



BOARD OF TRUSTEES
REGULAR MEETING AGENDA

June 12, 2019
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 May 22, 2019 BOT Reg Meeting Minutes
 - 5.b. **Resolution 19-45**: A RESOLUTION APPROVING A 457 DEFERRED COMPENSATION PLAN FOR THE TOWN OF FIRESTONE - Account #30-0418
 - 5.c. **Resolution 19-46**: A RESOLUTION APPROVING A MONEY PURCHASE RETIREMENT PLAN 401(a) FOR THE TOWN OF FIRESTONE, COLORADO - Plan #10-0043
6. **Public Hearing**
 - 6.a. **Resolution 19-44**: A RESOLUTION APPROVING A OUTLINE DEVELOPMENT PLAN AMENDMENT NO. 3 FOR COTTONWOOD HOLLOW.
7. **Discussion/Action**
 - 7.a. 2019 Design A Flag Contest Winner - David Okada, Cultural Committee Chair presenting
 - 7.b. **Local Licensing Authority - Not a Public Hearing**
Carpco LLC & 7-11 Inc, dba 7-Eleven Store 34210D - Modification of Premises
 - 7.c. **Local Licensing Authority - Not a Public Hearing**
Maya Grille & Cantina, LLC - dba Maya Grill & Cantina - Modification of Premises

* 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 Clerk's Office at 303-833-3291 in advance of the meeting to make arrangements. A forty-eight-hour notice is requested.

- 7.d. Resolution 19-47:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND LEFT HAND WATER DISTRICT REGARDING WATER SERVICE
- 7.e. Resolution 19-48:** A RESOLUTION OF THE BOARD OF TRUSTEES AUTHORIZING THE APPROPRIATE TOWN OFFICIAL TO SIGN THE ENCROACHMENT LICENSE AGREEMENT WITH KERR-MCGEE GATHERING LLC
- 7.f. Resolution 19-49:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND COLORADO CIVIL GROUP, INC. REGARDING ENGINEERING DESIGN SERVICES FOR THE COLORADO BOULEVARD AND ZINNIA AVENUE TURN LANE IMPROVEMENTS PROJECT
- 7.g. Resolution 19-50:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND COLORADO CIVIL GROUP, INC. REGARDING ENGINEERING SERVICES FOR THE ST. VRAIN WATER TREATMENT PLANT TRANSMISSION PIPELINE ALIGNMENT STUDY

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

9. Reports/Committee Updates

- 9.a.** Staff
- 9.b.** Mayor
- 9.c.** Trustees

10. Executive Session

- 10.a.** An **Executive Session**, pursuant to C.R.S. 24-6-402(4)(e)(I), for purposes of determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations, and instructing negotiators regarding the creation of a water authority.

11. Adjournment

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TOWN OF FIRESTONE, COLORADO
Board of Trustees Regular Meeting
May 22, 2019

1. CALL TO ORDER & ROLL CALL

The Board of Trustees of the Town of Firestone met for a Regular Meeting on May 22, 2019, at the Town Hall, 151 Grant Avenue, Firestone, Colorado. Mayor Sindelar called the meeting to order at 7:01 p.m.

The following were present upon the call of the roll:

Mayor: Bobbi Sindelar

Mayor Pro-tem: Drew Peterson (absent-excused)

Trustees: Don Conyac
George Heath
Samantha Meiring
Frank A. Jimenez (absent-excused)
Doug Sharp

Staff: **Present:** Jan Sloat, Director of Human Resources; Dave Lindsay, Engineer; Marty Ostholhoff, Planning Manager; David Montgomery, Chief of Police; Leah Vanarsdall, Town Clerk; Julie Pasillas, Director of Community Resources; & William Hayashi, Town Attorney

2. PLEDGE OF ALLEGIANCE

Pledge of Allegiance was led by Mayor Bobbi Sindelar

3. APPROVAL OF AGENDA

Motion by Trustee Meiring, **second** by Trustee Conyac, to approve the Agenda

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

4. PUBLIC COMMENT

None

5. CONSENT AGENDA

Motion by Trustee Meiring, **second** by Trustee Conyac, to approve the Consent Agenda

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

6. PRESENTATION

- a. Colorado Law Enforcement State Accreditation – John Camper
- b. Santa Cops Awards – Beverly Medina and Chief Montgomery Walmart, Spindle/Hill Plant, Varra & COGA
Recognition for Deputy Chief Borders for Accreditation for 2019-2024
Officer Torres – LifeSaving Award
- c. Frederick-Firestone Fire Protection District – 1st Quarter Service Report – Jeremy Young, Fire Chief – Fires Station 4 Dedication – May 31, 2019 @ 2:00 pm
Introduction of Mary Leach Garner – Emergency Management Coordinator

7. DISCUSSTION/ACTION ITEMS

a. Resolution 19-40: A RESOLUTION AWARDING A CONSTRUCTION CONTRACT FOR THE WOOSTER AVENUE WATERLINE REPLACEMENT PROJECT

Motion by Trustee Heath, **second** by Trustee Meiring, to approve **Resolution 19-40**: A RESOLUTION AWARDING A CONSTRUCTION CONTRACT FOR THE WOOSTER AVENUE WATERLINE REPLACEMENT PROJECT and award contract to DeFalco Construction Co for \$307,501.90 and authorize Mayor to sign.

Roll Call Vote: Trustee Heath – yes, Trustee Conyac – yes, Trustee Meiring – yes, Trustee Sharp – yes. All in Favor, **Motion carried.**

b. Resolution 19-41: A RESOLUTION AWARDING A GEOTECHNICAL OBSERVATION AND MATERIAL TESTING CONTRACT FOR THE WOOSTER AVENUE WATERLINE REPLACEMENT PROJECT

Motion by Trustee Sharp, **second** by Trustee Conyac, to approve **Resolution 19-41**: A RESOLUTION AWARDING A GEOTECHNICAL OBSERVATION AND MATERIAL TESTING CONTRACT FOR THE WOOSTER AVENUE WATERLINE REPLACEMENT PROJECT and award contract to Cesare, Inc in an amount to not exceed \$4,325.00 and authorize Mayor to sign.

Roll Call Vote: Trustee Meiring – yes, Trustee Heath – yes, Trustee Conyac – yes, Trustee Sharp – yes. All in Favor, **Motion carried.**

c. Resolution 19-42: A RESOLUTION AWARDING A CONSTRUCTION ENGINEERING SERVICES CONTRACT FOR THE WOOSTER AVENUE WATERLINE REPLACEMENT PROJECT

Motion by Trustee Sharp, **second** by Trustee Meiring, to approve **Resolution 19-42**: A RESOLUTION AWARDING A CONSTRUCTION ENGINEERING SERVICES CONTRACT FOR THE WOOSTER AVENUE WATERLINE REPLACEMENT PROJECT and award contract to Colorado Civil Group Inc for an amount to not exceed \$28,000.00 and authorize Mayor to sign.

Roll Call Vote: Trustee Heath – yes, Trustee Conyac – yes, Trustee Meiring – yes, Trustee Sharp – yes. All in Favor, **Motion carried.**

d. Consideration of donation for Prairie Ridge Elementary School – Restorative Justice Program Training

Motion by Trustee Sharp, **second** by Trustee Meiring, to approve a donation in the amount of \$730.00 to Prairie Ridge Elementary School Restorative Justice Program Training.

Roll Call Vote: Trustee Heath – yes, Trustee Conyac – yes, Trustee Meiring – yes, Trustee Sharp – yes. All in Favor, **Motion carried.**

8. PUBLIC COMMENT * (maximum time permitted for all Public Comment is 30 minutes)
None

9. REPORTS/COMMITTEE UPDATES

a. Staff

9.a.i. Finance Update for April 2019

b. Mayor

c. Trustees

10. ADJOURNMENT

Motion by Trustee Heath, **second** by Trustee Meiring, to adjourn meeting at 7:47 pm. All in Favor, **Motion carried.**

Introduced and Approved this 12th day of June, 2019.

TOWN OF FIRESTONE, COLORADO

Bobbi Sindelar, Mayor

ATTEST

Leah Vanarsdall, Town Clerk

AGENDA INFORMATION MEMORANDUM

FIRESTONE TOWN BOARD OF TRUSTEES



AIM#: 5.b.

Consent Agenda

Meeting Date: June 12, 2019

Initiated By:

Dept: Finance/Accounting

AGENDA TITLE

Resolution 19-45: A RESOLUTION APPROVING A 457 DEFERRED COMPENSATION PLAN FOR THE TOWN OF FIRESTONE - Account #30-0418

SUMMARY

Included in Agenda Item 5d are the Resolution 19-45 and the Agreement with ICMA Retirement Corporation.

The 457 Deferred Compensation Plan provides employees with the opportunity to contribute pre-tax dollars into a 457 Deferred Retirement Plan with ICMA.

Funds will be invested in VantageTrust.

The Director of Finance for the Town of Firestone will be the coordinator for the Plan.

HISTORY AND PREVIOUS BOARD ACTION

N/A

RECOMMENDATION

Motion to Approve Resolution 19-45: A Resolution approving a 457 Deferred Compensation Plan for the Town of Firestone - Account #30-0418

ALTERNATIVES

Board to give Staff further direction.

ATTACHMENTS

1. 5c - Reso 19-45 457 Deferred
2. 5c-d - ICMA Retirement Corp 457-401 Agreement 061219

FINANCIAL CONSIDERATIONS

No additional fees

RESOLUTION 19-45

**A RESOLUTION APPROVING A 457 DEFERRED COMPENSATION PLAN FOR THE TOWN OF
FIRESTONE, COLORADO - Account # 30-0418**

WHEREAS, the Town of Firestone has employees rendering valuable services; and

WHEREAS, the establishment of a Deferred Compensation Plan for such employees serves the interests of the Town of Firestone by enabling it to provide reasonable retirement security for its employees, by providing increased flexibility in its personnel management system, and by assisting in the attraction and retention of competent personnel; and

WHEREAS, the Town of Firestone has determined that the establishment of a Deferred Compensation Plan to be administered by the ICMA Retirement Corporation serves the above objectives, and

WHEREAS, the Town of Firestone desires that its Deferred Compensation Plan be administered by the ICMA Retirement Corporation, and the some or all of the funds held under such plan be invested in VantageTrust, a trust established by public employers for the collective investment of funds held under their retirement and deferred compensation plans;

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

Adopts the Deferred Compensation Plan (the "Plan") in the form of:

The ICMA Retirement Corporation Deferred Compensation Plan and Trust, referred to as Appendix A.

BE IT FURTHER RESOLVED THAT THE Town of Firestone hereby adopts the Declaration of Trust of VantageTrust, attached hereto as Appendix B, intending this adoption to be operative with respect to any retirement or Deferred Compensation Plan subsequently established by the Town of Firestone, if the assets of the plan are to be invested in VantageTrust.

BE IT FURTHER RESOLVED that the assets of the Plan shall be held in trust, with the Town of Firestone serving as a trustee, for the exclusive benefit of the Plan participants and their beneficiaries, and the assets shall not be diverted to any other purpose.

BE IT FURTHER RESOLVED that the Town of Firestone hereby agrees to serve as trustee under the Plan.

BE IT FURTHER RESOLVED that the Finance Director shall be the coordinator for this program; shall receive necessary reports, notices, etc. from ICMA Retirement Corporation or VantageTrust; shall cast, on behalf of the Town of Firestone, any required votes under VantageTrust; Administrative duties to carry out the plan may be assigned to the appropriate departments; and is authorized to execute all necessary agreements with ICMA Retirement Corporation incidental to the administration of the Plan.

PASSED AND ADOPTED this 12th day of June 2019.

Bobbi Sindelar, Mayor

ATTEST:

Leah Vanarsdall, Town Clerk

ADMINISTRATIVE SERVICES AGREEMENT

Between

ICMA Retirement Corporation

and

Town of Firestone

Type: 457

Account #:300418

Type: 401

Account #: 100043

ADMINISTRATIVE SERVICES AGREEMENT

This Administrative Services Agreement (“Agreement”), made as of the day of , 20____ between the International City Management Association Retirement Corporation (“ICMA-RC”), a nonprofit corporation organized and existing under the laws of the State of Delaware, and the Town of Firestone (“Employer”), a town organized and existing under the laws of the State of Colorado with an office at 151 Grant Avenue, Firestone, Colorado 80520.

RECITALS

Employer acts as public plan sponsor of a retirement plan (“Plan”), and in that capacity, has responsibility to obtain administrative services and investment alternatives for the Plan;

VantageTrust is a group trust established and maintained in accordance with New Hampshire Revised Statutes Annotated section 391:1 and Internal Revenue Service Revenue Ruling 81-100, 1981-1 C.B. 326, which provides for the commingled investment of retirement funds;

ICMA-RC, or its wholly owned subsidiary, acts as investment adviser to VantageTrust Company, LLC, the Trustee of VantageTrust;

ICMA-RC has designed, and VantageTrust offers, a series of separate funds (the “Funds”) for the investment of plan assets as referenced in VantageTrust’s principal disclosure documents, the VantageTrust Disclosure Memorandum and the Funds’ Fact Sheets (together, “VT Disclosures”); and

ICMA-RC provides a range of services to public employers for the operation of employee retirement plans including, but not limited to, communications concerning investment alternatives, account maintenance, account recordkeeping, investment and tax reporting, transaction processing, and benefit disbursement.

AGREEMENTS

1. Appointment of ICMA-RC

Employer hereby appoints ICMA-RC as Administrator of the Plan to perform all nondiscretionary functions necessary for the administration of the Plan. The functions to be performed by ICMA-RC shall be those set forth in Exhibit A to this Agreement.

2. Adoption of Trust

Employer has adopted the Declaration of Trust of VantageTrust Company and agrees to the commingled investment of assets of the Plan within VantageTrust. Employer agrees that the investment, management, and distribution of amounts deposited in VantageTrust shall be subject to the Declaration of Trust, as it may be amended from time to time and shall also be subject to terms and conditions set forth in disclosure documents (such as the VT Disclosures or Employer Bulletins) as those terms and conditions may be adjusted from time to time.

3. Employer Duty to Furnish Information

Employer agrees to furnish to ICMA-RC on a timely basis such information as is necessary for ICMA-RC to carry out its responsibilities as Administrator of the Plan, including information needed to allocate individual participant accounts to Funds in VantageTrust, and information as to the employment status of participants, and participant ages, addresses, and other identifying information (including tax identification numbers). Employer also agrees that it will notify ICMA-RC in a timely manner regarding changes in staff as it relates to various roles. Such notification is to be completed through the online EZLink employer contact options. ICMA-RC shall be entitled to rely upon the accuracy of any information that is furnished to it by a responsible official of the Employer or any information relating to an individual participant or beneficiary that is furnished by such participant or beneficiary, and ICMA-RC shall not be responsible for any error arising from its reliance on such information. ICMA-RC will provide reports, statements and account information to the Employer through EZLink, the online plan administrative tool.

Employer is required to send in contributions through EZLink, the online plan administration tool provided by ICMA-RC. Alternative electronic methods may be allowed, but must be approved by ICMA-RC for use. Contributions may not be sent through paper submittal documents.

To the extent Employer selects third-party funds that do not have fund profile information provided to ICMA-RC through our electronic data feeds from external sources (such as Morningstar) or third party fund providers, the Employer is responsible for providing to ICMA-RC timely fund investment updates for disclosure to Plan participants. Such updates may be provided to ICMA-RC through the Employer's investment consultant or other designated representative.

4. ICMA-RC Representations and Warranties

ICMA-RC represents and warrants to Employer that:

- (a) ICMA-RC is a non-profit corporation with full power and authority to enter into this Agreement and to perform its obligations under this Agreement. The ability of ICMA-RC, or its wholly owned subsidiary, to serve as investment adviser to VantageTrust Company is dependent upon the continued willingness of VantageTrust Company for ICMA-RC, or its wholly owned subsidiary, to serve in that capacity.
- (b) ICMA-RC is an investment adviser registered as such with the U.S. Securities and Exchange Commission under the Investment Advisers Act of 1940, as amended.
- (c)(i) ICMA-RC shall maintain and administer the Plan in accordance with the requirements for eligible deferred compensation plans under Section 457 of the Internal Revenue Code and other applicable federal law; provided, however, that ICMA-RC shall not be responsible for the eligible status of the Plan in the event that the Employer directs ICMA-RC to administer the Plan or disburse assets in a manner inconsistent with the requirements of Section 457 or otherwise causes the Plan not to be carried out in accordance with its terms. Further, in the event that the Employer uses its own customized plan document, ICMA-RC shall not be responsible for the eligible status of the Plan to the extent affected by terms in the Employer's plan document that differ from those in ICMA-RC's standard plan document. ICMA-RC shall not be responsible for monitoring state or local law applicable to retirement plans or for administering the Plan in compliance with local or state requirements regarding plan administration unless Employer notifies ICMA-RC of any such local or state requirements.
- (c)(ii) ICMA-RC shall maintain and administer the Plan in accordance with the requirements for plans which satisfy the qualification requirements of Section 401 of the Internal Revenue Code and other applicable federal law; provided, however, ICMA-RC shall not be responsible for the qualified status of the Plan in the event that the Employer directs ICMA-RC to administer the Plan or disburse assets in a manner inconsistent with the requirements of Section 401 or otherwise causes the Plan not to be carried out in accordance with its terms; provided, further, that if the plan document used by the Employer contains terms that differ from the terms of ICMA-RC's standardized plan document, ICMA-RC shall not be responsible for the qualified status of the Plan to the extent affected by the differing terms in the Employer's plan document. ICMA-RC shall not be responsible for monitoring state or local law applicable to retirement plans or for administering the Plan in compliance with local or state

requirements regarding plan administration unless Employer notifies ICMA-RC of any such local or state requirements.

5. Employer Representations and Warranties

Employer represents and warrants to ICMA-RC that:

- (a) Employer is organized in the form and manner recited in the opening paragraph of this Agreement with full power and authority to enter into and perform its obligations under this Agreement and to act for the Plan and participants in the manner contemplated in this Agreement. Execution, delivery, and performance of this Agreement will not conflict with any law, rule, regulation or contract by which the Employer is bound or to which it is a party.
- (b) Employer understands and agrees that ICMA-RC's sole function under this Agreement is to act as recordkeeper and to provide administrative, investment or other services at the direction of Plan participants, the Employer, its agents or designees in accordance with the terms of this Agreement. Under the terms of this Agreement, ICMA-RC does not render investment advice, is neither the "Plan Administrator" nor "Plan Sponsor" as those terms are defined under applicable federal, state, or local law, and does not provide legal, tax or accounting advice with respect to the creation, adoption or operation of the Plan and its related trust. ICMA-RC does not perform any service under this Agreement that might cause ICMA-RC to be treated as a "fiduciary" of the Plan under applicable law, except, and only, to the extent that ICMA-RC provides investment advisory services to individual participants enrolled in Guided Pathways Advisory Services.
- (c) Employer acknowledges and agrees that ICMA-RC does not assume any responsibility with respect to the selection or retention of the Plan's investment options. Employer shall have exclusive responsibility for the Plan's investment options, including the selection of the applicable mutual fund share class. Where applicable, Employer understands that the VT Retirement IncomeAdvantage Fund is an investment option for the Plan and that the fund invests in a separate account available through a group variable annuity contract. By entering into this Agreement, Employer acknowledges that it has received the Important Considerations document and the VT Disclosures and that it has read the information therein concerning the VT Retirement IncomeAdvantage Fund.
- (d) Employer acknowledges that certain such services to be performed by ICMA-RC under this Agreement may be performed by an affiliate or agent of ICMA-RC pursuant to one or more other contractual arrangements or relationships, and that ICMA-RC reserves the right to

change vendors with which it has contracted to provide services in connection with this Agreement without prior notice to Employer.

- (e) Employer acknowledges that it has received ICMA-RC's Fee Disclosure Statement, prepared in substantial conformance with ERISA regulations regarding the disclosure of fees to plan sponsors.
- (f) Employer approves the use of its Plan in ICMA-RC external media, publications and materials. Examples include press releases announcements and inclusion of the general plan information in request for proposal responses.

6. Participation in Certain Proceedings

The Employer hereby authorizes ICMA-RC to act as agent, to appear on its behalf, and to join the Employer as a necessary party in all legal proceedings involving the garnishment of benefits or the transfer of benefits pursuant to the divorce or separation of participants in the Plan. Unless Employer notifies ICMA-RC otherwise, Employer consents to the disbursement by ICMA-RC of benefits that have been garnished or transferred to a former spouse, current spouse, or child pursuant to a domestic relations order or child support order.

7. Compensation and Payment

- (a) **Plan Administration Fee.** The amount to be paid for plan administration services under this Agreement shall be 0.55% per annum of the amount of Plan assets invested in VantageTrust. Such fee shall be computed based on average daily net Plan assets in VantageTrust.

- (b) **Compensation for Management Services to VantageTrust, Compensation for Advisory and other Services to the VT III Vantagepoint Funds and Payments from Third-Party Mutual Funds.** Employer acknowledges that, in addition to amounts payable under this Agreement, ICMA-RC, or its wholly owned subsidiary, receives fees from VantageTrust for investment advisory services and plan and participant services furnished to VantageTrust. Employer further acknowledges that ICMA-RC, including certain of its wholly owned subsidiaries, receives compensation for advisory and other services furnished to the VT III Vantagepoint Funds, which serve as the underlying portfolios of a number of Funds offered through VantageTrust. For a VantageTrust Fund that invests substantially all of its assets in a third-party mutual fund not affiliated with ICMA-RC, ICMA-RC or its wholly owned subsidiary receives payments from the third-party mutual fund families or their service providers in the form of 12b-1 fees, service fees, compensation for sub-accounting and other services provided based on assets in the underlying third-party mutual fund. These fees are described in the VT Disclosures and ICMA-RC's fee disclosure statement. In

addition, to the extent that third party mutual funds are included in the investment line-up for the Plan, ICMA-RC receives administrative fees from its third party mutual fund settlement and clearing agent for providing administrative and other services based on assets invested in third party mutual funds; such administrative fees come from payments made by third party mutual funds to the settlement and clearing agent.

- (c) **Employer Fee.** There shall be an annual Employer fee of \$1000. The annual Employer Fee will be billed in equal amounts on a quarterly basis and is payable within 30 days after the quarterly billing cycle. The Employer Fee will be charged as long as there are Plan assets, regardless of the status of the participant(s). The Employer acknowledges that, in the event the Employer fails to pay the Employer fee when due, such fee shall be paid directly from assets held on behalf of the Plans(s) under VantageTrust, i.e., deducting the fees from the Plan participant accounts. Plans that are initially established mid-year will be billed on a pro-rata basis.
- (d) **Redemption Fees.** Redemption fees imposed by outside mutual funds in which Plan assets are invested are collected and paid to the mutual fund by ICMA-RC. ICMA-RC remits 100% of redemption fees back to the specific mutual fund to which redemption fees apply. These redemption fees and the individual mutual fund's policy with respect to redemption fees are specified in the prospectus for the individual mutual fund and referenced in the VT Disclosures.
- (e) **Payment Procedures.** All payments to ICMA-RC pursuant to Section 7(a) shall be paid out of the Plan assets held by VantageTrust or received from third-party mutual funds or their service providers in connection with Plan assets invested in such third-party mutual funds, to the extent not paid by the Employer. All payments to ICMA-RC pursuant to Section 7(c) shall be paid directly by Employer and shall not be deducted from Plan Assets. The amount of Plan assets administered by ICMA-RC shall be adjusted as required to reflect any such payments as are made from the Plan. In the event that the Employer agrees to pay amounts owed pursuant to this Section 7 directly, any amounts unpaid and outstanding after 30 days of invoice to the Employer shall be withdrawn from Plan assets.

The compensation and payment set forth in this Section 7 are contingent upon the Employer's use of ICMA-RC's EZLink system for contribution processing and submitting contribution funds by ACH or wire transfer on a consistent basis over the term of this Agreement.

8. Contribution Remittance

Employer understands that amounts invested in the Plan are to be remitted directly to Vantagepoint Transfer Agents in accordance with instructions provided to Employer by ICMA-RC and are not to be remitted to ICMA-RC. In the event that any check or wire

transfer is incorrectly labeled or transferred to ICMA-RC, ICMA-RC may return it to Employer with proper instructions.

9. Indemnification

ICMA-RC shall not be responsible for any acts or omissions of any person with respect to the Plan or its related trust, other than ICMA-RC in connection with the administration or operation of the Plan. Employer shall indemnify ICMA-RC against, and hold ICMA-RC harmless from, any and all loss, damage, penalty, liability, cost, and expense, including without limitation, reasonable attorney's fees, that may be incurred by, imposed upon, or asserted against ICMA-RC by reason of any claim, regulatory proceeding, or litigation arising from any act done or omitted to be done by any individual or person with respect to the Plan or its related trust, excepting only any and all loss, damage, penalty, liability, cost or expense resulting from ICMA-RC's negligence, bad faith, or willful misconduct.

10. Term

This Agreement shall be in effect and commence on the date all parties have signed and executed this Agreement ("Inception Date"). This Agreement may be terminated without penalty by either party on sixty days advance notice in writing to the other; provided however, that the Employer understands and acknowledges that, in the event the Employer terminates this Agreement (or replaces the Vantagepoint PLUS Fund, offered by VantageTrust, as an investment option in its investment line-up), ICMA-RC retains full discretion to release Plan assets invested in the Vantagepoint PLUS Fund in an orderly manner over a period of up to 12 months from the date ICMA-RC receives written notification from the Employer that it has made a final and binding selection of a replacement for ICMA-RC as administrator of the Plan (or a replacement investment option for the Vantagepoint PLUS Fund).

11. Amendments and Adjustments

- (a) This Agreement may be amended by written instrument signed by the parties.
- (b) ICMA-RC may modify this agreement by providing 60 days' advance written notice to the Employer prior to the effective date of such proposed modification. Such modification shall become effective unless, within the 60-day notice period, the Employer notifies ICMA-RC in writing that it objects to such modification.
- (c) The parties agree that enhancements may be made to administrative services under this Agreement. The Employer will be notified of enhancements through the Employer Bulletin, quarterly statements, electronic messages or special mailings. Likewise, if there are any reductions in fees, these will be announced through the Employer Bulletin, quarterly statement, electronic messages or special mailing.

12. Notices

Unless otherwise provided in this Agreement, all notices required to be delivered under this Agreement shall be in writing and shall be delivered, mailed, e-mailed or faxed to the location of the relevant party set forth below or to such other address or to the attention of such other persons as such party may hereafter specify by notice to the other party.

ICMA-RC: Legal Department, ICMA Retirement Corporation, 777 North Capitol Street, N.E., Suite 600, Washington, D.C., 20002-4240
Facsimile; (202) 962-4601

Employer: at the office set forth in the first paragraph hereof, or to any other address, facsimile number or e-mail address designated by the Employer to receive the same by written notice similarly given.

Each such notice, request or other communication shall be effective: (i) if given by facsimile, when transmitted to the applicable facsimile number and there is appropriate confirmation of receipt; (ii) if given by mail or e-mail, upon transmission to the designated address with no indication that such address is invalid or incorrect; or (iii) if given by any other means, when actually delivered at the aforesaid address.

13. Complete Agreement

This Agreement shall constitute the complete and full understanding and sole agreement between ICMA-RC and Employer relating to the object of this Agreement and correctly sets forth the complete rights, duties and obligations of each party to the other as of its date. This Agreement supersedes all written and oral agreements, communications or negotiations among the parties. Any prior agreements, promises, negotiations or representations, verbal or otherwise, not expressly set forth in this Agreement are of no force and effect.

14. Titles

The headings of Sections of this Agreement and the headings for each of the attached schedules are for convenience only and do not define or limit the contents thereof.

15. Incorporation of Exhibits

All Exhibits (and any subsequent amendments thereto), attached hereto, and referenced herein, are hereby incorporated within this Agreement as if set forth fully herein.

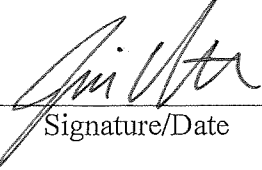
16. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado, applicable to contracts made in that jurisdiction without reference to its conflicts of laws provisions.

Plan number: 100043, 300418

In Witness Whereof, the parties hereto certify that they have read and understand this Agreement and all Schedules attached hereto and have caused this Agreement to be executed by their duly authorized officers as of the Inception Date first above written.

TOWN OF FIRESTONE

By _____
Signature/Date

By Jessica Clanton, Dir. of Finance
Name and Title (Please Print)

INTERNATIONAL CITY MANAGEMENT
ASSOCIATION RETIREMENT CORPORATION

By _____
Erica McFarquhar
Assistant Secretary

Please return an executed copy of the Agreement to a Delivery Address, either:

- (a) Electronically to PlanAdoptionServices@icmarc.org, or
- (b) In paper form to ICMA-RC
ATTN: PLAN ADOPTION SERVICES
777 North Capitol Street NE
Suite 600
Washington DC 20002-4240

Exhibit A

Administrative Services

The administrative services to be performed by ICMA-RC under this Agreement shall be as follows:

- (a) Participant enrollment services, including providing a welcome package and enrollment kit containing instructions and notices necessary to implement the Plan's administration. Employees will enroll online or through a paper form. Employer can also enroll employees through EZLink.
- (b) Establishment of participant accounts for each employee participating in the Plan for whom ICMA-RC receives appropriate enrollment instructions. ICMA-RC is not responsible for determining if such Plan participants are eligible under the terms of the Plan.
- (c) Allocation in accordance with participant directions received in good order of individual participant accounts to investment funds offered under the Plan.
- (d) Maintenance of individual accounts for participants reflecting amounts deferred, income, gain or loss credited, and amounts distributed as benefits.
- (e) Maintenance of records for all participants for whom participant accounts have been established. These files shall include enrollment instructions (provided to ICMA-RC through Account Access or EZLink), beneficiary designation instructions and all other documents concerning each participant's account.
- (f) Provision of periodic reports to the Employer through EZLink. Participants will have access to account information through Investor Services, Voice Response System, Account Access, TextAccess and through quarterly statements that can be delivered electronically through Account Access or by postal service.
- (g) Communication to participants of information regarding their rights and elections under the Plan.
- (h) Making available Investor Services Representatives through a toll-free telephone number from 8:30 a.m. to 9:00 p.m. Eastern Time, Monday through Friday (excluding holidays and days on which the securities markets or ICMA-RC are closed for business (including emergency closings)), to assist participants.
- (i) Making available access to ICMA-RC's web site, to allow participants to access certain account information and initiate certain plan transactions at any time. Account access is normally available 24 hours a day, seven days a week except during scheduled maintenance periods designed to ensure high-quality performance. The scheduled maintenance window is outlined at <https://harper1.icmarc.org/login.jsp>.
- (j) Maintaining the security and confidentiality of client information through a system of controls including but not limited to, as appropriate: restricting plan and participant information only to those who need it to provide services, software

and hardware security, access controls, data back-up and storage procedures, non-disclosure agreements, security incident response procedures, and audit reviews.

- (k) Making available access to ICMA-RC's plan sponsor EZLink web site to allow plan sponsors to access certain plan information and initiate plan transactions such as enrolling participants and managing contributions at any time. EZLink is normally available 24 hours a day, seven days a week except during scheduled maintenance periods designed to ensure high-quality performance. The scheduled maintenance window is outlined at <https://harper1.icmarc.org/login.jsp>.
- (l) Distribution of benefits as agent for the Employer in accordance with terms of the Plan. Participants who have separated from service can request distributions through Account Access or via form.
- (m) Upon approval by the Employer that a domestic relations order is an acceptable qualified domestic relations order under the terms of the Plan, ICMA-RC will establish a separate account record for the alternate payee and provide for the investment and distribution of assets held thereunder.
- (n) Loans may be made available on the terms specified in the Loan Guidelines, if loans are adopted by the Employer. Participants can request loans through Account Access.
- (o) Guided Pathways Advisory Services – ICMA-RC's participant advice service, "Fund Advice", and asset allocation service, "Asset Class Guidance" may be made available through a third party vendor on the terms specified on ICMA-RC's website.
- (p) ICMA-RC will determine appropriate delivery method (electronic and/or print) for plan sponsor/participant communications and education based on a number of factors (audience, effectiveness, etc.).

AGENDA INFORMATION MEMORANDUM

FIRESTONE TOWN BOARD OF TRUSTEES



AIM#: 5.c.

Consent Agenda

Meeting Date: June 12, 2019

Initiated By: Jessica Clanton

Dept: Finance/Accounting

AGENDA TITLE

Resolution 19-46: A RESOLUTION APPROVING A MONEY PURCHASE RETIREMENT PLAN 401(a) FOR THE TOWN OF FIRESTONE, COLORADO - Plan #10-0043

SUMMARY

Included in Agenda Item 5c are the Resolution 19-46 and the Agreement with ICMA Retirement Corporation.

