



BOARD OF TRUSTEES
REGULAR MEETING AGENDA

March 11, 2020
7:00 PM
2 Park Avenue
Firestone, CO 80504

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 February 26, 2020 Board of Trustees Regular Meeting Minutes
 - 5.b. **Resolution 20-29:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND KISSINGER & FELLMAN, P.C, FOR THE COMCAST FRANCHISE RENEWAL
 - 5.c. **Resolution 20-30:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND FRED DIEHL CONSULTING LLC FOR THE COMCAST CABLE FRANCHISE RENEWAL
6. **Presentation**
 - 6.a. Lobbyists Presentation
 - 6.b. 2020 Special Events Update
7. **Discussion/Action**
 - 7.a. **Resolution 20-31:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND NEW IPT, INC., REGARDING THE ST. VRAIN WATER TREATMENT INJECTION WELL PROJECT
 - 7.b. **Resolution 20-32:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN AGREEMENT

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

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

BETWEEN THE TOWN OF FIRESTONE AND INFRASTRUCTURE
MANAGEMENT SERVICES FOR PAVEMENT DATA COLLECTION SERVICES

7.c. Resolution 20-33: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND SPLIT RAIL FENCE COMPANY, INC., DBA SPLIT RAIL FENCE, FOR THE REMOVAL AND REPLACEMENT OF THE HART PARK BASEBALL FIELD BACKSTOP AND DUGOUT FENCE

7.d. Resolution 20-34: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, SUPPORTING PASSAGE OF BALLOT ISSUE 2A; WHICH WITHOUT INCREASING THE TOWN'S CURRENT TOTAL SALES AND USE TAX RATE AUTHORIZES THE EXPANSION OF THE 0.6% SALES AND USE TAX APPROVED IN 2017 FOR THE OPERATION AND MAINTENANCE OF THE POLICE AND MUNICIPAL COURT FACILITY AND CONSTRUCTION, OPERATION AND MAINTENANCE OF OTHER TOWN FACILITIES

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

9. Reports

9.a. Staff

9.b. Mayor

9.c. Trustees

10. Adjournment

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

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

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 5.a

Consent Agenda

Meeting Date: March 11, 2020

Initiated By:

Dept: Town Clerk

AGENDA TITLE

Approval of February 26, 2020 Board of Trustees Regular Meeting Minutes

SUMMARY

HISTORY AND PREVIOUS BOARD ACTION

RECOMMENDATION

Approval of February 26, 2020 meeting minutes

ALTERNATIVES

ATTACHMENTS

1. February 26, 2020 Draft Meeting Minutes

FINANCIAL CONSIDERATIONS

TOWN OF FIRESTONE, COLORADO
Board of Trustees Regular Meeting
MINUTES
February 26, 2020

1. Call to Order & Roll Call

The Board of Trustees of the Town of Firestone met for a Regular Meeting on February 26, 2020, at Town Hall, 151 Grant Avenue, Firestone, Colorado. Mayor Sindelar called the meeting to order at 7:03 PM

The following were present upon the call of the roll:

Mayor: Bobbi Sindelar

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

Staff: **Present:** Jan Sloat, Director of Human Resources; Dave Lindsay, Engineer; Paula Mehle, Director of FURA & Economic Development; Raelynn Ferrera, Assistant to the Town Manager; Marty Ostholthoff, Planning Manager; Matt Wiederspahn, Town Engineer; Milissa Berry, Senior Planner; Matt Thompson, Senior Planner; Ashley Tucker, Stormwater Coordinator; Katie Hansen, Director of Communications; Jessica Clanton, Director of Finance; Julie Pasillas, Director of Public Works; Todd Bjerkaas, Director of Planning; David Montgomery, Chief of Police; Jessica Koenig, Town Clerk; AJ Krieger, Town Manager; & William Hayashi, Town Attorney

2. Pledge of Allegiance

Pledge was led by Mayor Sindelar.

Mayor Sindelar appointed Trustee Jimenez as Mayor Pro Tem for tonight's meeting, the Board reached a consensus on the appointment.

3. Approval of Agenda

Motion by Trustee Meiring, **second** by Trustee Sharp, to Approve the Agenda, All in Favor, **Motion carried.**

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

No one was present that wished to give public comment.

5. Consent Agenda

Motion by Trustee Meiring, **second** by Trustee Conyac, to approve the Consent Agenda
Roll Call Vote:

Yes: Trustee Sharp, Trustee Meiring, Trustee Jimenez, Trustee Conyac

No:

None

Abstain:

None

Motion

carried.

5.a. Approval of February 12, 2020 Board of Trustees Regular Meeting Minutes

5.b. **Resolution 20-21:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND VANTAGE POINT SOLUTIONS, INC., FOR A BROADBAND FEASIBILITY STUDY

5.c. **Resolution 20-25:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING A CONSTRUCTION CONTRACT BETWEEN THE TOWN OF FIRESTONE AND TLM CONSTRUCTORS, INC., FOR THE FRONTAGE ROAD BRIDGE REPAIR PROJECT

6. Proclamation

7. Presentation

8. Local Licensing Authority - Public Hearing

9. Land Development

9.a. PUBLIC HEARING: Ordinance 967: AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, ZONING CERTAIN LAND, FULLY DESCRIBED HEREIN, TO PUD REGIONAL COMMERCIAL AND PUD RESIDENTIAL A; AND APPROVING AN OFFICIAL DEVELOPMENT PLAN FOR LOTS 2 & 2A WITHIN DEL REY SUBDIVISION PLANNED UNIT DEVELOPMENT

Mayor Sindelar opened the Public Hearing for Ordinance 967 at 7:09 pm.

Marty Ostholthoff, Planning Manager, presented to the Board of Trustees.

Rosi Dennett of 201 Lincoln Street, Longmont, Colorado, representative of the applicant, presented to the Board of Trustees.

Cynthia McHattie Kieffer of 5425 County Road 32 #11, Mead, Colorado, gave public

comment in favor of Ordinance 967, and stated that Hobby Horse is an asset to the community.

Chelsea McKinnie of 2913 Saratoga Trail, Frederick, Colorado, gave public comment in favor of Ordinance 967, and stated that there was a sense of community and a safe haven for kids at Hobby Horse.

Ray Murphy of 5326 Victoria Circle, Firestone, Colorado, gave public comment in favor of Ordinance 967, and outlined the positive impact Hobby Horse has had on his children.

Jennifer Wawrzyn of 3377 Birch Road, Frederick, Colorado, gave public comment in favor of Ordinance 967, and that she had moved to the area because of Hobby Horse.

Emma McAmis of 5380 Bear Court, Frederick, Colorado, gave public comment in favor of Ordinance 967, and the positive impact Hobby Horse had on her.

Mayor Sindelar closed the Public Hearing at 7:28 pm.

Motion by Trustee Conyac, **second** by Trustee Sharp, to approve **PUBLIC HEARING: Ordinance 967: AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, ZONING CERTAIN LAND, FULLY DESCRIBED HEREIN, TO PUD REGIONAL COMMERCIAL AND PUD RESIDENTIAL A; AND APPROVING AN OFFICIAL DEVELOPMENT PLAN FOR LOTS 2 & 2A WITHIN DEL REY SUBDIVISION PLANNED UNIT DEVELOPMENT**

Roll Call Vote:

Yes: Trustee Sharp, Trustee Conyac, Trustee Meiring, Trustee Jimenez

No: None

Abstain: None

Motion carried.

9.b. PUBLIC HEARING: RESOLUTION 20-22: A RESOLUTION APPROVING AN AMENDMENT TO AN EXISTING FINAL DEVELOPMENT PLAN FOR CERTAIN REAL PROPERTY LOCATED WITHIN BAREFOOT LAKES FILING NO. 3

Mayor Sindelar recused herself as she is employed by the developer of Barefoot Lakes.

Mayor Pro-Tem Jimenez opened the Public Hearing for Resolution 20-22, Resolution 20-23, and Ordinance 968 at 7:31 pm.

Milissa Berry, Senior Planner, presented to the Board of Trustees.

Jake Sippy of 1390 Lawrence Street, Suite 100, Denver, Colorado, representative of the applicant, presented to the Board of Trustees.

There was no one present that wished to give public comment.

Mr. Sippy responded to Board questions regarding the roof pitch and appearance, the

type of watering, and public access to the proposed lake house.

Mayor Pro-Tem Jimenez closed the Public Hearing for Resolution 20-22, Resolution 20-23, and Ordinance 968 at 7:59 pm.

Motion by Trustee Sharp, **second** by Trustee Conyac, to approve **PUBLIC HEARING: RESOLUTION 20-22**: A RESOLUTION APPROVING AN AMENDMENT TO AN EXISTING FINAL DEVELOPMENT PLAN FOR CERTAIN REAL PROPERTY LOCATED WITHIN BAREFOOT LAKES FILING NO. 3

Roll Call Vote:

Yes: Trustee Sharp, Trustee Conyac, Trustee Meiring, Trustee Jimenez

No: None

Abstain: None

Motion carried.

- 9.c. **PUBLIC HEARING: RESOLUTION 20-23**: A RESOLUTION APPROVING A FINAL SUBDIVISION PLAT FOR LOTS 24-28 AND TRACT C LOCATED WITHIN BAREFOOT LAKES FILING NO. 3

Motion by Trustee Meiring, **second** by Trustee Conyac, to approve **PUBLIC HEARING: RESOLUTION 20-23**: A RESOLUTION APPROVING A FINAL SUBDIVISION PLAT FOR LOTS 24-28 AND TRACT C LOCATED WITHIN BAREFOOT LAKES FILING NO. 3

Roll Call Vote:

Yes: Trustee Sharp, Trustee Conyac, Trustee Meiring, Trustee Jimenez

No: None

Abstain: None

Motion carried.

- 9.d. **PUBLIC HEARING: ORDINANCE 968**: AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, VACATING CERTAIN UTILITY EASEMENTS WITHIN LOTS 24, 25 AND 28, BLOCK 1, BAREFOOT LAKES FILING NO. 3 SUBDIVISION

Motion by Trustee Sharp, **second** by Trustee Meiring, to approve **PUBLIC HEARING: ORDINANCE 968**: AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, VACATING CERTAIN UTILITY EASEMENTS WITHIN LOTS 24, 25 AND 28, BLOCK 1, BAREFOOT LAKES FILING NO. 3 SUBDIVISION

Roll Call Vote:

Yes: Trustee Sharp, Trustee Conyac, Trustee Meiring, Trustee Jimenez

No: None

Abstain: None

Motion carried.

10. Discussion/Action

- 10.a. ORDINANCE 969:** AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, ENACTING CHAPTER 13.13 OF TITLE 13 OF THE FIRESTONE MUNICIPAL CODE REGARDING STORMWATER QUALITY

Motion by Trustee Conyac, **second** by Trustee Meiring, to Approve Ordinance 969 All in Favor, **Motion carried.**

- 10.b. RESOLUTION 20-24:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, ADOPTING STORMWATER QUALITY FEES

Motion by Trustee Jimenez, **second** by Trustee Conyac, to Approve Resolution 20-24, All in Favor, **Motion carried.**

- 10.c. Ordinance 970:** AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, AMENDING CHAPTER 8.06 OF THE FIRESTONE MUNICIPAL CODE REGARDING NUISANCES

Motion by Trustee Conyac, **second** by Trustee Meiring, to Approve Ordinance 970, All in Favor, **Motion carried.**

- 10.d. RESOLUTION 20-26:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING A MASTER EQUITY LEASE AGREEMENT AND AMENDMENT BETWEEN THE TOWN OF FIRESTONE AND ENTERPRISE FM TRUST FOR THE LEASE OF MUNICIPAL FLEET VEHICLES

Motion by Trustee Sharp, **second** by Trustee Conyac, to approve **RESOLUTION 20-26:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING A MASTER EQUITY LEASE AGREEMENT AND AMENDMENT BETWEEN THE TOWN OF FIRESTONE AND ENTERPRISE FM TRUST FOR THE LEASE OF MUNICIPAL FLEET VEHICLES

Roll Call Vote:

Yes: Trustee Sharp, Trustee Conyac, Trustee Meiring, Trustee Jimenez

No: None

Abstain: None

Motion carried.

