO AN ANGLE POINT THEREOF;

THENCE S88°57'49"E, 261.00 FEET ALONG THE EASTERLY LINE OF SAID LOT B TO AN ANGLE POINT THEREOF;

THENCE S00°15'26"W, 575.79 FEET ALONG THE EASTERLY LINE OF SAID LOT B TO THE NORTHERLY RIGHT-OF-WAY LINE OF SAID ZINNIA AVENUE (WELD COUNTY ROAD 26);

THENCE N89°30'04"W, 1285.01 FEET ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF SAID ZINNIA AVENUE (WELD COUNTY ROAD 26) AND ALONG THE NORTHERLY LINE OF SAID BROOKS FARM FIRST & SECOND ADDITIONS TO THE EASTERLY RIGHT-OF-WAY LINE OF SAID COLORADO BLVD. (WELD COUNTY ROAD 13) AND THE POINT OF BEGINNING.

AREA = 37.320 ACRES, MORE OR LESS.

HAVE CAUSED THE ABOVE DESCRIBED TRACT OF LAND TO BE ANNEXED UNDER THE NAME "GOULD ANNEXATION".

TOWN OF FIRESTONE

BY: _____
MAYOR

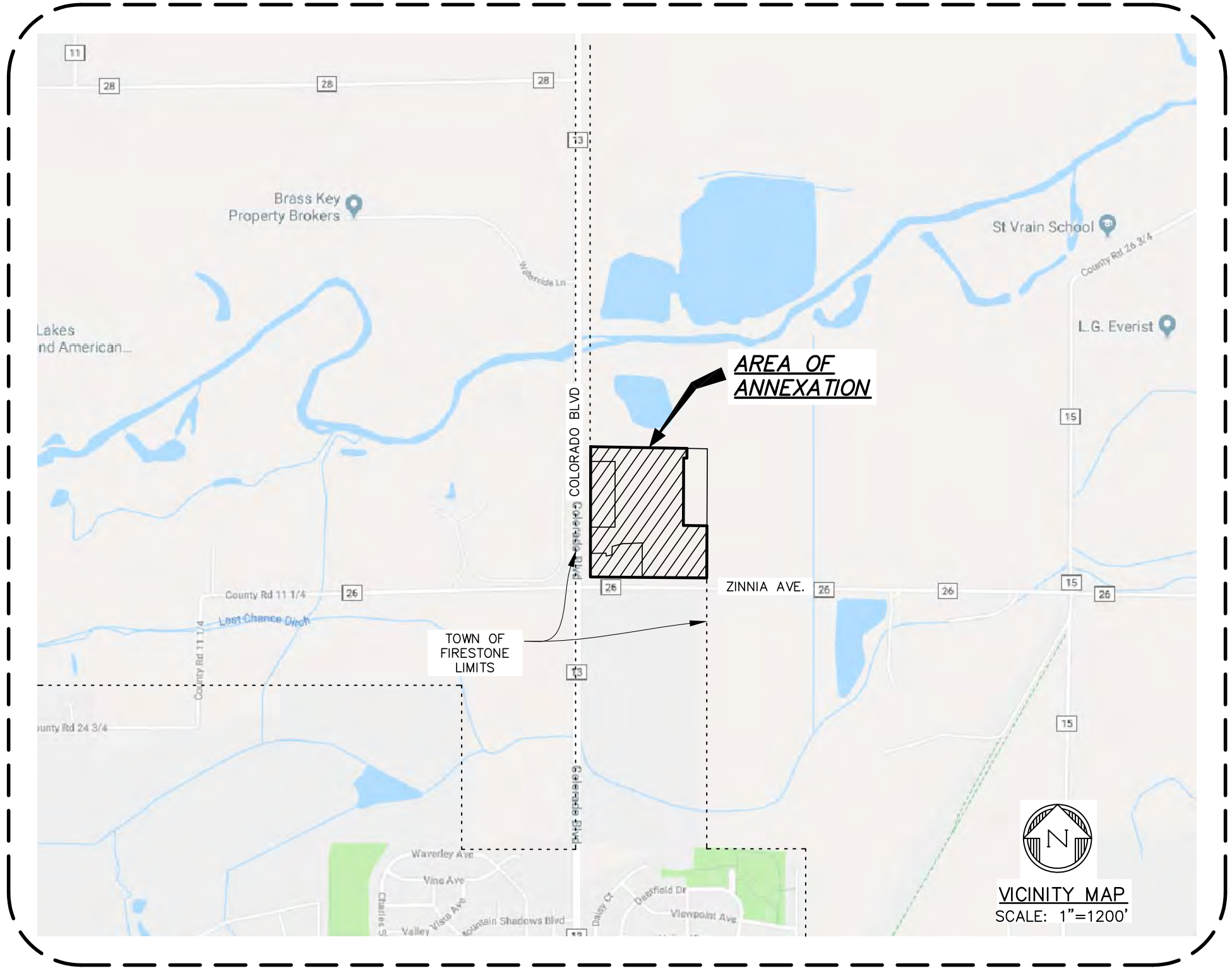
STATE OF COLORADO)
COUNTY OF WELD) SS

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS _____ DAY
OF _____ A.D., 2018, BY _____ AS
_____ FOR TOWN OF FIRESTONE, COLORADO.

WITNESS MY HAND AND OFFICIAL SEAL

NOTARY PUBLIC

MY COMMISSION EXPIRES



NOTES

- BEARINGS SHOWN ON THIS MAP ARE BASED ON THE ASSUMPTION THAT THE WEST LINE OF THE SW1/4 OF SECTION 31, T3N, R67W OF THE 6TH P.M. BEARS N00°07'56"E AS MONUMENTED AND SHOWN HEREON.
- THIS MAP WAS PREPARED EXCLUSIVELY FOR ANNEXATION PURPOSES AND IS NOT A LAND SURVEY PLAT ACCORDING TO COLORADO STATUTES.
- RECORDED EASEMENTS AND RIGHTS-OF-WAY, IF ANY, ARE SHOWN ON THIS PLAT AS DISCLOSED IN LAND TITLE GUARANTEE COMPANY COMMITMENT NO. FC25150501, EFFECTIVE DATE JUNE 16, 2017. NO ADDITIONAL RESEARCH WAS COMPLETED.
- NO APPARENT EASEMENTS AND RIGHTS-OF-WAY ARE SHOWN ON THIS MAP. NO ADDITIONAL RESEARCH WAS COMPLETED.
- THAT INSTRUMENT RECORDED APRIL 22, 1907, IN BOOK 258 AT PAGE 195, DESCRIBES A 100-FOOT RAILROAD RIGHT-OF-WAY THAT PURPORTS TO CROSS THE SW1/4 OF SECTION 31. THE RIGHT-OF-WAY IS 50 FEET ON EACH SIDE OF THE PROPOSED RAILWAY TRACK "AS NOW LOCATED". THERE IS NO EVIDENCE OF A RAILROAD EXISTING OVER THE SUBJECT PARCEL BASED ON AN EXAMINATION OF RECENT AERIAL PHOTOGRAPHS AND THEREFORE IS NOT SHOWN ON THIS MAP. THERE IS A REVERSION CLAUSE FOR NON-USE FOR FIVE YEARS.
- THAT COMMUNICATIONS EASEMENT GRANTED TO AMERICAN TELEPHONE AND TELEGRAPH COMPANY AS DESCRIBED IN INSTRUMENT RECORDED DECEMBER 24, 1927, IN BOOK 833 AT PAGE 438 IS NOT MATHEMATICALLY DEFINED AND THEREFORE IS NOT SHOWN ON THIS MAP.
- THAT COMMUNICATIONS EASEMENT GRANTED TO AMERICAN TELEPHONE AND TELEGRAPH COMPANY AS DESCRIBED IN INSTRUMENT RECORDED JANUARY 18, 1950, IN BOOK 1281 AT PAGE 61 IS NOT MATHEMATICALLY DEFINED AND THEREFORE IS NOT SHOWN ON THIS MAP.
- THAT 30' PETROLEUM PIPELINE EASEMENT GRANTED TO SNYDER OIL CORPORATION IN INSTRUMENT RECORDED FEBRUARY 27, 1995, AS RECEPTION NO. 2428069 IS NOT MATHEMATICALLY DEFINED AND THEREFORE IS NOT SHOWN IN THIS MAP. IT GENERALLY RUNS NEAR THE EAST LINE AND THE NORTH LINE OF THE SW1/4 OF THE SW1/4 OF SECTION 31 TO A TANK BATTERY.
- ACCORDING TO THE FIRM FLOOD INSURANCE RATE MAP, MAP NUMBERS 08123C1890E AND 08123C1895E, EFFECTIVE DATES JANUARY 20, 2016, PANELS 1890 AND 1895 OF 2250, WELD COUNTY, COLORADO AND INCORPORATED AREAS, THE SUBJECT PROPERTY LIES WITHIN: (1) ZONE AE OF SPECIAL FLOOD HAZARD AREAS (SFHAS) SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD (100-YEAR FLOOD) - BASE FLOOD ELEVATION DETERMINED; AND (2) ZONE X OF OTHER AREAS - AREAS DETERMINED TO BE OUTSIDE THE 2% ANNUAL CHANCE FLOODPLAIN.
- THE POSITION OF ANY AREA DESIGNATED ON THE FIRM MAP RELATIVE TO THE SUBJECT PROPERTY, AS MAY BE NOTED OR SHOWN ON THIS MAP, IS BASED ON GRAPHICALLY SPOTTING OR SCALING THE BOUNDARIES OF THE SUBJECT PROPERTY RELATIVE TO IDENTIFIABLE FEATURES, SUCH AS ROADS, DRAINAGES, OR REFERENCED SECTION LINES, AND MAY NOT BE ACCURATE. CLIENT IS RESPONSIBLE FOR VERIFYING ALL FLOOD MATTERS.
- LINEAR UNITS SHOWN ON THIS MAP ARE U.S. SURVEY FEET.
- LEGAL DESCRIPTION PREPARED BY FRANK N. DREXEL, 1500 KANSAS AVE., SUITE 2-E, LONGMONT, COLORADO, 80501 (CRS 38-35-106.5).

APPLICANT/DEVELOPER/OWNER

TOWN OF FIRESTONE
151 GRANT AVENUE,
P.O. BOX 100
FIRESTONE, CO 80520-0100
(970) 278-0029 (X 108)
ATTN: DAVE LINDSAY, PE

TECHNICAL CONSULTANTS

CIVILARTS
1500 KANSAS AVE., SUITE 2-E
LONGMONT, CO 80501
(303) 682-1131
ATTN: FRANK N. DREXEL, PLS
fdrexel@civilarts.us

DATE OF PREPARATION

JANUARY 19, 2018

DATE OF REVISION

MARCH 23, 2018
JUNE 12, 2018
SEPTEMBER 11, 2018

CONTIGUITY

TOTAL PERIMETER OF AREA TO BE ANNEXED 5511.83 FEET
CONTIGUITY WITH EXISTING TOWN LIMITS 2724.34 FEET
MINIMUM ALLOWABLE CONTIGUITY (1/6 TOTAL PERIMETER) 918.64 FEET
CONTIGUITY EXCEEDING 1/6 MINIMUM REQUIREMENT. 1805.70 FEET
AREA OF ANNEXATION 37.320 ACRES

TOWN APPROVAL

THIS IS TO CERTIFY THAT "GOULD ANNEXATION" WAS APPROVED ON THE _____ DAY OF _____, 20____, BY ORDINANCE NO. _____ AND THAT THE MAYOR OF THE TOWN OF FIRESTONE ON BEHALF OF THE TOWN OF FIRESTONE, HEREBY ACKNOWLEDGES SAID ANNEXATION UPON WHICH THIS CERTIFICATE IS ENDORSED FOR ALL PURPOSES INDICATED THEREON.

MAYOR _____ ATTEST: TOWN CLERK _____

CERTIFICATION DEFINED

THE USE OF THE WORDS "CERTIFY" AND/OR "CERTIFICATION" BY A REGISTERED PROFESSIONAL LAND SURVEYOR CONSTITUTES AN EXPRESSION OF PROFESSIONAL OPINION REGARDING THE FACTS AND FINDINGS WHICH ARE THE SUBJECT OF THE CERTIFICATION; WAS PERFORMED BY OR UNDER THE REGISTERED PROFESSIONAL LAND SURVEYOR IN RESPONSIBLE CHARGE; IS BASED ON THE PROFESSIONAL LAND SURVEYOR'S KNOWLEDGE, INFORMATION, AND BELIEF; IS IN ACCORDANCE WITH APPLICABLE STANDARDS OF PRACTICE; AND DOES NOT CONSTITUTE A GUARANTY OR WARRANTY, EITHER EXPRESSED OR IMPLIED (RULE 6.2.2 OF THE BYLAWS AND RULES OF THE STATE BOARD OF LICENSURE FOR ARCHITECTS, PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS)

NOTICE

ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVERED SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.

SURVEYOR'S CERTIFICATE

I, FRANK N. DREXEL, A DULY REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, THAT AT LEAST ONE-SIXTH (1/6) OF THE PERIPHERAL BOUNDARY OF THE PARCELS SHOWN HEREON IS CONTIGUOUS THE PRESENT BOUNDARY OF THE CITY OF LAFAYETTE, AND THAT THIS PLAT COMPLIES WITH SECTION 31-12-107(d), COLORADO REVISED STATUTES, CONCERNING ANNEXATION PLATS.



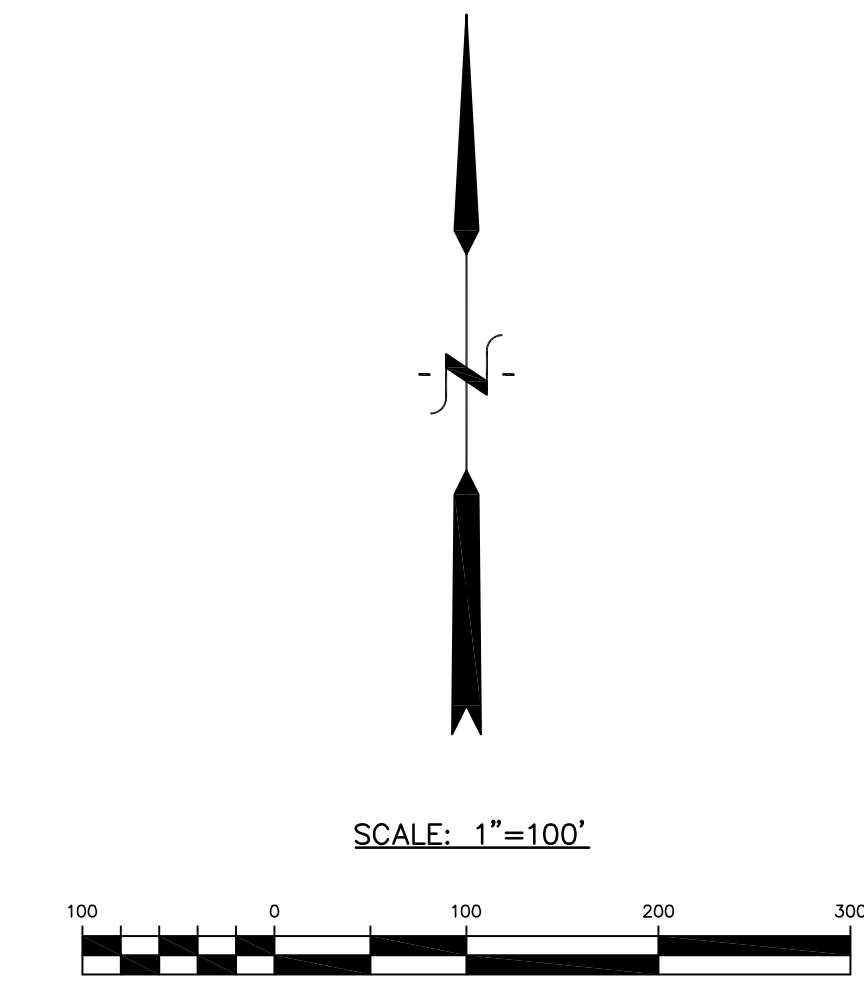
GOULD ANNEXATION ANNEXATION MAP	
NAME OF SUBMITTAL:	GOULD ANNEXATION
TYPE OF SUBMITTAL:	ANNEXATION
FILING NUMBER:	
PHASE NUMBER:	
SHEET TITLE:	GOULD ANNEXATION
PREPARATION DATE:	JANUARY 19, 2018
REVISION DATE:	MARCH 23, 2018
REVISION DATE:	JUNE 12, 2018
REVISION DATE:	SEPTEMBER 11, 2018
REVISION DATE:	

SHEET 1 OF 2

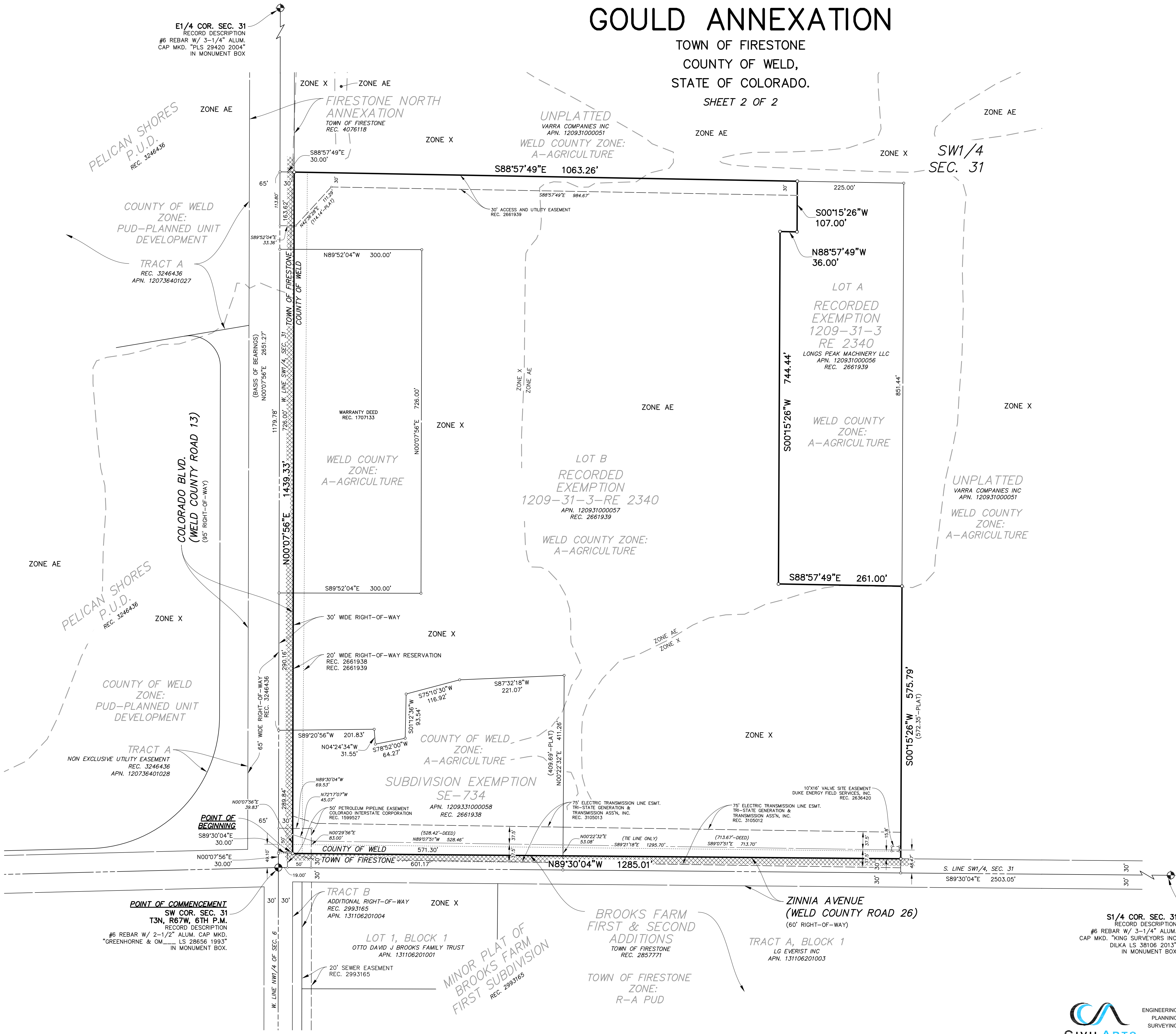


ENGINEERING PLANNING SURVEYING
1500 Kansas Ave., Suite 2-E
Longmont, CO 80501
P 303.682.1131
F 303.682.1149

ANNEXATION MAP
GOULD ANNEXATION
TOWN OF FIRESTONE
COUNTY OF WELD,
STATE OF COLORADO.
SHEET 2 OF 2



LEGEND	
MISC.	
AC	ACRES
ALUM	ALUMINUM
APN	ASSESSOR PARCEL NUMBER
COR	CORNER
ESMT	EASEMENT
MKD	MARKED
±	MORE OR LESS
PG	PAGE
REC	RECEPTION NO.
ROW	RIGHT-OF-WAY
SF	SQUARE FEET
ZONE AE	FIRM FLOOD ZONE AE
ZONE X	FIRM FLOOD ZONE X (OTHER AREAS)
FEATURES	
	ANNEXATION CORNER
	TOWN OF FIRESTONE CORPORATE BOUNDARY



GOULD ANNEXATION ANNEXATION MAP	
NAME OF SUBMITTAL:	GOULD ANNEXATION
TYPE OF SUBMITTAL:	ANNEXATION
FILING NUMBER:	
PHASE NUMBER:	
SHEET TITLE:	GOULD ANNEXATION
PREPARATION DATE:	JANUARY 19, 2018
REVISION DATE:	MARCH 23, 2018
REVISION DATE:	JUNE 12, 2018
REVISION DATE:	SEPTEMBER 11, 2018
REVISION DATE:	



Staff Report

Firestone Gould Annexation

**Zoning
and
Outline Development Plan**

**Prepared by the
Town of Firestone for the
Board of Trustees**

December 12, 2018

Applications

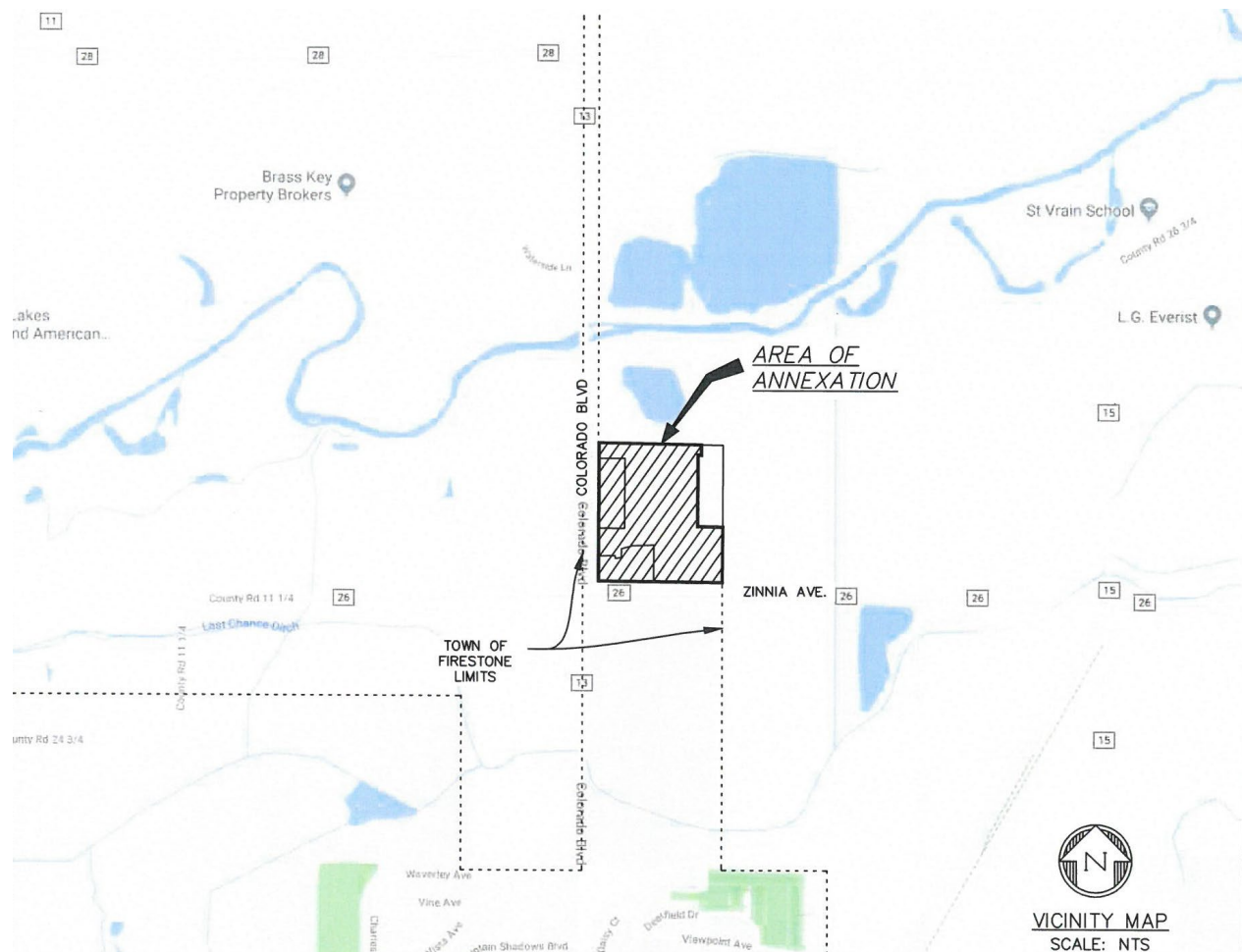
This staff report is for the property known as the Firestone Gould Annexation, Zoning and Outline Development Plan ("ODP"). The applicant for this submittal is the Town of Firestone.

Notice

Pursuant to the Town Code and Development Regulations, proper notification of the public hearings was published. Proof of notification to owners of interest and surrounding property owners and a property posting log will be provided by the applicant prior to the hearings.

Location and Process

The approximate location of the Firestone Gould Annexation property is north of Zinnia Avenue and east of Colorado Boulevard. This property is currently zoned Weld County A-Agricultural. The zoning requested by the applicant is Planned Unit Development with Employment Center (EC) land uses. The applicant is also requesting approval of an Outline Development Plan for the property.



Site Analysis

The area to be annexed is approximately 37.32 acres and is comprised of vacant land with two vacant properties and numerous agricultural out buildings. The property is generally flat and would be appropriate for the proposed zoning requested.

Gould Annexation
Zoning & Outline Development Plan
Staff Report

Plan Analysis

The applicant acquired the property in 2017, and has planned to date, to include on the property a public utility facility. The property was a working farm and used for single family residences as well as agricultural activities with related accessory uses. The land uses proposed are generally consistent with the Firestone Development Regulations.

Planning and Zoning Commission and Board of Trustees Conditions and Standards for Approval

For your general reference, attached are the conditions and standards of approval for a PUD district that are stated in Section 17.22.080 of the Firestone Development Regulations.

Conditions and Standards for Approval

The Planning Commission and the Town Board of Trustees may approve a PUD application if it meets the intent of these Regulations and complies with the Town Code and other controlling regulations and documents, including the development standards specified herein. The Planning Commission and Town Board shall consider the following in making their decision for approval, approval with conditions, or denial of a PUD:

- A. The proposed PUD district is compatible with present development in the surrounding area, and will not have a significant, adverse effect on the surrounding area;
- B. The proposed PUD district is consistent with the public health, safety and welfare, as well as efficiency and economy in the use of land and its resources;
- C. The proposed PUD district is consistent with the overall direction, intent of Titles 16 and 17 of the Town Code, and the intent and policies of the Town's comprehensive plan and other policy documents of the Town;
- D. The proposed PUD district provides for a creative and innovative design which could not otherwise be achieved through other standard zoning districts;
- E. The exceptions from the zoning regulations requested in the proposed PUD are warranted by virtue of innovative design and amenities incorporated in the PUD district;
- F. The PUD provides adequate circulation in terms of internal street circulation system, designed for the type of traffic generated, for separate living areas, convenience, safety, access, and noise and exhaust control. Proper circulation in parking areas shall be provided in terms of safety, convenience, separation and screening. The PUD should provide for buffering from collector and arterial streets through earthen berms, landscaping, and other methods;
- G. The PUD provides functional open space in terms of practical usability and accessibility, and optimum preservation of natural features, including trees and drainage areas, recreation, views, natural stream courses, bodies of water and wetlands;
- H. To the extent practicable, the PUD provides variety in terms of housing types, housing size, densities, facilities and open space;

- I. The PUD provides for pedestrian and bicycle traffic in terms of safety, separation, convenience, access, destination and attractiveness. If possible, there shall be an internal pedestrian circulation system separate from the vehicular system such that allows access to adjacent parcels, parks, open space, or recreational facilities within the PUD as well as links to trail systems of the Town;
- J. Building types in terms of appropriateness to density, site relationship and bulk;
- K. Building design in terms of orientation, spacing, materials, color, texture, storage, signs and lighting;
- L. Landscaping of the site in terms of purpose, such as screening, types and materials used, maintenance suitability, water demands and effect on the area;
- M. Services including utilities, fire, police protection and other such services are available or can be made available to adequately serve the development;
- N. No structures in the PUD shall encroach on a floodplain except as permitted by the Town's floodplain ordinance;
- O. No occupied structure shall be located on ground showing severe subsidence potential without adequate design and study approved by the Town;
- P. Visual relief and variety of visual sitings shall be located within the PUD through building placement, shortened or interrupted street vistas, visual access to open space and other design methods;
- Q. The fiscal impacts on the Town, relative to expected service provision costs and anticipated revenue to the Town;
- R. Compliance with the provisions of any applicable intergovernmental agreements;
- S. The PUD incorporates a lighting plan and facilities to minimize of light drift outside the PUD in an effort to help preserve the night sky;
- T. To the extent reasonably practicable, the PUD shall strive to incorporate "green" building standards and design guidelines for all residential and commercial development in an effort increase energy efficiency and reduce energy consumption;
- U. To the extent reasonably practicable, the PUD shall strive to incorporate renewable energy technologies;
- V. To the extent reasonably practicable, the PUD shall strive to incorporate best management practices in recycling, water conservation, soils preservation and sustainable development practices;
- W. To the extent reasonably practicable, the PUD shall strive to incorporate Infrastructure design that emphasizes technology that will encourage the development of "knowledge workers" and will facilitate telecommuting.

Planning Commission or Board of Trustees Action

The Planning Commission Board or Board of Trustees has the following options relative to the action on applications in general. As necessary additional information relative to continuances, etc. can be provided by the Town Attorney.

- A. Make a decision and vote on the application, using the draft resolution previously prepared, as may be amended during the hearing; or
 - B. Make a decision and vote on the application, but request the Town Attorney to prepare findings of fact and conclusions for approval and adoption at the next regular meeting; or
 - C. Defer a decision and direct the Town Attorney to prepare findings of fact and conclusions to be submitted to the Board of Trustees at its next regular meeting, with final deliberation, decision and adoption of the findings of fact and conclusion at that meeting; or
 - D. Defer a decision until a date certain, as is mutually agreed upon by the Applicant and the Board of Trustees, by which time the record and all evidence can be reviewed. At that time the Board of Trustees can either adopt findings of fact and conclusions or direct the Town Attorney to prepare findings of fact and conclusions for adoption at the next regular meeting after the meeting to which the matter has been deferred.
-

RECOMMENDATION

The Town staff recommends the Board of Trustees approve the Initial Zoning and Outline Development Plan of the Gould property by approving Ordinance 948.

ORDINANCE NO. 948

AN ORDINANCE APPROVING AN INITIAL ZONING OF PROPERTY ANNEXED TO THE TOWN OF FIRESTONE AND KNOWN AS THE GOULD ANNEXATION, AND APPROVING AN OUTLINE DEVELOPMENT PLAN FOR SUCH PROPERTY

WHEREAS, a petition for annexation of certain unincorporated, Town-owned property known as the Gould Annexation was filed with the Board of Trustees of the Town of Firestone; and

WHEREAS, the property was annexed to the Town by ordinance and the Board of Trustees must provide for the zoning of such property; and

WHEREAS, the legal description of the property is set forth in Exhibit A attached hereto and incorporated herein by reference; and

WHEREAS, the proposed initial zoning of the property is Planned Unit Development zoning classification with Employment Center (EC) land uses, and there has been prepared an Outline Development Plan in connection with the proposed zoning; and

WHEREAS, the Planned Unit Development zoning classification is consistent with the Town's plan for the area encompassed by the Annexation; and

WHEREAS, the Firestone Planning Commission held a public hearing on the proposed initial zoning and forwarded its recommendation on the proposed zoning and Outline Development Plan to the Board of Trustees, and the Board of Trustees has duly considered that recommendation; and

WHEREAS, the Board of Trustees provided notice of the public hearing on the requested zoning by publication as provided by law; and

WHEREAS, no protests were received by the Town pursuant to C.R.S. § 31-23-305.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO:

Section 1. That certain property known as the Gould Annexation, the legal description of which is set forth in Exhibit A attached hereto and made a part hereof (the "Property"), is hereby zoned Planned Unit Development with Employment Center (EC) and land uses as shown on the Outline Development Plan, pursuant to the zoning ordinances of the Town and subject to and in accordance with the Gould Outline Development Plan approved by the Board of Trustees, as noted in Section 2, below, which shall be placed on file with the Town, and the Town zoning map shall be amended accordingly.

Section 2. The Board of Trustees hereby approves the Gould Outline Development Plan.

INTRODUCED, READ, ADOPTED, APPROVED, AND ORDERED PUBLISHED IN FULL this 12th day of December, 2018.

TOWN OF FIRESTONE, COLORADO

Bobbi Sindelar, Mayor

ATTEST:

Leah Vanarsdall, Town Clerk

11/28/18 1:15 PM [ncb] R:\Firestone\Annexation\Gould\BOT Zoning.ord.docx

EXHIBIT A - LEGAL DESCRIPTION

Gould Annexation

A part of Lot B of Recorded Exemption 1209-31-3-RE 2340, an recorded exemption recorded December 21, 1998, as Reception No. 2661939 of the records of Weld County, Colorado, and Subdivision Exemption SE-734, a subdivision exemption recorded December 21, 1998, as Reception No. 2661938 of the records of Weld County, Colorado, all located in the SW1/4 of Section 31, T3N, R67W of the 6th P.M., County of Weld, State of Colorado, described as follows:

COMMENCING at the Southwest Corner of said Section 31, from which the E1/4 Corner of said Section 31 bears N00°07'56"E, 2651.27 feet (Basis of Bearing), thence N00°07'56"E, 30.00 feet along the West Line of the SW1/4 of said Section 31 to the Northerly Right-of-way Line extended Westerly of Zinnia Avenue (Weld County Road 26), according to BROOKS FARM FIRST & SECOND ADDITIONS, an annexation to the Town of Firestone recorded June 15, 2001, as Reception No. 2857771 of the records of Weld County, Colorado; Thence S89°30'04"E, 30.00 feet along the Northerly Right-of-way Line extended Westerly of said Zinnia Avenue (Weld County Road 26) to the Easterly Right-of-way Line of Colorado Blvd. (Weld County Road 13), also being the Easterly Line of FIRESTONE NORTH ANNEXATION, an annexation to the Town of Firestone recorded January 16, 2015, as Reception No. 4076118 of the records of Weld County, Colorado, and the POINT OF BEGINNING;

Thence N00°07'56"E, 1439.33 feet along the Easterly Right-of way Line of said Colorado Blvd. (Weld County Road 13) and along the Easterly Line of said FIRESTONE NORTH ANNEXATION to the Northerly Line of said Lot B;

Thence S88°57'49"E, 1063.26 feet along the Northerly Line of said Lot B to the Northeasterly Corner thereof;

Thence S00°15'26"W, 107.00 feet along the Easterly Line of said Lot B to an angle point thereof;

Thence N88°57'49"W, 36.00 feet along the Easterly Line of said Lot B to an angle point thereof;

Thence S00°15'26"W, 744.44 feet along the Easterly Line of said Lot B to an angle point thereof;

Thence S88°57'49"E, 261.00 feet along the Easterly Line of said Lot B to an angle point thereof;

Thence S00°15'26"W, 575.79 feet along the Easterly Line of said Lot B to the Northerly Right-of-way Line of said Zinnia Avenue (Weld County Road 26);

Thence N89°30'04"W, 1285.01 feet along the Northerly Right-of-way Line of said Zinnia Avenue (Weld County Road 26) and along the Northerly Line of said BROOKS FARM FIRST & SECOND ADDITIONS to the Easterly Right-of-way Line of said Colorado Blvd. (Weld County Road 13) and the POINT OF BEGINNING.

Area = 37.320 acres, more or less.

THE REPRODUCTION OF ANY INFORMATION GENERATED BY ARCHITECTS, ENGINEERS OR OTHER CONSULTANTS ON THESE DRAWINGS IS FOR THE EXPRESS PURPOSE OF COORDINATION AND EASE OF REFERENCE ONLY. INCLUSION OF SAID INFORMATION ON THESE DRAWINGS DOES NOT CONSTITUTE A REPRESENTATION BY THK ASSOCIATES, INC. AS TO THE SUFFICIENCY OR ACCURACY OF SAID INFORMATION.

LEGAL DESCRIPTION

A PART OF LOT B OF RECORDED EXEMPTION 1209-31-3-RE 2340, AN RECORDED EXEMPTION RECORDED DECEMBER 21, 1998, AS RECEPTION NO. 2661939 OF THE RECORDS OF WELD COUNTY, COLORADO, AND SUBDIVISION EXEMPTION SE-734, A SUBDIVISION EXEMPTION RECORDED DECEMBER 21, 1998, AS RECEPTION NO. 2661938 OF THE RECORDS OF WELD COUNTY, COLORADO, ALL LOCATED IN THE SW1/4 OF SECTION 31, T3N, R67W OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 31, FROM WHICH THE E1/4 CORNER OF SAID SECTION 31 BEARS N00°07'56"E, 2651.27 FEET (BASIS OF BEARING), THENCE N00°07'56"E, 30.00 FEET ALONG THE WEST LINE OF THE SW1/4 OF SAID SECTION 31 TO THE NORTHERLY RIGHT-OF-WAY LINE EXTENDED WESTERLY OF ZINNIA AVENUE (WELD COUNTY ROAD 26), ACCORDING TO BROOKS FARM FIRST & SECOND ADDITIONS, AN ANNEXATION TO THE TOWN OF FIRESTONE RECORDED JUNE 15, 2001, AS RECEPTION NO. 2857771 OF THE RECORDS OF WELD COUNTY, COLORADO; THENCE S89°30'04"E, 30.00 FEET ALONG THE NORTHERLY RIGHT-OF-WAY LINE EXTENDED WESTERLY OF SAID ZINNIA AVENUE (WELD COUNTY ROAD 26) TO THE EASTERLY RIGHT-OF-WAY LINE OF COLORADO BLVD. (WELD COUNTY ROAD 13), ALSO BEING THE EASTERLY LINE OF FIRESTONE NORTH ANNEXATION, AN ANNEXATION TO THE TOWN OF FIRESTONE RECORDED JANUARY 16, 2015, AS RECEPTION NO. 4076118 OF THE RECORDS OF WELD COUNTY, COLORADO, AND THE POINT OF BEGINNING;

THENCE N00°07'56"E, 1439.33 FEET ALONG THE EASTERLY RIGHT-OF WAY LINE OF SAID COLORADO BLVD. (WELD COUNTY ROAD 13) AND ALONG THE EASTERLY LINE OF SAID FIRESTONE NORTH ANNEXATION TO THE NORTHERLY LINE OF SAID LOT B;

THENCE S88°57'49"E, 1063.26 FEET ALONG THE NORTHERLY LINE OF SAID LOT B TO THE NORTHEASTERLY CORNER THEREOF;

THENCE S00°15'26"W, 107.00 FEET ALONG THE EASTERLY LINE OF SAID LOT B TO AN ANGLE POINT THEREOF;

THENCE N88°57'49"W, 36.00 FEET ALONG THE EASTERLY LINE OF SAID LOT B TO AN ANGLE POINT THEREOF;

THENCE S00°15'26"W, 744.44 FEET ALONG THE EASTERLY LINE OF SAID LOT B TO AN ANGLE POINT THEREOF;

THENCE S88°57'49"E, 261.00 FEET ALONG THE EASTERLY LINE OF SAID LOT B TO AN ANGLE POINT THEREOF;

THENCE S00°15'26"W, 575.79 FEET ALONG THE EASTERLY LINE OF SAID LOT B TO THE NORTHERLY RIGHT-OF-WAY LINE OF SAID ZINNIA AVENUE (WELD COUNTY ROAD 26);

THENCE N89°30'04"W, 1285.01 FEET ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF SAID ZINNIA AVENUE (WELD COUNTY ROAD 26) AND ALONG THE NORTHERLY LINE OF SAID BROOKS FARM FIRST & SECOND ADDITIONS TO THE EASTERLY RIGHT-OF-WAY LINE OF SAID COLORADO BLVD. (WELD COUNTY ROAD 13) AND THE POINT OF BEGINNING.

AREA = 37.320 ACRES, MORE OR LESS.

TOWN OF FIRESTONE

BY: _____
MAYOR

STATE OF COLORADO)
COUNTY OF WELD) SS
)

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS _____ DAY
OF _____, A.D., 2018, BY _____ AS
_____ FOR TOWN OF FIRESTONE, COLORADO.