The Money Purchase Retirement Plan 401(a) allows the Town of Firestone to contribute funds to the Town Manager's retirement fund per his Employment Contract.

Funds will be invested in VantageTrust.

The Director of Finance for the Town of Firestone will be the coordinator for the Plan.

HISTORY AND PREVIOUS BOARD ACTION

The Town currently only offers PERA as the Retirement Plan option.

PERA is contributed to by the Town and by the employee.

RECOMMENDATION

To Approve Resolution 19-46: A Resolution approving a Money Purchase Retirement Plan 401(a) for the Town of Firestone, Colorado - Plan #10-0043

ALTERNATIVES

Board to give further direction to Staff

ATTACHMENTS

1. 5c - Reso 19-46 Money Purchase Plan
2. 5c-d - ICMA Retirement Corp 457-401 Agreement 061219

FINANCIAL CONSIDERATIONS

No additional fees

RESOLUTION 19-46

**A RESOLUTION APPROVING A MONEY PURCHASE RETIREMENT PLAN 401(a) FOR THE TOWN OF
FIRESTONE, COLORADO**

Plan # 10-0043

WHEREAS, the Town of Firestone has employees rendering valuable services; and

WHEREAS, the establishment of a Money Purchase Retirement Plan benefits employees by providing funds for retirement and funds for their beneficiaries in the event of death; and

WHEREAS, the Town of Firestone desires that its Money Purchase Retirement Plan 401(a) be administered by ICMA Retirement Corporation and that the funds held in such plan be invested in VantageTrust, a trust established by public employers for the collective investment of funds held under their retirement and deferred compensation plans:

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

Hereby establishes or has established a Money Purchase Retirement Plan 401(a) (the "Plan") in the form of:

The ICMA Retirement Corporation Governmental Money Purchase Plan 401(a) & Trust, pursuant to the specific provisions of the Adoption Agreement (executed copy attached hereto).

The Plan shall be maintained for the exclusive benefit of eligible employees and their beneficiaries; and

BE IT FURTHER RESOLVED THAT the Town of Firestone hereby adopts the Declaration of Trust of VantageTrust, intending this adoption to be operative with respect to any retirement or deferred compensation plan subsequently established by the Town of Firestone, if the assets of the Plan are to be invested in VantageTrust.

BE IT FURTHER RESOLVED that the Town of Firestone hereby agrees to serve as trustee under the Plan and to invest funds held under the Plan in VantageTrust; and

BE IT FURTHER RESOLVED that the Finance Director shall be the coordinator for the Plan; shall receive necessary reports, notices, etc. from ICMA Retirement Corporation or VantageTrust; shall cast, on behalf of the Town of Firestone, any required votes under VantageTrust; may delegate any Administrative duties, to carry out the plan, may be assigned to the appropriate departments, and is authorized to execute all necessary agreements with ICMA Retirement Corporation incidental to the administration of the Plan.

PASSED AND ADOPTED this 12th day of June 2019.

Bobbi Sindelar, Mayor

ATTEST:

Leah Vanarsdall, Town Clerk

ADMINISTRATIVE SERVICES AGREEMENT

Between

ICMA Retirement Corporation

and

Town of Firestone

Type: 457

Account #:300418

Type: 401

Account #: 100043

ADMINISTRATIVE SERVICES AGREEMENT

This Administrative Services Agreement (“Agreement”), made as of the day of , 20____ between the International City Management Association Retirement Corporation (“ICMA-RC”), a nonprofit corporation organized and existing under the laws of the State of Delaware, and the Town of Firestone (“Employer”), a town organized and existing under the laws of the State of Colorado with an office at 151 Grant Avenue, Firestone, Colorado 80520.

RECITALS

Employer acts as public plan sponsor of a retirement plan (“Plan”), and in that capacity, has responsibility to obtain administrative services and investment alternatives for the Plan;

VantageTrust is a group trust established and maintained in accordance with New Hampshire Revised Statutes Annotated section 391:1 and Internal Revenue Service Revenue Ruling 81-100, 1981-1 C.B. 326, which provides for the commingled investment of retirement funds;

ICMA-RC, or its wholly owned subsidiary, acts as investment adviser to VantageTrust Company, LLC, the Trustee of VantageTrust;

ICMA-RC has designed, and VantageTrust offers, a series of separate funds (the “Funds”) for the investment of plan assets as referenced in VantageTrust’s principal disclosure documents, the VantageTrust Disclosure Memorandum and the Funds’ Fact Sheets (together, “VT Disclosures”); and

ICMA-RC provides a range of services to public employers for the operation of employee retirement plans including, but not limited to, communications concerning investment alternatives, account maintenance, account recordkeeping, investment and tax reporting, transaction processing, and benefit disbursement.

AGREEMENTS

1. Appointment of ICMA-RC

Employer hereby appoints ICMA-RC as Administrator of the Plan to perform all nondiscretionary functions necessary for the administration of the Plan. The functions to be performed by ICMA-RC shall be those set forth in Exhibit A to this Agreement.

2. Adoption of Trust

Employer has adopted the Declaration of Trust of VantageTrust Company and agrees to the commingled investment of assets of the Plan within VantageTrust. Employer agrees that the investment, management, and distribution of amounts deposited in VantageTrust shall be subject to the Declaration of Trust, as it may be amended from time to time and shall also be subject to terms and conditions set forth in disclosure documents (such as the VT Disclosures or Employer Bulletins) as those terms and conditions may be adjusted from time to time.

3. Employer Duty to Furnish Information

Employer agrees to furnish to ICMA-RC on a timely basis such information as is necessary for ICMA-RC to carry out its responsibilities as Administrator of the Plan, including information needed to allocate individual participant accounts to Funds in VantageTrust, and information as to the employment status of participants, and participant ages, addresses, and other identifying information (including tax identification numbers). Employer also agrees that it will notify ICMA-RC in a timely manner regarding changes in staff as it relates to various roles. Such notification is to be completed through the online EZLink employer contact options. ICMA-RC shall be entitled to rely upon the accuracy of any information that is furnished to it by a responsible official of the Employer or any information relating to an individual participant or beneficiary that is furnished by such participant or beneficiary, and ICMA-RC shall not be responsible for any error arising from its reliance on such information. ICMA-RC will provide reports, statements and account information to the Employer through EZLink, the online plan administrative tool.

Employer is required to send in contributions through EZLink, the online plan administration tool provided by ICMA-RC. Alternative electronic methods may be allowed, but must be approved by ICMA-RC for use. Contributions may not be sent through paper submittal documents.

To the extent Employer selects third-party funds that do not have fund profile information provided to ICMA-RC through our electronic data feeds from external sources (such as Morningstar) or third party fund providers, the Employer is responsible for providing to ICMA-RC timely fund investment updates for disclosure to Plan participants. Such updates may be provided to ICMA-RC through the Employer's investment consultant or other designated representative.

4. ICMA-RC Representations and Warranties

ICMA-RC represents and warrants to Employer that:

- (a) ICMA-RC is a non-profit corporation with full power and authority to enter into this Agreement and to perform its obligations under this Agreement. The ability of ICMA-RC, or its wholly owned subsidiary, to serve as investment adviser to VantageTrust Company is dependent upon the continued willingness of VantageTrust Company for ICMA-RC, or its wholly owned subsidiary, to serve in that capacity.
- (b) ICMA-RC is an investment adviser registered as such with the U.S. Securities and Exchange Commission under the Investment Advisers Act of 1940, as amended.
- (c)(i) ICMA-RC shall maintain and administer the Plan in accordance with the requirements for eligible deferred compensation plans under Section 457 of the Internal Revenue Code and other applicable federal law; provided, however, that ICMA-RC shall not be responsible for the eligible status of the Plan in the event that the Employer directs ICMA-RC to administer the Plan or disburse assets in a manner inconsistent with the requirements of Section 457 or otherwise causes the Plan not to be carried out in accordance with its terms. Further, in the event that the Employer uses its own customized plan document, ICMA-RC shall not be responsible for the eligible status of the Plan to the extent affected by terms in the Employer's plan document that differ from those in ICMA-RC's standard plan document. ICMA-RC shall not be responsible for monitoring state or local law applicable to retirement plans or for administering the Plan in compliance with local or state requirements regarding plan administration unless Employer notifies ICMA-RC of any such local or state requirements.
- (c)(ii) ICMA-RC shall maintain and administer the Plan in accordance with the requirements for plans which satisfy the qualification requirements of Section 401 of the Internal Revenue Code and other applicable federal law; provided, however, ICMA-RC shall not be responsible for the qualified status of the Plan in the event that the Employer directs ICMA-RC to administer the Plan or disburse assets in a manner inconsistent with the requirements of Section 401 or otherwise causes the Plan not to be carried out in accordance with its terms; provided, further, that if the plan document used by the Employer contains terms that differ from the terms of ICMA-RC's standardized plan document, ICMA-RC shall not be responsible for the qualified status of the Plan to the extent affected by the differing terms in the Employer's plan document. ICMA-RC shall not be responsible for monitoring state or local law applicable to retirement plans or for administering the Plan in compliance with local or state

requirements regarding plan administration unless Employer notifies ICMA-RC of any such local or state requirements.

5. Employer Representations and Warranties

Employer represents and warrants to ICMA-RC that:

- (a) Employer is organized in the form and manner recited in the opening paragraph of this Agreement with full power and authority to enter into and perform its obligations under this Agreement and to act for the Plan and participants in the manner contemplated in this Agreement. Execution, delivery, and performance of this Agreement will not conflict with any law, rule, regulation or contract by which the Employer is bound or to which it is a party.
- (b) Employer understands and agrees that ICMA-RC's sole function under this Agreement is to act as recordkeeper and to provide administrative, investment or other services at the direction of Plan participants, the Employer, its agents or designees in accordance with the terms of this Agreement. Under the terms of this Agreement, ICMA-RC does not render investment advice, is neither the "Plan Administrator" nor "Plan Sponsor" as those terms are defined under applicable federal, state, or local law, and does not provide legal, tax or accounting advice with respect to the creation, adoption or operation of the Plan and its related trust. ICMA-RC does not perform any service under this Agreement that might cause ICMA-RC to be treated as a "fiduciary" of the Plan under applicable law, except, and only, to the extent that ICMA-RC provides investment advisory services to individual participants enrolled in Guided Pathways Advisory Services.
- (c) Employer acknowledges and agrees that ICMA-RC does not assume any responsibility with respect to the selection or retention of the Plan's investment options. Employer shall have exclusive responsibility for the Plan's investment options, including the selection of the applicable mutual fund share class. Where applicable, Employer understands that the VT Retirement IncomeAdvantage Fund is an investment option for the Plan and that the fund invests in a separate account available through a group variable annuity contract. By entering into this Agreement, Employer acknowledges that it has received the Important Considerations document and the VT Disclosures and that it has read the information therein concerning the VT Retirement IncomeAdvantage Fund.
- (d) Employer acknowledges that certain such services to be performed by ICMA-RC under this Agreement may be performed by an affiliate or agent of ICMA-RC pursuant to one or more other contractual arrangements or relationships, and that ICMA-RC reserves the right to

change vendors with which it has contracted to provide services in connection with this Agreement without prior notice to Employer.

- (e) Employer acknowledges that it has received ICMA-RC's Fee Disclosure Statement, prepared in substantial conformance with ERISA regulations regarding the disclosure of fees to plan sponsors.
- (f) Employer approves the use of its Plan in ICMA-RC external media, publications and materials. Examples include press releases announcements and inclusion of the general plan information in request for proposal responses.

6. Participation in Certain Proceedings

The Employer hereby authorizes ICMA-RC to act as agent, to appear on its behalf, and to join the Employer as a necessary party in all legal proceedings involving the garnishment of benefits or the transfer of benefits pursuant to the divorce or separation of participants in the Plan. Unless Employer notifies ICMA-RC otherwise, Employer consents to the disbursement by ICMA-RC of benefits that have been garnished or transferred to a former spouse, current spouse, or child pursuant to a domestic relations order or child support order.

7. Compensation and Payment

- (a) **Plan Administration Fee.** The amount to be paid for plan administration services under this Agreement shall be 0.55% per annum of the amount of Plan assets invested in VantageTrust. Such fee shall be computed based on average daily net Plan assets in VantageTrust.

- (b) **Compensation for Management Services to VantageTrust, Compensation for Advisory and other Services to the VT III Vantagepoint Funds and Payments from Third-Party Mutual Funds.** Employer acknowledges that, in addition to amounts payable under this Agreement, ICMA-RC, or its wholly owned subsidiary, receives fees from VantageTrust for investment advisory services and plan and participant services furnished to VantageTrust. Employer further acknowledges that ICMA-RC, including certain of its wholly owned subsidiaries, receives compensation for advisory and other services furnished to the VT III Vantagepoint Funds, which serve as the underlying portfolios of a number of Funds offered through VantageTrust. For a VantageTrust Fund that invests substantially all of its assets in a third-party mutual fund not affiliated with ICMA-RC, ICMA-RC or its wholly owned subsidiary receives payments from the third-party mutual fund families or their service providers in the form of 12b-1 fees, service fees, compensation for sub-accounting and other services provided based on assets in the underlying third-party mutual fund. These fees are described in the VT Disclosures and ICMA-RC's fee disclosure statement. In

addition, to the extent that third party mutual funds are included in the investment line-up for the Plan, ICMA-RC receives administrative fees from its third party mutual fund settlement and clearing agent for providing administrative and other services based on assets invested in third party mutual funds; such administrative fees come from payments made by third party mutual funds to the settlement and clearing agent.

- (c) **Employer Fee.** There shall be an annual Employer fee of \$1000. The annual Employer Fee will be billed in equal amounts on a quarterly basis and is payable within 30 days after the quarterly billing cycle. The Employer Fee will be charged as long as there are Plan assets, regardless of the status of the participant(s). The Employer acknowledges that, in the event the Employer fails to pay the Employer fee when due, such fee shall be paid directly from assets held on behalf of the Plans(s) under VantageTrust, i.e., deducting the fees from the Plan participant accounts. Plans that are initially established mid-year will be billed on a pro-rata basis.
- (d) **Redemption Fees.** Redemption fees imposed by outside mutual funds in which Plan assets are invested are collected and paid to the mutual fund by ICMA-RC. ICMA-RC remits 100% of redemption fees back to the specific mutual fund to which redemption fees apply. These redemption fees and the individual mutual fund's policy with respect to redemption fees are specified in the prospectus for the individual mutual fund and referenced in the VT Disclosures.
- (e) **Payment Procedures.** All payments to ICMA-RC pursuant to Section 7(a) shall be paid out of the Plan assets held by VantageTrust or received from third-party mutual funds or their service providers in connection with Plan assets invested in such third-party mutual funds, to the extent not paid by the Employer. All payments to ICMA-RC pursuant to Section 7(c) shall be paid directly by Employer and shall not be deducted from Plan Assets. The amount of Plan assets administered by ICMA-RC shall be adjusted as required to reflect any such payments as are made from the Plan. In the event that the Employer agrees to pay amounts owed pursuant to this Section 7 directly, any amounts unpaid and outstanding after 30 days of invoice to the Employer shall be withdrawn from Plan assets.

The compensation and payment set forth in this Section 7 are contingent upon the Employer's use of ICMA-RC's EZLink system for contribution processing and submitting contribution funds by ACH or wire transfer on a consistent basis over the term of this Agreement.

8. Contribution Remittance

Employer understands that amounts invested in the Plan are to be remitted directly to Vantagepoint Transfer Agents in accordance with instructions provided to Employer by ICMA-RC and are not to be remitted to ICMA-RC. In the event that any check or wire

transfer is incorrectly labeled or transferred to ICMA-RC, ICMA-RC may return it to Employer with proper instructions.

9. Indemnification

ICMA-RC shall not be responsible for any acts or omissions of any person with respect to the Plan or its related trust, other than ICMA-RC in connection with the administration or operation of the Plan. Employer shall indemnify ICMA-RC against, and hold ICMA-RC harmless from, any and all loss, damage, penalty, liability, cost, and expense, including without limitation, reasonable attorney's fees, that may be incurred by, imposed upon, or asserted against ICMA-RC by reason of any claim, regulatory proceeding, or litigation arising from any act done or omitted to be done by any individual or person with respect to the Plan or its related trust, excepting only any and all loss, damage, penalty, liability, cost or expense resulting from ICMA-RC's negligence, bad faith, or willful misconduct.

10. Term

This Agreement shall be in effect and commence on the date all parties have signed and executed this Agreement ("Inception Date"). This Agreement may be terminated without penalty by either party on sixty days advance notice in writing to the other; provided however, that the Employer understands and acknowledges that, in the event the Employer terminates this Agreement (or replaces the Vantagepoint PLUS Fund, offered by VantageTrust, as an investment option in its investment line-up), ICMA-RC retains full discretion to release Plan assets invested in the Vantagepoint PLUS Fund in an orderly manner over a period of up to 12 months from the date ICMA-RC receives written notification from the Employer that it has made a final and binding selection of a replacement for ICMA-RC as administrator of the Plan (or a replacement investment option for the Vantagepoint PLUS Fund).

11. Amendments and Adjustments

- (a) This Agreement may be amended by written instrument signed by the parties.
- (b) ICMA-RC may modify this agreement by providing 60 days' advance written notice to the Employer prior to the effective date of such proposed modification. Such modification shall become effective unless, within the 60-day notice period, the Employer notifies ICMA-RC in writing that it objects to such modification.
- (c) The parties agree that enhancements may be made to administrative services under this Agreement. The Employer will be notified of enhancements through the Employer Bulletin, quarterly statements, electronic messages or special mailings. Likewise, if there are any reductions in fees, these will be announced through the Employer Bulletin, quarterly statement, electronic messages or special mailing.

12. Notices

Unless otherwise provided in this Agreement, all notices required to be delivered under this Agreement shall be in writing and shall be delivered, mailed, e-mailed or faxed to the location of the relevant party set forth below or to such other address or to the attention of such other persons as such party may hereafter specify by notice to the other party.

ICMA-RC: Legal Department, ICMA Retirement Corporation, 777 North Capitol Street, N.E., Suite 600, Washington, D.C., 20002-4240
Facsimile; (202) 962-4601

Employer: at the office set forth in the first paragraph hereof, or to any other address, facsimile number or e-mail address designated by the Employer to receive the same by written notice similarly given.

Each such notice, request or other communication shall be effective: (i) if given by facsimile, when transmitted to the applicable facsimile number and there is appropriate confirmation of receipt; (ii) if given by mail or e-mail, upon transmission to the designated address with no indication that such address is invalid or incorrect; or (iii) if given by any other means, when actually delivered at the aforesaid address.

13. Complete Agreement

This Agreement shall constitute the complete and full understanding and sole agreement between ICMA-RC and Employer relating to the object of this Agreement and correctly sets forth the complete rights, duties and obligations of each party to the other as of its date. This Agreement supersedes all written and oral agreements, communications or negotiations among the parties. Any prior agreements, promises, negotiations or representations, verbal or otherwise, not expressly set forth in this Agreement are of no force and effect.

14. Titles

The headings of Sections of this Agreement and the headings for each of the attached schedules are for convenience only and do not define or limit the contents thereof.

15. Incorporation of Exhibits

All Exhibits (and any subsequent amendments thereto), attached hereto, and referenced herein, are hereby incorporated within this Agreement as if set forth fully herein.

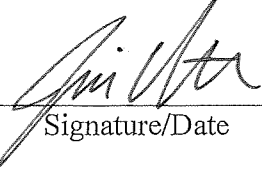
16. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado, applicable to contracts made in that jurisdiction without reference to its conflicts of laws provisions.

Plan number: 100043, 300418

In Witness Whereof, the parties hereto certify that they have read and understand this Agreement and all Schedules attached hereto and have caused this Agreement to be executed by their duly authorized officers as of the Inception Date first above written.

TOWN OF FIRESTONE

By 
Signature/Date

By Jessica Clanton, Dir. of Finance
Name and Title (Please Print)

INTERNATIONAL CITY MANAGEMENT
ASSOCIATION RETIREMENT CORPORATION

By 
Erica McFarquhar
Assistant Secretary

Please return an executed copy of the Agreement to a Delivery Address, either:

- (a) Electronically to PlanAdoptionServices@icmarc.org, or
- (b) In paper form to ICMA-RC
ATTN: PLAN ADOPTION SERVICES
777 North Capitol Street NE
Suite 600
Washington DC 20002-4240

Exhibit A

Administrative Services

The administrative services to be performed by ICMA-RC under this Agreement shall be as follows:

- (a) Participant enrollment services, including providing a welcome package and enrollment kit containing instructions and notices necessary to implement the Plan's administration. Employees will enroll online or through a paper form. Employer can also enroll employees through EZLink.
- (b) Establishment of participant accounts for each employee participating in the Plan for whom ICMA-RC receives appropriate enrollment instructions. ICMA-RC is not responsible for determining if such Plan participants are eligible under the terms of the Plan.
- (c) Allocation in accordance with participant directions received in good order of individual participant accounts to investment funds offered under the Plan.
- (d) Maintenance of individual accounts for participants reflecting amounts deferred, income, gain or loss credited, and amounts distributed as benefits.
- (e) Maintenance of records for all participants for whom participant accounts have been established. These files shall include enrollment instructions (provided to ICMA-RC through Account Access or EZLink), beneficiary designation instructions and all other documents concerning each participant's account.
- (f) Provision of periodic reports to the Employer through EZLink. Participants will have access to account information through Investor Services, Voice Response System, Account Access, TextAccess and through quarterly statements that can be delivered electronically through Account Access or by postal service.
- (g) Communication to participants of information regarding their rights and elections under the Plan.
- (h) Making available Investor Services Representatives through a toll-free telephone number from 8:30 a.m. to 9:00 p.m. Eastern Time, Monday through Friday (excluding holidays and days on which the securities markets or ICMA-RC are closed for business (including emergency closings)), to assist participants.
- (i) Making available access to ICMA-RC's web site, to allow participants to access certain account information and initiate certain plan transactions at any time. Account access is normally available 24 hours a day, seven days a week except during scheduled maintenance periods designed to ensure high-quality performance. The scheduled maintenance window is outlined at <https://harper1.icmarc.org/login.jsp>.
- (j) Maintaining the security and confidentiality of client information through a system of controls including but not limited to, as appropriate: restricting plan and participant information only to those who need it to provide services, software

and hardware security, access controls, data back-up and storage procedures, non-disclosure agreements, security incident response procedures, and audit reviews.

- (k) Making available access to ICMA-RC's plan sponsor EZLink web site to allow plan sponsors to access certain plan information and initiate plan transactions such as enrolling participants and managing contributions at any time. EZLink is normally available 24 hours a day, seven days a week except during scheduled maintenance periods designed to ensure high-quality performance. The scheduled maintenance window is outlined at <https://harper1.icmarc.org/login.jsp>.
- (l) Distribution of benefits as agent for the Employer in accordance with terms of the Plan. Participants who have separated from service can request distributions through Account Access or via form.
- (m) Upon approval by the Employer that a domestic relations order is an acceptable qualified domestic relations order under the terms of the Plan, ICMA-RC will establish a separate account record for the alternate payee and provide for the investment and distribution of assets held thereunder.
- (n) Loans may be made available on the terms specified in the Loan Guidelines, if loans are adopted by the Employer. Participants can request loans through Account Access.
- (o) Guided Pathways Advisory Services – ICMA-RC's participant advice service, "Fund Advice", and asset allocation service, "Asset Class Guidance" may be made available through a third party vendor on the terms specified on ICMA-RC's website.
- (p) ICMA-RC will determine appropriate delivery method (electronic and/or print) for plan sponsor/participant communications and education based on a number of factors (audience, effectiveness, etc.).



Staff Report

Cottonwood Hollow Third Amendment to Outline Development Plan

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

June 12, 2019

Applications

This staff report is for the proposed Third Amendment to the Cottonwood Hollow Outline Development Plan ("ODP Amendment"). The applicant for the ODP Amendment is Mortgage Consultants, LLC.

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 ODP Amendment is south of the terminus of Jake Jabs Boulevard and east and west of the proposed Arbor Street. The ODP Amendment is a step in the Firestone Development Review process prior to subdivision and site planning.

Site and Plan Analysis

The portion of the Cottonwood Hollow property subject to the ODP Amendment is approximately 164 acres in size and is generally flat and developable. The major encumbrances on the property are the Godding Hollow floodplain/wetlands and scattered oil and gas production facilities and pipelines.

The purpose of the ODP Amendment is to provide for additional housing types and non-residential opportunities. Subsequent development review procedures, including final development and platting, will need to be approved prior to the vertical construction occurring on the property.

Consistency

The application is generally consistent with the Firestone Master Plan, Development Regulations and Municipal Code.

Circulation

An access plan for the property will be determined at the time of Preliminary Development Plan and/or Final Development Plan.

Public Land Dedication

Public land dedication will be required pursuant to the annexation agreement, current ODP and the Town regulations.

Fiscal Impacts

Having residential/commercial/employment land uses as shown on the ODP Amendment potentially provides for an economic development benefit for the Town. Additional fiscal impact analysis will be provided when subsequent development review applications are submitted.

Utility and Services

No infrastructure improvements are proposed with the ODP Amendment application. Additional utility and service details/studies will be provided when subsequent development review applications are submitted.

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 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

Town staff recommends the Board of Trustees approve draft Resolution 19-44, a resolution approving the Outline Development Plan Amendment No. 3 for Cottonwood Hollow with conditions.

RESOLUTION 19-44

**A RESOLUTION APPROVING A OUTLINE DEVELOPMENT PLAN
AMENDMENT NO. 3 FOR COTTONWOOD HOLLOW**

WHEREAS, there has been submitted to the Planning and Zoning Commission and Board of Trustees of the Town of Firestone a request for approval of an Outline Development Plan Amendment No. 3 for Cottonwood Hollow; and

WHEREAS, all materials related to the application have been reviewed by Town Staff and found with conditions to be in compliance with Town of Firestone subdivision and zoning ordinances, Development Regulations, and related Town ordinances, regulations, and policies; and

WHEREAS, the Firestone Planning and Zoning Commission held a properly noticed public hearing on the application, and has forwarded to the Board of Trustees a recommendation of approval with conditions; and

WHEREAS, after a duly-noticed public hearing, at which evidence and testimony were entered into the record, the Board of Trustees finds the proposed outline development plan amendment should be approved, subject to certain conditions.

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

Section 1. The Cottonwood Hollow Outline Development Plan Amendment No. 3 is hereby approved, subject to the conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

PASSED AND ADOPTED this 12th day of June, 2019.

Bobbi Sindelar, Mayor

ATTEST:

Leah Vanarsdall, Town Clerk

EXHIBIT A
Outline Development Plan Amendment No. 3
Cottonwood Hollow
Conditions of Approval

General

1. Provide an updated title commitment showing Mortgage Consultants, LLC as owner when the mylars are provided for recording, dated no later than thirty (30) days prior to submission of mylars.
2. Technical corrections to the Outline Development Plan Amendment No. 3 for Cottonwood Hollow shall be made to the Town's satisfaction.

LEGAL DESCRIPTION

PARCEL A:

A TRACT OF LAND LOCATED IN THE NORTH ONE-HALF OF SECTION 14, TOWNSHIP 2 NORTH, RANGE 68 WEST, 6TH PRINCIPAL MERIDIAN, TOWN OF FIRESTONE, COUNTY OF WELD, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH ONE-QUARTER CORNER OF SAID SECTION 14; THENCE S00°07'17"E A DISTANCE OF 30.00 FEET ALONG THE WEST LINE OF THE NORTHEAST ONE-QUARTER OF SAID SECTION 14 TO A POINT ON THE SOUTH RIGHT-OF-WAY OF WELD COUNTY ROAD NO. 22 (60 FEET IN WIDTH) SAID POINT BEING THE POINT OF BEGINNING; THENCE ALONG SAID SOUTH RIGHT-OF-WAY S89°55'22"E, A DISTANCE OF 1309.10 FEET TO A POINT ON THE EAST LINE OF THE WEST HALF OF THE NORTHEAST QUARTER OF SAID SECTION 14; THENCE ALONG SAID EAST LINE S00°18'14"E A DISTANCE OF 2624.04 FEET TO THE SOUTHEAST CORNER OF THE WEST HALF OF THE NORTHEAST QUARTER OF SAID SECTION 14; THENCE ALONG THE SOUTH LINE OF SAID NORTHEAST QUARTER S89°55'12"W, A DISTANCE OF 1317.46 FEET TO THE CENTER QUARTER CORNER OF SAID SECTION 14; THENCE ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 14 S89°56'54"W, A DISTANCE OF 69.31 FEET; THENCE LEAVING SAID SOUTH LINE N29°04'16"W, A DISTANCE OF 156.64 FEET TO A POINT OF CURVE; THENCE ALONG THE ARC OF A TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 17°12'19", A RADIUS OF 1025.00 FEET, AND AN ARC LENGTH OF 307.80 FEET; THENCE N46°16'35"W, A DISTANCE OF 271.54 FEET TO A POINT OF CURVE; THENCE ALONG THE ARC OF A TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 29°41'44", A RADIUS OF 1125.00 FEET, AND AN ARC LENGTH OF 583.07 FEET, THE CHORD OF WHICH BEARS N31°25'43"W, A DISTANCE OF 576.57 FEET; THENCE S89°56'37"W, A DISTANCE OF 83.72 FEET; THENCE S63°18'00"W, A DISTANCE OF 58.00 FEET; THENCE S76°20'46"W, A DISTANCE OF 60.00 FEET; THENCE N82°58'39"W, A DISTANCE OF 58.79 FEET; THENCE N63°36'35"W, A DISTANCE OF 73.80 FEET; THENCE S89°56'37"W, A DISTANCE OF 160.77 FEET; TO A POINT ON THE WEST LINE OF THE EAST HALF OF THE NORTHWEST QUARTER OF SAID SECTION 14; THENCE ALONG SAID WEST LINE N00°15'46"W, A DISTANCE OF 1047.84 FEET; THENCE LEAVING SAID WEST LINE N81°08'34"E, A DISTANCE OF 63.99 FEET; THENCE N64°18'44"E, A DISTANCE OF 492.53 FEET; THENCE N89°44'57"E, A DISTANCE OF 10.00 FEET; THENCE N00°15'47"W, A DISTANCE OF 297.66 FEET TO A POINT ON SAID SOUTH RIGHT-OF-WAY OF WELD COUNTY ROAD NO. 22; THENCE ALONG SAID SOUTH RIGHT-OF-WAY N90°00'00"E, A DISTANCE OF 792.29 FEET TO THE POINT OF BEGINNING; CONTAINING 132.916 ACRES MORE OR LESS.

BASIS OF BEARING: THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SECTION 11, TOWNSHIP 2 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, WHICH BEARS S90°00'00"W.