- 10.e. RESOLUTION 20-27:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND GOLF & SPORT SOLUTIONS, LLC, FOR LASER GRADING SERVICES FOR THE FIRESTONE SPORTS COMPLEX

Motion by Trustee Meiring, **second** by Trustee Jimenez, to approve **RESOLUTION 20-27:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF

FIRESTONE, COLORADO, APPROVING AN AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND GOLF & SPORT SOLUTIONS, LLC, FOR LASER GRADING SERVICES FOR THE FIRESTONE SPORTS COMPLEX

Roll Call Vote:

Yes: Trustee Sharp, Trustee Conyac, Trustee Meiring, Trustee Jimenez

No: None

Abstain: None

Motion carried.

- 10.f. RESOLUTION 20-28:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN UNDERWRITER ENGAGEMENT AGREEMENT WITH STIFEL, NICOLAUS & COMPANY FOR UNDERWRITER SERVICES REGARDING WATER REVENUE BONDS

Motion by Trustee Conyac, **second** by Trustee Sharp, to approve **RESOLUTION 20-28:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN UNDERWRITER ENGAGEMENT AGREEMENT WITH STIFEL, NICOLAUS & COMPANY FOR UNDERWRITER SERVICES REGARDING WATER REVENUE BONDS

Roll Call Vote:

Yes: Trustee Sharp, Trustee Conyac, Trustee Meiring, Trustee Jimenez

No: None

Abstain: None

Motion carried.

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

There was no one present that wished to give public comment.

12. Reports

12.a. Staff

Chief Montgomery, Chief of Police, summarized the January 2020 Chief's report. Chief Montgomery also reported that the Meet & Greet event is scheduled for March 20, 2020.

AJ Krieger, Town Manager, reported on discussions with Via Mobility services and varying contract options. Mr. Krieger reported that Via now receives 30-40 calls a month from Firestone for Via Mobility services. Mr. Krieger also reported on tentative plans for a Board Retreat on May 27, 2020.

12.b. Mayor

Mayor Sindelar thanked the Economic Development Director for event reminders. Mayor Sindelar thanked the Town Clerk for meeting location reminders.

12.c. Trustees

Trustee Conyac reported on the Metro North Partnership event regarding metro districts. Trustee Conyac recommended attendance of Metro North Partnership events. Trustee Conyac proposed a future work session to discuss metro districts.

Trustee Sharp reported that he would be on vacation May 21 – 29, 2020.

13. Executive Session

- 13.a.** An executive session pursuant to C.R.S. 24-6-402(4)(a) and C.R.S. 24-6-402(e)(1) regarding the purchase or acquisition of real property for economic development and determining positions relative to matters that may be subject to negotiations , developing strategy for negotiations and instructing negotiators regarding such purchase or acquisition.

Open: 9:00 pm Closed: 9:36 pm

Staff to be present: AJ Krieger, Town Manager; Bill Hayashi, Town Attorney; Todd Bjerkaas, Director of Planning & Development; Raelynn Ferrera, Assistant to the Town Manager; and Paula Mehle, Economic Development Director.

14. Adjournment

Introduced and Approved the 11th of March, 2020.

TOWN OF FIRESTONE, COLORADO

ATTEST

Bobbi Sindelar, Mayor

Jessica Koenig, Town Clerk

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 5.b

Consent Agenda

Meeting Date: March 11, 2020

Initiated By: Raelynn Ferrera

Dept: Special Projects & Facilities Division Manager

AGENDA TITLE

Resolution 20-29: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND KISSINGER & FELLMAN, P.C, FOR THE COMCAST FRANCHISE RENEWAL

SUMMARY

This agreement will allow staff and the Town's consultant (Fred Diehl Consulting, Resolution 20-30) to engage with Kissinger & Fellman, P.C to begin identifying key issues for franchise negotiations, prepare a draft franchise agreement, and adopt the final franchise agreement with the Board's approval.

HISTORY AND PREVIOUS BOARD ACTION

RECOMMENDATION

Staff recommends the approval Resolution 20-29 authorizing Town staff to execute the Professional Services Agreement with Kissinger & Fellman, P.C and expend budgeted funds.

ALTERNATIVES

ATTACHMENTS

1. RESO Kissinger - Fellman P.C - Comcast Cable Franchise Renewal
2. Professional Services Agreement - Comcast Franchise Renewal-signed by KSF

FINANCIAL CONSIDERATIONS

Total Estimate: 26–50 hours, in an amount not to exceed \$11,750.00

RESOLUTION NO. 20-29

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF
FIRESTONE, COLORADO, APPROVING AN AGREEMENT BETWEEN
THE TOWN OF FIRESTONE AND KISSINGER & FELLMAN, P.C, FOR
THE COMCAST FRANCHISE RENEWAL**

WHEREAS, the Town of Firestone ("Town") is in need of legal services to provide advice and guidance to the Town and its Consultant regarding renewal of the Town's Cable Franchise Agreement with Comcast; and

WHEREAS, Kissinger & Fellman, P.C has the expertise and experience to identify key negotiation issues, prepare a draft franchise agreement, and guide the Town through the legal procedure for adoption of the Comcast Cable Franchise Renewal; and

WHEREAS, Kissinger & Fellman, P.C is thus best suited to provide the legal services the Town requires for the Comcast Cable Franchise Renewal.

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

The Agreement for legal services for the Comcast Cable Franchise Renewal between the Town of Firestone and Kissinger & Fellman, P.C, 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 ___ day of _____, 2020.

TOWN OF FIRESTONE, COLORADO

Bobbi Sindelar, Mayor

ATTEST:

APPROVED AS TO FORM:

Jessica Koenig, Town Clerk

William P. Hayashi, Town Attorney

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT FOR PROFESSIONAL SERVICES (the "Agreement") is made and entered into this _____ day of _____, 2020 (the "Effective Date"), by and between the **TOWN OF FIRESTONE**, a Colorado municipal corporation with an address of 151 Grant Avenue, P.O. Box 100, Firestone, Colorado 80520 (the "Town"), and **KISSINGER & FELLMAN, P.C.**, an independent contractor with a principal place of business at 3773 Cherry Creek North Drive, Colorado 80209 ("Contractor") (each a "Party" and collectively the "Parties").

WHEREAS, the Town requires professional services; and

WHEREAS, Contractor has held itself out to the Town as having the requisite expertise and experience to perform the required professional services.

NOW, THEREFORE, for the consideration hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

I. SCOPE OF SERVICES

A. Contractor shall furnish all labor and materials required for the complete and prompt execution and performance of all duties, obligations, and responsibilities which are described or reasonably implied from the Scope of Services set forth in **Exhibit A**, attached hereto and incorporated herein by this reference and known as: **Comcast Franchise Renewal**.

B. A change in the Scope of Services shall not be effective unless authorized as an amendment to this Agreement. If Contractor proceeds without such written authorization, Contractor shall be deemed to have waived any claim for additional compensation, including a claim based on the theory of unjust enrichment, quantum merit or implied contract. Except as expressly provided herein, no agent, employee, or representative of the Town is authorized to modify any term of this Agreement, either directly or implied by a course of action.

II. TERM AND TERMINATION

A. This Agreement shall commence on the Effective Date, and shall continue until Contractor completes the Scope of Services to the satisfaction of the Town, or until terminated as provided herein.

B. Either Party may terminate this Agreement upon 30 days advance written notice. The Town shall pay Contractor for all work previously authorized and completed prior to the date of termination. If, however, Contractor has substantially or materially breached this Agreement, the Town shall have any remedy or right of set-off available at law and equity.

III. COMPENSATION

In consideration for the completion of the Scope of Services by Contractor, the Town shall pay the Contractor an amount not to exceed **\$11,750.00**. This amount shall include all fees, costs and expenses incurred by Contractor, and no additional amounts shall be paid by the Town for such fees, costs and expenses. Contractor may submit periodic invoices, which shall be paid by the Town within 30 days of receipt.

IV. PROFESSIONAL RESPONSIBILITY

A. Contractor hereby warrants that it is qualified to assume the responsibilities and render the services described herein and has all requisite corporate authority and professional licenses in good standing, required by law. The work performed by Contractor shall be in accordance with generally accepted professional practices and the level of competency presently maintained by other practicing professional firms in the same or similar type of work in the

applicable community. The work and services to be performed by Contractor hereunder shall be done in compliance with applicable laws, ordinances, rules and regulations.

B. The Town's review, approval or acceptance of, or payment for any services shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

C. Because the Town has hired Contractor for its professional expertise, Contractor agrees not to employ subcontractors to perform any work except as expressly set forth in the Scope of Services.

V. OWNERSHIP

Any materials, items, and work specified in the Scope of Services, and any and all related documentation and materials provided or developed by Contractor shall be exclusively owned by the Town. Contractor expressly acknowledges and agrees that all work performed under the Scope of Services constitutes a "work made for hire." To the extent, if at all, that it does not constitute a "work made for hire," Contractor hereby transfers, sells, and assigns to the Town all of its right, title, and interest in such work. The Town may, with respect to all or any portion of such work, use, publish, display, reproduce, distribute, destroy, alter, retouch, modify, adapt, translate, or change such work without providing notice to or receiving consent from Contractor.

If the Town reuses or makes any modification to Consultant's designs, documents or work product without the prior written authorization of Consultant, the Town agrees, to the fullest extent permitted by law, to release the Consultant, its officers, directors, employees and sub-consultants from all claims and causes of action arising from such uses, and shall indemnify and hold them harmless from all costs and expenses, including the cost of defense, related to claims and causes of action to the extent such costs and expenses arise from the Town's modification or reuse of the documents.

The Town expressly acknowledges and agrees that the documents and data to be provided by Consultant under the Agreement may contain certain design details, features and concepts from the Consultant's own practice detail library, which collectively may form portions of the design for the Project, but which separately, are, and shall remain, the sole and exclusive property of Consultant. Nothing herein shall be construed as a limitation on the Consultant's right to re-use such component design details, features and concepts on other projects, in other contexts or for other clients.

VI. INDEPENDENT CONTRACTOR

Contractor is an independent contractor. Notwithstanding any other provision of this Agreement, all personnel assigned by Contractor to perform work under the terms of this Agreement shall be, and remain at all times, employees or agents of Contractor for all purposes. Contractor shall make no representation that it is a Town employee for any purposes.

VII. INSURANCE

A. Contractor agrees to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands, and other obligations assumed by Contractor pursuant to this Agreement. At a minimum, Contractor shall procure and maintain, and shall cause any subcontractor to procure and maintain, the insurance coverages listed below, with forms and insurers acceptable to the Town.

1. Worker's Compensation insurance as required by law.
2. Commercial General Liability insurance with minimum combined single limits of \$1,000,000 each occurrence and \$2,000,000 general aggregate. The policy shall be applicable to all premises and operations, and shall include coverage for bodily injury, broad form property damage, personal injury (including coverage for contractual and employee acts), blanket contractual, 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. No additional insured endorsement shall contain any exclusion for bodily injury or property damage arising from completed operations.
3. Professional liability insurance with minimum limits of \$1,000,000 each claim and \$2,000,000 general aggregate.

B. Such insurance shall be in addition to any other insurance requirements imposed by law. The coverages afforded under the policies shall not be canceled, terminated or materially changed without at least 30 days prior written notice to the Town. 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 Contractor. Contractor shall be solely responsible for any deductible losses under any policy.

C. Contractor shall provide to the Town a certificate of insurance as evidence that the required policies are in full force and effect. The certificate shall identify this Agreement.

VIII. INDEMNIFICATION

A. Contractor agrees to indemnify and hold harmless the Town and its officers, insurers, volunteers, representative, agents, employees, heirs and assigns from and against all claims, liability, damages, losses, expenses and demands, including attorney fees, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement if such injury, loss, or damage is caused in whole or in part by, the act, omission, error, professional error, mistake, negligence, or other fault of Contractor, any subcontractor of Contractor, or any officer, employee, representative, or agent of Contractor, or which arise out of a worker's compensation claim of any employee of Contractor or of any employee of any subcontractor of Contractor. Contractor's liability under this indemnification provision shall be to the fullest extent of, but shall not exceed, that amount represented by the degree or percentage of negligence or fault attributable to Contractor, any subcontractor of Contractor, or any officer, employee, representative, or agent of Contractor or of any subcontractor of Contractor.