WITNESS MY HAND AND OFFICIAL SEAL

NOTARY PUBLIC

MY COMMISSION EXPIRES

OUTLINE DEVELOPMENT PLAN

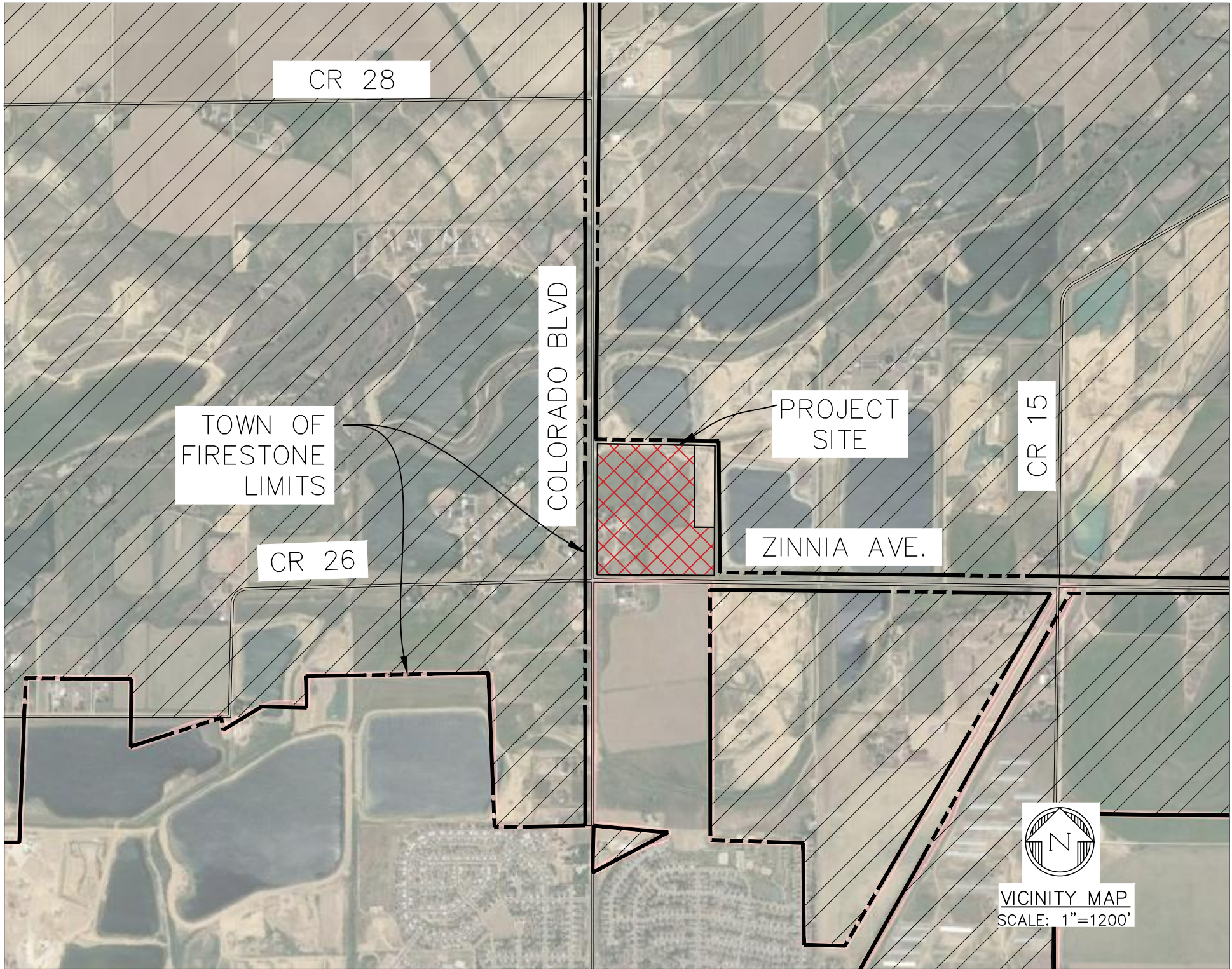
GOULD

TOWN OF FIRESTONE

COUNTY OF WELD

STATE OF COLORADO

SHEET 1 OF 3



APPLICANT/OWNER/DEVELOPER

TOWN OF FIRESTONE
151 GRANT AVENUE,
P.O. BOX 100
FIRESTONE, CO 80520-0100
(970) 278-0029 (X 108)
ATTN: DAVID LINDSEY, PE
dlindsay@ccginc.us

TECHNICAL CONSULTANTS

ENGINEER:
COLORADO CIVIL GROUP, INC.
5110 GRANITE STREET, UNIT D
(970) 278-0029
ATTN: DAVID LINDSAY, PE
dlindsay@ccginc.us

TECHNICAL CONSULTANTS

LAND SURVEYOR:
CIVILARTS
1500 KANSAS AVE., SUITE 2-E
LONGMONT, CO 80501
(303) 682-1131
ATTN: FRANK N. DREXEL, PLS
fdrexel@civilarts.us

LANDSCAPE ARCHITECT/PLANNER:

THK ASSOCIATES, INC.
2953 SOUTH PEORIA ST., STE. 101
AURORA, COLORADO 80014
(303) 770-7201
ATTN: ELEANOR GARZA, RLA
egarza@thkassoc.com

APPROVAL BLOCKS

APPROVED BY THE TOWN BOARD OF TRUSTEES OF THE TOWN OF
FIRESTONE, COLORADO THIS

_____, DAY OF _____, 20____ BY
ORDINANCE NO. _____.

MAYOR _____
ATTEST: TOWN CLERK _____

ACCEPTANCE BLOCK AND NOTARY

BY SIGNING THIS ODP, THE OWNER ACKNOWLEDGES AND ACCEPTS
ALL OF THE REQUIREMENTS AND INTENT SET FORTH HEREIN.

OWNER

STATE OF COLORADO)
COUNTY OF WELD) SS
)

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS
_____, DAY OF _____, 2____, BY

WITNESS MY HAND AND OFFICIAL SEAL

NOTARY PUBLIC

MY COMMISSION EXPIRES

SHEET INDEX

- 1 COVER
- 2 NOTES
- 3 ODP MAP SHEET

GOULD	
COVER	
NAME OF APPLICATION:	GOULD
TYPE OF SUBMITTAL:	OUTLINE DEVELOPMENT PLAN
FILING NUMBER:	
PHASE NUMBER:	
SHEET TITLE:	COVER
PREPARATION DATE:	SEPTEMBER 25, 2018
REVISION DATE:	OCTOBER 30, 2018
REVISION DATE:	
REVISION DATE:	

SHEET 1 OF 3

thk associates inc.
2953 South Peoria Street, Ste 101
Aurora, Colorado 80014
303-770-7201 FAX 770-7132

ENGINEERING
PLANNING
SURVEYING
1500 Kansas Ave., Suite 2E
Longmont, CO 80501
P 303.682.1131
F 303.682.1149



GOULD
Town of Firestone
County of Weld
State of Colorado

OUTLINE DEVELOPMENT PLAN

REV #	DATE	DESCRIPTION

DATE: 11/2/2018

JOB No: 7909-000

DRAWN BY: KR
CHECKED BY: EG

OUTLINE
DEVELOPMENT
PLAN

1 OF 3

THE REPRODUCTION OF ANY INFORMATION GENERATED BY ARCHITECTS, ENGINEERS OR OTHER CONSULTANTS ON THESE DRAWINGS IS FOR THE EXPRESS PURPOSE OF COORDINATION AND EASE OF REFERENCE ONLY. INCLUSION OF SAID INFORMATION ON THESE DRAWINGS DOES NOT CONSTITUTE A REPRESENTATION BY THK ASSOCIATES, INC. AS TO THE SUFFICIENCY OR ACCURACY OF SAID INFORMATION.

PROJECT CONCEPT

THE GOULD PROPERTY OUTLINE DEVELOPMENT PLAN PROPOSES TO ESTABLISH THE LAND USE OF THE GOULD PROPERTY, ACQUIRED BY THE TOWN OF FIRESTONE IN FALL OF 2017. THE OUTLINE DEVELOPMENT PLAN PROPOSES ONE PLANNING AREA WITHIN THE PLANNED UNIT DEVELOPMENT: PA-1 TO BE ZONED AS EMPLOYMENT CENTER (EC) FOR MUNICIPAL USES. THE GOULD PROPERTY IS APPROXIMATELY 37.32 ACRES IN SIZE AND IS BOUND BY COLORADO BOULEVARD TO THE WEST AND ZINNIA AVENUE TO THE SOUTH AND IS IN CLOSE PROXIMITY TO THE ST. VRAIN RIVER TO THE NORTH.

REGIONAL IMPACTS

THE GOULD PROPERTY IS PROPOSED TO PROVIDE A PUBLIC UTILITY FACILITY FOR MUNICIPAL USE. IT IS ANTICIPATED THAT THE PROVISION OF THIS RESOURCE WILL HAVE POSITIVE ECONOMIC IMPACTS TO THE TOWN OF FIRESTONE. ITS SIZE AND LOCATION PROVIDES OPPORTUNITY TO OFFER SUCH PUBLIC USES BOTH FOR FIRESTONE AND THE REGION.

ENVIRONMENTAL INFORMATION

THERE ARE NO KNOWN ENVIRONMENTAL HAZARDS LOCATED ON SITE. A PHASE 1 ENVIRONMENTAL ASSESSMENT REPORT TITLED "FIRESTONE AGRICULTURAL PROPERTY 12028 AND 12148 WELD COUNTY ROAD 13" WAS PREPARED BY TERRACON DATED AUGUST 24, 2017.

UTILITIES

THE TOWN WILL PROVIDE NECESSARY UTILITIES TO THE SITE INCLUDING WATER, SEWER, GAS, AND ELECTRIC. INFRASTRUCTURE WILL BE FINANCED BY THE TOWN, UNLESS OTHERWISE DETERMINED BY THE TOWN.

GRADING CONCEPT

THE SITE WILL BE OVERLOT GRADED FOR THE USES PERMITTED BY THIS ODP AND WILL INCLUDE GRADING FOR RECHARGE TRENCHES.

SERVICE REQUIREMENTS

THE TOWN WILL PROVIDE NECESSARY PUBLIC SERVICE TO THE SITE. THE POLICE SERVICE IS WITHIN THE TOWN OF FIRESTONE. FIRE PROTECTION AND AMBULANCE WILL BE PROVIDED BY THE FREDERICK-FIRESTONE FIRE PROTECTION DISTRICT. SCHOOLS ARE WITHIN THE ST. VRAIN VALLEY SCHOOL DISTRICT.

CIRCULATION SYSTEMS

THE PROPERTY IS ADJACENT ON THE WEST SIDE TO COLORADO BOULEVARD AND ON THE SOUTH SIDE TO ZINNIA AVENUE.

LAND USE AND ZONING

THE GOULD PROPERTY PROPOSES TO ESTABLISH AN EMPLOYMENT CENTER (EC) ZONED PLANNED UNIT DEVELOPMENT WITH MUNICIPAL LAND USES. THE LAND USES AND DEVELOPMENT STANDARDS FOR THE MUNICIPAL LAND USE CATEGORY SHALL BE AS SPECIFIED IN THIS ODP AND IN THE FIRESTONE DEVELOPMENT REGULATIONS AS MAY BE AMENDED FROM TIME TO TIME.

DENSITY

THE ALLOWED DENSITY OF THE PROPERTY WILL BE CONSISTENT WITH THE TOWN OF FIRESTONE DEVELOPMENT REGULATIONS.

BUILDING HEIGHT

BUILDINGS AND WATER TREATMENT FACILITY TANKS LOCATED WITHIN PA-1 OF THE GOULD PROPERTY ODP SHALL BE NO GREATER THAN 50' IN HEIGHT.

OUTLINE DEVELOPMENT PLAN

GOULD
TOWN OF FIRESTONE
COUNTY OF WELD
STATE OF COLORADO
SHEET 2 OF 3

LAND USE TABLE

PLANNING AREA	ZONING	LAND USE	AREA (AC)	% AREA
PA-1	EC	MUNICIPAL	37.32	100
TOTAL AREA			37.32 AC	

DEVELOPMENT SCHEDULE

INITIAL DEVELOPMENT OF THE SITE IS ANTICIPATED TO BEGIN IN 2019.

PARK DEVELOPMENT

PARK DEVELOPMENT WILL NOT BE A PART OF THE GOULD PROPERTY DEVELOPMENT.

PARK MAINTENANCE AND ENFORCEMENT

PARK MAINTENANCE WILL NOT BE REQUIRED.



ENGINEERING
PLANNING
SURVEYING

1930 Kansas Ave., Suite 2E
Longmont, CO 80501
P 303.682.1131
F 303.682.1149



GOULD PROPERTY
Town of Firestone
County of Weld
State of Colorado

OUTLINE DEVELOPMENT PLAN

DESCRIPTION

DATE

REV #

DATE: 11/2/2018

JOB No: 7909-000

DRAWN BY: KR
CHECKED BY: EG

OUTLINE
DEVELOPMENT
PLAN

2 OF 3

GOULD	
NOTES	
NAME OF APPLICATION:	GOULD
TYPE OF SUBMITTAL:	OUTLINE DEVELOPMENT PLAN
FILING NUMBER:	
PHASE NUMBER:	
SHEET TITLE:	NOTES
PREPARATION DATE:	SEPTEMBER 25, 2018
REVISION DATE:	OCTOBER 30, 2018
REVISION DATE:	
REVISION DATE:	
REVISION DATE:	

SHEET 2 OF 3

THE REPRODUCTION OF ANY INFORMATION GENERATED BY ARCHITECTS, ENGINEERS OR OTHER CONSULTANTS ON THESE DRAWINGS IS FOR THE EXPRESS PURPOSE OF COORDINATION AND EASE OF REFERENCE ONLY. INCLUSION OF SAID INFORMATION ON THESE DRAWINGS DOES NOT CONSTITUTE A REPRESENTATION BY THK ASSOCIATES, INC. AS TO THE SUFFICIENCY OR ACCURACY OF SAID INFORMATION.

OUTLINE DEVELOPMENT PLAN

GOULD

TOWN OF FIRESTONE
COUNTY OF WELD
STATE OF COLORADO
SHEET 3 OF 3

LEGEND

- PROPOSED PLANNING AREAS
- EXISTING PARCEL LINES
- EXISTING RIGHT OF WAY
- EXISTING SECTION LINE
- EXISTING MAJOR CONTOURS
- EXISTING MINOR CONTOURS
- 100 YEAR FLOOD PLAIN
- PLUGGED AND ABANDONED WELL



2953 South Peoria Street, Ste 101
Aurora, Colorado 80014
303-770-7201 FAX 770-7132

ENGINEERING
PLANNING
SURVEYING



GOULD
Town of Firestone
County of Weld
State of Colorado

OUTLINE DEVELOPMENT PLAN

DESCRIPTION

DATE

REV #

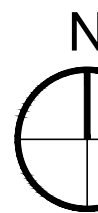
DATE: 11/2/2018

JOB No: 7909-000

DRAWN BY: KR
CHECKED BY: EG

OUTLINE
DEVELOPMENT
PLAN

3 OF 3



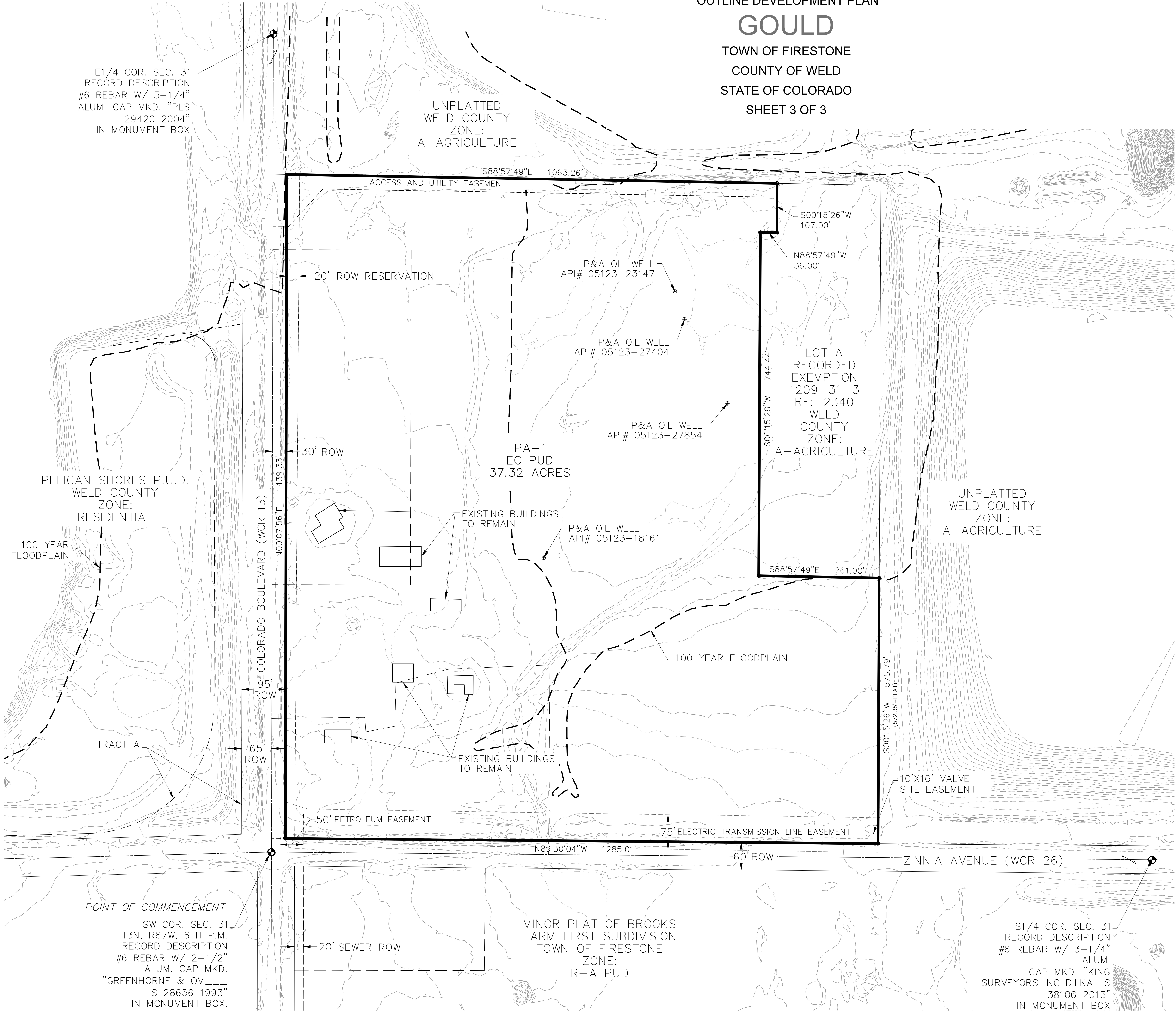
0' 50' 100' 200'
SCALE: 1" = 100'-0"

GOULD

ODP MAP SHEET

NAME OF APPLICATION: GOULD
TYPE OF SUBMITTAL: OUTLINE DEVELOPMENT PLAN
FILING NUMBER:
PHASE NUMBER:
SHEET TITLE: ODP MAP SHEET
PREPARATION DATE: SEPTEMBER 25, 2018
REVISION DATE: OCTOBER 30, 2018
REVISION DATE:
REVISION DATE:

SHEET 3 OF 3



RESOLUTION NO. 18-51

A RESOLUTION PRESCRIBING WATER RATES, FEES, TOLLS AND CHARGES FOR THE TOWN OF FIRESTONE, COLORADO.

WHEREAS, the Town of Firestone (the “Town”) operates a municipal water system; and

WHEREAS, the Town and Central Weld County Water District (“CWCWD”) are parties to various intergovernmental agreements concerning the provision of water service and facilities to the Town; and

WHEREAS, pursuant to such intergovernmental agreements, CWCWD from time to time imposes increased charges pertaining to the provision of water service to the Town; and

WHEREAS, after review and analysis of the costs of operating and maintaining the Town’s water system, including completion of a water rate study and an analysis of capital needs, and in consideration of applicable CWCWD increases and increases in the costs of operating, maintaining and improving the Town’s water system, the Board of Trustees has determined that increases in the water system rates, fees, tolls and charges are necessary; and

WHEREAS, the current water taps fees and monthly water rates do not adequately provide for the capital needs and operations of the Town’s water system; and

WHEREAS, the Board of Trustees by this resolution desires to establish various rates, fees, tolls and charges for Town water service and water usage, effective January 1, 2019;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO:

Section 1. Water rates and charges. The following monthly rates and charges shall be imposed for water service received through the Town of Firestone water system:

Meter	Base Rate	Water Included in Base Rate (Gallons)	Water Charge Per 1,000 Gallons	
Size	Charge		Gallons	Rate
Residential				
5/8"	\$ 26.50	-0-		
3/4"	\$ 40.64	-0-		
1"	\$ 67.13	-0-		
1-1/2"	\$ 132.48	-0-		
2"	\$ 213.74	-0-		
Residential			0-5,000	\$ 2.51
			5,001-20,000	\$ 4.42
			20,001-40,000	\$ 7.07
			Above 40,000	\$ 8.84
Commercial, Industrial, Irrigation, Mobile Home Parks, Multi-Family				
5/8"	\$ 26.50	-0-		
3/4"	\$ 40.64	-0-		
1"	\$ 67.13	-0-		
1-1/2"	\$ 132.48	-0-		
2"	\$ 213.74	-0-		
3"	\$ 399.21	-0-		
6"	\$ 1,578.45	-0-		
Commercial & Industrial			All usage	\$ 3.89
Irrigation Only			All usage	\$ 5.92
Mobile Home Parks			All usage	\$ 4.77
Multi-Family			All usage	\$ 3.89
Out –of-Town Rates	Base rates and gallon charges for any out-of-town service shall be two times the in-Town rates and charges.			

Section 2. Connection, capital investment and repair fees. The following connection and capital investment and repair fees shall be imposed, except that the Town of Firestone shall not be required to pay such connection fees for irrigation sprinkler systems for any public parks, rights-of-way, open space, or medians, or any facility developed, owned or paid for by the Town.

Meter Size	Connection Fee CWCWD	Capital Investment and Repair Fee Town	Capital Investment Fee CWCWD	Total
5/8"	\$ 5,800	\$ 3,000	\$ 4,000	\$ 12,800
3/4"	\$ 7,700	\$ 4,500	\$ 6,000	\$ 18,200
1"	\$12,500	\$ 7,500	\$10,000	\$ 30,000
1-1/2"	\$23,000	\$ 17,000	\$20,000	\$ 60,000
2"	\$36,400	\$ 28,000	\$32,000	\$ 96,400

Connection and capital investment and repair fees as well as any other fees for taps requiring a meter larger than 2" shall be determined by the Board of Trustees on an individual basis considering such factors as type of use, contemplated volume demand for water, effect on the entire water system in the Town, connection and capital investment fees imposed by CWCWD, and all other factors relevant to the application. All taps requiring a meter larger than 2" and all taps applied for where the service requested is outside of the Town limits shall be by contract with the Board of Trustees. Out-of-town taps of 2" or less shall be charged fees at two times the amount of in-Town fees.

Section 3. Construction Hydrant Meter Rental Terms. The following fees shall be imposed for hydrant meters supplied by the Town for construction water use. A Hydrant Connection Permit must be obtained from the Town Clerk prior to any water being used from any fire hydrant. Such permit shall be valid for a period not to exceed 6 months.

Deposit	\$ 1,500.00 per meter
Administration Fee	\$ 25.00 per permit
Meter Rental	\$ 2.00 per day
Late Charge	\$ 5.00 per day
Water Usage Rate	\$ 3.89 per 1,000 gallons

Section 4. Meter & Yoke Fees. The following fees shall be imposed for Meter and Yoke assemblies installed by the Town for new service connections; such fees for taps requiring a meter larger than 2" shall be as set by contract with the Board of Trustees:

<u>Meter Tap Size</u>	<u>Administrative Fee</u>	<u>Meter & Yoke Cost</u>	<u>Total Meter & Yoke Fee</u>
5/8"	\$25.00	\$ 1,032.19	\$1,057.19
3/4"	\$25.00	\$ 1,607.32	\$1,092.32
1"	\$25.00	\$ 1,379.96	\$1,404.96

1-1/2" Commercial	\$25.00	\$ 3,443.90	\$3,468.90
1-1/2" Irrigation	\$25.00	\$ 2,446.46	\$2,471.46
2" Commercial	\$25.00	\$ 4,393.85	\$4,418.85
2" Irrigation	\$25.00	\$ 3,017.41	\$3,042.41

Section 5. This Resolution shall become effective on January 1, 2019.

Section 6. Town of Firestone Resolution No. 17-58 is hereby repealed in its entirety. All other resolutions or portions thereof inconsistent or conflicting with this resolution or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

PASSED AND ADOPTED THIS _____ DAY OF _____, 2018.

TOWN OF FIRESTONE, COLORADO

Bobbi Sindelar

ATTEST:

Leah Vanarsdall, Town Clerk

12/6/18 12:45 PM [ncb] R:\Firestone\Resolution\Resolution for Water Rate Increase 2019 (kpc redline).docx



MEMORANDUM

CWS File # 18-140

To: Firestone Town Board c/o Julie Pasillas

From: Steve Nguyen, P.E., Clear Water Solutions, Inc.
Webb Jones, P.E., Water Consulting Group, LLC

Date: October 17, 2018

Subject: 2018 Rate Study Update

In July 2018, Clear Water Solutions, Inc. (CWS) was asked by the Town of Firestone to update a cost-of-services analysis it had prepared in 2014. The Town wanted to confirm that water rates charged to various customer categories accurately reflected the cost of providing water service to those customers. The Town also wanted to confirm that the water rates updated in 2016 were adequate to cover operations, maintenance, administration, and proposed capital projects and improvements. This Technical Memorandum has been prepared to address this request and summarizes our findings and recommendations.

Background

In July 2014, CWS was retained by the Town of Firestone to update a comprehensive water rate study it prepared in 2011. The rates proposed in 2014 were reevaluated in 2016 in anticipation of higher NISP costs, the purchase of Carbon Valley Reservoir, costs associated with a 1.5-MG water tank and participation in the Regional WTP. CWS has analyzed rates for the Town in 2008, 2011, 2014, and 2016. The rate studies prepared on behalf of Firestone over the years have helped the Town stay ahead of anticipated costs and allowed it to proactively acquire new water rights and infrastructure.

Studies prepared in the past by CWS have resulted in: differential rate increases, creation of new customer categories, adjustments to monthly base rates and residential water rates that vary depending on the amount of water used (tiered rates). Revisions to the Town's water rates have accomplished the following:

- Rates are adequate to fund anticipated O&M expenses, water acquisition, capital improvements and debt service obligations.
- Rates prevent any category of customer from subsidizing another customer category.
- Residential water rates promote water conservation by providing financial incentives for customers to reduce their water use.
- Rates are relatively easy to administer, can be understood by customers and insure revenue stability.

Recommendations proposed in the past have been adopted by resolution and resulted in water rates shown in **Table 1**.

Table 1 - Town of Firestone Monthly Rates and Charges – Effective January 1, 2018

Meter	Base Rate	Water Included in Base Rate (Gallons)	Water Charge Per 1,000 Gallons	
Size	Charge		Gallons	Rate
Residential				
5/8"	\$	24.54	-0-	
3/4"	\$	37.63	-0-	
1"	\$	62.16	-0-	
1-1/2"	\$	122.66	-0-	
2"	\$	197.91	-0-	
Residential			0-5,000	\$ 2.32
			5,001-20,000	\$ 4.09
			20,001-40,000	\$ 6.55
			Above 40,000	\$ 8.19
Commercial, Industrial, Irrigation, Mobile Home Parks				
5/8"	\$	24.54	-0-	
3/4"	\$	37.63	-0-	
1"	\$	62.16	-0-	
1-1/2"	\$	122.66	-0-	
2"	\$	197.91	-0-	
3"	\$	369.64	-0-	
6"	\$	1,461.52	-0-	
Commercial & Industrial			All usage	\$ 3.61
Irrigation Only			All usage	\$ 5.48
Mobile Home Parks			All usage	\$ 4.09
Out-of-Town Rates	Base rates and gallon charges for any out-of-town service shall be two times the in-Town rates and charges.			

Cash Flow Projections

The amount of water rate revenue required in future years to fund operations, maintenance, water acquisition and capital improvements is determined through preparation of a cash flow projection. Such a projection is based on approved water enterprise budgets and forecasts of future needs and associated expenditures.

The most current cash flow projection for the water enterprise has been prepared by the Town's contract treasurer with input from utility staff and the Town's engineer. The cash flow projection shows water rate revenue needs to increase over the study period (2019-2023) by the percentages shown in **Table 2**. A copy of the cash flow projection is included as **Appendix A**.

Table 2 - Projected Increases in Water Rates ⁽¹⁾

	Actual 2018	Projected 2019	Projected 2020	Projected 2021	Projected 2022	Projected 2023
% Increase in Water Rates	8.0%	8.0 %	8.0 %	8.0 %	8.0 %	8.0 %

⁽¹⁾ Projected annual increases in water rates calculated in cash flow projection prepared by Clifton Allan Larson (CLA), June 2018

Results of Cost-of-Service Analysis

Estimated water rate revenue generated in 2018 represents the projected cost of providing water service to all customers. A cost-of-service analysis allocates that cost to various customer categories in proportion to the demands they place on the water system. The concept of proportionate allocation to customer categories implies that the allocation process consider not only the quantity of water used but also the rate of use (peak demands).

The water system consists of various facilities designed and operated to fulfill one or more specific functions. To provide adequate service to customers at all times, the water system must be capable of providing the total amount of water used in any given year as well as the amount of water required on any given day or time of day to supply peak demands. There are measurable costs associated with facilities required to meet peak demands.

To meet the objectives of this project, CWS updated the cost-of-service analysis performed in 2014 by examining water use in 2015, a year that was neither too wet and cool nor too dry and hot. Unusual weather conditions skew water use and the calculation of customer costs based on water demands.

Water use from 2015 was adjusted to reflect growth in the number and type of customer accounts to generate projected 2018 water sales revenue. This analysis was undertaken to confirm that prior cost-of-service adjustments adopted by the Town at the recommendation of CWS accurately reflect current costs incurred to serve those customers.

Table 3 compares cost-of-service calculations for different customer categories with projected 2018 revenue. In 2018, all customer categories except multi-family and mobile home will pay rates that generate revenue within 1% or 2% of their calculated cost-of-service.

This analysis indicates there is no need for differential rate increases in 2019 for residential, commercial/industrial and irrigation customers. In 2019, water rates for customers in these categories should be increased uniformly by the 8% calculated in the Town's current cash flow projection.

The Town may want to consider increasing the usage charge (cost per 1,000 gallons) for mobile home customers by more than 8% to more accurately reflect that customer category's cost of service.

**Table 3 - Comparison of Cost-of-Service to Projected Rate Revenue
For Firestone Customer Categories**

Customer Categories	2018 Cost-of-Service	2018 ⁽¹⁾ Projected Water Sales Revenue	%
Residential	\$2,833,051	\$2,891,398	102%
Commercial / Industrial	\$353,809	\$351,257	99%
Mobile Home	\$194,523	\$179,345	92%
Multi-Family	\$41,321	\$79,856	193%
Irrigation Only	\$322,330	\$329,949	102 %
Total	\$3,745,035	\$3,831,806	102 %

⁽¹⁾ Customers water use from 2015 was selected as representative of use in a typical year

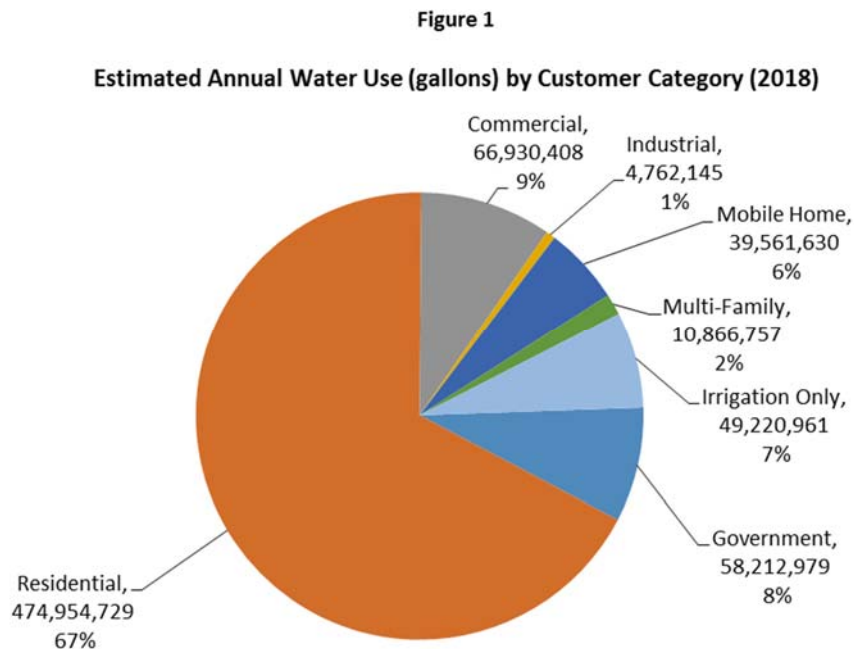
As shown in **Table 1**, Firestone does not currently have a Multi-Family customer category. Until recently, there were not enough multi-family customers to justify a separate category. Multi-family accounts currently pay the same usage charge as commercial/industrial customers. In 2018, customers in the multi-family category will generate only 2% of total projected water sales revenue.

There are still relatively few multi-family accounts, but there are a number of multi-family buildings planned or under construction. Most of the new multi-family buildings will be served by 1½" water meters. At the time of this analysis, there were seven active multi-family accounts served by 1½" meters, but fifteen similar accounts awaiting activation. The average water use of the seven active accounts was used in this analysis to project the water use of the fifteen accounts pending activation.

Without more reliable data from active multi-family accounts, it is premature to calculate and implement a unique water rate for multi-family customers. Until a cost-of-service analysis is performed using reliable data from the multi-family customer category, existing multi-family customers should continue to pay the same rate as they do now (commercial/industrial).

Water Use Comparison

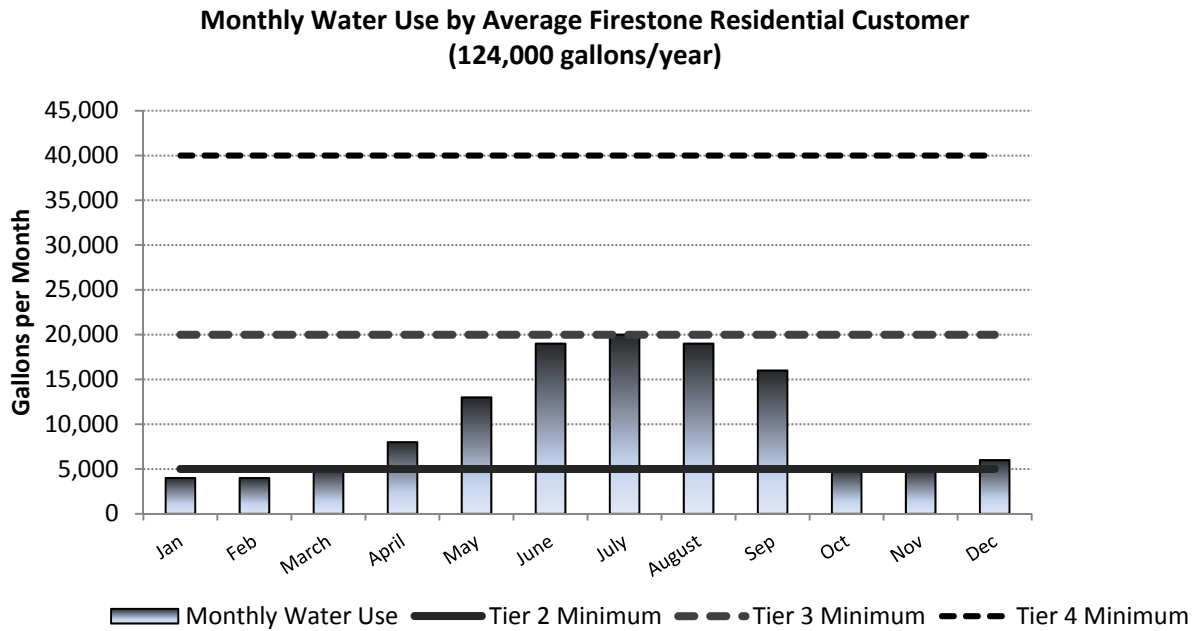
Figure 1 shows the estimated water use by customer category for 2018. These figures were utilized in calculating each customer category's cost-of-service shown in **Table 3**.



Residential Water Use

The average residential customer in Firestone uses 124,000 gallons annually in a year with typical weather. That figure is almost the same as it was in the 2014 rate study. **Figure 2** shows the amount of water used each month by the average residential customer and the rate tiers that apply to that water use.

Figure 2

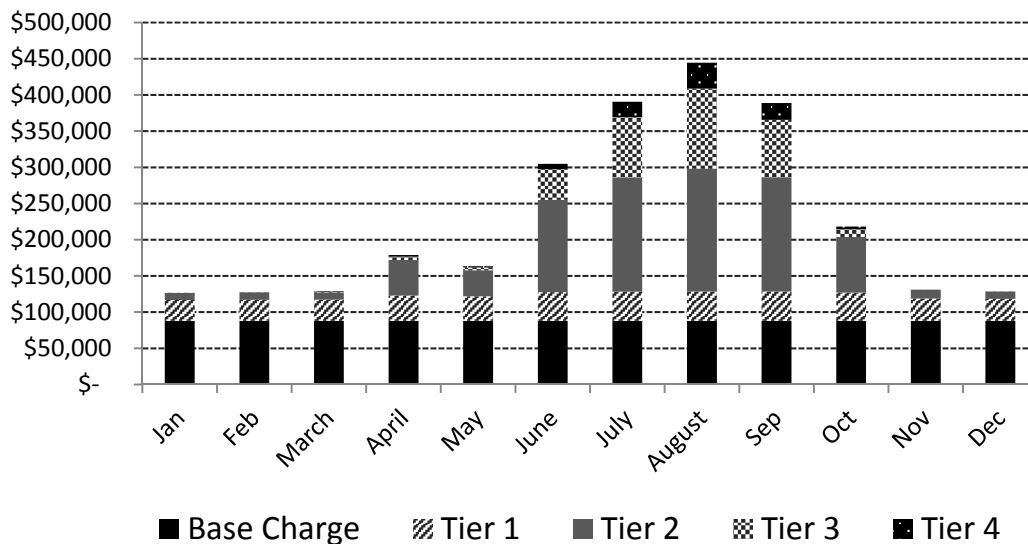


Revenue from Residential Customer Category

In 2018, residential customers are projected to pay 75% of the total water rate revenue collected by the Town. **Figure 3** shows projected residential water rate revenue by month. It also shows the amount of revenue generated from monthly base charges and the four residential user charge tiers shown in **Table 1**.

Figure 3

Estimated Monthly Revenue from Residential Customer Category by Rate Tier (2018)

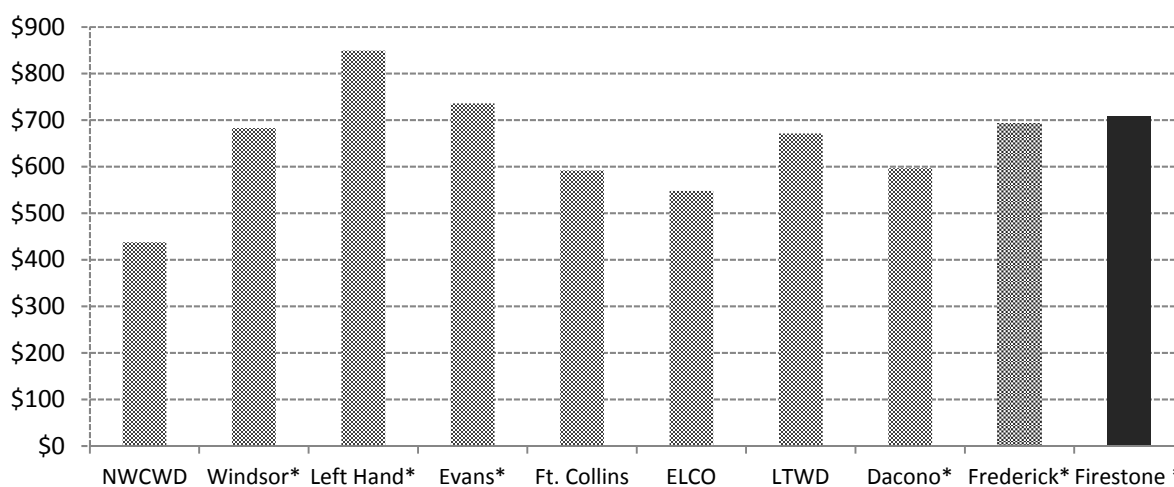


Comparison of Residential Water Bills

Figure 4 compares the annual cost of water for the average Firestone residential customer using 124,000 gallons per year with the amount that customer would pay for the same amount of water in nearby communities based on rates currently charged in those communities. Communities included in the comparison that are also participants in the Northern Integrated Supply Project (NISP) are noted with an asterisk.

Figure 4

**Total Annual Charges in 2018 for Water Service in Area Communities
(based on annual water use of average Firestone residential customer – 124,000 gallons per year)**



* Communities participating in NISP

Each water provider has unique challenges and costs that determine their water rates. Revenue requirements are affected by the availability of water, age of system, rate of growth, financial policies, contractual obligations, capital needs, pumping requirements, source water quality, and a number of other variables. These variables make it difficult to fully understand differences in the cost of water from one community to another.

Comparing the cost of water in different communities is of interest, but should not drive decisions on water rates. Water rates in any community are ultimately determined by the budgets and policies adopted by their governing boards.

Summary and Recommendations

Generally the study shows that Firestone's current proposal to increase water rates by 8% per year across all customer categories is enough to cover anticipated expenditures. The study also shows equitable allocation of rates across customer category, except in the case of mobile homes and multi-family. As discussed earlier, until a cost-of-service analysis can be completed with more reliable multi-family water use data, it is premature to calculate and implement a unique multi-family water rate.

We recommend the following:

- Enact 8% increase across all customer categories in 2019 and subsequent years.
- Create a new customer category for multi-family accounts.
- For now, leave the multi-family user charge the same as the commercial/industrial user charge (\$3.61 per 1,000 gallons).
- Once reliable data is available from the Multi-Family customer category, update cost-of-service calculations to determine if multi-family rates need to be revised.
- Increase the Mobile Home user charge in 2019 from \$4.09 to \$4.77 per 1,000 gallons - 8% cost-of-service adjustment and then an 8% increase applied to all customer categories.