TOGETHER WITH;

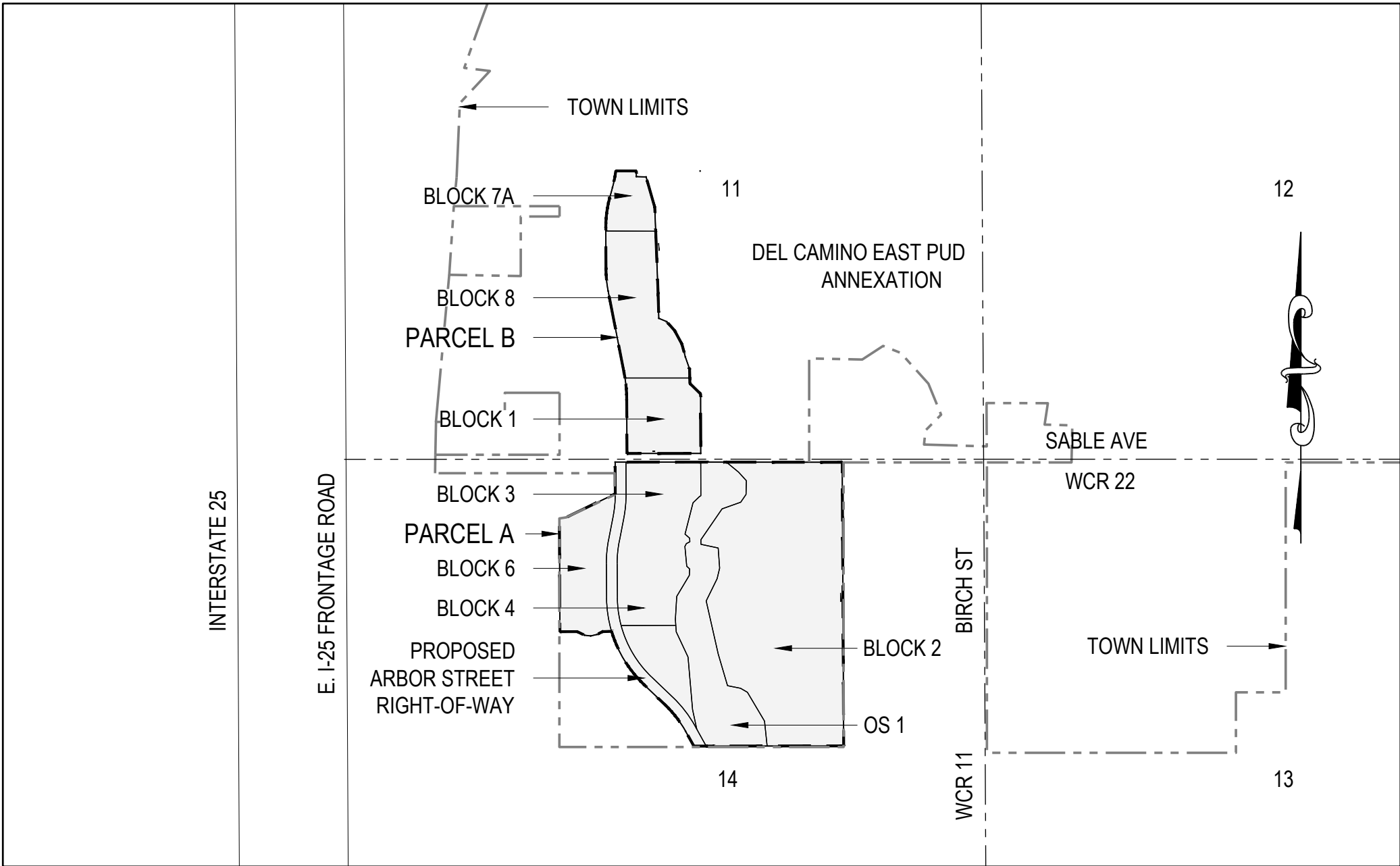
PARCEL B:

ALL OF TRACT B, COTTONWOOD HOLLOW, FILING 2 AS RECORDED ON 01/31/2008, UNDER RECEPTION NUMBER 3532463, ALL IN THE CLERK AND RECORDER'S OFFICE OF WELD COUNTY, COLORADO, LOCATED IN THE SOUTHWEST ONE-QUARTER OF SECTION 11, T2N., R68W., 6TH P.M., TOWN OF FIRESTONE, COUNTY OF WELD, STATE OF COLORADO, CONTAINING 31.393 ACRES, MORE OR LESS.

TOTAL AREA CONTAINS 164.309 ACRES, MORE OR LESS

AMENDMENT NOTE:
REVISIONS INCLUDE PARCEL SIZE ADJUSTMENTS AND ALLOWABLE DENSITIES ADJUSTMENTS TO BLOCKS 1, 2, 3, 4, 6, 7A AND 8, AS WELL AS ARBOR STREET RIGHT OF WAY AND OS-1 OPEN SPACE.

THIRD AMENDMENT TO OUTLINE DEVELOPMENT PLAN FOR
COTTONWOOD HOLLOW
(FORMERLY KNOWN AS DEL CAMINO EAST ODP)
TOWN OF FIRESTONE, COUNTY OF WELD, STATE OF COLORADO
SHEET 1 OF 3



VICINITY MAP

1"=1200'

SHEET INDEX

COVER SHEET	SHEET 1
GENERAL NOTES	SHEET 2
SITE PLAN	SHEET 3

OWNER

MORTGAGE CONSULTANTS, LLC, a Colorado Limited Liability Company
8400 E. PRENTICE AVENUE, SUITE 1002
GREENWOOD VILLAGE, CO 80111
P: 303.882.6024
CONTACT: OTTO AICHINGER
EMAIL: OTTO.AICHINGER@CALIBERHOMELOANS.COM

SURVEYOR:

RED ROCK LAND SURVEYS, INC.
7865 W. ONTARIO PLACE
LITTLETON, CO 80128
PHONE: 303.994.6300
CONTACT: JOHN E. KRATZ
EMAIL: JKRAZ@REDROCKLANDSURVEYS.COM

NOTICE:

ACCORDING TO COLORADO LAW, YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER 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.

APPROVAL:

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:

BY SIGNING THIS ODP, THE OWNER ACKNOWLEDGES AND ACCEPTS ALL OF THE REQUIREMENTS AND INTENT SET FORTH HEREIN.

OWNER: OTTO AICHINGER, MANAGING PARTNER,
(MORTGAGE CONSULTANTS, LLC, a Colorado Limited Liability Company)

STATE OF COLORADO)
)SS
COUNTY OF)

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS _____ DAY

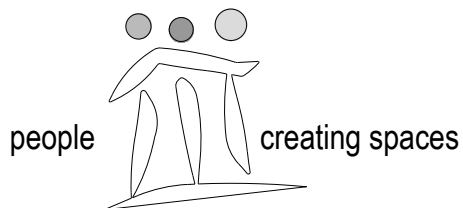
OF _____, 20____, BY _____
WITNESS MY HAND AND OFFICIAL SEAL.

NOTARY PUBLIC

MY COMMISSION EXPIRES

PREPARED BY:

PLANNER:



PCS GROUP, INC.
P.O. BOX 18287
DENVER, CO 80218
T: 303531.4605
CONTACT: PAUL SHOUKAS
EMAIL: PAUL@PCSGROUPCO.COM

ENGINEER:



PARAGON ENGINEERING CONSULTANTS, INC.
7852 S. ELATI STREET, SUITE 106
LITTLETON, CO 80120
T: 303.794.8604
CONTACT: WENDELL AYRES
EMAIL: WENDELL@PARAGONENG.COM

FIRESTONE INFORMATION BLOCK	
NAME OF SUBMITTAL:	COTTONWOOD HOLLOW
TYPE OF SUBMITTAL:	3RD AMENDMENT ODP
FILING NUMBER:	
PHASE NUMBER:	
SHEET TITLE:	COVER SHEET
PREPARATION DATE:	03.09.2018
REVISION DATE:	09.12.2018
REVISION DATE:	11.06.2018
REVISION DATE:	02.15.2019
REVISION DATE:	04.18.2019
REVISION DATE:	05.01.2019
SHEET 1 OF 3	

THIRD AMENDMENT TO OUTLINE DEVELOPMENT PLAN FOR
COTTONWOOD HOLLOW
(FORMERLY KNOWN AS DEL CAMINO EAST ODP)
TOWN OF FIRESTONE, COUNTY OF WELD, STATE OF COLORADO
SHEET 2 OF 3

PROJECT CONCEPT

THE PROJECT CONCEPT FOR COTTONWOOD HOLLOW AMENDED PLANNED UNIT DEVELOPMENT OUTLINE DEVELOPMENT PLAN ("PUD") IS TO PROVIDE AN ATTRACTIVE LIVING AND WORKING ENVIRONMENT USING INNOVATIVE PLACEMENT AND DESIGN TECHNIQUES THAT RESPOND TO THE SITE'S NATURAL FEATURES. THIS PUD IS INTENDED TO MEET ALL THE GOALS OF THE TOWN'S PUD DISTRICTS STATED IN SECTION 6.0 OF THE FIRESTONE DEVELOPMENT REGULATIONS.

IN ORDER TO ACHIEVE THIS GOAL, CONSIDERATION HAS BEEN GIVEN TO:

1. COMPACT DESIGN IN ORDER FOR PEOPLE TO WALK TO THE RETAIL AREA, EMPLOYMENT CENTER AND OPEN SPACE FROM THEIR HOMES.
2. THE INTENT OF THIS ODP IS TO USE SETBACKS AND BUILDING SITING REQUIREMENTS IN A MANNER THAT PROMOTES INNOVATED BUILDING DESIGN AND DEVELOPMENT LAYOUT THAT IS DIFFERENT FROM WHAT WOULD OTHERWISE RESULT FROM UNIFORM APPLICATION OF SETBACKS.
3. OPPORTUNITIES FOR LOCAL EMPLOYMENT IN SHOPS AND BUSINESSES WHICH WILL BE CLOSE TO RESIDENTS HOMES.
4. A VARIETY OF HOUSING TYPES AND LOT SIZES TO SUIT DIFFERENT HOUSEHOLDS.
5. PROTECTING AND ENHANCING GODDING HOLLOW.
6. DEVELOPING A DESIGN THAT PROVIDES FOR BOTH THE DEVELOPERS' AND THE OIL AND GAS COMPANIES' FUTURE NEEDS.
7. RESPONDING AS APPROPRIATE TO SENIOR HOUSING NEEDS.

BASED ON THOSE AND OTHER CONSIDERATIONS, COTTONWOOD HOLLOW WILL FEATURE:

1. A MIXTURE OF SINGLE-FAMILY DETACHED, SINGLE-FAMILY ATTACHED, CONDOMINIUM, AND APARTMENT HOMES ON A VARIETY OF LOT SIZES AND MULTI-FAMILY LOT CONFIGURATIONS. THIS WILL PROVIDE A VARIETY OF HOUSING OPTIONS.
2. AN INTERCONNECTED STREET SYSTEM THAT IS BICYCLE AND PEDESTRIAN FRIENDLY. ALL ARTERIAL AND COLLECTOR STREETS WILL BE TREE-LINED WITH SIDEWALKS ALONG SIDE THEM. THE BUILDINGS THAT ABUT THE STREETS WILL BE DETAILED TO MAKE WALKING PLEASANT, EFFICIENT AND SAFE.
3. THE REMAINING ACREAGE WILL SERVE AS COMMON OPEN SPACE, WHICH WILL ALLOW OPTIMUM PRESERVATION OF NATURAL FEATURES INCLUDING EXISTING TREES AND DRAINAGE ACRES.
4. ONE SECONDARY, NONPOTABLE WATER SYSTEM IS INTENDED TO BE INCLUDED FOR IRRIGATION OF SINGLE FAMILY, MULTIFAMILY AND COMMON AREA PROJECTS WITHIN THE COTTONWOOD HOLLOW PUD. THIS SECONDARY WATER SYSTEM IS ALSO INTENDED TO BE AN AMENITY TO THE COTTONWOOD HOLLOW PUD
5. ALL DEVELOPMENT WITHIN THE PUD MAY ADDITIONALLY BE CONTROLLED BY ARCHITECTURAL AND LANDSCAPING GUIDELINES THROUGH PRIVATE (OR PUBLIC IF ADMINISTERED BY THE DISTRICT) COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE PUD TO INSURE THE PROPERTY HAS AN ATTRACTIVE, UNIFIED CHARACTER AS REQUIRED BY THE TOWN'S DEVELOPMENT REGULATIONS.

REGIONAL IMPACTS

THE PUD IS IN SUBSTANTIAL CONFORMANCE WITH THE FIRESTONE MASTER PLAN. THEREFORE, IT IS UNDERSTOOD THAT ITS IMPACT ON BOTH THE COMMUNITY AND THE REGION HAVE BEEN PREVIOUSLY IDENTIFIED, ANALYZED AND DETERMINED TO BE ACCEPTABLE. THE PROPOSED TRAFFIC CIRCULATION PLAN FOR THE PUD CONSIDERS DEVELOPMENT OF ARBOR STREET WHICH IS IDENTIFIED AS AN ARTERIAL IN WELD COUNTY'S MUD PLAN AND THE FIRESTONE COMPREHENSIVE PLAN.

ENVIRONMENTAL INFORMATION

A WETLAND ANALYSIS REPORT PERFORMED BY SMITH ENVIRONMENTAL AND ENGINEERING DATED MAY 29, 2008 WAS SUBMITTED TO THE TOWN. THE REPORT PROVIDES THOROUGH DETAILS OF THE SITE'S ENVIRONMENTAL FEATURES. A PHASE I ENVIRONMENTAL SITE ASSESSMENT FOR COTTONWOOD HOLLOW WAS PREPARED BY CTL THOMPSON ON MARCH 24, 2017 WAS SUBMITTED TO THE TOWN. A PHASE II ENVIRONMENTAL SITE ASSESSMENT FOR COTTONWOOD HOLLOW WAS PREPARED BY CTL THOMPSON DATED DECEMBER 5, 2017 WAS SUBMITTED TO THE TOWN.

UTILITIES

WATER SERVICE: TOWN OF FIRESTONE
SEWER SERVICE: ST. VRAIN SANITATION DISTRICT
GAS: BLACK HILLS ENERGY
ELECTRIC: UNITED POWER
TELEPHONE: CENTURY LINK
CABLE TV: AT&T BROADBAND

CONSISTENT WITH THE ANNEXATION AGREEMENT, FINANCING OF THE TYPICAL INFRASTRUCTURE IMPROVEMENTS REQUIRED BY THIS PROPOSAL WILL BE THE RESPONSIBILITY OF THE OWNER, DEVELOPER/SUBDIVIDER AND THE DISTRICT.

SERVICE REQUIREMENTS

POLICE PROTECTION: TOWN OF FIRESTONE
FIRE PROTECTION: FREDERICK-FIRESTONE FIRE PROTECTION DISTRICT
PUBLIC STREET MAINTENANCE: TOWN OF FIRESTONE
SCHOOLS: ST. VRAIN VALLEY SCHOOL DISTRICT
RECREATION: CARBON VALLEY RECREATION DISTRICT

CIRCULATION SYSTEMS

ACCESS TO THE RESIDENTIAL PORTIONS OF THE PUD WILL BE FROM INTERNAL COLLECTOR STREETS INTERSECTING WITH SABLE AVENUE. ACCESS TO THE NEIGHBORHOOD COMMERCIAL WILL BE FROM ARBOR STREET. PEDESTRIAN ACCESS WILL BE PROVIDED ADJACENT TO ALL STREETS, THROUGH AN INTERNAL TRAIL SYSTEM AND AS THE TOWN MAY APPROVE IN FUTURE FINAL DEVELOPMENT PLAN FDP'S.

EXISTING LAND USE

THIS PROPERTY IS CURRENTLY MANAGED FOR AGRICULTURAL CROPS (FARMING ONLY). THE EXISTING USE WILL CONTINUE PROPORTIONALLY AND WILL DECREASE AS THE PROPERTY IS DEVELOPED.

TABLE A

LAND USE AND ZONING TABLE

THE ZONING FOR THE PROPERTY IS PUD. THE TABLE BELOW SPECIFIES THE LAND USES CATEGORIES, RESIDENTIAL DENSITIES AND THE NUMBER OF DWELLING UNITS, AND BUILDING HEIGHTS:

Planning Area 2B8-Q35B25B8-N33B8-P35B8B8	Block 1	Block 2 ⁸	Block 3	Block 4	Block 6	Block 7A ⁹	Block 8	OS-1	ROW			
Land Use	PUD EC / PUD R-C	PUD R-B	PUD EC / PUD R-C	PUD R-B	PUD EC	PUD NC	PUD EC / PUD R-C	PUD OS	PUD R-C			
Maximum Gross Density in DU/Ac	17.0	3.5	17.0	8.0	-	-	14.0	-	-			
Maximum FAR	-	-	-	-	0.50	0.50	-	-	-			
Anticipated Dwelling Units ²	140	195	340	45	-	-	160	-	-			
Min. Lot Area												
Single Family Detached (front & side loaded)	5000 sf						5000 sf					
Single Family Detached (alley loaded)	3600 sf						3600 sf					
Single Family Attached (alley, side or front loaded)	front and side 1850 sf / alley 1400 sf						front and side 1850 sf / alley 1400 sf					
Multi Family							-					
Maximum Building Height												
Residential (Principal)	45'	35'	45'	35'	-	-	45'	-	-			
Residential (Accessory)	20'	20'	20'	20'	-	-	20'	-	-			
Commercial	45'	-	45'	45'	45'	45'	45'	-	-			
Setback from Streets												
Principal Building Setback from Arterial ROW	30'							0'	0'			
Accessory Building Setback from Arterial ROW	Maximum of 60% Frontage 15'; Remainder at 30'											
Surface Parking Setback from Arterial ROW	20'											
Building Setbacks												
Minimum Front Yard Setback ^{1,7} (Principal Uses)	SFD / SFA	MF / C ⁶	20' Front Load 15' Side Load 10' Alley Load	SFD / SFA	MF / C ⁶	20' Front Load 15' Side Load 10' Alley Load	SFD / SFA	MF / C ⁶	0'			
	20' Front Load 15' Side Load 10' Alley Load	20'	20' Front Load 15' Side Load 10' Alley Load	20'	20' Front Load 15' Side Load 10' Alley Load	20'	20' Front Load 15' Side Load 10' Alley Load					
	5' 10' Corner Lots 0' Internal Lot Line	10'	5' 10' Corner Lots 0' Internal Lot Line	10'	5' 10' Corner Lot Line 0' Internal Lot Line	10'	15' 10' Corner Lot Line 0' Internal Lot Line					
	5' 10' Corner	10'	5' 10' Corner Lots	10'	5' 10' Corner	10'	5' 10' Corner					
	20' Front Load 20' Side Load 5' Alley Load	20'	20' Front Load 20' Side Load 5' Alley Load	20'	20' Front Load 20' Side Load 5' Alley Load	20'	20' Front Load 20' Side Load 5' Alley Load					
	5' Accessory Uses	10'	5' 10' Corner Lots	10'	5' 10' Corner	10'	5' 10' Corner					
Minimum Rear Yard Setback ^{3,4,7} (Principal Uses)	20' Front Load 20' Side Load 5' Alley Load	20'	20' Front Load 20' Side Load 5' Alley Load	20'	20' Front Load 20' Side Load 5' Alley Load	20'	20' Front Load 20' Side Load 5' Alley Load	20'				
Minimum Rear Yard Setback ^{3,4,7} (Accessory Uses)	5'	10'	5'	5'	10'	5'	10'	10'				
Off Street Parking Spaces												
Parking Requirement ^{5,7}	2 / DU	1.75 : 1 Bed 2.25: 2 & 3 Bed	2 / DU	2 / DU	1.75 : 1 Bed 2.25: 2 & 3 Bed	2 / DU	1.75 : 1 Bed 2.25: 2 & 3 Bed	Town Standards (Based from use)	2 / DU	1.75 : 1 Bed 2.25: 2 & 3 Bed	-	-

¹ IF FEE SIMPLE LOTS ARE CREATED WITHIN BUILDINGS OR SHARED BY A COMMON PARTY WALL, THERE IS NO SETBACK REQUIREMENT BETWEEN INTERNAL UNITS.

² DWELLING UNITS ARE TRANSFERABLE BETWEEN RESIDENTIAL PLANNING AREAS SO LONG AS THEY DO NOT EXCEED THE MAXIMUM DENSITY FOR EACH LAND USE DISTRICT AND THE TOTAL MAXIMUM NUMBER OF UNITS ALLOWED IN COTTONWOOD HOLLOW, AND SHALL BE TRACKED AT THE RECORDING OF EACH FINAL PLAT.

³ AWNINGS, BLADE SIGNS, WINDOW WELLS, INCIDENTAL ARCHITECTURAL FEATURES SUCH AS CORNICES, EAVES, CANOPIES, CHIMNEYS, BAY WINDOWS, ORNAMENTAL FEATURES AND OTHER SIMILAR ARCHITECTURAL FEATURES MAY PROJECT NOT MORE THAN TWO (2) FEET INTO ANY REQUIRED SETBACK.

⁴ UNCOVERED DECKS WITH A SURFACE 30" OR LESS IN HEIGHT MAY ENCR OACH 10' INTO ANY REAR SETBACK.

⁵ ALL PARKING REQUIREMENTS INCLUDE GUEST PARKING.

⁶ THE SETBACK FOR ALL PRINCIPAL OR ACCESSORY STRUCTURES FOR MULTI-FAMILY AND COMMERCIAL ADJACENT TO OPEN SPACE IS 5' PROVIDED ALL STRUCTURES SHALL BE LOCATED A MINIMUM OF 30' AWAY FROM ADJACENT PEDESTRIAN TRAILS.

⁷ THE SETBACK FOR ALL SURFACE PARKING ADJACENT TO OPEN SPACE IS 5'; PROVIDED ALL STRUCTURES SHALL BE LOCATED A MINIMUM OF 30' AWAY FROM ADJACENT PEDESTRIAN TRAILS.

⁸ A 30 FOOT LANDSCAPE, DRAINAGE AND ACCESS SETBACK WILL BE PROVIDED ALONG THE ENTIRE EASTERN BOUNDARY OF BLOCK 2. LOTS BACKING TO THE EASTERN PROPERTY LINE OF BLOCK 2, JUST WEST OF THE 30 FOOT BUFFER SETBACK WILL HAVE A MINIMUM LOT WIDTH OF 72.5 FEET AT THE BUILDING SETBACK LINE AND A MINIMUM DEPTH OF 110 FEET FOR CUL-DE-SAC LOTS AND A MINIMUM WIDTH OF 85 FEET AND A MINIMUM DEPTH OF 120 FEET FOR LINEAR LOTS.

⁹ SKILLED NURSING, ASSISTED LIVING AND MEMORY CARE, AND OTHER ASSOCIATED USES DO NOT COUNT TOWARDS THE MAXIMUM PERMITTED UNITS FOR THE PROPERTY.

DEFINITIONS

SFD SINGLE FAMILY DETACHED MEANS ONE DWELLING UNIT, DESIGNED FOR OCCUPANCY BY ONE FAMILY FOR PURPOSES OF LIVING OR SLEEPING NOT INCLUDING MOBILE HOMES, CONVEYABLE BY LEGAL OWNERSHIP. THIS CAN INCLUDE PATIO HOMES AS DEFINED IN THE FIRESTONE MUNICIPAL CODE.

SFA SINGLE FAMILY ATTACHED MEANS A STRUCTURE COMPRISED OF TWO OR MORE DWELLING UNITS, CONNECTED BY A SHARED WALL AND CONVEYABLE BY LEGAL OWNERSHIP. THIS COULD INCLUDE TOWNHOMES AS AND DUPLEX DWELLINGS, AS DEFINED IN THE FIRESTONE MUNICIPAL CODE.

MF MULTI-FAMILY MEANS A BUILDING DESIGNED TO BE OCCUPIED IN WHOLE OR IN PART BY MULTIPLE FAMILIES LIVING INDEPENDENTLY OF EACH OTHER. THIS COULD INCLUDE CONDOMINIUMS OR APARTMENTS AS DEFINED BY THE FIRESTONE MUNICIPAL CODE.

C COMMERCIAL REFERS TO ALL USES I N THE NEIGHBORHOOD CENTER (NC) AND THE EMPLOYMENT CENTER (EC) AS FURTHER DEFINED IN THE FIRESTONE DEVELOPMENT REGULATIONS.

PERMITTED LAND USES

BLOCK 1, PUD-EC / PUD-R-C

PERMITTED USES INCLUDE ALL THOSE PERMITTED PER THE LAND USE CATEGORY OF EMPLOYMENT CENTER EC AND RESIDENTIAL C IN THE FIRESTONE DEVELOPMENT REGULATIONS INCLUDING SINGLE FAMILY DETACHED.

BLOCK 2, PUD-R-B

PERMITTED USES INCLUDE ALL THOSE PERMITTED PER THE LAND USE CATEGORY OF RESIDENTIAL B IN THE FIRESTONE DEVELOPMENT REGULATIONS. WITH THE EXCEPTION THAT ONLY SINGLE-FAMILY RESIDENTIAL USES WILL BE PERMITTED IN BLOCK 2.

BLOCK 3, PUD-EC / PUD-R-C

PERMITTED USES INCLUDE ALL THOSE PERMITTED PER THE LAND USE CATEGORY OF EMPLOYMENT CENTER EC AND RESIDENTIAL C IN THE FIRESTONE DEVELOPMENT REGULATIONS INCLUDING SINGLE FAMILY DETACHED.

BLOCK 4, PUD-R-B

PERMITTED USES INCLUDE ALL THOSE PERMITTED PER THE LAND USE CATEGORY OF RESIDENTIAL B IN THE FIRESTONE DEVELOPMENT REGULATIONS .

BLOCK 6, PUD-EC

PERMITTED USES INCLUDE ALL THOSE PERMITTED PER THE LAND USE CATEGORY OF EMPLOYMENT CENTER IN THE FIRESTONE DEVELOPMENT REGULATIONS.

BLOCK 7A, PUD-NC

PERMITTED USES INCLUDE ALL THOSE PERMITTED PER THE LAND USE CATEGORY OF NEIGHBORHOOD CENTER IN THE FIRESTONE DEVELOPMENT REGULATIONS AS WELL AS ASSISTED LIVING/ SKILLED NURSING, MEMORY AND FRAGILE CARE.

BLOCK 8, PUD-EC / PUD-R-C

PERMITTED USES INCLUDE ALL THOSE PERMITTED PER THE LAND USE CATEGORY OF EMPLOYMENT CENTER EC AND RESIDENTIAL C IN THE FIRESTONE DEVELOPMENT REGULATIONS.

PROHIBITED USES

PROHIBITED LAND USES WITHIN THE PUD WILL INCLUDE ALL PROHIBITED USES AS OUTLINED IN THE TOWN OF FIRESTONE DEVELOPMENT REGULATIONS AS WELL AS KENNELS, TRUCK STOPS, TRUCK WASHES, RV CAMPER SALES, RETAIL MANUFACTURED HOME SALES CENTERS, TRUCK SERVICE CENTERS AND TRANSPORTATION STATIONS.

DEVELOPMENT SCHEDULE

IT IS ANTICIPATED THAT PHASE 1 WILL BEGIN IN 2019 WITH THE DEVELOPMENT OF SINGLE-FAMILY RESIDENTIAL UNITS. THE TOTAL DEVELOPMENT OF THE PROJECT IS ESTIMATED TO OCCUR BY THE YEAR 2028, HOWEVER, THIS SCHEDULE IS BASED ON CURRENT MARKET CONDITIONS AND MAY CHANGE SUBJECT TO MARKET DEMAND.

PARK DEVELOPMENT

OPEN SPACE WILL BE PROVIDED AS PART OF THE DEVELOPMENT OF EACH OF THE BLOCKS WITHIN THE PUD. OPEN SPACE WILL BE CALCULATED AS A PERCENTAGE OF THE ENTIRE PUD AREA, INCLUDING RETAIL AND COMMERCIAL AREAS, AND ALSO INCLUDE THE GODDING HOLLOW OPEN SPACE PREVIOUSLY DEDICATED TO THE TOWN. EACH BLOCK WILL NOT BE CALCULATED INDEPENDENTLY. THIS WILL ALLOW THE OPEN SPACE TO BE CONCENTRATED ALONG GODDING HOLLOW. TWO PONDS, ASSOCIATED TRAILS AND POCKET PARKS ARE PLANNED FOR THE OPEN SPACE AREA. THE TRAILS WILL BE OPEN TO THE PUBLIC. PUBLIC LAND DEDICATION AREAS SHALL BE OPEN TO THE PUBLIC UNLESS OTHERWISE SPECIFIED BY THE TOWN. FINAL LOCATIONS OF OPEN SPACE AND PUBLIC LAND DEDICATION WILL BE DETERMINED AT THE TIME OF PRELIMINARY AND FINAL DEVELOPMENT PLAN. COMMON OPEN SPACE WILL BE DEVELOPED, OWNED AND MAINTAINED BY A HOMEOWNERS' ASSOCIATION, THE DISTRICT OR BY THE TOWN. THE OPEN SPACE WILL INCLUDE: THE NATURAL DRAINAGEWAY ALONG GODDING HOLLOW, STORM DRAINAGE FACILITIES, ACTIVE RECREATION FACILITIES, PERIMETER LANDSCAPE BUFFERS AND A PEDESTRIAN TRAIL.

PRIVATE MAINTENANCE AND ENFORCEMENT

IN ADDITION TO THE TOWN'S ZONING AND BUILDING CODES, DETAILED PROVISIONS IN THE PRELIMINARY DEVELOPMENT PLAN, PRELIMINARY PLAT AND THE FINAL DEVELOPMENT PLAN TO BE CONSIDERED BY THE TOWN WILL CONTROL THE PROPOSED DEVELOPMENT. IN ADDITION, THE DEVELOPER WILL RECORD COVENANTS, WHICH WILL GOVERN THE USE, MAINTENANCE AND CONTINUED PROTECTION OF THE PUD WITH THE FINAL DEVELOPMENT PLAN FOR THE PROPERTY.

LAND USE CATEGORY

ALL LAND USES DETAILED WITHIN THIS PUD SHALL COMPLY WITH THE LAND USES SET FORTH IN THE TOWN OF FIRESTONE'S DEVELOPMENT REGULATIONS AMENDED MARCH 2014 RESOLUTION #14-16 UNLESS OTHERWISE SPECIFIED WITHIN THIS PUD.

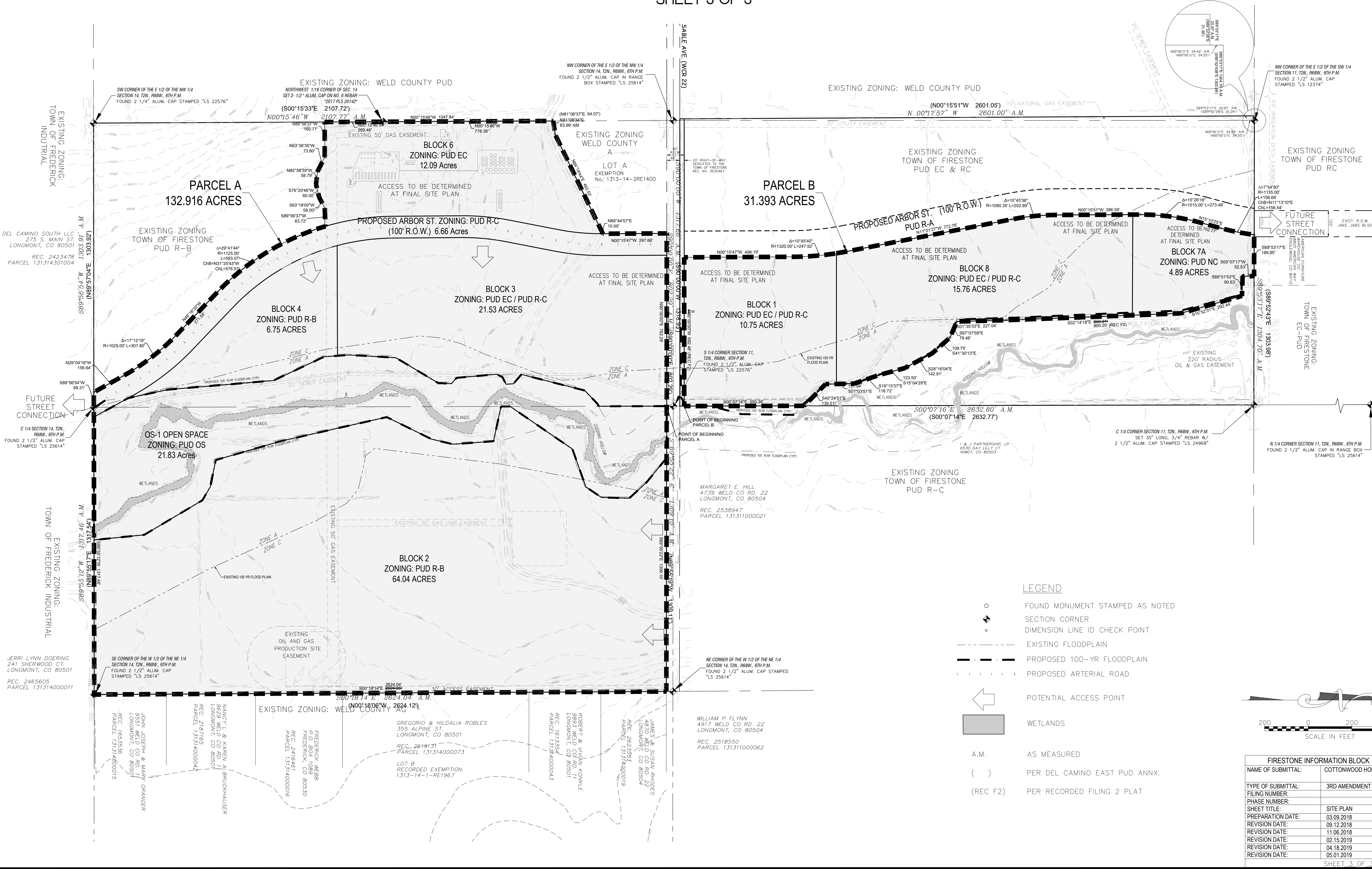
ZONING DISTRICT

ALL ZONE DISTRICTS SHALL COMPLY WITH THE TOWN OF FIRESTONES DEVELOPMENT REGULATIONS UNLESS OTHERWISE SPECIFIED WITHIN THE PUD.