B. If Contractor is providing architectural, engineering, surveying or other design services under this Agreement, the extent of Contractor's obligation to indemnify and hold harmless the Town may be determined only after Contractor's liability or fault has been determined by adjudication, alternative dispute resolution or otherwise resolved by mutual agreement between the Parties, as provided by C.R.S. § 13-50.5-102(8)(c).

IX. ILLEGAL ALIENS

A. Certification. By entering into this Agreement, Contractor hereby certifies that, at the time of this certification, it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement and that Contractor will participate in either the E-Verify Program administered by the United States Department of Homeland Security and Social Security Administration or the Department Program administered by the Colorado

Department of Labor and Employment to confirm the employment eligibility of all employees who are newly hired to perform work under this Agreement.

B. Prohibited Acts. Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement, or enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.

C. Verification.

1. If Contractor has employees, Contractor has confirmed the employment eligibility of all employees who are newly hired to perform work under this Agreement through participation in either the E-Verify Program or the Department Program.

2. Contractor shall not use the E-Verify Program or Department Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

3. If Contractor obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien who is performing work under this Agreement, Contractor shall: notify the subcontractor and the Town within 3 days that Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien who is performing work under this Agreement; and terminate the subcontract with the subcontractor if within 3 days of receiving the notice required pursuant to subsection 1 hereof, the subcontractor does not stop employing or contracting with the illegal alien who is performing work under this Agreement; except that Contractor shall not terminate the subcontract if during such 3 days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien who is performing work under this Agreement.

D. Duty to Comply with Investigations. Contractor shall comply with any reasonable request by the Colorado Department of Labor and Employment made in the course of an investigation conducted pursuant to C.R.S. § 8-17.5-102(5)(a) to ensure that Contractor is complying with the terms of this Agreement.

E. Affidavits. If Contractor does not have employees, Contractor shall sign the "No Employee Affidavit" attached hereto. If Contractor wishes to verify the lawful presence of newly hired employees who perform work under the Agreement via the Department Program, Contractor shall sign the "Department Program Affidavit" attached hereto.

X. MISCELLANEOUS

A. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Weld County, Colorado.

B. No Waiver. Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by the Town shall not constitute a waiver of any of the other terms or obligation of this Agreement.

C. Integration. This Agreement constitutes the entire agreement between the Parties, superseding all prior oral or written communications.

D. Third Parties. There are no intended third-party beneficiaries to this Agreement.

E. Notice. Any notice under this Agreement shall be in writing, and shall be deemed sufficient when directly presented or sent pre-paid, first class United States Mail to the Party at the address set forth on the first page of this Agreement.

F. Severability. If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

G. Modification. This Agreement may only be modified upon written agreement of the Parties.

H. Assignment. Neither this Agreement nor any of the rights or obligations of the Parties shall be assigned by either Party without the written consent of the other.

I. Governmental Immunity. The Town and its officers, attorneys and employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities or protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended, or otherwise available to the Town and its officers, attorneys or employees.

J. Rights and Remedies. The rights and remedies of the Town under this Agreement are in addition to any other rights and remedies provided by law. The expiration of this Agreement shall in no way limit the Town's legal or equitable remedies, or the period in which such remedies may be asserted, for work negligently or defectively performed.

K. Subject to Annual Appropriation. Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the Town not performed during the current fiscal year is subject to annual appropriation, shall extend only to monies currently appropriated, and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.

L. Representative Authority. Each person signing this Agreement represents and warrants that he or she is duly authorized and has the legal capacity to execute the Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

TOWN OF FIRESTONE, COLORADO

Mayor, Bobbie Sindelar

ATTEST:

Jessica Koenig, Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

KISSINGER & FELLMAN, P.C.

By:



NO EMPLOYEE AFFIDAVIT

To be completed only if Contractor has **no** employees

1. Check and complete one:

☐ I, _____, am a sole proprietor doing business as _____. I do not currently employ any individuals. Should I employ any employees during the term of my Agreement with the Town of Firestone (the "Town"), I certify that I will comply with the lawful presence verification requirements outlined in that Agreement.

OR

☐ I, _____, am the sole owner/member/shareholder of _____, a _____ [specify type of entity – i.e., corporation, limited liability company], that does not currently employ any individuals. Should I employ any individuals during the term of my Agreement with the Town, I certify that I will comply with the lawful presence verification requirements outlined in that Agreement.

2. Check one.

☐ I am a United States citizen or legal permanent resident.

The Town must verify this statement by reviewing one of the following items:

- A valid Colorado driver's license or a Colorado identification card;
- A United States military card or a military dependent's identification card;
- A United States Coast Guard Merchant Mariner card;
- A Native American tribal document;
- In the case of a resident of another state, the driver's license or state-issued identification card from the state of residence, if that state requires the applicant to prove lawful presence prior to the issuance of the identification card; or
- Any other documents or combination of documents listed in the Town's "Acceptable Documents for Lawful Presence Verification" chart that prove both Contractor's citizenship/lawful presence and identity.

OR

☐ I am otherwise lawfully present in the United States pursuant to federal law.

Contractor must verify this statement through the federal Systematic Alien Verification of Entitlement ("SAVE") program, and provide such verification to the Town.

Signature

Date

DEPARTMENT PROGRAM AFFIDAVIT

To be completed only if Contractor participates in the Department of Labor Lawful Presence Verification Program

I, _____, as a public contractor under contract with the Town of Firestone (the "Town"), hereby affirm that:

1. I have examined or will examine the legal work status of all employees who are newly hired for employment to perform work under this public contract for services ("Agreement") with the Town within 20 days after such hiring date;

2. I have retained or will retain file copies of all documents required by 8 U.S.C. § 1324a, which verify the employment eligibility and identity of newly hired employees who perform work under this Agreement; and

3. I have not and will not alter or falsify the identification documents for my newly hired employees who perform work under this Agreement.

Signature

Date

STATE OF COLORADO)

) ss.

COUNTY OF _____)

The foregoing instrument was subscribed, sworn to (or affirmed) before me this ____ day of _____, 2020,
by _____ as _____ of _____.

My commission expires:

(S E A L)

Notary Public

**EXHIBIT A
SCOPE OF SERVICES**

Contractor's Duties and Deliverables

During the term of this Agreement, Contractor shall perform the following duties, and deliver the following items as directed by the Town:

KISSINGER & FELLMAN, P.C.

ATTORNEYS AT LAW
PTARMIGAN PLACE, SUITE 900
3773 CHERRY CREEK NORTH DRIVE

RICHARD P. KISSINGER
KENNETH S. FELLMAN
JONATHAN M. ABRAMSON
BOBBY G. RILEY

DENVER, COLORADO 80209
TELEPHONE: (303) 320-6100
FAX: (303) 327-8601
www.kandf.com

BRANDON M. DITTMAN
GABRIELLE A. DALEY
JULIE NIKOLAEVSKAYA
PAUL D. GODEC, SPECIAL COUNSEL

REPRESENTATION AGREEMENT

The Town of Firestone, Colorado ("Client"), hereby employs the law firm of Kissinger & Fellman, P.C., ("the Firm") to provide legal counsel, advice and assistance in connection with cable franchise renewal negotiations with Comcast, and any other matters as may be authorized by Client from time to time. Legal fees and costs will be billed in accordance with the Billing Policies of the Firm set forth on this Representation Agreement which are part of this agreement and in accordance with the Scope of Work attached hereto as Exhibit A. It is understood and agreed that the firm's hourly rates may increase in the future.

The Firm's policy is to require from time to time an advance fee deposit/retainer for services and fees from each client prior to beginning any new or additional work on the client's matters. In this particular situation, an initial fee deposit/retainer of \$0.00 has been agreed upon. This deposit/retainer will be placed in the Firm's trust account and applicable disbursements will be made from the trust account to the Firm each month at the time of billing, to cover fees earned and expenses accrued. Client agrees to promptly make such subsequent deposits/retainers as the Firm may require from time to time.

BILLING POLICIES

Our regular hourly charges for professional services of each attorney in the firm are as follows:

Jonathan M. Abramson	\$350 per hour
Kenneth S. Fellman	\$305 per hour*
Brandon M. Dittman	\$205 per hour*
Gabrielle A. Daley	\$165 per hour*
Paul D. Godec	\$300 per hour
Julie Nikolaevskaya	\$210 per hour
Richard P. Kissinger	\$400 per hour
Bobby G. Riley	\$280 per hour
Paralegal/Law Clerk	\$ 90 per hour

*** KSF rate reduced from \$405; BMD rate reduced from \$220; GAD rate reduced from \$175.**

Adjustments in the Firm's rates and charges do occur from time to time, and we endeavor to notify all our then active clients of any changes at the time they are to take place. Nonetheless we still encourage all client inquiries concerning the rates in effect at the beginning of each project and will provide an updated copy of these Billing Policies upon every request.

If there are services which can be performed by our paralegals or law clerks, this time will be charged at \$90 per hour. Billing will reflect all time expended on clients' matters, such as: office conferences, legal research, telephone calls, correspondence, travel time, drafting, court or hearing preparation and appearances, etc. Direct costs or expenses relating to clients' work (i.e., photocopies, postage, long distance telephone calls, mileage, parking, etc.) will be billed in addition to our hourly charges for professional services rendered.

Billing will normally be between the 20th and the last day of the month covering the services and expenses incurred prior to the 20th of the current month. On matters which are not ongoing, a final billing may be made at the conclusion of the matter.

Our terms are payment in full within 30 days of the date of billing. If payment is not received timely, services and expense advances may be discontinued by the firm until satisfactory arrangements can be made to reinstate any past due account. **Interest** shall accrue at the rate of 1.5% per month on all amounts overdue and unpaid. If collection efforts become necessary on any unpaid amounts, the client shall be responsible for costs and legal fees related thereto.

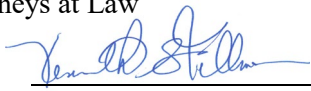
DOCUMENT/FILE RETENTION POLICY

When our engagement in this matter ends, at your written request, all materials/property you provided to us during the course of the representation will be returned to you. You agree that we have the right to make copies of all documents generated or received by us from any source during the course of our representation of you. When you request information from your file, the cost of transmitting original documents to you and/or the cost of providing you with copies of other documents will be charged to you. It is your responsibility to secure the return of any documents or property in the file. Following the conclusion of the matter, the client file may be converted to electronic format for storage. During the course of the representation, we may generate certain documents related to the matter (such as drafts, notes, internal memoranda, legal research, factual research, including investigative reports prepared by or for the internal use of lawyers on the case or in the firm, and administrative records) that will be retained by us (as opposed to being sent to you) or destroyed. For various reasons, including the minimization of unnecessary storage expenses, we reserve the right to destroy or otherwise dispose of any documents or other materials that belong to the law firm within a reasonable time after our final bill for the matter is sent to you.

KISSINGER & FELLMAN, P.C.
Attorneys at Law

TOWN OF FIRESTONE, COLORADO

By: _____


Kenneth S. Fellman
President

By: _____

Title: _____

Date: _____

EXHIBIT A

Town of Firestone, Colorado Comcast Franchise Agreement Renewal

SCOPE OF WORK

Scope of the Project: Work with the Town of Firestone, Colorado to review, revise and negotiate a cable franchise agreement renewal with Comcast.

Rates: The local government discounted hourly rates charged by Kissinger & Fellman attorneys who will have responsibility for this project are: Ken Fellman at \$305.00 per hour; Associate Brandon Dittman at \$205.00 per hour; Associate Gabrielle Daley at \$165 per hour. Hourly rates will not be increased during this project. The firm charges 20 cents per photocopy and telecopy, and actual charges for postage, overnight delivery, long distance, travel expenses, etc. One half of our hourly rate is charged for time in transit. The estimate provided below is calculated at a blended rate of \$235 per hour, with the expectation that multiple attorneys in the firm will participate in the project.