Town of Firestone
Water Fund
Cash Flow Projection
2017 Actual, 2018-2020 Estimated, 2021-2053 Projected

	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039
	Unaudited	Estimated	Estimated	Estimated	Projected	Projected	Projected	Projected	Projected	Projected	Projected	Projected	Projected	Projected	Projected	Projected	Projected	Projected	Projected	Projected	Projected	Projected	Projected
1 Revenues																							
2 Charges for services	\$ 3,520,820	\$ 3,325,900	\$ 3,657,400	\$ 4,058,900	\$ 4,378,400	\$ 4,882,500	\$ 5,398,400	\$ 5,888,400	\$ 6,424,300	\$ 7,010,700	\$ 7,631,200	\$ 8,308,100	\$ 8,750,600	\$ 9,216,100	\$ 9,705,900	\$ 10,221,200	\$ 10,763,200	\$ 11,333,500	\$ 11,933,300	\$ 12,564,300	\$ 13,228,000	\$ 13,926,200	\$ 14,660,500
3 Annual Rate		\$ 668.67	\$ 722.16	\$ 779.93	\$ 842.32	\$ 909.71	\$ 982.49	\$ 1,061.09	\$ 1,145.98	\$ 1,237.66	\$ 1,336.67	\$ 1,443.60	\$ 1,486.91	\$ 1,531.52	\$ 1,577.47	\$ 1,624.79	\$ 1,673.53	\$ 1,723.74	\$ 1,775.45	\$ 1,828.71	\$ 1,883.57	\$ 1,940.08	\$ 1,998.28
4 Annual Rate Increase		8.00%	8.00%	8.00%	8.00%	8.00%	8.00%	8.00%	8.00%	8.00%	8.00%	8.00%	8.00%	8.00%	8.00%	8.00%	8.00%	8.00%	8.00%	8.00%	8.00%	8.00%	8.00%
5 Tap fees	1,724,105	1,763,200	1,968,000	1,752,000	1,370,900	837,900	701,200	724,700	748,600	571,000	589,200	1,663,500	1,696,800	1,730,700	1,765,300	1,800,600	1,836,700	1,873,400	1,910,900	1,949,100	1,988,100	2,027,800	2,068,400
6 St. Vrain WTP tap fees	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
7 Cash in lieu - water rights	305,250	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
8 State and local grants	22,616	106,060	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
9 Meter and yoke fees	128,046	115,000	131,500	127,750	105,100	62,100	56,600	58,500	60,400	46,100	47,600	134,300	136,900	139,700	142,500	145,300	148,200	151,200	154,200	157,300	160,500	163,700	166,900
10 Water leases	45,334	22,500	22,500	22,500	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
11 CWCBC Loan proceeds	1,580,000	-	8,420,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
12 Intergovernmental revenue - Little Thompson	4,945	8,500	12,080	16,140	19,900	23,400	25,800	28,200	30,500	-	-	-	-	-	-	-	-	-	-	-	-	-	-
13 Water credit bidding	-	11,680,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
14 Property sale	-	-	689,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
15 Other	16,093	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000
16 Interest earnings	56,947	30,000	40,000	35,000	20,900	-	42,600	7,000	-	-	-	-	-	-	-	-	-	13,400	36,400	62,300	91,200	123,100	158,500
17 Transfers from other funds	575,000	1,050,000	504,000	400,000	93,000	93,000	103,200	106,700	110,200	84,100	86,700	244,900	249,800	254,800	259,900	265,100	270,400	275,800	281,300	286,900	292,700	298,500	304,500
18 Bond Proceeds	-	-	20,408,000	-	-	-	16,595,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
19 Total Revenue	7,979,156	18,114,160	35,865,480	6,425,290	6,001,200	5,911,900	22,935,800	6,826,500	7,387,000	7,724,900	8,367,700	10,363,800	10,847,100	11,354,300	11,886,600	12,445,200	13,031,500	13,660,300	14,329,100	15,032,900	15,773,500	16,552,300	17,371,800
20 Expenditures																							
21 Operations																							
22 Salaries and benefits	\$ 112,695	\$ 129,500	\$ 215,300	\$ 221,800	\$ 228,500	\$ 235,400	\$ 242,500	\$ 249,800	\$ 257,300	\$ 265,000	\$ 273,000	\$ 281,200	\$ 289,600	\$ 298,300	\$ 307,200	\$ 316,400	\$ 325,900	\$ 335,700	\$ 345,800	\$ 356,200	\$ 366,900	\$ 377,900	\$ 389,200
23 CWCWD water treatment	706,658	668,000	701,000	736,500	773,300	649,600	682,100	716,200	752,000	789,600	829,100	870,600	685,600	719,900	755,900	793,700	833,400	875,100	918,900	964,800	1,013,000	1,063,700	1,116,900
24 NOCOWT water assessments	221,287	250,000	257,500	265,000	273,000	281,200	289,600	298,300	307,200	316,400	325,900	335,700	345,800	356,200	366,900	377,900	389,200	400,900	412,900	425,300	438,100	451,200	464,700
25 Water line repairs and maintenance	20,471	32,100	34,200	34,300	35,300	36,400	37,500	38,600	39,800	41,000	42,200	43,500	44,800	46,100	47,500	48,900	50,400	51,900	53,500	55,100	56,800	58,500	60,300
26 Water testing	9,007	20,500	20,500	20,500	21,500	22,600	23,700	24,900	26,100	27,400	28,800	30,200	31,700	33,300	35,000	36,800	38,600	40,500	42,500	44,600	46,800	49,100	51,600
27 Equipment	288,174	161,000	170,000	166,000	132,800	90,800	55,200	57,100	59,000	45,000	46,400	131,000	133,600	136,300	139,000	141,800	144,600	147,500	150,500	153,500	156,600	159,700	162,900
28 Water master plan	201,907	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
29 Vehicle repairs and maintenance	10,914	28,000	30,000	32,000	34,000	36,000	38,000	40,000	42,000	44,000	46,000	48,000	50,000	52,000	54,000	56,000	58,000	60,000	62,000	64,000	66,000	68,000	70,000
30 Scada system maintenance	2,345	26,640	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	30,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	30,000	1,000
31 Utilities	10,172	4,700	4,900	5,200	5,400	5,600	17,300	17,800	18,300	18,800	19,400	20,000	20,600	21,200	21,800	22,500	23,200	23,900	24,600	25,300	26,100	26,900	27,700
32 Miscellaneous	16,864	11,625	12,125	12,625	13,000	13,400	13,800	14,200	14,600	15,000	15,500	16,000	16,500	17,000	17,500	18,000	18,500	19,100	19,700	20,300	20,900	21,500	22,100
33 Administration																							
34 Salaries and benefits	171,773	305,800	317,600	330,700	340,600	350,800	361,300	372,100	383,300	394,800	406,600	418,800	431,400	444,300	457,600	471,300	485,400	500,000	515,000	530,500	546,400	562,800	579,700
35 Conservation program	19,710	22,525	24,525	26,525	29,200	32,100	35,300	38,800	42,700	47,000	51,700	56,900	62,600	68,900	75,800	83,400	91,700	100,900	111,000	122,100	134,300	147,700	162,500
36 Legal - contracted	99,233	140,500	130,200	222,620	136,600	140,700	144,900	149,200	153,700	158,300	163,000	167,900	172,900	178,100	183,400	188,900	194,600	200,400	206,400	212,600	219,000	225,600	232,400
37 Legal - out of scope	-	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000
38 General office and administration	29,266	26,975	24,340	24,840	27,200	28,100	28,900	29,800	30,700	31,600	32,500	33,500	34,500	35,500	36,600	37,700	38,800	40,000	41,200	42,400	43,700	45,000	46,400
39 Miscellaneous	101,422	115,100	119,100	121,100	124,700	128,400	132,300	136,300	140,400	144,600	148,900	153,400	158,000	162,700	167,600	172,600	177,800	183,100	188,600	194,300	200,100	206,100	212,300
40 Engineering - contracted	103,591	97,130	100,044	103,045	106,100	109,300	112,600	116,000	119,500	123,100	126,800	130,600	134,500	138,500	142,700	147,000	151,400	155,900	160,600	165,400	170,400	175,500	180,800
41 Engineering - special	261,565	723,100	715,000	499,000	100,000	103,000	106,100	109,300	112,600	116,000	119,500	123,100	126,800	130,600	134,500	138,500	142,700	147,000	151,400	155,900	160,600	165,400	170,400
42 CWCWD tap fees	1,302,247	1,291,200	1,448,000	1,312,000	1,037,700	629,600	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
43 Gould property	2,821	-	39,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
44 St. Vrain WTP maintenance	-	-	-	-	400,000	400,000	400,000	400,000	400,000	400,000	400,000	400,000	400,000	400,000	400,000	400,000	400,000	400,000	400,000	400,000	400,000	400,000	400,000
45 NISP Maintenance	-	-	-	-	-	-	-	-	-	-	-	260,000	260,000	260,000	260,000	260,000	260,000	260,000	260,000	260,000	260,000	260,000	260,000
46 Capital Outlay																							
47 NISP participation	130,000	260,000	1,032,000	3,219,000	4,189,000	5,037,000	5,065,000	5,296,000	6,060,000	4,347,000	2,758,000	-	-	-	-	-	-	-	-	-	-	-	-
48 St. Vrain sanitation reimbursement	-	175,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
49 Jackson Avenue waterline replacement	125,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
50 Del Camino Avenue waterline replacement	-	150,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
51 Firestone Reservoir #1	864,600	3,482,400	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
52 Reservoir land purchase	1,500,720	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
53 Water rights - Lower Boulder	1,580,234	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
54 Water rights - Windy Gap	-	10,000,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
55 Water rights - Coal Ridge	-	-	800,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
56 Water lease - Loveland	-	-	225,000	225,000	225,000	236,250	236,250	236,250	236,250	236,250	248,063	248,0											

Town of Firestone
Water Fund
Cash Flow Projection
2017 Actual, 2018-2020 Estimated, 2021-2053 Projecte

	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053
	Projected	Projected	Projected	Projected	Projected	Projected	Projected	Projected	Projected	Projected	Projected	Projected	Projected	Projected
1 Revenues														
2 Charges for services	\$ 15,433,000	\$ 16,245,400	\$ 17,099,900	\$ 17,998,600	\$ 18,943,700	\$ 19,937,700	\$ 20,983,100	\$ 22,082,500	\$ 23,238,600	\$ 24,454,300	\$ 25,732,900	\$ 27,077,300	\$ 28,491,000	\$ 29,977,600
3 Annual Rate	\$ 2,058.23	\$ 2,119.98	\$ 2,183.58	\$ 2,249.09	\$ 2,316.56	\$ 2,386.06	\$ 2,457.64	\$ 2,531.37	\$ 2,607.31	\$ 2,685.53	\$ 2,766.10	\$ 2,849.08	\$ 2,934.55	\$ 3,022.59
4 Annual Rate Increase	3.00%	3.00%	3.00%	3.00%	3.00%	3.00%	3.00%	3.00%	3.00%	3.00%	3.00%	3.00%	3.00%	3.00%
5 Tap fees	2,109,700	2,151,900	2,195,000	2,238,900	2,283,700	2,329,300	2,375,900	2,423,400	2,471,900	2,521,300	2,571,800	2,623,200	2,675,700	2,729,200
6 St. Vrain WTP tap fees	-	-	-	-	-	-	-	-	-	-	-	-	-	-
7 Cash in lieu - water rights	-	-	-	-	-	-	-	-	-	-	-	-	-	-
8 State and local grants	-	-	-	-	-	-	-	-	-	-	-	-	-	-
9 Meter and yoke fees	170,300	173,700	177,200	180,700	184,300	188,000	191,800	195,600	199,500	203,500	207,600	211,700	216,000	220,300
10 Water leases	-	-	-	-	-	-	-	-	-	-	-	-	-	-
11 CWCB Loan proceeds	-	-	-	-	-	-	-	-	-	-	-	-	-	-
12 Intergovernmental revenue - Little Thompson	-	-	-	-	-	-	-	-	-	-	-	-	-	-
13 Water credit bidding	-	-	-	-	-	-	-	-	-	-	-	-	-	-
14 Property sale	-	-	-	-	-	-	-	-	-	-	-	-	-	-
15 Other	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000
16 Interest earnings	200,600	246,400	296,200	350,200	408,500	471,400	539,100	611,900	690,000	774,600	870,900	973,600	1,082,800	1,199,100
17 Transfers from other funds	310,600	316,800	323,100	329,600	336,200	342,900	349,800	356,800	363,900	371,200	378,600	386,200	393,900	401,800
18 Bond Proceeds	-	-	-	-	-	-	-	-	-	-	-	-	-	-
19 Total Revenue	18,237,200	19,147,200	20,104,400	21,111,000	22,169,400	23,282,300	24,452,700	25,683,200	26,976,900	28,337,900	29,774,800	31,285,000	32,872,400	34,541,000
20 Expenditures														
21 Operations														
22 Salaries and benefits	\$ 400,900	\$ 412,900	\$ 425,300	\$ 438,100	\$ 451,200	\$ 464,700	\$ 478,600	\$ 493,000	\$ 507,800	\$ 523,000	\$ 538,700	\$ 554,900	\$ 571,500	\$ 588,600
23 CWCWD water treatment	1,172,700	1,231,300	1,292,900	1,357,500	1,425,400	1,496,700	1,571,500	1,650,100	1,732,600	1,819,200	1,910,200	2,005,700	2,106,000	2,211,300
24 NOCOWT water assessments	478,600	493,000	507,800	523,000	538,700	554,900	571,500	588,600	606,300	624,500	643,200	662,500	682,400	702,900
25 Water line repairs and maintenance	62,100	64,000	65,900	67,900	69,900	72,000	74,200	76,400	78,700	81,100	83,500	86,000	88,600	91,300
26 Water testing	54,200	56,900	59,700	62,700	65,800	69,100	72,600	76,200	80,000	84,000	88,200	92,600	97,200	102,100
27 Equipment	166,200	169,500	172,900	176,300	179,900	183,500	187,100	190,900	194,700	198,600	202,500	206,600	210,700	214,900
28 Water master plan	-	-	-	-	-	-	-	-	-	-	-	-	-	-
29 Vehicle repairs and maintenance	72,000	74,000	76,000	78,000	80,000	82,000	84,000	86,000	88,000	90,000	92,000	94,000	96,000	98,000
30 Scada system maintenance	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000
31 Utilities	28,500	29,400	30,300	31,200	32,100	33,100	34,100	35,100	36,200	37,300	38,400	39,600	40,800	42,000
32 Miscellaneous	22,800	23,500	24,200	24,900	25,600	26,400	27,200	28,000	28,800	29,700	30,600	31,500	32,400	33,400
33 Administration														
34 Salaries and benefits	597,100	615,000	633,500	652,500	672,100	692,300	713,100	734,500	756,500	779,200	802,600	826,700	851,500	877,000
35 Conservation program	178,800	196,700	216,400	238,000	261,800	288,000	316,800	348,500	383,400	421,700	463,900	510,300	561,300	617,400
36 Legal - contracted	239,400	246,600	254,000	261,600	269,400	277,500	285,800	294,400	303,200	312,300	321,700	331,400	341,300	351,500
37 Legal - out of scope	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000
38 General office and administration	47,800	49,200	50,700	52,200	53,800	55,400	57,000	58,800	60,500	62,300	64,200	66,100	68,100	70,200
39 Miscellaneous	218,700	225,300	232,100	239,100	246,300	253,700	261,300	269,100	277,200	285,500	294,100	302,900	312,000	321,400
40 Engineering - contracted	186,200	191,800	197,600	203,500	209,600	215,900	222,400	229,100	236,000	243,100	250,400	257,900	265,600	273,600
41 Engineering - special	175,500	180,800	186,200	191,800	197,600	203,500	209,600	215,900	222,400	229,100	236,000	243,100	250,400	257,900
42 CWCWD tap fees	-	-	-	-	-	-	-	-	-	-	-	-	-	-
43 Gould property	-	-	-	-	-	-	-	-	-	-	-	-	-	-
44 St. Vrain WTP maintenance	400,000	400,000	400,000	400,000	400,000	400,000	400,000	400,000	400,000	400,000	400,000	400,000	400,000	400,000
45 NISP Maintenance	260,000	260,000	260,000	260,000	260,000	260,000	260,000	260,000	260,000	260,000	260,000	260,000	260,000	260,000
46 Capital Outlay														
47 NISP participation	-	-	-	-	-	-	-	-	-	-	-	-	-	-
48 St. Vrain sanitation reimbursement	-	-	-	-	-	-	-	-	-	-	-	-	-	-
49 Jackson Avenue waterline replacement	-	-	-	-	-	-	-	-	-	-	-	-	-	-
50 Del Camino Avenue waterline replacement	-	-	-	-	-	-	-	-	-	-	-	-	-	-
51 Firestone Reservoir #1	-	-	-	-	-	-	-	-	-	-	-	-	-	-
52 Reservoir land purchase	-	-	-	-	-	-	-	-	-	-	-	-	-	-
53 Water rights - Lower Boulder	-	-	-	-	-	-	-	-	-	-	-	-	-	-
54 Water rights - Windy Gap	-	-	-	-	-	-	-	-	-	-	-	-	-	-
55 Water rights - Coal Ridge	-	-	-	-	-	-	-	-	-	-	-	-	-	-
56 Water lease - Loveland	-	-	-	-	-	-	-	-	-	-	-	-	-	-
57 Non-potable irrigation system infrastructure	-	-	-	-	-	-	-	-	-	-	-	-	-	-
58 Historic Firestone water line replacements	-	-	-	-	-	-	-	-	-	-	-	-	-	-
59 St. Vrain water treatment plant	-	-	-	-	-	-	-	-	-	-	-	-	-	-
60 St. Vrain WTP blend pipeline	-	-	-	-	-	-	-	-	-	-	-	-	-	-
61 Water tank	-	-	-	-	-	-	-	-	-	-	-	-	-	-
62 Firestone Reservoir #1 plumbing	-	-	-	-	-	-	-	-	-	-	-	-	-	-
63 Reservoir land test wells	-	-	-	-	-	-	-	-	-	-	-	-	-	-
64 Mountain Shadows Park conversion	-	-	-	-	-	-	-	-	-	-	-	-	-	-
65 Well field piping to Reservoir #1	-	-	-	-	-	-	-	-	-	-	-	-	-	-
66 Firestone Trail well field	-	-	-	-	-	-	-	-	-	-	-	-	-	-
67 Other capital outlay	2,500,000	2,500,000	2,500,000	2,500,000	2,500,000	2,500,000	2,500,000	2,500,000	2,500,000	2,500,000	2,500,000	2,500,000	2,500,000	2,500,000
68 Debt														
69 CWCB loan repayment	-	-	-	-	-	-	-	-	-	-	-	-	-	-
70 Debt service on bonds related to NISP	2,407,650	2,409,400	2,407,650	2,407,400	2,413,400	2,415,150	2,407,650	2,411,150	2,409,900	2,251,900	1,080,750	1,081,250	1,079,500	1,060,500
71 Bond issuance costs	-	-	-	-	-	-	-	-	-	-	-	-	-	-
72 Total Expenditures	9,770,150	9,930,300	10,094,150	10,266,700	10,453,600	10,644,850	10,835,450	11,046,750	11,292,200	11,333,500	10,401,950	10,654,050	10,916,300	11,175,000
73 Excess of revenue over (under) expenditures	8,467,050	9,216,900	10,010,250	10,844,300	11,715,800	12,637,450	13,617,250	14,636,450	15,684,700	17,004,400	19,372,850	20,630,950	21,956,100	23,366,000
74 Funds Available - Beginning	31,848,365	40,315,415	49,532,315	59,542,565	70,386,865	82,102,665	94,740,115	108,357,365	122,993,815	138,678,515	155,682,915	175,055,765	195,686,715	217,642,815
75 Funds Available - Ending	\$ 40,315,415	\$ 49,532,315	\$ 59,542,565	\$ 70,386,865	\$ 82,102,665	\$ 94,740,115	\$ 108,357,365	\$ 122,993,815	\$ 138,678,515	\$ 155,682,915	\$ 175,055,765	\$ 195,686,715	\$ 217,642,815	\$ 241,008,815
76 Funds Available Summary														
77 Committed for NISP	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
78 Restricted - Unspent Bond Proceeds	-	-	-	-	-	-	-	-	-	-	-	-	-	-
79 Unrestricted and Unassigned	40,315,415	49,532,315	59,542,565	70,386,865	82,102,665	94,740,115	108,357,365	122,993,815	138,678,515	155,682,915	175,055,765	195,686,715	217,642,815	241,008,815
80 Funds Available - Ending	\$ 40,315,415	\$ 49,532,315	\$ 59,542,565	\$ 70,386,865	\$ 82,102,665	\$ 94,740,115	\$ 108,357,365	\$ 122,993,815	\$ 138,678,515	\$ 155,682,915	\$ 175,055,765	\$ 195,686,715	\$ 217,642,815	\$ 241,008,815



2019 METER SERVICE PARTS COSTS

Bid Date:

Project Location:

--

Quote: Base 9/6/2018

TakeOff Name: TakeOff 1

Customer: TOWN OF FIRESTONE

Sales Rep: Gary McMillen

Phone: 303.522.6848

eMail: gmcmillen@danakepner.com

Denver

700 Alcott Street

Denver, CO 80204

Standard Hours: 7:00a to 5:00p Monday through Friday

Phone: 303.623.6161

On Call: 303.901.2353

Assumptions

Per Plan/Customer specifications will prevail in this proposal.

Terms and Conditions

Totals are for estimating purposes only. Unit prices prevail.

Dana Kepner Company, Inc. is not responsible for manufacturers ability to ship material or hold prices.

PRICES GOOD UNTIL JANUARY 1ST 2020 IF THERE IS A COST INCREASE THAT DANA KEPNER CO. INC CANNOT HOLD PRICES FOR THIS TERM, CUSTOMER WILL BE GIVEN A THIRTY DAY NOTICE OF PRICE INCREASE.

This quote is for the supply of material only.

The materials specifications, sizes, and quantities listed are the interpretations of Dana Kepner Company, Inc. and are believed to be correct, but are not guaranteed.

Connecting hardware for Non-DK supplied material is not included in bid, unless otherwise noted.

Manufacturer standard warranty applies.

Terms are net 30, and Quote is based on award of complete project.

All returns must be approved by management and will have a minimum 15% restock charge. Nonstocks are not returnable, and are shaded gray within this quote.

Thank you for the opportunity to bid this project.

Thank you for the opportunity to bid this project.

Quote Summary

2019 WATER SERVICE PARTS COSTS	5/8" X 3/4" WATER SERVICE PARTS COSTS	\$1,032.19
	3/4" WATER SERVICE PARTS COSTS	\$1,067.32
	1" WATER SERVICE PARTS COSTS	\$1,379.96
	1-1/2" DOMECTIC WATER SERVICE PARTS COSTS	\$3,443.90
	1-1/2" FIRESTONE IRRIGATION WATER SERVICE PARTS	\$2,446.46
	2" DOMESTIC WATER SERVICE PARTS	\$4,393.85
	2" FIRESTONE IRRIGATION WATER SERVICE PARTS	\$3,017.41
	2019 WATER SERVICE PARTS COSTS Total:	\$16,781.09
Total Quote before Taxes:		\$16,781.09

2019 WATER SERVICE PARTS COSTS

5/8" X 3/4" WATER SERVICE PARTS COSTS

Qty	Unit	Description	Price	Total Price
1	1.0 EA	20X48" MS METER PIT	\$148.54	\$148.54
2	1.0 EA	M70AL METER PIT COVER W/ CI DEN LID & 3"INNER LID	\$107.69	\$107.69
3	1.0 EA	FORD 5/8" X 3/4" #TVHC82-9W-44-33-G-3TV-NL TANDEM METER SETTER WITH ANGLE KEY VALVE INLET, DUAL CARTRIDGE CHECK VALVE OUTLET, COMPRESSION COPPER GRIP CONNECTIONS, COMPLETE WITH S-TUBE AND REGULATOR ADAPTORS.	\$340.84	\$340.84
4	1.0 EA	3/4" LF 600XLLU WILKINS PRV	\$131.66	\$131.66
5	1.0 EA	3/4" IPERL, 7.5" LL, 3 WIRE TR/PL, 1 G	\$145.97	\$145.97
6	1.0 EA	520M MXU, 1 PORT, TC HOURLY READ, LEAK DET	\$157.49	\$157.49
				\$1,032.19

Total Units: 1.0

Average Cost per Each: \$1,032.19

3/4" WATER SERVICE PARTS COSTS

Qty	Unit	Description	Price	Total Price
1	1.0 EA	20X48" MS METER PIT	\$148.54	\$148.54
2	1.0 EA	M70AL METER PIT COVER W/ CI DEN LID & 3"INNER LID	\$107.69	\$107.69
3	1.0 EA	FORD 3/4" #TVHC83-12W-44-33-G-3TV-NL TANDEM METER SETTER WITH ANGLE KEY VALVE INLET, DUAL CARTRIDGE CHECK VALVE OUTLET COMPRESSION GRIP COPPER CONNECTIONS COMPLETE WITH S-TUBE, AND REGULATOR ADAPTORS.	\$358.71	\$358.71
4	1.0 EA	3/4" LF 600XLLU WILKINS PRV	\$131.66	\$131.66
5	1.0 EA	3/4" IPERL, 9" LL, 3 WIRE TR/PL, 1 G	\$163.23	\$163.23
6	1.0 EA	520M MXU, 1 PORT, TC HOURLY READ, LEAK DET	\$157.49	\$157.49
				\$1,067.32

Total Units: 1.0

Average Cost per Each: \$1,067.32

1" WATER SERVICE PARTS COSTS

Qty	Unit	Description	Price	Total Price
1	1.0 EA	20X24X48" MS METER PIT	\$207.16	\$207.16
2	1.0 EA	M70AL METER PIT COVER W/ CI DEN LID & 3"INNER LID	\$107.69	\$107.69
3	1.0 EA	FORD 1" #TVHC84-12W-44-44-G-3TV-NL TANDEM METER SETTER WITH ANGLE KEY VALVE INLET, DUAL CARTRIDGE CHECK VALVE OUTLET, COMPRESSION GRIP COPPER CONNECTIONS, COMPLETE WITH S-TUBE, AND REGULATOR ADAPTORS.	\$536.23	\$536.23
4	1.0 EA	1" LF 600XL WILKINS PRV	\$159.07	\$159.07
5	1.0 EA	1" IPERL, 3 WIRE TR/PL, 1 G	\$212.32	\$212.32
6	1.0 EA	520M MXU, 1 PORT, TC HOURLY READ, LEAK DET	\$157.49	\$157.49
				\$1,379.96

Total Units: 1.0

Average Cost per Each: \$1,379.96

1-1/2" DOMECTIC WATER SERVICE PARTS COSTS

Qty	Unit	Description	Price	Total Price
1	1.0 EA	1.5" FIRESTONE SPEC. DOMESTIC WATER METER SETTER. / LESS PRV.	\$1,477.03	\$1,477.03
2	1.0 EA	1.5" FIRESTONE SPEC IRRIGATION WATER METER SETTER	\$514.31	\$514.31
3	1.0 EA	1-1/2" OMNI C2 METER, 1G	\$1,270.65	\$1,270.65
4	4.0 EA	5/8X2-1/2" NEVER GALL 304 SS MACHINE BOLT	\$3.62	\$14.48
5	4.0 EA	5/8" NEVER GALL 304 SS HEX NUT	\$0.97	\$3.88
6	4.0 EA	5/8" METER WASHER, 304SS	\$0.42	\$1.68
7	2.0 EA	1-1/2" COMPANION FLANGE METER GASKET, DROP-IN	\$2.19	\$4.38
8	1.0 EA	520M MXU, 1 PORT, TC HOURLY READ, LEAK DET	\$157.49	\$157.49
				\$3,443.90

Total Units: 1.0

Average Cost per Each: \$3,443.90

1-1/2" FIRESTONE IRRIGATION WATER SERVICE PARTS

Qty	Unit	Description	Price	Total Price
1	1.0 EA	1.5" FIRESTONE SPEC IRRIGATION WATER METER SETTER	\$514.31	\$514.31
2	1.0 EA	1.5" WILKINS 600XL-HP HIGH PRESSURE PRV	\$479.59	\$479.59
3	1.0 EA	1-1/2" OMNI C2 METER, 1G	\$1,270.65	\$1,270.65
4	4.0 EA	5/8X2-1/2" NEVER GALL 304 SS MACHINE BOLT	\$3.62	\$14.48
5	4.0 EA	5/8" NEVER GALL 304 SS HEX NUT	\$0.97	\$3.88
6	4.0 EA	5/8" METER WASHER, 304SS	\$0.42	\$1.68
7	2.0 EA	1-1/2" COMPANION FLANGE METER GASKET, DROP-IN	\$2.19	\$4.38
8	1.0 EA	520M MXU, 1 PORT, TC HOURLY READ, LEAK DET	\$157.49	\$157.49
				\$2,446.46

Total Units: 1.0

Average Cost per Each: \$2,446.46

2" DOMESTIC WATER SERVICE PARTS

Qty	Unit	Description	Price	Total Price
1	1.0 EA	2" FIRESTONE SPEC. DOMESTIC WATER METER SETTER	\$2,126.22	\$2,126.22
2	1.0 EA	2" WILKINS 600XL-HP HIGH PRESSURE PRV	\$604.67	\$604.67
3	1.0 EA	2" OMNI C2 METER, 1 GAL	\$1,466.13	\$1,466.13
4	4.0 EA	3/4X3" NEVER GALL 304 SS MACHINE BOLT	\$6.38	\$25.52
5	4.0 EA	3/4" NEVER GALL 304 SS HEX NUT	\$1.43	\$5.72
6	4.0 EA	3/4" METER WASHER, 304SS	\$0.70	\$2.80
7	2.0 EA	2" COMPANION FLG MTR GSKT,DROP-IN,	\$2.65	\$5.30
8	1.0 EA	520M MXU, 1 PORT, TC HOURLY READ, LEAK DET	\$157.49	\$157.49
				\$4,393.85

Total Units: 1.0

Average Cost per Each: \$4,393.85

2" FIRESTONE IRRIGATION WATER SERVICE PARTS

Qty	Unit	Description	Price	Total Price
1	1.0 EA	2" FIRESTONE SPEC IRRIGATION WATER METER SETTER	\$749.78	\$749.78
2	1.0 EA	2" WILKINS 600XL-HP HIGH PRESSURE PRV	\$604.67	\$604.67
3	1.0 EA	2" OMNI C2 METER, 1 GAL	\$1,466.13	\$1,466.13
4	4.0 EA	3/4X3" NEVER GALL 304 SS MACHINE BOLT	\$6.38	\$25.52
5	4.0 EA	3/4" NEVER GALL 304 SS HEX NUT	\$1.43	\$5.72
6	4.0 EA	3/4" METER WASHER, 304SS	\$0.70	\$2.80
7	2.0 EA	2" COMPANION FLG MTR GSKT,DROP-IN,	\$2.65	\$5.30
8	1.0 EA	520M MXU, 1 PORT, TC HOURLY READ, LEAK DET	\$157.49	\$157.49
				\$3,017.41

Total Units: 1.0

Average Cost per Each: \$3,017.41

AGENDA INFORMATION MEMORANDUM

FIRESTONE TOWN BOARD OF TRUSTEES



AIM#: 7.b.

Discussion/Action

Meeting Date: December 12, 2018

Initiated By: AJ Krieger

Dept: Administration

AGENDA TITLE

Resolution 18-52: A RESOLUTION APPROVING A THIRD AMENDMENT TO THE FACILITY USE LICENSE AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND CARBON VALLEY HELP CENTER

SUMMARY

The Town of Firestone entered into a facility use agreement with the Carbon Valley Help Center on March 28, 2012. The second amendment was approved on September 12, 2012 with administrative amendments after, and the most recent was on September 18, 2018. The last administrative letter extended the lease until February 8, 2019.

With the Board agreeing to allow for improvements on November 14, 2018, the Town is recommending a third amendment to the agreement which would run through August 31, 2020, allowing for the newly seated board in April of 2020 to revisit the agreement.

HISTORY AND PREVIOUS BOARD ACTION

RECOMMENDATION

Staff recommends the Board approve Resolution 18-52 , a resolution approving a third amendment to the facility use license agreement between the Town of Firestone and Carbon Valley Help Center.

ALTERNATIVES

The Board can give staff further direction.

ATTACHMENTS

1. Reso 18-52 CVHC Amendment for Ext of Contract final

FINANCIAL CONSIDERATIONS

RESOLUTION NO. 18-52

A RESOLUTION APPROVING A THIRD AMENDMENT TO THE FACILITY USE LICENSE AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND CARBON VALLEY HELP CENTER

WHEREAS, on September 12, 2012, the Town of Firestone ("Town") and the Carbon Valley Help Center ("CVHC" or the "Center") entered into a Facility Use License Agreement ("Agreement") for the Center's use of the old Town Hall located at 150 Buchanan Avenue in Firestone; and

WHEREAS, on September 18, 2018, the parties extended the Agreement for an additional six months by the Second Amendment to Facility Use License Agreement ("First Amendment"); and

WHEREAS, there has been proposed a Third Amendment to Facility Use License Agreement ("Second Amendment") to extend the term of the Agreement until August 31, 2020, and further authorize the Town Manager to grant one, six-month extension; and

WHEREAS, the Board of Trustees has determined that the proposed Third Amendment is in the best interests of the Town and desires by this Resolution to approve said Third Amendment and authorize its execution.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO:

Section 1. The proposed Third Amendment to Facility Use License Agreement ("Third Amendment") between the Town of Firestone and Carbon Valley Help Center for use of the old Town Hall at 150 Buchanan Avenue in Firestone is hereby approved in essentially the same form as the copy of such Third Amendment accompanying this Resolution.

Section 2. The Mayor and Mayor Pro-Tem, or either of them, is hereby authorized to execute the Third Amendment, except that each is hereby further granted the authority to negotiate and approve such revisions to said Third Amendment as are determined necessary or desirable for the protection of the Town, so long as the essential terms and conditions of the Third Amendment are not altered.

Section 3. The Town Manager and Town Staff are further authorized to do all things necessary on behalf of the Town to perform the obligations of the Town under the Facility Use License Agreement, as amended, to administer amendments, and to execute and deliver any and all documents necessary to effect the provisions thereof, including without limitation that the Town Manager is delegated the authority to grant or deny a request for extension under Section 2 of said Facility Use License Agreement, as amended.

INTRODUCED, READ, and ADOPTED this 12th day of December 2018.

TOWN OF FIRESTONE, COLORADO

Bobbi Sindelar, Mayor

ATTEST:

Leah Vanarsdall, Clerk

THIRD AMENDMENT TO FACILITY USE LICENSE AGREEMENT

THIS THIRD AMENDMENT TO FACILITY USE LICENSE AGREEMENT ("Third Amendment" or "License") is made and entered into effective as of the 12th day of December, 2018, by and between the Town of Firestone, Colorado, a municipal corporation (the "Town"), and Carbon Valley Help Center, a Colorado nonprofit corporation ("CVHC"), with reference to that certain FACILITY USE LICENSE AGREEMENT by and between the Town and CVHC, dated September 12, 2012 ("Original Agreement").

RECITALS

WHEREAS, pursuant to the terms of the Original Agreement, the Town licensed certain Town-owned property located at 150 Buchanan Avenue, Firestone, Colorado to CVHC for operation of the Carbon Valley Help Center; and

WHEREAS, the initial term of the Original Agreement was one year with an option authorizing the Town Manager to extend the term of the Original Agreement for two additional periods of not more than one year each; and

WHEREAS, the Town Manager extended the Original Agreement for two years; and

WHEREAS, the Original Agreement was amended by a First Amendment approved by the Town on October 8, 2014, and pursuant to such First Amendment the term of the License was extended to October 8, 2017; and

WHEREAS, the Town Manager extended the second amendment for six months approved by the Town on September 18, 2018, and pursuant to such amendments to the term of the License was extended to February, 8, 2019; and

WHEREAS, the parties, by this Third Amendment, desire to extend the term of the Original Agreement for an additional one year and eight months and further authorize the Town Manager to grant one extension of no longer than six months;

NOW, THEREFORE, the parties agree as follows:

Section 1. Section 2 of the Original Agreement, as previously amended by the First Amendment, is hereby deleted and replaced in its entirety, to read as follows:

2. **Duration.** This License shall terminate on August 31, 2020, unless sooner terminated by the Town and CVHC as provided herein. By writing executed by the Town Manager, the License herein granted may at the Town's discretion be extended for one additional period of not more than six months, subject to earlier termination by the Town and CVHC as provided herein.

Section 2. The Facility Use License Agreement, as amended by this Third Amendment, is hereby ratified and confirmed and shall remain in full force and effect in accordance with its terms. The parties agree this Third Amendment is effective as of December 12, 2018, so as to provide for the Facility Use License Agreement to remain continuously in effect.

IN WITNESS WHEREOF, the parties have executed this Third Amendment to Facility Use License Agreement effective as of the date first above written.

TOWN OF FIRESTONE,
a Colorado municipal corporation

By: _____
Bobbi Sindelar, Mayor

ATTEST: _____
Leah Vanarsdall, Town Clerk

CARBON VALLEY HELP CENTER,
A Colorado nonprofit corporation

By: _____

Title: _____

ATTEST:

By: _____

Title: _____

AGENDA INFORMATION MEMORANDUM

FIRESTONE TOWN BOARD OF TRUSTEES



AIM#: 7.c.

Discussion/Action

Meeting Date: December 12, 2018

Initiated By: Julie Pasillas

Dept: Community Resources

AGENDA TITLE

Resolution 18-55: A RESOLUTION APPROVING AN OPTION TO PURCHASE AGREEMENT

SUMMARY

This resolution authorizes the Town of Firestone to enter into an Option to Purchase the Brooks Farm Parcel ("Valley Option") within five years of the date of this agreement. The Brooks Farm Parcel is adjacent to the west of the Firestone Reservoir #1. This agreement allow that Town the option to buy the parcel but does not obligate the Town if within that five year period the decision is made not to move forth with the purchase.

HISTORY AND PREVIOUS BOARD ACTION

As part of the purchase of the Brooks Farm Parcel from LG Everist in October 2016, Firestone acquired the "Valley Option" (Option). In addition to reservoir storage, the Option includes 1.91 shares of Rural Ditch Company (RDC) water rights; these shares were historically used in conjunction with the 1.41 shares of Rural Ditch Company water rights to irrigate one parcel.

RECOMMENDATION

Staff recommends that the Board approve the attached resolution.

ALTERNATIVES

The Board may choose not to approve the resolution, and provide Staff with additional direction.

ATTACHMENTS

1. Brooks Farm Option Agreement
2. Ex R Brooks Farm Option to Purchase with Exhibits - Carbon Valley Parcel.._
3. 7c - Reso 18-55 APPROVING AN OPTION TO PURCHASE AGREEMENT (2)

FINANCIAL CONSIDERATIONS

None at this time. If the Town of Firestone was to make the decision to go forward with the purchase with in the five years a purchase agreement will be brought back to the Board for formal approval.

EXHIBIT R

Form of Option to Purchase (Brooks Farm)

[See following pages]

OPTION TO PURCHASE (Brooks Farm)

THIS OPTION TO PURCHASE (the “**Agreement**”) is made as of the _____ day of _____, 2017, by and between L.G. EVERIST, INCORPORATED, an Iowa corporation (the “**Owner**”) and the TOWN OF FIRESTONE, a Colorado municipal corporation, acting by and through its Town of Firestone Water Activity Enterprise, organized and existing as a “water activity enterprise” under C.R.S. § 37-4.1-101 *et seq.* (the “**Optionee**”).

RECITALS

A. Owner holds legal title to that certain real property depicted and as otherwise described in Exhibit A attached hereto and incorporated herein by this reference as though fully set forth (the “**Premises**”).

B. Optionee desires to acquire an option to purchase the Premises and Owner is willing to grant to Optionee an option to purchase the Premises.

C. Owner and Optionee are parties to that certain Purchase, Sale and Exchange Agreement dated as of October 12, 2016 (the “**Carbon Valley PSA**”), wherein Owner agreed to sell to Optionee, and Optionee agreed to purchase from Owner, certain real property located adjacent to and directly to the east of the Premises. This Agreement is required by and constitutes a material part of the consideration agreed upon by the parties in connection with the Carbon Valley PSA.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties contained herein and in the Carbon Valley PSA, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed by and between the parties hereto as follows:

1. Definitions. All capitalized terms used herein which are otherwise undefined shall have the respective meanings ascribed to each of such terms in the Carbon Valley PSA.

2. Grant of Option to Purchase. Owner hereby grants to Optionee an exclusive option to purchase the Premises (the “**Option**”) pursuant to the terms and conditions set forth in this Agreement.

3. Exercise of Option.

3.1 Optionee may exercise the Option by giving Owner written notice of such exercise on or before the Option Termination Date (as such term is defined below in Section 4). If Optionee fails to give such notice on or before the Option Termination Date, then the Option shall expire and both parties shall be relieved of all further obligations under this Agreement.

3.2 Upon valid exercise of the Option, the acquisition of the Premises by Optionee from Owner will be governed by the terms of that certain form of Purchase and Sale

Agreement attached hereto as Exhibit B (the “**Form Contract**”). Upon valid exercise of the Option, the Form Contract will be promptly executed by all parties and delivered to Stewart Title, 55 Madison Street, Suite 400, Denver, CO 80206, Attn: Carma Weymouth.

4. Termination of Option. The Option will terminate (and will no longer be able to be validly exercised by Optionee) upon the earlier to occur of the following events:

(a) The Option will expire, if not exercised by Optionee in accordance with the terms of Section 3 of this Agreement on or before 5:00 p.m. Mountain Time on _____, 20____, the date which is 60 months after the mutual execution of this Agreement; or

(b) The Option (and this Agreement) will immediately terminate upon the revocation by Optionee of the Valley License (as such term is defined in Paragraph 1.1 (III) of the Carbon Valley PSA),

and the date of such expiration or termination, as applicable, is referred to herein as the “**Option Termination Date**”.

5. Purchase Price. The purchase price of the Premises will be determined as set forth in Section 3.2 of the Form Contract (the “**Purchase Price**”). The Purchase Price will include all of Owner’s right, title and interest in and to the Premises (as more particularly described in the Form Contract), inclusive of but not limited to, any water storage cells located thereon resulting from the completion of Owner’s mining activities and reclamation obligations thereon in accordance with Owner’s applicable mining and reclamation permits, certain shares of capital stock in the Rural Ditch Company which are appurtenant to or otherwise associated with the Premises, all irrigation headgates, laterals and other fixtures and improvements which are attached to the Premises and other appurtenances thereto, but only such rights, appurtenances, fixtures and improvements as are derived from Owner’s ownership of the above-referenced shares of capital stock in the Rural Ditch Company, and not any rights, appurtenances, fixtures or improvements derived from Owner’s ownership interests in or to the Last Chance Ditch Company unless otherwise specifically provided for in the Form Contract.

6. Representations, Warranties and Covenants of Owner. Owner represents, warrants and covenants to Optionee as follows:

(a) Owner has full right, power and authority and has taken all requisite action to enter into this Agreement and, if the Option is validly exercised by Optionee prior to the Option Termination Date, to sell and convey the Premises to Optionee subject to the terms and conditions set forth in the Form Contract and to carry out Owner’s obligations as set forth therein;

(b) to the best of Owner’s knowledge, information and belief, there are no violations of any federal, state, county or municipal law, ordinance, order, regulation, or requirement affecting any portion of the Premises. Owner has not received notice, written or otherwise, from any governmental or quasi-governmental agency of any such violations, or requiring the correction of any condition with respect to the Premises, or any part thereof;

(c) there is no action, suit, proceeding, or claim affecting Owner or, to the best of Owner's knowledge, information and belief, the Premises or any portion thereof, relating to or arising out of the ownership, operation, use or occupancy of the Premises, pending or being prosecuted in any court or by or before any federal, state, county, or municipal department, commission, board, bureau, or agency or other governmental instrumentality nor, to the knowledge of Owner, is any such action, suit, proceeding, or claim threatened or being asserted;

(d) to the best of Owner's knowledge, information and belief, there is no pending or contemplated condemnation or similar proceeding affecting the Premises or any portion thereof. Owner has not received any notice, written or otherwise, and has no knowledge that any such proceeding is contemplated;

(e) Owner has not received any notice, written or otherwise, and otherwise has no knowledge of any pending improvement liens or special assessments to be made against the Premises by any governmental authority;

(f) no mechanics', materialmans', or other liens against the Premises, if any, will remain in effect as of the date of closing;

(g) no consent or approval of any person, entity, or governmental agency or authority is required with respect to the execution and delivery of this Agreement or the Form Contract by Owner or the consummation by Owner of the transactions contemplated herein or in the Form Contract or the performance by Owner of its obligations hereunder or under the Form Contract;

(h) there are no attachments, executions or assignments for the benefit of creditors, receiverships, conservatorships, or voluntary or involuntary proceedings in bankruptcy or pursuant to any debtor relief laws contemplated or filed by Owner or pending against Owner or, to the best knowledge, information and belief of Owner, the Premises;

(i) other than this Agreement, there are no options, contracts, or other obligations outstanding for the exchange, or transfer of the Premises or any portion thereof or any interest therein; and

(j) unless otherwise permitted by the terms of the Form Contract, Owner will not amend or modify any agreement, lease, permit, contract or other document affecting title to the Premises prior to the expiration or other termination of the Option (or, if the Option is validly exercised by Optionee, prior to the closing date for the Premises) without the prior written consent of Optionee, such consent to be granted or withheld in the reasonable discretion of Optionee.

The representations and warranties contained in this Section 6 shall be true and correct as of the date of execution of this Agreement, shall survive the valid exercise of the Option by Optionee, and if such Option is exercised, shall be true and correct on the closing date for the Premises.