FIRESTONE INFORMATION BLOCK	
NAME OF SUBMITTAL:	COTTONWOOD HOLLOW
TYPE OF SUBMITTAL:	3RD AMENDMENT ODP
FILING NUMBER:	
PHASE NUMBER:	
SHEET TITLE:	GENERAL NOTES
PREPARATION DATE:	03.09.2018
REVISION DATE:	09.12.2018
REVISION DATE:	11.06.2018
REVISION DATE:	02.15.2019
REVISION DATE:	04.18.2019
REVISION DATE:	05.01.2019

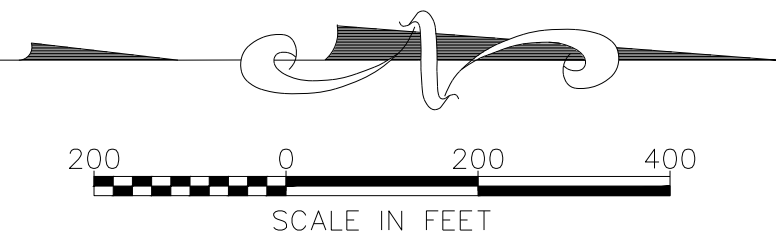
NOTES:
1. THIS ODP ANTICIPATES THAT ADDITIONAL OPEN SPACE FACILITIES WILL BE INCLUDED WITHIN SPECIFIC LAND USE PARCELS AS DETAILED AT THE TIME OF FDP AND SUBDIVISION APPROVAL.
2. PROPERTY WILL PETITION FOR INCLUSION INTO THE CARBON VALLEY RECREATION DISTRICT.

THIRD AMENDMENT TO OUTLINE DEVELOPMENT PLAN FOR
COTTONWOOD HOLLOW
(FORMERLY KNOWN AS DEL CAMINO EAST ODP)
TOWN OF FIRESTONE, COUNTY OF WELD, STATE OF COLORADO
SHEET 3 OF 3



LEGEND

- FOUND MONUMENT STAMPED AS NOTED
- ◆ SECTION CORNER
- DIMENSION LINE ID CHECK POINT
- - - EXISTING FLOODPLAIN
- - - PROPOSED 100-YR FLOODPLAIN
- - - PROPOSED ARTERIAL ROAD
- ◀ POTENTIAL ACCESS POINT
- WETLANDS
- A.M. AS MEASURED
- () PER DEL CAMINO EAST PUD ANNEX
- (REC F2) PER RECORDED FILING 2 PLAT



FIRESTONE INFORMATION BLOCK	
NAME OF SUBMITTAL:	COTTONWOOD HOLLOW
TYPE OF SUBMITTAL:	3RD AMENDMENT ODP
FILING NUMBER:	
PHASE NUMBER:	
SHEET TITLE:	SITE PLAN
PREPARATION DATE:	03.09.2018
REVISION DATE:	09.12.2018
REVISION DATE:	11.06.2018
REVISION DATE:	02.15.2019
REVISION DATE:	04.18.2019
REVISION DATE:	05.01.2019

TOWN OF FIRESTONE, COLORADO
NOTICE OF PUBLIC HEARING

Notice is hereby given that the Town of Firestone Planning and Zoning Commission will hold a Public Hearing commencing at 7:00 p.m., Thursday, May 16, 2019 at the Firestone Town Hall, 151 Grant Avenue, Firestone, Colorado 80520. The purpose of the Public Hearing is to consider a request by Mortgage Consultants, LLC for a proposed Third Amendment to the Cottonwood Hollow Outline Development Plan for the Cottonwood Hollow development.

Further Notice is hereby given that the Board of Trustees of the Town of Firestone will hold a Public Hearing commencing at 7:00 p.m., Wednesday, June 12, 2019 at the Firestone Town Hall, 151 Grant Avenue, Firestone, Colorado 80520. The purpose of the Public Hearing is to consider a request by Mortgage Consultants, LLC for a proposed Third Amendment to the Cottonwood Hollow Outline Development Plan for the Cottonwood Hollow development.

The approximate location of the Cottonwood Hollow development is south of the terminus of Jake Jabs Boulevard and east and west of the proposed Arbor Street. The legal description for the proposed Third Amendment to the Cottonwood Hollow Outline Development Plan is set forth in "Exhibit A."

Any person may appear at the Public Hearings and be heard regarding the matters under consideration.

The application is on file with the Town of Firestone. For questions or comments contact:

Town of Firestone
Planning & Development Department
8308 Colorado Blvd., Suite 200
Firestone, CO 80504
Phone: (303) 833-3291
Fax: (720) 476-4232

TOWN OF FIRESTONE, COLORADO
Leah Vanarsdall
Town Clerk

EXHIBIT A
(Legal Description)

PARCEL A:

A TRACT OF LAND LOCATED IN THE NORTH ONE-HALF OF SECTION 14, TOWNSHIP 2 NORTH, RANGE 68 WEST, 6TH PRINCIPAL MERIDIAN, TOWN OF FIRESTONE, COUNTY OF WELD, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT THE NORTH ONE-QUARTER CORNER OF SAID SECTION 14; THENCE S00°07'17"E A DISTANCE OF 30.00 FEET ALONG THE WEST LINE OF THE NORTHEAST ONE-QUARTER OF SAID SECTION 14 TO A POINT ON THE SOUTH RIGHT-OF-WAY OF WELD COUNTY ROAD NO. 22 (60 FEET IN WIDTH) SAID POINT BEING THE POINT OF BEGINNING; THENCE ALONG SAID SOUTH RIGHT-OF-WAY S89°55'22"E, A DISTANCE OF 1309.10 FEET TO A POINT ON THE EAST LINE OF THE WEST HALF OF THE NORTHEAST QUARTER OF SAID SECTION 14; THENCE ALONG SAID EAST LINE S00°18'14"E A DISTANCE OF 2624.04 FEET TO THE SOUTHEAST CORNER OF THE WEST HALF OF THE NORTHEAST QUARTER OF SAID SECTION 14; THENCE ALONG THE SOUTH LINE OF SAID NORTHEAST QUARTER S89°55'12"W, A DISTANCE OF 1317.46 FEET TO THE CENTER QUARTER CORNER OF SAID SECTION 14; THENCE ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 14 S89°56'54"W, A DISTANCE OF 69.31 FEET; THENCE LEAVING SAID SOUTH LINE N29°04'16"W, A DISTANCE OF 156.64 FEET TO A POINT OF CURVE; THENCE ALONG THE ARC OF A TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 17°12'19", A RADIUS OF 1025.00 FEET, AND AN ARC LENGTH OF 307.80 FEET; THENCE N46°16'35"W, A DISTANCE OF 271.54 FEET TO A POINT OF CURVE; THENCE ALONG THE ARC OF A TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 29°41'44", A RADIUS OF 1125.00 FEET, AND AN ARC LENGTH OF 583.07 FEET, THE CHORD OF WHICH BEARS N31°25'43"W, A DISTANCE OF 576.57 FEET; THENCE S89°56'37"W, A DISTANCE OF 83.72 FEET; THENCE S63°18'00"W, A DISTANCE OF 58.00 FEET; THENCE S76°20'46"W, A DISTANCE OF 60.00 FEET; THENCE N82°58'39"W, A DISTANCE OF 58.79 FEET; THENCE N63°36'35"W, A DISTANCE OF 73.80 FEET; THENCE S89°56'37"W, A DISTANCE OF 160.77 FEET; TO A POINT ON THE WEST LINE OF THE EAST HALF OF THE NORTHWEST QUARTER OF SAID SECTION 14; THENCE ALONG SAID WEST LINE N00°15'46"W, A DISTANCE OF 1047.84 FEET; THENCE LEAVING SAID WEST LINE N81°08'34"E, A DISTANCE OF 63.99 FEET; THENCE N64°18'44"E, A DISTANCE OF 492.53 FEET; THENCE N89°44'57"E, A DISTANCE OF 10.00 FEET; THENCE N00°15'47"W, A DISTANCE OF 297.66 FEET TO A POINT ON SAID SOUTH RIGHT-OF-WAY OF WELD COUNTY ROAD NO. 22; THENCE ALONG SAID SOUTH RIGHT-OF-WAY N90°00'00"E, A DISTANCE OF 792.29 FEET TO THE POINT OF BEGINNING; CONTAINING 132.916 ACRES MORE OR LESS.

BASIS OF BEARING: THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SECTION 11, TOWNSHIP 2 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN,

WHICH BEARS S90°00'00"W.

TOGETHER WITH;

PARCEL B:

ALL OF TRACT B, COTTONWOOD HOLLOW, FILING 2 AS RECORDED ON 01/31/2018 UNDER RECEPTION NUMBER 3532463, ALL IN THE CLERK AND RECORDER'S OFFICE OF WELD COUNTY, COLORADO, LOCATED IN THE SOUTHWEST ONE-QUARTER OF SECTION 11, T2N., R68W., 6TH P.M., TOWN OF FIRESTONE, COUNTY OF WELD, STATE OF COLORADO, CONTAINING 31.393 ACRES, MORE OR LESS.

TOTAL AREA CONTAINS 164.309 ACRES, MORE OR LESS.

Please publish in the Times-Call on Wednesday, May 1, 2019.

Please send the affidavit of publication and billing to:

Town Clerk
Town of Firestone
PO Box 100
Firestone, CO 80520-0100

AGENDA INFORMATION MEMORANDUM

FIRESTONE TOWN BOARD OF TRUSTEES



AIM#: 7.a.

Discussion/Action

Meeting Date: June 12, 2019

Initiated By:

Dept: Administration

AGENDA TITLE

2019 Design A Flag Contest Winner - David Okada, Cultural Committee Chair presenting

SUMMARY

HISTORY AND PREVIOUS BOARD ACTION

RECOMMENDATION

ALTERNATIVES

ATTACHMENTS

None

FINANCIAL CONSIDERATIONS

AGENDA INFORMATION MEMORANDUM

FIRESTONE TOWN BOARD OF TRUSTEES



AIM#: 7.b.

Discussion/Action

Meeting Date: June 12, 2019

Initiated By: Leah Vanarsdall

Dept: Town Clerk

AGENDA TITLE

Local Licensing Authority - Not a Public Hearing

Carpco LLC & 7-11 Inc, dba 7-Eleven Store 34210D - Modification of Premises

SUMMARY

The Town of Firestone received a 'Modification of Premises' from Carpco LLC, & 7-Eleven, Inc - Store 34210D dated May 16, 2019 on Monday, May 20, 2019.

Each Fermented Malt Beverage Merchant had the option to increase their sales footprint beginning in 2019. The Clerk's Office sent out written notification of the new change for Retail Sales in November 2018.

After the renewal license application for their 2019 Retail licensed was received, the Clerk's Office requested Firestone Police Dept to visit this location to advise of the existing footprint for sales as no modification had been received.

As the Sales footprint had increased from the last renewal application, the Clerk's Office contacted the merchant and requested a 'Modification of Premises' to be completed in order for the renewal to be processed.

This process should have been completed prior to applying for a building permit from the Town of Firestone, as any modification to a sales/serving area requires this paperwork for compliance/approval by the Local Liquor Authority.

During this time, it was also discovered that the Merchant had not obtained their 2019 required annual licensing for Business/Sales tax for the Town of Firestone, due January 1, each year.

HISTORY AND PREVIOUS BOARD ACTION

The Local Liquor Authority approved a Retail 3.2% Beer Sales License in February 2017.

RECOMMENDATION

At this time, it is recommended to approve the 'Modification of Premises' for the increased retail sales footprint with a reminder that all future changes/modifications concerning liquor sales, including coolers, footprint and sales area, must be applied/approved by the Local Authority prior to any changes or building permit applications.

ALTERNATIVES

Authority to give Staff further direction

ATTACHMENTS

1. 7b - 7-11 Modification of Premises 2019

FINANCIAL CONSIDERATIONS

Current fee for an Annual Renewal of this license type is \$75.00.

Permit Application and Report of Changes

Current License Number 46-00618

All Answers Must Be Printed in Black Ink or Typewritten

Local License Fee \$ 100.00 modification of premises fee

1. Applicant is a ☐ Corporation ☐ Individual ☐ Partnership ☒ Limited Liability Company		Present License Number 46-00618
2. Name of Licensee Carpco LLC & 7-Eleven, Inc.		3. Trade Name 7-Eleven Store 34210D
4. Location Address 11099 E. I-25 Frontage Rd.		
City Firestone	County Weld	ZIP 80504

SELECT THE APPROPRIATE SECTION BELOW AND PROCEED TO THE INSTRUCTIONS ON PAGE 2.

Section A – Manager reg/change	Section C
• License Account No. <u>46-00618</u> ☐ Manager's Registration (Hotel & Restr.) \$75.00 ☐ Manager's Registration (Tavern) \$75.00 ☐ Manager's Registration (Lodging & Entertainment) \$75.00 ☐ Change of Manager (Other Licenses pursuant to section 44-3-301(8), C.R.S.) NO FEE	☐ Retail Warehouse Storage Permit (ea) \$100.00 ☐ Wholesale Branch House Permit (ea) 100.00 ☐ Change Corp. or Trade Name Permit (ea) 50.00 ☐ Change Location Permit (ea) 150.00 ☒ Change, Alter or Modify Premises \$150.00 x <u>1</u> Total Fee <u>\$150</u> ☐ Addition of Optional Premises to Existing H/R \$100.00 x _____ Total Fee _____ ☐ Addition of Related Facility to an Existing Resort or Campus Liquor Complex \$160.00 x _____ Total Fee _____ ☐ Campus Liquor Complex Designation No Fee
Section B – Duplicate License	
• Liquor License No. _____ ☐ Duplicate License \$50.00	

Do Not Write in This Space – For Department of Revenue Use Only

Date License Issued	License Account Number	Period
The State may convert your check to a one time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department of Revenue may collect the payment amount directly from your bank account electronically.		TOTAL AMOUNT DUE \$00

Instruction Sheet

For All Sections, Complete Questions 1-4 Located on Page 1

☐ Section A

To Register or Change Managers, check the appropriate box in section A and complete question 8 on page 4. Proceed to the Oath of Applicant for signature. Submit to State Licensing Authority for approval.

☐ Section B

For a Duplicate license, be sure to include the liquor license number in section B on page 1 and proceed to page 4 for Oath of Applicant signature.

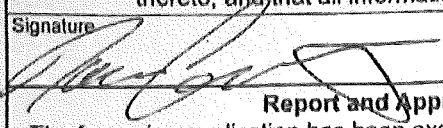
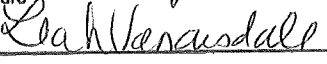
☒ Section C

Check the appropriate box in section C and proceed below.

- 1) **For a Retail Warehouse Storage Permit**, go to page 3 complete question 5 (be sure to check the appropriate box). Submit the necessary information and proceed to page 4 for Oath of Applicant signature. Submit to State Licensing Authority for approval.
- 2) **For a Wholesale Branch House Permit**, go to page 3 and complete question 5 (be sure to check the appropriate box). Submit the necessary information and proceed to page 4 for Oath of Applicant signature. Submit to State Licensing Authority for approval.
- 3) **To Change Trade Name or Corporation Name**, go to page 3 and complete question 6 (be sure to check the appropriate box). Submit the necessary information and proceed to page 4 for Oath of Applicant signature. Retail Liquor License submit to Local Liquor Licensing Authority (City or County). Manufacturer, Wholesaler and Importer's Liquor Licenses submit to State Liquor Licensing Authority.
- 4) **To modify Premise**, go to page 4 and complete question 9. Submit the necessary information and proceed to page 4 for Oath of Applicant signature. Retail Liquor License submit to Local Liquor Licensing Authority (City or County). Manufacturer, Wholesaler and Importer's Liquor Licenses submit to State Liquor Licensing Authority.
- 5) **For Optional Premises** go to page 4 and complete question 9. Submit the necessary information and proceed to page 4 for Oath of Applicant signature. Retail Liquor License submit to Local Liquor Licensing Authority (City or County).
- 6) **To Change Location**, go to page 3 and complete question 7. Submit the necessary information and proceed to page 4 for Oath of Applicant signature. Retail Liquor License submit to Local Liquor Licensing Authority (City or County). Manufacturer, Wholesaler and Importer's Liquor Licenses submit to State Liquor Licensing Authority.
- 7) **Campus Liquor Complex Designation**, go to page 4 and complete question 10. Submit the necessary information and proceed to page 4 for Oath of Applicant signature.
- 8) **To add another Related Facility** to an existing Resort or Campus Liquor Complex, go to page 4 and complete question 11.

Storage Permit	5. Retail Warehouse Storage Permit or a Wholesalers Branch House Permit ☐ Retail Warehouse Permit for: ☐ On-Premises Licensee (Taverns, Restaurants etc.) ☐ Off-Premises Licensee (Liquor stores) ☐ Wholesalers Branch House Permit Address of storage premise: _____ City _____, County _____, Zip _____ Attach a deed/ lease or rental agreement for the storage premises. Attach a detailed diagram of the storage premises.				
Change Trade Name or Corporate Name	6. Change of Trade Name or Corporation Name ☐ Change of Trade name / DBA only ☐ Corporate Name Change (Attach the following supporting documents) 1. Certificate of Amendment filed with the Secretary of State, or 2. Statement of Change filed with the Secretary of State, <u>and</u> 3. Minutes of Corporate meeting, Limited Liability Members meeting, Partnership agreement. <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 5px;"> <tr> <td style="width: 50%; padding: 2px;">Old Trade Name</td><td style="width: 50%; padding: 2px;">New Trade Name</td></tr> <tr> <td style="padding: 2px;">Old Corporate Name</td><td style="padding: 2px;">New Corporate Name</td></tr> </table>	Old Trade Name	New Trade Name	Old Corporate Name	New Corporate Name
Old Trade Name	New Trade Name				
Old Corporate Name	New Corporate Name				
Change of Location	7. Change of Location NOTE TO RETAIL LICENSEES: An application to change location has a local application fee of \$750 payable to your local licensing authority. You may only change location within the same jurisdiction as the original license that was issued. Pursuant to 44-3-311(1) C.R.S. Your application must be on file with the local authority thirty (30) days before a public hearing can be held. Date filed with Local Authority _____ Date of Hearing _____ (a) Address of current premises _____ City _____ County _____ Zip _____ (b) Address of proposed New Premises (Attach copy of the deed or lease that establishes possession of the premises by the licensee) Address _____ City _____ County _____ Zip _____ (c) New mailing address if applicable. Address _____ City _____ County _____ State _____ Zip _____ (d) Attach detailed diagram of the premises showing where the alcohol beverages will be stored, served, possessed or consumed. Include kitchen area(s) for hotel and restaurants.				

Change of Manager	8. Change of Manager or to Register the Manager of a Tavern, Hotel and Restaurant, Lodging & Entertainment liquor license or licenses pursuant to section 44-3-301(8). (a) Change of Manager (attach Individual History DR 8404-I H/R, Tavern and Lodging & Entertainment only) Former manager's name _____ New manager's name _____ (b) Date of Employment _____ Has manager ever managed a liquor licensed establishment? Yes ☐ No ☐ Does manager have a financial interest in any other liquor licensed establishment? Yes ☐ No ☐ If yes, give name and location of establishment _____
Modify Premises or Addition of Optional Premises or Related Facility	9. Modification of Premises, Addition of an Optional Premises, or Addition of Related Facility NOTE: Licensees may not modify or add to their licensed premises until approved by state and local authorities. (a) Describe change proposed <u>Permanently expand product placement area for fermented malt beverage</u> products as depicted on the attached diagram. _____ (b) If the modification is temporary, when will the proposed change: Start <u>N/A</u> (mo/day/year) End <u>N/A</u> (mo/day/year) NOTE: THE TOTAL STATE FEE FOR TEMPORARY MODIFICATION IS \$300.00 (c) Will the proposed change result in the licensed premises now being located within 500 feet of any public or private school that meets compulsory education requirements of Colorado law, or the principal campus of any college, university or seminary? Existing licensed premises (If yes, explain in detail and describe any exemptions that apply) Yes ☐ No ☒ (d) Is the proposed change in compliance with local building and zoning laws? Yes ☒ No ☐ (e) If this modification is for an additional Hotel and Restaurant Optional Premises has the local authority authorized by resolution or ordinance the issuance of optional premises? N/A Yes ☐ No ☒ (f) Attach a diagram of the current licensed premises and a diagram of the proposed changes for the licensed premises. Please see attached (g) Attach any existing lease that is revised due to the modification. No revisions to lease and/or franchise agreement
Campus Liquor Complex Designation	10. Campus Liquor Complex Designation An institution of higher education or a person who contracts with the institution to provide food services (a) I wish to designate my existing _____ Liquor License # _____ to a Campus Liquor Complex Yes ☐ No ☐
Additional Related Facility	11. Additional Related Facility N/A To add a Related Facility to an existing Resort or Campus Liquor Complex, include the name of the Related Facility and include the address and an outlined drawing of the Related Facility Premises. (a) Address of Related Facility _____ (b) Outlined diagram provided Yes ☐ No ☐

Oath of Applicant		
I declare under penalty of perjury in the second degree that I have read the foregoing application and all attachments thereto, and that all information therein is true, correct, and complete to the best of my knowledge		
Signature 	Title Manager, Carpco, LLC	Date 5-16-19
Report and Approval of LOCAL Licensing Authority (CITY / COUNTY)		
The foregoing application has been examined and the premises, business conducted and character of the applicant is satisfactory, and we do report that such permit, if granted, will comply with the applicable provisions of Title 44, Articles 4 and 3, C.R.S., as amended. Therefore, This Application is Approved.		
Local Licensing Authority (City or County) Town of Firestone		Date filed with Local Authority
Signature 	Title Town Clerk	Date 6-4-19
Report of STATE Licensing Authority		
The foregoing has been examined and complies with the filing requirements of Title 44, Article 3, C.R.S., as amended.		
Signature	Title	Date

BEFORE D

Architectural floor plan of a restaurant layout, labeled "BEFORE D". The plan shows a large dining area with tables and chairs, a service counter, and restrooms. Key areas include the "Men's Restroom", "Ladies Restroom", "Entrance", and "EXIT". The layout is detailed with dimensions and furniture placement.

ROLLER GRILLS	3 (SELF-SERVE)
SANDWICH CASE	360° REMOTE CID
VAULT DOORS	16
LOW TEMP DOORS	3
ICE MERCH. DOORS	2
NOVELTY CASE	1 (LG)
BAKERY CASE	1
SLURPEE BARRELS	6
GONDOLA UNITS (60°H)	40
END CAPS (60°H)	07
POWER WINGS	(02) - NOT IN TOTAL
LOW WALLS (36°H)	08
HIGH WALLS (72°H)	00
TOTAL	55

TOTAL SQ.FT. = 5,336 SF
SALES FLOOR AREA = 2,820 SF

GAS: YES LIQUOR: NO
BEER: YES WINE: YES

OCCUPANT LOAD (<49) = 92
TRAVEL DISTANCE (<200) = 110'
COMMON PATH OF TRAVEL (<75) = 66'
RESTROOMS REQUIRED = 2
EXITS REQUIRED = 2

OVERHEAD SHELVES = 37 FT
FLOOR SHELVES = 36 FT

EXISTING WALL	
EXISTING COLUMN	
NEW WALL	
NEW PARTIAL HEIGHT WALL	
NEW COOLER WALL	

34210 - FIRESTONE, CO - LAYOUT 4

HWY 119 @ I-25
FIRESTONE, CO

SCALE: $\frac{1}{4}"=1'-0"$

TDG #16-790

APPROVED: YES

02/21/17



AFTER DIAGRAM 2019

SUBURBAN COMMUTER



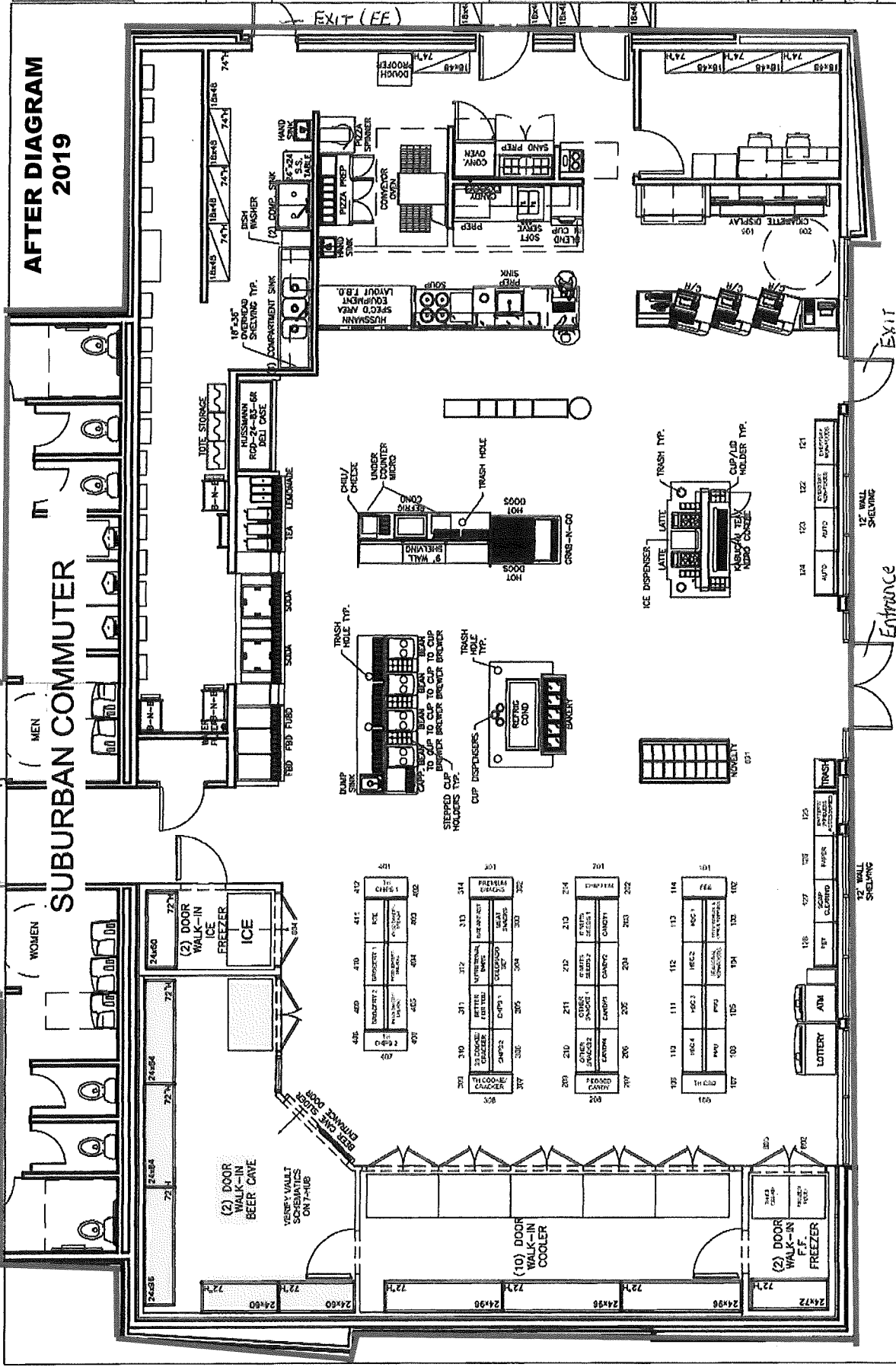
7-ELEVEN
Footprint

DISCLAIMER:
THIS IS NOT A LEGAL
DOCUMENT INTENT TO
SHOW CURRENT
EQUIPMENT
CONDITIONS

REV#	DATE	DESCRIPTION
REV#	DATE	DESCRIPTION
REV#	DATE	DESCRIPTION
REV#	DATE	DESCRIPTION
REV#	DATE	DESCRIPTION

7-ELEVEN
11099 E. I-25 FRONTAGE RD.
FIRESTONE, CO 80504

SCALE
NOT TO SCALE
DATE 04/01/2019
SHEET
VERSION: 2.0
7-ELEVEN INC.
FLOOR PLANNING TEAM
DRAWING #
34210



Disclaimer: This drawing and all supporting documents contained in the "Drawing Package" are the property of 7-Eleven, Inc. The drawings and equipment list are not intended to represent or define all site specific scope characteristics and in no way relieve the Project Management Firm's responsibility for conducting a store specific site visit, collecting all as-built information, verifying critical dimensions and generating a proposed scope of work and/or proposed drawings. The Survey Package and supporting documents do not constitute a legal document and are not intended, nor should be used as, permit drawings or documents. The 7-Eleven Inc., Floor Planning Team, accepts no responsibility for errors or omission contained herein.

AGENDA INFORMATION MEMORANDUM

FIRESTONE TOWN BOARD OF TRUSTEES



AIM#: 7.c.

Discussion/Action

Meeting Date: June 12, 2019

Initiated By: Leah Vanarsdall

Dept: Town Clerk

AGENDA TITLE

Local Licensing Authority - Not a Public Hearing

Maya Grille & Cantina, LLC - dba Maya Grill & Cantina - Modification of Premises

SUMMARY

Maya Grille & Cantina, LLC dba Maya Grill & Cantina has lease additional square footage for their restaurant.

A Modification of Premises has been submitted to include this additional space for service of liquor.

All State and Local fees have been paid.

A diagram of the service area has been submitted and is included.

Maya Grill, once approved for this change, will then apply for a Building Permit through the Town of Firestone to complete this modification.

HISTORY AND PREVIOUS BOARD ACTION

This is a new Hotel/Restaurant License that was effective on February 5, 2019.

RECOMMENDATION

Approve the Modification of Premises as submitted

ALTERNATIVES

Authority to give Staff further directions

ATTACHMENTS

1. Maya Grille & Cantina Modification of Premises

FINANCIAL CONSIDERATIONS

\$100.00 has been submitted.

Permit Application
and Report of Changes

Current License Number <u>03 - 11074</u>		
All Answers Must Be Printed in Black Ink or Typewritten		
Local License Fee \$ <u>100.00</u>		
1. Applicant is a ☐ Corporation ☐ Individual ☐ Partnership..... ☒ Limited Liability Company		Present License Number <u>03-11074</u>
2. Name of Licensee <u>Alberto Quiroz</u>		3. Trade Name <u>Maya Grille and Cantina. LLC</u>
4. Location Address <u>11078 Cimarron st. unit A.</u>		
City <u>Firestone</u>	County <u>Weld</u>	ZIP <u>80504</u>
SELECT THE APPROPRIATE SECTION BELOW AND PROCEED TO THE INSTRUCTIONS ON PAGE 2.		
Section A – Manager reg/change		Section C
• License Account No. _____		☐ Retail Warehouse Storage Permit (ea).....\$100.00
☐ Manager's Registration (Hotel & Restr.).....\$75.00		☐ Wholesale Branch House Permit (ea) 100.00
☐ Manager's Registration (Tavern).....\$75.00		☐ Change Corp. or Trade Name Permit (ea) 50.00
☐ Manager's Registration (Lodging & Entertainment).....\$75.00		☐ Change Location Permit (ea)..... 150.00
☐ Change of Manager (Other Licenses pursuant to section 12-47-301(8), C.R.S.) NO FEE		☒ Change, Alter or Modify Premises \$150.00 x _____ Total Fee <u>\$150.00</u>
Section B – Duplicate License		☐ Addition of Optional Premises to Existing H/R \$100.00 x _____ Total Fee _____
• Liquor License No. _____		☐ Addition of Related Facility to Resort Complex \$75.00 x _____ Total Fee _____
☐ Duplicate License \$50.00		☐ Tavern ConversionNo Fee
Do Not Write in This Space – For Department of Revenue Use Only		
Date License Issued	License Account Number	Period
The State may convert your check to a one time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department of Revenue may collect the payment amount directly from your bank account electronically.		TOTAL AMOUNT DUE \$.00

Instruction Sheet

For All Sections, Complete Questions 1-4 Located on Page 1

☐ **Section A**

To Register or Change Managers, check the appropriate box in section A and complete question 8 on page 5. Proceed to the Oath of Applicant for signature. Submit to State Licensing Authority for approval.

☐ **Section B**

For a Duplicate license, be sure to include the liquor license number in section B on page 1 and proceed to page 5 for Oath of Applicant signature.

☒ **Section C**

Check the appropriate box in section C and proceed below.

- 1) *For a Retail Warehouse Storage Permit*, go to page 3 complete question 5 (be sure to check the appropriate box). Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Submit to State Licensing Authority for approval.
- 2) *For a Wholesale Branch House Permit*, go to page 3 and complete question 5 (be sure to check the appropriate box). Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Submit to State Licensing Authority for approval.
- 3) *To Change Trade Name or Corporation Name*, go to page 3 and complete question 6 (be sure to check the appropriate box). Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Retail Liquor License submit to Local Liquor Licensing Authority (City or County). Manufacturer, Wholesaler and Importer's Liquor Licenses submit to State Liquor Licensing Authority.
- 4) *To modify Premise, or add Sidewalk Service Area*, go to page 4 and complete question 9. Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Retail Liquor License submit to Local Liquor Licensing Authority (City or County). Manufacturer, Wholesaler and Importer's Liquor Licenses submit to State Liquor Licensing Authority.
- 5) *For Optional Premises* go to page 4 and complete question 9. Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Retail Liquor License submit to Local Liquor Licensing Authority (City or County).
- 6) *To Change Location*, go to page 3 and complete question 7. Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Retail Liquor License submit to Local Liquor Licensing Authority (City or County). Manufacturer, Wholesaler and Importer's Liquor Licenses submit to State Liquor Licensing Authority.
- 7) *Campus Liquor Complex Designation*, go to page 4 and complete question 10. Submit the necessary information and proceed to page 5 for Oath of Applicant signature.
- 8) *To add another Related Facility* to an existing Resort or Campus Liquor Complex, go to page 4 and complete question 11.