Legal Services to be Provided: Work to be performed will include the following elements:

- | | |
|---|-------------|
| - Work with staff to identify key issues for franchise negotiations | 2-3 hours |
| - Prepare draft franchise agreement; internal communications with staff regarding any issues with the draft; finalize the document for commencing negotiations | 5-8 hours |
| - Attend negotiations sessions with staff and Comcast (anticipate 2-3 in person meetings and 2-3 meetings via conference call; each meeting, including pre- and post-meeting discussion with staff estimated at 3-4 hours) | 12-24 hours |
| - Communications (preparation of memoranda, and appearance by conference call or in person) with the Board of Trustees for (i) initial info on cable franchise process and issues; (ii) update on the progress of negotiations and (iii) adoption of final franchise (how many of these interactions with the Board is the Town's decision; at a minimum, you will probably want us there for the public hearing where the franchise is approved) | 4-10 hours |
| - Miscellaneous franchise negotiation issues that may arise | 3-5 hours |

TOTAL HOURS ESTIMATE: **26 – 50 hours @ \$235/hr = \$6,110 - \$11,750**

AGENDA INFORMATION MEMORANDUM

FIRESTONE TOWN BOARD OF TRUSTEES



AIM#: 5.c

Consent Agenda

Meeting Date: March 11, 2020

Initiated By: Raelynn Ferrera

Dept: Special Projects & Facilities Division Manager

AGENDA TITLE

Resolution 20-30: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND FRED DIEHL CONSULTING LLC FOR THE COMCAST CABLE FRANCHISE RENEWAL

SUMMARY

This agreement will allow the Town's consultant, Fred Diehl Consulting, to engage with staff and Kissinger & Fellman, P.C to identify key issues for franchise negotiations, participate in negotiation sessions, participate with Colorado Communications and Utility Alliance (CCUA), and serve on a subcommittee addressing model franchise agreements.

HISTORY AND PREVIOUS BOARD ACTION

RECOMMENDATION

Staff recommends the approval of the Resolution 20-30 authorizing Town staff to execute the Professional Services Agreement with Fred Diehl Consulting and expend budgeted funds.

ALTERNATIVES

ATTACHMENTS

1. RESO Fred Diehl Consulting - Comcast Cable Franchise Renewal
2. Professional Services agreement - Fred Diehl - Comcast Cable Franchise Renewal

FINANCIAL CONSIDERATIONS

Total Estimate: 40-60 hours, in an amount not to exceed \$6,150.00

RESOLUTION NO. 20-30

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF
FIRESTONE, COLORADO, APPROVING AN AGREEMENT BETWEEN
THE TOWN OF FIRESTONE AND FRED DIEHL CONSULTING LLC FOR
THE COMCAST CABLE FRANCHISE RENEWAL**

WHEREAS, the Town of Firestone (“Town”) is in need of telecommunication consulting services to represent the Town regarding renewal of the Town’s Cable Franchise Agreement with Comcast; and

WHEREAS, Fred Diehl Consulting LLC has the required experience and expertise to participate in negotiation sessions and provide the Town guidance regarding the Comcast Cable Franchise Renewal; and

WHEREAS, Fred Diehl Consulting LLC is thus best suited to provide the telecommunication consulting services the Town requires for the Comcast Cable Franchise Renewal.

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

The Agreement for telecommunication consulting services for the Comcast Cable Franchise Renewal between the Town of Firestone and Fred Diehl Consulting LLC 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 ___ day of _____, 2020.

TOWN OF FIRESTONE, COLORADO

Bobbi Sindelar, Mayor

ATTEST:

APPROVED AS TO FORM:

Jessica Koenig, Town Clerk

William P. Hayashi, Town Attorney

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT FOR PROFESSIONAL SERVICES (the "Agreement") is made and entered into this ____ day of _____, 2020 (the "Effective Date"), by and between the **TOWN OF FIRESTONE**, a Colorado municipal corporation with an address of 151 Grant Avenue, P.O. Box 100, Firestone, Colorado 80520 (the "Town"), and **FRED DIEHL CONSULTING, LLC**, an independent contractor with a principal place of business at 2225 Jewel Street Longmont, CO 80501 ("Contractor") (each a "Party" and collectively the "Parties").

WHEREAS, the Town requires professional services; and

WHEREAS, Contractor has held itself out to the Town as having the requisite expertise and experience to perform the required professional services.

NOW, THEREFORE, for the consideration hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

I. SCOPE OF SERVICES

A. Contractor shall furnish all labor and materials required for the complete and prompt execution and performance of all duties, obligations, and responsibilities which are described or reasonably implied from the Scope of Services set forth in **Exhibit A**, attached hereto and incorporated herein by this reference and known as: **Comcast Cable Franchise Renewal**.

B. A change in the Scope of Services shall not be effective unless authorized as an amendment to this Agreement. If Contractor proceeds without such written authorization, Contractor shall be deemed to have waived any claim for additional compensation, including a claim based on the theory of unjust enrichment, quantum merit or implied contract. Except as expressly provided herein, no agent, employee, or representative of the Town is authorized to modify any term of this Agreement, either directly or implied by a course of action.

II. TERM AND TERMINATION

A. This Agreement shall commence on the Effective Date, and shall continue until Contractor completes the Scope of Services to the satisfaction of the Town, or until terminated as provided herein.

B. Either Party may terminate this Agreement upon 30 days advance written notice. The Town shall pay Contractor for all work previously authorized and completed prior to the date of termination. If, however, Contractor has substantially or materially breached this Agreement, the Town shall have any remedy or right of set-off available at law and equity.

III. COMPENSATION

In consideration for the completion of the Scope of Services by Contractor, the Town shall pay the Contractor an amount not to exceed **\$6,150.00**. This amount shall include all fees, costs and expenses incurred by Contractor, and no additional amounts shall be paid by the Town for such fees, costs and

expenses. Contractor may submit periodic invoices, which shall be paid by the Town within 30 days of receipt.

IV. PROFESSIONAL RESPONSIBILITY

A. Contractor hereby warrants that it is qualified to assume the responsibilities and render the services described herein and has all requisite corporate authority and professional licenses in good standing, required by law. The work performed by Contractor shall be in accordance with generally accepted professional practices and the level of competency presently maintained by other practicing professional firms in the same or similar type of work in the applicable community. The work and services to be performed by Contractor hereunder shall be done in compliance with applicable laws, ordinances, rules and regulations.

B. The Town's review, approval or acceptance of, or payment for any services shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

C. Because the Town has hired Contractor for its professional expertise, Contractor agrees not to employ subcontractors to perform any work except as expressly set forth in the Scope of Services.

V. OWNERSHIP

Any materials, items, and work specified in the Scope of Services, and any and all related documentation and materials provided or developed by Contractor shall be exclusively owned by the Town. Contractor expressly acknowledges and agrees that all work performed under the Scope of Services constitutes a "work made for hire." To the extent, if at all, that it does not constitute a "work made for hire," Contractor hereby transfers, sells, and assigns to the Town all of its right, title, and interest in such work. The Town may, with respect to all or any portion of such work, use, publish, display, reproduce, distribute, destroy, alter, retouch, modify, adapt, translate, or change such work without providing notice to or receiving consent from Contractor.

If the Town reuses or makes any modification to Consultant's designs, documents or work product without the prior written authorization of Consultant, the Town agrees, to the fullest extent permitted by law, to release the Consultant, its officers, directors, employees and sub-consultants from all claims and causes of action arising from such uses, and shall indemnify and hold them harmless from all costs and expenses, including the cost of defense, related to claims and causes of action to the extent such costs and expenses arise from the Town's modification or reuse of the documents.

The Town expressly acknowledges and agrees that the documents and data to be provided by Consultant under the Agreement may contain certain design details, features and concepts from the Consultant's own practice detail library, which collectively may form portions of the design for the Project, but which separately, are, and shall remain, the sole and exclusive property of Consultant. Nothing herein shall be construed as a limitation on the Consultant's right to re-use such component design details, features and concepts on other projects, in other contexts or for other clients.

VI. INDEPENDENT CONTRACTOR

Contractor is an independent contractor. Notwithstanding any other provision of this Agreement, all personnel assigned by Contractor to perform work under the terms of this Agreement shall be, and remain at all times, employees or agents of Contractor for all purposes. Contractor shall make no representation that it is a Town employee for any purposes.

VII. INSURANCE

A. Contractor agrees to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands, and other obligations assumed by Contractor pursuant to this Agreement. At a minimum, Contractor shall procure and maintain, and shall cause any subcontractor to procure and maintain, the insurance coverages listed below, with forms and insurers acceptable to the Town.

1. Worker's Compensation insurance as required by law.
2. Commercial General Liability insurance with minimum combined single limits of \$1,000,000 each occurrence and \$2,000,000 general aggregate. The policy shall be applicable to all premises and operations, and shall include coverage for bodily injury, broad form property damage, personal injury (including coverage for contractual and employee acts), blanket contractual, 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. No additional insured endorsement shall contain any exclusion for bodily injury or property damage arising from completed operations.
3. Professional liability insurance with minimum limits of \$1,000,000 each claim and \$2,000,000 general aggregate.

B. Such insurance shall be in addition to any other insurance requirements imposed by law. The coverages afforded under the policies shall not be canceled, terminated or materially changed without at least 30 days prior written notice to the Town. 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 Contractor. Contractor shall be solely responsible for any deductible losses under any policy.

C. Contractor shall provide to the Town a certificate of insurance as evidence that the required policies are in full force and effect. The certificate shall identify this Agreement.

VIII. INDEMNIFICATION

A. Contractor agrees to indemnify and hold harmless the Town and its officers, insurers, volunteers, representative, agents, employees, heirs and assigns from and against all claims, liability, damages, losses, expenses and demands, including attorney fees, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with

this Agreement if such injury, loss, or damage is caused in whole or in part by, the act, omission, error, professional error, mistake, negligence, or other fault of Contractor, any subcontractor of Contractor, or any officer, employee, representative, or agent of Contractor, or which arise out of a worker's compensation claim of any employee of Contractor or of any employee of any subcontractor of Contractor. Contractor's liability under this indemnification provision shall be to the fullest extent of, but shall not exceed, that amount represented by the degree or percentage of negligence or fault attributable to Contractor, any subcontractor of Contractor, or any officer, employee, representative, or agent of Contractor or of any subcontractor of Contractor.

B. If Contractor is providing architectural, engineering, surveying or other design services under this Agreement, the extent of Contractor's obligation to indemnify and hold harmless the Town may be determined only after Contractor's liability or fault has been determined by adjudication, alternative dispute resolution or otherwise resolved by mutual agreement between the Parties, as provided by C.R.S. § 13-50.5-102(8)(c).

IX. ILLEGAL ALIENS

A. Certification. By entering into this Agreement, Contractor hereby certifies that, at the time of this certification, it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement and that Contractor will participate in either the E-Verify Program administered by the United States Department of Homeland Security and Social Security Administration or the Department Program administered by the Colorado Department of Labor and Employment to confirm the employment eligibility of all employees who are newly hired to perform work under this Agreement.

B. Prohibited Acts. Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement, or enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.

C. Verification.

1. If Contractor has employees, Contractor has confirmed the employment eligibility of all employees who are newly hired to perform work under this Agreement through participation in either the E-Verify Program or the Department Program.

2. Contractor shall not use the E-Verify Program or Department Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

3. If Contractor obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien who is performing work under this Agreement, Contractor shall: notify the subcontractor and the Town within 3 days that Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien who is performing work under this Agreement; and terminate the subcontract with the subcontractor if within 3 days of receiving the notice required pursuant to subsection 1 hereof, the subcontractor does not stop employing or contracting with the illegal alien who is performing work under this Agreement; except that Contractor shall not terminate the subcontract if during such 3 days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien who is performing work under this Agreement.

D. Duty to Comply with Investigations. Contractor shall comply with any reasonable request by the Colorado Department of Labor and Employment made in the course of an investigation conducted pursuant to C.R.S. § 8-17.5-102(5)(a) to ensure that Contractor is complying with the terms of this Agreement.