7. Closing. The closing of the purchase of the Premises will occur as provided in the Form Contract.

8. Reimbursement of Owner's Application Fees. As more particularly described in Paragraph 3.5 of the Carbon Valley PSA, the Premises is a part of a larger parcel of property owned by Owner (defined therein as the "**Brooks Farm Property**") which is located within the boundaries of the Town of Firestone, and as such, Owner intends to apply to Optionee for all permits required to be issued by the Town of Firestone for Owner's mining and reclamation of the Brooks Farm Property. As additional consideration for this Agreement, Optionee hereby agrees that the Town of Firestone will reimburse to Owner at the Carbon Valley Closing an amount equal to the actual amounts paid by Owner to the Town of Firestone relating to costs incurred by the Town of Firestone to review and process the conditional use permit required by the Town of Firestone for Owner's operations on the Brooks Farm Property. Such reimbursement will be limited to those amounts Owner is required to pay in connection with Owner's conditional use permit applications filed and processed by the Town of Firestone prior to the date of this Agreement. Subsequent to the date of this Agreement, Optionee hereby agrees to waive any such fees which ordinarily would be required to be paid by Owner to Optionee for such purposes relating to the Brooks Farm Property. The above-referenced reimbursement will be without interest, will consist only of amounts actually paid by Owner to Optionee for such purposes, and may be made by Optionee as an appropriate credit/debit (as applicable) on the respective settlement statements of the parties to the Carbon Valley PSA prepared by Title Company in connection with the Carbon Valley Closing. If this Agreement is not executed at such closing, then Optionee will not have any of the reimbursement or waiver obligations set forth above in this Section 8.

9. Waiver of Breach. The waiver by either party of a breach of any provision of this Agreement by the other party shall not operate as a waiver of any subsequent or other breach hereunder.

10. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado.

11. Amendment. This Agreement may not be modified or amended at any time, except by an instrument in writing signed by all the parties hereto.

12. Notices. All notices, requests, records and other communications required hereunder shall be personally delivered, or sent by overnight courier, or certified U.S. mail (return receipt requested), postage prepaid, and such notices shall be deemed effective, if personally delivered, when delivered, or on the first business day following deposit with a nationally recognized overnight courier service, or if mailed, on the third business day after the date when deposited in the U.S. mail as aforesaid, addressed to the respective parties at their respective addresses as set forth in the Form Contract.

13. Attorneys' Fees. If any controversy, claim or dispute between the parties hereto, arises out of or relating to this Agreement, or the breach hereof, the prevailing party shall be entitled to recover its costs and expenses from the losing party, including reasonable attorneys' fees and costs.

14. Recordation of Option. Optionee shall have the right to record a memorandum of this Agreement in the form attached hereto as Exhibit C in the records of the Clerk and Recorder of the County of Weld, State of Colorado.

15. Miscellaneous.

15.1 Effect of Headings. The subject headings of the paragraphs and subparagraphs of this Agreement are included for purposes of convenience only, and shall not affect the construction or interpretation of any of its provisions.

15.2 Entire Agreement. This Agreement constitutes the entire agreement between the parties pertaining to the subject matter contained herein and supersedes all prior agreements, representations, and understandings of the parties.

15.3 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

15.4 Severability. In the event that a court of competent jurisdiction enters a final judgment holding invalid any material provision of this Agreement, the remainder of this Agreement shall be fully enforceable.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

OWNER:

L.G. EVERIST, INCORPORATED, an Iowa corporation

By: _____
Name: Dennis L. Fields
Its: Vice President, Mountain Division

OPTIONEE:

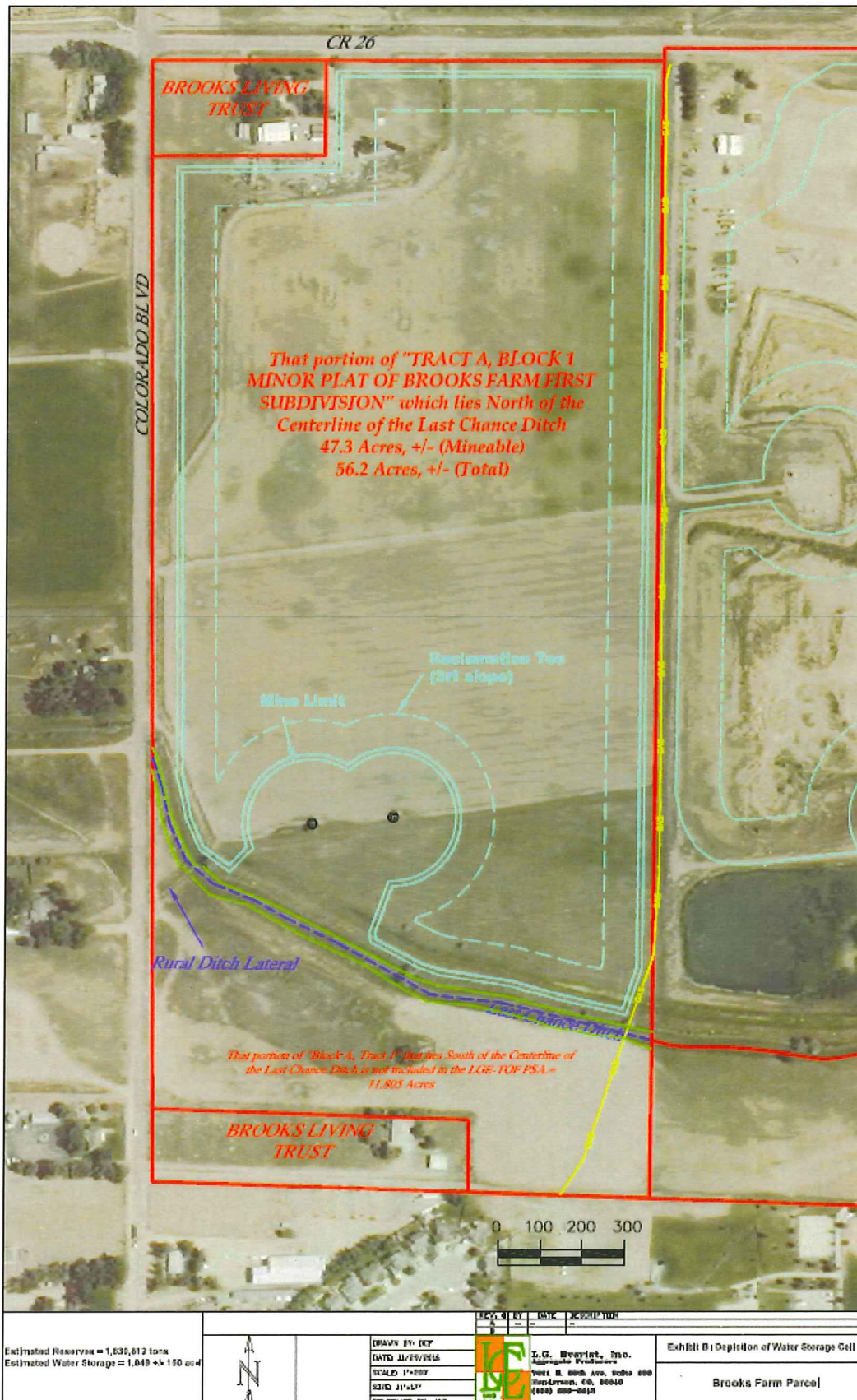
TOWN OF FIRESTONE,
a Colorado municipal corporation, acting by
and through its Town of Firestone Water Activity
Enterprise, organized and existing as a “water
activity enterprise” under C.R.S. 37-4.1-101 et seq.

By: _____
Name: _____
Title: _____

EXHIBIT A

Description and Depiction of Premises

(See attached page.)



OPTION TO PURCHASE (Brooks Farm)

THIS OPTION TO PURCHASE (the “**Agreement**”) is made as of the _____ day of December, 2018, by and between L.G. EVERIST, INCORPORATED, an Iowa corporation (the “**Owner**”) and the TOWN OF FIRESTONE, a Colorado municipal corporation, acting by and through its Town of Firestone Water Activity Enterprise, organized and existing as a “water activity enterprise” under C.R.S. § 37-4.1-101 *et seq.* (the “**Optionee**”).

RECITALS

A. Owner holds legal title to that certain real property depicted and as otherwise described in Exhibit A attached hereto and incorporated herein by this reference as though fully set forth (the “**Premises**”).

B. Optionee desires to acquire an option to purchase the Premises and Owner is willing to grant to Optionee an option to purchase the Premises.

C. Owner and Optionee are parties to that certain Purchase, Sale and Exchange Agreement dated as of October 12, 2016, as amended by that certain First Amendment to Purchase, Sale, and Exchange Agreement dated as of January 12, 2017 (collectively the “**Carbon Valley PSA**”), wherein Owner agreed to sell to Optionee, and Optionee agreed to purchase from Owner, certain real property located adjacent to and directly to the east of the Premises. This Agreement is required by and constitutes a material part of the consideration agreed upon by the parties in connection with the Carbon Valley PSA.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties contained herein and in the Carbon Valley PSA, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed by and between the parties hereto as follows:

1. Definitions. All capitalized terms used herein which are otherwise undefined shall have the respective meanings ascribed to each of such terms in the Carbon Valley PSA.

2. Grant of Option to Purchase. Owner hereby grants to Optionee an exclusive option to purchase the Premises (the “**Option**”) pursuant to the terms and conditions set forth in this Agreement.

3. Exercise of Option.

3.1 Optionee may exercise the Option by giving Owner written notice of such exercise on or before the Option Termination Date (as such term is defined below in Section 4). If Optionee fails to give such notice on or before the Option Termination Date, then the Option shall expire and both parties shall be relieved of all further obligations under this Agreement.

3.2 Upon valid exercise of the Option, the acquisition of the Premises by Optionee from Owner will be governed by the terms of that certain form of Purchase and Sale Agreement attached hereto as Exhibit B (the “**Form Contract**”). Upon valid exercise of the Option, the Form Contract will be promptly executed by all parties and delivered to Stewart Title, 55 Madison Street, Suite 400, Denver, CO 80206, Attn: Carma Weymouth.

4. Termination of Option. The Option will terminate (and will no longer be able to be validly exercised by Optionee) upon the earlier to occur of the following events:

(a) The Option will expire, if not exercised by Optionee in accordance with the terms of Section 3 of this Agreement on or before 5:00 p.m. Mountain Time on _____, 2023, the date which is 60 months after the mutual execution of this Agreement; or

(b) The Option (and this Agreement) will immediately terminate upon the revocation by Optionee of the Valley License (as such term is defined in Paragraph 1.1 (III) of the Carbon Valley PSA),

and the date of such expiration or termination, as applicable, is referred to herein as the “**Option Termination Date**”.

5. Purchase Price. The purchase price of the Premises will be determined as set forth in Section 3.2 of the Form Contract (the “**Purchase Price**”). The Purchase Price will include all of Owner’s right, title and interest in and to the Premises (as more particularly described in the Form Contract), inclusive of but not limited to, any water storage cells located thereon resulting from the completion of Owner’s mining activities and reclamation obligations thereon in accordance with Owner’s applicable mining and reclamation permits, certain shares of capital stock in the Rural Ditch Company which are appurtenant to or otherwise associated with the Premises, all irrigation headgates, laterals and other fixtures and improvements which are attached to the Premises and other appurtenances thereto, but only such rights, appurtenances, fixtures and improvements as are derived from Owner’s ownership of the above-referenced shares of capital stock in the Rural Ditch Company, and not any rights, appurtenances, fixtures or improvements derived from Owner’s ownership interests in or to the Last Chance Ditch Company unless otherwise specifically provided for in the Form Contract.

6. Representations, Warranties and Covenants of Owner. Owner represents, warrants and covenants to Optionee as follows:

(a) Owner has full right, power and authority and has taken all requisite action to enter into this Agreement and, if the Option is validly exercised by Optionee prior to the Option Termination Date, to sell and convey the Premises to Optionee subject to the terms and conditions set forth in the Form Contract and to carry out Owner’s obligations as set forth therein;

(b) to the best of Owner’s knowledge, information and belief, there are no violations of any federal, state, county or municipal law, ordinance, order, regulation, or requirement affecting any portion of the Premises. Owner has not received notice, written or otherwise, from any governmental or quasi-governmental agency of any such violations,

or requiring the correction of any condition with respect to the Premises, or any part thereof;

(c) there is no action, suit, proceeding, or claim affecting Owner or, to the best of Owner's knowledge, information and belief, the Premises or any portion thereof, relating to or arising out of the ownership, operation, use or occupancy of the Premises, pending or being prosecuted in any court or by or before any federal, state, county, or municipal department, commission, board, bureau, or agency or other governmental instrumentality nor, to the knowledge of Owner, is any such action, suit, proceeding, or claim threatened or being asserted;

(d) to the best of Owner's knowledge, information and belief, there is no pending or contemplated condemnation or similar proceeding affecting the Premises or any portion thereof. Owner has not received any notice, written or otherwise, and has no knowledge that any such proceeding is contemplated;

(e) Owner has not received any notice, written or otherwise, and otherwise has no knowledge of any pending improvement liens or special assessments to be made against the Premises by any governmental authority;

(f) no mechanics', materialmans', or other liens against the Premises, if any, will remain in effect as of the date of closing;

(g) no consent or approval of any person, entity, or governmental agency or authority is required with respect to the execution and delivery of this Agreement or the Form Contract by Owner or the consummation by Owner of the transactions contemplated herein or in the Form Contract or the performance by Owner of its obligations hereunder or under the Form Contract;

(h) there are no attachments, executions or assignments for the benefit of creditors, receiverships, conservatorships, or voluntary or involuntary proceedings in bankruptcy or pursuant to any debtor relief laws contemplated or filed by Owner or pending against Owner or, to the best knowledge, information and belief of Owner, the Premises;

(i) other than this Agreement, there are no options, contracts, or other obligations outstanding for the exchange, or transfer of the Premises or any portion thereof or any interest therein; and

(j) unless otherwise permitted by the terms of the Form Contract, Owner will not amend or modify any agreement, lease, permit, contract or other document affecting title to the Premises prior to the expiration or other termination of the Option (or, if the Option is validly exercised by Optionee, prior to the closing date for the Premises) without the prior written consent of Optionee, such consent to be granted or withheld in the reasonable discretion of Optionee.

The representations and warranties contained in this Section 6 shall be true and correct as of the date of execution of this Agreement, shall survive the valid exercise of the Option by

Optionee, and if such Option is exercised, shall be true and correct on the closing date for the Premises.

7. Closing. The closing of the purchase of the Premises will occur as provided in the Form Contract.

8. Reimbursement of Owner's Application Fees. As more particularly described in Paragraph 3.5 of the Carbon Valley PSA, the Premises is a part of a larger parcel of property owned by Owner (defined therein as the "**Brooks Farm Property**") which is located within the boundaries of the Town of Firestone, and as such, Owner intends to apply to Optionee for all permits required to be issued by the Town of Firestone for Owner's mining and reclamation of the Brooks Farm Property. As additional consideration for this Agreement, Optionee hereby agrees that the Town of Firestone will reimburse to Owner at the Carbon Valley Closing an amount equal to the actual amounts paid by Owner to the Town of Firestone relating to costs incurred by the Town of Firestone to review and process the conditional use permit required by the Town of Firestone for Owner's operations on the Brooks Farm Property. Such reimbursement will be limited to those amounts Owner is required to pay in connection with Owner's conditional use permit applications filed and processed by the Town of Firestone prior to the date of this Agreement. Subsequent to the date of this Agreement, Optionee hereby agrees to waive any such fees which ordinarily would be required to be paid by Owner to Optionee for such purposes relating to the Brooks Farm Property. The above-referenced reimbursement will be without interest, will consist only of amounts actually paid by Owner to Optionee for such purposes, and may be made by Optionee as an appropriate credit/debit (as applicable) on the respective settlement statements of the parties to the Carbon Valley PSA prepared by Title Company in connection with the Carbon Valley Closing. If this Agreement is not executed at such closing, then Optionee will not have any of the reimbursement or waiver obligations set forth above in this Section 8.

9. Waiver of Breach. The waiver by either party of a breach of any provision of this Agreement by the other party shall not operate as a waiver of any subsequent or other breach hereunder.

10. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado.

11. Amendment. This Agreement may not be modified or amended at any time, except by an instrument in writing signed by all the parties hereto.

12. Notices. All notices, requests, records and other communications required hereunder shall be personally delivered, or sent by overnight courier, or certified U.S. mail (return receipt requested), postage prepaid, and such notices shall be deemed effective, if personally delivered, when delivered, or on the first business day following deposit with a nationally recognized overnight courier service, or if mailed, on the third business day after the date when deposited in the U.S. mail as aforesaid, addressed to the respective parties at their respective addresses as set forth in the Form Contract.

13. Attorneys' Fees. If any controversy, claim or dispute between the parties hereto, arises out of or relating to this Agreement, or the breach hereof, the prevailing party shall be

entitled to recover its costs and expenses from the losing party, including reasonable attorneys' fees and costs.

14. Recordation of Option. Optionee shall have the right to record a memorandum of this Agreement in the form attached hereto as Exhibit C in the records of the Clerk and Recorder of the County of Weld, State of Colorado.

15. Miscellaneous.

15.1 Effect of Headings. The subject headings of the paragraphs and subparagraphs of this Agreement are included for purposes of convenience only, and shall not affect the construction or interpretation of any of its provisions.

15.2 Entire Agreement. This Agreement constitutes the entire agreement between the parties pertaining to the subject matter contained herein and supersedes all prior agreements, representations, and understandings of the parties.

15.3 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

15.4 Severability. In the event that a court of competent jurisdiction enters a final judgment holding invalid any material provision of this Agreement, the remainder of this Agreement shall be fully enforceable.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

OWNER:

L.G. EVERIST, INCORPORATED,
an Iowa corporation

By: _____
Name: Matthew Noteboom
Its: Vice President – Mountain Division

OPTIONEE:

TOWN OF FIRESTONE,
a Colorado municipal corporation, acting by
and through its Town of Firestone Water Activity
Enterprise, organized and existing as a “water
activity enterprise” under C.R.S. 37-4.1-101 et seq.

By: _____
Name: _____
Title: _____

EXHIBIT A

Description and Depiction of Premises

(See attached page.)

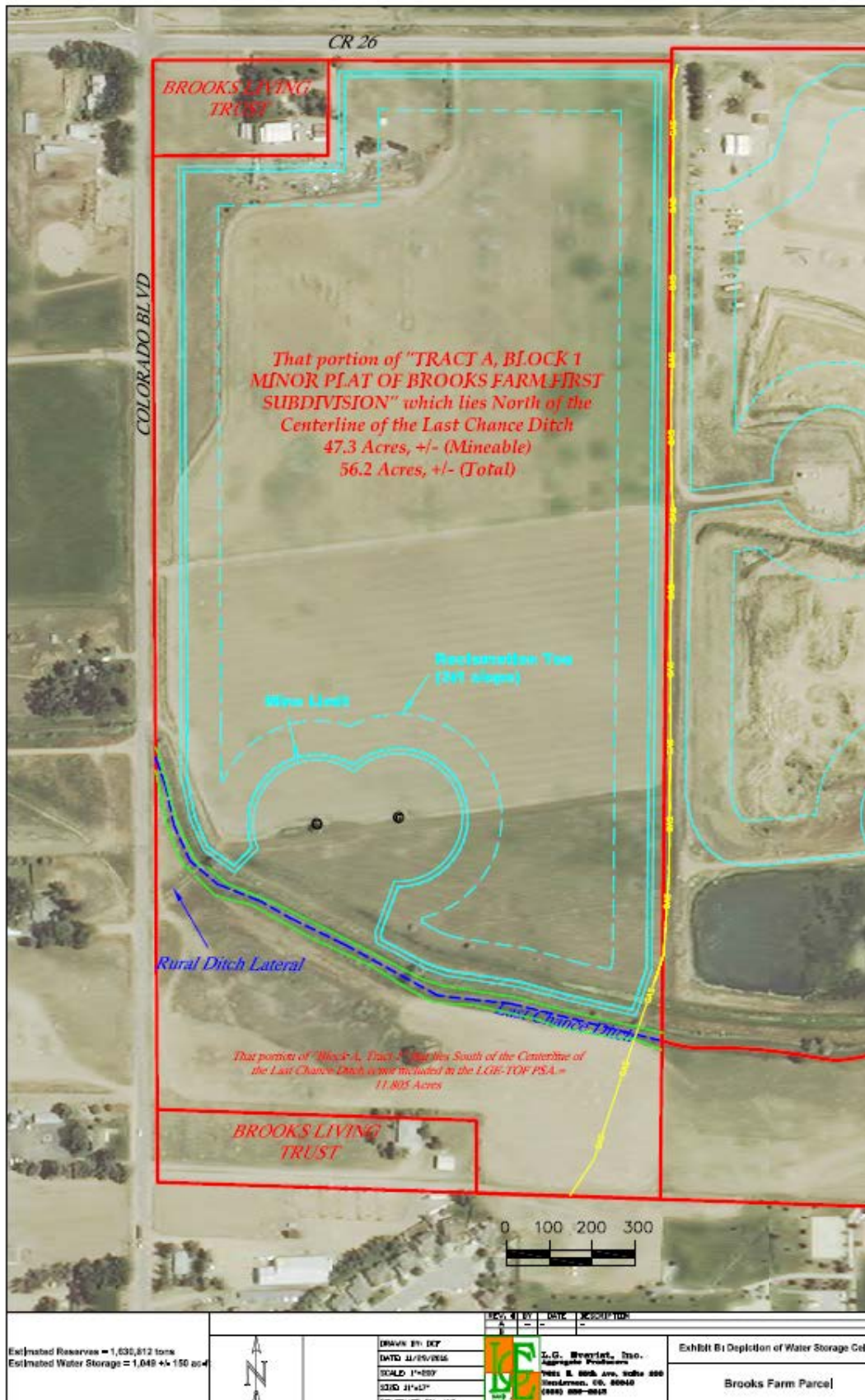


EXHIBIT B

Form of Contract to Buy and Sell Real Estate

[Form begins on following page]

PURCHASE AND SALE AGREEMENT (BROOKS FARM)

THIS PURCHASE AND SALE AGREEMENT (“**Agreement**”), dated to become effective as of the ____ day of _____, 20____, is by and between L.G. EVERIST, INCORPORATED, an Iowa corporation (“**LGE**” or “**Seller**”) and the TOWN OF FIRESTONE, a Colorado municipal corporation, acting by and through its Town of Firestone Water Activity Enterprise, organized and existing as a “water activity enterprise” under C.R.S. 37-4.1-101 et seq. (“**TOF**” or “**Purchaser**”). LGE and TOF may hereinafter be referred to each individually as a “**Party**” and collectively as the “**Parties**”.

RECITALS

A. LGE currently owns certain real property located in Weld County, Colorado, more particularly defined and described in Paragraph 1.1 as the Brooks Farm Parcel, upon which LGE intends to conduct mining operations for Sand and Gravel (as defined in Paragraph 1.1) thereon and to complete any required reclamation obligations relating thereto, all in accordance with the Permits (as defined in Paragraph 1.1).

B. LGE, as a part of LGE’s reclamation obligations under the Permits, is developing certain water storage facilities on the Brooks Farm Parcel, which will consist of a lined gravel pit and related facilities which can be used for the storage of water.

C. LGE owns various water rights and other rights which are appurtenant to or otherwise used in connection with the Brooks Farm Parcel, including but not limited to 1.9 shares of capital stock in the Rural Ditch Company, and LGE has obtained or has otherwise applied for certain conditional water storage rights evidenced by the LGE Storage Right Application/Decree (as defined in Paragraph 1.1).

D. LGE has the right to use certain excess carriage capacity in the Rural Ditch, subject to specific limitations thereon, for water diversion, storage, recharge and augmentation purposes.

E. TOF desires to acquire additional water storage capacity located in Weld County, Colorado, additional excess carriage rights within the Rural Ditch, and additional senior water rights.

F. TOF desires to acquire from LGE, and LGE desires to convey, transfer, assign and sell to TOF, subject to the terms of this Agreement, the following assets: (a) the LGE Water Rights (as such term is defined in Paragraph 1.1); (b) all of LGE’s right, title and interest in and to the Brooks Farm Parcel, including but not limited to the Storage Capacity (as such term is defined in Paragraph 1.1) located on the Brooks Farm Parcel, but specifically excluding any mineral rights owned by LGE with respect to the Brooks Farm Parcel; (c) the Excess Carriage Rights (as such term is defined in Paragraph 1.1); and (d) certain easements and other rights related to and benefitting the above-described assets, all as provided for in this Agreement; and (e) the LGE Storage Right Application/Decree (as such term is defined in Paragraph 1.1).

AGREEMENT

NOW THEREFORE, in consideration of the foregoing Recitals, the mutual covenants and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Parties hereby agree as follows:

1. DEFINITIONS AND INCORPORATION OF RECITALS

1.1 Definitions. Capitalized terms used but not otherwise defined in this Agreement shall have the following meanings:

- (a) **“Access Easement”** shall have the meaning ascribed in Paragraph 3.1(b)(i).
- (b) **“Brooks Farm Closing”** shall have the meaning ascribed in Paragraph 7.3
- (c) **“Brooks Farm Parcel”** shall have the meaning ascribed in Paragraph 1.1(jj).
- (d) **“Close”** shall mean the acts of the Parties required to consummate any of the transactions contemplated by this Agreement to occur at a specified Closing.
- (e) **“Closing”** shall mean the consummation of any of the transactions contemplated under this Agreement.
- (f) **“Closing Date”** shall mean the date of each Closing.
- (g) **“Commitment”** shall have the meaning ascribed in Paragraph 4.1.
- (h) **“Completion Notice”** shall have the meaning ascribed in Paragraph 8.1.
- (i) **“Construction Warranty”** shall have the meaning ascribed in Paragraph 9.2(a).
- (j) **“Deed”** shall mean a Special Warranty Deed conveying marketable title in and to the real property described therein in the form attached hereto as Exhibit G.
- (k) **“Delivery Date Earliest”** shall mean, with respect to the Brooks Farm Parcel, that date listed as the Delivery Date Earliest on the Delivery Schedule in Exhibit E.
- (l) **“Delivery Date Expected”** shall mean, with respect to the Brooks Farm Parcel, that date listed as the Delivery Date Expected on the Delivery Schedule in Exhibit E.
- (m) **“Delivery Date Outside”** shall mean, with respect to the Brooks Farm Parcel, that date listed as the Delivery Date Outside on the Delivery Schedule in Exhibit E.
- (n) **“Delivery Schedule”** shall mean the schedule for completion by LGE of the Storage Cell located on the Brooks Farm Parcel attached hereto as Exhibit E and incorporated herein by this reference.

- (o) **"Ditch Company"** shall mean the Rural Ditch Company.
- (p) **"Down Payment Deed of Trust"** shall have the meaning ascribed in Paragraph 3.2(a)(vi).
- (q) **"Down Payment Promissory Note"** shall have the meaning ascribed in Paragraph 3.2(a)(vi).
- (r) **"Due Diligence Period"** shall have the meaning ascribed in Paragraph 5.1.
- (s) **"Excess Carriage Purchase Price"** shall mean the purchase price to be paid by TOF for the RDC Carriage Rights. The RDC Excess Carriage Purchase Price shall have the meaning ascribed in Paragraph 3.2(a)(ii).
- (t) **"Excess Carriage Rights"** shall mean those collective rights to divert waters (which are appropriated, unappropriated, owned or leased) through the Rural Ditch for storage, recharge, and augmentation purposes, only at such times as the aforementioned ditch has available carrying capacity and can safely carry additional water, subject to the primary right of the Ditch Company to use the ditch for the diversion of water, and further subject to the additional limitations thereon as may be imposed by any or all of the terms of this Agreement (specifically including any limitations set forth in any written assignments or grants of such Excess Carriage Rights to TOF as contemplated by this Agreement), and any and all liabilities, costs, limitations and requirements imposed thereon by the Ditch Company, LGE, the Water Courts of the State of Colorado and any other third parties having priority over or control of the use thereof.
- (i) **Excess Carriage Rights in the Rural Ditch.** When used in this Agreement with reference to the Rural Ditch, the term "Excess Carriage Rights" shall mean those rights granted by the Rural Ditch Company in that certain Agreement dated June 10, 2005, between such Ditch Company and LGE, wherein the Rural Ditch Company (subject to the primary right of such Ditch Company to use the Rural Ditch for diversion of water) granted to LGE a right to divert waters which are appropriated, unappropriated, owned or leased through the Rural Ditch for storage, recharge, and augmentation purposes, only at such times as the Rural Ditch has available carrying capacity and when such ditch can safely carry additional water (defined therein as "Excess Capacity"), subject to certain limitations described therein, which include but are not limited to the right to use 7 cfs Excess Capacity up to a maximum of 6,088 acre feet of water per year through the Rural Ditch, such Agreement being recorded in the real property records of Weld County, Colorado on June 20, 2005 at Reception No. 3296147.
- (u) **"Excess Carriage Rights Assignments"** shall have the meaning ascribed in Paragraph 3.1(c).
- (v) **"Final Growth"** shall mean the process of growth of vegetation on the Revegetated Acreage, commencing at the time when the DRMS has approved LGE's initial seeding, fertilization and mulching of the Revegetated Acreage (including any reseeding, fertilization and mulching of any areas required by the DRMS to confirm that initial vegetation of the Revegetated Acreage has been established) and culminating when all such vegetation is capable of "self-regeneration" without continued dependence on irrigation, soil amendments or fertilizer, all as determined by the DRMS in accordance with its rules and regulations.

(w) **“Fixed Unit Price”** shall mean the value per acre foot of sealed water Storage Capacity located in a particular Storage Cell. The Fixed Unit Price for Storage Capacity located on the Brooks Farm Parcel will be equal to the Base Unit Price therefor (as such term is defined below) as adjusted for the aggregate increase, if any, in the Index (as such term is defined below) between the Base Date (as such term is defined below) and the earlier to occur of the date of the Brooks Farm Closing or the Delivery Date Expected. As used above:

(i) **“Base Unit Price”** shall mean \$3,250.00 per acre foot of Storage Capacity;

(ii) **“Base Date”** shall mean the date which is five years after the date of that certain Option to Purchase (Brooks Farm) between the Parties, to which the form of this Agreement was attached as Exhibit B; and

(iii) **“Index”** shall mean the Consumer Price Index, All Urban Consumers, U.S. City Average, all items (1982 – 84 = 100) published by the United States Department of Labor, Bureau of Labor Statistics, or if such index is no longer published, the U.S. Department of Labor’s most comprehensive official index then in use which most nearly corresponds to the index named above. A copy of the Index as it existed in November 2016 is attached for reference as Exhibit M.

(x) **“Force Majeure”** shall have the meaning ascribed in Paragraph 11.28.

(y) **“Hazardous Substance”** shall mean (i) any substance or material defined in or governed by any federal, state or local law, statute, code ordinance, rule, regulation, requirement or guidance relating to the environment and/or to the impact thereof on human health or safety, or governing, regulating or pertaining to the generation, treatment, storage, handling, transportation, use or disposal of any Hazardous Substance whether now or hereafter enacted; (ii) any substance, the presence of which requires investigation, notification, reporting or remediation thereunder or under any theory of common law; (iii) any dangerous, toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, or mutagenic substance; (iv) any substance, the presence of which on the Property or on lands contiguous with the boundaries of the Property would pose a hazard to the environment or to the health or safety of persons on or about any property; (v) any substance, the presence of which could constitute a trespass; and (vi) specifically and without limitation, metals, lead, polychlorinated biphenyls, asbestos or asbestos-containing materials, petroleum and petroleum products.

(z) **“Initial Closing”** shall have the meaning ascribed in Paragraph 7.1.

(aa) **“Initial Closing Contingencies”** shall have the meaning ascribed in Paragraph 7.1.

(bb) **“Initial Materials”** and **“Materials”** shall have the meanings ascribed in Paragraph 5.2.

(cc) Intentionally omitted.

(dd) **“LGE Property”** shall mean, collectively, all assets being conveyed or otherwise granted by LGE to TOF pursuant to the terms of this Agreement including all of LGE’s right, title and interest in and to the Brooks Farm Parcel, the LGE Water Rights, the Storage Capacity, the LGE Storage Right Application/Decree, and the Excess Carriage Rights.

(ee) **“LGE Storage Right Application/Decree”** shall mean all of LGE’s right, title and interest in and to, and all claims and rights of LGE associated with, Colorado Water Court Case No. 16 CW 3191 concerning the water storage reservoir being developed on the Brooks Farm Parcel and all water, water rights, reservoirs and reservoir rights governed thereby, but only as such rights, interest and claims are applicable to the Brooks Farm Parcel (with all other rights, interest and claims of LGE with respect to other properties in such proceedings, if any, being retained by LGE or other third parties to such proceedings).

(ff) **“LGE Water Rights”** shall collectively mean 1.9 shares of capital stock in the Rural Ditch Company currently owned by LGE, and all other water and water rights appurtenant to or otherwise associated with the Brooks Farm Parcel, including but not limited to any and all water and water rights (including water storage rights), rights to use water, groundwater, wells and well rights, ditch and ditch rights, reservoir and reservoir rights, whether adjudicated or not, and whether tributary, nontributary or not-nontributary, which are owned by LGE. In addition to the Subject Shares, the Water Rights appurtenant to the Brooks Farm Parcel specifically include all water and water rights, wells and well rights evidenced by and associated with any permitted or unpermitted water wells located on the Brooks Farm Parcel, if any.

(gg) **“LGE Water Rights Purchase Price”** shall have the meaning ascribed in Paragraph 3.2(b).

(hh) **“License to Enter”** shall have the meaning ascribed in Paragraph 5.3.

(ii) **“Lining Criteria”** shall mean the minimum performance standards of the State Engineer Guidelines for Lining Criteria for Gravel Pits, issued August, 1999.

(jj) **“Parcel”** shall mean those portions of real property, specifically including any Storage Cells associated with and located on such real property (if any), to be conveyed at the Closing described in Paragraph 7.3 of this Agreement. The Parcel to be conveyed is the **“Brooks Farm Parcel”**, which is more particularly identified and legally described in Exhibit A, along with the estimated location of the Storage Cell to be located thereon, and which contains approximately 56.2 acres, all of which is located in the Town of Firestone, Weld County, Colorado. The Brooks Farm Parcel will contain, upon completion of mining and the Reclamation Obligations, one Storage Cell.

The Brooks Farm Parcel, fee title to which is to be conveyed to Purchaser in accordance with the terms of this Agreement, will specifically include with such conveyance at the Final Closing therefor, as inclusions, all of the following to the extent then owned by Seller and located on or used in connection with or appurtenant to such Parcel: (1) the surface estate; (2) all remaining topsoil, overburden and aggregate resources (including Sand and Gravel) then situated thereon or therein; (3) any easements and other appurtenances thereto (unless specifically excluded by other provisions of this Agreement); and (4) unless otherwise specifically excluded by other provisions

of this Agreement and specifically subject to the terms of the last subparagraph of this Paragraph 1.1(jj) below, all improvements thereto, all residences and buildings, out buildings, fences, water wells, headgates, pipelines, ditches, laterals, gated pipe, flumes, reservoirs, reservoir outlet works, water tanks, wells, well casings, irrigation sprinklers, pumps and all other valuable manmade structures which are fixtures thereon or otherwise appurtenant thereto; but such conveyance will specifically exclude therefrom (and reserve to Seller) all oil, gas, minerals and mineral rights currently owned by Seller, if any, with respect to the Brooks Farm Parcel.

Unless otherwise expressly set forth in this Agreement, no personalty or trade fixtures of Seller will be included in the conveyance of the Brooks Farm Parcel to Purchaser. For example, no mining equipment, or any batch plant or ready mix plant, or any components thereof, located on the Brooks Farm Parcel (or installed thereon by or with the consent of LGE prior to the applicable Closing) will be included as a part of the conveyance of the Brooks Farm Parcel to TOF by LGE. In order for any such items to be included in any such conveyance, the inclusion thereof must be specifically provided for by the terms of this Agreement. If not included with any such conveyance, all such items must be removed (or caused to be removed) by Seller from the Brooks Farm Parcel prior to the Final Closing applicable to the Brooks Farm Parcel as conducted in accordance with Paragraph 7.3 of this Agreement.

(kk) **“Party”** and **“Parties”** shall have the meanings ascribed in the initial paragraph of this Agreement.

(ll) **“Permits”** shall mean all permits as are required by all federal, state, city, town, county or other governmental agencies for the excavation, mining and lining of the Storage Cells as water storage facilities including, but not limited to: (i) that certain Section 112(c) Reclamation Permit granted by the Colorado Division of Reclamation Mining and Safety for the Brooks Farm Parcel (Permit No. M-2001-017) as amended (the **“Section 112(c) Permit”**); and (ii) that certain Town of Firestone Conditional Use Permit (**Permit No. _____**) [**Permit Pending/CUP has been submitted to TOF but not yet approved.**], as amended, and any ancillary permits and/or overall development plans required by TOF in connection with LGE’s development of the Brooks Farm Parcel; but specifically excluding therefrom any permits that may be required solely due to the future operation of the Storage Cells by TOF.

(mm) **“Permitted Exceptions”** shall have the meaning ascribed in Paragraph 4.2.

(nn) **“Policy”** shall have the meaning ascribed in Paragraph 4.1.

(oo) **“Purchaser”** shall have the meaning ascribed in the initial paragraph of this Agreement.

(pp) **“RDC Carriage Rights”** When used in this Agreement, the term “RDC Carriage Rights” shall have the meaning ascribed to the Excess Carriage Rights in the Rural Ditch by Paragraph 1.1(t)(i) of this Agreement.

(qq) **“Reclamation Obligations”** shall mean the obligation to complete the mining and reclaiming of the Brooks Farm Parcel in accordance with all of the Permits and as required by all applicable federal, state and local regulatory agencies, but specifically excluding

therefrom, the obligation contained in the Section 112(c) Permit to achieve Final Growth of the Revegetated Acreage.

(rr) **“Reclamation Plan”** shall mean the reclamation plan, as amended, submitted by LGE and approved by the DRMS for the Brooks Farm Parcel indicating how the affected mined lands located thereon will be reclaimed.

(ss) **“Revegetated Acreage”** shall mean that portion of the Brooks Farm Parcel where revegetation is required by the Reclamation Plan.

(tt) **“Sand and Gravel”** shall mean all aggregate, stone, rock, silt, clay, shale, overburden, topsoil and other solid minerals, including without limitation, sand and gravel.

(uu) **“Seller”** shall have the meaning ascribed in the initial paragraph of this Agreement.

(vv) **“SEO Certification”** shall mean correspondence from the Colorado State Engineer’s Office (also referenced in this Agreement as the **“State Engineer”** or the **“SEO”**) certifying that a Storage Cell enclosed by a Slurry Wall has passed the Slurry Wall Leakage Test.

(ww) **“Slurry Wall”** and **“Slurry Walls”** shall mean, but only as applicable to the Brooks Farm Parcel, any one or more Soil-Bentonite Slurry-Trench Cutoff Wall(s) and/or any other impermeable barrier(s) including, but not limited to, earth-berms and/or clay liners that have been designed, constructed and utilized to circumscribe, line and seal certain gravel pits located on the Parcel (but only those gravel pits which have been specifically designated in this Agreement as Storage Cells), so that the water Storage Cells thus created meet and/or exceed the criteria therefor set forth by the Office of the State Engineer in Paragraph 2.0 “Construction Standards” and Paragraph 3.0 “Performance Standards” in its “State Engineer Guidelines for Lining Criteria for Gravel Pits”, August 1999. For purposes of clarity, the term “Slurry Wall(s)” will specifically exclude any temporary safety berm(s) which are or may be required to be constructed by LGE on the Brooks Farm Parcel during LGE’s mining operations thereon in compliance with the regulations of the Mine Safety and Health Administration of the United States Department of Labor; the Parties hereby acknowledging that such temporary safety berm(s) will not in any event be able to satisfy the required design or construction requirements for Slurry Wall(s) set forth above, and cannot therefore be considered to be “Slurry Walls” as such term is defined herein.

(xx) **“Slurry Wall Leakage Tests”** shall mean those tests as specified by the State Engineer to determine compliance with the “State Engineer Guidelines for Lining Criteria for Gravel Pits” (August, 1999).

(yy) **“Storage Capacity”** shall mean, with respect to the Storage Cell, the cumulative volume of water capable of being impounded within such Storage Cell as measured from the elevation of the lowest surveyed point to the elevation of the high-water line of the Storage Cell as excavated, reclaimed and completed pursuant to the Permits, expressed in acre feet. For the purpose of calculating the Storage Capacity, the elevation of the high-water line shall be set as the elevation of the lowest point along the top of the Slurry Wall (or other lining system), as measured along the perimeter of the centerline of the Slurry Wall which circumscribes the Storage Cell.

(zz) “**Storage Cell**” shall mean the gravel pit located on the Parcel, which has been excavated and lined by LGE in accordance with the Permits, and which is circumscribed by a Slurry Wall, which will be conveyed to TOF as a part of the transactions described in this Agreement.

(aaa) “**Storage Purchase Price**” shall mean the Storage Capacity of an individual Storage Cell multiplied by the Fixed Unit Price per acre foot of the volume of water which can be stored therein, expressed in U.S. Dollars.

(bbb) “**Subject Shares**” shall mean the shares of capital stock in the Rural Ditch Company evidencing a portion of the LGE Water Rights.

(ccc) “**Survey**” shall have the meaning ascribed in Paragraph 6.1.

(ddd) “**Supplemental Initial Closing**” shall have the meaning ascribed in Paragraph 7.2(b).

(eee) “**Supplemental Initial Closing Contingencies**” shall have the meaning ascribed in Paragraph 7.2(a).

(fff) “**Temporary Access and Reclamation Easement**” shall have the meaning ascribed in Paragraph 3.1(b)(ii).

(ggg) “**Title Company**” shall have the meaning ascribed in Paragraph 4.1.

(hhh) “**Title Inspection Period**” shall have the meaning ascribed in Paragraph 4.1.

(iii) “**Title Response Time**” shall have the meaning ascribed in Paragraph 4.1.

1.2 Recitals Part of Agreement. The foregoing Recitals are hereby incorporated into this Agreement as a material part hereof.

2. INTENTIONALLY OMITTED

3. SALE OF LGE PROPERTY TO TOF AND OTHER RELATED AGREEMENTS

3.1 Purchase and Sale of LGE Property. In connection with and specifically contingent upon the various other transactions and Closings contemplated by the terms of this Agreement, LGE will convey or otherwise transfer to TOF the LGE Property, as described in this Paragraph 3.1.

(a) **Real Property.** TOF agrees to purchase, and LGE agrees to sell and convey to TOF, free and clear of any and all encumbrances other than the Permitted Exceptions, on the terms and conditions set forth in this Agreement, the Brooks Farm Parcel. Prior to the Brooks Farm Closing (described in Paragraph 7.4 of this Agreement), LGE reserves the right to extract all Sand and Gravel from the Storage Cell located on the Brooks Farm Parcel. LGE’s right to mine, extract and use Sand and Gravel on the Brooks Farm Parcel shall expire at the Brooks Farm

Closing. The timing of the Brooks Farm Closing shall comply with the Delivery Schedule contained in Exhibit E attached hereto.