Storage Permit	5. Retail Warehouse Storage Permit or a Wholesalers Branch House Permit ☐ Retail Warehouse Permit for: ☐ On–Premises Licensee (Taverns, Restaurants etc.) ☐ Off–Premises Licensee (Liquor stores) ☐ Wholesalers Branch House Permit Address of storage premise: _____ City _____, County _____, Zip _____ Attach a deed/ lease or rental agreement for the storage premises. Attach a detailed diagram of the storage premises.					
	Change Trade Name or Corporate Name	6. Change of Trade Name or Corporation Name ☐ Change of Trade name / DBA only ☐ Corporate Name Change (Attach the following supporting documents) 1. Certificate of Amendment filed with the Secretary of State, or 2. Statement of Change filed with the Secretary of State, <u>and</u> 3. Minutes of Corporate meeting, Limited Liability Members meeting, Partnership agreement.				
<table><tr><td>Old Trade Name</td><td>New Trade Name</td></tr><tr><td>Old Corporate Name</td><td>New Corporate Name</td></tr></table>		Old Trade Name	New Trade Name	Old Corporate Name	New Corporate Name	
Old Trade Name		New Trade Name				
Old Corporate Name	New Corporate Name					
Change of Location	7. Change of Location NOTE TO RETAIL LICENSEES: An application to change location has a local application fee of \$750 payable to your local licensing authority. You may only change location within the same jurisdiction as the original license that was issued. Pursuant to 44-3-311(1) C.R.S. Your application must be on file with the local authority thirty (30) days before a public hearing can be held. Date filed with Local Authority _____ Date of Hearing _____ (a) Address of current premises _____ City _____ County _____ Zip _____ (b) Address of proposed New Premises (Attach copy of the deed or lease that establishes possession of the premises by the licensee) Address _____ City _____ County _____ Zip _____ (c) New mailing address if applicable. Address _____ City _____ County _____ State _____ Zip _____ (d) Attach detailed diagram of the premises showing where the alcohol beverages will be stored, served, possessed or consumed. Include kitchen area(s) for hotel and restaurants.					

Change of Manager	8. Change of Manager or to Register the Manager of a Tavern, Hotel and Restaurant, Lodging & Entertainment liquor license or licenses pursuant to section 44-3-301(8). (a) Change of Manager (attach Individual History DR 8404-I H/R, Tavern and Lodging & Entertainment only) Former manager's name _____ New manager's name _____ (b) Date of Employment _____ Has manager ever managed a liquor licensed establishment? Yes ☐ No ☐ Does manager have a financial interest in any other liquor licensed establishment? Yes ☐ No ☐ If yes, give name and location of establishment _____
Modify Premises or Addition of Optional Premises, Related Facility, or Sidewalk Service Area	9. Modification of Premises, Addition of an Optional Premises, Addition of Related Facility, or Addition of a Sidewalk Service Area NOTE: Licensees may not modify or add to their licensed premises until approved by state and local authorities. (a) Describe change proposed <u>We like expand the restaurant</u> <u>and also be able to add small patio out</u> <u>side on the West side (see plans)</u> (b) If the modification is temporary, when will the proposed change: Start _____ (mo/day/year) End _____ (mo/day/year) NOTE: THE TOTAL STATE FEE FOR TEMPORARY MODIFICATION IS \$300.00 (c) Will the proposed change result in the licensed premises now being located within 500 feet of any public or private school that meets compulsory education requirements of Colorado law, or the principal campus of any college, university or seminary? (If yes, explain in detail and describe any exemptions that apply) Yes ☐ No ☐ (d) Is the proposed change in compliance with local building and zoning laws? Yes ☐ No ☐ (e) If this modification is for an additional Hotel and Restaurant Optional Premises has the local authority authorized by resolution or ordinance the issuance of optional premises? Yes ☐ No ☐ (f) Attach a diagram of the current licensed premises and a diagram of the proposed changes for the licensed premises. (g) Attach any existing lease that is revised due to the modification. (h) For the addition of a Sidewalk Service Area per Regulation 47-302(A)(4), include documentation received from the local governing body authorizing use of the sidewalk. Documentation may include but is not limited to a statement of use, permit, easement, or other legal permissions.
Campus Liquor Complex Designation	10. Campus Liquor Complex Designation An institution of higher education or a person who contracts with the institution to provide food services (a) I wish to designate my existing _____ Liquor License # _____ to a Campus Liquor Complex Yes ☐ No ☐
Additional Related Facility	11. Additional Related Facility To add a Related Facility to an existing Resort or Campus Liquor Complex, include the name of the Related Facility and include the address and an outlined drawing of the Related Facility Premises. (a) Address of Related Facility _____ (b) Outlined diagram provided Yes ☐ No ☐

Oath of Applicant

I declare under penalty of perjury in the second degree that I have read the foregoing application and all attachments thereto, and that all information therein is true, correct, and complete to the best of my knowledge

Signature	<i>Albert Orell</i>	Title	<i>Manager</i>	Date	<i>6/5/19</i>
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Report and Approval of LOCAL Licensing Authority (CITY / COUNTY)

The foregoing application has been examined and the premises, business conducted and character of the applicant is satisfactory, and we do report that such permit, if granted, will comply with the applicable provisions of Title 44, Articles 4 and 3, C.R.S., as amended. **Therefore, This Application is Approved.**

Local Licensing Authority (City or County)			Date filed with Local Authority		
<i>Town of Firestone</i>			<i>6-5-19</i>		

Signature	<i>Leah Vannusdall</i>	Title	<i>Town Clerk</i>	Date	<i>6-7-19</i>
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Report of STATE Licensing Authority

The foregoing has been examined and complies with the filing requirements of Title 44, Article 3, C.R.S., as amended.

Signature		Title		Date	
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STANDARD SHOPPING CENTER LEASE

THIS LEASE is made and entered into this ____ day of **Febuary, 2019** by and between **Song Real Estate, LLC** ("Landlord") and **Alberto Quiroz**, individually ("Tenant").

WITNESSETH:

In consideration of the rental and the mutual covenants and agreements hereinafter contained, Landlord and Tenant hereby enter into the following Lease (the "Lease"):

ARTICLE I - DEMISE

1.1 **Premises:** Landlord leases to Tenant, and Tenant leases from Landlord and agrees to take possession of suites(s) numbered Unit G (the "**Leased Premises**") of Bluestem Plaza (the "**Shopping Center**"), located at **11078 Cimarron St Unit C Firestone CO 80504**. For purposes of this Lease, the gross leasable square footage of the Leased Premises shall be deemed to be approximately **1,280** square feet including Tenant's proportionate share of the common area. The Shopping Center, its improvements and location of the Leased Premises are as outlined and legally described on the attached Exhibit A, together with a non-exclusive right, subject to the provisions hereof, to use all appurtenances thereto, including, but not limited to, any plazas, common areas, walkways or other areas of the Shopping Center designated by Landlord for the exclusive or non-exclusive use of the tenants of the Shopping Center.

Such letting is upon and subject to the terms, conditions and covenants herein set forth, and Tenant covenants as a material part of the consideration for this Lease to keep and perform each and all of said terms, conditions and covenants by it to be kept and performed and that this Lease is made upon the condition of such performance.

Landlord reserves the right to re-measure Tenant's Premises at any time. The square footage of the Rentable Area determined at that time shall be adjusted if it is different from the square footage noted herein. The Base Rent, Operating Costs and Tax Payment will also be adjusted in accordance with the appropriate rate per square foot to reflect the correct annual/monthly payment.

ARTICLE II - TERM

2.1 **Term:** The term of this Lease and Tenant's obligation to pay rent hereunder shall commence upon **March 1, 2019**, (the "**Commencement Date**"). The term shall end at 11:59 p.m. on **May 31, 2021** (the "**Termination Date**") unless sooner terminated as herein provided (the "**Lease Term**").

2.2 **Landlord's Work:** Other than as set forth in Exhibit B, the Tenant Work Letter, Landlord shall have no obligation for the completion of the Premises. Tenant acknowledges that no promises, representations, statements or warranties have been made by or on behalf of Landlord to Tenant respecting the condition of the Leased Premises, the manner of operating the Shopping Center or the making of repairs to the Leased Premises. The taking of possession of the Leased Premises by Tenant shall constitute an acknowledgment by Tenant that the Leased Premises were taken "AS IS", in good and satisfactory condition and free of any latent defects. Tenant shall upon termination of the Lease, by lapse of time or otherwise remove all of Tenant's property therefrom (if required by Landlord) and shall surrender the Leased Premises to Landlord in as good condition as when Tenant took possession, broom clean, normal wear excepted.

Landlord does not warranty the accuracy of any existing building plans used by the Tenant which have not been prepared by the current Landlord even though as a courtesy Landlord may provide the Tenant a copy of the existing building plans.

2.3 **Delay:** If for any reason Landlord delivers the Leased Premises after the Commencement Date, rental for the interim period between the Commencement Date and actual date of possession shall be prorated based upon the actual number of days in such period. The Lease shall not be void or voidable in the event of a late delivery of the Leased Premises by the Landlord, nor shall Landlord be liable for any loss or damage therefrom. Tenant's inability or failure to take possession of the Leased Premises on the Commencement Date or such later date that Landlord delivers the Leased Premises shall not delay the commencement of the term of this Lease or Tenant's obligation to pay rent hereunder. No earlier or later delivery or taking possession of the Leased Premises shall change the termination date of this Lease.

ARTICLE III - RENT

INITIALS 

3.1 Base Rent: Tenant agrees to pay to Landlord during the Lease Term in monthly installments, on or before the first day of each month, in advance, at the office of Landlord or at such place designated by Landlord in writing from time to time, without prior demand and without offset or abatement in lawful money of the United States, "Base Rent" as follows:

The Base Rent for the first initial Term of this Lease shall be as follows:

DATES	NUMBER OF MONTHS	RENT/ MONTH	TOTAL FOR PERIOD
3/1/2019 – 03/31/2019	1	\$0.00	\$0.00
4/1/2019 – 03/31/2020	15	\$ 2,026.67 + NNN	\$30,400.05 + NNN
4/1/2020 – 05/31/2021	12	\$2,080.00 + NNN	\$ 24,960.00 + NNN

*Estimate CAM per square foot is 6.3.

The first full monthly installment of Base Rent and NNN (\$2,026.67 + \$ 672.00= (\$2,698.67)) shall be payable upon Tenant executing this Lease agreement. If the term shall commence upon a day other than the first calendar day of the month, then Tenant shall pay upon the Commencement Date a Pro Rata portion of the monthly Base Rent as above provided so that all future rental payments will be due on the first day of every month. The term "Lease Year" shall mean each twelve (12) month period subsequent to the Commencement Date.

3.2 Percentage Rent. [Intentionally omitted]

3.3 Additional Rent: In addition to Base Rent and Percentage Rent (if applicable), Tenant shall pay to Landlord in monthly installments, as additional rent, an amount equal to Tenant's Pro Rata Share of Landlord's Operating Expense, as defined in Article 4.2 herein. "Tenant's Pro Rata Share" as used in this Lease shall be calculated by dividing the total rentable area of Tenant's Premises by the total rentable area of the Shopping Center as of the date hereof. If there is a change in the total Shopping Center rentable area as of an addition to the Shopping Center, partial destruction, modification or similar cause, which event causes a reduction or increase on a permanent basis, Landlord shall cause adjustments in the computations as shall be necessary to provide for any such changes. Landlord's system for measurement of rentable area shall be applied similarly to all tenants in the Shopping Center.

3.3.1 Payment of Additional Rent: On or about January 1 of each calendar year following the calendar year in which this Lease commences the ("Base Year"), Landlord shall furnish to Tenant a written statement showing in reasonable detail the estimated Landlord's Operating Expense for the forthcoming calendar year. At the first monthly rent payment date in such calendar year following Tenant's receipt of such statement and at each of the other monthly rent payment dates during such year, Tenant shall pay to Landlord as additional rent, 1/12th of an amount equal to Tenant's Pro Rata share of the estimated annual Operating Expenses. In the event of the inability of Landlord for any reason to furnish said statement prior to January 1, Tenant shall pay, at the monthly rent payment date next following Tenant's receipt of said statement, any additional rent which shall have accrued prior to such payment date.

Landlord shall furnish to Tenant a written statement showing in reasonable detail the actual Operating Expenses incurred during the preceding calendar year or portion thereof (reconciliation). At the monthly rent payment next following Tenant's receipt of such statement, Tenant shall pay to Landlord as additional rent in the event of an excess (or Tenant shall receive a credit to be applied against the next succeeding monthly operating expense payment in the event of a deficiency) an amount equal to the difference between (i) the additional rent payable by Tenant based upon the actual Operating Expenses for the preceding calendar year, and (ii) the additional rent paid by Tenant based upon estimated Operating Expenses for such year. The failure of Landlord to furnish Tenant with a statement of actual Operating Expenses shall not relieve Tenant of liability for its share of actual Operating Expenses nor constitute a waiver of Landlord's right to bill and collect Tenant's share of actual Operating Expenses. Estimates of Operating Expenses shall be made exclusively by Landlord, based upon Landlord's experience with actual costs and reasonable projections.

3.4 Tenant's Right to Audit: [Intentionally omitted]

3.5 Late Fees: Any rent (whether Base Rent, Percentage Rent or Additional Rent) or other amount due from Tenant to Landlord under this Lease not paid within five (5) days of the day due shall be assessed an additional one time late charge for any such late payment in the amount of fifteen percent (15%) of the amount of such late payment.

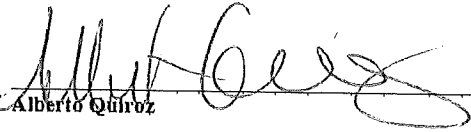
ARTICLE IV - COMMON AREAS

LANDLORD: Song Real Estate, LLC

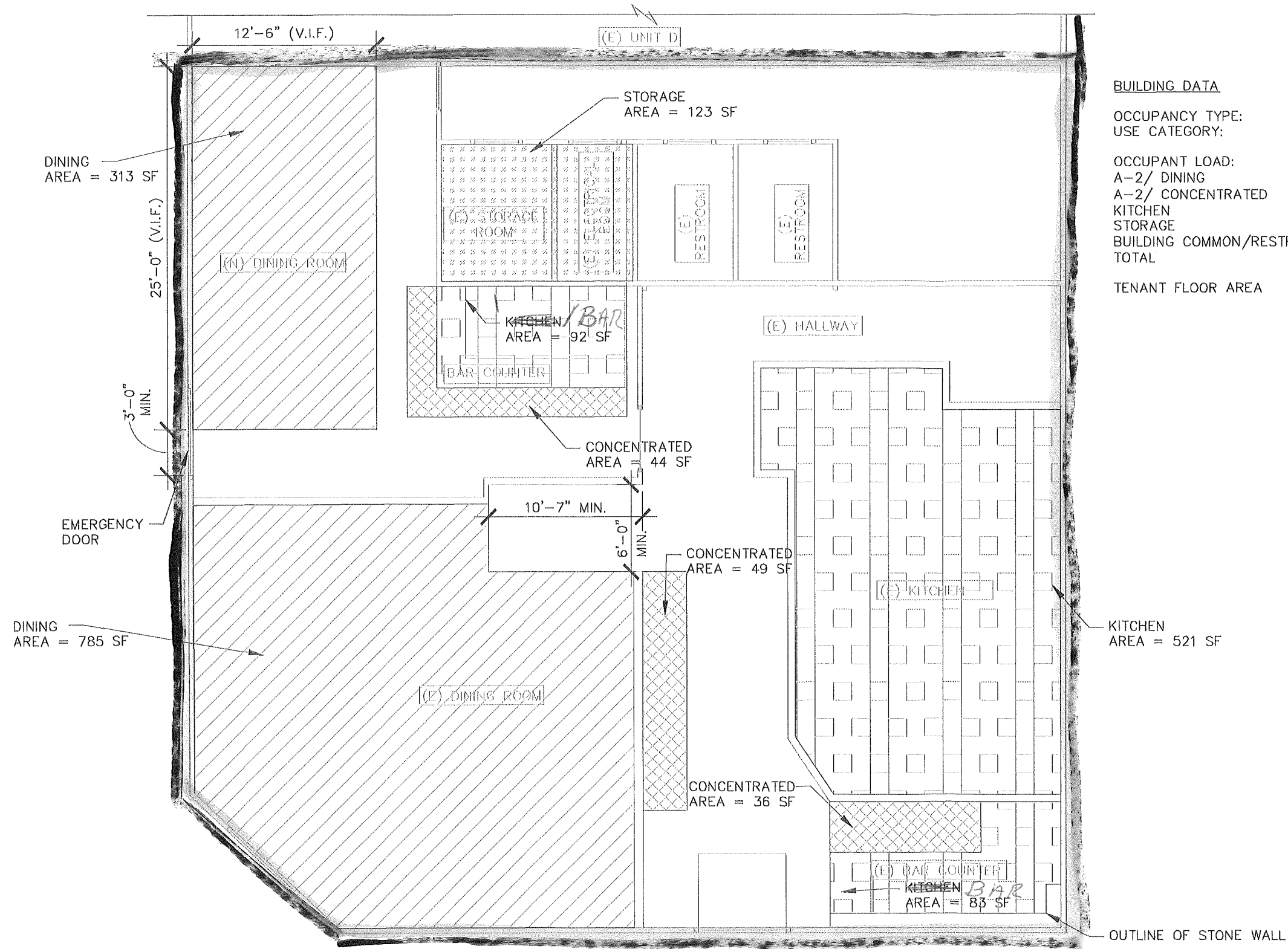
By: 
Hyun S. Song, President

Date 3/1/19

TENANT:

By: 
Alberto Quiroz
SSN:626-76-0233

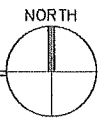
Date 3/1/19



BUILDING DATA

OCCUPANCY TYPE:	A-2
USE CATEGORY:	A-2 RESTAURANT/CONCENTRATED
OCCUPANT LOAD:	
A-2/ DINING	1098 SQUARE FEET @ 1/15 = 73.2
A-2/ CONCENTRATED	129 SQUARE FEET @ 1/7 = 18.4
KITCHEN	696 SQUARE FEET @ 1/200 = 3.5
STORAGE	123 SQUARE FEET @ 1/300 = 0.4
BUILDING COMMON/RESTROOMS	1426 SQUARE FEET
TOTAL	95.5 = 96 PEOPLE
TENANT FLOOR AREA	3472 SQUARE FEET

BUILDING PLAN
SCALE: 1/8" = 1'-0"



Maya Restaurant
11078 Cimarron St.
Firestone, CO 80504

DATE 04/22/19
SHEET TITLE
Cover Sheet

Blue Vista Building & Design
bluevista2010@aol.com
303-776-6621



AGENDA INFORMATION MEMORANDUM

FIRESTONE TOWN BOARD OF TRUSTEES



AIM#: 7.d.

Discussion/Action

Meeting Date: June 12, 2019

Initiated By: Dave Lindsay

Dept: Community Resources

AGENDA TITLE

Resolution 19-47: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND LEFT HAND WATER DISTRICT REGARDING WATER SERVICE

SUMMARY

The Wholesale Water Supply Agreement with Left Hand Water District (LHWD) was allowed to expire by mutual consent of both the Town and LHWD while a new agreement was being completed. The previous agreement was for wholesale service from LHWD to supply treated water to the Town at a master meter that would deliver water into the Town's planned distribution and storage system west of I-25. Because of the very limited availability of source water (CBT) there has been no development in the Town west of I-25. Staff worked with LHWD staff to craft a new agreement that is similar to the Town's agreement with Little Thompson Water District and would allow them to be the retail provider of potable water service to Firestone developments west of I-25 in the LTWD service area. LHWD has CBT water available for sale to their retail customers so the new agreement is expected to help facilitate new development on the properties annexed to the Town west of I-25

The attached Intergovernmental Agreement Regarding Potable Water Service between Firestone and LHWD was approved and signed by the LHWD Board of Directors and presented to the Board of Trustees for consideration and action.

HISTORY AND PREVIOUS BOARD ACTION

The Board of Trustees approved a Wholesale Municipal Supply Agreement with the Left Hand Water District at the regular meeting on March 12, 2014 for water service west of I-25.

RECOMMENDATION

Because of the limited availability of CBT water for purchase on the open market by developers, staff believes this agreement with LHWD will help the Town achieve its development goals along the SH 119 corridor west of I-25.

Staff recommends the Board of Trustees approve Resolution 19-47 approving the agreement and authorizing the Mayor to execute the agreement on behalf of the Town.

ALTERNATIVES

Board could direct staff to propose alternative terms to the agreement.

ATTACHMENTS

1. 7d - Reso 19-47 LHWD IGA
2. IGA-LHWD & Firestone

FINANCIAL CONSIDERATIONS

All costs related to water service by this agreement will be borne by the developments/customers receiving service from LHWD in accordance with their then current fees and rates.

RESOLUTION 19-47

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND LEFT HAND WATER DISTRICT REGARDING WATER SERVICE

WHEREAS, the Town of Firestone (the “Town”) has extended, by annexation, its municipal limits into areas generally located west of Interstate Highway 25 (“I-25”) that are currently serviced by the Left Hand Water District (the “District”), and which are located within the District’s jurisdictional boundaries; and

WHEREAS, the Town desires for the District to continue to provide water services to properties located in such areas west of I-25 that have, or may become, annexed into the Town, and the District desires to remain as the sole water provider to such properties; and

WHEREAS, Section 29-1-201 et seq., C.R.S., as amended, authorizes the Parties to cooperate and contract with one another with respect to functions lawfully authorized to each of the Parties. and such cooperation and contracting is authorized as set forth in Article XIV, Section 18 (2) of the Colorado Constitution; and

WHEREAS, the Town and the District desire to enter into an Intergovernmental Agreement to: (a) provide for the furnishing of continuing and new water service by the District to those properties lying west of I-25 that have been, or may be, annexed into the Town, which are or may be located within both the Town’s municipal boundaries and the District’s boundaries, but outside the service area of Central Weld County Water District and Little Thompson Water District; (b) provide for the furnishing of new water service by the District to properties lying within both the Town’s municipal boundaries and the Longs Peak Water District’s service area, in the event Longs Peak Water District consents to the District providing such water service; and (c) set forth their mutual understandings, terms and conditions regarding the provision of water service contemplated herein.

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

The Intergovernmental Agreement between the Town of Firestone and Left Hand Water District Regarding Water Service is approved in substantially the same form as the copy attached hereto and made a part of this resolution, and the Mayor is authorized to execute the Intergovernmental Agreement on behalf of the Town.

INTRODUCED, READ AND ADOPTED this 12th day of June, 2019.

TOWN OF FIRESTONE, COLORADO

Bobbi Sindelar, Mayor

ATTEST:

Leah Vanarsdall, Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

**INTERGOVERNMENTAL AGREEMENT
REGARDING WATER SERVICE**

1. PARTIES. The parties to this Intergovernmental Agreement Regarding Water Service ("Agreement") are the **LEFT HAND WATER DISTRICT**, a C.R.S. Title 32 special district ("District") and the **TOWN OF FIRESTONE**, a Colorado municipal corporation ("Town").

2. RECITALS AND PURPOSES. Town has extended, by annexation, its municipal limits into areas serviced by the District and which are located within the District's jurisdictional boundaries. This area is generally located west of Interstate Highway 25 ("I-25"). The Town has previously executed agreements with Central Weld County Water District and with Little Thompson Water District regarding the provision of water services within other areas of the Town that are located east of I-25. Pursuant to §32-1-502, C.R.S., the Town has the legal right to exclude annexed properties from this District provided that the Town agrees to provide water service to such areas and the Weld County District Court approves a plan that provides for the disposition of the District's assets and the discharge of District indebtedness that was incurred to service the annexed area. The Town desires to continue to have the District as the sole potable water provider for areas lying west of I-25 that may be annexed into the Town and located in the District and the District desires to remain as the exclusive water provider to such area. The purpose of this Agreement is to provide for the provision of water service to those properties lying within both the District and the Town's municipal boundaries lying west of I-25 and outside of the service area of Central Weld County Water District and Little Thompson Water District, and to designate the District as the Town's water provider in such area on the terms and conditions set forth herein. Notwithstanding the foregoing, the District may also provide service to those properties within the Town's municipal boundaries within the service area of the Long Peak Water District with the consent of Longs Peak Water District. Accordingly, in consideration of the mutual covenants and agreements set forth herein, the parties agree in accordance with the authority granted each pursuant to Part 2 Article 1 Title 29 C.R.S. to the following provisions, terms, and conditions.

3. TERM. In recognition of the need for long range planning, and the cost and expense of capital construction, water rights acquisition, storage, treatment and transmission, this Agreement shall commence upon execution by the parties and shall continue thereafter for a period of 15 years. Thereafter, this Agreement shall be automatically renewed for an additional 15 year term unless either party gives three year advance written notice to the other party of its intent to terminate this Agreement.

4. AREA OF APPLICABILITY. This Agreement shall be applicable to the parcels of real property that have been or that will be, annexed into the Town's corporate limits and that are located west of I-25, and that lie within the District's boundaries (regardless of whether that parcel is currently undeveloped and not currently serviced by the District), as those District boundaries exist now or may hereafter be legally altered. For purposes of this Agreement, the parcels lying within any area described herein this paragraph shall be referred to as "Subject Property."

5. CONTINUATION OF SERVICE; NEW SERVICE BY DISTRICT.

5.1. The parties acknowledge and agree that if any Subject Property is annexed into the Town's corporate limits, the District shall continue to provide potable water service directly to the Town's existing developed parcels within the Subject Property and to provide potable water to any additional planned development constructed within the Town on and within the Subject Property in accordance with District's rules, procedures and policies.

5.2. Service, including all tap fees, water charges, assessments, line charges and all other fees and charges of the District shall be in accordance with the District's applicable rules, procedures and policies. District agrees that all of its customers within the Subject Property shall be charged the same base rates as all other users within the District subject to applicable surcharges and fees pursuant to the District's rules, procedures and policies.

5.3. Town shall not require any property owner, developer, or ultimate user within the Subject Property to purchase any potable water tap, directly or indirectly, from the Town. However, if a non-potable irrigation system is to be installed to serve parks, entry features, or other common areas, within the Subject Property the Town reserves the right to require property owners, developers or users to provide to, or purchase from, the Town non-potable water for irrigation purposes provided that all non-potable irrigation systems are constructed and administered in compliance with applicable state health department and District rules, procedures, and policies. Engaging in such non-potable water activities shall not be deemed to be in violation of paragraph 9 herein, including Town's right to collect non-potable water service tap fees and non-potable water use charges. District acknowledges that as a standard practice of annexation, the Town's annexation agreements include a right of first refusal for water rights appurtenant to the property being annexed and that such provision is not in conflict with this Agreement.

6. NON-APPLICABILITY OF CENTRAL WELD AGREEMENT. Town acknowledges that service to the Subject Property is subject to a Service Territory Contract between District and Central Weld County Water District preventing Central Weld County Water District from providing service to the Subject Property.

7. MAINTENANCE, BILLING. The District shall be solely responsible for construction, installation and maintenance of all of its potable water lines and facilities within the Subject Property pursuant to its rules, procedures, and policies. The District shall also be solely responsible for its billings and collections of its receipts for all of its customers lying within the Subject Property.

8. JOINT COOPERATION AND PLANNING. The Town acknowledges that the District has expended funds for capital construction, water rights acquisition, storage, treatment and transmission to serve the Subject Property and that the District continues to meet its legal obligation to serve the Subject Property through long-range facility planning, including participation in various projects sponsored by the Northern Colorado Water Conservancy District. In order to adequately plan for future development, the parties shall, on a periodic

basis, but in no event no less than annually, jointly confer and discuss planning issues which are of mutual concern to both parties, including the future location and sizing of water lines that could be used to serve property within the Town's planning area. In addition:

8.1. Town shall include in all its annexation agreements for parcels within the Subject Property a recital with respect to the provision of water service from the District pursuant to this Agreement.

8.2. Every three years the District shall provide Town with a current map of the District's lines and facilities lying within that portion of Weld County serviced by District or lying within the District's boundaries.

8.3. The parties shall meet and confer regarding all future major potable or raw water projects, including without limitation, expansion of existing treatment plants, future treatment plants or transmission lines, and regional water treatment plants or storage projects sponsored by water conservancy districts, water districts, or other third parties that could be of benefit to the District in meeting its obligations to service the Subject Property. District acknowledges that Town is currently participating in the development of a water treatment plant east of I-25 located on the St. Vrain River. The Town's use of this facility shall be for service to its retail customers east of I-25, outside of the service boundaries of District. Town has previously disclosed its intent to develop such a water treatment facility to District and had sought District's interest in participating in the facility, which was declined by District.

8.4. The Town shall promptly advise the District of any proposed major developments that would require potable water volumes in excess of the District's master plan.

8.5. In consideration of District being the supplier of water within the Subject Property, District shall reserve to Town the first right of negotiation for the second and any subsequent uses of any fully consumable water rights used for service by District within the Subject Property, including, but not limited to, Windy Gap Project water and Northern Integrated Supply Project water. Upon successful negotiation of terms the District and Town may enter into a separate agreement pertaining to such second and subsequent use water rights.

9. EXCLUSIVE PROVIDER OF SERVICES; NOTICE; RATES.

9.1 During the term of this Agreement, Town shall not provide potable water services, either directly or indirectly, through other service contracts or by way of agreements with other water providers, public or private, for the Subject Property. Subject to the terms and conditions of this Agreement, the Town hereby designates the District as the exclusive and sole provider of potable water for the Town's residents, property owners, and users within the Subject Property.

9.2 Notwithstanding the provisions of paragraph 9.1, above, in the event of development within the Subject Property that has been approved or is being

considered for approval by the Town and which has a quantified potable water requirement that the District is unwilling or incapable of providing within a reasonable time through system improvements or upgrades, the Town may give written notice to the District of its intent to provide water to such development by alternative means. Within 90 days of receipt of such written notice, the District shall respond in writing, notifying the Town that it has taken one of the following courses of action:

- a. agreeing to provide the required improvements or upgrades with a statement of the projected date of completion, such improvements or upgrades to be financed and constructed pursuant to then applicable District rules, procedures, and policies or by special expenditures by the District as determined by its Board of Directors; or
- b. agreeing to provide such service by and through agreements with, or utilizing the water treatment and/or distribution facilities of, other potable water providers; or
- c. waiving its right to be the exclusive potable water provider to such development without waiving the District's rights under this Agreement with respect to other development within the Subject Property; or
- d. agreeing that the new development may be excluded from the District upon a determination that such development may be serviced directly by the Town at a substantially lower cost and expense to the developer and such service is critical to the commencement of the development.

9.3 The District represents and agrees that the base rate it currently charges for potable water service within the Subject Property is the same base rate that is applicable throughout the District and that in the future, it will not charge any differing base rate except that rate which is applicable throughout the District. The parties acknowledge that the District reserves the right to impose a surcharge on such base rate that may be required for repayment to third parties (or the District) which may have, or will in the future, pay for the construction of upgrades, improvements, extensions, and other facilities that are necessary to service the specific development within the Subject Property.

10. LEVEL OF SERVICE. The parties acknowledge that municipal level water service requires certain fire flows and other utility related standards and requirements. Town agrees to not approve new development in the Subject Property if that area lacks sufficient fire flows for the type of development planned absent a requirement or condition to land use approval that an appropriate party finance and/or construct such improvements to connect to the District's system to meet the level of service required by all applicable building and fire codes, as well as other municipal requirements. The District agrees that it shall provide

service to the Subject Property at least at a level that does not diminish the required flows below such established levels provided by such improvements.

11. INDEMNIFICATION.

11.1. To the extent permitted by law, each party agrees to indemnify and hold harmless the other party, (including that party's officers, employees, agents, and servants) and to pay any judgments rendered against said party or persons because of any suit, action, or claim asserted by any third party that is caused by, arising from, or due to the acts or omissions of the indemnifying party, its officers, employees, agents, consultants, contractors, and subcontractors, and to pay to the indemnitee or indemnitees their reasonable expenses, including, but not limited to, reasonable attorneys' fees, court costs, and reasonable expert witness fees, incurred in defending any such suit, action or claim; provided, however, that parties' respective obligation shall not apply to the extent said suit, action or claim results from any acts or omissions of the indemnified party (including its officers, employees, agents or servants).