E. Affidavits. If Contractor does not have employees, Contractor shall sign the "No Employee Affidavit" attached hereto. If Contractor wishes to verify the lawful presence of newly hired employees who perform work under the Agreement via the Department Program, Contractor shall sign the "Department Program Affidavit" attached hereto.

X. MISCELLANEOUS

A. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Weld County, Colorado.

B. No Waiver. Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by the Town shall not constitute a waiver of any of the other terms or obligation of this Agreement.

C. Integration. This Agreement constitutes the entire agreement between the Parties, superseding all prior oral or written communications.

D. Third Parties. There are no intended third-party beneficiaries to this Agreement.

E. Notice. Any notice under this Agreement shall be in writing, and shall be deemed sufficient when directly presented or sent pre-paid, first class United States Mail to the Party at the address set forth on the first page of this Agreement.

F. Severability. If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

G. Modification. This Agreement may only be modified upon written agreement of the Parties.

H. Assignment. Neither this Agreement nor any of the rights or obligations of the Parties shall be assigned by either Party without the written consent of the other.

I. Governmental Immunity. The Town and its officers, attorneys and employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities or protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended, or otherwise available to the Town and its officers, attorneys or employees.

J. Rights and Remedies. The rights and remedies of the Town under this Agreement are in addition to any other rights and remedies provided by law. The expiration of this Agreement shall in no way limit the Town's legal or equitable remedies, or the period in which such remedies may be asserted, for work negligently or defectively performed.

K. Subject to Annual Appropriation. Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the Town not performed during the current fiscal year is subject to annual appropriation, shall extend only to monies currently appropriated, and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.

L. Representative Authority. Each person signing this Agreement represents and warrants that he or she is duly authorized and has the legal capacity to execute the Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

TOWN OF FIRESTONE, COLORADO

Mayor, Bobby Sindelar

ATTEST:

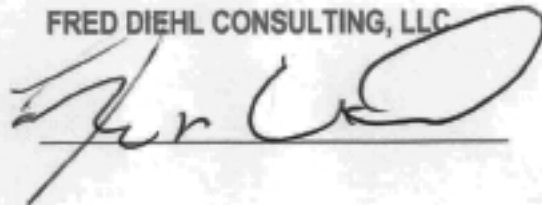
Jessica Koenig, Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

FRED DIEHL CONSULTING, LLC

By: _____



NO EMPLOYEE AFFIDAVIT

To be completed only if Contractor has no employees

1. Check and complete one:

☐ I, _____, am a sole proprietor doing business as _____, I do not currently employ any individuals. Should I employ any employees during the term of my Agreement with the Town of Firestone (the "Town"), I certify that I will comply with the lawful presence verification requirements outlined in that Agreement.

OR

☒ I, FRED DIETH, am the sole owner/member/shareholder of FRED DIETH CONSULTING a LLC [specify type of entity - i.e., corporation, limited liability company], that does not currently employ any individuals. Should I employ any individuals during the term of my Agreement with the Town, I certify that I will comply with the lawful presence verification requirements outlined in that Agreement.

2. Check one.

☒ I am a United States citizen or legal permanent resident.

The Town must verify this statement by reviewing one of the following items:

- A valid Colorado driver's license or a Colorado identification card;
- A United States military card or a military dependent's identification card;
- A United States Coast Guard Merchant Mariner card;
- A Native American tribal document;
- In the case of a resident of another state, the driver's license or state-issued identification card from the state of residence, if that state requires the applicant to prove lawful presence prior to the issuance of the identification card; or
- Any other documents or combination of documents listed in the Town's "Acceptable Documents for Lawful Presence Verification" chart that prove both Contractor's citizenship/lawful presence and identity.

OR

☐ I am otherwise lawfully present in the United States pursuant to federal law.

Contractor must verify this statement through the federal Systematic Alien Verification of Entitlement ("SAVE") program, and provide such verification to the Town.

Signature

Date

DEPARTMENT PROGRAM AFFIDAVIT

To be completed only if Contractor participates in the Department of Labor Lawful Presence Verification Program

I, _____, as a public contractor under contract with the Town of Firestone (the "Town"), hereby affirm that:

1. I have examined or will examine the legal work status of all employees who are newly hired for employment to perform work under this public contract for services ("Agreement") with the Town within 20 days after such hiring date;

2. I have retained or will retain file copies of all documents required by 8 U.S.C. § 1324a, which verify the employment eligibility and identity of newly hired employees who perform work under this Agreement; and

3. I have not and will not alter or falsify the identification documents for my newly hired employees who perform work under this Agreement.

Signature

Date

STATE OF COLORADO)

) ss.

COUNTY OF _____)

The foregoing instrument was subscribed, sworn to (or affirmed) before me this ____ day of _____, 2020, by _____ as _____ of _____.

My commission expires:

(S E A L)

Notary Public

EXHIBIT A SCOPE OF SERVICES

Contractor's Duties

Fred Diehl Consulting, LLC
2225 Jewel Street
Longmont, CO 80501
303-944-9273
freddiehl@msn.com

Town of Firestone
Attention: Raelynn Ferrera
rferrera@firestoneco.gov
151 Grant Avenue
P.O. Box 100
Firestone, CO 80520

January 30, 2020

Proposal for Services Comcast Cable Franchise Renewal

Fred Diehl Consulting, in its capacity as an Independent Contractor, shall perform a variety of tasks related to the Cable Franchise Renewal with Comcast.

Scope of Work: Comcast Franchise Renewal Negotiations

- Work with staff and telecom attorney to identify key issues (5 hrs.)
- Participate in negotiating sessions with staff, attorney and Comcast (12 – 24 hrs.)
- Attend Firestone Board meetings as necessary (4-6 hrs.)
- Participate with CCUA and serve on sub-committee addressing FCC Cable Order and CCUA model franchise agreement (15 – 20 hrs.)
- Misc. issues (4 - 5 hrs.)

Total Hours Estimate: 40 to 60 hours @ \$100/hr.

Compensation for Services

Consultant shall be compensated for services based upon an hourly rate of \$100.00. Reimbursable materials and expenses shall not exceed \$150.00.

Thank you. Fred Diehl



Fred Diehl Consulting, LLC 303-944-9273 freddiehl@msn.com

Page 1 of 1

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 6.a

Presentation

Meeting Date: March 11, 2020

Initiated By:

Dept: Town Clerk

AGENDA TITLE

Lobbyists Presentation

SUMMARY

HISTORY AND PREVIOUS BOARD ACTION

RECOMMENDATION

ALTERNATIVES

ATTACHMENTS

None

FINANCIAL CONSIDERATIONS

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 6.b

Presentation

Meeting Date: March 11, 2020

Initiated By:

Dept: Administration

AGENDA TITLE

2020 Special Events Update

SUMMARY

HISTORY AND PREVIOUS BOARD ACTION

RECOMMENDATION

ALTERNATIVES

ATTACHMENTS

None

FINANCIAL CONSIDERATIONS

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 7.a

Discussion/Action

Meeting Date: March 11, 2020

Initiated By: Julie Pasillas

Dept: Public Works

AGENDA TITLE

Resolution 20-31: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND NEW IPT, INC., REGARDING THE ST. VRAIN WATER TREATMENT INJECTION WELL PROJECT

SUMMARY

New IPT, Inc. (IPT) is the engineering/geology consultant that developed the Class I Injection Well Permit Application that was submitted by the Town to the EPA in January 2020. This Agreement with IPT is for 2020 services related to: 1) Drilling engineering, well completion supervision, and well site supervision; and 2) Design of well site injection facilities.

The Class I (municipal) injection well will be located on the northwest portion of the parcel that the Town. It is designed to dispose of the reject water that will be “rejected” by the reverse osmosis water treatment plant. The well is estimated to be about 10,000 feet deep; design of the well will be completed after the permit is issued by the EPA.

Requests for quotes from qualified well drillers who have the equipment and experience to drill the well will be developed sometime after August--September 2020; well drilling is estimated to be in November—December of 2020, with well completion in January 2021.

The 2020 Work Orders are summarized in this table:

Work Order Number	Title	Estimated Schedule	Budget
2020-01	Drilling Engineering	September—December 2020	\$ 175,000
2020-02	Drilling and Completions Operations Management	November 2020	\$ 4,000
2020-03	Completion Engineering	December 2020	\$ 15,000
2020-04	Drilling Well site Supervision	November 2020	\$ 78,000
2020-05	Injection Facility Design	March—December 2020	\$ 90,000
2020 Total			\$ 362,000

The 2021 Work Orders will be included in an updated Agreement to be approved in December 2020. The 2021 Work Orders are shown in the next table.

Work Order Number	Title	Estimated Schedule	Budget
2021-01	Injection Facilities Commissioning	February—June 2021	\$ 5,000
2021-02	Well Completion Supervision	January 2021	\$ 40,000

2021 Total			\$ 45,000
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HISTORY AND PREVIOUS BOARD ACTION

The Trustees approved development of the EPA permit application in LRE Work Order 2020-09, on August 28, 2019.

RECOMMENDATION

Staff recommends approval of Resolution 20-31, a Resolution approving an Agreement for Professional Services and the Work Orders for 2020 with IPT, Inc. for Deep Well Injection Design and Project Management services.

ALTERNATIVES

The Board may choose not to approve Resolution 20-31, and provide Staff with additional direction.

ATTACHMENTS

1. Res 20-31 IPT Agmt
2. Firestone PSA-Final
3. IPT 2020 Contract Schedule A

FINANCIAL CONSIDERATIONS

A portion of the costs for 2020 have been approved in the 2020 Budget (\$186,000). The additional costs for 2020 of \$176,000 were not included in the 2020 budget.

Estimated well construction costs were approved in the 2020 CIP budget (\$3,670,000).

All of the 2020 costs related to the injection well (design and construction) will be paid from proceeds of the 2020 financing which is expected to be finalized and funded before September 2020.

RESOLUTION NO. 20-31

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE,
COLORADO, APPROVING A PROFESSIONAL SERVICES AGREEMENT BETWEEN
THE TOWN OF FIRESTONE AND NEW IPT, INC., REGARDING THE ST. VRAIN
WATER TREATMENT INJECTION WELL PROJECT**

WHEREAS, construction of the Town of Firestone's ("Town") St. Vrain Water Treatment Plant requires the design and construction of an injection well; and

WHEREAS, the Town is thus in need of engineering services for the development of a drilling plan, on-site personnel to oversee, coordinate and direct drilling of the well and design of the injection pump facility, such duties referred to collectively as the St. Vrain Water Treatment Injection Well Project ("Project"); and

WHEREAS, the Town requested proposals and selected New IPT, Inc., as the most qualified and responsive bidder to provide the required Project services.

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

The Professional Services Agreement between the Town of Firestone and New IPT, Inc., for engineering services regarding the development, oversight, coordination of a drilling plan and facility design services for the St. Vrain Water Treatment Injection Well 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 11th day of March, 2020.

TOWN OF FIRESTONE, COLORADO

Bobbi Sindelar, Mayor

ATTEST:

Jessica Koenig, Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT FOR PROFESSIONAL SERVICES (the "Agreement") is made and entered into this 11th day of March, 2020 (the "Effective Date"), by and between the Town of Firestone, a Colorado municipal corporation with an address of 151 Grant Avenue, P.O. Box 100, Firestone, Colorado 80520 (the "Town"), and New IPT, Inc., an independent contractor with a principal place of business at 1707 Cole Blvd., Suite 200, Golden, Colorado 80401 ("Contractor") (each a "Party" and collectively the "Parties").

WHEREAS, the Town requires professional services; and

WHEREAS, Contractor has held itself out to the Town as having the requisite expertise and experience to perform the required professional services.

NOW, THEREFORE, for the consideration hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

I. SCOPE OF SERVICES

A. Contractor shall furnish all labor required for the complete and prompt execution and performance of all duties, obligations, and responsibilities which are described or reasonably implied from the Scope of Services set forth in **Exhibit A**, attached hereto and incorporated herein by this reference and known as: **Schedule A**).