The conveyance of the Brooks Farm Parcel by LGE to TOF shall be subject to the following terms:

(i) Storage Cells. Prior to the Brooks Farm Closing, LGE shall, in accordance with the terms of this Agreement, have excavated and lined a gravel pit circumscribed by a Slurry Wall, generally in the configuration for such Storage Cell depicted on Exhibit B attached hereto. The Storage Cell shall consist of that portion of the Brooks Farm Parcel circumscribed by the centerline of the Slurry Wall and/or the crest of the final reclamation slope as formed by the earth berm or clay liner constructed for such Storage Cell (as shown on the updated Survey as provided for under Paragraph 6.2). At the Brooks Farm Closing, Seller shall deliver to Purchaser use of such Storage Cell. The Parties hereby agree that the configuration of the Storage Cell described in Exhibit B may not constitute final design and that LGE may change the configuration of the Storage Cell to meet the requirements of: (A) the Permits, (B) field conditions encountered during the course of mining, construction and reclamation of the final Slurry Wall and Storage Cell construction, and/or (C) other requirements set by the Office of the State Engineer, including but not limited to the final design and alignment of each Slurry Wall, pit crest, pit slope design, pit depth, pit floor and rough grading, prior to the Brooks Farm Closing, unless such changes in configuration will materially diminish or increase the Storage Capacity of the Storage Cell, in which case such modifications will be subject to TOF's prior approval in TOF's commercially reasonable discretion. For purposes of the preceding sentence a "material" increase or decrease in the Storage Capacity of the Storage Cell will be an increase or decrease in such Storage Capacity of more than 150 acre feet.

(b) Access Easements. LGE and TOF agree to grant the following interests to the other as provided for below:

(i) At the Initial Closing, LGE shall grant to TOF, access and construction easements to, over, and across those portions of the Brooks Farm Parcel which are mutually agreeable to both Parties, for the purpose of installing, operating and maintaining those water transfer and related facilities on, over, through and under such properties which are necessary to transfer water into and out of the various Storage Cells to be acquired from LGE by TOF in the form of the Access and Improvements Easement Agreement attached hereto as Exhibit C (the "**Access Easement**").

(ii) In conjunction with the Brooks Farm Closing, but only as may be required or deemed necessary by LGE, TOF shall grant to LGE a temporary non-exclusive access easement to, over, and across those portions of the Brooks Farm Parcel conveyed or granted to TOF at such Closing for the purpose of performing LGE's obligations under this Agreement, including LGE's obligations to satisfy any remaining Reclamation Obligations under the Permits, which easement shall be in the form of the Temporary Access and Reclamation Easement Agreement attached hereto as Exhibit D (the "**Temporary Access and Reclamation Easement**").

(c) Excess Carriage Rights (Rural Ditch) and Last Chance Ditch Expansion of Permitted Use. At the Brooks Farm Closing, LGE shall: (1) assign to TOF the RDC Carriage

Rights in the Rural Ditch, subject to the consent of the Rural Ditch Company, pursuant to the terms of an Assignment and Assumption Agreement (Rural Ditch Company Agreement) substantially in the form attached hereto as Exhibit E; and (2) provide to TOF, certain expanded rights to use, for the benefit of the Brooks Farm Parcel, certain secondary excess carriage rights of LGE in the Last Chance Ditch (previously acquired by TOF from LGE exclusively for the benefit of and use on TOF's adjacent Carbon Valley Parcel) pursuant to the terms of that certain First Amendment to Unused Carriage Capacity Agreement (Last Chance Ditch) in the form attached hereto as Exhibit I (collectively, the "**Excess Carriage Rights Assignments**").

(d) Water Rights. TOF desires to purchase the 1.9 shares of capital stock currently owned by LGE in the Rural Ditch Company, which comprise a portion of the LGE Water Rights. At the Brooks Farm Closing, TOF agrees to purchase, and LGE agrees to sell and convey to TOF, free and clear of any and all encumbrances, the LGE Water Rights. Conveyance of the LGE Water Rights shall be by bargain and sale deed, and LGE's endorsement of the Subject Shares to TOF.

(e) Storage Rights. At the Brooks Farm Closing, or such earlier date as agreed upon by the Parties, LGE shall, as may be appropriate under the circumstances and as may be mutually agreed upon by LGE and TOF, either: (i) assign and convey to TOF the LGE Storage Right Application/Decree pursuant to the terms of an Assignment and Assumption Agreement (Colorado Water Court Case Rights) substantially in the form attached hereto as Exhibit H (the "**LGE Storage Rights Assignment**") and, upon request of TOF, by execution of a bargain and sale deed to TOF with respect thereto if the storage decree has been previously entered by the water court; or (ii) amend the filed application to include TOF as an applicant or to substitute TOF for LGE as the applicant; or (iii) dismiss the application so as to permit TOF to file TOF's own separate application with respect thereto.

3.2 Purchase Prices, Down Payment and Security for Down Payment Applicable to the Sale of the LGE Property. The purchase price to be paid by TOF to LGE for the LGE Property described in Paragraph 3.1 will be as follows:

(a) Brooks Farm Parcel. The purchase price for the entire right, title and interest of LGE in and to the Brooks Farm Parcel will be the sum of the Storage Purchase Price applicable to the Brooks Farm Storage Cell and the Excess Carriage Purchase Price for the RDC Carriage Right.

(i) Storage Purchase Price (Brooks Farm Parcel). The Storage Purchase Price applicable to the Brooks Farm Storage Cell will be the product of the total Storage Capacity of the completed Storage Cell located on the Brooks Farm Parcel (which total Storage Capacity is currently estimated to be 1,050 acre feet times the Fixed Unit Price for Storage Capacity. The Fixed Unit Price for Storage Capacity located at the Brooks Farm Parcel from the effective date of this Agreement through the Base Date is fixed at \$3,250.00 per acre foot. Thus, the currently estimated aggregate Storage Purchase Price for the Brooks Farm Parcel Storage Cell is \$3,412,500.00.

(ii) Excess Carriage Purchase Price (Brooks Farm). The purchase price for the RDC Carriage Rights (the “**RDC Excess Carriage Purchase Price**”) will be \$6,000.00 per cubic foot per second (i.e., 7 CFS x \$6,000.00 per CFS = \$42,000.00).

(iii) Other Rights at No Additional Cost. Any additional real property rights or other rights referenced in this Agreement which are appurtenant to the Brooks Farm Parcel which are required to be granted or conveyed to TOF pursuant to the terms of this Agreement, will be granted or conveyed by LGE to TOF for no additional consideration.

(iv) Down Payment (LGE Property). The total amount of the down payment due by TOF to LGE for the LGE Property is \$898,000.00. Subject to the satisfaction of the Initial Closing Contingencies, or as applicable, the Supplemental Initial Closing Contingencies, TOF shall deliver to LGE at the Initial Closing, or as applicable, the Supplemental Initial Closing, an earnest money deposit in the amount of \$898,000.00 in cash by wire transfer. The full amount of the down payment actually received by LGE from TOF in accordance with the terms hereof will be applied to the purchase price of the LGE Property at the Brooks Farm Closing.

(v) Progress Payments. Due to the short time period anticipated by the Parties between the Supplemental Initial Closing and the Brooks Farm Closing, there will not be any progress payments required to be made to LGE by TOF in connection with the LGE Property transaction other than the down payment described above in Paragraph 3.2(a)(iv).

(vi) Security for Brooks Farm Down Payment. From the date of the Supplemental Initial Closing through the date of the Brooks Farm Closing, or the earlier termination of this Agreement and any required return of the Brooks Farm down payment, the Brooks Farm down payment made by TOF to LGE shall be secured by a Deed of Trust in first lien position against the Brooks Farm Parcel (the “**Down Payment Deed of Trust**”), which shall be in the form attached hereto as Exhibit J, and a lien, recorded on the stock certificate evidencing the Subject Shares, for the benefit of TOF to secure any potential refund to TOF of the down payment required by this Agreement. If LGE fails to convey the Brooks Farm Parcel and/or the LGE Water Rights to TOF or to return the down payment to TOF when and as required by the terms of this Agreement, then TOF shall, in addition to TOF’s other rights and remedies under this Agreement, have the right to pursue such additional rights and remedies as may be available at law or in equity as a result of such failure, including without limitation, the right to foreclose on the Down Payment Deed of Trust and/or the Subject Shares. LGE hereby agrees to execute and deliver to TOF a promissory note or notes in the respective amounts of the Brooks Farm down payment, as and when made by TOF, evidencing LGE’s obligation to apply the down payment received by LGE to the purchase price of the LGE Property, or to otherwise refund to TOF the down payment, if required, all pursuant to the requirements of this Agreement (the “**Down Payment Promissory Note**”), which shall be in the form attached hereto as Exhibit K, and to take such actions as are necessary to have the Rural Ditch Company note the TOF lien on the Subject Shares. The Down Payment Promissory Note, the Down Payment Deed of Trust, and lien on the Subject Shares will be cancelled and released to the commercially reasonable satisfaction of LGE at the Brooks Farm Closing or as otherwise required hereunder.

(b) LGE Water Rights and LGE Storage Rights Assignment. The purchase price applicable to the LGE Water Rights will be \$365,336.00 per share of stock in the Rural Ditch

Company, resulting in a total purchase price for the LGE Water Rights of \$694,138.40 (i.e., 1.9 x \$365,336.00) (the “**LGE Water Rights Purchase Price**”). The LGE Storage Right Application/Decree will be amended, dismissed or assigned by LGE to TOF at the Closing, as applicable, for no additional consideration.

4. TITLE AND POLICIES

4.1 Preliminary Title Commitment. Within 30 days after the date of this Agreement, Seller will procure and deliver to Purchaser, at Seller’s expense, a title commitment for the issuance of an ALTA extended coverage owner’s title insurance policy with respect to the Brooks Farm Parcel to be conveyed to Purchaser pursuant to the terms of this Agreement, as issued by Stewart Title Guaranty Company of Denver, Colorado (the “**Title Company**”), together with copies of tax certificates and all recorded documents referenced therein (the “**Commitment**”). Pursuant to the Commitment, the Title Company will agree to issue to Purchaser an owner’s policy insuring all of the real property interests to be acquired by Purchaser in the amount of the purchase price, without exception for any matters other than current taxes and assessments, easements, rights of way, covenants, conditions, restrictions, reservations, agreements and other matters of record, as shown in the Commitment and approved by Purchaser as a Permitted Exception (the “**Policy**”). The Commitment will affirmatively provide for the deletion, at Seller’s sole expense, of all standard printed exceptions to the extent that the Title Company will agree to delete such exceptions after review of all information provided by Seller. Purchaser shall have until the date which is 10 days from the date of actual receipt of both the Commitment and the Survey by Purchaser (the “**Title Inspection Period**”) in which to examine the Commitment and Survey and to give written notice to Seller of Purchaser’s objection to any matter contained therein which Purchaser finds objectionable. Seller shall have 10 days from the actual receipt of such notice of title objection to elect either to: (i) cure some or all of the objections or defects so specified; or (ii) give notice that Seller elects not to cure such objections. If, within said 10 day period of time (the “**Title Response Time**”), Seller gives notice to Purchaser that Seller will not correct all such objections or defects prior to the Brooks Farm Closing, then Purchaser shall have, as its exclusive remedies, the right to terminate this Agreement, or to waive such objections or defects which Seller has elected not to cure and proceed with the Brooks Farm Closing. Within 10 days after the earlier of: (i) the expiration of Title Response Time; or (ii) the date of the giving by Seller to Purchaser of written notice that Seller elects not to cure all or any of such objections or defects, Purchaser shall give Seller written notice of which remedy Purchaser has elected, and if Purchaser’s election is to waive such objections and defects and Close, then such defects and matters having been objected to shall be deemed Permitted Exceptions. If, prior to the expiration of such 10 day period, Purchaser has not given such written notice to Seller, Purchaser shall be deemed to have affirmatively elected to Close the transaction evidenced by this Agreement.

4.2 Permitted Exceptions. Seller shall grant or convey, as applicable, such title or interest to the Brooks Farm Parcel provided for under this Agreement at the Brooks Farm Closing subject only to such matters of title affecting the subject property that are either: (i) the result of Purchaser’s acts or omissions; or (ii) approved by Purchaser pursuant to this Agreement (such matters hereinafter collectively referred to as “**Permitted Exceptions**”), provided that the term “Permitted Exceptions” shall not be deemed to include any liens (except the lien for real estate taxes not yet due or payable) or monetary encumbrances of any kind. Notwithstanding the foregoing, or any other contrary provision of this Agreement, Purchaser shall be obligated to

accept title to the Brooks Farm Parcel subject to the following exceptions to title, which shall for the purposes herein, specifically constitute Permitted Exceptions:

- (a) real estate taxes and assessments not yet delinquent;
- (b) the printed exceptions which appear in the form ALTA standard owner Policies issued by Title Company in the State of Colorado; and
- (c) such other exceptions as are approved by Purchaser pursuant to the terms of this Agreement.

4.3 Updated Commitment. On or before the date of the Final Closing described in Paragraph 7.3, Seller shall obtain and deliver to Purchaser, at Seller's expense, either an updated Commitment for the Brooks Farm Parcel, or an endorsement to the Commitment with a current effective date, in either case showing no exceptions affecting the Brooks Farm Parcel other than the Permitted Exceptions, providing for the appropriate title insurance amount, and confirming the deletion of all requirements that must be satisfied as a condition to the issuance of the Policy for the Brooks Farm Closing.

4.4 Title Policy. Within a reasonable time after the date of the Brooks Farm Closing described in Paragraph 7.3, Seller, at its expense, shall cause the Title Company to deliver the Policy to Purchaser, insuring Purchaser's title to the real property interests purchased at such Closing in an amount equal to the sum of the purchase price paid by Purchaser for the subject property at such Closing. The Policy shall be subject only to the Permitted Exceptions, and Seller shall pay, at such Closing, the premium for the Policy and any endorsements to the same which were requested by Seller to cure any title objections or defects identified by Purchaser during the Title Inspection Period and which Seller elected to cure.

5. DUE DILIGENCE AND ACCESS

5.1 Due Diligence. Purchaser shall have until the day which is 45 days following the date of this Agreement (the "**Due Diligence Period**"), to terminate this Agreement if Purchaser is dissatisfied with the property and/or the water rights to be acquired hereunder by Purchaser for any reason. Subject to any additional rights granted to TOF by the terms of Article 8 of this Agreement, it shall be conclusively presumed that Purchaser is satisfied with such property if Purchaser fails to send written notice to Seller to the contrary on or before the expiration of the Due Diligence Period. If Purchaser sends notice of its dissatisfaction with the Property on or before expiration of the Due Diligence Period, Seller shall have 10 days from the actual receipt of such notice of dissatisfaction to elect either to (i) give notice that Seller elects to cure some or all of the issues described in the notice prior to the applicable Closing, or (ii) give notice that Seller elects not to cure such issues. If, within said 10 day period of time (the "**Property Dissatisfaction Response Time**"), Seller gives notice to Purchaser that Seller will not cure all such issues prior to the Brooks Farm Closing, then Purchaser shall have, as its exclusive remedies, the right to terminate this Agreement, or to waive any issues raised in Purchaser's notice which Seller has elected not to cure and proceed with the Closing. Within 10 days after the earlier of: (i) the expiration of the Property Dissatisfaction Response Time; or (ii) the date of the giving by Seller to Purchaser of written notice that Seller elects not to cure all or any of the issues, Purchaser shall

give Seller written notice of which remedy Purchaser has elected, and if Purchaser's election is to waive such issues and Close, then such issues shall be deemed waived; and if Purchaser provides no written notice, then this Agreement will terminate in its entirety and both Parties will be relieved of all obligations under this Agreement except for those obligations which specifically survive termination.

5.2 Materials. Prior to the date of this Agreement, Seller may have delivered to Purchaser certain information regarding the Brooks Farm Parcel (such materials the "**Initial Materials**"). In connection with Purchaser's due diligence review, Seller shall deliver to Purchaser any information or materials reflecting a change to any of the Initial Materials, as well as all other information and materials in such Seller's possession or reasonable control with respect to the Brooks Farm Parcel (collectively the "**Materials**"). Furthermore, within 10 days after the execution of this Agreement, and thereafter during the remainder of the term of this Agreement, Seller shall promptly provide Purchaser with access to any Materials, or in Seller's reasonable discretion, final copies thereof, as may currently be or as may hereafter come into Seller's possession or control, including but not limited to:

(a) Copies of all permits, licenses, certificates, commitments, governmental applications, or agreements relating to the zoning, operation, maintenance, occupancy or use of the Parcel; provided however, that with respect to the Permits (as such term is defined in Paragraph 1.1(l) of this Agreement), TOF hereby agrees and acknowledges that: (1) in order to inspect and examine complete copies of each of the Permits, TOF will be required to access such Permits at LGE's offices or at the respective offices of the jurisdictions granting such Permits; (2) any applicable zoning ordinances will not be available for inspection at the offices of LGE; and (3) due to the voluminous nature of same, LGE will not be providing copies of any of the Permits to TOF.

(b) Copies of any surveys, soils geotechnical and engineering reports, feasibility studies, site plats and plans, and other reports, studies or documents relating to the Parcel.

(c) Copies of any and all lease, occupancy or use agreements concerning the Parcel, including but not limited to any lease agreements concerning the development of oil and gas deposits underneath the Parcel, which have or will have any material application to or be binding on all or any portion of the Parcel to be acquired by Purchaser at the Closing hereunder, with all other agreements not so disclosed by Purchaser being required hereby to be terminated by Seller prior to or contemporaneously with the Closing hereunder conveying the Parcel from Seller to Purchaser. In other words, if such documentation will have no effect whatsoever on the Parcel subsequent to the Closing affecting the Parcel, or if such agreement(s) will be fully and effectively terminated by Seller at or prior to such Closing, then copies of such document(s) need not be provided to Purchaser as a part of the Materials, but in such cases such documents must not bind the Parcel or Purchaser in any way subsequent to such Closing.

(d) Copies of any and all other agreements concerning or related to the Parcel, which have or will have any material application to or be binding on all or any portion of the Parcel to be acquired by Purchaser at the Closing hereunder, with all other agreements not so disclosed by Purchaser being required hereby to be terminated by Seller prior to or contemporaneously with

the Closing hereunder conveying the Parcel from Seller to Purchaser. In other words, if such documentation will have no effect whatsoever on the Parcel subsequent to the Closing affecting the Parcel, or if such agreement(s) will be fully and effectively terminated by Seller at or prior to such Closing, then copies of such document(s) need not be provided to Purchaser as a part of the Materials, but in such cases such documents must not bind the Parcel or Purchaser in any way subsequent to the Closing.

(e) Copies of any deeds, abstracts, title opinions, title insurance policies, title opinions, stock certificates, agreements, assignments, permits, applications, pleadings, decrees, engineering reports, photographs, records of use, and correspondence with the State water officials or the Ditch Company, or any other documents that pertain to Seller's ownership or use of any water rights which are the subject of this Agreement, as the same may be requested by Purchaser, including but not limited to any evidence of historical use of any such water rights in connection with the Parcel which are in the possession or reasonable control of Seller.

(f) Copies of any engineering reports, administrative approvals, historical use information, water delivery information or any other information related to the historical use of the Subject Shares. LGE will reasonably cooperate with TOF to obtain access to any records of the Ditch Company that pertain to the Subject Shares, if requested by TOF.

Seller's obligations to deliver the Materials may be effected by the means provided for delivery of Notices pursuant to Paragraph 11.24 hereof; provided, however, that Seller shall be deemed to have satisfied its obligations to deliver the Materials by arranging for Purchaser to have access to such Materials (including to make copies of such Materials) or any portions thereof during normal business hours at the offices of Seller.

5.3 License to Enter. Seller hereby grants Purchaser, from the date of this Agreement until the Brooks Farm Closing, the right, license, permission and consent for Purchaser and Purchaser's employees, agents, contractors, subcontractors and consultants to enter upon the Parcel on a non-exclusive basis for the purposes of performing tests, studies and analyses thereon ("**License to Enter**"); provided that: (i) Purchaser shall give Seller at least 24 hours advance telephonic notice (which access and notice shall be during regular business hours); and (ii) such access will not interfere with Seller's business operations thereon and will be conducted in accordance with all applicable safety regulations. Purchaser hereby agrees that Purchaser will be responsible for any and all damages to Seller and the Parcel which result from any actions whatsoever of Purchaser, its employees, agents, contractors, subcontractors and consultants resulting from any entry onto the Parcel pursuant to this License to Enter. Purchaser agrees to promptly refill holes dug and otherwise to repair any damage to the Parcel as a result of any such activities. Purchaser will permit no lien to attach to any portion of the Parcel as a result of such activities. Purchaser hereby agrees that Purchaser will indemnify and hold Seller harmless from and against any damage that may be incurred by Seller as a result of such activities of Purchaser. Copies of all non-privileged third party due diligence reports prepared with respect to the Parcel by or on behalf of Purchaser must be furnished to Seller promptly after Purchaser's receipt thereof.

6. SURVEY

6.1 Initial Survey. Within 30 days after the date of this Agreement, Seller shall provide to Purchaser, at Seller's expense, any existing surveys of the Parcel to be acquired by Purchaser prepared by a land surveyor duly licensed in the State of Colorado identifying the boundaries of the Parcel and dated no more than seven years prior to the date of this Agreement (collectively, the "**Survey**").

6.2 Updated Survey of the Brooks Farm Parcel by LGE. On or before the date which is 30 business days prior to the Brooks Farm Closing, LGE will obtain and deliver to TOF, at LGE's expense, an updated Survey of the Brooks Farm Parcel which Survey: (i) shall depict and provide a legal description of the boundary line of the Storage Cell which is located on the Brooks Farm Parcel (which boundary is agreed by the Parties for the purpose of this Agreement to be defined as the centerline of the as-built Slurry Walls constructed as of such date); (ii) will be certified to TOF and Title Company by a surveyor's certificate in commercially acceptable form and substance; and (iii) will otherwise conform to the initial Survey as provided for in Paragraph 6.1 above. In the event the updated Survey of the Brooks Farm Parcel raises issues that cannot be resolved in the time remaining before the Brooks Farm Closing, the Parties will agree upon a rescheduled date for such Closing, such date not to exceed 90 days after the originally scheduled date of the Brooks Farm Closing. Prior to the date of the Brooks Farm Closing, LGE (at LGE's sole cost and expense) will cause the Brooks Farm Parcel to be subdivided or otherwise legally separated into a separate legal parcel capable of being conveyed to and owned separately by TOF.

7. CLOSINGS

7.1 Initial Closing. Except as otherwise specifically provided in this Paragraph 7.1, the granting by LGE of the Access Easement to TOF (the "**Initial Closing**") will be held on a date mutually agreeable to both Parties which is no later than 90 days after the date of this Agreement. The Parties will agree to the form of all the closing documents in advance of such Closing. The Initial Closing is subject to the satisfaction of the conditions and delivery of the documents as listed below (the "**Initial Closing Contingencies**"):

- (a) TOF shall deliver to Title Company the following:
 - (i) an executed Access Easement;
 - (ii) such affidavits, instruments and materials as may be reasonably required by the Title Company, if any;
 - (iii) unless delayed until the Supplemental Initial Closing pursuant to the terms of Paragraph 7.2 below, the down payment for the LGE Property as more particularly described in Paragraph 3.2(a)(iv);
 - (iv) unless delayed until the Supplemental Initial Closing pursuant to the terms of Paragraph 7.2 below, payment for the recording of the Down Payment Deed of Trust; and
 - (v) an executed amendment to the Delivery Schedule (**Exhibit E** hereto) amending the Delivery Date Outside to a date which is two calendar years after the date of the Initial Closing, unless a Supplemental Initial Closing will be required in accordance with the terms of Paragraph 7.2, in which case the required amendment to the Delivery Date Outside will not

constitute an Initial Closing Contingency, but instead, such amendment will then constitute a Supplemental Initial Closing Contingency.

(b) LGE shall deliver to Title Company, the following:

(i) an executed Access Easement;

(ii) payment for the recording of the Access Easement;

(iii) a stock assignment executed by LGE evidencing LGE's request to the Rural Ditch Company to include on the Subject Shares a lien in favor of TOF to secure the Down Payment Promissory Note;

(iv) such affidavits, instruments and materials as may be reasonably required by the Title Company, if any;

(v) unless delayed until the Supplemental Initial Closing pursuant to the terms of Paragraph 7.2 below, the Down Payment Promissory Note required to evidence the Brooks Farm down payment received, and the Down Payment Deed of Trust required to secure such Down Payment Promissory Note; and

(vi) an executed amendment to the Delivery Schedule (Exhibit E hereto) amending the Delivery Date Outside to a date which is two calendar years after the date of the Initial Closing, unless a Supplemental Initial Closing will be required in accordance with the terms of Paragraph 7.2, in which case the required amendment to the Delivery Date Outside will not constitute an Initial Closing Contingency, but instead, such amendment will then constitute a Supplemental Initial Closing Contingency.

(c) In conjunction with the Initial Closing, Title Company will be directed to and will record the Access Easement in the real property records of Weld County, Colorado for the benefit of TOF; deliver to TOF the original of the Access Easement (after recording), along with providing copies of the recorded Access Easement to both LGE and TOF, all at the expense of LGE; and, unless delayed until the Supplemental Initial Closing pursuant to the terms of Paragraph 7.2 below, deliver to TOF the original Down Payment Promissory Note; record the Down Payment Deed of Trust in the real property records of Weld County, Colorado for the benefit and at the expense of TOF; deliver to TOF the original Down Payment Deed of Trust (after recording), with copies to LGE; and deliver to LGE by wire transfer the sum of all cash down payments actually received by Title Company from TOF, less the closing expenses which LGE may direct Title Company to pay with such funds.

7.2 Supplemental Initial Closing. Notwithstanding the terms and conditions of Paragraph 7.1, under any circumstances where the Initial Closing is required to occur, but upon the date thereof, LGE is not in a position to complete the Storage Cell located on the Brooks Farm Parcel within two calendar years of the date of such Initial Closing (and, therefore, is not in a position to amend the Delivery Schedule to provide that the Delivery Date Outside will occur two calendar years after the date of the Initial Closing), then the Parties hereby agree as follows:

(a) The Initial Closing shall occur in accordance with the terms of Paragraph 7.1, except that: (i) TOF's delivery of the down payment for the LGE Property, TOF's payment for recording of the Down Payment Deed of Trust, and TOF's execution and delivery of the required amendment to the Delivery Schedule; and (ii) LGE's execution and delivery of the Down Payment Promissory Note, the Down Payment Deed of Trust, the stock assignment evidencing a lien on the Subject Shares (in favor of TOF and securing the Down Payment Promissory Note), and the required amendment to the Delivery Schedule (collectively, the "**Supplemental Initial Closing Contingencies**") will be deferred until the date of the Supplemental Initial Closing as determined in accordance with this Paragraph 7.2.

(b) If at the Initial Closing, for the reasons described in this Paragraph 7.2, LGE is unable to execute an amendment of the Delivery Schedule (agreeing to deliver the Storage Cell to TOF no later than two calendar years after the date of the Initial Closing), then the Parties hereby agree to conduct a supplemental closing (the "**Supplemental Initial Closing**"), which will be held on a date mutually agreeable to both Parties, but which is no later than 30 days after LGE provides TOF with written notice that LGE is prepared to amend the Delivery Schedule to provide that the Delivery Date Outside will not be more than two calendar years after the date of the Supplemental Initial Closing. The Parties will agree to the form of all closing documents in advance of such Closing. The Supplemental Initial Closing is subject to the satisfaction of the conditions and delivery of the Supplemental Initial Closing Contingencies, and the requirements of Paragraph 7.1(c) which apply thereto.

7.3 Final Closing. In addition to completion of the Initial Closing described in Paragraph 7.1 and, as applicable, the Supplemental Initial Closing described in Paragraph 7.2, this Agreement contemplates and requires a final Closing described as follows: the Closing, wherein TOF acquires from LGE, the Brooks Farm Parcel including the Storage Cell developed or to be developed by LGE on the Brooks Farm Parcel, the Excess Carriage Rights, the LGE Storage Right Application/Decree and the LGE Water Rights (referred to herein as the "**Brooks Farm Closing**").

7.4 Brooks Farm Closing. The Brooks Farm Closing shall occur on the date which is 30 business days after TOF's receipt of a valid Completion Notice from LGE for the Storage Cell located on the Brooks Farm Parcel as provided for under Paragraph 8.1 below, or such other date as the Parties shall mutually agree. The following events shall take place at the time and place of such Closing. No payment or delivery shall be deemed made until after all the following events have been completed:

(a) TOF shall deliver to Title Company the following:

(i) an amount equal to the Brooks Farm Storage Purchase Price, the RDC Excess Carriage Purchase Price and the LGE Water Rights Purchase Price credited for all down payments, credits and offsets as provided for herein, in cash, via wire transfer;

(ii) an executed Assignment and Assumption Agreement (Rural Ditch Company Agreement) concerning the RDC Carriage Rights substantially in the form attached hereto as Exhibit F, an executed First Amendment to Unused Carriage Capacity Agreement (Last Chance Ditch) substantially in the form attached hereto as Exhibit I, an executed Assignment and Assumption Agreement (Colorado Water Court Case Rights) substantially in the form attached

hereto as Exhibit H (under the circumstances where required by the terms of Paragraph 3.1(e) of this Agreement), or an appropriate amendment or dismissal of the subject application, as applicable, and an executed successor operator agreement in the form attached hereto as Exhibit L (under the circumstances more particularly described in Paragraph 8.4(c));

(iii) the original Down Payment Promissory Note marked “cancelled” or “paid in full” and a full release of the Down Payment Deed of Trust sufficient for recording in the Weld County real property records;

(iv) an executed Temporary Access and Reclamation Agreement (as applicable);

(v) such assignments to, acceptances/assumptions of, and other documentation necessary to convey to TOF in such form(s) as mutually agreed to by the Parties with respect to any appurtenant rights applicable to the Brooks Farm Parcel, as may be reasonably requested by TOF;

(vi) a letter, affidavit or other instrument releasing TOF’s lien on the stock certificates of the Subject Shares as necessary to transfer clear title to the Subject Shares to TOF;

(vii) such affidavits, instruments and materials as may be reasonably required by the Title Company in its issuance of the applicable Policy including, without limitation, settlement statements for the Closing; and

(viii) an instruction letter for the Title Company prepared by TOF consistent with the terms of this Agreement.

(b) LGE shall deliver to Title Company the following:

(i) an executed Deed conveying to TOF marketable title in and to the Brooks Farm Parcel, and any appurtenant rights thereto, and, subject to the specific exceptions thereto set forth in Paragraph 1.1 (jj), any fixtures located on or within the Brooks Farm Parcel, free and clear of any and all liens, taxes or encumbrances of any kind whatsoever except for: (1) the Permitted Exceptions; and (2) any reservations more particularly described in Paragraph 1.1(jj) and Paragraph 3.1 of this Agreement;

(ii) an executed Assignment and Assumption Agreement (Rural Ditch Company Agreement) concerning the RDC Carriage Rights substantially in the form attached hereto as Exhibit E, an executed First Amendment to Unused Carriage Capacity Agreement (Last Chance Ditch) substantially in the form attached hereto as Exhibit I, an executed Assignment and Assumption Agreement (Colorado Water Court Case Rights) substantially in the form attached hereto as Exhibit H (under the circumstances where required by the terms of Paragraph 3.1(e) of this Agreement), or an appropriate amendment or dismissal of the subject application, as applicable, and an executed successor operator agreement in the form attached hereto as Exhibit L (under the circumstances more particularly described in Paragraph 8.4(c));

(iii) in conjunction with the conveyance of the LGE Water Rights to TOF, a bargain and sale deed describing the LGE Water Rights and any other water rights appurtenant to the Brooks Farm Parcel, and LGE's assignment and endorsement of the Subject Shares to TOF on the original certificate evidencing the Subject Shares and a share assignment agreement from LGE to TOF for the Subject Shares in a form mutually agreed upon by the Parties, including the appointment of TOF as attorney-in-fact with authority to change the ownership records of the Rural Ditch Company with respect to the Subject Shares conveying the LGE Water Rights and Subject Shares free and clear of all liens and encumbrances, including the most recent assessments made by the Rural Ditch Company during the year of Closing and all prior years;

(iv) an executed Temporary Access and Reclamation Agreement (as applicable);

(v) such assignments and other documentation necessary to convey to TOF in such form(s) mutually agreed to by the Parties with respect to any appurtenant rights which are applicable to the Brooks Farm Parcel as may be reasonably requested by TOF;

(vi) such affidavits, instruments and materials as may be reasonably required by the Title Company in its issuance of the applicable Policies including, without limitation, settlement statements for the Closing; and

(vii) an instruction letter for the Title Company prepared by LGE consistent with the terms of this Agreement.

7.5 Intentionally omitted.

7.6 Title Company Instructions. In conjunction with the Brooks Farm Closing, the Title Company will be directed to and will: (1) record any of the documents described above in Paragraph 7.4 in the real property records of Weld County, Colorado, as directed by instruction letters prepared by each of the Parties which are consistent with the terms of this Agreement at the cost and expense of the Party for whose benefit such documents are being recorded; and (2) disburse any sums due to the Parties as described above in Paragraph 7.4, as directed by instruction letters prepared by each of the Parties which are consistent with the terms of this Agreement.

7.7 General Provisions Regarding Closings. The following provisions will apply to the Closing.

(a) Prorations. Real property taxes and assessments on the Brooks Farm Parcel for the year of Closing shall be prorated to the date of the Closing; provided, however, that if, as of the Closing Date, the actual tax bill for the year is not available and the taxes to be prorated cannot be ascertained, then the most recent known rates, millages and assessed valuations (which amounts shall relate to the same tax year) shall be conclusive as to the property taxes and assessments to be prorated.

(b) Closing Costs. The title insurance premium and endorsements required to delete title exceptions objected to by Purchaser and agreed to be cured by Seller pursuant to Paragraph 4 for the applicable Policy will be paid by Seller. Seller shall pay the title insurance premium for the Policy and for any applicable endorsement, if able to be provided by Title

Company, to provide extended coverage. All other endorsements as may be requested or required by Purchaser will be paid for by Purchaser. The costs of any transfer fees, transfer taxes or escrow fees and charges shall be shared equally between the Parties. Fees for real estate closing services shall be paid by Purchaser and Seller equally. Each Party shall pay the recording fees applicable to those documents recorded in favor of such Party. Any other costs of closing not expressly addressed hereunder shall be apportioned or paid for by Purchaser or Seller as is customary in the State of Colorado. All closing costs shall be paid by the Parties in good funds at or before Closing.

(c) Payment of Encumbrances. Any lien or encumbrance required to be paid by Seller shall be paid at or before Closing from the proceeds of this transaction or from any other Seller source.

8. COMPLETION OF STORAGE CELLS BY LGE

8.1 Completion and Purchaser Approval. Upon the completion of mining of the Storage Cell which is located or to be located on the Brooks Farm Parcel and those Reclamation Obligations of LGE set forth in the Section 112(c) Permit with respect thereto (specifically excluding achieving Final Growth on the Revegetated Acreage), LGE shall give TOF written notice that LGE is prepared to convey the Brooks Farm Parcel to TOF at a Closing (the “**Completion Notice**”). The Completion Notice shall include the following: (i) copies of documentation from the Colorado Division of Reclamation, Mining and Safety (“**DRMS**”) evidencing that agency’s reduction of LGE’s bond for LGE’s obligation to complete the applicable Section 112(c) Permit Reclamation Obligations with respect to the Brooks Farm Parcel (excluding Final Growth); (ii) copies of documentation confirming SEO Certification for the subject Storage Cell; and (iii) an as-built area-capacity survey of the Storage Cell with one-foot contours representing the Storage Capacity of the Storage Cell stamped and signed by a licensed surveyor. If the Parties are unable to proceed to a Closing on or before the applicable Delivery Date Outside, then TOF may elect to: (i) extend such Delivery Date Outside; (ii) file a claim against LGE for specific performance of the terms of this Agreement, or such other remedies as may be otherwise provided for herein or by law; or (iii) following not less than 15 days’ notice thereof given by TOF to LGE, require LGE to convey to TOF the LGE Water Rights in exchange for the payment by TOF to LGE of the LGE Water Rights Purchase Price at a Closing therefor scheduled by TOF to occur no less than 15 days and no more than 30 days after LGE’s receipt of such notice, and under such circumstances, at such Closing, the Parties will agree to otherwise extend the Delivery Date Outside to a date (no later than one calendar year thereafter) mutually agreed to by the Parties (or if the Parties cannot mutually agree to a date for such extension, then the Delivery Date Outside will automatically be extended for a period of nine months after the date of such Closing) with LGE being required to provide a Status Notice (as such term is defined in Paragraph 8.2(b) below) to TOF on the date of such Closing and, thereafter, on or before the first day of each calendar month subsequent to such Closing until a Completion Notice has been issued by LGE with respect to the Storage Cell.

8.2 Delivery Schedule. LGE shall complete the Storage Cell and the Section 112(c) Permit Reclamation Obligations with respect to the Brooks Farm Parcel and deliver a Completion Notice with respect to the same, in sufficient time so that the Parties can Close on the Brooks Farm Parcel on or before the Delivery Date Outside, but in no event shall such notice be delivered after the date which is 30 days before the Delivery Date Outside. Notwithstanding anything to the

contrary herein, TOF shall not be required to close before the Delivery Date Earliest; provided, however, that TOF may Close on such earlier date in TOF's sole discretion. If any Force Majeure event occurs which directly delays LGE's ability to deliver a Completion Notice and effect a Closing for the Brooks Farm Parcel, then to the extent that LGE has delivered timely notice of such Force Majeure event and complied with all other provisions of Paragraph 11.28, LGE may extend the Delivery Date Outside for such Storage Cell by one day for each day that LGE's performance was actually delayed by such Force Majeure event.

8.3 Permits and Reclamation Plan. LGE has obtained and disclosed to TOF, prior to the date of this Agreement, those Permits identified in Paragraph 1.1(ll), and TOF has reviewed and accepted these Permits prior to such date. However, the Parties agree that such review and acceptance by TOF is for the convenience of the Parties, LGE shall not rely thereon and any reliance by LGE upon such acceptance by TOF shall not create or give rise to any liability of or claim by LGE against TOF. LGE shall not obtain any additional Permits not identified in or otherwise contemplated by the terms of this Agreement nor further amend (specifically excluding technical revisions thereof) any Permit of the type identified in Paragraph 1.1(ll) without TOF's written consent and approval, which consent and approval shall not be unreasonably withheld provided that such amendment, modification or new Permit is consistent with the transactions contemplated under this Agreement. TOF acknowledges and agrees that any other permit(s) necessary for TOF's use of the Storage Cell as a water storage facility is the sole obligation of TOF. To the extent LGE's consent or approval is required in connection with TOF's efforts to obtain land use authorizations pertaining to the Storage Cell or the Brooks Farm Parcel as a whole that will become effective after conveyance thereof to TOF, LGE further agrees to cooperate with TOF by providing such consents and approvals which do not interfere with LGE's mining and reclamation activities thereon as contemplated by this Agreement and the Permits.

8.4 Mining and Reclamation of the Real Property. LGE recognizes and agrees that LGE will be responsible for mining and reclaiming the Brooks Farm Parcel in accordance with all of the Reclamation Obligations. Pursuant to the Temporary Access and Reclamation Easement, LGE shall continue to have access to the Brooks Farm Parcel subsequent to the Closing applicable thereto as may be reasonably necessary for the purpose of satisfying any Reclamation Obligations which remain after the Brooks Farm Closing. Subsequent to the Brooks Farm Closing, LGE will complete the remainder of LGE's Reclamation Obligations with respect to the Brooks Farm Parcel in accordance with the terms of this Paragraph 8.4.

(a) TOF Acceptance of Completion of Reclamation Obligations by LGE. Subsequent to LGE's issuance of a Completion Notice, LGE intends to seek a return or a full release of LGE's DRMS bond without being required to achieve Final Growth on the Brooks Farm Parcel, and a corresponding release of the Section 112(c) Permit by the DRMS (collectively, the "**DRMS Release**"). In order to request the DRMS Release, LGE will require TOF to execute and deliver to LGE an "**Acceptance of Reclamation**" in form and substance similar to that attached hereto as Exhibit N, whereby TOF will acknowledge that TOF is willing to accept the Brooks Farm Parcel in its "as-is" condition at the Brooks Farm Closing (i.e., without having Final Growth achieved). In consideration for TOF's execution and delivery of the Acceptance of Reclamation, LGE has agreed to reduce the Storage Purchase Price as set forth in Paragraph 8.4(b). LGE and TOF hereby agree and acknowledge that, in and of itself, TOF's execution and delivery of the

Acceptance of Reclamation will in no way obligate TOF to Close on the Brooks Farm Parcel, such obligation being solely determined by the other provisions of this Agreement.

(b) Reduction of Storage Purchase Price/Acceptance of Reclamation. Upon receipt by LGE of the conformed Acceptance of Reclamation from TOF, LGE hereby agrees to reduce the Storage Purchase Price by an amount of \$5,500.00, which has been calculated to equal \$500 per acre for each acre of Revegetated Acreage contained within the Brooks Farm Parcel. The purpose of such reduction being LGE's estimated cost for TOF to achieve Final Growth on all of the Revegetated Acreage over time.

(c) TOF as Successor Operator. If, prior to the Brooks Farm Closing, LGE is unable to obtain the DRMS Release, then TOF agrees to execute an agreement at the Brooks Farm Closing in the form attached hereto as Exhibit L, whereby TOF, as the "Successor Operator" thereunder, assumes all remaining liability and obligations under the Section 112(c) Permit for achieving Final Growth on the Brooks Farm Parcel, as provided for by C.R.S. § 34-32.5-119, with LGE retaining any other then-remaining Reclamation Obligations under any other Permits concerning the Brooks Farm Parcel subsequent to the Brooks Farm Closing.

9. SELLER REPRESENTATIONS, WARRANTIES AND COVENANTS

9.1 General Representations and Warranties. Seller makes the following representations and warrants and covenants as of the date of this Agreement and as of the date of the Closing with respect to any property or property rights to be conveyed at such Closing, which representations and warranties shall survive the Closing for a period of one year, unless a different period of time is stated below.

(a) Further Encumbrances. From the date of this Agreement until each Closing or the earlier termination of this Agreement, and except for the Permitted Exceptions and any applicable Down Payment Deed of Trust required to be provided hereunder by LGE, Seller agrees that it will not encumber any property or any other interests being conveyed to Purchaser by the terms of this Agreement in any way, nor grant any property or contract right relating to such property or other such interests, nor alter the zoning of approved land uses on such property without the prior written consent of Purchaser.

(b) Compliance with Government Regulations. Except as previously disclosed in writing to Purchaser, Seller has not received any uncured notices, demands or deficiency comments from any state, municipal or county government or any agency thereof with regard to the property or any other interests therein being conveyed to Purchaser, including without limitation, any notices of any violations of any ordinances. Seller has received no written notice of or impending expropriation or condemnation of such property or other interests. During the term of this Agreement, Seller shall promptly forward copies of any such notices, demands or deficiency comments to Purchaser pursuant to Paragraph 11.24.

(c) Condition of Property. To Seller's knowledge, and except as otherwise provided for in this Paragraph 9.1(c), there are no material defects or conditions affecting the use, development or value of the property being conveyed to Purchaser as regards its use for mining and/or storage of water. Seller warrants that such property has not been used by Seller and to the

best of Seller's knowledge has not been used in the past, as a waste disposal or landfill facility, and that no underground storage tanks are or have been present. Seller further warrants that, to the best of Seller's knowledge, such property is free of Hazardous Substances. Seller further warrants that during Seller's ownership of such property, and to the best of Seller's knowledge prior to Seller's ownership, no petroleum products, including motor vehicle fuels and equipment maintenance fluids have been spilled or released on such property or that if such spills or releases have occurred, they have been fully reported to the appropriate regulatory agencies and necessary cleanup or remedial actions have been completed. Purchaser and Seller hereby acknowledge and agree that certain portions of such property may have contained in the past, waste disposal or landfill facilities, as well as underground septic tanks and leach fields common to rural farms in Weld County, Colorado. Seller hereby agrees to remove any and all such items encountered and dispose of such items within the Parcel in a lawful manner on or before delivery of possession of such Parcel(s) to Purchaser.