11.2. Nothing in this Agreement shall be construed as a waiver by either party of any rights, immunities, privileges, monetary limitations to judgments, or defenses available to the parties by the Colorado Governmental Immunity Act, Sec 24-10-101, et seq., C.R.S., as it may be amended from time to time.

12. ASSIGNMENT. This Agreement and any rights hereunder shall not be assigned, sold, hypothecated, pledged or otherwise transferred by the Town or District in whole or in part, without the prior written consent of the non-assigning party which consent shall not be unreasonably withheld, delayed or denied. The non-assigning party may require that any assignee provide written assurances to the non-assigning party that assignee will comply with the terms and conditions of this Agreement and consent may be withheld or conditioned upon receipt of such assurance. Merger, consolidation or acquisition of all of the waterworks, facilities, and assets of the District by another potable water provider shall not be considered as an assignment of this Agreement.

13. SUCCESSORS AND ASSIGNS. The provisions of this Agreement shall inure to the benefit of and be binding upon successors and assigns of the Town and the District.

14. ADDITIONAL DOCUMENTS OR ACTION. The parties agree to execute any additional documents and to take any additional action necessary to carry out this Agreement.

15. NOTICE. Any notice, consent, authorization or other action which either party is required or may desire to give to the other party pursuant to this Agreement shall be effective and valid only if in writing, signed by the party giving such notice, and personally delivered to the other party, or sent by registered or certified mail of the United States Postal Service, return receipt requested, postage or delivery charges prepaid, addressed to the other party as follows:

For the Town of Firestone:

Director of Community Resources
P.O. Box 100
151 Grant Ave.
Firestone, Colorado 80520

Bradley Grasmick, Town Water Attorney
Lawrence Jones Custer Grasmick, LLP
5245 Ronald Reagan Blvd., Suite 1
Johnstown, Colorado 80534

For the District:

General Manager
Left Hand Water District
PO Box 210
Niwot, CO 80544

Scott Holwick
Lyons Gaddis
PO Box 978
Longmont, CO 80502-0978

Or, to such other address or the attention of such other person(s) as hereafter designated in writing by the applicable parties in conformance with this procedure. Notices shall be effective upon mailing or personal delivery in compliance with this paragraph.

16. COMPLETE AGREEMENT. This instrument embodies the whole agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein; and this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, between the parties hereto. Except as provided herein there shall be no modifications of this Agreement except as agreed upon in writing, executed by the parties. Subject to the conditions precedent herein this Agreement may be enforced in Weld County District Court.

17. MODIFICATION AND WAIVER. No modification of the terms of this Agreement shall be valid unless in writing and executed with the same formality as this Agreement, and no waiver of the breach of the provisions of any section of this Agreement shall be construed as a waiver of any subsequent breach of the same section or any other sections that are contained herein.

18. ALTERNATIVE DISPUTE RESOLUTION. In the event of any dispute or claim arising under or related to this Agreement, the parties shall use their best efforts to settle such dispute or claim through good faith negotiations with each other. If such dispute or claim is not settled through negotiations within 30 days after the earliest date on which one party notifies the other party in writing of its desire to attempt to resolve such dispute or claim through negotiations, then the parties may agree to attempt in good faith to settle such dispute or claim by mediation conducted under the auspices of a recognized established mediation service within the State of Colorado. Such mediation shall be conducted within 60 days following either party's written request therefore. If such dispute or claim is not settled through mediation, then either party may initiate a civil action in the District Court for Weld County.

19. ATTORNEY FEES. In the event of default of any of the provisions contained in this Agreement, the defaulting party shall pay the other party's reasonable attorney's fees and costs incurred as a result of the default.

20. SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this Agreement is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portion hereof.

21. COUNTERPARTS. This Agreement may be executed in several counterparts and, as so executed, shall constitute one Agreement, binding on all the parties even though all the parties have not signed the same counterpart. Any counter part of this Agreement which has attached to it separate signature pages, which altogether contain the signatures of all the parties, shall be deemed a fully executed instrument for all purposes.

DATED: _____, 2019.

TOWN OF FIRESTONE

By: _____

Mayor Bobbi Sindelar

Attest:

Leah Vanarsdall, Town Clerk

DATED: _____, 2019

LEFT HAND WATER DISTRICT

By:  _____

Attest:

 _____
Secretary

AGENDA INFORMATION MEMORANDUM

FIRESTONE TOWN BOARD OF TRUSTEES



AIM#: 7.e.

Discussion/Action

Meeting Date: June 12, 2019

Initiated By: Todd Bjerkaas

Dept: Planning & Zoning

AGENDA TITLE

Resolution 19-48: A RESOLUTION OF THE BOARD OF TRUSTEES AUTHORIZING THE APPROPRIATE TOWN OFFICIAL TO SIGN THE ENCROACHMENT LICENSE AGREEMENT WITH KERR-MCGEE GATHERING LLC

SUMMARY

Staff has prepared a resolution for consideration by the Board to enter into an Encroachment License Agreement with Kerr McGee Gathering LLC

The encroachment license agreement provides for a non-exclusive 30' wide license area in the Firestone Trail corridor for an underground gas gathering pipeline and appurtenant underground facilities necessary for the conveyance of natural gas from the Kugel pad in Central Park. The license also provides for an underground crossing of Pine Cone Avenue.

HISTORY AND PREVIOUS BOARD ACTION

The Town of Firestone and the Firestone Finance Authority entered into the First Amendment to Compatible Development and Surface Use Agreement for the Central Park property on December 12, 2018.

The Town of Firestone approved a Special Use Permit for Crestone Peak Resources for the Kugel location on February 27, 2019.

RECOMMENDATION

Staff recommends that the Board approve the attached resolution authorizing the Mayor to sign the Encroachment License Agreement.

ALTERNATIVES

ATTACHMENTS

1. Reso 19-48 KMG Encroachment License Agreement Approval

FINANCIAL CONSIDERATIONS

RESOLUTION NO. 19-48

**A RESOLUTION OF THE BOARD OF TRUSTEES AUTHORIZING THE
APPROPRIATE TOWN OFFICIAL TO SIGN THE ENCROACHMENT
LICENSE AGREEMENT WITH KERR-MCGEE GATHERING LLC.**

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 Peak Resources Holdings LLC 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, on December 12, 2018, Crestone Peak Resources Holdings LLC entered into the First Amendment to Compatible Development and Surface Use Agreement with the Town of Firestone and the Firestone Finance Authority; and

WHEREAS, on February 27, 2019, the Town of Firestone Board of Trustees approved a Special Use Permit for Crestone Peak Resources for oil and gas wells for the property; and

WHEREAS, an underground gas gathering pipeline and appurtenant underground facilities are necessary for the conveyance of natural gas from the oil and gas wells; and

WHEREAS, the Town of Firestone desires to provide a 30' wide license area and right-of-way crossing at Pine Cone Avenue to Kerr McGee Gathering LLC to accommodate such facilities; and

WHEREAS, the Board of Trustees of the Town of Firestone considered the acceptance of the Encroachment License Agreement, attached hereto as Exhibit A, on June 12, 2019; and

WHEREAS, the Board of Trustees of the Town of Firestone believes it is in the best interest of the Town and its citizens to accept the Encroachment License 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 Encroachment License Agreement, attached hereto as Exhibit A, with Kerr McGee Gathering LLC and authorizes the appropriate Town official to sign and bind the Town to the Agreement.

INTRODUCED, READ AND ADOPTED this 12th day of June, 2019.

Bobbi Sindelar, Mayor

ATTEST:

Leah Vanarsdall, Town Clerk

Exhibit A
Encroachment License Agreement

ENCROACHMENT LICENSE AGREEMENT
(Town of Firestone)

This **ENCROACHMENT LICENSE AGREEMENT** ("Agreement") dated to be effective on [●] ("Effective Date") is between the Town of Firestone, a Colorado municipal corporation, the Firestone Finance Authority, a corporate body politic of the State of Colorado, (individually, the "Town" and "FFA," respectively, and collectively, "Owner"), and Kerr-McGee Gathering LLC, a Colorado limited liability company ("Licensee"). Town and Licensee may be referred to in the singular sense as a "Party" or in the collective sense as the "Parties."

Recitals

The Town and FFA are the owners of real property located in the Town of Firestone in Weld County, Colorado (collectively, "Town Property").

Licensee proposes to construct, own and operate a single 8" underground gas gathering pipeline and appurtenant underground facilities ("Underground Facilities") located on Town Property, as described in more particular detail on Exhibit A attached hereto and incorporated herein ("License Area").

The Parties desire to enter into a license agreement respecting the Licensee's encroachment upon and use of the Town Property pursuant to the terms and conditions set forth herein.

Agreement

For good and valuable consideration given and acknowledged by the Parties, and in consideration of the provisions set forth herein, the parties agree as follows:

1. Grant of License. Owner hereby grants to Licensee a personal privilege, in the form of a revocable, non-exclusive license ("License"), subject to the terms and conditions as set forth herein, to use the License Area.

2. Use of Town Property.

(a) The License Area may be used by the Licensee for the sole and exclusive purpose of accessing, locating, constructing, installing, operating, maintaining, repairing, removing, and replacing the Underground Facilities.

(b) The Underground Facilities shall be installed in accordance with the plans and specifications approved by the Town Engineer prior to beginning the installation of such Underground Facilities. The Town Engineer may require modifications to such plans and specifications prior to approval thereof. Any proposed changes to the approved plans and specifications shall be submitted to the Town for review and approval in writing prior to making such changes.

(c) All work approved by the Town shall be completed in compliance with all codes, ordinances, rules, and regulations of the Town.

(d) All Underground Facilities installed within the License Area shall be buried to a depth of not less than sixty inches (60") from the existing ground elevation. Except for surface markers, all facilities installed pursuant to the license granted herein shall be located entirely underground.

(e) Except for the Underground Facilities specifically authorized by Owner, Licensee shall not place, build, erect, or add any structures, pipelines, facilities, improvements or other items on, under, over or across the License Area or Town Property.

(f) Any changes, expansions or alterations in any way to the Underground Facilities shall require additional advance approval by Owner.

(g) Licensee's use of the License Area shall be subject to all existing utility easements, if any, located on, under, or above the Town Property.

(h) Licensee acknowledges that the use hereunder is of the License Area in its present, as-is condition with all faults, whether patent or latent, and without warranties or covenants, express or implied. Licensee acknowledges that Owner shall have no obligation to repair, replace, or improve any portion of the Town Property in order to make the License Area or Town Property suitable for Licensee's intended uses.

3. Term and Termination.

(a) This Agreement shall commence on the Effective Date, and shall continue until terminated pursuant to Section 3(b).

(b) The Town may terminate this Agreement by delivering 30 days advance written notice to Licensee, if Licensee removes and does not replace the Underground Facilities, abandons its use or operation of the Underground Facilities, or otherwise abandons its use and enjoyment of the License Area pursuant to the rights granted herein.

(c) Either Party may terminate this Agreement if the other Party defaults in the performance of any of its obligations hereunder and fails to cure such default within 30 days following the giving of written notice by the other party ("Cure Period"), unless such Cure Period is extended by mutual agreement of the Parties.

(d) In the event of termination, Licensee shall not be entitled to receive a refund of any portion of the consideration paid herein for the License, nor shall Licensee be compensated for the cost of removal of Licensee's improvements from the Town Property.

4. Consideration. Licensee shall remit payment of consideration of **TWENTY THOUSAND, EIGHT HUNDRED FIFTY DOLLARS AND NO/100 (\$21,050.00)** to the Town concurrently with the execution and delivery of this Agreement.

5. No Estate Created or Conveyed. It is the express intent of the Parties that the License granted herein does not create or convey an estate, interest, or claim in or to the Town Property or License Area, and that the Licensee's location, construction, and use of Underground Facilities on the Town Property does not create a license coupled with any property interest in or claim to the License Area or Town Property.

6. Reservation of Rights.

(a) Owner reserves all other rights in and to the License Area, including the right to use and occupy the License Area for any purpose whatsoever, including without limitation, other utilities and utility crossings, irrigation systems, landscaping, vehicular and pedestrian access, or any other surface or underground improvements. Notwithstanding, any underground facilities, other than fiber optic, conduit, tracer wire and other accessories and component equipment ("Town Fiber Optic Infrastructure"), installed within the License Area shall maintain vertical separation of two feet and horizontal separation of ten feet from Licensee's Underground Facilities. With respect to any Town Fiber Optic Infrastructure installed within the License Area, the Town shall maintain vertical separation and horizontal separation from Licensee's Underground Facilities as described and depicted in more detail in Exhibit A.

(b) Should the Underground Facilities, for any reason, impede, restrict or limit in any manner whatsoever Owner's use of the License Area, Licensee shall be responsible for any incremental cost incurred by the Town or FFA to bypass or to avoid disturbing the Underground Facilities when designing, constructing, installing, or modifying any future improvements within the License Area.

(c) Licensee's loss of use of the Underground Facilities arising out of or relating to the Owner's use of the License Area shall not entitle Licensee to any compensation for damages or loss from Owner, in any manner whatsoever.

7. Record Drawings. On or before the 60th day following Licensee's completion of construction of Underground Facilities, Licensee shall provide Owner detailed digital record drawings of such Underground Facilities for review and acceptance in conformance with the Town's Design Criteria. Record Drawings shall show the location of the Underground Facilities with a reference distance to an existing section monument. The plan view shall also show existing surface features and known utilities within ten (10) feet of the License Area, as well as any valves, fittings, or other appurtenances on the gas pipeline and within the License Area.

8. Monumentation and Marking. Licensee shall place and maintain permanent, above-grade monumentation and marking at all locations where the Underground Facilities enter upon the boundaries of the License Area, at changes of direction, and enter upon the boundaries of road right-of-way, as approved by the Town Engineer. Markers shall include phone numbers to call for line locates and 24-hour emergency repair. Licensee shall install tracer wire no more than 18" above and along the entire length of the Underground Facilities.

9. Permitted Users. Licensee's affiliates, employees, business invitees, contractors, tenants, contractors, lessees, agents, customers and others ("Permitted Users") may use the License, provided that all such uses shall be within the scope of this Agreement.

10. Maintenance.

(a) Licensee agrees to take such actions, at its sole expense, as are necessary to maintain the Underground Facilities in good and safe working condition at all times. Licensee further agrees to comply at all times with the ordinances, resolutions, rules, and regulations of the Town in Licensee's use and occupancy of the Town Property.

(b) In the exercise of its rights pursuant to this Agreement, Licensee shall avoid any damage or interference with any Owner installations, structures, utilities, or improvements on, under, or adjacent to the Town Property.

11. Damage and Restoration. Licensee shall be responsible for all damage to the License Area or Town Property, including damage to any root structures of trees within the grove north of Pine Cone Avenue, arising out of or resulting from the Underground Facilities, or its use of the Underground Facilities or License granted herein. Licensee, at its sole expense, shall restore the surface of the License Area and shall restore any improvements, landscaping, and other facilities located in the License Area to the conditions that existed immediately prior to the commencement of any of Licensee's activities permitted hereunder.

12. Assignment. Licensee may not assign or transfer this Agreement, except upon the express written authorization of the Town, which authorization shall not be unreasonably withheld, conditioned, or delayed. Such consent, if granted by the Town, shall be conditioned upon such assignee's assumption, in writing in a form acceptable to Town, of all of Licensee's obligations set forth herein.

13. Removal Of Encroachment Upon Termination. Upon termination of this Agreement, the Parties agree that Licensee shall cut, clean, and remove all Licensee's Underground Facilities located on Town Property, unless such removal of Licensee's Underground Facilities is waived by the Town in its sole discretion, and Licensee shall cap and structurally fill any underground pipeline installed within the road right-of-way.

14. Insurance.

(a) Coverages. Licensee shall procure and maintain or self-insure, at its own cost, a policy or policies of insurance sufficient to insure against, claims, demands, and other obligations assumed by Licensee pursuant to this

Agreement. All of Licensee's contractors shall be insured pursuant to their master service contracts with Licensee. Such coverages shall include:

(i) Worker's Compensation insurance as required by law.

(ii) Commercial General Liability insurance with minimum combined single limits of \$2,000,000 per occurrence for bodily injury and property damage and \$5,000,000 general aggregate including premises and operations, personal and advertising injury, blanket contractual liability, and products, and completed operations. The policy shall contain a severability of interests provision, and shall include the Town and the Town's officers, employees and contractors as additional insureds to the extent of the liabilities assumed by Licensee herein.

(iii) Excess or Umbrella Liability insurance, on an occurrence basis, in excess of the Commercial General Liability insurance, with coverage as broad as such policy, with a limit of \$2,000,000.

(b) Form. Such insurance shall be in addition to any other insurance requirements imposed by law. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage. Any insurance carried by the Town, its officers, its employees or its contractors shall be excess and not contributory insurance to that provided by Licensee. Licensee shall be solely responsible for any deductible losses under any policy.

(c) Certificate. Licensee shall provide to Owner a certificate of insurance or self-insurance letter as evidence that the required coverages are in full force and effect. The certificate or letter shall identify this Agreement.

15. Waiver Of Claims Against Owner. Licensee hereby waives any and all claims which Licensee may or might hereafter have or acquire against Owner for loss or damage to the Licensee's improvements arising from the use by Owner, or the public, of the Town's Property for any purpose, except to the extent such claims are caused by the negligence of the Owner, its officers, its employees, or its subcontractors.

16. Indemnification. Licensee agrees to indemnify, defend and hold harmless Owner, its officers, employees, and insurers from and against all liability, claims, and demands, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, to the extent caused by Licensee, and which arise out of or are in any manner connected with: (i) the existence of the Underground Facilities; or (ii) the use, maintenance or repair of the Underground Facilities and the use of the License Area pursuant to this Agreement. Licensee agrees to investigate, handle, respond to, and to provide defense for and defend against any such liability, claims or demands at its sole expense.

17. Mechanics' Liens. Licensee shall not allow any mechanics' or similar liens to be filed against the Town's Property arising from any work done by Licensee on the Town's Property, and Licensee shall indemnify and hold Town harmless with respect thereto, including any attorney's fees incurred by Owner in connection with any such lien or claim. If any mechanics' or other liens shall be created or filed against the Town's Property by reason of labor performed by, or materials furnished for, the Licensee, the Licensee shall, within 30 days thereafter, at the Licensee's own cost and expense, cause such lien or liens to be satisfied and discharged of record together with any Notices Of Intention To File Mechanic's Lien that may have been filed.

18. Notices. Any notice required or permitted under this Agreement shall be in writing and shall be sufficient if personally delivered or mailed by certified mail, return receipt requested, addressed to the following: (i) if to the Town, Attn: Town Manager, Town of Firestone, P.O. Box 100, Firestone, CO 80520; (ii) if to the FFA, Attn: _____, P.O. Box 100, Firestone, CO 80520; and (iii) if to the Licensee, Attn. Contract Administration, Kerr-McGee Gathering LLC, 1099 18th Street, Suite 1800, Denver, Colorado 80202. Notices mailed in accordance with the provisions of this Paragraph shall be deemed to have been given upon mailing. Notices

personally delivered shall have been deemed to have been given upon delivery. Either party may change its address by giving notice thereof to the other party in the manner provided in this Section 19.

19. Attorney's Fees. If any action is brought in a court of law by either party to this Agreement concerning the enforcement, interpretation or construction of this Agreement, the prevailing party, either at trial or upon appeal, shall be entitled to reasonable attorney's fees as well as costs, including expert witness's fees, incurred in the prosecution or defense of such action.

20. Waiver. The failure of either party to exercise any of its rights under this Agreement shall not be a waiver of those rights. A party waives only those rights specified in writing and signed by the party waiving its rights.

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

22. Entire Agreement. This Agreement constitutes the entire agreement and understanding between the parties hereto and supersedes any prior agreement or understanding relating to the subject matter of this Agreement. Any such prior agreement shall be deemed to be null and void and of no further effect.

23. Modification. This Agreement may not be amended except in writing by mutual agreement of the parties, nor may rights be waived except by an instrument in writing signed by the party charged with such waiver.

24. Paragraph Headings. Paragraph headings are inserted for convenience only and in no way limit or define the interpretation to be placed upon this Agreement.

27. Authority Of Owner. This Agreement is entered into pursuant to a Resolution of the Board of Trustees of the Town of Firestone, Colorado adopted _____, 2019, and a Resolution of the Board of Directors of the Firestone Finance Authority adopted _____, 2019.

[Signatures and acknowledgments on following page]

The Parties have executed this **ENCROACHMENT LICENSE AGREEMENT** to be effective on the Effective Date.

OWNER:
TOWN OF FIRESTONE

By: _____
Bobbi Sindelar, Mayor

ATTEST:

By: _____
Leah Vanarsdall, Town Clerk

FIRESTONE FINANCE AUTHORITY

By: _____

LICENSEE:
KERR-MCGEE GATHERING LLC

By: Christopher P. Martin *BAC*
Name: Christopher P. Martin
Title: Agent & Attorney-in-Fact

STATE OF COLORADO)
) ss.
CITY AND COUNTY OF DENVER)

The forgoing **REVOCABLE ENCROACHMENT LICENSE AGREEMENT** was subscribed and sworn to before me on June 6, 2019, by Christopher P. Martin in his/her capacity as Agent & Attorney-in-Fact of Kerr-McGee Gathering LLC, on behalf of such limited liability company.

(Seal)



BAC
Notary Public
Address

My Commission expires: Feb. 17, 22

EXHIBIT A

Attachment to that certain Right of Way Grant, by and between Firestone Finance Authority,
as "Grantor", and KERR-MCGEE GATHERING LLC, a Colorado limited liability company, as "Grantee".
Sheet 1 of 2

A 30 foot wide strip of land being a portion of Outlot 2 of Firestone Central Park First Filing Minor Subdivision
filed October 16, 2006 at Reception Number 3427733 conveyed to Firestone Finance Authority June 09, 2005
at Reception Number 3293398 and Reception Number 3293400 in Section 18, Township 2 North, Range 67
West of the Sixth Principal Meridian, County of Weld, State of Colorado, said 30 foot wide strip being 15 feet
each side of the following described centerline:

Note:

1. The Basis of Bearings is the west line of the northwest quarter of Section 18, T-2-N, R-67-W 6th P.M., as
monumented with an aluminum cap PLS 31169 at the south end and an aluminum cap PLS 23405 at the
north end with a grid bearing of N 00°06'32" W.
2. The side lines of the strip of land are to be lengthened and/or shortened as necessary to end at the property
lines.
3. All directions, distances, and dimensions shown hereon are based on coordinates from the Colorado
coordinate system of 1983 north zone (C.R.S. 38-52-102), U.S. Survey feet.
4. This is not a boundary survey or a land survey plat.

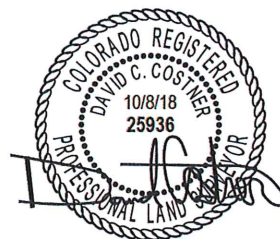
Commencing at the west quarter corner of Section 18, an aluminum cap PLS 31169; Thence N 65°22'12" E a
distance of 281.32 feet, more or less, to a point on the westerly line of said Outlot 2 and the POINT OF
BEGINNING:

Thence S 89°59'45" E a distance of 3868.31 feet;

Thence N 00°00'15" E a distance of 95.92 feet to the POINT OF TERMINUS from which an illegible aluminum
cap at the east quarter corner of said Section 18 bears S 73°44'42" E a distance of 920.75 feet.

Right of Way Length: 3964.23 feet.

Prepared by David C. Costner
For and on behalf of
Topographic Land Surveyors
520 Stacy Ct. Ste B, Lafayette, CO 80026
303 666 0379

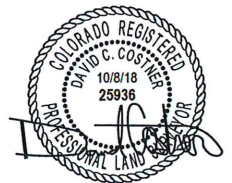
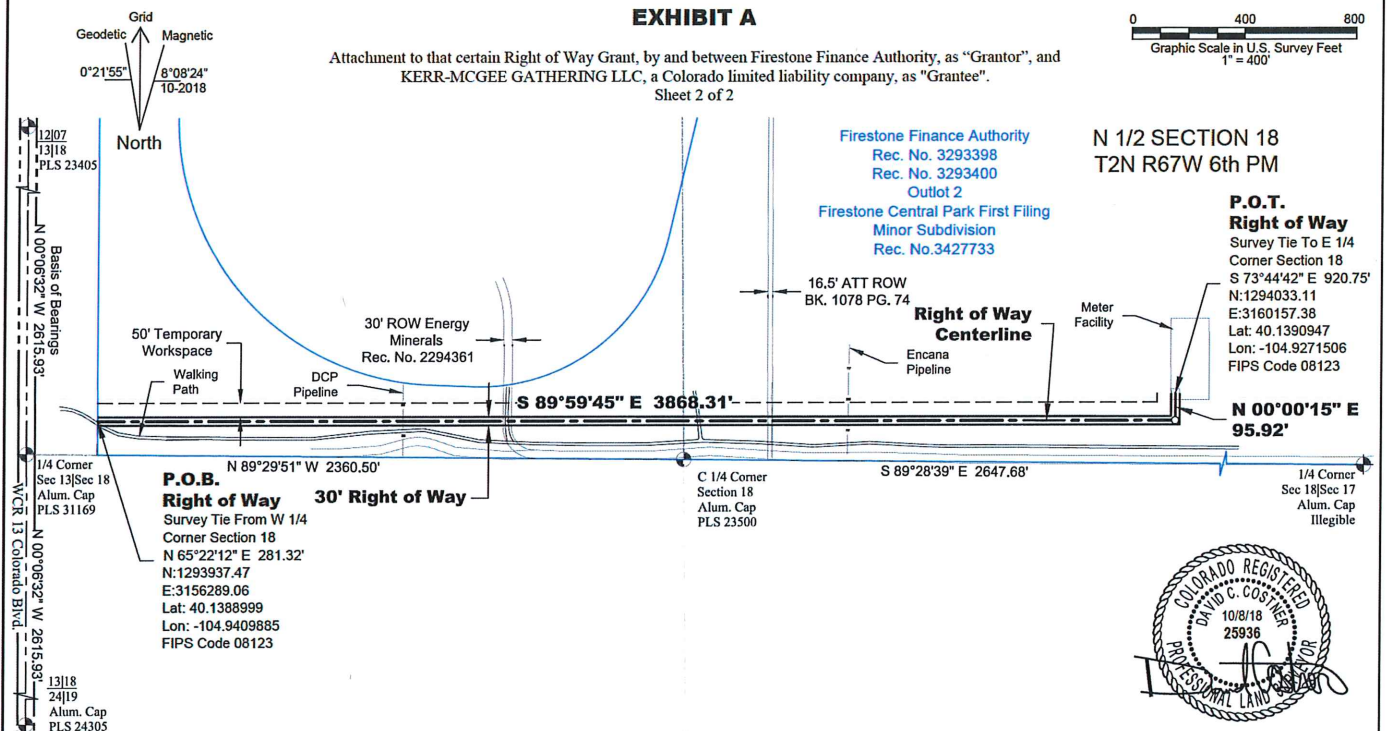
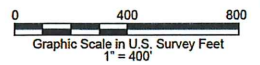


KERR-McGEE
Right of Way Survey

Township: 2 North	1"= 400	AFE: 2146526
Range: 67 West 6th PM		Tracking:
County: Weld	10/8/2018	SRID: 13042
State: Colorado	BY: mag	Job No. 119489

EXHIBIT A

Attachment to that certain Right of Way Grant, by and between Firestone Finance Authority, as "Grantor", and KERR-MCGEE GATHERING LLC, a Colorado limited liability company, as "Grantee".
Sheet 2 of 2



KERR-McGEE
Right of Way Survey

Township: 2 North	1"=400'	AFE: 2146526
Range: 67 West 6th PM	10/8/2018	Tracking:
County: Weld	BY: mag	SRID: 13042
State: Colorado		Job No. 119489

Total Pipeline Length 3964.23'

EXHIBIT A

Attachment to that certain Right of Way Grant, by and between Town of Firestone, as "Grantor", and
KERR-MCGEE GATHERING LLC, a Colorado limited liability company, as "Grantee".
Sheet 1 of 2

A 30 foot wide strip of land being a portion of Parcel No. 9 conveyed to Town of Firestone filed March 19, 1997 at Reception Number 2538622 in Section 18, Township 2 North, Range 67 West of the Sixth Principal Meridian, County of Weld, State of Colorado, said 30 foot wide strip being 15 feet each side of the following described centerline:

Note:

1. The Basis of Bearings is the west line of the northwest quarter of Section 18, T-2-N, R-67-W 6th P.M., as monumented with an aluminum cap PLS 31169 at the south end and an aluminum cap PLS 23405 at the north end with a grid bearing of N 00°06'32" W.
2. The side lines of the strip of land are to be lengthened and/or shortened as necessary to end at the property lines.
3. All directions, distances, and dimensions shown hereon are based on coordinates from the Colorado coordinate system of 1983 north zone (C.R.S. 38-52-102), U.S. Survey feet.
4. This is not a boundary survey or a land survey plat.

Commencing at the west quarter corner of Section 18, an aluminum cap PLS 31169; Thence S 89°29'51" E, along the south line of the northwest quarter, a distance of 210.90 feet to the POINT OF BEGINNING:

Thence N 00°05'04" W a distance of 119.09 feet;

Thence S 89°59'45" E a distance of 45.00 feet, more or less, to a point on the easterly line of said Parcel No.9 and the POINT OF TERMINUS from which an aluminum cap PLS 23500 at the northwest corner of said Section 18 bears N 05°57'22" W a distance of 2512.25 feet.

Right of Way Length: 164.09 feet.

Prepared by David C. Costner
For and on behalf of
Topographic Land Surveyors
520 Stacy Ct. Ste B, Lafayette, CO 80026
303 666 0379

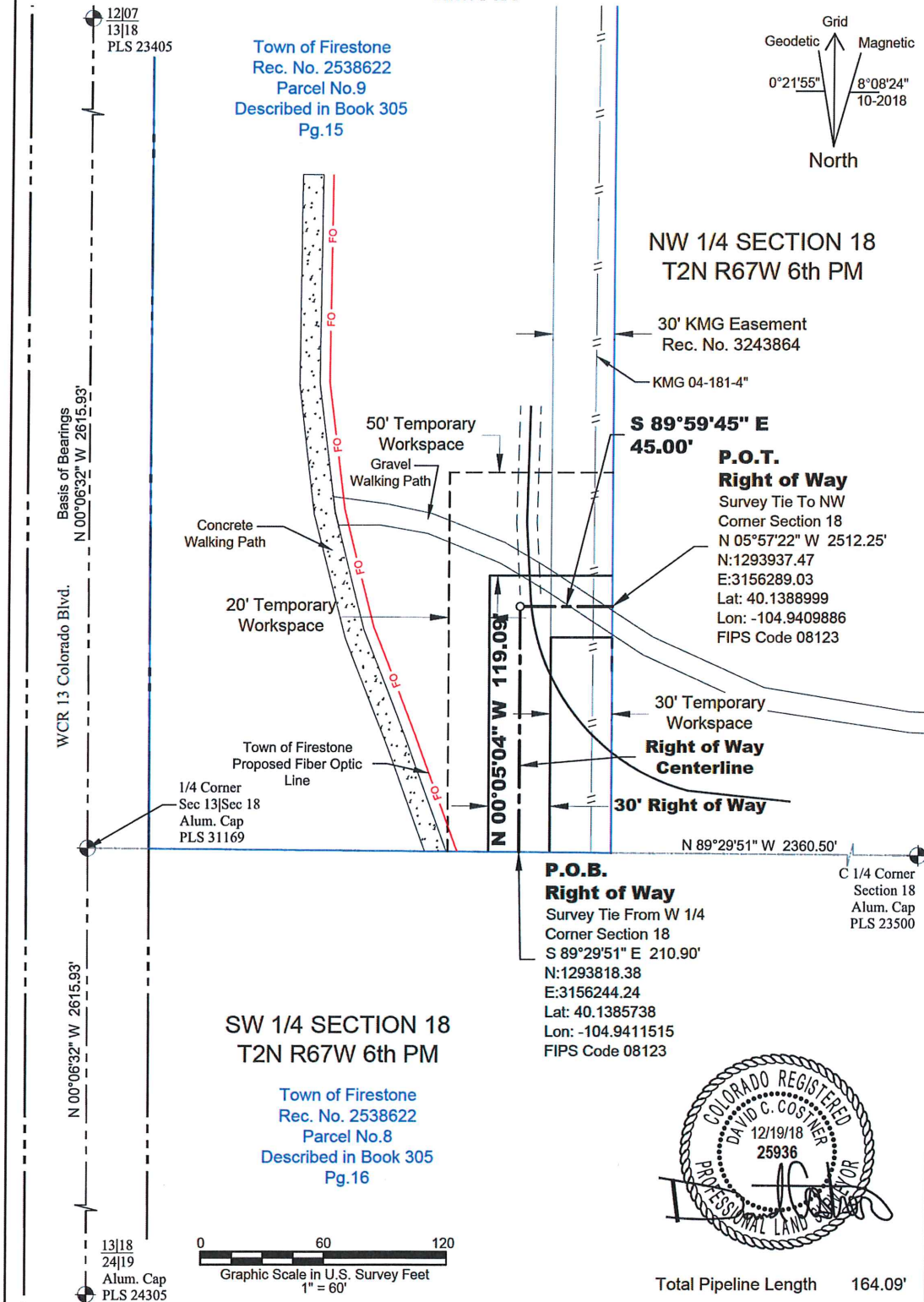


KERR-McGEE
Right of Way Survey

Township: 2 North	1"=60	AFE: 2146526
Range: 67 West 6th PM	12/19/2018	Tracking:
County: Weld		SRID: 13042
State: Colorado	BY: mag	Job No. 119489

EXHIBIT A

Attachment to that certain Right of Way Grant, by and between Town of Firestone, as "Grantor", and KERR-MCGEE GATHERING LLC, a Colorado limited liability company, as "Grantee".
Sheet 1 of 1



TOPOGRAPHIC LOYALTY INNOVATION LEGACY 520 Stacy Court Ste B, Lafayette, CO 80026 303.666.0379 www.topographic.com	KERR-McGEE Right of Way Survey		1"=60'		A/E: 2146526
	Township: 2 North	Range: 67 West 6th PM	12/19/2018		Tracking:
	County: Weld	State: Colorado	BY: mag		SRID: 13042
					Job No. 119489

EXHIBIT A

Attachment to that certain Right of Way Grant, by and between Town of Firestone, as "Grantor", and
KERR-MCGEE GATHERING LLC, a Colorado limited liability company, as "Grantee".
Sheet 1 of 4

A 30 foot wide strip of land being a portion of Parcel No. 8 conveyed to Town of Firestone filed March 19, 1997 at Reception Number 2538622 in Section 18, Township 2 North, Range 67 West of the Sixth Principal Meridian, County of Weld, State of Colorado, said 30 foot wide strip being 15 feet each side of the following described centerline:

Note:

1. The Basis of Bearings is the west line of the southwest quarter of Section 18, T-2-N, R-67-W 6th P.M., as monumented with an aluminum cap PLS 24305 at the south end and an aluminum cap PLS 31169 at the north end with a grid bearing of N 00°06'32" W.
2. The side lines of the strip of land are to be lengthened and/or shortened as necessary to end at the property lines.
3. All directions, distances, and dimensions shown hereon are based on coordinates from the Colorado coordinate system of 1983 north zone (C.R.S. 38-52-102), U.S. Survey feet.
4. This is not a boundary survey or a land survey plat.