B. A change in the Scope of Services shall not be effective unless authorized as an amendment to this Agreement. If Contractor proceeds without such written authorization, Contractor shall be deemed to have waived any claim for additional compensation, including a claim based on the theory of unjust enrichment, quantum merit or implied contract. Except as expressly provided herein, no agent, employee, or representative of the Town is authorized to modify any term of this Agreement, either directly or implied by a course of action.

II. TERM AND TERMINATION

A. This Agreement shall commence on the Effective Date, and shall continue until Contractor completes the Scope of Services to the satisfaction of the Town, or until terminated as provided herein.

B. Either Party may terminate this Agreement upon 30 days advance written notice. The Town shall pay Contractor for all work previously authorized and completed prior to the date of termination. If, however, Contractor has substantially or materially breached this Agreement, the Town shall have any remedy or right of set-off available at law and equity.

III. COMPENSATION

In consideration for the completion of the Scope of Services by Contractor, the Town shall pay Contractor \$362,000.00. This amount shall include all fees, costs and expenses incurred by

Contractor, and no additional amounts shall be paid by the Town for such fees, costs and expenses. Contractor may submit periodic invoices, which shall be paid by the Town within 30 days of receipt.

IV. PROFESSIONAL RESPONSIBILITY

A. Contractor hereby warrants that it is qualified to assume the responsibilities and render the services described herein and has all requisite corporate authority and professional licenses in good standing, required by law. The work performed by Contractor shall be in accordance with generally accepted professional practices and the level of competency presently maintained by other practicing professional firms in the same or similar type of work in the applicable community. The services to be performed by Contractor hereunder shall be done in compliance with applicable laws, ordinances, rules and regulations.

B. The Town's review, approval or acceptance of, or payment for any services shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

C. Because the Town has hired Contractor for its professional expertise, Contractor agrees not to employ subcontractors to perform any work except as expressly set forth in the Scope of Services.

V. OWNERSHIP

Any materials, items, and work specified in the Scope of Services, and any and all related documentation and materials provided or developed by Contractor shall be exclusively owned by the Town. Contractor expressly acknowledges and agrees that all work performed under the Scope of Services constitutes a "work made for hire." To the extent, if at all, that it does not constitute a "work made for hire," Contractor hereby transfers, sells, and assigns to the Town all of its right, title, and interest in such work. The Town may, with respect to all or any portion of such work, use, publish, display, reproduce, distribute, destroy, alter, retouch, modify, adapt, translate, or change such work without providing notice to or receiving consent from Contractor.

VI. INDEPENDENT CONTRACTOR

Contractor is an independent contractor. Notwithstanding any other provision of this Agreement, all personnel assigned by Contractor to perform work under the terms of this Agreement shall be, and remain at all times, employees or agents of Contractor for all purposes. Contractor shall make no representation that it is a Town employee for any purposes.

VII. INSURANCE

A. Contractor agrees to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands, and other obligations assumed by Contractor pursuant to this Agreement. At a minimum, Contractor shall procure and maintain, and shall cause any subcontractor to procure and maintain, the insurance coverages listed below, with forms and insurers acceptable to the Town.

1. Worker's Compensation insurance as required by law.

2. Commercial General Liability insurance with minimum combined single limits of \$1,000,000 each occurrence and \$2,000,000 general aggregate. The policy shall be applicable to all premises and operations, and shall include coverage for bodily injury, broad form property damage, personal injury (including coverage for contractual and employee acts), blanket contractual, 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. No additional insured endorsement shall contain any exclusion for bodily injury or property damage arising from completed operations.

3. Professional liability insurance with minimum limits of \$1,000,000 each claim and \$2,000,000 general aggregate.

B. Such insurance shall be in addition to any other insurance requirements imposed by law. The coverages afforded under the policies shall not be canceled, terminated or materially changed without at least 30 days prior written notice to the Town. 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 Contractor. Contractor shall be solely responsible for any deductible losses under any policy.

C. Contractor shall provide to the Town a certificate of insurance as evidence that the required policies are in full force and effect. The certificate shall identify this Agreement.

VIII. INDEMNIFICATION

A. Contractor agrees to indemnify and hold harmless the Town and its officers, insurers, volunteers, representative, agents, employees, heirs and assigns from and against all claims, liability, damages, losses, expenses and demands, including attorney fees, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement if such injury, loss, or damage is caused in whole or in part by, the act, omission, error, professional error, mistake, negligence, or other fault of Contractor, any subcontractor of Contractor, or any officer, employee, representative, or agent of Contractor, or which arise out of a worker's compensation claim of any employee of Contractor or of any employee of any subcontractor of Contractor. Contractor's liability under this indemnification provision shall be to the fullest extent of, but shall not exceed, that amount represented by the degree or percentage of negligence or fault attributable to Contractor, any subcontractor of Contractor, or any officer, employee, representative, or agent of Contractor or of any subcontractor of Contractor.

B. If Contractor is providing architectural, engineering, surveying or other design services under this Agreement, the extent of Contractor's obligation to indemnify and hold harmless the Town may be determined only after Contractor's liability or fault has been determined by adjudication, alternative dispute resolution or otherwise resolved by mutual agreement between the Parties, as provided by C.R.S. § 13-50.5-102(8)(c).

C. Town to the extent permitted by law, agrees to indemnify and hold harmless Contractor and its officers, insurers, volunteers, representative, agents, employees, heirs and assigns from and against all claims, liability, damages, losses, expenses and demands, including attorney fees, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement if such injury, loss, or damage is caused in whole or in part by, the act, omission, error, professional error, mistake, negligence, or other fault of Town, any subcontractor of Town, or any officer, employee, representative, or agent of Town, or which arise out of a worker's compensation claim of any employee of Town or of any employee of any subcontractor of Town. Town's liability under this indemnification provision shall be to the fullest extent of, but shall not exceed, that amount represented by the degree or percentage of negligence or fault attributable to Town, any subcontractor of Town, or any officer, employee, representative, or agent of Town or of any subcontractor of Town.

D. Notwithstanding any other provision in this agreement, Town to the extent permitted by law, agrees to defend, indemnify, hold harmless and release Contractor from and against all losses arising from or related to (i) damage to or impairment of a well or reservoir, regardless of fault, or (ii) the well site or operations thereon, including any pollution or discharges, spills, releases or the presence of wastes, petroleum or petroleum products (including crude oil or any fraction thereof), hazardous substances, pollutants and/or contaminants on, in, under, or from any property or equipment owned, operated, leased or provided by any member of company group, including, without limitation, any such losses arising out of, resulting from or alleged to have resulted from any drilling, extraction, hydraulic fracturing or other well-related activities, regardless of fault.

E. Consequential damages. Neither party shall be liable to the other, and each party hereby waives and releases all claims against the other, for general, special, punitive, exemplary, indirect, incidental or consequential damages arising from or out of this agreement, including without limitation, loss of revenue, profit or use of capital, business interruptions, production delays, loss of product, reservoir loss or damage, losses resulting from failure to meet other contractual commitments or deadlines, and downtime of facilities, however same may be caused.

IX. ILLEGAL ALIENS

A. Certification. By entering into this Agreement, Contractor hereby certifies that, at the time of this certification, it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement and that Contractor will participate in either the E-Verify Program administered by the United States Department of Homeland Security and Social Security Administration or the Department Program administered by the Colorado Department of Labor and Employment to confirm the employment eligibility of all employees who are newly hired to perform work under this Agreement.

B. Prohibited Acts. Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement, or enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.

C. Verification.

1. If Contractor has employees, Contractor has confirmed the employment eligibility of all employees who are newly hired to perform work under this Agreement through participation in either the E-Verify Program or the Department Program.

2. Contractor shall not use the E-Verify Program or Department Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

3. If Contractor obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien who is performing work under this Agreement, Contractor shall: notify the subcontractor and the Town within 3 days that Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien who is performing work under this Agreement; and terminate the subcontract with the subcontractor if within 3 days of receiving the notice required pursuant to subsection 1 hereof, the subcontractor does not stop employing or contracting with the illegal alien who is performing work under this Agreement; except that Contractor shall not terminate the subcontract if during such 3 days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien who is performing work under this Agreement.

D. Duty to Comply with Investigations. Contractor shall comply with any reasonable request by the Colorado Department of Labor and Employment made in the course of an investigation conducted pursuant to C.R.S. § 8-17.5-102(5)(a) to ensure that Contractor is complying with the terms of this Agreement.

E. Affidavits. If Contractor does not have employees, Contractor shall sign the "No Employee Affidavit" attached hereto. If Contractor wishes to verify the lawful presence of newly hired employees who perform work under the Agreement via the Department Program, Contractor shall sign the "Department Program Affidavit" attached hereto.

X. MISCELLANEOUS

A. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Weld County, Colorado.

B. No Waiver. Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by the Town shall not constitute a waiver of any of the other terms or obligation of this Agreement.

C. Integration. This Agreement constitutes the entire agreement between the Parties, superseding all prior oral or written communications.

D. Third Parties. There are no intended third-party beneficiaries to this Agreement.

E. Notice. Any notice under this Agreement shall be in writing, and shall be deemed sufficient when directly presented or sent pre-paid, first class United States Mail to the Party at the address set forth on the first page of this Agreement.

F. Severability. If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

G. Modification. This Agreement may only be modified upon written agreement of the Parties.

H. Assignment. Neither this Agreement nor any of the rights or obligations of the Parties shall be assigned by either Party without the written consent of the other.

I. Governmental Immunity. The Town and its officers, attorneys and employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities or protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended, or otherwise available to the Town and its officers, attorneys or employees.

J. Rights and Remedies. The rights and remedies of the Town under this Agreement are in addition to any other rights and remedies provided by law. The expiration of this Agreement shall in no way limit the Town's legal or equitable remedies, or the period in which such remedies may be asserted, for work negligently or defectively performed.

K. Subject to Annual Appropriation. Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the Town not performed during the current fiscal year is subject to annual appropriation, shall extend only to monies currently appropriated, and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.

L. Representative Authority. Each person signing this Agreement represents and warrants that he or she is duly authorized and has the legal capacity to execute the Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

TOWN OF FIRESTONE, COLORADO

Bobbi Sindelar, Mayor

ATTEST:

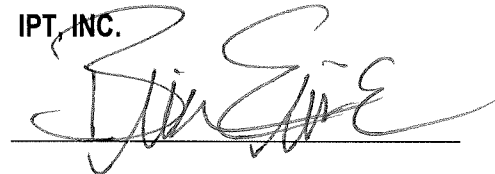
Jessica Koenig, Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

IPT, INC.

By:

A handwritten signature in black ink, appearing to read "Brian Ervine", written over a horizontal line.

Managing Director, Brian Ervine

NO EMPLOYEE AFFIDAVIT

To be completed only if Contractor has no employees

1. Check and complete one:

☐ I, _____, am a sole proprietor doing business as _____. I do not currently employ any individuals. Should I employ any employees during the term of my Agreement with the Town of Firestone (the "Town"), I certify that I will comply with the lawful presence verification requirements outlined in that Agreement.

OR

☐ I, _____, am the sole owner/member/shareholder of _____, a _____ [specify type of entity – i.e., corporation, limited liability company], that does not currently employ any individuals. Should I employ any individuals during the term of my Agreement with the Town, I certify that I will comply with the lawful presence verification requirements outlined in that Agreement.

2. Check one.

☐ I am a United States citizen or legal permanent resident.

The Town must verify this statement by reviewing one of the following items:

- *A valid Colorado driver's license or a Colorado identification card;*
- *A United States military card or a military dependent's identification card;*
- *A United States Coast Guard Merchant Mariner card;*
- *A Native American tribal document;*
- *In the case of a resident of another state, the driver's license or state-issued identification card from the state of residence, if that state requires the applicant to prove lawful presence prior to the issuance of the identification card; or*
- *Any other documents or combination of documents listed in the Town's "Acceptable Documents for Lawful Presence Verification" chart that prove both Contractor's citizenship/lawful presence and identity.*

OR

☐ I am otherwise lawfully present in the United States pursuant to federal law.

Contractor must verify this statement through the federal Systematic Alien Verification of Entitlement ("SAVE") program, and provide such verification to the Town.