(d) Litigation. Seller represents and warrants that there is no dispute, action or litigation, pending or threatened, respecting the ownership or use of any property, or which would prevent Seller from performing Seller's obligations under this Agreement.

(e) Contracts, Leases and Agreements. Except as disclosed in writing to Purchaser as part of the Materials, there are no contracts, leases, licenses, commitments, or undertakings affecting the property or any part thereof, nor any other right, title or interest in or to such property granted to any other individual or entity which will obligate Purchaser subsequent to the Closing. Unless accepted by Purchaser in writing, as of the Closing, Seller will not enter into any contracts, leases, licenses, commitments, or undertakings respecting the use or maintenance of such property or performance of services on such property which would survive the Closing or by which Purchaser would become obligated or liable to any third party.

(f) Compliance with Law. Seller warrants that Seller has complied in all material respects with all laws, rules, regulations, ordinances, orders, judgments and decrees applicable to the property, and Seller warrants that there is no proposed order, judgment, decree, governmental taking, or other proceeding applicable to Seller which might materially adversely affect the property.

(g) Utilities. Seller warrants that Seller has not received any written notice of the curtailment of any utility service supplies to the property.

(h) Zoning. Seller warrants that there are no pending requests for zoning variances or changes with respect to the property or its zoning.

(i) Seller Status. Seller, as of the date of this Agreement and for the duration of this Agreement: (i) is an entity duly organized, validly existing, and in good standing under the laws of the jurisdiction of its incorporation, formation or registration; (ii) has all requisite power and authority to own its assets and carry on its business as now being or as proposed to be conducted; and (iii) is qualified to do business in the State of Colorado. Seller has the corporate power and authority to execute, deliver, and perform Seller's obligations under this Agreement and the other documents which Seller is required to deliver and execute as provided for under this Agreement.

(j) No Conflicts. The execution, delivery, and performance by Seller of this Agreement (and the other documents which it is required to deliver and execute as provided for under this Agreement) and compliance with the terms and provisions hereof and thereof have been duly authorized by all requisite corporate or governmental action on the part of Seller and will not: (i) violate or conflict with, or result in a breach of, or require any consent under (x) the articles of incorporation or bylaws or other governing documents of such entity, (y) any applicable law, rule, or regulation or any order, writ, injunction, or decree of any governmental authority or arbitrator, or (z) any agreement or instrument to which such entity is a party or by which any of them or any of their property is bound or subject; or (ii) constitute a default under any such agreement or instrument.

(k) Seller's Disclaimer. Seller hereby disclaims any warranty or representation as to water quality of whatsoever nature with respect to the future use of the property as a water storage facility. Seller further disclaims any warranty or representation as to Purchaser's intended future use for any purpose.

(l) Materials. Seller has delivered or made available all of the Materials to Purchaser as provided for under Paragraph 5.2 of this Agreement.

(m) Title to LGE Water Rights. LGE represents and warrants to TOF that LGE will warrant and defend title to the LGE Water Rights in the quiet and peaceable possession of TOF against all and every person or persons claiming the whole or any part thereof, by, through or under LGE for a period of one year after the Brooks Farm Closing.

9.2 Construction Warranty. In addition to the generic Seller WARRANTIES SET FORTH IN Paragraph 9.1, LGE hereby represents, warrants and covenants to TOF as follows with respect to the construction of the Storage Cell:

(a) Warranty. LGE shall warrant the design, installation and construction of each of the Slurry Walls as well as the associated earthwork used to construct the final reclamation slopes within each Storage Cell (the "Construction Warranty") and any other ancillary Storage Cell facilities constructed by LGE as being in compliance all applicable Permits as follows:

(i) Slurry Walls: LGE warrants that each Slurry Wall constructed pursuant to this Agreement will comply with the Lining Criteria for 24 months after the SEO Certification for that Storage Cell.

(ii) Side Slopes: All side slopes will be reclaimed to a 3:1 slope. LGE warrants the earthwork associated with construction of the final reclamation slopes within each Storage Cell, and any other ancillary Storage Cell facilities constructed by Seller (specifically including the berm referenced in Paragraph 11.1), for a period of 24 months after the Closing for the Brooks Farm Parcel.

(b) Limitation of Warranty. LGE's Construction Warranty is specifically limited by and shall not cover any failure of the Lining Criteria to the extent arising from any damage to such Slurry Wall, final reclamation slopes and/or the Storage Cell to the extent occurring after the date of the Brooks Farm Closing, and caused by: (A) TOF, its contractors, subcontractors, consultants, suppliers and/or materialman (except to the extent caused by LGE);

(B) an act of God; or (C) any third party not acting on behalf of LGE, its agent, contractor or other related party, including but not limited to the following events, items and/or work:

(i) TOF allowing or causing the perforation of the Slurry Wall by, utility companies, and/or other third parties;

(ii) TOF allowing or causing grading or other work to occur (other than such work as performed by LGE, its agents or contractors) that changes the design, configuration, integrity or stability of the final reclamation slopes, Slurry Wall or Storage Cell as built and approved by the Office of the State Engineer;

(iii) TOF allowing or causing the plantings of vegetation (other than grass) within thirty feet of the final reclamation slopes or the centerline of the Slurry Wall;

(iv) TOF allowing or causing surcharge loads to be placed on or within thirty feet of the final reclamation slopes or the centerline of the Slurry Wall;

(v) TOF allowing or causing deep foundations to be placed within 100 feet of the centerline of the Slurry Wall;

(vi) TOF allowing or causing any type of operation or work that could create or results in erosion of the final reclamation slopes, Slurry Wall or Storage Cell as built and approved by the Office of the State Engineer; and

(vii) TOF allowing or causing the said Storage Cell to be filled, operated, maintained or drawn down in a manner that is not consistent with the Lining Criteria.

9.3 Veracity of Representations and Warranties. No representation or warranty made by Seller in this Agreement or any schedule or exhibit attached hereto or in any certificate or other document furnished by Seller pursuant to this Agreement contains any untrue statement of material fact or omits any material fact.

10. PURCHASER REPRESENTATIONS, WARRANTIES AND COVENANTS

10.1 General Representations and Warranties. Purchaser makes the following representations and warrants and covenants as of the date of this Agreement and as of the date of the Closing, which representations and warranties shall survive the Closing for a period of one year, unless a different time period is stated below.

(a) Purchaser Status. Purchaser, as of the date of this Agreement and for the duration of this Agreement: (i) is an entity duly organized, validly existing, and in good standing under the laws of the jurisdiction of its incorporation, formation or registration; (ii) has all requisite power and authority to own its assets and carry on its business as now being or as proposed to be conducted; and (iii) is qualified or otherwise in good standing to do business in the State of Colorado. Purchaser has the power and authority to execute, deliver, and perform its obligations under this Agreement and the other documents which Purchaser is required to deliver and execute as provided for under this Agreement.

(b) No Conflicts. The execution, delivery, and performance by Purchaser of this Agreement (and the other documents which it is required to deliver and execute as provided for under this Agreement) and compliance with the terms and provisions hereof and thereof have been duly authorized by all requisite corporate or governmental action on the part of Purchaser and will not: (i) violate or conflict with, or result in a breach of, or require any consent under (x) the articles of organization, formation documents or other governing documents of such entity, (y) any applicable law, rule, or regulation or any order, writ, injunction, or decree of any governmental authority or arbitrator, or (z) any agreement or instrument to which such entity is a party or by which any of them or any of their property is bound or subject; or (ii) constitute a default under any such agreement or instrument.

(c) Litigation. Purchaser represents and warrants that there is no dispute, action or litigation, pending or threatened, which would prevent Purchaser from performing its obligations under this Agreement.

10.2 Veracity of Representations and Warranties. No representation or warranty made by Purchaser in this Agreement or any schedule or exhibit attached hereto or in any certificate or other document furnished by Purchaser pursuant to this Agreement contains any untrue statement of material fact or omits any material fact.

11. MISCELLANEOUS

11.1 Minimum Operating Freeboard. In order to maximize below grade storage volume in the Storage Cell, LGE hereby agrees to construct, as may be mutually agreed upon by the Parties, an approximately two foot above ground perimeter berm around approximately the northern half of the Storage Cell designed to provide TOF with approximately one foot of minimum operational freeboard for the Storage Cell. Such berm will be constructed by LGE at no additional cost to TOF and the exact location, specifications, slopes and heights of such berm (as it will be constructed by LGE) will be based upon and subject to drawings and specifications therefor provided by LGE to TOF and reasonably approved by TOF in writing prior to the construction of the berm by LGE. TOF hereby agrees to respond to any final drawings, plans and specifications with respect to the berm within 15 days after submission thereof by LGE to TOF. Written approval thereof by TOF or a failure by TOF to timely object to such plans and specifications within the 15-day time period therefor set forth above, will constitute approval thereof by TOF. If TOF has any comments or objections to such final drawings, TOF will provide TOF's specific comments and/or objections to LGE within such 15-day period and, thereafter, LGE and TOF hereby agree to work together in good faith to resolve same within 10 days after TOF provides TOF's written comments and objections with respect thereto to LGE. If mutual agreement concerning the final drawings cannot be reached within such 10-day period, resolution thereof will be rendered by an independent engineer mutually agreed to by both LGE and TOF, or in the event the Parties cannot mutually agree on such engineer, then by an independent engineer selected by two engineers (one each appointed respectively by TOF and LGE) for the express purpose of selecting the independent engineer, within 10 days thereafter. Each Party will pay the cost of its own engineer selected in connection with this process and both Parties will split equally the cost of any independent engineer required hereunder.

11.2 Additional Infrastructure. TOF, at TOF's sole cost and expense, will be required to design and construct any infrastructure which may be required by TOF to transfer water into and/or out of the subject Storage Cell. LGE will not be responsible for providing any such services to TOF pursuant to the terms and conditions of this Agreement and the Fixed Unit Price will not include any cost to be incurred by TOF in connection therewith. Notwithstanding the foregoing, since LGE has worked with its own engineers to design and construct certain inlet and outlet structures for LGE's own use at other reservoirs owned and operated by LGE, LGE is willing to consider assisting TOF with such matters under the terms of a separate agreement therefor between the Parties.

11.3 Access, Information and Inspection. Seller agrees to provide Purchaser any access desired to inspect any of the interests to be conveyed or otherwise transferred to Purchaser by the terms of this Agreement prior to the Closing. Purchaser hereby agrees that Purchaser shall be responsible for, pay for and indemnify Seller against any damages that Purchaser causes as a result of any inspections or activity Purchaser conducts on the Parcel, and Purchaser hereby further agrees to comply with any applicable governmental requirements with respect to any entry by Purchaser onto the Parcel. Notwithstanding the foregoing, (i) this indemnity shall not apply to the extent any liability arises in connection with the negligence or willful misconduct of Seller, and (ii) Purchaser shall not have any liability or indemnification obligation to Seller, or to any other person or entity, by reason of having discovered any adverse condition with respect to the Parcel, unless such condition was caused by Purchaser.

11.4 Intentionally omitted.

11.5 Casualty Damage. If, before the Brooks Farm Closing, any portion of the Brooks Farm Parcel or Storage Cell is substantially damaged by fire, flood or other casualty, Seller shall be required to repair such damage to the reasonable satisfaction of Purchaser, in which event Purchaser shall continue this Agreement.

11.6 Amendment. This Agreement may be modified, amended, changed or terminated in whole or in any part only by an agreement in writing duly authorized and executed by both Parties with the same formality as this Agreement.

11.7 Waiver. The waiver of any breach of any provision of this Agreement by any Party shall not constitute a continuing waiver with respect to any subsequent breach of said Party, or for any other breach of the same or any other provision of this Agreement.

11.8 Entire Agreement. This Agreement represents the entire agreement of the Parties with respect to all matters set forth herein and neither Party has relied upon any fact or representation not expressly set forth herein. This Agreement supercedes all other prior agreements and understandings of any type, both written and oral, among the Parties with respect to the subject matter hereof. All exhibits attached hereto are hereby incorporated herein.

11.9 Headings for Convenience Only. Paragraph headings and titles contained herein are intended for convenience and reference only and are not intended to define, limit or describe the scope or intent of any provision of this Agreement.

11.10 Non-Severability and Effect of Invalidity. Each section of this Agreement is intertwined with the others and is not severable unless by mutual consent of the Parties. If any provision of this Agreement or the application thereof to any person or circumstance shall, at any time or to any extent, be invalid or unenforceable, and the basis of the bargain between the Parties is not destroyed or rendered ineffective thereby, the remainder of this Agreement, or the application of such provisions to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby.

11.11 Assignability. Seller may not assign its rights or delegate its duties hereunder without the prior written consent of Purchaser. Purchaser may not assign its rights or delegate its duties hereunder without the prior written consent of Seller to be granted or withheld in Seller's sole discretion, but such assignment shall not relieve Purchaser of any liability hereunder unless so specified in a writing signed by Seller.

11.12 Binding Effect. This Agreement and the rights and obligations created hereby shall be binding upon and shall inure to the benefit of the Parties hereto and their permitted respective successors and assigns, if any.

11.13 Governing Law and Venue. This Agreement and its application shall be construed in accordance with the laws of the State of Colorado. The Parties agree that venue for any litigated disputes regarding this Agreement shall be the District Court in and for Weld County Colorado, unless any such issues are water matters as defined by C.R.S. § 37-92-203, for which the Parties agree the venue for any litigated disputes shall be the District Court, Water Division 1. However, Purchaser and Seller may avail themselves of the procedures provided in C.R.S. § 13-3-111.

11.14 Multiple Originals. This Agreement may be simultaneously executed in any number of counterparts, each of which shall be deemed original but all of which constitute one and the same Agreement.

11.15 Survival of Representations. Each and every covenant, promise or payment contained in this Agreement shall not merge in any deed or other instrument conveying any interest herein described but shall survive each deed and transfer and be binding upon each of the Parties hereto, and unless otherwise specifically limited by other provisions of this Agreement, each and every representation and warranty contained in this Agreement shall be binding and obligatory upon each of the Parties hereto for a period of one year after the Brooks Farm Closing, unless a different period of time is stated above.

11.16 Exchange. Seller or Purchaser may elect to have the closing of any property effected through a tax-deferred exchange in compliance with the Internal Revenue Code § 1031 and/or § 1033 and the regulations promulgated thereunder. In the event of such election each Party hereby agrees to cooperate with the other Party. Such agreement to provide reasonable cooperation in effecting any such tax-deferred exchange shall be on the condition that the exchange transaction shall not create any liability on, or exposure to liability by the Party who is not conducting the exchange, which would not be created but for the proposed exchange, shall be without any additional expense to the Party who is not conducting the exchange, and shall not require or result in any extension or delay of the Closing Date.

11.17 Attorneys' Fees or Costs. In the event of any litigation, mediation, arbitration or other dispute resolution process arising out of this Agreement, the Parties agree that the prevailing Party in such action shall be awarded from the non-prevailing Party, the prevailing Party's reasonable attorney's fees and costs incurred in any such proceedings.

11.18 Fees and Expenses and Apportionment. Except as otherwise expressly set forth in this Agreement, each of the Parties will bear its own expenses in connection with the transactions contemplated by this Agreement.

11.19 Joint Draft. The Parties agree they drafted this Agreement jointly with each having the advice of legal counsel and an equal opportunity to contribute to its content.

11.20 Intent of Agreement. This Agreement is intended to describe the rights and responsibilities of and between the Parties and is not intended to, and shall not be deemed to, confer rights upon any persons or entities not signatories hereto, nor to limit, impair, or enlarge in any way the powers, regulatory authority and responsibilities of either Party or any other governmental entity not a party hereto.

11.21 Remedies. If prior to the Initial Closing, Purchaser fails to perform any of its material obligations under this Agreement, for any reason other than default by Seller or the termination of this Agreement as provided herein, Seller may, following not less than 15 days' notice and right to cure to Purchaser, terminate this Agreement, as its exclusive remedy, hereby waiving all other remedies. If prior to the Initial Closing, Seller fails to perform any of its material obligations under this Agreement, for any reason other than default by Purchaser or the termination of this Agreement as provided herein, Purchaser may, following not less than 15 days' notice and right to cure to Seller: (a) enforce specific performance of this Agreement against Seller; or (b) terminate this Agreement. If after the Initial Closing, Purchaser fails to perform any of its material obligations under this Agreement for any reason other than default by Seller or the termination of this Agreement as provided herein, Seller may, following not less than 15 days' notice and right to cure to Purchaser, seek specific performance of this Agreement. If after the Initial Closing, Seller fails to perform any of its material obligations under this Agreement for any reason other than default by Purchaser or the termination of this Agreement as provided herein, Purchaser may, following not less than 15 days' notice and right to cure to Seller, enforce specific performance of this Agreement against Seller. These remedies are in addition to any other rights or remedies provided at law or in equity, in the event of litigation, mediation, arbitration or other dispute resolution process concerning this Agreement. Upon any termination of this Agreement by LGE, other than for the reason that TOF has failed to perform any of its material obligations under this Agreement, LGE shall be required to return any then unused portion of the Brooks Farm down payment to TOF. Likewise, such unused portion of the down payment shall be returned by LGE to TOF if TOF terminates this Agreement as a result of LGE's failure to perform any of its material obligations hereunder (unless, as a remedy for such breach by LGE hereunder, TOF is seeking specific performance by LGE of the terms and provisions hereof). Upon the return of such down payment to TOF by LGE, TOF shall promptly release the Down Payment Deed of Trust in the real property records of Weld County, Colorado and return the original Down Payment Promissory Note to LGE marked "paid" or "cancelled." Upon any termination of this Agreement resulting from the default of TOF of its material obligations under the terms and conditions hereof, LGE shall be entitled to retain any portion of the Brooks Farm down payment then in possession of LGE

and TOF shall promptly release the Down Payment Deed of Trust in the real property records of Weld County, Colorado and return the original Down Payment Promissory Note to LGE marked “paid” or “cancelled.” If at any time prior to the Brooks Farm Closing, TOF revokes the Valley License (as such term is defined in Paragraph 1.1(III) of that certain Purchase, Sale and Exchange Agreement dated October 12, 2016 between LGE and TOF), then this Agreement will immediately terminate upon such revocation and LGE will be entitled to retain any portion of the Brooks Farm down payment then in possession of LGE and TOF shall promptly release the Down Payment Deed of Trust in the real property records of Weld County, Colorado and return the original Down Payment Promissory Note to LGE marked “paid” or “cancelled”. The terms of this Paragraph 11.21 are in addition to any other remedies or rights of the Parties as set forth elsewhere in this Agreement.

11.22 Condemnation. If prior to the Brooks Farm Closing, any of the property or property interests which are the subject of this Agreement are acquired by a party having the power of eminent domain, or any individual or entity with the power of eminent domain initiates or gives notice that it intends to initiate condemnation proceedings with respect to any interest in such property or property interests, or any portion thereof, Seller shall notify Purchaser thereof in writing within five days and provide Purchaser copies of all correspondence, pleadings and other documents regarding the proposed condemnation. If and only if such condemnation would prevent Purchaser from reasonably using the affected property or property interests for the purposes described therefor in this Agreement (as determined in Purchaser’s reasonable discretion after consultation with Seller), then Purchaser may elect to either terminate this Agreement as to the Brooks Farm Parcel, at Purchaser’s option, or proceed with the Closing(s), subject to the other provisions of this Agreement by delivering written notice thereof to Seller within five days after Purchaser’s receipt of Seller’s notice. If Purchaser elects to proceed with the Closing, then Purchaser shall be entitled to any award or settlement of compensation paid to the extent the same may be necessary or appropriate, and Seller shall assign to Purchaser at Closing Seller’s rights to such portion of such awards as may be applicable. If, however, despite such condemnation, Purchaser is able to reasonably use the affected property or property interests for the intended purposes, then Purchaser shall be required to proceed with the Closing.

11.23 No Limitation on Ability to Raise Funds. Nothing in this Agreement is intended to limit Purchaser’s ability to raise necessary funds to pay all or any portion of any purchase price through any form of borrowing that may be available to it.

11.24 Notices. All notices, requests, demands, or other communications (collectively, “Notices”) hereunder shall be in writing and given by: (i) hand delivery; or (ii) certified or registered mail, postage prepaid, return receipt requested; or (iii) nationally-recognized overnight delivery service, to the Parties at the following address, or at such other address as the parties may designate by Notice in the above manner.

If to Purchaser: Town of Firestone
P.O. Box 100
151 Grant Avenue
Firestone, Colorado 80520
Attn: Town Manager

with copy to: Bradley C. Grasmick, Esq.
Lawrence Jones Custer Grasmick, LLP
5245 Ronald Reagan Blvd., Suite 1
Johnstown, Colorado 80534

If to Seller: L.G. Everist, Incorporated
Mountain Division Office
7321 East 88th Avenue, Suite 200
Henderson, Colorado 80640
Attn: Matthew Noteboom, VP-Mountain Division

with copy to: Mike Fredregill
Moye White LLP
1400 16th Street, 6th Floor
Denver, Colorado 80202

Notices shall be effective: (i) upon receipt by the addressee of a hand delivery; or (ii) three days following the date of mailing via certified or registered mail, postage prepaid, return receipt requested; or (iii) one day after sending by nationally-recognized overnight delivery service.

11.25 Third Party Rights. Nothing in this Agreement, express or implied, is intended to confer any rights or remedies whatsoever upon any person, other than Seller and Purchaser and their respective successors, assigns and transferees as may be allowed hereunder.

11.26 Brokerage. Seller and Purchaser hereby warrant to each other that no real estate agent or other broker or finder is involved in this transaction. Each Party hereby agrees to indemnify the other Party and hold the other Party harmless from any loss, liability, damage, cost or expense (including, without limitation, reasonable attorney's fees and costs) paid or incurred by the other Party by reason of any claim to any broker's finder's or other fee in connection with the transaction by any third party, successors or assigns claiming by, through or under the Party by, through or under whom the claim is being made.

11.27 Non-business Days. If the date for any action under this Agreement falls on a Saturday, Sunday or a day that is a Colorado state holiday ("Holiday"), then the relevant date shall be extended automatically until the next day that is not a Saturday, Sunday or Holiday.

11.28 Force Majeure. Subject to the terms and conditions in this Paragraph 11.28, no Party to this Agreement shall be liable for any delay or failure to perform under this Agreement due solely to conditions or events of Force Majeure, as that term is specifically defined with regard to each Party below; provided that: (i) the non performing Party gives the other Party written

notice describing the particular of the occurrence of the Force Majeure within 30 days of such occurrence; (ii) the suspension of performance is of no greater scope and of no longer duration than is required by the Force Majeure event or condition; and (iii) the non-performing Party proceeds with reasonable diligence to remedy its inability to perform and provides weekly progress reports to the other Party describing the actions taken to remedy the consequences of the Force Majeure event or condition. As used herein, the term “Force Majeure” shall mean the following causes beyond the reasonable control of the Party: acts of God, strikes or work stoppages directly affecting the Party, unavailability of or delay in receiving labor or materials, material adverse weather conditions, fire or other casualty affecting the Property, or stop-work action of governmental authorities. In addition, and solely for the benefit of TOF, LGE hereby agrees that, for the purposes of this Agreement only, the term “Force Majeure” as it applies to TOF will specifically include: (a) any rule, statute or law applicable to TOF which would operate to require this Agreement to be approved by a referendum of the voters of TOF, which referendum requirement legally arises and becomes obligatory on TOF no later than 45 days after execution of this Agreement; and (b) any litigation filed by a party with standing prior to the date of the Brooks Farm Closing which challenges the right or authority of TOF to legally enter into this Agreement and/or close the transactions evidenced hereby (collectively, the “Legal Process Force Majeure Events”). Upon the occurrence either (or, as applicable, each) Legal Process Force Majeure Event, the requirements set forth in subparagraphs (i)-(iii) above in this Paragraph 11.28 will apply, except that the maximum suspension of performance to be granted by LGE to TOF for any (each) such Legal Process Force Majeure Event cannot and will not exceed, under any circumstances, a period of six months from the date of the occurrence of such Legal Process Force Majeure Event.

11.29 Memorandum of Agreement. At the Initial Closing and upon the request of Purchaser, Seller agrees to execute a Memorandum of Agreement (as prepared by Purchaser and as acceptable to Seller in Seller’s reasonable discretion) reflecting the existence of this Agreement to sell and convey the applicable portion of the property or property interests which are the subject of this Agreement to Purchaser and Purchaser’s right to acquire the applicable portion thereof, with the intent that such Memorandum of Agreement will be recorded by Purchaser in the real property records of Weld County, Colorado.

11.30 Further Assurances. Each Party agrees to execute, approve and adopt any and all instruments, documents and resolutions as may be reasonably necessary to effectuate the covenants, terms, conditions and provisions contained in this Agreement. Such instruments, documents and resolutions shall be in a form and substance reasonably acceptable to the other Party.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the date first above written.

TOF:

Town of Firestone, a Colorado municipal corporation, acting by and through its Town of Firestone Water Activity Enterprise, organized and existing as a “water activity enterprise” under C.R.S. 37-4.1-101 et seq.

By: _____

Name Printed: _____

Title: _____

Date: _____

LGE:

L.G. Everist, Incorporated, an Iowa corporation

By: _____

Name: _____

Its: _____

Date: _____

LIST OF EXHIBITS

EXHIBIT A	Legal Description and Depiction of Brooks Farm Parcel
EXHIBIT B	Depiction of Water Storage Cell/Brooks Farm Parcel
EXHIBIT C	Form of Access and Improvements Easement Agreement
EXHIBIT D	Form of Temporary Access and Reclamation Easement Agreement
EXHIBIT E	Delivery Schedule
EXHIBIT F	Form of Assignment and Assumption Agreement (Rural Ditch Company Agreement)
EXHIBIT G	Form of Special Warranty Deed
EXHIBIT H	Form of Assignment and Assumption Agreement (Colorado Water Court Case Rights)
EXHIBIT I	Form of First Amendment to Unused Carriage Capacity Agreement (Last Chance Ditch)
EXHIBIT J	Form of Down Payment Deed of Trust
EXHIBIT K	Form of Down Payment Promissory Note
EXHIBIT L	Assignment and Assumption Agreement (Rights Under Section 112(c) Permit)
EXHIBIT M	Consumer Price Index, All Urban Consumers, U.S. City Average, all items (1982 – 84 = 100)
EXHIBIT N	Form of Acceptance of Reclamation

EXHIBIT A

Legal Description/Depiction of Brooks Farm Parcel

[See following pages]

Legal Description

EXHIBIT A

(1 of 3)

BROOKS FARM PARCEL PROPERTY DESCRIPTION

A parcel of land being part of Tract A, Block 1, Minor Plat of Brooks Farm First Subdivision, recorded October 3, 2002 as Reception No. 2993165 of the records of Weld County Clerk and Recorder, located in the Northwest Quarter (NW1/4) of Section Six (6), Township Two North (T.2N.), Range Sixty-seven West (R.67W.) of the Sixth Principal Meridian (6th P.M.), Town of Firestone, County of Weld, State of Colorado.

That portion of said Tract A lying Northerly of the centerline of the Last Chance Ditch as it existed on December 6, 2016.

Said parcel of land contains 56.375 acres, more or less ($\pm$), and may be subject to any rights-of-way or other easements of record or as now existing on said described parcel of land.

SURVEYOR'S STATEMENT

I, Michael Chad Dilka, a Colorado Licensed Professional Land Surveyor do hereby state that this Property Description was prepared under my personal supervision and checking and that it is true and correct to the best of my knowledge and belief.



Michael Chad Dilka - on behalf of King Surveyors
Colorado Licensed Professional Land Surveyor #38106

KING SURVEYORS
650 East Garden Drive
Windsor, Colorado 80550
(970) 686-5011

JN: 20160170

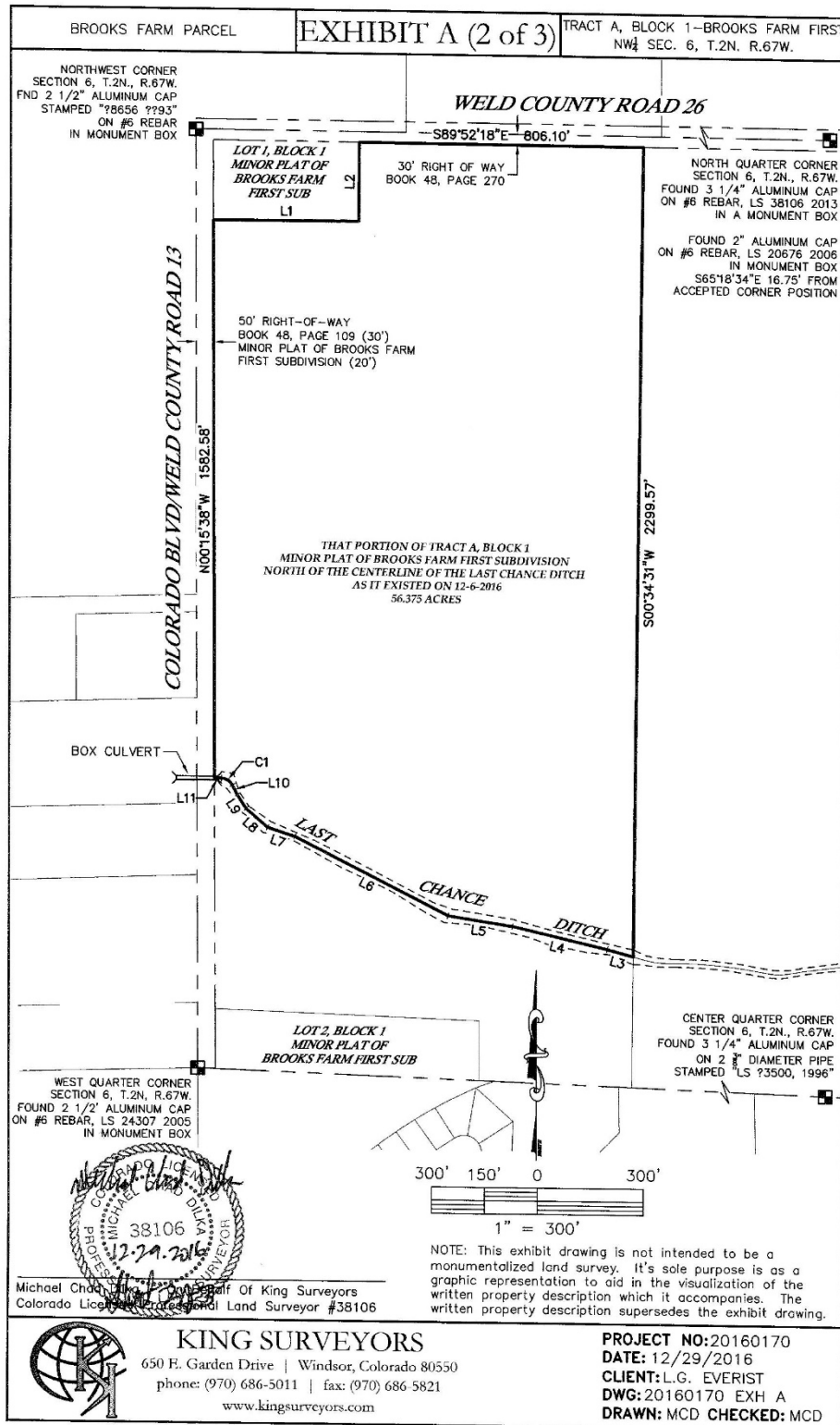


EXHIBIT A-2

BROOKS FARM PARCEL

EXHIBIT A (3 of 3)

TRACT A, BLOCK 1-BROOKS FARM FIRST
NW 1/4 SEC. 6, T.2N. R.67W.

LINE TABLE

LINE	BEARING	LENGTH
L1	N89°44'03"E	412.08'
L2	N00°08'08"E	222.86'
L3	N74°53'31"W	76.14'
L4	N76°54'55"W	276.00'
L5	N81°23'00"W	185.00'
L6	N63°03'44"W	488.00'
L7	N71°51'59"W	81.00'
L8	N49°21'02"W	81.00'
L9	N32°38'45"W	46.00'
L10	N27°48'16"W	31.00'
L11	S89°59'19"W	19.44'

CURVE TABLE

CURVE	LENGTH	RADIUS	DELTA	CHORD	CH BEARING
C1	38.00'	35.00'	62°12'25"	36.16'	N58°54'28"W



Michael Chad Diika - On Behalf Of King Surveyors
Colorado Licensed Professional Land Surveyor #38106

NOTE: This exhibit drawing is not intended to be a
monumentalized land survey. It's sole purpose is as a
graphic representation to aid in the visualization of the
written property description which it accompanies. The
written property description supersedes the exhibit drawing.



KING SURVEYORS

650 E. Garden Drive | Windsor, Colorado 80550
phone: (970) 686-5011 | fax: (970) 686-5821
www.kingsurveyors.com

PROJECT NO: 20160170
DATE: 12/29/2016
CLIENT: L.G. EVERIST
DWG: 20160170 EXH A
DRAWN: MCD CHECKED: MCD

EXHIBIT A-3

EXHIBIT B

Depiction of Water Storage Cell

[See following page]

EXHIBIT C

Form of Access and Improvements Easement Agreement

[See following pages]

WHEN RECORDED RETURN TO:

ACCESS AND IMPROVEMENTS EASEMENT AGREEMENT

THIS ACCESS AND IMPROVEMENTS EASEMENT AGREEMENT (this **Easement Agreement**) is made as of the ____ day of _____, 20____, by and between L.G. EVERIST, INCORPORATED, an Iowa corporation, with its Colorado corporate offices at 7321 East 88th Avenue, Suite 200, Henderson, Colorado 80640 (**Grantor**), and the TOWN OF FIRESTONE, a Colorado municipal corporation, acting by and through its Town of Firestone Water Activity Enterprise, organized and existing as a “water activity enterprise” under C.R.S. 37-4.1-101 et seq., whose address is 8308 Colorado Blvd., Suite 200, Firestone, Colorado 80504, Attention: Wesley LaVanchy, Town Manager (**Grantee**). Grantor and Grantee are sometimes referred to herein individually as a **Party** or collectively as the **Parties**.

RECITALS:

A. WHEREAS, Grantor owns certain real property located in Weld County, Colorado, hereinafter referred to as the **Easement Property**, as more specifically defined in Exhibit A attached hereto;

B. WHEREAS, Grantor and Grantee have entered into that certain Purchase and Sale Agreement (Brooks Farm) effective as of _____, 20____ (the **Purchase Agreement**), whereby the Grantor has agreed to excavate, install and construct a lined water storage cell on the Easement Property (the **Cell**) and to subsequently convey the Cell and the Easement Property to Grantee;

C. WHEREAS, Grantee desires to develop a functioning water storage and transport facility on the Easement Property (the **Project**) which may include certain related infrastructure, including pumps, pipelines, valves, augmentation structure(s) for the diversion of water and other improvements which Grantee deems, in its sole discretion, as necessary or desirable in connection with its development of the Project (collectively, the **Improvements**); and

D. WHEREAS, Grantee desires to obtain from Grantor, and Grantor desires to grant to Grantee, an easement on, over, under and across the Easement Property for the purpose of designing, developing and operating the Project within the Easement Property (such activities, collectively, the Easement Activities as more specifically defined in Section 1 below);

EASEMENT:

NOW, THEREFORE, for and in consideration of the foregoing recitals and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby confessed and acknowledged, Grantor and Grantee agree as follows:

EXHIBIT C-1

GRANT OF EASEMENT. Grantor does hereby declare, establish and create for the benefit of Grantee and Grantee's agents, employees, contractors, concessionaires, representatives, successors and assigns, a perpetual, non-exclusive easement (the **Easement**) on, over, across and under the Easement Property for the purpose of: (a) installing, constructing, reconstructing, locating, relocating, surveying, maintaining, enlarging, altering, repairing, replacing, using, operating, controlling, inspecting, and removing the Improvements and the Project, and (b) access, ingress, and egress reasonably necessary to accomplish the foregoing (collectively, the **Easement Activities**).

COVENANTS OF GRANTEE. In exercising the rights granted hereunder, performing the Easement Activities, and otherwise accessing the Easement Property, Grantee agrees to each of the following covenants:

Grantee shall protect the Easement Property and any adjacent lands of Grantor or others from damage caused in whole or in part by acts or omissions of Grantee, its agents, employees, contractors, concessionaires, representatives, successors and assigns (collectively, and together with Grantee, **Grantee's Responsible Parties**). Grantee shall clean, cure, repair and correct any such damage to any elements of the Easement Property or the above referenced adjacent lands, including, but not limited to, any utilities, structures and other improvements situate therein or thereon, and shall keep all of such property reasonably clean and clear of equipment, building materials, dirt, debris, and similar materials.

All Easement Activities shall be performed at Grantee's sole cost and expense.

Grantee's Responsible Parties shall enter onto the Easement Property and utilize the Easement granted hereunder at their own risk and they further assume all risks related to the same. Grantor shall have no liability to Grantee's Responsible Parties for any and all claims, damages, losses, liens, costs, liabilities, fines, and expenses (including reasonable attorneys' fees and court costs), damage to or destruction of property, and death of or injury to any person related to or arising from entry onto the Easement Property and Grantor is hereby irrevocably and forever released from the same.

In all actions undertaken on the Easement Property by any of Grantee's Responsible Parties, all work shall be completed in a workmanlike manner, free of all liens (including mechanics' liens) and encumbrances on the Easement Property.

Grantee shall not cause, or permit to be caused by any of Grantee's Responsible Parties, any Hazardous Materials (as defined below) to be transported to, or dumped, spilled, released, permanently stored, or deposited on, over or beneath the Easement Property or any other lands owned by Grantor. **Hazardous Materials** means substances, materials or waste the generation, handling, storage, treatment or disposal of which is regulated by any local, state or federal government authority or laws, as a hazardous waste, hazardous material, hazardous substance, pollutant or contaminant and including, without limitation, those designated as a hazardous substance under Section 311 or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. Secs. 1321, 1317), defined as a hazardous waste under Section 1004 of the Resource Conservation

and Recovery Act (42 U.S.C. Sec. 6903), or defined as a hazardous substance under Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. Sec. 9601), and, including, without limitation, petroleum products and byproducts, PCBs and asbestos.

Grantee shall comply with all applicable federal, state and local laws, rules and ordinances in connection with its use of the Easement Property and shall obtain all permits and approvals required by applicable governmental or quasi-governmental entities in connection with Grantee's Easement Activities and use of the Easement Property as permitted hereunder.

The Easement and rights granted herein shall not be used in such a manner as to violate any county regulation, city ordinance or state or federal law, rule or regulation.

Grantee shall utilize the Easement in such a manner so as to avoid any interruption of or interference with Grantor's mining operations and/or reclamation of the Easement Property as provided for under Grantor's mining and reclamation permits or as otherwise provided for under the Purchase Agreement.

Grantee shall indemnify and hold Grantor harmless from and against any damage that may be incurred by Grantor as a result of the activities of Grantee under the Easement, provided, however, that nothing herein shall be construed as a waiver of any of Grantee's rights and privileges under the Colorado Governmental Immunity Act.

GRANTOR'S OBLIGATIONS.

Grantor shall not disturb, without obtaining Grantee's prior written consent (which consent shall not be unreasonably withheld), any Improvements nor permit to be built, created or constructed, any obstruction, building, improvement or other structure on, over or under any Improvements so long as: (i) such Improvements were installed by Grantor pursuant to its obligations under the Purchase Agreement; (ii) Grantor has consented to the installation of such Improvements by or on behalf of Grantee; or (iii) such Improvements are not located within an area to be excavated as part of Grantor's mining operations and/or reclamation of the Easement Property.

Subject to Grantor's obligations under the Purchase Agreement, Grantor covenants and agrees that Grantee shall have the right to subjacent and lateral support of the Easement Property to whatever extent is necessary or desirable for the full, complete and undisturbed enjoyment of the rights of Grantee under this Easement Agreement and performance of the Easement Activities. It is specifically agreed between the Parties that Grantee's rights as provided for in this Section are subject to Grantor's obligations under the Purchase Agreement.

Grantor shall not perform or permit any action on or upon the Easement Property that will compromise the structural integrity of any slurry walls, earth-berms, clay liners or other low permeability linings constructed by Grantor thereon.

GENERAL PROVISIONS.

Easement to Run with Land. This Easement Agreement, including the Easement and all other covenants, agreements, rights and obligations created hereby, shall run with the Easement

Property, and shall be binding on and inure to the benefit of all persons having or acquiring fee title to the Easement Property, all upon the terms, provisions and conditions set forth herein. The rights granted hereunder to Grantee are personal to Grantee and may not be assigned by Grantee without Grantor's prior written consent.

Successors and Assigns. This Easement Agreement shall be binding on Grantor's and Grantee's respective successors and assigns; provided, however, that Grantee may not assign this Easement Agreement or its rights or delegate its obligations hereunder except as provided in Section 4.1 above.

Section Headings. The Section headings herein are inserted only for convenience and reference and shall in no way define, limit, or prescribe the scope or intent of any provisions of this Easement Agreement.

Severability. Nothing contained herein shall be construed so as to require the commission of any act contrary to law, and whenever there is any conflict between any provision herein and any present or future statute, law, ordinance or regulation contrary to which the Parties have no legal right to contract, the latter shall prevail, but the provision of this Easement Agreement affected shall be limited only to the extent necessary to bring it within the requirements of such statute, law, ordinance or regulation.

Counterparts. This Easement Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all such counterparts taken together shall be deemed to constitute one and the same instrument.

Governing Law. The terms and provisions of this Easement Agreement, and the interpretation and enforcement thereof, shall be governed by the laws of the State of Colorado, to which all Parties consent to venue and jurisdiction.

Waiver. No term or condition of this Easement Agreement will be deemed to have been waived or amended unless expressed in writing, and the waiver of any condition or the breach of any term will not be a waiver of any subsequent breach of the same or any other term or condition.

Amendment. This Easement Agreement may not be amended or terminated except by a written instrument signed by the fee-owner(s) of the Easement Property and the Grantee.

Entire Agreement. This Easement Agreement, together with the exhibits attached hereto and the applicable provisions of the Purchase Agreement, contains the entire agreement of the Parties with respect to the subject matter hereof and no prior written or oral agreement shall have any force or effect or be binding upon the Parties. This Easement Agreement shall be binding upon, and inure to the benefit of, the Parties, their heirs, executors, personal representatives, nominees, successors or permitted assigns.

Notices. All notices, requests, demands, or other communications (collectively, **Notices**) hereunder shall be in writing and given by (i) established express delivery service which maintains delivery records requiring a signed receipt, (ii) hand delivery, or (iii) certified or registered mail,

postage prepaid, return receipt requested to the Parties at the following address, or at such other address as the parties may designate by Notice in the above manner.

If to Grantor: L.G. Everist, Inc.
Mountain Division Office
7321 East 88th Avenue Suite 200
Henderson, CO 80640
Attn: Matthew Noteboom, VP-Mountain Division

With a copy to: Moye White LLP
1400 16th Street, Suite 600
Denver, CO 80202
Attn: Mike Fredregill

If to Grantee: Town of Firestone
8308 Colorado Blvd., Suite 200
Firestone, CO 80504
Attn: Town Manager

With a copy to: Bradley C. Grasmick, Esq.
Lawrence Jones Custer Grasmick, LLP
5245 Ronald Reagan Blvd., Suite 1
Johnstown, CO 80534

Notices shall be effective (x) upon receipt if sent by an established express delivery service which maintains delivery records requiring a signed receipt, (y) upon receipt by the addressee of a hand delivery, or (z) three days following the date of mailing via certified or registered mail, postage prepaid, return receipt requested.