Commencing at the southwest corner of Section 18, an aluminum cap PLS 24305; Thence S 89°11'11" E, along the south line of the southwest quarter of Section 18, a distance of 209.81 feet to the POINT OF BEGINNING:

Thence N 00°05'04" W a distance of 2617.05 feet, more or less, to a point on the north line of the southwest quarter and the POINT OF TERMINUS from which an aluminum cap PLS 31169 at the west quarter corner of said Section 18 bears N 89°29'51" W, a distance of 210.90 feet.

Right of Way Length: 2617.05 feet.

Prepared by David C. Costner
For and on behalf of
Topographic Land Surveyors
520 Stacy Ct. Ste B, Lafayette, CO 80026
303 666 0379

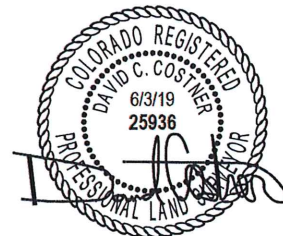
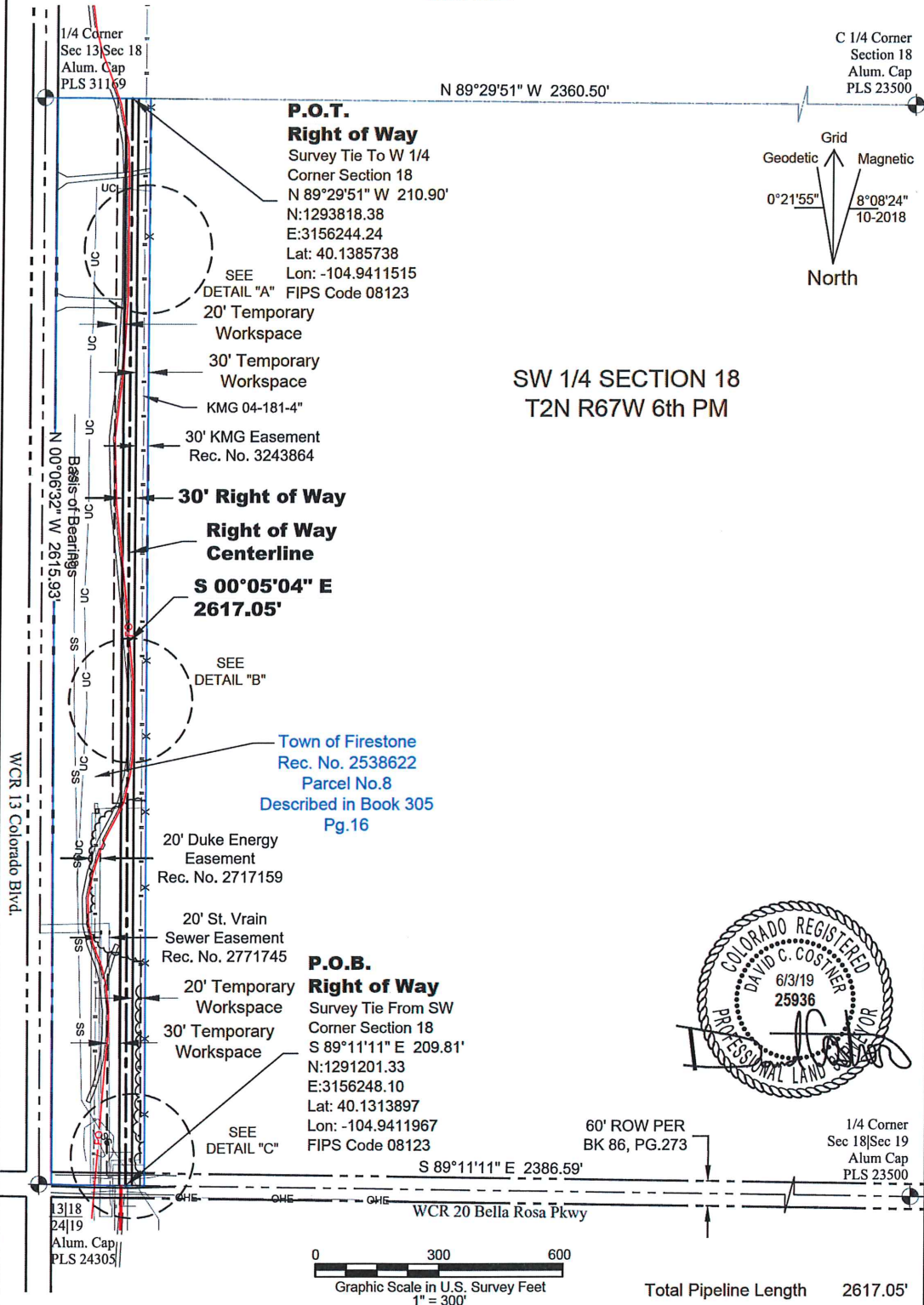


KERR-McGEE
Right of Way Survey

Township: 2 North	1"= 300	AFE: 2146526
Range: 67 West 6th PM	6/3/2019	Tracking:
County: Weld		SRID: 13042
State: Colorado	BY: mag	Job No. 119489

EXHIBIT A

Attachment to that certain Right of Way Grant, by and between Town of Firestone, as "Grantor", and
KERR-MCGEE GATHERING LLC, a Colorado limited liability company, as "Grantee".
Sheet 2 of 4



KERR-MCGEE
Right of Way Survey

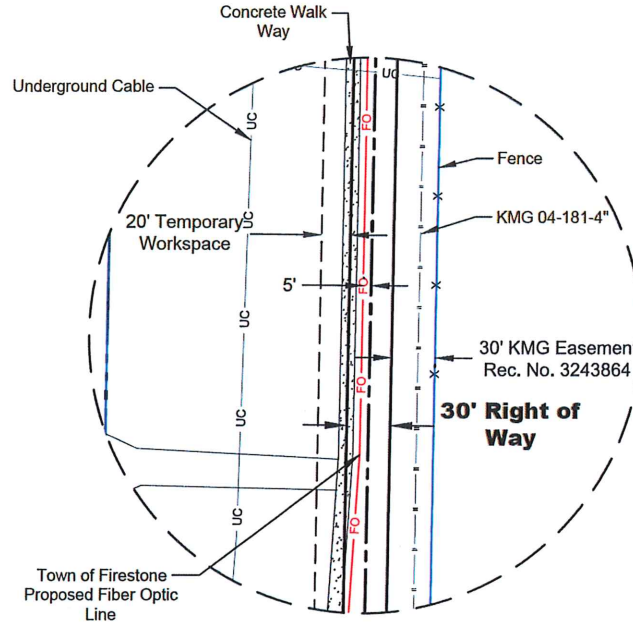
Township: 2 North
Range: 67 West 6th PM
County: Weld
State: Colorado

1" = 300'
6/3/2019
BY: mag

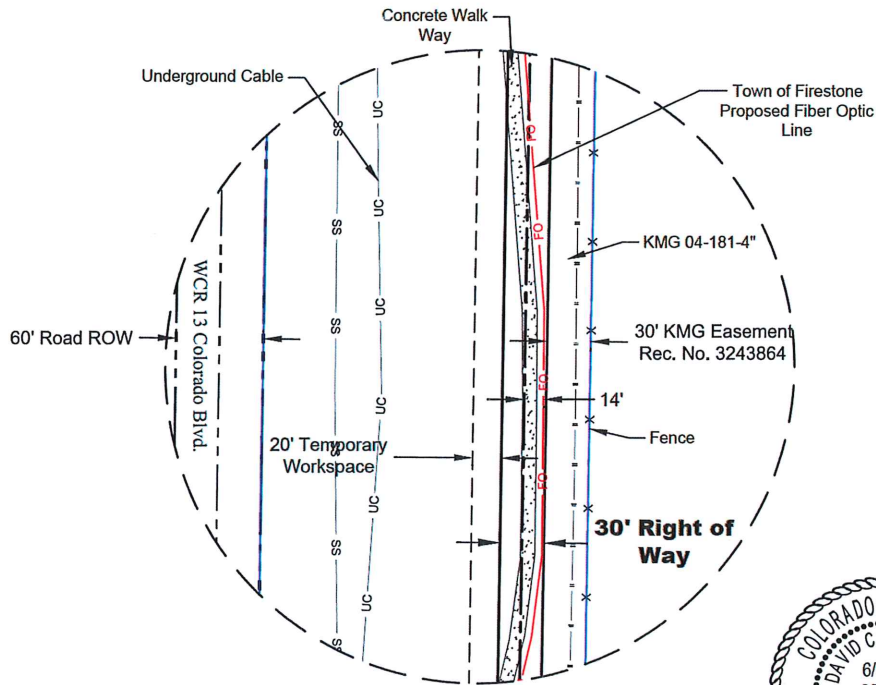
AFE: 2146526
Tracking:
SRID: 13042
Job No. 119489

EXHIBIT A

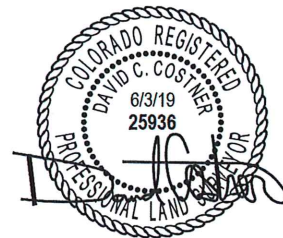
Attachment to that certain Right of Way Grant, by and between Town of Firestone, as "Grantor", and KERR-MCGEE GATHERING LLC, a Colorado limited liability company, as "Grantee".
Sheet 3 of 4



DETAIL VIEW "A"
SCALE: 1" = 100'



DETAIL VIEW "B"
SCALE: 1" = 100'

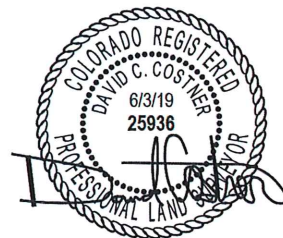
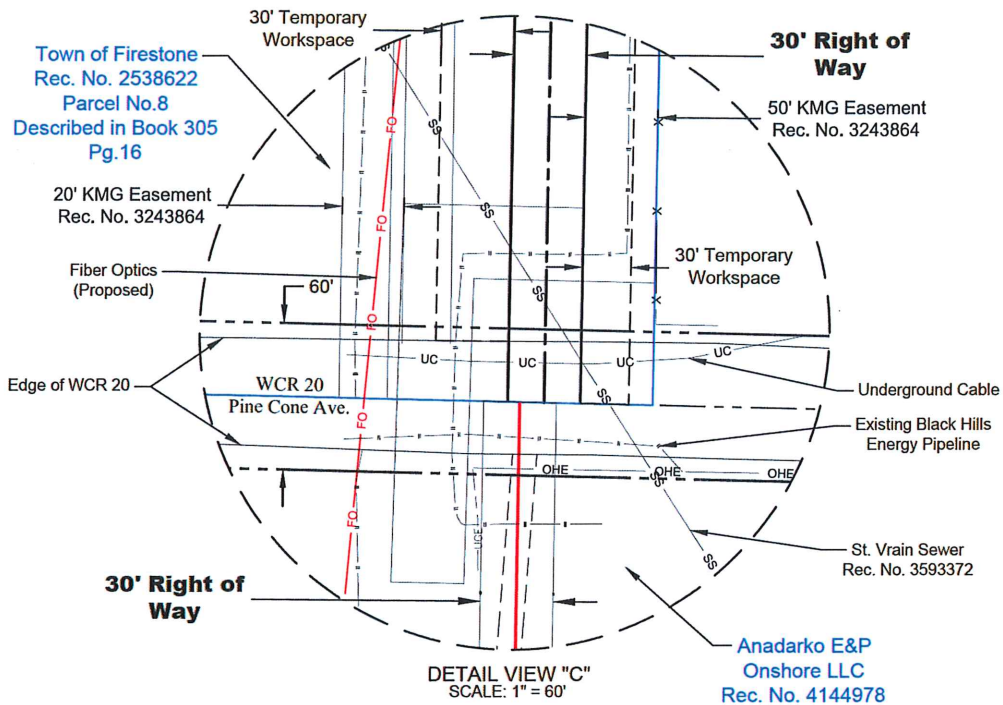


KERR-MCGEE
Right of Way Survey

Township: 2 North	1"=300'	AFE: 2146526
Range: 67 West 6th PM	Tracking:	
County: Weld	6/3/2019	SRID: 13042
State: Colorado	BY: mag	Job No. 119489

EXHIBIT A

Attachment to that certain Right of Way Grant, by and between Town of Firestone, as "Grantor", and KERR-MCGEE GATHERING LLC, a Colorado limited liability company, as "Grantee".
Sheet 4 of 4



KERR-McGEE
Right of Way Survey

Township: 2 North	1"= 300'	AFE: 2146526
Range: 67 West 6th PM	6/3/2019	Tracking:
County: Weld	BY: mag	SRID: 13042
State: Colorado		Job No. 119489

AGENDA INFORMATION MEMORANDUM

FIRESTONE TOWN BOARD OF TRUSTEES



AIM#: 7.f.

Discussion/Action

Meeting Date: June 12, 2019

Initiated By: Dave Lindsay

Dept: Public Works/ Parks & Rec

AGENDA TITLE

Resolution 19-49: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND COLORADO CIVIL GROUP, INC. REGARDING ENGINEERING DESIGN SERVICES FOR THE COLORADO BOULEVARD AND ZINNIA AVENUE TURN LANE IMPROVEMENTS PROJECT

SUMMARY

Staff has identified a traffic issue at the intersection of Colorado Boulevard and Zinnia Avenue that we would like to address. This intersection has an exceptional number of truck turning movements as a result of the numerous gravel mining operations east of the intersection. The intersection has minimum allowable lane widths, little or no paved shoulder, and no dedicated turn lanes. Fortunately there is very good sight distance at the intersection but the physical configuration of the lanes forces turn trucks to occupy more than one lane, especially when making right turns which requires them to swing wide into the oncoming lane. To address this staff has looked at the potential to add a northbound right turn lane on Colorado and a westbound right turn lane on Zinnia.

Attached for consideration and action by the Board of Trustees is a design services contract with Colorado Civil Group, Inc. to prepare construction plans and bidding documents for these improvements.

HISTORY AND PREVIOUS BOARD ACTION

None

RECOMMENDATION

Staff recommends the Board of Trustees approve Resolution 19-49 approving an agreement with Colorado Civil Group, Inc. and authorizing the Mayor to execute the agreement on behalf of the Town.

ALTERNATIVES

The Board could direct staff to request proposals for this work from other engineering consultants, modify the terms of the agreement, or postpone the project entirely.

ATTACHMENTS

1. 7f - Reso 19-49 CCGI Agreement (Turn Lane Improvements Project)
2. Colo Blvd-Zinnia Ave Turn Lane Improvements
3. 0668.0192.00 CONTRACT

FINANCIAL CONSIDERATIONS

The design services agreement is for \$46,700.00. The 2019 Budget included \$450,000.00 for the design and construction of this project. Because of some constraints regarding an irrigation ditch modification associated with the project the construction can be started in late 2019 but will not be completed until 2020.

RESOLUTION 19-49

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF
FIRESTONE, COLORADO, APPROVING AN AGREEMENT BETWEEN
THE TOWN OF FIRESTONE AND COLORADO CIVIL GROUP, INC.
REGARDING ENGINEERING DESIGN SERVICES FOR THE COLORADO
BOULEVARD AND ZINNIA AVENUE TURN LANE IMPROVEMENTS
PROJECT**

WHEREAS, the Town of Firestone (the “Town”) is in need of engineering design services for the Colorado Boulevard and Zinnia Avenue Turn Lane Improvements Project (the “Project”); and

WHEREAS, Colorado Civil Group, Inc., is duly accredited and has the skill and experience to perform the engineering services required for the Project, and desires to perform the engineering services required for the Project.

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

The Agreement between the Town of Firestone and Colorado Civil Group, Inc., for engineering services for the Colorado Boulevard and Zinnia Avenue Turn Lane Improvements Project is approved in substantially the same form as the copy attached hereto and made a part of this resolution, and the Mayor is authorized to execute the Agreement on behalf of the Town.

INTRODUCED, READ AND ADOPTED this 12th day of June, 2019.

TOWN OF FIRESTONE, COLORADO

Bobbi Sindelar, Mayor

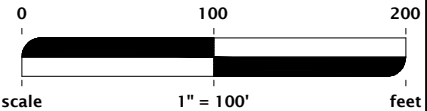
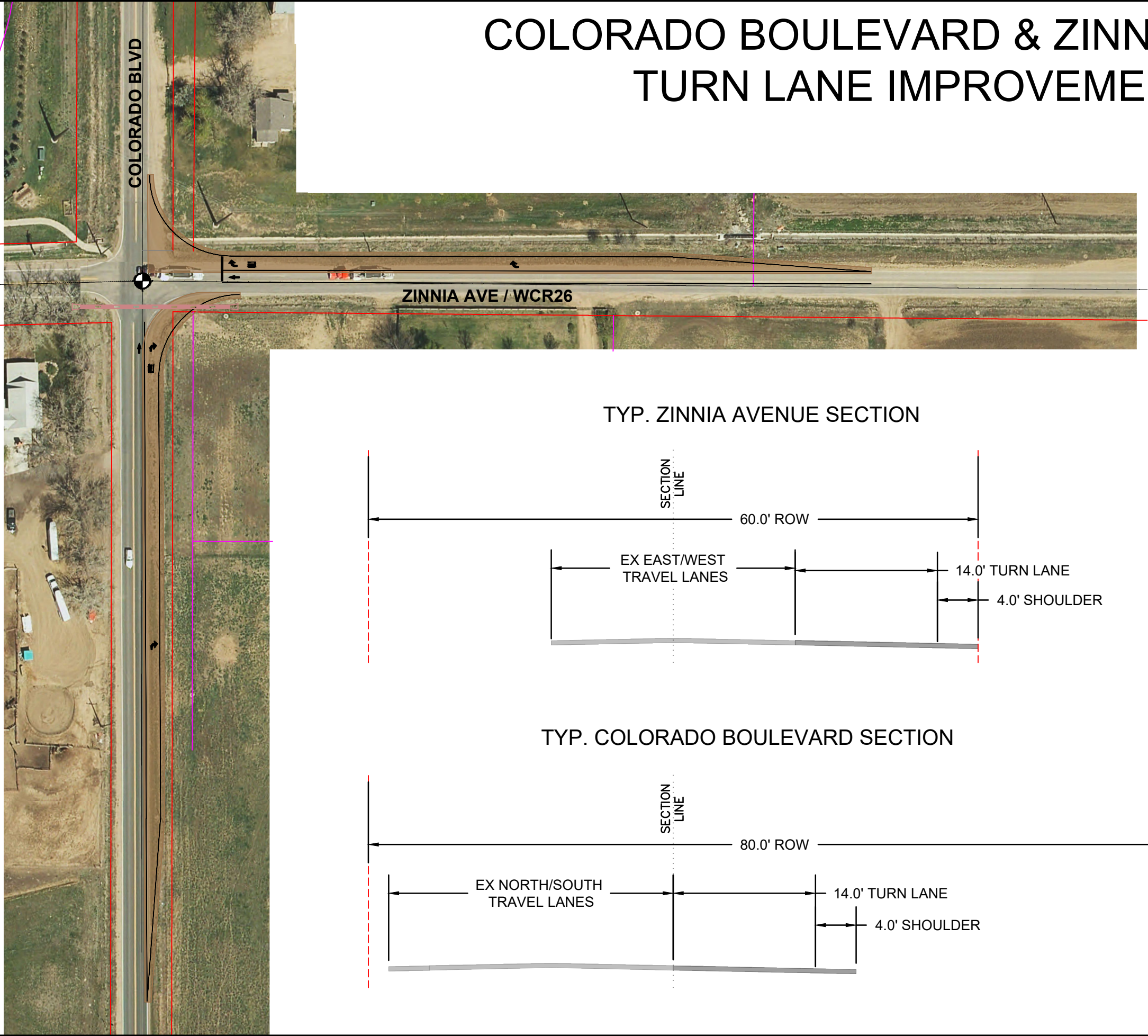
ATTEST:

Leah Vanarsdall, Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

COLORADO BOULEVARD & ZINNIA AVENUE TURN LANE IMPROVEMENTS



AGREEMENT

for

PROFESSIONAL ENGINEERING SERVICES

for

THE TOWN OF FIRESTONE

Colorado Boulevard and Zinnia Avenue Turn Lane Improvements Design

Project No. 0668.0192.00

This is an *AGREEMENT* made between THE TOWN OF FIRESTONE, a Colorado statutory Town (TOWN) and COLORADO CIVIL GROUP, INC., a Colorado Corporation (ENGINEER).

Whereas, TOWN desires to have certain engineering services performed by ENGINEER relative to the design of turn lane improvements in the southeast corner at the intersection of Colorado Boulevard and Zinnia Avenue in the Town of Firestone, Weld County, Colorado.

Whereas, the ENGINEER is duly accredited, and this *AGREEMENT* provides for said professional engineering services.

Therefore, TOWN and ENGINEER, in consideration of their mutual covenants herein, agree in respect of the performance of professional engineering services provided by ENGINEER and the payment for those services by OWNER as set forth in Sections 1 through 4 below.

SECTION 1 - Basic Services

For the purposes of this *AGREEMENT*, the Basic Services shall include professional civil engineering design services, as further described herein, relative to the addition of a turn lane and associated drainage and utility improvements at the intersection of Colorado Boulevard and Zinnia Avenue, (the "Project"). Specific tasks to be performed shall be:

1.1 Base Material

The ENGINEER will prepare base mapping of the project area and collect information regarding existing property and facilities along the route of the work. Existing conditions in the project area will be assessed both on and below the surface. This effort shall include:

- 1.1.1 Digital aerial photography and some planimetrics will be obtained using DRCOG Aerial Photography (2016 images).

- 1.1.2 Planimetrics and topography will be obtained from a field survey and used as the basis of the project mapping and construction plans.
- 1.1.3 Existing utilities and structures within the survey corridor will be located and evaluated. Existing utility conflicts will be evaluated and relocation requirements will be identified.
- 1.1.4 The ENGINEER shall retain the services of a private company to pothole existing buried utilities to confirm location and determine depth of bury.
- 1.1.5 It is recognized that in performing its services, including but not limited to the identification, location and evaluation of existing facilities and property ownership rights ENGINEER will rely on records, documentation and observations, some of which may not be capable of confirmation without expending substantial sums of money and/or destroying or damaging serviceable facilities or structures. Accordingly, ENGINEER shall not be liable for any, loss, damage, cost or expense resulting from actual conditions which differ from the records, documents and observations relied upon by ENGINEER unless and to the extent such loss, damage, cost or expense is directly attributable to ENGINEER'S sole negligence.

1.2 Turn Lane Improvements Design

The ENGINEER shall prepare final construction plans for the improvements to Colorado Boulevard at the intersection of Zinnia Avenue utilizing new survey data for roadway alignments, street cross-sections and utility and drainage relocations and improvements. The improvements to Colorado Boulevard consist of adding a turn-lane east bound onto Zinnia Avenue and tying improvements to existing conditions. New striping and signage will be included with the design. Specific design elements shall include:

- 1.2.1 The ENGINEER shall prepare a removal and relocation plan at a minimum scale of 1"=50'.
- 1.2.2 The ENGINEER shall prepare a grading and erosion control plan at a minimum scale of 1"=50'.
- 1.2.3 The ENGINEER shall prepare a street plan and profile at a minimum scale of 1"=50'.
- 1.2.5 The ENGINEER shall prepare a street signing and striping plan at a minimum scale of 1"=50'.
- 1.2.6 The ENGINEER shall prepare a street cross-section plan every 100 feet which shows the existing ground, and proposed improvements.

- 1.2.7 The ENGINEER shall prepare a drainage memorandum to discuss how the planned improvements accommodate future roadway improvements and offsite drainage adjacent to the Project.
- 1.2.10 The ENGINEER will work with appropriate utility companies for any potential utility relocations that will be required. The ENGINEER will design these utility relocations where needed and the ENGINEER's potholing contractor will be used to confirm existing utility location and elevation information.
- 1.2.10 The ENGINEER shall prepare a Storm Water Management Plan report and submit a discharge permit application to the State of Colorado.
- 1.2.11 The ENGINEER shall prepare a public improvements opinion of cost.
- 1.2.12 ENGINEER shall render its services in accordance with generally accepted engineering standards and practices as such standards and practices are normally exercised in the performance of professional standards of a similar nature in the Denver metropolitan area.

1.3 Construction Documents

The ENGINEER shall prepare construction documents including bidding materials, construction contract, and construction specifications. These documents shall conform to the form and format of the Engineers Joint Contract Documents Committee General Conditions, as previously utilized by the TOWN and ENGINEER on previous projects.

1.4 Construction Project Bidding

The ENGINEER shall conduct bidding for the proposed construction work. Specific design elements shall include:

- 1.4.1 The ENGINEER shall issue an invitation to bid to the Town's select bidders list as well as a public bidding advertisement. Bidding documents will be made available to bidders via electronic files that can be accessed by invited contractors on a data storage site.
- 1.4.2 The ENGINEER shall conduct a pre-bid meeting to further present the project and to respond to bidder questions. The Engineer shall field and respond to all questions and requests for clarification.
- 1.4.3 The ENGINEER shall open and tabulate bids for the project. A formal recommendation regarding award of the construction contract will be provided to the Town.

SECTION 2 - Additional Services

Services not contemplated in Section 1 may be required of ENGINEER by the TOWN. If such work is to be performed a change order to the *AGREEMENT* will be prepared and presented to

the TOWN prior to initiation of said work. Descriptions of additional services, compensation, and period-of-services adjustments will be presented in the change order, prior to starting any additional services.

Specific services not included in this *AGREEMENT* include, but are not limited to:

- 2.1 Negotiation of property or easement acquisition.
- 2.2 Coordination or scheduling of neighborhood or other public meetings.
- 2.3 Wetland mitigation plans or permitting.
- 2.4 Construction management, construction inspection, or construction staking.

SECTION 3 - Period of Service

The Period of Service for this work shall commence upon the signing of this contract by TOWN and shall end at the completion of Basic Services. Work shall progress in a timely manner to support the schedule established by TOWN and ENGINEER.

SECTION 4 - Compensation

4.1 Methods of Payment for Services and Expenses of Engineer

- 4.1.1 TOWN shall pay ENGINEER for Basic Services rendered under Section 1 a lump sum fee of \$46,700.00. Such amount shall be inclusive of all costs of whatsoever nature associated with ENGINEER's efforts, including but not limited to salaries, benefits, expenses, overhead, administration and profits.
- 4.1.2 Services authorized and provided under Section 2 - Additional Services, will be based on hourly rates plus expenses according to ENGINEER's then current Schedule of Fees (Exhibit A).

4.2 Times of Payments

ENGINEER shall submit monthly invoices for a portion of the lump sum fee based upon ENGINEER's estimate of the proportion of the services actually completed at the time of billing.

4.3 Other Provisions Concerning Payments

- 4.3.1 If TOWN fails to make any payment due ENGINEER for services and expenses within forty-five days after receipt of ENGINEER's invoice, the amounts due ENGINEER will be increased at the rate of 1½% per month from said forty fifth day, and in addition, ENGINEER may, after giving seven days' written notice to

TOWN, suspend services under this *AGREEMENT* until ENGINEER has been paid in full all amounts due for services, expenses, and charges.

- 4.3.2 In the event of termination by TOWN under paragraph 6.1.2 upon the completion of any phase of the Basic Services, progress payments due ENGINEER for services rendered through such phase shall constitute total payment for such services. In the event of such termination by the TOWN during any phase of the Basic Services, ENGINEER will be paid for services rendered during that phase on the basis of ENGINEER's hourly rates based on the current Schedule of Fees for services rendered during that phase to date of termination by ENGINEER's principals and employees engaged directly in work for the TOWN. In the event of any such termination, ENGINEER also will be reimbursed for the charges of independent professional associates, consultants and subcontractors employed by ENGINEER and authorized by the TOWN to render Basic Services through ENGINEER and for all unpaid Additional Services and unpaid Reimbursable Expenses, plus all termination expenses. Termination expenses mean Reimbursable Expenses directly attributable to termination.
- 4.3.3 It is understood and agreed that the TOWN, and not any landowner subject to a reimbursement agreement with the TOWN, is responsible for all payments under this *AGREEMENT*.

SECTION 5 - TOWN's Responsibilities

TOWN shall do the following in a timely manner so as not to delay the services of ENGINEER:

- 5.1 As appropriate, designate responsible representatives to provide direction to the ENGINEER with respect to services provided pursuant to this *AGREEMENT*. The TOWN Board of Trustees or its delegatee shall transmit instructions, receive information, interpret and define TOWN's policies and decisions with respect to ENGINEER's services provided pursuant to this *AGREEMENT*.
- 5.2 Provide all criteria and full information as to TOWN's requirements as necessary for performance of ENGINEER's services, including, with respect to TOWN projects, design or project objectives and constraints, space capacity and performance requirements, flexibility and expendability, and any budgetary limitations.
- 5.3 Assist ENGINEER by placing at ENGINEER's disposal all available information pertinent to this project.
- 5.4 Unless otherwise agreed by the TOWN and ENGINEER, the TOWN shall be responsible for negotiating and acquiring all required properties and/or easements necessary for any TOWN projects.

SECTION 6 - General Considerations

6.1 Termination

- 6.1.1 The obligation to provide further services under this *AGREEMENT* may be terminated by either party upon thirty days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. Upon receipt of the written notice to terminate the defaulting party shall have ten days to cure the default to the satisfaction of the terminating party.
- 6.1.2 Termination for convenience: The TOWN Board of Trustees shall, at its sole option and absolute discretion, have the right to terminate this *AGREEMENT* and remove ENGINEER from the position of TOWN ENGINEER for any reason whatsoever by providing ENGINEER with a written notice to terminate to be effective upon five (5) days after notifying ENGINEER by registered mail, return receipt requested. ENGINEER hereby waives any rights to a charge in writing or an opportunity to be heard prior to removal.
- 6.1.3 At the time of any termination, ENGINEER shall promptly deliver to the Town or its designee all documents and materials, including but not limited to reports, plans, drawings, specifications, computer input and output, analyses, data, electronic files, and other materials of any kind, prepared or furnished by ENGINEER (and ENGINEER's independent professional associates, consultants and subcontractors) pursuant to this *AGREEMENT*. The delivery of such materials shall be without further charge or expense to the Town other than Termination expenses.