Signature

Date

DEPARTMENT PROGRAM AFFIDAVIT

To be completed only if Contractor participates in the Department of Labor Lawful Presence Verification Program

I, _____, as a public contractor under contract with the Town of Firestone (the "Town"), hereby affirm that:

1. I have examined or will examine the legal work status of all employees who are newly hired for employment to perform work under this public contract for services ("Agreement") with the Town within 20 days after such hiring date;

2. I have retained or will retain file copies of all documents required by 8 U.S.C. § 1324a, which verify the employment eligibility and identity of newly hired employees who perform work under this Agreement; and

3. I have not and will not alter or falsify the identification documents for my newly hired employees who perform work under this Agreement.

Signature

Date

STATE OF COLORADO)

) ss.

COUNTY OF _____)

The foregoing instrument was subscribed, sworn to (or affirmed) before me this ____ day of _____, 2020, by _____ as _____ of _____.

My commission expires:

(S E A L)

Notary Public

**EXHIBIT A
SCOPE OF SERVICES**

Contractor's Duties

During the term of this Agreement, Contractor shall perform the following duties, as directed by the Town:

- Schedule A

Contractor's Deliverables

In performance of the duties described above, Contractor shall deliver the following items to the Town, during the timeframes established by the Town:

- As described in Schedule A Works Orders 2020-01 through 2020-05

SCHEDULE A

(Attached to and made part of the Agreement between Town of Firestone and New IPT, Inc.
dated March 11, 2020)

IPT Project Name: Town of Firestone SWD #1, Task: Drilling Engineering (Work Order 2020-01) \$175,000 in the 2020 budget

Work Order 2020-1 is for the development of a detailed drilling plan, management of drilling logistics, and subsequent analysis as follows:

Subpart 01: Development of a well Basis of Design (BOD) including offset well and bit analysis, expected days-vs-depth curve, detailed casing and cementing design, recommended vendor determination, expected performance analysis, determination of quality objectives, and determination of contractor key performance indicators (KPIs). This subpart also includes an authority-for-expenditure (AFE) and client meeting.

Subpart 02: Drilling Engineering including issuance of request for quotes (RFQs), evaluation, and award. Additionally, this subpart includes review of any special issues arising during drilling.

Subpart 03: Drilling Engineering Detailed Drilling Plan with operational procedures including detailed drilling fluids, cementing, bit program, emergency response plan, and wellhead and operational checklists. This subpart includes all documentation required for onsite operations.

Subpart 04: Drill the Well on Paper (DWOP) meeting including all relevant contractors and the client, held approximately two weeks prior to moving in the drilling rig. Subpart 05: Onsite Prespud Meeting, held on location just prior to spud.

Subpart 05: Drilling Engineering End of Well Reports which includes consolidation of all reports and logs subsequent to drilling, an as-built wellbore diagram, performance assessment of objectives, and KPIs. This subpart includes a client meeting to review.

The budget for 2020-01 is \$175,000 and is estimated to be incurred over the period from September 2020 through December 2020. The project will be billed twice a month beginning in September through December in \$21,875 installments.

IPT Project Name: Town of Firestone SWD #1, Task: Drilling and Completions Operations Management (Work Order 2020-02) \$4,000 in the 2020 budget

Work Order 2020-02 is for drilling and completions operations management including daily field support, morning calls, and operations engineering support.

The budget for 2020-02 is \$4,000 to be billed as a lump sum when the well is spudded. The spud date is anticipated to be in November 2020.

IPT Project Name: Town of Firestone SWD #1, Task: Completion Engineering (Work Order 2020-03) \$15,000 in the 2020 budget

Work Order number 2020-03 is for completions engineering work including development of completion programs, issuance of RFQs, evaluation and award, end of well report and as-built wellbore diagram.

The budget for 2020-03 is \$15,000 to be billed as a lump sum prior to the start of well completion operations. This project is anticipated to be completed by December 31, 2020.

IPT Project Name: Town of Firestone SWD #1, Task: Drilling Wellsite Supervision (Work Order 2020-04) \$78,000 in the 2020 budget

Work Order 2020-04 is for drilling wellsite supervision with two on-site personnel to oversee, coordinate, and direct activities during the drilling of the well.

The budget for 2020-04 is \$78,000 to be billed at \$3,900 per day. This project is anticipated to commence in November 2020 and be completed by the end of December 2020 and will be invoiced every two weeks.

IPT Project Name: Town of Firestone SWD #1, Task: Injection Facility Design (Work Order 2020-05) \$90,000 in the 2020 budget

Work Order 2020-05 is for the injection pump facility design including design, RFQs, bid analysis, award, and final construction documents. This also includes costs of obtaining grading, excavating and stormwater plans necessary to obtain the relevant permits.

The budget for 2020-05 is \$90,000 to be billed at \$225 per hour. This project will commence in March 2020 and go through December 2020 and will be invoiced every two weeks.

The additional work orders below are for fiscal year 2021 and will require separate approval by the Town of Firestone Board of Trustees.

IPT Project Name: Town of Firestone SWD #1, Task: Facilities Commissioning (Work Order 2021-01) \$5,000 in the 2021 budget

Work Order 2021-01 is for engineering and field supervision necessary to monitor installation and commissioning of the injection pump facility.

The budget for 2021-01 is \$5,000 to be billed at \$225 per hour. This project will be delivered during 2021 and invoiced every two weeks.

IPT Project Name: Town of Firestone SWD #1, Task: Completion Supervision (Work Order 2021-02) \$40,000 in the 2021 budget

Work Order 2021-02 is for completions supervision with on-site personnel to oversee, coordinate and direct activities during the well completion.

The budget for 2021-02 is \$40,000 to be billed at \$2,000 per day. This project is anticipated to commence in January 2021 and complete in May 2021 and will be invoiced every two weeks.

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 7.b

Discussion/Action

Meeting Date: March 11, 2020

Initiated By: Julie Pasillas

Dept: Public Works

AGENDA TITLE

Resolution 20-32: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND INFRASTRUCTURE MANAGEMENT SERVICES FOR PAVEMENT DATA COLLECTION SERVICES

SUMMARY

Infrastructure Management Services (IMS) provides pavement data collection services also known as a pavement condition survey. The IMS scope of services includes the acquisition of objective surface condition data network wide, HD digital imagery, pavement analysis modeling, an update of the Easy Street Analysis (ESA) spreadsheet, and development of a comprehensive 5-year rehabilitation plan that maximizes Town resources. Pavement condition surveys are recommended every 5 years.

HISTORY AND PREVIOUS BOARD ACTION

IMS was contacted in 2014 to complete the first pavement condition survey and the results provided guidance to the following years' Capital Improvement Projects for the Engineering and Streets. In 2018 the Board approved the second contract with IMS to complete the second pavement condition survey, but with the late timing of the Public Works Department IMS was not able to mobilize in the Town in 2018. This resulted in the services being put on hold since funds for the services were not carried over into the 2019 budget. Budget for this service was planned and included in the 2020 budget.

RECOMMENDATION

Staff recommends approval of Resolution 20-32, a resolution approving an Agreement for Professional Services with Infrastructure Management Services for pavement data collection services.

ALTERNATIVES

The Board may choose not to approve Resolution 20-32, and provide Staff with additional direction.

ATTACHMENTS

1. Res 20-32 Infrastructure Management Services Agmt Res
2. Professional Services Contract with IMS
3. Schedule A IMS 2020 Scope of Services

FINANCIAL CONSIDERATIONS

The agreement includes an amount not to exceed \$67,166.00. Sufficient funds have been budgeted and appropriated in the Town's Streets account to cover this cost.

RESOLUTION NO. 20-32

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE,
COLORADO, APPROVING AN AGREEMENT BETWEEN THE TOWN OF
FIRESTONE AND INFRASTRUCTURE MANAGEMENT SERVICES FOR
PAVEMENT DATA COLLECTION SERVICES**

WHEREAS, pavement data collection services are essential for municipalities in maintaining infrastructure and planning for growth and capital improvement projects; and

WHEREAS, the Town of Firestone ("Town") last had a pavement management index done in 2014 and is in need of an update; and

WHEREAS, Infrastructure Management Services ("IMS") is a nationally recognized leader in the field of pavement data collection services and has the skill and expertise to provide such services to the Town; and

WHEREAS, in addition to performing a pavement management index through the use of automated data collection vehicles that employ HD imagery, IMS can also use such technology to perform a right-of-way asset inventory for the Town; and

WHEREAS, the assembled data can be presented to the Town in an Xcel spreadsheet called Easy Street Analysis that sets forth a multi-year maintenance and rehabilitation plan, which considers cost benefit techniques that best meets the Town's goals, needs and resources.

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

The Pavement Data Collection Services Agreement between the Town of Firestone and Infrastructure Management Services for pavement data collection services is approved in 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 11th day of March, 2020.

TOWN OF FIRESTONE, COLORADO

Bobbi Sindelar, Mayor

ATTEST:

APPROVED AS TO FORM:

Jessica Koenig, Town Clerk

William P. Hayashi, Town Attorney

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT FOR PROFESSIONAL SERVICES (the "Agreement") is made and entered into this ____ day of _____, 2020 (the "Effective Date"), by and between the Town of Firestone, a Colorado municipal corporation with an address of 151 Grant Avenue, P.O. Box 100, Firestone, Colorado 80520 (the "Town"), and Infrastructure Management Services, an independent contractor with a principal place of business at 1820 W. Drake Drive Suite 104 Tempe, Arizona 85283 ("Contractor") (each a "Party" and collectively the "Parties").

WHEREAS, the Town requires professional services; and

WHEREAS, Contractor has held itself out to the Town as having the requisite expertise and experience to perform the required professional services.

NOW, THEREFORE, for the consideration hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

I. SCOPE OF SERVICES

A. Contractor shall furnish all labor and materials required for the complete and prompt execution and performance of all duties, obligations, and responsibilities which are described or reasonably implied from the Scope of Services set forth in Exhibit A, attached hereto and incorporated herein by this reference and known as: Project Name (Number).

B. A change in the Scope of Services shall not be effective unless authorized as an amendment to this Agreement. If Contractor proceeds without such written authorization, Contractor shall be deemed to have waived any claim for additional compensation, including a claim based on the theory of unjust enrichment, quantum merit or implied contract. Except as expressly provided herein, no agent, employee, or representative of the Town is authorized to modify any term of this Agreement, either directly or implied by a course of action.

II. TERM AND TERMINATION

A. This Agreement shall commence on the Effective Date, and shall continue until Contractor completes the Scope of Services to the satisfaction of the Town, or until terminated as provided herein.

B. Either Party may terminate this Agreement upon 30 days advance written notice. The Town shall pay Contractor for all work previously authorized and completed prior to the date of termination. If, however, Contractor has substantially or materially breached this Agreement, the Town shall have any remedy or right of set-off available at law and equity.

III. COMPENSATION

In consideration for the completion of the Scope of Services by Contractor, the Town shall pay Contractor \$67,166.00. This amount shall include all fees, costs and expenses incurred by Contractor, and no additional amounts shall be paid by the Town for such fees, costs and expenses. Contractor may submit periodic invoices, which shall be paid by the Town within 30 days of receipt.

IV. PROFESSIONAL RESPONSIBILITY

A. Contractor hereby warrants that it is qualified to assume the responsibilities and render the services described herein and has all requisite corporate authority and professional licenses in good standing, required by law. The work performed by Contractor shall be in accordance with generally accepted professional practices and the level of competency presently maintained by other practicing professional firms in the same or similar type of work in the applicable community. The work and services to be performed by Contractor hereunder shall be done in compliance with applicable laws, ordinances, rules and regulations.

B. The Town's review, approval or acceptance of, or payment for any services shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

C. Because the Town has hired Contractor for its professional expertise, Contractor agrees not to employ subcontractors to perform any work except as expressly set forth in the Scope of Services.

V. OWNERSHIP

Any materials, items, and work specified in the Scope of Services, and any and all related documentation and materials provided or developed by Contractor shall be exclusively owned by the Town. Contractor expressly acknowledges and agrees that all work performed under the Scope of Services constitutes a "work made for hire." To the extent, if at all, that it does not constitute a "work made for hire," Contractor hereby transfers, sells, and assigns to the Town all of its right, title, and interest in such work. The Town may, with respect to all or any portion of such work, use, publish, display, reproduce, distribute, destroy, alter, retouch, modify, adapt, translate, or change such work without providing notice to or receiving consent from Contractor.