Default. If any Party breaches any provision of this Easement Agreement and fails to cure such breach within 10 days after written notice thereof, the non-breaching Party shall be entitled to any and all remedies, legal or equitable, which may be available including, without limitation, specific performance. All such remedies, including those set forth in this Easement Agreement, shall be cumulative.

No Attorney's Fees or Costs. In the event of any litigation, mediation, arbitration or other dispute resolution process arising out of this Easement Agreement, the Parties agree that each shall be responsible for their own costs and fees associated with any such legal action.

Authority to Execute. Each person executing this Easement Agreement represents and warrants that he is duly authorized to execute this Easement Agreement by the Party on whose behalf he is so executing.

Recordation. Either Party may record this Easement Agreement against the Easement Property in the appropriate jurisdiction. Notwithstanding the foregoing, in the event this Easement Agreement is terminated and either Party desires to record an instrument evidencing such

termination, the Parties shall prepare, execute and record, at the shared expense of both Parties, any reasonable instrument necessary to release this Easement Agreement of record.

Disclaimer of Joint Venture. This Easement Agreement is not intended to create a joint venture, partnership or agency relationship between Grantor and Grantee, and such joint venture, partnership, or agency relationship is specifically hereby disclaimed.

Incorporation of Recitals. The above Recitals are true and correct and incorporated herein.

Construction. The Parties have participated jointly in the negotiation and drafting of this Easement Agreement. In the event an ambiguity or question of intent or interpretation arises, this Easement Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Easement Agreement.

[Signature pages follow.]

IN WITNESS WHEREOF, Grantor and Grantee have executed this Easement Agreement as of the date first above written.

GRANTOR:

L.G. EVERIST, INCORPORATED,
an Iowa corporation

By: _____
Name: _____
Its: _____

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing Easement Agreement was acknowledged before me this _____ day of _____, 20____, by _____ of L.G. EVERIST, INCORPORATED, an Iowa corporation.

Witness my hand and official seal.
My commission expires: _____

Notary Public

GRANTEE:

TOWN OF FIRESTONE,
a Colorado municipal corporation, acting
by and through its Town of Firestone Water
Activity Enterprise, organized and existing
as a “water activity enterprise” under
C.R.S. 37-4.1-101 et seq.

By: _____
Name: _____
Title: _____

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing Easement Agreement was acknowledged before me this _____ day of _____, 20____, by _____ as _____ of the Town of Firestone, a Colorado municipal corporation, acting by and through its Town of Firestone Water Activity Enterprise, organized and existing as a “water activity enterprise” under C.R.S. 37-4.1-101 et seq.

Witness my hand and official seal.
My commission expires: _____

Notary Public

EXHIBIT A

Legal Description of Easement Property

[to be inserted]

EXHIBIT D

Form of Temporary Access and Reclamation Easement

[See following pages]

WHEN RECORDED RETURN TO:
Mike Fredregill
Moye White LLP
1400 16th Street, 6th Floor
Denver, CO 80202

TEMPORARY ACCESS AND RECLAMATION EASEMENT AGREEMENT

THIS TEMPORARY ACCESS AND RECLAMATION EASEMENT AGREEMENT (this **Easement Agreement**) is made as of the _____ day of _____, 20____, by and between the TOWN OF FIRESTONE, a Colorado municipal corporation, acting by and through its Town of Firestone Water Activity Enterprise, organized and existing as a “water activity enterprise” under C.R.S. 37-4.1-101 et seq., whose address is 8308 Colorado Blvd., Suite 200, Firestone, Colorado 80504, Attention: Wesley LaVanchy, Town Manager (**Grantor**), and L.G. EVERIST, INCORPORATED, an Iowa corporation, with its Colorado corporate offices at 7321 East 88th Avenue, Suite 200, Henderson, Colorado 80640 (**Grantee**). Grantor and Grantee are sometimes referred to herein individually as a **Party** or collectively as the **Parties**.

RECITALS:

A. WHEREAS, Grantor and Grantee have entered into that certain Purchase and Sale Agreement (Brooks Farm) effective as of _____, 20____ (the **Purchase Agreement**), whereby the Grantee has agreed to install and construct one or more lined water storage cells (the **Cell**) on certain real property located in Weld County, Colorado, hereinafter referred to as the **Project Property** and to convey the Easement Property (as such term is defined in Recital B) to Grantor as required by the terms and conditions of the Purchase Agreement;

B. WHEREAS, Pursuant to the Purchase Agreement, Grantee has conveyed to Grantor, contemporaneously herewith, the Project Property, hereinafter referred to as the **Easement Property**, as more specifically defined in Exhibit A attached hereto;

C. WHEREAS, Grantee has continuing rights and obligations under the Purchase Agreement with respect to the Easement Property, including but not limited to the right to conduct Grantee’s reclamation obligations thereon as contemplated by Grantee’s existing mining permits applicable to the Easement Property, such remaining reclamation activities being referred to herein collectively as **Grantee’s Work**;

D. WHEREAS, Grantor desires to develop a functioning water storage and transport facility (the **Project**) on the Easement Property;

E. WHEREAS, Grantee desires to obtain from Grantor, and Grantor desires to grant to Grantee, an easement on, over, through, under and across the Easement Property for the purpose of conducting and completing the Grantee’s Work on and within the Easement Property (all as more specifically described in Section 1 below);

EASEMENT:

NOW, THEREFORE, for and in consideration of the foregoing recitals and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby confessed and acknowledged, Grantor and Grantee agree as follows:

1. **GRANT OF EASEMENT.** Grantor does hereby declare, establish and create for the benefit of Grantee and Grantee's agents, employees, contractors, concessionaires, representatives, successors and assigns, a temporary, non-exclusive easement (the **Easement**) on, over, through, across and under the Easement Property for the purposes of: (a) conducting, installing, constructing, locating, surveying, maintaining, altering, repairing, replacing, using, operating, controlling, and inspecting, Grantee's Work; and (b) all access, ingress and egress, reasonably necessary to accomplish the foregoing (collectively, the **Easement Activities**).

TERM. The Easement shall commence on the date first written above and shall terminate on the earlier of: (a) the date that Grantee completes the reclamation of the Easement Property in accordance with requirements of all applicable regulatory agencies including, but not limited to the requirements of the Colorado Division of Reclamation Mining and Safety, or its predecessor, the Colorado Division of Minerals and Geology, and any applicable county or local land use regulations; or (b) the date that Grantee receives a release of all reclamation bonds posted in connection with the Easement Property as required by the regulatory agencies referenced in the preceding subsection (the **Term**). Grantee hereby agrees that, following the end of the Term of the Easement Agreement and upon Grantor's request, Grantee shall execute such documentation as may be necessary to evidence the termination of this Easement Agreement.

COVENANTS OF GRANTEE. In exercising the rights granted hereunder, performing the Easement Activities, and otherwise accessing the Easement Property, Grantee agrees to each of the following covenants:

Except for conducting and completing the Easement Activities, which shall be specifically permitted if performed in accordance with the terms of the Purchase Agreement, Grantee shall protect the Easement Property and any adjacent lands of Grantor or others from damage caused in whole or in part by acts or omissions of Grantee, its agents, employees, contractors, concessionaires, representatives, successors and assigns (collectively, and together with Grantee, **Grantee's Responsible Parties**). For purposes of clarification, any owners or operators (or any agents, employees or invitees thereof) of natural gas pipelines or any oil and gas drilling, exploration or production equipment which may be located on the Easement Property (or any adjacent or contiguous properties), if any, will not be included within or associated with Grantee's Responsible Parties. Grantee shall clean, cure, repair and correct any such damage caused by any of Grantee's Responsible Parties to any elements of the Easement Property or the above referenced adjacent lands, including, but not limited to, any utilities, structures and other improvements situate therein or thereon, and shall keep all of such property reasonably clean and reasonably clear of equipment, building materials, dirt, debris, and similar materials deposited or caused to be deposited thereon by any of Grantee's Responsible Parties in excess of those required to conduct and complete Grantee's Work on the Easement Property.

All Easement Activities shall be performed at Grantee's sole cost and expense.

Grantee's Responsible Parties shall enter onto the Easement Property and utilize the Easement granted hereunder at their own risk and they further assume all risks related to the same. Grantor shall have no liability to Grantee's Responsible Parties for any and all claims, damages, losses, liens, costs, liabilities, fines, and expenses (including reasonable attorneys' fees and court costs), damage to or destruction of property, and death of or injury to any person related to or arising from entry onto the Easement Property and Grantor is hereby irrevocably and forever released from the same.

In all actions undertaken on the Easement Property by any of Grantee's Responsible Parties, all work shall be completed in a workmanlike manner, free of all liens (including mechanic's liens) and encumbrances on the Easement Property.

Grantee shall not cause, or permit to be caused by any of Grantee's Responsible Parties, any Hazardous Materials (as defined below) to be transported to, or dumped, spilled, released, permanently stored, or deposited on, over or beneath the Easement Property or any other lands owned by Grantor. **Hazardous Materials** means substances, materials or waste the generation, handling, storage, treatment or disposal of which is regulated by any local, state or federal government authority or laws, as a hazardous waste, hazardous material, hazardous substance, pollutant or contaminant and including, without limitation, those designated as a hazardous substance under Section 311 or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. Secs. 1321, 1317), defined as a hazardous waste under Section 1004 of the Resource Conservation and Recovery Act (42 U.S.C. Sec. 6903), or defined as a hazardous substance under Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. Sec. 9601), and, including, without limitation, petroleum products and byproducts, PCBs and asbestos.

Grantee shall comply with all applicable federal, state and local laws, rules and ordinances in connection with its use of the Easement Property and has or shall obtain all permits and approvals required by applicable governmental or quasi-governmental entities in connection with Grantee's Easement Activities and use of the Easement Property as permitted hereunder.

The Easement and rights granted herein shall not be used in such a manner as to violate any county regulation, city ordinance or state or federal law, rule or regulation.

Grantee shall utilize the Easement in such a manner reasonably necessary in Grantee's sole discretion to conduct and complete Grantee's Work on the Easement Property in accordance with the terms of the Purchase Agreement.

OBLIGATIONS.

Grantor shall not disturb or impede Grantee's completion of Grantee's Work to the extent that Grantee's Work is performed in accordance with the terms of this Easement Agreement and the Purchase Agreement.

Grantee shall indemnify and hold Grantor harmless from and against any damage that may be incurred by Grantor as a result of the activities of Grantee under the Easement.

GENERAL PROVISIONS.

Easement to Run with Land. This Easement Agreement, including the Easement and all other covenants, agreements, rights and obligations created hereby, shall run with the Easement Property, and shall be binding on and inure to the benefit of all persons having or acquiring fee title to the Easement Property, all upon the terms, provisions and conditions set forth herein. The rights granted hereunder to Grantee are personal to Grantee and may not be assigned by Grantee without Grantor's prior written consent.

Successors and Assigns. This Easement Agreement shall be binding on Grantor's and Grantee's respective successors and assigns; provided, however, that Grantee may not assign this Easement Agreement or its rights or delegate its obligations hereunder except as provided in Section 4.1 above.

Section Headings. The Section headings herein are inserted only for convenience and reference and shall in no way define, limit, or prescribe the scope or intent of any provisions of this Easement Agreement.

Severability. Nothing contained herein shall be construed so as to require the commission of any act contrary to law, and whenever there is any conflict between any provision herein and any present or future statute, law, ordinance or regulation contrary to which the Parties have no legal right to contract, the latter shall prevail, but the provision of this Easement Agreement affected shall be limited only to the extent necessary to bring it within the requirements of such statute, law, ordinance or regulation.

Counterparts. This Easement Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all such counterparts taken together shall be deemed to constitute one and the same instrument.

Governing Law. The terms and provisions of this Easement Agreement, and the interpretation and enforcement thereof, shall be governed by the laws of the State of Colorado, to which all Parties consent to venue and jurisdiction.

Waiver. No term or condition of this Easement Agreement will be deemed to have been waived or amended unless expressed in writing, and the waiver of any condition or the breach of any term will not be a waiver of any subsequent breach of the same or any other term or condition.

Amendment. This Easement Agreement may not be amended or terminated except by a written instrument signed by the fee-owner(s) of the Easement Property and the Grantee.

Entire Agreement. This Easement Agreement, together with the exhibits attached hereto and the applicable provisions of the Purchase Agreement, contains the entire agreement of the Parties with respect to the subject matter hereof and no prior written or oral agreement shall have any force or effect or be binding upon the Parties. This Easement Agreement shall be binding upon, and inure to the benefit of, the Parties, their heirs, executors, personal representatives, nominees, successors or permitted assigns.

Notices. All notices, requests, demands, or other communications (collectively, Notices) hereunder shall be in writing and given by (i) established express delivery service which maintains delivery records requiring a signed receipt, (ii) hand delivery, or (iii) certified or registered mail, postage prepaid, return receipt requested to the Parties at the following address, or at such other address as the parties may designate by Notice in the above manner.

If to Grantee: L.G. Everist, Inc.
Mountain Division Office
7321 East 88th Avenue Suite 200
Henderson, CO 80640
Attn: Matthew Noteboom, VP – Mountain Division

With a copy to: Moyer White LLP
1400 16th Street, Suite 600
Denver, CO 80202
Attn: Mike Fredregill

If to Grantor: Town of Firestone
8308 Colorado Blvd., Suite 200
Firestone, CO 80504
Attn: Town Manager

With a copy to: Bradley C. Grasmick, Esq.
Lawrence Jones Custer Grasmick, LLP
5245 Ronald Reagan Blvd., Suite 1
Johnstown, CO 80534

Notices shall be effective (x) upon receipt if sent by an established express delivery service which maintains delivery records requiring a signed receipt, (y) upon receipt of a hand delivery, or (z) three days following the date of mailing via certified or registered mail, postage prepaid, return receipt requested.

Default. If any Party breaches any provision of this Easement Agreement and fails to cure such breach within 10 days after written notice thereof, the non-breaching Party shall be entitled to any and all remedies, legal or equitable, which may be available including, without limitation, specific performance. All such remedies, including those set forth in this Easement Agreement, shall be cumulative.

No Attorney's Fees or Costs. In the event of any litigation, mediation, arbitration or other dispute resolution process arising out of this Easement Agreement, the Parties agree that each shall be responsible for their own costs and fees associated with any such legal action.

Authority to Execute. Each person executing this Easement Agreement represents and warrants that he is duly authorized to execute this Easement Agreement by the Party on whose behalf he is so executing.

Recordation. Either Party may record this Easement Agreement against the Easement Property in the appropriate jurisdiction. Notwithstanding the foregoing, in the event this Easement Agreement is terminated and either Party desires to record an instrument evidencing such termination, the Parties shall prepare, execute and record, at the shared expense of both Parties, any reasonable instrument necessary to release this Easement Agreement of record.

Disclaimer of Joint Venture. This Easement Agreement is not intended to create a joint venture, partnership or agency relationship between Grantor and Grantee, and such joint venture, partnership, or agency relationship is specifically hereby disclaimed.

Incorporation of Recitals. The above Recitals are true and correct and incorporated herein.

Construction. The Parties have participated jointly in the negotiation and drafting of this Easement Agreement. In the event an ambiguity or question of intent or interpretation arises, this Easement Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Easement Agreement.

[Signature pages follow.]

GRANTEE:

L.G. EVERIST, INCORPORATED,
an Iowa corporation

By: _____
Name: _____
Its: _____

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing Easement Agreement was acknowledged before me this _____ day of _____, 20____, by _____ of L.G. EVERIST, INCORPORATED, an Iowa corporation.

Witness my hand and official seal.
My commission expires: _____

Notary Public

EXHIBIT A

Legal Description of Easement Property

[To be inserted.]

EXHIBIT E

Delivery Schedule

[See following page]

Delivery Schedule

Delivery Date Earliest:	May 31, 2021
Delivery Date Expected:	May 31, 2025
Delivery Date Outside:	May 31, 2027

EXHIBIT F

Form of Assignment and Assumption Agreement (Rural Ditch Company Agreement)

[See following pages]

ASSIGNMENT AND ASSUMPTION AGREEMENT

(Rural Ditch Company Agreement)

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (this **Assignment**) is entered into this ____ day of _____, 20____, by and between L.G. EVERIST, INCORPORATED, an Iowa corporation (**Assignor**), and the TOWN OF FIRESTONE, a Colorado municipal corporation, acting by and through its Town of Firestone Water Activity Enterprise, organized and existing as a “water activity enterprise” under C.R.S. 37-4.1-101 et seq., whose address is 8308 Colorado Blvd., Suite 200, Firestone, Colorado 80504, Attention: Wesley LaVanchy, Town Manager (**Assignee**).

Assignor and Assignee entered into that certain Purchase and Sale Agreement (Brooks Farm) dated _____, 20____ (the **Purchase Agreement**), in which Assignor has agreed to sell and Assignee has agreed to purchase the real property described in Exhibit A attached hereto (the **Real Property**). Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Purchase Agreement.

Pursuant to the Purchase Agreement, Assignor has agreed to assign to Assignee any and all rights of Assignor in and to that certain Agreement dated June 10, 2005 by and between the Rural Ditch Company, as one party thereto, and Assignor as the other party thereto, recorded at Reception No. 3296147 of the real property records of Weld County, Colorado on June 20, 2005 (collectively, the **Ditch Agreement**).

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee agree as follows:

1. **Assignment.** Assignor hereby assigns, transfers and conveys to Assignee any and all rights, title and interest of Assignor in and to the Ditch Agreement. Any and all payments due to the Rural Ditch Company thereunder for calendar year 20____ shall be the sole responsibility of Assignor. Assignor shall be responsible for requesting the consent of the Rural Ditch Company to this Assignment. Assignee shall be solely responsible for all costs, if any, associated with obtaining the consent of Rural Ditch Company to the assignment of the Ditch Agreement from Assignor to Assignee. Upon approval of the assignment of such Ditch Agreement to Assignee by the Rural Ditch Company, any and all payments due thereunder for any year subsequent to calendar year 20____ shall be the sole responsibility of Assignee.

2. **Assumption.** Subject to the foregoing, Assignee hereby assumes all liabilities, obligations, rights, title and interests granted by Assignor to Assignee herein from and after the date hereof.

3. **Counterparts.** This Assignment may be executed in counterparts, each of which shall be deemed an original, and both of which together shall constitute one and the same instrument.

4. **Applicable Law.** This Assignment shall be governed by and interpreted in accordance with the laws of the State of Colorado.

5. Binding Effect. This Assignment shall be binding upon and inure to the benefit of the parties hereto and their respective transferees, successors, and assigns.

IN WITNESS WHEREOF, the parties hereto have duly executed and sealed this Assignment as of the date set forth above.

ASSIGNOR:

L.G. EVERIST, INCORPORATED,
an Iowa corporation

By: _____

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing Agreement was acknowledged before me this _____ day of _____, 20____, by _____ of L.G. EVERIST, INCORPORATED, an Iowa corporation.

Witness my hand and official seal.

Notary Public
My commission expires: _____

ASSIGNEE:

TOWN OF FIRESTONE,
a Colorado municipal corporation, acting
by and through its Town of Firestone
Water Activity Enterprise, organized and
existing as a “water activity enterprise”
under C.R.S. 37-4.1-101 et seq.

By: _____
Name printed: _____
Title: _____

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing Agreement was acknowledged before me this _____ day of _____, 20____, by _____ as _____ of the Town of Firestone, a Colorado municipal corporation, acting by and through its Town of Firestone Water Activity Enterprise, organized and existing as a “water activity enterprise” under C.R.S. 37-4.1-101 et seq.

Witness my hand and official seal.

Notary Public
My commission expires: _____

[CONSENT ON FOLLOWING PAGE]

CONSENT OF RURAL DITCH COMPANY TO ASSIGNMENT OF DITCH AGREEMENT
FROM ASSIGNOR TO ASSIGNEE

The Rural Ditch Company hereby consents to and approves of the assignment of all of Assignor's rights in and to that certain Agreement dated June 10, 2005 by and between the Rural Ditch Company, as one party thereto, and L.G. Everist, Incorporated as the other party thereto, recorded at Reception No. 3296147 of the real property records of Weld County, Colorado on June 20, 2005.

RURAL DITCH COMPANY

By: _____

Name printed:_____

Title:_____

EXHIBIT A

Description of the Real Property

[to be inserted]

EXHIBIT G

Form of Special Warranty Deed

[See following pages]

WHEN RECORDED RETURN TO:

SPECIAL WARRANTY DEED

_____, a _____ (Grantor), for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) cash and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, paid by _____, a _____ (Grantee), whose legal address is _____, Attention: _____, HAS GRANTED, BARGAINED, SOLD and CONVEYED, and by these presents DOES GRANT, BARGAIN, SELL and CONVEY unto Grantee that certain tract of land (the Land) situated in the County of Weld, State of Colorado, and described on Exhibit A which is attached hereto and incorporated herein by reference for all purposes, together with all improvements and fixtures thereon (except as specifically reserved by Grantor below) including, without limitation, any and all low permeability linings installed on the Land, all residences and buildings, out buildings, fences, water wells, headgates, pipelines, ditches, laterals, gated pipe, flumes, reservoirs, reservoir outlet works, water tanks, wells, well casings, irrigation sprinklers, pumps and all other valuable manmade structures owned by Grantor which are fixtures thereon or otherwise appurtenant thereto, and together with all right, title and interest of Grantor, if any, in and to any other rights and appurtenances pertaining to the Land including, without limitation, all right, title and interest of Grantor in and to any adjacent roadways and easements benefiting the Land, and all sand, gravel, aggregate, stone, rock, silt, clay, overburden and topsoil lying in, on and under the Land, but specifically excluding from such conveyance, any mining equipment, or any batch plant or ready mix plant, or any components thereof located thereon, (such improvements, fixtures, rights, and appurtenances, together with the Land, being referred to herein as the Property).

This conveyance is specifically made SUBJECT to the following exceptions and reservations made by Grantor:

1. Excepting the matters set forth on Exhibit B attached hereto and incorporated herein by this reference for all purposes (including all rights and interests of Grantor arising under those matters), and;
2. Reserving unto Grantor all of Grantor's rights, if any, in and to any and all oil, gas and other hydrocarbons associated with and/or appurtenant to the Land, and any and all minerals, mineral interests and mineral rights owned by Grantor, if any, associated with and/or appurtenant to the Land.

TO HAVE AND TO HOLD the Property unto Grantee, and Grantee's successors and assigns forever, and Grantor does hereby bind Grantor, and Grantor's successors and assigns, to WARRANT and FOREVER DEFEND, all and singular the Property unto Grantee and Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, by, through or under Grantor, but not otherwise, and subject, however, to the matters set forth on Exhibit B attached hereto, as aforesaid.

This Deed shall be governed by and construed in accordance with the laws of the State of Colorado.

IN WITNESS WHEREOF, the Grantor has caused its name to be hereunto subscribed on the day and year first above written.

GRANTOR:

_____,
a _____

By: _____

Name Printed: _____

Title: _____

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The forgoing Deed was acknowledged before me this _____ day of _____,
20____, by _____, _____ of _____, a
_____.

Witness my hand and official seal.

My commission expires: _____

Notary Public

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

EXHIBIT B

PERMITTED EXCEPTIONS

EXHIBIT H

Form of Assignment and Assumption Agreement (Colorado Water Court Case Rights)

[See following pages]

FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT

(Colorado Water Court Case Rights/Case No. _____)

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (this **Assignment**) is entered into this _____ day of _____, 20____, by and between L.G. EVERIST, INCORPORATED, an Iowa corporation (**Assignor**), and the Town of Firestone, a Colorado municipal corporation, acting by and through its Town of Firestone Water Activity Enterprise, organized and existing as a “water activity enterprise” under C.R.S. 37-4.1-101 et seq. (**Assignee**).

Assignor and Assignee entered into that certain Purchase and Sale Agreement (Brooks Farm) dated _____, 20____ (the **Purchase Agreement**), in which Assignor has agreed to sell and Assignee has agreed to purchase the real property described in Exhibit A attached hereto (the **Real Property**). Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Purchase Agreement.

Pursuant to the Purchase Agreement, Assignor has agreed to assign to Assignee all of Assignor’s right title and interest in and to, and all claims and rights of Assignor associated with Colorado Water Court Case No. _____ concerning only the water storage reservoir being developed on the Real Property and all water, water rights, reservoirs and reservoir rights associated therewith.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee agree as follows:

1. **Assignment.** Assignor hereby assigns, transfers and conveys to Assignee all of Assignor’s right, title and interest in and to, and all claims and rights of Assignor associated with Colorado Water Court Case No. _____ concerning ONLY the water storage reservoir being developed on the Real Property and all water, water rights, reservoirs and reservoir rights associated therewith. All other rights of Assignor in such proceedings, if any, as they are applicable to properties other than the Real Property, are hereby specifically reserved and retained by Assignor.

2. **Assumption.** Assignee hereby assumes all liabilities, obligations, rights, title and interests granted herein from and after the date hereof.

3. **Counterparts.** This Assignment may be executed in counterparts, each of which shall be deemed an original, and both of which together shall constitute one and the same instrument.

4. **Applicable Law.** This Assignment shall be governed by and interpreted in accordance with the laws of the State of Colorado.

5. **Binding Effect.** This Assignment shall be binding upon and inure to the benefit of the parties hereto and their respective transferees, successors, and assigns.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have duly executed and sealed this Assignment as of the date set forth above.

ASSIGNOR:

L.G. EVERIST, INCORPORATED,
an Iowa corporation

By: _____

Name Printed: _____

Title: _____

ASSIGNEE:

TOWN OF FIRESTONE,
a Colorado municipal corporation, acting
by and through its Town of Firestone Water
Activity Enterprise, organized and existing
as a “water activity enterprise” under
C.R.S. 37-4.1-101 et seq.

By: _____

Name Printed: _____

Title: _____

EXHIBIT A
LEGAL DESCRIPTION

EXHIBIT H-3

EXHIBIT I

Form of First Amendment to Unused Carriage Capacity Agreement (Last Chance Ditch)

[See following pages]

FIRST AMENDMENT TO UNUSED CAPACITY AGREEMENT
(Last Chance Ditch)

THIS FIRST AMENDMENT TO UNUSED CAPACITY AGREEMENT (“**First Amendment**”) is entered into this _____ day of _____, 20____, by and between L.G. EVERIST, INCORPORATED, an Iowa corporation (**LGE**) and the TOWN OF FIRESTONE, a Colorado municipal corporation, acting by and through its Town of Firestone Water Activity Enterprise, organized and existing as a “water activity enterprise” under C.R.S. 37-4.1-101 et seq. (“**TOF**”), each a **Party** and collectively, the **Parties**.

RECITALS

A. LGE and TOF are parties to that certain Unused Capacity Agreement (Last Chance Ditch) dated _____, 20____, (the “**Original Unused Capacity Agreement**”), wherein LGE agreed to allow TOF to utilize certain Secondary Excess Carriage Rights (as such term is defined in the Original Unused Capacity Agreement) of LGE in the Last Chance Ditch solely in connection with TOF’s use and operation of certain water storage facilities located on the real property described in the Original Unused Capacity Agreement (such real property which is the subject of the Original Unused Capacity Agreement being referred to in this First Amendment as the “**Carbon Valley Parcel**”).

B. Subsequent to the execution of the Original Unused Capacity Agreement, LGE and TOF entered into that certain Purchase and Sale Agreement (Brooks Farm) dated _____, 20____ (the “**Purchase Agreement**”) in which LGE has agreed to sell and TOF has agreed to purchase that certain real property described in Exhibit A attached hereto (the “**Real Property**”). The Real Property which is the subject of the Purchase Agreement is adjacent to and lies directly to the east of the Carbon Valley Parcel, and will be developed by LGE and sold to TOF pursuant to the terms of the Purchase Agreement for TOF’s use and operation of certain water storage facilities to be constructed on the Real Property by LGE prior to the sale thereof to TOF.

C. Pursuant to the terms of the Purchase Agreement, LGE has agreed to permit TOF to use the Secondary Excess Carriage Rights granted to TOF under the Original Unused Capacity Agreement in connection with TOF’s use and operation of the water facilities located on the Real Property (i.e., use by TOF of the Secondary Excess Carriage Rights to no longer be limited solely in connection with TOF’s use and operation of the Carbon Valley Parcel, but to be expanded to utilization by TOF of such Secondary Excess Carriage Rights in connection with TOF’s use and operation of the water storage facilities located on both the Carbon Valley Parcel and the Real Property, subject to the limitations thereon imposed by the terms of the Original Unused Capacity Agreement).

AGREEMENT

NOW THEREFORE, in consideration of the mutual promises of LGE and TOF set forth in the Purchase Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, LGE and TOF hereby agree as follows:

1. INCORPORATION OF RECITALS. THE FOREGOING RECITALS ARE INCORPORATED HEREIN AS THOUGH FULLY SET FORTH.

2. DEFINITIONS. CAPITALIZED TERMS NOT OTHERWISE DEFINED HEREIN SHALL EACH HAVE THE MEANING ASCRIBED TO SUCH TERM IN THE ORIGINAL UNUSED CAPACITY AGREEMENT.

3. AMENDMENT OF ORIGINAL UNUSED CAPACITY AGREEMENT. SECTION 3(E) OF THE ORIGINAL UNUSED CAPACITY AGREEMENT IS HEREBY AMENDED TO PERMIT TOF'S UTILIZATION OF THE SECONDARY EXCESS CARRIAGE RIGHTS IN CONNECTION WITH TOF'S USE AND OPERATION OF THE WATER STORAGE FACILITIES LOCATED ON BOTH THE CARBON VALLEY PARCEL AND THE REAL PROPERTY, SUBJECT TO ALL OF THE LIMITATIONS IMPOSED THEREON BY THE TERMS OF THE ORIGINAL UNUSED CAPACITY AGREEMENT.

4. RATIFICATION. ALL PROVISIONS OF THE ORIGINAL UNUSED CAPACITY AGREEMENT, EXCEPT AS SPECIFICALLY MODIFIED BY PARAGRAPH 3 OF THIS FIRST AMENDMENT, SHALL REMAIN IN FULL FORCE AND EFFECT AND ARE HEREBY ADOPTED RATIFIED AND CONFIRMED BY THE PARTIES.

5. GOVERNING LAW AND VENUE. THIS FIRST AMENDMENT AND ITS APPLICATION SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF COLORADO. THE PARTIES AGREE THAT VENUE FOR ANY LITIGATED DISPUTES REGARDING THIS FIRST AMENDMENT SHALL BE THE DISTRICT COURT IN AND FOR WELD COUNTY COLORADO, UNLESS ANY SUCH ISSUES ARE WATER MATTERS AS DEFINED BY C.R.S. § 37-92-203, FOR WHICH THE PARTIES AGREE THE VENUE FOR ANY LITIGATED DISPUTES SHALL BE THE DISTRICT COURT, WATER DIVISION 1.

6. MULTIPLE ORIGINALS. THIS FIRST AMENDMENT MAY BE SIMULTANEOUSLY EXECUTED IN ANY NUMBER OF COUNTERPARTS, EACH OF WHICH SHALL BE DEEMED ORIGINAL BUT ALL OF WHICH CONSTITUTE ONE AND THE SAME AGREEMENT.

7. JOINT DRAFT. THE PARTIES AGREE THEY DRAFTED THIS FIRST AMENDMENT JOINTLY WITH EACH HAVING THE ADVICE OF LEGAL COUNSEL AND AN EQUAL OPPORTUNITY TO CONTRIBUTE TO ITS CONTENT.

8. THIRD PARTY RIGHTS. NOTHING IN THIS FIRST AMENDMENT, EXPRESS OR IMPLIED, IS INTENDED TO CONFER ANY RIGHTS OR REMEDIES WHATSOEVER UPON ANY PERSON, OTHER THAN LGE AND TOF AND THEIR RESPECTIVE SUCCESSORS, ASSIGNS AND TRANSFEREES AS MAY BE ALLOWED HEREUNDER.

[Signature page follows.]

IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the date first above written.

TOF:

Town of Firestone,
a Colorado municipal corporation, acting
by and through its Town of Firestone
Water Activity Enterprise, organized
and existing as a "water activity
enterprise" under C.R.S. 37-4.1-101 et seq.

By: _____
Name: _____
Title: _____

LGE:

L.G. Everist, Incorporated,
an Iowa corporation

By: _____
Name: _____
Its: _____

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing agreement was acknowledged before me this _____ day of _____, 20____, by _____ of L.G. EVERIST, INCORPORATED, an Iowa corporation.

Witness my hand and official seal.

Notary Public
My commission expires: _____

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The forgoing agreement was acknowledged before me this _____ day of _____, 20____, by _____ as _____ of the Town of Firestone, a Colorado municipal corporation, acting by and through its Town of Firestone Water Activity Enterprise, organized and existing as a "water activity enterprise" under C.R.S. 37-4.1-101 et seq.

Witness my hand and official seal.

Notary Public
My commission expires: _____

Exhibit A
Description of the Real Property

[to be inserted]

EXHIBIT J

Form of Down Payment Deed of Trust

[See following pages]

DEED OF TRUST
(Due on Sale)

THIS DEED OF TRUST is made this ____ day of _____, 20____, between L.G. Everist, Incorporated, an Iowa corporation (**Borrower**), whose address is 7321 East 88th Avenue, Suite 200, Henderson, Colorado 80640; and the Public Trustee of the County in which the Property (see Paragraph 1) is situated (**Trustee**); for the benefit of the Town of Firestone, a Colorado municipal corporation, acting by and through its Town of Firestone Water Activity Enterprise, organized and existing as a “water activity enterprise” under C.R.S. 37-4.1-101 et seq. (**Lender**), whose address is 8308 Colorado Blvd., Suite 200, Firestone, Colorado 80504, Attention: Wesley LaVanchy, Town Manager.

Borrower and Lender covenant and agree as follows:

1. Property in Trust. Borrower, in consideration of the indebtedness herein recited and the trust herein created, hereby grants and conveys to Trustee in trust, with power of sale, the following described property located in the County of Weld, State of Colorado, together with all of its appurtenances (the **Property**):

See Exhibit A attached hereto and incorporated herein.

2. Note; Other Obligations Secured. This Deed of Trust is given to secure to Lender for the following:

a. The repayment of the indebtedness evidenced by Borrower’s Promissory Note and Evidence of Indebtedness (the **Note**) dated _____, 20____, in the principal sum of _____ and ____/100 Dollars (\$_____) pursuant to the terms of the Note and, by reference therein, to that certain Purchase and Sale Agreement (Brooks Farm) between Borrower and Lender, dated _____, 2015 (the **Purchase Agreement**). For purposes of C.R.S. §38-39-201, the date on which the final payment of the principal sum secured by this Deed of Trust shall be _____, 20____.

b. The payment of all other sums, with simple interest thereon at four percent (4%) per annum, disbursed by Lender in accordance with this Deed of Trust to protect the security of this Deed of Trust.

c. The performance of the covenants and agreements of Borrower as contained in this Deed of Trust.

3. Title. Borrower covenants that Borrower owns and has the right to grant and convey the Property, and warrants title to the same, subject to those matters listed on Exhibit B attached hereto and incorporated herein.

4. Payment of Principal. Borrower shall promptly pay when due the principal of and interest (if any) on the indebtedness evidenced by the Note and shall perform all of Borrower’s other covenants contained in the Note.

5. Application of Payments. All payments received by Lender under the terms hereof shall be applied by Lender first in payment of amounts disbursed by Lender pursuant to Paragraph 8 (Protection of Lender's Security), and the balance in accordance with the terms and conditions of the Note.

6. Prior Charges and Liens. Subject to the terms of the Purchase Agreement, Borrower shall pay all taxes, assessments and other charges, fines and impositions attributable to the Property which may have or attain a priority over this Deed of Trust, and leasehold payments or ground rents, if any, by Borrower making payment when due, directly to the payee thereof.

7. Preservation and Maintenance of Property. Subject to the terms of the Purchase Agreement, Borrower shall keep the Property in good repair and shall not commit waste or permit impairment or deterioration of the Property. Borrower's mining of the Property for sand, gravel and aggregate as provided for under the Purchase Agreement shall not be considered to be waste, impairment or deterioration of the Property. Borrower shall perform all of Borrower's obligations under any declarations, covenants, bylaws, rules, or other documents governing the use, ownership or occupancy of the Property.

8. Protection of Lender's Security. If the Borrower fails to perform the covenants and agreements contained in this Deed of Trust, or if any action or proceeding is commenced which materially affects Lender's interest in the Property, then Lender, at Lender's option, with notice to Borrower if required by law, may make such appearances, disburse such sums and take such action as is necessary to protect Lender's interest.

Any amounts disbursed by Lender pursuant to this Paragraph 8, shall become additional indebtedness of Borrower secured by this Deed of Trust. Such amounts shall be payable upon notice from Lender to Borrower requesting payment thereof, and Lender may bring suit to collect any amounts so disbursed plus interest specified in Paragraph 2(b). Nothing contained in this Paragraph 8 shall require Lender to incur any expense or take any action hereunder.

9. Inspection. Lender may make or cause to be made reasonable entries upon and inspection of the Property, provided that Lender shall give Borrower notice prior to any such inspection specifying reasonable cause therefore related to Lender's interest in the Property.

10. Condemnation. Subject to the terms of the Purchase Agreement, the proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender as herein provided. However, all of the rights of Borrower and Lender hereunder with respect to such proceeds are subject to the rights of any holder of a prior deed of trust.

In the event of a total taking of the Property and subject to the terms of the Purchase Agreement, the proceeds shall be applied to the sums secured by this Deed of Trust, with the excess, if any, paid to Borrower. In the event of a partial taking of the Property and subject to the terms of the Purchase Agreement, the proceeds shall be divided between Lender and Borrower, in the same ratio as the amount of the sums secured by this Deed of Trust immediately prior to the date of taking bears to Borrower's equity in the Property immediately prior to the date of taking.

Borrower's equity in the Property means the fair market value of the Property less the amount of sums secured by this Deed of Trust, all at the value immediately prior to the date of taking.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the condemnor offers to make an award or settle a claim for damages and subject to the terms of the Purchase Agreement, Borrower fails to respond to Lender within 30 days after the date such notice is given, Lender is authorized to collect and apply the proceeds, at Lender's option, either to restoration or repair of the Property or to the sums secured by this Deed of Trust.

Any such application of proceeds to principal shall not extend or postpone the due date of the installments referred to in Paragraph 4 nor change the amount of such installments, if any.

11. Borrower Not Released. Extension of the time for payment or modification of amortization of the sums secured by this Deed of Trust granted by Lender to any successor in interest of Borrower shall not operate to release, in any manner, the liability of the original Borrower, nor Borrower's successors in interest, from the original terms of this Deed of Trust. Lender shall not be required to commence proceedings against such successor or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Deed of Trust by reason of any demand made by the original Borrower nor Borrower's successors in interest.

12. Forbearance by Lender Not a Waiver. Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by law, shall not be a waiver or preclude the exercise of any such right or remedy.

13. Remedies Cumulative. Each remedy provided in the Note and this Deed of Trust is distinct from and cumulative to all other rights or remedies under the Note and this Deed of Trust or afforded by law or equity, and may be exercised concurrently, independently or successively.

14. Successors and Assigns Bound; Joint and Several Liability, Captions. The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lender and Borrower. All covenants and agreements of Borrower shall be joint and several. The captions and headings of the paragraphs in this Deed of Trust are for convenience only and are not to be used to interpret or define the provisions hereof.

15. Notice. Except for any notice required by law to be given in another manner any notice either party provided for in this Deed of Trust shall be in the manner set forth in the Purchase Agreement.

16. Governing Law; Severability. The Note and this Deed of Trust shall be governed by the law of Colorado. In the event that any provision or clause of this Deed of Trust or the Note conflicts with the law, such conflict shall not affect other provisions of this Deed of Trust or the Note which can be given effect without the conflicting provision, and to this end the provisions of the Deed of Trust and Note are declared to be severable.

17. Foreclosure; Other Remedies. Upon Borrower's breach of any covenant or agreement of Borrower in this Deed of Trust, Lender may invoke the power of sale and any other remedies permitted by law. Lender shall be entitled to collect all reasonable costs and expenses

incurred in pursuing the remedies provided in this Deed of Trust, including, but not limited to, reasonable attorney's fees.

If Lender invokes the power of sale, Lender shall give written notice to Trustee of such election. Trustee shall give such notice to Borrower of Borrower's rights as is provided by law. Trustee shall record a copy of such notice as required by law. Trustee shall advertise the time and place of the sale of the Property, for not less than four weeks in a newspaper of general circulation in each county in which the Property is situated, and shall mail copies of such notice of sale to Borrower and other persons as prescribed by law. After the lapse of such time as may be required by law, Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder for cash at the time and place (which may be on the Property or any part thereof as permitted by law) in one or more parcels as Trustee may think best and in such order as Trustee may determine. Lender or Lender's designee may purchase the Property at any sale. It shall not be obligatory upon the purchaser at any such sale to see to the application of the purchase money.

Trustee shall apply the proceeds of the sale in the following order: (a) to all reasonable costs and expenses of the sale, including, but not limited to, reasonable Trustee's and attorney's fees and costs of title evidence; (b) to all sums secured by this Deed of Trust; and (c) the excess, if any, to the person or persons legally entitled thereto. In the event the proceeds from the Trustee's Sale are insufficient to satisfy the sum secured by the Deed of Trust, Lender shall have the right to obtain a deficiency judgment against Borrower for the remainder due Lender, including costs and expenses.

18. Borrower's Right to Cure Default. Whenever foreclosure is commenced for nonpayment of any sums due hereunder, the owners of the Property or parties liable hereon shall be entitled to cure said defaults by paying all delinquent principal and interest payments due as of the date of cure, costs, expenses, late charges, attorney's fees and other fees all in the manner provided by law. Upon such payment, this Deed of Trust and the obligations secured hereby shall remain in full force and effect and the foreclosure proceedings shall be discontinued.

19. Appointment of Receiver; Lender in Possession. Lender or the holder of the Trustee's certificate of purchase shall be entitled to a receiver for the Property during the time covered by foreclosure proceedings and the period of redemption, if any; and shall be entitled thereto as a matter of right without regard to the solvency or insolvency of Borrower or of the then owner of the Property, and without regard to the value thereof. Such receiver may be appointed by any Court of competent jurisdiction upon *ex parte* application and without notice such notice being hereby expressly waived.

Upon abandonment of the Property, Lender, in person, by agent or by judicially-appointed receiver, shall be entitled to enter upon, take possession of and manage the Property and to collect the rents of the Property including those past due. All rents collected by Lender or the receiver shall be applied, first, to payment of the costs of preservation and management of the Property, and then to the sums secured by this Deed of Trust. Lender and the receiver shall be liable to account only for those rents actually received.

20. Release. Upon payment of all sums secured by this Deed of Trust, Lender shall cause Trustee to release this Deed of Trust and shall produce for Trustee the Note. Borrower shall pay all costs of recordation and shall pay the statutory Trustee's fees.

21. Waiver of Exemptions. Borrower hereby waives all right of homestead and any other exemption in the Property under state or federal law presently existing or hereafter enacted.