6.2 Reuse of Documents

All documents and materials, including but not limited to reports, plans, drawings, specifications, computer input and output, analyses, data, electronic files, and other materials of any kind, prepared or furnished by ENGINEER (and ENGINEER's independent professional associates, consultants and subcontractors) pursuant to this *AGREEMENT*, are documents and property of the TOWN. The TOWN acknowledges that documents provided by ENGINEER for specific projects are not intended or represented to be suitable for reuse by TOWN or others on extensions of such projects or on any other projects; any such reuse without written verification or adaptation by ENGINEER for the specific purpose intended will be at the TOWN's sole risk and without liability or legal exposure to ENGINEER. Any such verification or adaptation requested by the TOWN will entitle ENGINEER to further compensation at rates to be agreed upon by TOWN and ENGINEER.

6.3 Insurance and Indemnification

- 6.3.1 ENGINEER shall procure and maintain insurance for protection from claims under workers' compensation acts, claims for damages because of bodily injury including personal injury, sickness or disease or death of any and all employees or of any person other than such employees, and from claims or damages because of injury to or destruction of property including loss of use resulting therefrom. The workers' compensation insurance carried by ENGINEER shall be in accordance with

statutory law and include employers' liability insurance with a limit of not less than \$100,000 per accident, \$500,000 disease, policy limit and \$100,000 disease limit each employee. The general liability insurance carried by ENGINEER shall have minimum combined single limits of \$1,000,000 each occurrence and \$1,000,000 aggregate, shall include the TOWN as additional insured, with primary coverage as respects the TOWN, and shall contain a severability of interests' provision. ENGINEER shall also procure and maintain professional liability insurance with minimum combined single limits of \$1,000,000 each occurrence and \$1,000,000 aggregate. All required insurances shall be continuously maintained to cover all liability, claims, demands, and other obligations assumed by ENGINEER pursuant to this *AGREEMENT*. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured by the ENGINEER to maintain such continuous coverage. Certificates of insurance evidencing such coverages shall be provided to the TOWN upon request.

- 6.3.2 ENGINEER shall also procure and maintain continuously comprehensive automobile liability insurance with minimum combined single limits for bodily injury and property damage of not less than \$150,000 per person in any one occurrence and \$500,000 for two or more persons in any one occurrence, and auto property damage insurance of at least \$50,000 per claim, with respect to each of ENGINEER's, hired or non-owned vehicles assigned to or used in performance of the services under this *AGREEMENT*. The policy shall include the TOWN as additional insured with primary coverage as respects the TOWN and shall contain a severability of interests' provision.
- 6.3.3 ENGINEER shall indemnify and hold the TOWN harmless against (1) claims by any employee of ENGINEER for compensation, fringe benefits of any kind whatsoever (including without limitation, pension rights or payments, insurance of any kind, reimbursement of medical expenses, vacation pay, sick leave or sick pay), or indemnification for tort claim damages or similar claims for damages (e.g. Section 1983 claims); and (2) claims by any other party for injury, loss or damage which arise out of or are connected with the services hereunder, if such injury, loss or damages is caused by the negligent, unlawful, or willful and wanton act or omission on the part of any ENGINEER employee acting pursuant to this *AGREEMENT*.
- 6.3.4 The ENGINEER or its employees shall not be deemed to assume any liability for intentional or negligent acts or omissions of the Town or any officer, agent, or employee thereof. The Town shall be responsible for such acts or omissions in the manner and to the extent provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101 et. seq. (CGIA).
- 6.3.5 The parties hereto understand and agree that the Town is relying on, and does not waive or intend to waive by any provision of this *AGREEMENT*, the monetary limitations (presently \$350,000 per person and \$990,000 per occurrence) or any other rights, immunities, and protections provided by the CGIA, as from time to time amended, or otherwise available to the TOWN, its officers, or its employees.

6.4 **Limitation of Liability**

TOWN, in consideration of the fees negotiated hereunder, specifically agrees to limit the liability of ENGINEER and its officers, directors, shareholders, partners, agents and employees for all damages of any kind or nature associated with errors or omissions of the ENGINEER for services rendered under this *AGREEMENT*, to the sum of \$300,000.00 annual aggregate.

6.5 Controlling Law

This *AGREEMENT* is to be governed by the law of the State of Colorado.**6.6 Successors and Assigns**

- 6.6.1 TOWN and ENGINEER each is hereby bound, and the partners, successors, executors, administrators, assigns, and legal representatives of TOWN and ENGINEER are hereby bound to the other party to this *AGREEMENT* and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this *AGREEMENT*.
- 6.6.2 Neither TOWN nor ENGINEER shall assign, sublet or transfer any rights under or interest in (including, but without limitation, moneys that may become due or moneys that are due) this *AGREEMENT* without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this *AGREEMENT*. Nothing contained in this paragraph shall prevent ENGINEER from employing such independent professional associates, consultants and subcontractors as ENGINEER may deem appropriate to assist in the performance of services hereunder; provided, however, that proposed use of any such associates, consultants and independent contractors, and the costs and fees for the services thereof, shall be subject to the prior written approval of the Town, which may be granted or withheld by the Town in its sole discretion. ENGINEER shall cause any associate, consultant or subcontractor providing services hereunder to procure and maintain those insurance coverages required by Section 6.3 above.
- 6.6.3 Nothing under this *AGREEMENT* shall be construed to give any rights or benefits in this *AGREEMENT* to anyone other than TOWN and ENGINEER, and all duties and responsibilities undertaken pursuant to this *AGREEMENT* will be for the sole and exclusive benefit of TOWN and ENGINEER and not for the benefit of any other party.

6.7 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.

6.8 Quality of Work

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

6.9 Inspection

The Town and its duly authorized representatives shall have access to any books, documents, papers, and records of the ENGINEER and its subcontractors that are related to this *AGREEMENT* for the purpose of making audit, examination, excerpts, and transcriptions.

6.10 Compliance with laws; Work by Illegal Aliens Prohibited

6.10.1 ENGINEER shall be solely responsible for compliance with all applicable federal, state, and local laws concerning its performance of services under this *AGREEMENT*; for payment of all applicable taxes; and obtaining and keeping in force all applicable licenses and certificates.

6.10.2 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 ENGINEER's Pre-Contract Certification which Engineer has executed and delivered to the TOWN prior to ENGINEER's execution of this Agreement.

SECTION 7 - EXTENT OF AGREEMENT

This *AGREEMENT* (consisting of pages 1 to 9, inclusive), and the attached Exhibits A and B, constitute the entire *AGREEMENT* between TOWN and ENGINEER and supersede all prior written or oral understandings. This *AGREEMENT* and said Exhibits may only be amended, supplemented, modified, or canceled by duly executed written instrument.

In witness whereof, the parties hereto have made and executed this *AGREEMENT* as of the day and year signed by the TOWN.

TOWN OF FIRESTONE
(TOWN)

By: _____
Bobbi Sindelar, Mayor

Attest: _____
Leah Vanarsdall, Town Clerk

Date: _____

COLORADO CIVIL GROUP, INC.
(ENGINEER)

By: _____
David B. Lindsay, President

Attest: _____
[Signature]

Date: 6-7-2019

Exhibit A
2019 Summary of Fees

ENGINEERS (\$/hr)

Senior Project Engineer	\$105 - \$127
Project Engineer	\$95 - \$120
Design Engineer	\$85 - \$115

CONSTRUCTION INSPECTION (\$/hr)

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Mileage	\$0.50/mi.
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Town of Firestone Public Services Contract Addendum Prohibition Against Employing Illegal Aliens

Prohibition Against Employing Illegal Aliens. Colorado Civil Group, Inc. (ENGINEER) shall not knowingly employ or contract with an illegal alien to perform work under this contract. ENGINEER shall not enter into a contract with a subcontractor that fails to certify to the ENGINEER that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract.

ENGINEER has verified or attempted to verify through participating in the basic pilot program as defined in C.R.S. Section 8-17.5-101(1) ("Program") that ENGINEER does not employ any illegal aliens and, if ENGINEER is not accepted into the Program prior to entering into this contract, that ENGINEER shall apply to participate in the Program every three months until ENGINEER is accepted or the contract has been completed, whichever is earlier. This provision shall not be required or effective if the Program is discontinued. ENGINEER is prohibited from using the Program procedures to undertake pre-employment screening of job applicants while this contract is being performed.

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

- a. Notify the subcontractor and the TOWN within three days that the ENGINEER 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 ENGINEER 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.

ENGINEER 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. Section 8-17.5-102(5).

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

**Town of Firestone
Contractor's Pre-Contract Certification
Regarding Employing Illegal Aliens**

The proposer of public services to the Town of Firestone identified below (hereafter "the Proposer"), hereby certifies as follows:

That at the time of providing this certification, Proposer does not knowingly employ or contract with an illegal alien; and that Proposer has participated in or attempted to participate in the Basic Pilot Program administered by the United States Department of Homeland Security in order to verify that it does not employ any illegal aliens.

Dated this 7th day of June, 2019.

Proposer:
Colorado Civil Group, Inc.

By: 

Title: President

AGENDA INFORMATION MEMORANDUM

FIRESTONE TOWN BOARD OF TRUSTEES



AIM#: 7.g.

Discussion/Action

Meeting Date: June 12, 2019

Initiated By: Dave Lindsay

Dept: Community Resources

AGENDA TITLE

Resolution 19-50: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND COLORADO CIVIL GROUP, INC. REGARDING ENGINEERING SERVICES FOR THE ST. VRAIN WATER TREATMENT PLANT TRANSMISSION PIPELINE ALIGNMENT STUDY

SUMMARY

The St Vrain Water Authority will own and operate the St Vrain Water Treatment Plant. The Town of Firestone will be responsible for taking it's water from the treatment plant and constructing a pump station and pipeline to deliver water into the Town's existing distribution system. Staff has a general idea bout the best alignment for this pipeline but would like to invest some effort in confirming existing ROW annd potential conflicts prior to proceeding with a formal design of the pipeline. Attached for consideration by the Board of Trustees is am engineering services contract with Colorado Civil Groupe, Inc. to prepare this pipeline alignment study.

HISTORY AND PREVIOUS BOARD ACTION

None.

RECOMMENDATION

Staff recommends the Board of Trustees approve Resolution 19-50 approving and agreement with Colorado Civil Group, Inc. and authorizing the Mayor to execute the agreement on behalf of the Town.

ALTERNATIVES

Board could choose to put the project out for RFP, modify the scope of services or postpone the project.

ATTACHMENTS

1. 7g - Reso 19-50 Colorado Civil Group Agreement (St Vrain WTP Pipeline Alignment Study)
2. Pipe Alignment
3. 0668.0193.00 CONTRACT

FINANCIAL CONSIDERATIONS

The alignment study services agreement is for \$10,000.00. The 2019 Budget included \$10,000.00 for this study.

RESOLUTION 19-50

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF
FIRESTONE, COLORADO, APPROVING AN AGREEMENT BETWEEN
THE TOWN OF FIRESTONE AND COLORADO CIVIL GROUP, INC.
REGARDING ENGINEERING SERVICES FOR THE ST. VRAIN WATER
TREATMENT PLANT TRANSMISSION PIPELINE ALIGNMENT STUDY**

WHEREAS, the Town of Firestone (the “Town”) is in need of certain engineering services for a study involving a transmission pipeline alignment from the proposed St. Vrain Water Treatment Plant to the existing storage tanks in the Town (the “Project”); and

WHEREAS, Colorado Civil Group, Inc., is duly accredited and has the skill and experience to perform the engineering services required for the Project, and desires to perform the engineering services required for the Project.

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

The Agreement between the Town of Firestone and Colorado Civil Group, Inc., for engineering design study services for the St. Vrain Water Treatment Transmission Pipeline Alignment is approved in substantially the same form as the copy attached hereto and made a part of this resolution, and the Mayor is authorized to execute the Agreement on behalf of the Town.

INTRODUCED, READ AND ADOPTED this 12th day of June, 2019.

TOWN OF FIRESTONE, COLORADO

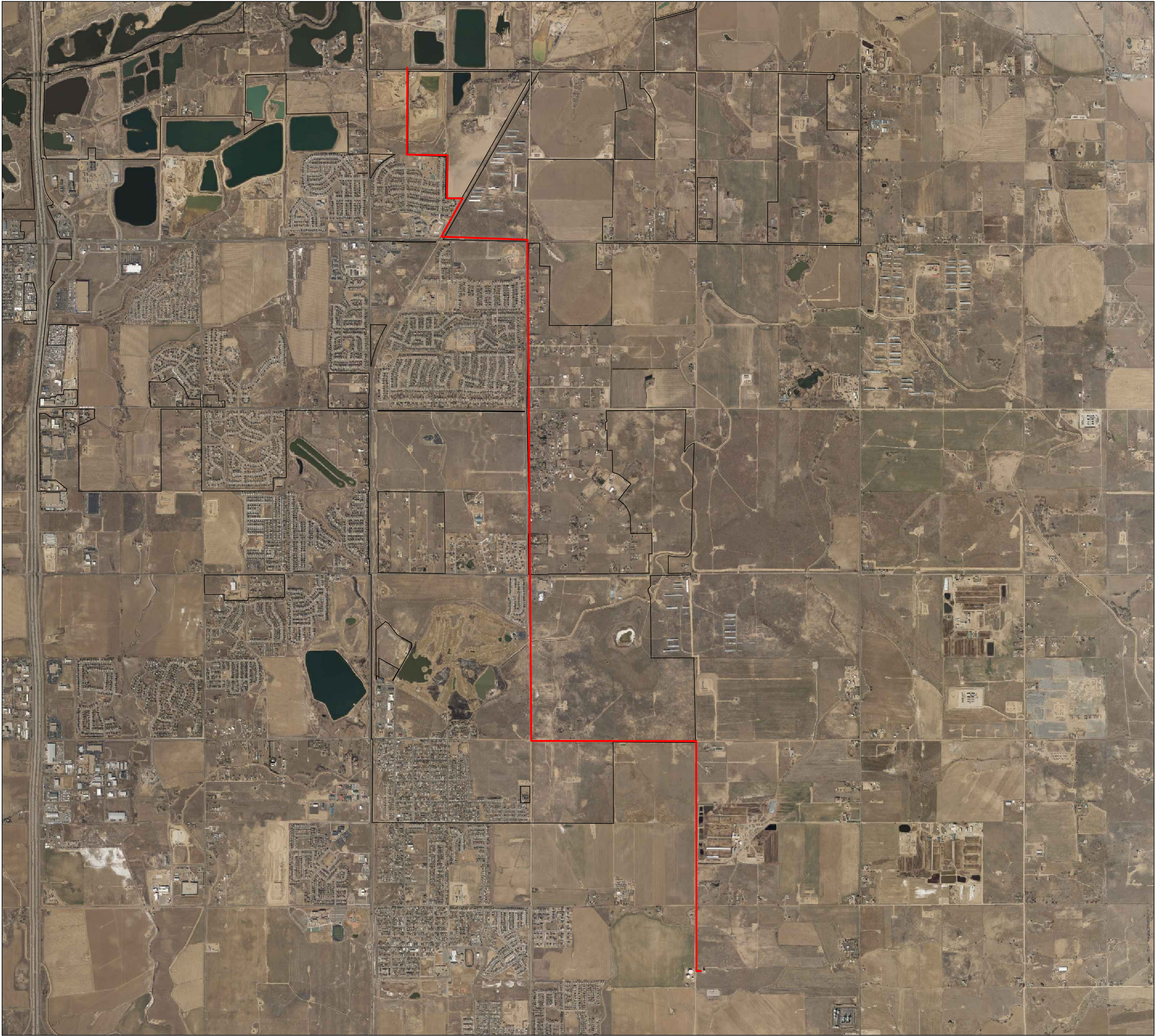
Bobbi Sindelar, Mayor

ATTEST:

Leah Vanarsdall, Town Clerk

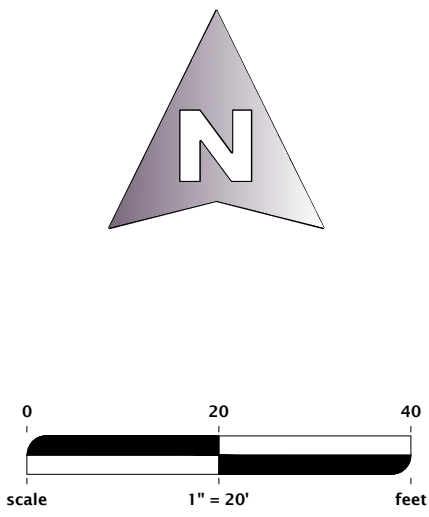
APPROVED AS TO FORM:

William P. Hayashi, Town Attorney



LEGEND

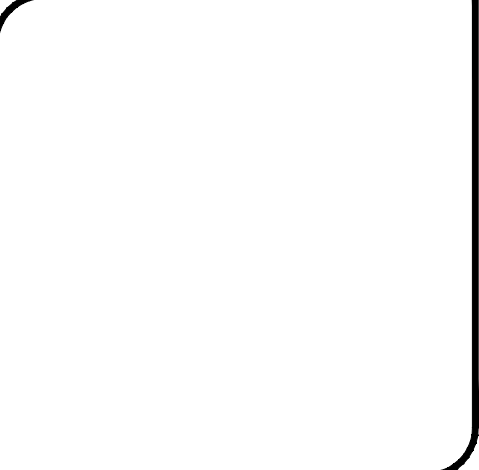
NOTES



CALL THE UTILITY NOTIFICATION CENTER OF COLORADO

0" 1" BAR IS ONE INCH ON ORIGINAL DRAWING

REVISIONS	DESCRIPTION
DATE	



2204 HOFFMAN DRIVE
LOVELAND COLORADO 80538
(970) 276-0029

TOWN OF FIRESTONE
Pipeline Alignment

PRELIMINARY

FILE NAME:	DRAWINGS
DESIGNED:	GAP
CHECKED:	DBL
JOB NO:	0668.0193.00
SCALE:	1" = 1500'
DATE:	JUNE 2019

AGREEMENT

for

PROFESSIONAL ENGINEERING SERVICES

for

THE TOWN OF FIRESTONE

St. Vrain Water Treatment Plant Transmission Pipeline Alignment Study

Project No. 0668.0193.00

This is an *AGREEMENT* made between THE TOWN OF FIRESTONE, a Colorado statutory Town (TOWN) and COLORADO CIVIL GROUP, INC., a Colorado Corporation (ENGINEER).

Whereas, TOWN desires to have certain engineering services performed by ENGINEER relative to the transmission pipeline alignment from the Proposed St. Vrain Water Treatment Plant (WTP) and the existing storage tanks in the Town of Firestone, Weld County, Colorado.

Whereas, the ENGINEER is duly accredited, and this *AGREEMENT* provides for said professional engineering services.

Therefore, TOWN and ENGINEER, in consideration of their mutual covenants herein, agree in respect of the performance of professional engineering services provided by ENGINEER and the payment for those services by OWNER as set forth in Sections 1 through 4 below.

SECTION 1 - Basic Services

For the purposes of this *AGREEMENT*, the Basic Services shall include professional civil engineering design services, as further described herein, relative to the St. Vrain WTP Transmission Pipeline Alignment Study. Specific tasks to be performed shall be:

1.1 Background Material

The ENGINEER will research information regarding existing property and facilities along the proposed alignment. Existing conditions in the project area will be assessed both on and below the surface. This effort shall include:

- 1.1.1 Digital aerial photography and some planimetrics will be obtained using DRCOG Aerial Photography (2018 images).

- 1.1.2 The ENGINEER will compile and review as-builts from developments along the proposed alignment.
- 1.1.3 The ENGINEER will compile and review final plats from developments along the proposed alignment to determine current Right-of-Way.
- 1.1.4 The ENGINEER will provide alternatives for measuring, controlling, and blending the WTP water and water from CWCWD.
- 1.1.5 It is recognized that in performing its services, including but not limited to the identification, location and evaluation of existing facilities and property ownership rights ENGINEER will rely on records, documentation and observations, some of which may not be capable of confirmation without expending substantial sums of money and/or destroying or damaging serviceable facilities or structures. Accordingly, ENGINEER shall not be liable for any, loss, damage, cost or expense resulting from actual conditions which differ from the records, documents and observations relied upon by ENGINEER unless and to the extent such loss, damage, cost or expense is directly attributable to ENGINEER'S sole negligence.

1.2.12 ENGINEER shall render its services in accordance with generally accepted engineering standards and practices as such standards and practices are normally exercised in the performance of professional standards of a similar nature in the Denver metropolitan area.

1.2 Exhibits

The ENGINEER shall prepare an exhibit for the following:

- ROW widths for entire length of transmission pipeline alignment as determined from recorded plats.
- At grade and buried utilities and other potential conflicts for the entire length of the transmission pipeline alignment as determined from record drawings research.
- Blend Station Preliminary Layout drawings for typical blend station, including alternatives for flow control, measurement, and vault size.

1.3 Reports

The ENGINEER shall provide a written report summarizing findings for the proposed transmission pipeline alignment study. Specific Report elements shall include:

- 1.3.1 List of referenced plans, drawings, and maps.
- 1.3.2 Updated Phase I cost estimate, with associated justifying documentation.
- 1.3.3 Summary of significant utility and property conflicts.

SECTION 2 - Additional Services

Services not contemplated in Section 1 may be required of ENGINEER by the TOWN. If such work is to be performed a change order to the *AGREEMENT* will be prepared and presented to the TOWN prior to initiation of said work. Descriptions of additional services, compensation, and period-of-services adjustments will be presented in the change order, prior to starting any additional services.

Specific services not included in this *AGREEMENT* include, but are not limited to:

- 2.1 Negotiation of property or easement acquisition.
- 2.2 Field Surveys.
- 2.3 Utility locates or utility potholing.
- 2.4 Construction drawings.

SECTION 3 - Period of Service

The Period of Service for this work shall commence upon the signing of this contract by TOWN and shall end at the completion of Basic Services. Work shall progress in a timely manner to support the schedule established by TOWN and ENGINEER.

SECTION 4 - Compensation

4.1 Methods of Payment for Services and Expenses of Engineer

- 4.1.1 TOWN shall pay ENGINEER for Basic Services rendered under Section 1 a lump sum fee of \$10,000.00. Such amount shall be inclusive of all costs of whatsoever nature associated with ENGINEER's efforts, including but not limited to salaries, benefits, expenses, overhead, administration and profits.
- 4.1.2 Services authorized and provided under Section 2 - Additional Services, will be based on hourly rates plus expenses according to ENGINEER's then current Schedule of Fees (Exhibit A).

4.2 Times of Payments

ENGINEER shall submit monthly invoices for a portion of the lump sum fee based upon ENGINEER's estimate of the proportion of the services actually completed at the time of billing.

4.3 Other Provisions Concerning Payments

- 4.3.1 If TOWN fails to make any payment due ENGINEER for services and expenses within forty-five days after receipt of ENGINEER's invoice, the amounts due ENGINEER will be increased at the rate of 1½% per month from said forty fifth day, and in addition, ENGINEER may, after giving seven days' written notice to TOWN, suspend services under this *AGREEMENT* until ENGINEER has been paid in full all amounts due for services, expenses, and charges.
- 4.3.2 In the event of termination by TOWN under paragraph 6.1.2 upon the completion of any phase of the Basic Services, progress payments due ENGINEER for services rendered through such phase shall constitute total payment for such services. In the event of such termination by the TOWN during any phase of the Basic Services, ENGINEER will be paid for services rendered during that phase on the basis of ENGINEER's hourly rates based on the current Schedule of Fees for services rendered during that phase to date of termination by ENGINEER's principals and employees engaged directly in work for the TOWN. In the event of any such termination, ENGINEER also will be reimbursed for the charges of independent professional associates, consultants and subcontractors employed by ENGINEER and authorized by the TOWN to render Basic Services through ENGINEER and for all unpaid Additional Services and unpaid Reimbursable Expenses, plus all termination expenses. Termination expenses mean Reimbursable Expenses directly attributable to termination.

SECTION 5 - TOWN's Responsibilities

TOWN shall do the following in a timely manner so as not to delay the services of ENGINEER:

- 5.1 As appropriate, designate responsible representatives to provide direction to the ENGINEER with respect to services provided pursuant to this *AGREEMENT*. The TOWN Board of Trustees or its delegatee shall transmit instructions, receive information, interpret and define TOWN's policies and decisions with respect to ENGINEER's services provided pursuant to this *AGREEMENT*.
- 5.2 Provide all criteria and full information as to TOWN's requirements as necessary for performance of ENGINEER's services, including, with respect to TOWN projects, design or project objectives and constraints, space capacity and performance requirements, flexibility and expendability, and any budgetary limitations.
- 5.3 Assist ENGINEER by placing at ENGINEER's disposal all available information pertinent to this project.
- 5.4 Unless otherwise agreed by the TOWN and ENGINEER, the TOWN shall be responsible for negotiating and acquiring all required properties and/or easements necessary for any TOWN projects.

SECTION 6 - General Considerations

6.1 Termination

- 6.1.1 The obligation to provide further services under this *AGREEMENT* may be terminated by either party upon thirty days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. Upon receipt of the written notice to terminate the defaulting party shall have ten days to cure the default to the satisfaction of the terminating party.
- 6.1.2 Termination for convenience: The TOWN Board of Trustees shall, at its sole option and absolute discretion, have the right to terminate this *AGREEMENT* and remove ENGINEER from the position of TOWN ENGINEER for any reason whatsoever by providing ENGINEER with a written notice to terminate to be effective upon five (5) days after notifying ENGINEER by registered mail, return receipt requested. ENGINEER hereby waives any rights to a charge in writing or an opportunity to be heard prior to removal.
- 6.1.3 At the time of any termination, ENGINEER shall promptly deliver to the Town or its designee all documents and materials, including but not limited to reports, plans, drawings, specifications, computer input and output, analyses, data, electronic files, and other materials of any kind, prepared or furnished by ENGINEER (and ENGINEER's independent professional associates, consultants and subcontractors) pursuant to this *AGREEMENT*. The delivery of such materials shall be without further charge or expense to the Town other than Termination expenses.

6.2 Reuse of Documents

All documents and materials, including but not limited to reports, plans, drawings, specifications, computer input and output, analyses, data, electronic files, and other materials of any kind, prepared or furnished by ENGINEER (and ENGINEER's independent professional associates, consultants and subcontractors) pursuant to this *AGREEMENT*, are documents and property of the TOWN. The TOWN acknowledges that documents provided by ENGINEER for specific projects are not intended or represented to be suitable for reuse by TOWN or others on extensions of such projects or on any other projects; any such reuse without written verification or adaptation by ENGINEER for the specific purpose intended will be at the TOWN's sole risk and without liability or legal exposure to ENGINEER. Any such verification or adaptation requested by the TOWN will entitle ENGINEER to further compensation at rates to be agreed upon by TOWN and ENGINEER.

6.3 Insurance and Indemnification

- 6.3.1 ENGINEER shall procure and maintain insurance for protection from claims under workers' compensation acts, claims for damages because of bodily injury including personal injury, sickness or disease or death of any and all employees or of any person other than such employees, and from claims or damages because of injury

to or destruction of property including loss of use resulting therefrom. The workers' compensation insurance carried by ENGINEER shall be in accordance with statutory law and include employers' liability insurance with a limit of not less than \$100,000 per accident, \$500,000 disease, policy limit and \$100,000 disease limit each employee. The general liability insurance carried by ENGINEER shall have minimum combined single limits of \$1,000,000 each occurrence and \$1,000,000 aggregate, shall include the TOWN as additional insured, with primary coverage as respects the TOWN, and shall contain a severability of interests' provision. ENGINEER shall also procure and maintain professional liability insurance with minimum combined single limits of \$1,000,000 each occurrence and \$1,000,000 aggregate. All required insurances shall be continuously maintained to cover all liability, claims, demands, and other obligations assumed by ENGINEER pursuant to this *AGREEMENT*. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured by the ENGINEER to maintain such continuous coverage. Certificates of insurance evidencing such coverages shall be provided to the TOWN upon request.

- 6.3.2 ENGINEER shall also procure and maintain continuously comprehensive automobile liability insurance with minimum combined single limits for bodily injury and property damage of not less than \$150,000 per person in any one occurrence and \$500,000 for two or more persons in any one occurrence, and auto property damage insurance of at least \$50,000 per claim, with respect to each of ENGINEER's, hired or non-owned vehicles assigned to or used in performance of the services under this *AGREEMENT*. The policy shall include the TOWN as additional insured with primary coverage as respects the TOWN and shall contain a severability of interests' provision.
- 6.3.3 ENGINEER shall indemnify and hold the TOWN harmless against (1) claims by any employee of ENGINEER for compensation, fringe benefits of any kind whatsoever (including without limitation, pension rights or payments, insurance of any kind, reimbursement of medical expenses, vacation pay, sick leave or sick pay), or indemnification for tort claim damages or similar claims for damages (e.g. Section 1983 claims); and (2) claims by any other party for injury, loss or damage which arise out of or are connected with the services hereunder, if such injury, loss or damages is caused by the negligent, unlawful, or willful and wanton act or omission on the part of any ENGINEER employee acting pursuant to this *AGREEMENT*.
- 6.3.4 The ENGINEER or its employees shall not be deemed to assume any liability for intentional or negligent acts or omissions of the Town or any officer, agent, or employee thereof. The Town shall be responsible for such acts or omissions in the manner and to the extent provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101 et. seq. (CGIA).
- 6.3.5 The parties hereto understand and agree that the Town is relying on, and does not waive or intend to waive by any provision of this *AGREEMENT*, the monetary limitations or any other rights, immunities, and protections provided by the CGIA, as from time to time amended, or otherwise available to the TOWN, its officers, or its employees.

6.4 Limitation of Liability

TOWN, in consideration of the fees negotiated hereunder, specifically agrees to limit the liability of ENGINEER and its officers, directors, shareholders, partners, agents and employees for all damages of any kind or nature associated with errors or omissions of the ENGINEER for services rendered under this *AGREEMENT*, to the sum of \$100,000.00 annual aggregate.

6.5 Controlling Law

This *AGREEMENT* is to be governed by the law of the State of Colorado.

6.6 Successors and Assigns

- 6.6.1 TOWN and ENGINEER each is hereby bound, and the partners, successors, executors, administrators, assigns, and legal representatives of TOWN and ENGINEER are hereby bound to the other party to this *AGREEMENT* and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this *AGREEMENT*.
- 6.6.2 Neither TOWN nor ENGINEER shall assign, sublet or transfer any rights under or interest in (including, but without limitation, moneys that may become due or moneys that are due) this *AGREEMENT* without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this *AGREEMENT*. Nothing contained in this paragraph shall prevent ENGINEER from employing such independent professional associates, consultants and subcontractors as ENGINEER may deem appropriate to assist in the performance of services hereunder; provided, however, that proposed use of any such associates, consultants and independent contractors, and the costs and fees for the services thereof, shall be subject to the prior written approval of the Town, which may be granted or withheld by the Town in its sole discretion. ENGINEER shall cause any associate, consultant or subcontractor providing services hereunder to procure and maintain those insurance coverages required by Section 6.3 above.
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In witness whereof, the parties hereto have made and executed this *AGREEMENT* as of the day and year signed by the TOWN.

TOWN OF FIRESTONE
(TOWN)

By: _____
Bobbi Sindelar, Mayor

Attest: _____
Leah Vanarsdall, Town Clerk

Date: _____

COLORADO CIVIL GROUP, INC.
(ENGINEER)

By: _____
David B. Lindsay, President

Attest: _____

Date: 6-7-2019

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2019 Summary of Fees

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ENGINEER has verified or attempted to verify through participating in the basic pilot program as defined in C.R.S. Section 8-17.5-101(1) ("Program") that ENGINEER does not employ any illegal aliens and, if ENGINEER is not accepted into the Program prior to entering into this contract, that ENGINEER shall apply to participate in the Program every three months until ENGINEER is accepted or the contract has been completed, whichever is earlier. This provision shall not be required or effective if the Program is discontinued. ENGINEER is prohibited from using the Program procedures to undertake pre-employment screening of job applicants while this contract is being performed.

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- a. Notify the subcontractor and the TOWN within three days that the ENGINEER 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 ENGINEER 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.

ENGINEER 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. Section 8-17.5-102(5).

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

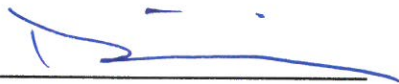
**Town of Firestone
Contractor's Pre-Contract Certification
Regarding Employing Illegal Aliens**

The proposer of public services to the Town of Firestone identified below (hereafter "the Proposer"), hereby certifies as follows:

That at the time of providing this certification, Proposer does not knowingly employ or contract with an illegal alien; and that Proposer has participated in or attempted to participate in the Basic Pilot Program administered by the United States Department of Homeland Security in order to verify that it does not employ any illegal aliens.

Dated this 7th day of June, 2019.

Proposer:
Colorado Civil Group, Inc.

By: 

Title: President