22. Transfer of the Property; Assumption. The following events shall be referred to herein as a **Transfer**: (i) a transfer or conveyance of title (or any portion thereof, legal or equitable) of the Property (or any part thereof or interest therein); (ii) the execution of a contract or agreement creating a right to title (or any portion thereof, legal or equitable) in the Property (or any part thereof or interest therein); (iii) or an agreement granting a possessory right in the Property (or any portion thereof), in excess of three (3) years; (iv) a sale or transfer of, or the execution of a contract or agreement creating a right to acquire or receive, more than fifty percent (50%) of the controlling interest or more than fifty percent (50%) of the beneficial interest in the Borrower; and (v) the reorganization, liquidation or dissolution of the Borrower. Notwithstanding the foregoing, the following shall not be included as a Transfer: (i) the creation of a lien or encumbrance subordinate to this Deed of Trust; or (ii) a transfer by devise, descent or by operation of the law upon the death of a joint tenant; or (iii) any Transfer contemplated by the terms and conditions of the Purchase Agreement. At the election of Lender, in the event of each and every Transfer:

(a) All sums secured by this Deed of Trust shall become immediately due and payable (Acceleration).

(b) If a Transfer occurs and should Lender not exercise Lender's option pursuant to this Paragraph 22 to Accelerate, Transferee shall be deemed to have assumed all of the obligations of Borrower under this Deed of Trust including all sums secured hereby whether or not the instrument evidencing such conveyance, contract or grant expressly so provides. This covenant shall run with the Property and remain in full force and effect until said sums are paid in full. The Lender may without notice to the Borrower deal with Transferee in the same manner as with the Borrower with reference to said sums without in any way altering or discharging the Borrower's liability hereunder for the obligations hereby secured.

(c) Should Lender not elect to Accelerate upon the occurrence of such Transfer, then, subject to (b) above, the mere fact of a lapse of time or the acceptance of payment subsequent to any such events, whether or not Lender had actual or constructive notice of such Transfer, shall not be deemed a waiver of Lender's right to make such election nor shall Lender be estopped therefrom by virtue thereof.

[Signature page follows.]

BORROWER:

L.G. EVERIST, INCORPORATED, an Iowa corporation

By: _____

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing Easement Agreement was acknowledged before me this _____ day of _____, 20____, by _____ of L.G. EVERIST, INCORPORATED, an Iowa corporation.

Witness my hand and official seal.
My commission expires: _____

Notary Public

EXHIBIT A
LEGAL DESCRIPTION

EXHIBIT J-7

EXHIBIT B
EXCEPTIONS TO TITLE

EXHIBIT K

Form of Down Payment Promissory Note

[See following pages]

PROMISSORY NOTE AND EVIDENCE OF INDEBTEDNESS

US \$ _____

Date: _____

FOR VALUE RECEIVED, the undersigned (**Maker**) promises to pay to the order of the Town of Firestone, a Colorado municipal corporation, acting by and through its Town of Firestone Water Activity Enterprise, organized and existing as a “water activity enterprise” under C.R.S. 37-4.1-101 et seq. (**Holder**), whose address is 8308 Colorado Blvd., Suite 200, Firestone, Colorado 80504, Attention: Wesley LaVanchy, Town Manager, the principal sum of _____ and ____/100 Dollars (\$_____) such principal amount hereinafter referred to as the **Indebtedness**. The Indebtedness shall be payable at the office of Holder referenced above, or such other place as the holder of this Note may designate, at such time and on such terms as provided under that certain Purchase and Sale Agreement (Brooks Farm) between Maker and Holder dated _____, 2016 (the **Purchase Agreement**) for the return or credit to Holder of the Down Payment (as defined in the Purchase Agreement).

Except as otherwise provided herein and in the Purchase Agreement, all terms, conditions and provisions of this Note and any Deed of Trust that secures this Note shall remain in full force and effect until such time as the Down Payment is either paid in full or no longer due and owing pursuant to the terms of the Purchase Agreement. Any Deed of Trust that secures this Note shall serve as security for the payment of the entire Indebtedness evidenced by this Note including any and all extensions, renewals or modifications thereof.

Maker and all other makers, sureties, guarantors, and endorsers hereby waive presentment, notice of dishonor and protest, and they hereby agree to any extensions of time of payment and partial payments before, at, or after maturity. This Note shall be the joint and several obligation of Maker and all other makers, sureties, guarantors and endorsers, and, their successors and assigns

Any notice to Maker provided for in this Note shall be in writing and shall be given and be effective upon those terms and conditions provided for notices under the Purchase Agreement and addressed to Maker at the Maker’s address stated below, or to such other address as Maker may designate by notice to the Holder. Any notice to the Holder shall be in writing and shall be given and be effective upon those terms and conditions provided for notices under the Purchase Agreement and addressed to the Holder at the address stated in the first paragraph of this Note, or to such other address as Holder may designate by notice to Maker.

MAKER:

L.G. EVERIST, INCORPORATED,
an Iowa corporation

By: _____

MAKER’S ADDRESS:

L.G. EVERIST, INC.
7321 East 88th Avenue, Suite 200
Henderson, Colorado 80640

EXHIBIT K-1

EXHIBIT L

**ASSIGNMENT AND ASSUMPTION
AGREEMENT
(Rights Under Section 112(c) Permit)**

[See following pages]

ASSIGNMENT AND ASSUMPTION AGREEMENT

(Rights Under Section 112(c) Permit)

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (this "Assignment") is entered into this ____ day of _____, 20__, by and between L.G. EVERIST, INCORPORATED, an Iowa corporation ("Assignor") and the TOWN OF FIRESTONE, a Colorado municipal corporation, acting by and through its Town of Firestone Water Activity Enterprise, organized and existing as a "water activity enterprise" under C.R.S. 37-4.1-101 et seq. ("Assignee").

Assignor and Assignee entered into that certain Purchase and Sale Agreement (Brooks Farm) dated _____, 2016 (the "Purchase Agreement"), in which Assignor has agreed to sell and Assignee has agreed to purchase the real property described in Exhibit A attached hereto (the "Real Property"). Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Purchase Agreement.

Pursuant to the Purchase Agreement, Assignor has agreed to assign to Assignee and Assignee has agreed to assume all of Assignor's remaining reclamation obligations associated with Assignee's existing Mine Reclamation Permit (DRMS Permit No. M-2001-017), as such permit may have been amended and/or extended (collectively "Assignee's Permits").

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee agree as follows:

1. Assignment. Assignor hereby assigns, transfers and conveys to Assignee all of Assignor's remaining rights, title and interest to Assignee's Permits.

2. Assumption. Assignee hereby assumes all remaining liabilities, obligations, rights, title and interests granted to Assignee by this Assignment from and after the date hereof, and Assignee hereby agrees to comply and shall comply with the requirements relating to such assumption by Assignee as provided for by C.R.S. § 34-32.5-119.

3. Counterparts. This Assignment may be executed in counterparts, each of which shall be deemed an original, and both of which together shall constitute one and the same instrument.

4. Applicable Law. This Assignment shall be governed by and interpreted in accordance with the laws of the State of Colorado.

5. Binding Effect. This Assignment shall be binding upon and inure to the benefit of the parties hereto and their respective transferees, successors, and assigns.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have duly executed and sealed this Assignment as of the date set forth above.

ASSIGNOR:

L.G. EVERIST INCORPORATED,
an Iowa corporation

By: _____
Name printed: _____
Title: _____

ASSIGNEE:

TOWN OF FIRESTONE,
a Colorado municipal corporation, acting by and
through its Town of Firestone Water Activity
Enterprise, organized and existing as a “water
activity enterprise” under C.R.S. 37-4.1-101 et seq.

By: _____
Name printed: _____
Title: _____

EXHIBIT A

Description of the Real Property

EXHIBIT M

**Consumer Price Index, All Urban
Consumers, U.S. City Average, all items
(1982 – 84 = 100)**

[See following pages]

U.S. Department of Labor
Bureau of Labor Statistics
Washington, D.C. 20212

Consumer Price Index
All Urban Consumers (CPI-U)
U.S. City Average
All Items
1982-84=100

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Avg	Percent Change Dec.-Dec. Avg.-Avg.
1990	127.4	128.0	128.7	128.9	129.2	129.9	130.4	131.6	132.7	133.5	133.8	133.8	130.7	6.1
1991	134.6	134.8	135.0	135.2	135.6	136.0	136.2	136.6	137.2	137.4	137.8	137.9	136.2	3.1
1992	138.1	138.6	139.3	139.5	139.7	140.2	140.5	140.9	141.3	141.8	142.0	141.9	140.3	2.9
1993	142.6	143.1	143.6	144.0	144.2	144.4	144.4	144.8	145.1	145.7	145.8	145.8	144.5	2.7
1994	146.2	146.7	147.2	147.4	147.5	148.0	148.4	148.4	149.4	149.5	149.7	149.7	148.2	2.7
1995	150.3	150.9	151.4	151.9	152.2	152.5	152.5	152.9	153.2	153.7	153.6	153.5	152.4	2.5
1996	154.4	154.9	155.7	156.3	156.6	156.7	157.0	157.3	157.8	158.3	158.6	158.6	156.9	3.3
1997	159.1	159.6	160.0	160.2	160.1	160.3	160.5	160.8	161.2	161.6	161.5	161.3	160.5	1.7
1998	161.6	161.9	162.2	162.5	162.8	163.0	163.2	163.4	163.6	164.0	164.0	163.9	163.0	1.6
1999	164.3	164.5	165.0	166.2	166.2	166.2	166.7	167.1	167.9	168.2	168.3	168.3	166.6	2.7
2000	168.8	169.8	171.2	171.3	171.5	172.4	172.8	172.8	173.7	174.0	174.1	174.0	172.2	3.4
2001	175.1	175.8	176.2	176.9	177.7	178.0	177.5	177.5	178.3	177.7	177.4	176.7	177.1	1.6
2002	177.1	177.8	178.8	179.8	179.8	179.9	180.1	180.7	181.0	181.3	181.3	180.9	179.9	2.4
2003	181.7	183.1	184.2	183.8	183.5	183.7	183.9	184.6	185.2	185.0	184.5	184.3	184.0	1.9
2004	185.2	186.2	187.4	188.0	189.1	189.7	189.4	189.5	189.9	190.9	191.0	190.3	188.9	3.3
2005	190.7	191.8	193.3	194.6	194.4	194.5	195.4	196.4	198.8	199.2	197.6	196.8	195.3	3.4
2006	198.3	198.7	199.8	201.5	202.5	202.9	203.5	203.9	202.9	201.8	201.5	201.8	201.6	2.5
2007	202.416	203.499	205.352	206.686	207.949	208.352	208.299	207.917	208.490	208.936	210.177	210.036	207.342	4.1
2008	211.080	211.693	213.528	214.823	216.632	218.815	219.964	219.086	218.783	216.573	212.425	210.228	215.303	0.1
2009	211.143	212.193	212.709	213.240	213.856	215.693	215.351	215.834	215.969	216.177	216.330	215.949	214.537	2.7
2010	216.687	216.741	217.631	218.009	218.178	217.965	218.011	218.312	218.439	218.711	218.803	219.179	218.056	1.5
2011	220.223	221.309	223.467	224.906	225.964	225.722	225.922	226.545	226.889	226.421	226.230	225.672	224.939	3.0
2012	226.665	227.663	229.392	230.085	229.815	229.478	229.104	230.379	231.407	231.317	230.221	229.601	229.594	1.7
2013	230.280	232.166	232.773	232.531	232.945	233.504	233.596	233.877	234.149	233.546	233.069	233.049	232.957	1.5
2014	233.916	234.781	236.293	237.072	237.900	238.343	238.250	237.852	238.031	237.433	236.151	234.812	236.736	0.8
2015	233.707	234.722	236.119	236.599	237.805	238.638	238.654	238.316	237.945	237.838	237.336	236.525	237.017	0.7
2016	236.916	237.111	238.132	239.261	(r)240.229	(r)241.018	(r)240.628	(r)240.849	241.428	241.729				

(r) Revised.

EXHIBIT N

Form of Acceptance of Reclamation

[See following pages]



L.G. EVERIST, INC.
ROCK SOLID SINCE 1876

7321 E. 88TH AVENUE, SUITE 200
HENDERSON, COLORADO 80640
PHONE 303-287-9606 • FAX 303-289-1348

June 11, [REDACTED]

[REDACTED]

RE: Acceptance of Reclamation of L.G. Everist, Inc.'s [REDACTED] Sand and Gravel Mine,
DRMS Permit M-1999-[REDACTED] - [REDACTED] Phase and [REDACTED] Phase

Dear Ms. [REDACTED]:

Reclamation has been completed on the [REDACTED] and [REDACTED] Phases of L.G. Everist, Inc.'s [REDACTED] Sand and Gravel Mine, M-1999-[REDACTED] - including the slurry wall liners, backfilling, sloping, grading and seeding of the site. The slurry wall liners of both phases have passed the leak test required by the Colorado Office of the State Engineer (SEO) and have continued to meet the SEO design standard. [REDACTED]

The initial seeding was completed around the upper reaches of the reservoirs in April-2012. Copies of the two SEO approval letters and the seeding invoice are attached for your reference.

[REDACTED], [REDACTED] Projects Manager, inspected the areas on Monday, June 10, [REDACTED], and found them to be more than satisfactory. So, with reclamation complete and site inspection done on the [REDACTED] and [REDACTED] Phases, L. G. Everist, Inc. respectfully requests an acknowledgment of acceptance from [REDACTED] to receive the reclaimed areas as is.

As you know, L.G. Everist modified our Division of Reclamation, Mining, and Safety (DRMS) reclamation permit on the [REDACTED] site with Technical Revision [REDACTED], in 2009. The revision states, "Modify final vegetation standard to allow release prior to full vegetation establishment, all other reclamation standards remain in effect." Of course, DRMS appreciates knowing that acreage released from the permit will be taken over by a responsible party, hence why we would like to include this acceptance letter in our DRMS acreage release request for the [REDACTED] and [REDACTED] Phases.

Thank you for acknowledging acceptance of the [REDACTED] and [REDACTED] Phases as is, and please return a signed copy of the letter to me so that I can include it in my release request to the DRMS.

If you have any questions, please contact me at 303-286-2247 or by email (lmshults@lgeverist.com).

Sincerely,


Lynn Mayer Shults
Regulatory Manager

cc: [REDACTED] Esq. Special Water Counsel for [REDACTED]
Dennis Fields, L.G. Everist, Inc.

FL-DRMS-[REDACTED] 061113.doc

EXHIBIT N-1

RE: Acceptance of Reclamation of L.G. Everist, Inc.'s [REDACTED] Sand and Gravel Mine,
DRMS Permit M-1999-[REDACTED] - [REDACTED] Phase and [REDACTED] Phase

[REDACTED] Acknowledgement:

Please provide a notarized signature from a representative of [REDACTED] to show acknowledgement of approval of the reclamation as is of the [REDACTED] Phase and [REDACTED] phase. This acknowledgment does not change or nullify any previously signed contracts, letters, or agreements between [REDACTED] and L.G. Everist, Inc.

Signature

[REDACTED SIGNATURE]

Date:

6/20/[REDACTED]

Representative

STATE OF COLORADO

)
) ss
)

COUNTY OF _____

Subscribed and sworn before this 20 day of June [REDACTED]

by [REDACTED] of the [REDACTED]

Notary Public

Tammy Hoyle
9/15/15

(notary seal)

My Commission expires



My Commission Expires 09/15/2015

EXHIBIT C

Form of Memorandum of Agreement

(See attached document.)

**MEMORANDUM OF OPTION TO PURCHASE
(Brooks Farm)**

THIS MEMORANDUM OF OPTION TO PURCHASE ("**Memorandum**"), is entered into as of the ____ day of _____, 20__ by and between L.G. EVERIST, INCORPORATED, an Iowa corporation, whose address is 7321 East 88th Avenue, Suite 200, Henderson, Colorado 80640 (hereinafter referred to as "**LGE**") and the TOWN OF FIRESTONE, a Colorado municipal corporation, acting by and through its Town of Firestone Water Activity Enterprise, organized and existing as a "water activity enterprise" under C.R.S. § 37-4.1-101 et seq. ("**TOF**").

Purpose. This Memorandum is being executed by TOF and LGE for the specific purpose of providing record notice that, contemporaneously herewith, LGE has granted to TOF that certain "Option to Purchase" the real property more particularly described on Exhibit A attached hereto and incorporated herein by this reference as though fully set forth (the "**Property**"). It is the intention of TOF and LGE that this Memorandum be recorded in the real property records of Weld County, Colorado to evidence the material terms and conditions contained in the Option to Purchase granted by LGE to TOF and more particularly described herein.

Notice of Grant of Option. Pursuant to the terms and conditions contained in the Option to Purchase, and for good and valuable consideration recited therein, LGE has granted to TOF an option to purchase the Property.

Term of Option. The option to purchase the Property granted by LGE to TOF shall expire, if not previously exercised or extended, at ____ p.m. on _____, 20__.

Exercise of Option. TOF is required to exercise the option to purchase by giving LGE written notice of such exercise prior to the expiration of the term thereof.

Terms of Purchase. The terms and conditions relating to the purchase of the Property from LGE by TOF (upon exercise of the option to purchase the Property) are contained in that certain Purchase and Sale Agreement (Brooks Farm) attached as an exhibit to the Option to Purchase.

Further Information. Further information concerning this Memorandum and/or the terms and conditions contained in the Option to Purchase (and the exhibits attached thereto) may be obtained by contacting counsel for TOF as follows:

Bradley C. Grasmick, Esq.
Lawrence Jones Custer Grasmick LLP
5245 Ronald Reagan Blvd, Suite 1
Johnstown, CO 80534
Telephone: (970) 622-8181

Confirmation. TOF and LGE hereby confirm the valid and binding execution of the Option to Purchase and further confirm that the summary of the material terms and provisions of the Option to Purchase, as set forth in this Memorandum, is accurate.

Counterparts. This Memorandum, or the signature pages hereof, may be executed in counterparts, all of which shall have full force and effect as an original, including admission into evidence.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Option to Purchase to be effective as of the date first above written.

LGE:

L.G. EVERIST, INCORPORATED, an Iowa corporation

By: _____

Name:

Title:

TOF:

Town of Firestone, a Colorado municipal corporation, acting by and through its Town of Firestone Water Activity Enterprise, organized and existing as a “water activity enterprise” under C.R.S. 37-4.1-101 et seq.

By: _____

Name Printed: _____

Title: _____

Date: _____

STATE OF _____)
) ss:
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____,
20____, by _____ of L.G. Everist, Incorporated, an Iowa corporation.

Witness my hand and official seal.

My commission expires: _____.

Notary Public

STATE OF _____)
) ss:
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____,
20____, by _____ as _____ of the Town of Firestone, a
Colorado municipal corporation, acting by and through its Town of Firestone Water Activity
Enterprise.

Witness my hand and official seal.

My commission expires: _____.

Notary Public

EXHIBIT A

Legal Description

EXHIBIT A

(1 of 3)

BROOKS FARM PARCEL PROPERTY DESCRIPTION

A parcel of land being part of Tract A, Block 1, Minor Plat of Brooks Farm First Subdivision, recorded October 3, 2002 as Reception No. 2993165 of the records of Weld County Clerk and Recorder, located in the Northwest Quarter (NW1/4) of Section Six (6), Township Two North (T.2N.), Range Sixty-seven West (R.67W.) of the Sixth Principal Meridian (6th P.M.), Town of Firestone, County of Weld, State of Colorado.

That portion of said Tract A lying Northerly of the centerline of the Last Chance Ditch as it existed on December 6, 2016.

Said parcel of land contains 56.375 acres, more or less ($\pm$), and may be subject to any rights-of-way or other easements of record or as now existing on said described parcel of land.

SURVEYOR'S STATEMENT

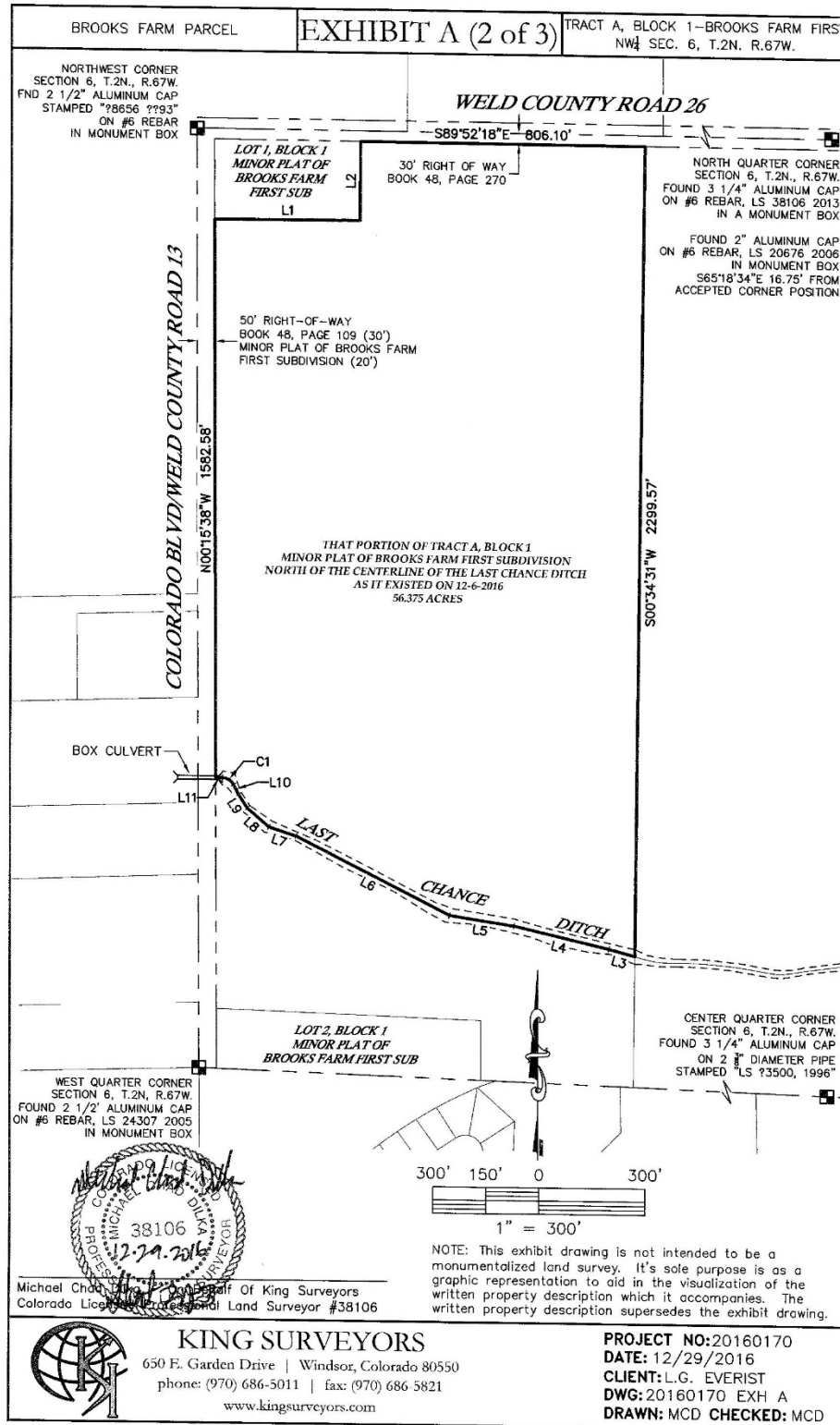
I, Michael Chad Dilka, a Colorado Licensed Professional Land Surveyor do hereby state that this Property Description was prepared under my personal supervision and checking and that it is true and correct to the best of my knowledge and belief.



Michael Chad Dilka - on behalf of King Surveyors
Colorado Licensed Professional Land Surveyor #38106

KING SURVEYORS
650 East Garden Drive
Windsor, Colorado 80550
(970) 686-5011

JN: 20160170



BROOKS FARM PARCEL

EXHIBIT A (3 of 3)

TRACT A, BLOCK 1-BROOKS FARM FIRST
NW 1/4 SEC. 6, T.2N. R.67W.

LINE TABLE

LINE	BEARING	LENGTH
L1	N89°44'03"E	412.08'
L2	N00°08'08"E	222.86'
L3	N74°53'31"W	76.14'
L4	N76°54'55"W	276.00'
L5	N81°23'00"W	185.00'
L6	N63°03'44"W	488.00'
L7	N71°51'59"W	81.00'
L8	N49°21'02"W	81.00'
L9	N32°38'45"W	46.00'
L10	N27°48'16"W	31.00'
L11	S89°59'19"W	19.44'

CURVE TABLE

CURVE	LENGTH	RADIUS	DELTA	CHORD	CH BEARING
C1	38.00'	35.00'	62°12'25"	36.16'	N58°54'28"W



Michael Chad Dilka - On Behalf Of King Surveyors
Colorado Licensed Professional Land Surveyor #38106

NOTE: This exhibit drawing is not intended to be a
monumentalized land survey. It's sole purpose is as a
graphic representation to aid in the visualization of the
written property description which it accompanies. The
written property description supersedes the exhibit drawing.



KING SURVEYORS

650 E. Garden Drive | Windsor, Colorado 80550
phone: (970) 686-5011 | fax: (970) 686-5821
www.kingsurveyors.com

PROJECT NO: 20160170
DATE: 12/29/2016
CLIENT: L.G. EVERIST
DWG: 20160170 EXH A
DRAWN: MCD CHECKED: MCD

RESOLUTION NO. 18-55

A RESOLUTION APPROVING AN OPTION TO PURCHASE AGREEMENT

WHEREAS, by Ordinance No. 897 adopted October 12, 2016, the Board of Trustees approved a Purchase, Sale and Exchange Agreement (the “Agreement”) between the Town and L.G. Everist, Incorporated (“LGE”); and

WHEREAS, the Agreement authorizes the Town and LGE to enter into an Option to Purchase Agreement that gives the Town the option to purchase from LGE the Brooks Farm Parcel (as defined in Exhibit B of the attached Option to Purchase Agreement), a clay lined gravel pit, water rights, and related rights (the “Valley Option”); and

WHEREAS, Ordinance No. 897 states that the terms and conditions of the Valley Option shall be presented to the Board of Trustees for review and action by resolution; and

WHEREAS, there has been proposed an Option to Purchase (Brooks Farm) Agreement (the “Option Agreement”) related to the Valley Option; and

WHEREAS, the Board of Trustees finds that the Option Agreement is in the best interest of the Town and its citizens and desires to authorize its execution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO:

Section 1. The proposed Option to Purchase (Brooks Farm) Agreement (the “Option Agreement”) between the Town of Firestone and L.G. Everist, Incorporated is hereby approved in essentially the same form as the copy of such Option Agreement accompanying this Resolution.

Section 2. The Mayor or Town Manager (or his designee) are hereby authorized to execute and deliver the Option Agreement on behalf of the Town; provided that the Mayor, in consultation with the Town Manager and Water Attorney, is hereby granted the authority to negotiate and approve such revisions to said Option Agreement as the Mayor determines are necessary or desirable for the protection of the Town, so long as the essential terms and conditions of the Option Agreement are not altered.

Section 3. Notwithstanding the foregoing, the decision of whether or not to exercise the Valley Option, the terms and conditions of the Purchase and Sale Agreement (Exhibit B to the Option Agreement) and appropriation of funds for the same shall be presented to the Board of Trustees for review and action by resolution or ordinance, as applicable.

INTRODUCED, READ AND ADOPTED this 12th day of December, 2018.

TOWN OF FIRESTONE, COLORADO

Bobbi Sindelar, Mayor

ATTEST:

Leah Vanarsdall, Town Clerk

AGENDA INFORMATION MEMORANDUM

FIRESTONE TOWN BOARD OF TRUSTEES



AIM#: 7.d.

Discussion/Action

Meeting Date: December 12, 2018

Initiated By:

Dept: Town Manager

AGENDA TITLE

Resolution 18-57: A RESOLUTION AUTHORIZING THE INTERIM TOWN MANAGER TO EXECUTE AN ENGAGEMENT AGREEMENT FOR INTERIM TOWN ATTORNEY LEGAL SERVICES

SUMMARY

HISTORY AND PREVIOUS BOARD ACTION

RECOMMENDATION

ALTERNATIVES

ATTACHMENTS

1. 7d - Reso 18-57 Interim TA Engagement
2. 7d - Interim TA Engagement Agreement 121219

FINANCIAL CONSIDERATIONS

RESOLUTION 18-57

A RESOLUTION APPROVING INTERIM TOWN ATTORNEY LEGAL SERVICES ENGAGEMENT AGREEMENT

WHEREAS, the Town is in need of Interim Legal Services and has requested Brownstein Hyatt Farber Schreck provide that service; and

WHEREAS, the Board of Trustees finds that this Interim Town Attorney Legal Services Engagement Agreement is in the best interest of the Town and its citizens and desires to authorize its execution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO:

Section 1. The proposed Interim Town Attorney Legal Services Engagement Agreement (the “Agreement”) between the Town of Firestone and Brownstein Hyatt Farber Schreck is hereby approved in essentially the same form as the copy of such Agreement accompanying this Resolution.

Section 2. The Interim Town Manager is hereby authorized to execute and deliver the Agreement on behalf of the Town.

INTRODUCED, READ AND ADOPTED this 12th day of December, 2018.

TOWN OF FIRESTONE, COLORADO

Bobbi Sindelar, Mayor

ATTEST:

Leah Vanarsdall, Town Clerk

December 10, 2018

VIA U.S. MAIL AND E-MAIL: akrieger@firestoneco.gov

A.J. Krieger, Interim Town Administrator
The Town of Firestone
151 Grant Avenue
P.O. Box 100
Firestone, CO 80520

Carolynne C. White
Attorney at Law
303.223.1197 tel
303.223.0997 fax
cwhite@bhfs.com

RE: Engagement Agreement for Interim Town Attorney Legal Services

Dear A.J.:

Thank you for selecting Brownstein Hyatt Farber Schreck, LLP (the "Firm") to serve as legal counsel to the Town of Firestone ("Firestone" or "you") in connection with Interim Town Attorney legal services. We are very pleased and privileged to work with you, and we appreciate the opportunity to represent you. The purpose of this engagement letter (the "Agreement") and the attached Standard Terms and Conditions which are incorporated into this letter by this reference (the "Terms") is to outline the nature and scope of the engagement and our respective responsibilities and expectations.

The Client: The Firm will represent Firestone.

Scope of Engagement: This Agreement and the Terms apply to the engagement described above as well as future engagements with respect to which you ask the Firm to represent you, unless we execute a separate agreement for one or more separate engagements. Services rendered to you prior to your signing this Agreement are subject to the provisions of this Agreement and the Terms.

Staffing, Fees, Costs and Billing Arrangements: In the course of our representation, it is anticipated that I will supervise and coordinate most of the work on this matter, with the assistance of any attorneys, land use planners, paralegals, law clerks, legal assistants, and other staff working with me. My discounted government hourly rate is \$495. I can be reached directly at 303.223.1197 and via email at cwhite@bhfs.com. To best serve your interests, we may assign other attorneys affiliated with the Firm to represent you if, in our judgment, that becomes necessary or desirable. We also may assign attorneys who are independent contractors to the Firm and whose hourly billing rate will be passed on to you with a factor for the firm's overhead and profit.

Our fees are based primarily on the actual amount of time spent by our attorneys and other professionals performing services for you, including attending, conducting or making, as applicable, telephone calls, conferences, court appearances, research and investigations, traveling, and preparing letters, pleadings, briefs, agreements, and other documents. We will bill for our services at our applicable hourly billing rates in effect at the time we render the services, which are available upon request. In the course of providing services to you, it may be necessary for us to incur certain costs. You agree to reimburse us in accordance with the Terms for all reasonable costs that we actually incur and for the Firm's administrative fee. For more information on billing, including third-party and other costs for which you will be billed, rate changes and other factors affecting fees and other charges, please refer to the Terms.

410 Seventeenth Street, Suite 2200
Denver, CO 80202-4432
main 303.223.1100

Billing Period and Payments: We will bill you on a monthly basis or such other periodic basis as we may determine. Except as otherwise set forth herein, you agree to make payment of all outstanding fees and costs within 30 days of your receipt of a billing statement. We reserve the right to charge interest on overdue amounts at the rate of 1.5% per month, or the maximum interest rate permitted by law, whichever is less, from the date due until paid. You agree to pay such interest on the outstanding balance in addition to the balance of fees and expenses due.

Retainer Deposit: Given your relationship with the Firm, we agree to waive an upfront deposit for this matter, and you agree to pay our bills timely pursuant to the Terms. We reserve the right to require a deposit in the future if we feel that circumstances warrant it, and in such event you agree to post such a deposit.

Conflicts of Interest: We have conducted a search in our conflicts database of your name and the names of your owners, principals and affiliates and all adverse parties and their owners, principals and affiliates that you provided to us, as applicable. Based on the information provided, we have discovered no conflicts. To help us continue to assess conflicts, however, we will depend on you to keep us advised of changes in Firestone's owners, principals, affiliates and potential adverse parties that might affect our analysis of actual or potential conflict of interests.

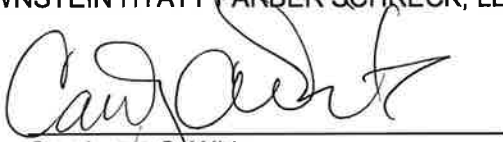
Complete Agreement: This Agreement and the Terms contain all the terms and provisions of and related to our engagement. This Agreement and the Terms may only be amended in a writing signed by a representative of the Firm and you.

If you agree with the terms and provisions of this Agreement and the Terms, please countersign this letter where indicated below and return it to us at your earliest opportunity. If you have any questions, please feel free to contact me or a member of our team.

Sincerely,

BROWNSTEIN HYATT FARBER SCHRECK, LLP

By:


Carolynne C. White

Acceptance of Agreement and Standard Terms and Conditions:

The undersigned entity represents and warrants that it has the power and authority and that the individual signing on its behalf below has been authorized to enter into and sign this Agreement. The undersigned does hereby engage Brownstein Hyatt Farber Schreck, LLP in accordance with the terms of this Agreement and the attached Standard Terms and Conditions, effective as of the date of this Agreement.

THE TOWN OF FIRESTONE

By: _____

Name: A.J. Krieger

Its: Interim Town Administrator

BROWNSTEIN HYATT FARBER SCHRECK, LLP

STANDARD TERMS AND CONDITIONS

Duties of the Parties: Brownstein Hyatt Farber Schreck, LLP (the "Firm") agrees to represent you in accordance with the accompanying Engagement Agreement for Legal Services (the "Agreement") and these Standard Terms and Conditions (the "Terms"). You agree to fully cooperate with us, be open and truthful, provide us with complete information pertaining to the representation, keep us informed of developments, promptly respond to our inquiries and communications, and pay our bills in a timely manner.

Fees: We record time in 6-minute increments unless other arrangements are made, and our billing statements will be based on time recorded in those increments. You agree to pay our fees based on time expended on your behalf, computed on an hourly basis at our then applicable rates for this engagement for the applicable attorneys and staff assigned to the matter. Generally speaking, these hourly rates currently are, with limited exceptions, as follows:

Shareholders:	From \$365 to \$1195 per hour
Counsel:	From \$350 to \$1195 per hour
Associates:	From \$270 to \$490 per hour
Lit Support Analysts:	From \$245 to \$365 per hour
Land Use Planners:	From \$225 to \$450 per hour
Paralegals:	From \$160 to \$340 per hour
Law Clerks:	From \$180 to \$270 per hour
Legal Assistants:	From \$95 to \$250 per hour

We change our rates, as well as our other standard charges, from time to time (typically on January 1 of a calendar year), to reflect competitive or market conditions, inflation, changes in attorney seniority or status, changes to our rates generally, changes in the nature or scope of the services performed and other factors. Unless otherwise agreed to in writing, you agree that any new rates or charges apply prospectively to all matters then being handled by the Firm for you. You agree to pay all fees billed at the then-current rates. Individual rate changes will be reflected in the first billing statement that includes the new rates and will be evident from the information you receive with each bill.

Outside Contract Attorneys and Legal Assistants: You agree that we may utilize contract attorneys and legal assistants who are supervised by our attorneys but not employed by the Firm, and who may reside inside or outside of the United States. Contract attorneys typically will be billed at the rates of the attorneys at the firm who provide a comparable, applicable level of service, if not otherwise agreed to in writing.

In-House Costs and External Expenses: In addition to fees incurred for legal work, your statement will include other charges and costs, some of which are summarized below, that you agree to pay.

Charges for long distance telephone calls, in-office copying, ordinary postage, and deliveries made by in-house staff are covered by an administrative fee, currently calculated at 2.5% of fees incurred. This administrative fee is charged in lieu of itemizing those costs.

Other costs which you agree to pay include, but are not limited to: computer-assisted legal research; third party vendor fees (including document copying, transcript production, depositions, e-discovery file processing, and trial preparation materials); messenger and other delivery fees; the cost of

licensing and installing special computer applications used to manage your case; secretarial overtime (when required by the urgency of your matter); extraordinary administrative, technical or accounting support; professional mediator, arbitrator, and/or special master fees; other vendor costs; and reasonable expenses for travel, meals and hotel accommodations.

For Litigation matters that involve e-Discovery tasks of processing and reviewing electronic data requiring the Firm to host data in excess of 5 gigabytes ("GB"), we will bill you \$10 per hosted GB per month, which may be more than the Firm's direct cost to account for overhead and related expenses. These hosting charges may continue to be billed for as long as we continue to host the data in an active server environment.

We may select experts, consultants and investigators who in our judgment are necessary to aid in the preparation of your matter. We will inform you of the persons selected and their charges. You authorize us to incur all reasonable costs and to hire such experts, consultants and investigators, and you agree to pay these expenses.

At our discretion, all costs may be included on your statement or billed directly to you. We may also require that you advance to us the estimated amount for such items prior to our incurring them on your behalf. You agree to pay such costs, and we assume no obligation to advance any costs on your behalf or to pay vendors, experts, consultants or other third parties we engage on your behalf.

Estimates Not Binding: It is often impractical to determine in advance the amount of time and effort that will be needed to complete all the necessary work on a matter or the total amount of fees, charges, and costs that may be incurred. Additionally, if any estimates or budgets are provided, they may need to be adjusted upward or downward in response to changing circumstances. Accordingly, unless otherwise expressly agreed in writing, our estimates and budgets are not intended to be binding, are subject to unforeseen or unanticipated circumstances, and do not limit or "cap" our fees and other charges or costs.

No Guarantees: Comments or expressions of opinion about the potential outcome of your matter or any phase thereof are expressions of opinion only. We cannot guarantee the outcome or make any promises in that regard. Unless otherwise specifically agreed in writing, our fees are not contingent upon the outcome or completion of a matter.

Billing Disputes: You agree to inform us of any dispute you may have with respect to a billing statement within ten (10) days of the statement date. Even if you dispute a portion of a billing statement, you agree to pay the undisputed portion within 30 days of your receipt of the statement. You will be responsible for any costs of collection incurred by the Firm, including reasonable attorneys' and paralegals' fees and costs.

Retainer Deposits: You agree to pay advance fee deposits in accordance with the provisions of the Agreement and the Terms. In addition, for matters involving litigation, arbitration, or adjudication of disputes in other tribunals, we reserve the right to request from you an additional deposit before trial or hearing in an amount reflective of the anticipated fees and costs of that proceeding. You agree to timely provide such a deposit. If you do not provide this deposit, we shall have the right to withdraw

from this representation, consistent with our obligations under applicable law and the rules of professional conduct, and you agree not to oppose our withdrawal.

Responses to Auditors' Inquiries: We are frequently asked to provide information to third-party auditing firms regarding legal matters of our clients. We respond to those inquiries with the same level of care that we use to handle our clients' other legal work, and we will charge for these services at the hourly rates applicable to your engagement. When an auditing firm requests information on your behalf, that request will be deemed to be your consent for us to disclose the requested information to that auditing firm and to bill for those services.

Permission to List the Company as a Client: Occasionally, we may provide lists of representative clients or matters to legal or other publications and may use our clients' names or a description of their matters in marketing materials. Unless you instruct otherwise, you agree that such use is acceptable.

Communications and Special Requirements: During the course of our engagement, we may exchange emails and electronic versions of documents with you using commercially available software. Such communications are occasionally victimized by the creation and dissemination of viruses and other destructive electronic programs and hackers who compromise the privacy of electronic communications. Our virus scanning software may also occasionally reject a communication that you send to us, or we may send you a message that is rejected by your system. Although infrequent, these occurrences are to be expected as part of the ordinary course of business. Accordingly, we cannot guarantee that our communications and documents will always be virus-free or immune from invasions of expected privacy. If for these or other reasons you would prefer or require that we not use electronic communications or that we follow special instructions or encrypt emails or other communications, you should promptly advise in writing those working on your matters of such preferences or requirements.

Ownership of Records and Files: You understand and agree that your client file consists of any correspondence, legal memoranda, pleadings, agreements, or other documents that the Firm retains in its electronic document management system, which is duplicated in hard copy. It is our policy to destroy all client files (including all documents and materials therein) no less than eight years following completion of each matter. This file destruction procedure is automatic, and you will not receive further notice prior to the destruction of these files. Accordingly, we advise you to maintain your own files relating to the matters which we are handling. Alternatively, you may request, prior to our scheduled destruction date, that we deliver all or certain portions of these client files to you rather than destroying them.

Termination: You may terminate our services at any time. If you choose to do so, you agree to give us prompt notice of the termination. Upon such termination, you will remain obligated to pay for all services rendered and costs paid or incurred on your behalf before the termination or which are reasonably necessary thereafter. If we are attorneys of record in any proceeding, you agree to promptly execute and return to us appropriate documents effecting our substitution or withdrawal. We will promptly return to you any remaining balance of your retainer as well as a copy of your client file, as described above.

Except to the extent limited by applicable law or rules of professional conduct, we may also withdraw from this representation at any time. We may withdraw, by way of example, if:

- You fail to fulfill an obligation to the Firm or to honor the terms of the Agreement or these Terms, such as by failing to pay our statements or to post deposits in a timely manner;
- You make it unreasonably difficult to represent you;
- Our continued representation of you will result in an unreasonable financial burden on the Firm; or
- Facts or circumstances arise that, in our view, render our continuing representation unlawful or unethical.

If we elect to withdraw, you agree to take all steps reasonably necessary to free us of any obligation to perform further services. Notwithstanding such withdrawal, you will remain obligated to pay us for all services provided and to reimburse us for all costs paid or incurred on your behalf before the termination or which are reasonably necessary thereafter.

Our representation of you will be considered terminated at the earliest of your termination of our representation, our withdrawal from our representation of you, or the substantial completion of our work for you (as may be evidenced by a final bill, by a substantial period of inactivity, or otherwise).

Disputes: All disputes arising out of or relating to the Agreement and these Terms shall be resolved in a binding arbitration administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures. The arbitration will take place in, and be administered in accordance with the laws of, the state in which the legal services provided by the Firm were primarily performed. The arbitrator shall award the substantially prevailing party its reasonable attorney fees and costs, and judgment on the award may be entered by a court of competent jurisdiction.

Interpretation and Effective Date: The Agreement and these Terms supersede all other prior and contemporaneous written and oral agreements and understanding between us, including any outside counsel guidelines or service level agreements, or the like, that you adopt, unless such outside counsel guidelines or service level agreements have been provided to us prior to the date of the Agreement or unless the Agreement and these Terms have been made expressly subject thereto. You acknowledge that no promises have been made to you by us other than those in the Agreement and these Terms. In the event that these Terms conflict with the Agreement, the Agreement will govern. If any provision of these Terms or the Agreement is found unenforceable, the remaining provisions will remain in effect. If the Agreement does not take effect for any reason, you will still be required to pay us the reasonable value of any services we performed for you and all costs actually and reasonably incurred on your behalf.