VI. INDEPENDENT CONTRACTOR

Contractor is an independent contractor. Notwithstanding any other provision of this Agreement, all personnel assigned by Contractor to perform work under the terms of this Agreement shall be, and remain at all times, employees or agents of Contractor for all purposes. Contractor shall make no representation that it is a Town employee for any purposes.

VII. INSURANCE

A. Contractor agrees to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands, and other obligations assumed by Contractor pursuant to this Agreement. At a minimum, Contractor shall procure and maintain, and shall cause any subcontractor to procure and maintain, the insurance coverages listed below, with forms and insurers acceptable to the Town.

1. Worker's Compensation insurance as required by law.
2. Commercial General Liability insurance with minimum combined single limits of \$1,000,000 each occurrence and \$2,000,000 general aggregate. The policy shall be applicable to all premises and operations, and shall include coverage for bodily injury, broad form property damage, personal injury (including coverage for contractual and employee acts), blanket contractual, 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. No additional insured endorsement shall contain any exclusion for bodily injury or property damage arising from completed operations.

3. Professional liability insurance with minimum limits of \$1,000,000 each claim and \$2,000,000 general aggregate.

B. Such insurance shall be in addition to any other insurance requirements imposed by law. The coverages afforded under the policies shall not be canceled, terminated or materially changed without at least 30 days prior written notice to the Town. 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 Contractor. Contractor shall be solely responsible for any deductible losses under any policy.

C. Contractor shall provide to the Town a certificate of insurance as evidence that the required policies are in full force and effect. The certificate shall identify this Agreement.

VIII. INDEMNIFICATION

A. Contractor agrees to indemnify and hold harmless the Town and its officers, insurers, volunteers, representative, agents, employees, heirs and assigns from and against all claims, liability, damages, losses, expenses and demands, including attorney fees, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement if such injury, loss, or damage is caused in whole or in part by, the act, omission, error, professional error, mistake, negligence, or other fault of Contractor, any subcontractor of Contractor, or any officer, employee, representative, or agent of Contractor, or which arise out of a worker's compensation claim of any employee of Contractor or of any employee of any subcontractor of Contractor. Contractor's liability under this indemnification provision shall be to the fullest extent of, but shall not exceed, that amount represented by the degree or percentage of negligence or fault attributable to Contractor, any subcontractor of Contractor, or any officer, employee, representative, or agent of Contractor or of any subcontractor of Contractor.

B. If Contractor is providing architectural, engineering, surveying or other design services under this Agreement, the extent of Contractor's obligation to indemnify and hold harmless the Town may be determined only after Contractor's liability or fault has been determined by adjudication, alternative dispute resolution or otherwise resolved by mutual agreement between the Parties, as provided by C.R.S. § 13-50.5-102(8)(c).

IX. ILLEGAL ALIENS

A. Certification. By entering into this Agreement, Contractor hereby certifies that, at the time of this certification, it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement and that Contractor will participate in either the E-Verify Program administered by the United States Department of Homeland Security and Social Security Administration or the Department Program administered by the Colorado Department of Labor and Employment to confirm the employment eligibility of all employees who are newly hired to perform work under this Agreement.

B. Prohibited Acts. Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement, or enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.

C. Verification.

1. If Contractor has employees, Contractor has confirmed the employment eligibility of all employees who are newly hired to perform work under this Agreement through participation in either the E-Verify Program or the Department Program.

2. Contractor shall not use the E-Verify Program or Department Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

3. If Contractor obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien who is performing work under this Agreement, Contractor shall: notify the subcontractor and the Town within 3 days that Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien who is performing work under this Agreement; and terminate the subcontract with the subcontractor if within 3 days of receiving the notice required pursuant to subsection 1 hereof, the subcontractor does not stop employing or contracting with the illegal alien who is performing work under this Agreement; except that Contractor shall not terminate the subcontract if during such 3 days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien who is performing work under this Agreement.

D. Duty to Comply with Investigations. Contractor shall comply with any reasonable request by the Colorado Department of Labor and Employment made in the course of an investigation conducted pursuant to C.R.S. § 8-17.5-102(5)(a) to ensure that Contractor is complying with the terms of this Agreement.

E. Affidavits. If Contractor does not have employees, Contractor shall sign the "No Employee Affidavit" attached hereto. If Contractor wishes to verify the lawful presence of newly hired employees who perform work under the Agreement via the Department Program, Contractor shall sign the "Department Program Affidavit" attached hereto.

X. MISCELLANEOUS

A. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Weld County, Colorado.

B. No Waiver. Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by the Town shall not constitute a waiver of any of the other terms or obligation of this Agreement.

C. Integration. This Agreement constitutes the entire agreement between the Parties, superseding all prior oral or written communications.

D. Third Parties. There are no intended third-party beneficiaries to this Agreement.

E. Notice. Any notice under this Agreement shall be in writing, and shall be deemed sufficient when directly presented or sent pre-paid, first class United States Mail to the Party at the address set forth on the first page of this Agreement.

F. Severability. If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

G. Modification. This Agreement may only be modified upon written agreement of the Parties.

H. Assignment. Neither this Agreement nor any of the rights or obligations of the Parties shall be assigned by either Party without the written consent of the other.

I. Governmental Immunity. The Town and its officers, attorneys and employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities or protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended, or otherwise available to the Town and its officers, attorneys or employees.

J. Rights and Remedies. The rights and remedies of the Town under this Agreement are in addition to any other rights and remedies provided by law. The expiration of this Agreement shall in no way limit the Town's legal or equitable remedies, or the period in which such remedies may be asserted, for work negligently or defectively performed.

K. Subject to Annual Appropriation. Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the Town not performed during the current fiscal year is subject to annual appropriation, shall extend only to monies currently appropriated, and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.

L. Representative Authority. Each person signing this Agreement represents and warrants that he or she is duly authorized and has the legal capacity to execute the Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

TOWN OF FIRESTONE, COLORADO

Bobbi Sindelar, Mayor

ATTEST:

Jessica Koenig, Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

CONTRACTOR

By: _____

NO EMPLOYEE AFFIDAVIT

To be completed only if Contractor has no employees

1. Check and complete one:

☐ I, _____, am a sole proprietor doing business as _____. I do not currently employ any individuals. Should I employ any employees during the term of my Agreement with the Town of Firestone (the "Town"), I certify that I will comply with the lawful presence verification requirements outlined in that Agreement.

OR

☐ I, _____, am the sole owner/member/shareholder of _____, a _____ [specify type of entity – i.e., corporation, limited liability company], that does not currently employ any individuals. Should I employ any individuals during the term of my Agreement with the Town, I certify that I will comply with the lawful presence verification requirements outlined in that Agreement.

2. Check one.

☐ I am a United States citizen or legal permanent resident.

The Town must verify this statement by reviewing one of the following items:

- *A valid Colorado driver's license or a Colorado identification card;*
- *A United States military card or a military dependent's identification card;*
- *A United States Coast Guard Merchant Mariner card;*
- *A Native American tribal document;*
- *In the case of a resident of another state, the driver's license or state-issued identification card from the state of residence, if that state requires the applicant to prove lawful presence prior to the issuance of the identification card; or*
- *Any other documents or combination of documents listed in the Town's "Acceptable Documents for Lawful Presence Verification" chart that prove both Contractor's citizenship/lawful presence and identity.*

OR

☐ I am otherwise lawfully present in the United States pursuant to federal law.

Contractor must verify this statement through the federal Systematic Alien Verification of Entitlement ("SAVE") program, and provide such verification to the Town.

Signature

Date

DEPARTMENT PROGRAM AFFIDAVIT

To be completed only if Contractor participates in the Department of Labor Lawful Presence Verification Program

I, _____, as a public contractor under contract with the Town of Firestone (the "Town"), hereby affirm that:

1. I have examined or will examine the legal work status of all employees who are newly hired for employment to perform work under this public contract for services ("Agreement") with the Town within 20 days after such hiring date;

2. I have retained or will retain file copies of all documents required by 8 U.S.C. § 1324a, which verify the employment eligibility and identity of newly hired employees who perform work under this Agreement; and

3. I have not and will not alter or falsify the identification documents for my newly hired employees who perform work under this Agreement.

Signature

Date

STATE OF COLORADO)

) ss.

COUNTY OF _____)

The foregoing instrument was subscribed, sworn to (or affirmed) before me this ____ day of _____, 2019, by _____ as _____ of _____.

My commission expires:

(S E A L)

Notary Public

EXHIBIT A
SCOPE OF SERVICES

Contractor's Duties

During the term of this Agreement, Contractor shall perform the following duties, as directed by the Town:

- Schedule A – Scope of Services

Contractor's Deliverables

In performance of the duties described above, Contractor shall deliver the following items to the Town, during the timeframes established by the Town:

- Tasks 1 through 9 and 15, 15a., 15b., 15d., and 15e.

Quotation for Professional Services

To: Julie Pasillas, Director of Public Works
From: Jeff Myers, MSA, Client Services Manager
Subject: 2020 Pavement Data Collection

Date: January 9, 2020
Project: City of Firestone, CO
Project No.: N/A

Thank you for taking the time to review the pavement and asset data collection services offered by IMS Infrastructure Management Services. IMS excels in pavement and asset management solutions and can provide a full suite of data collection and software services.

As we understand, the City of Firestone currently maintains approximately 70 centerline miles of roadway and intends on continuing to use the ESA interactive spreadsheet for pavement management. IMS has performed objective pavement data collection for the City of Firestone, and others in the Region, including Aurora, Denver, Grand Junction, Parker, Northglen, and others. To ensure adequate coverage across the network, the RST will survey the arterial and collector roadways in each direction while testing the residential roadways in a single direction, resulting in a survey mileage of approximately **94 miles**.



The data will be collected following the industry standard ASTM D6433 data collection protocols and longitudinal profile will be reported as the International Roughness Index (IRI). The IMS scope of services includes the acquisition of objective surface condition data network wide, HD digital imagery, pavement analysis modeling, an update of the Easy Street Analysis (ESA) spreadsheet, and development of a comprehensive 5-year rehabilitation plan that maximizes City resources through the use of cost benefit practices. Our approach, and key service differentiator, is based on three, time proven fundamentals:

Answer the questions that are being asked – don't over-engineer the system or make it needlessly complicated. Databases and the application of technology are meant to simplify asset management, not make it more difficult.

Service and quality are paramount to success – the right blend of technically correct data, condition rating, and reporting will provide the agency with a long-term, stable solution. Service to the client remains our top priority.

Local control and communications are key – it is important that all stakeholders understand the impacts of their decisions and have the system outputs react accordingly. We excel in making ourselves readily available.

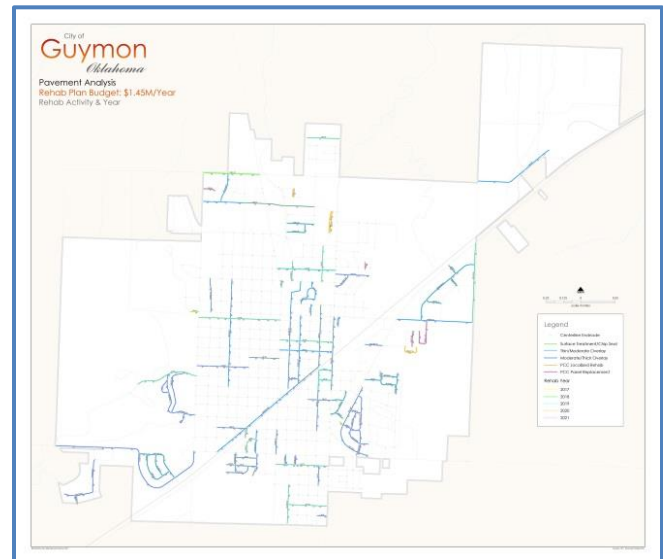
Data Collection

IMS is unique to the industry, as an objective and repeatable data collection effort will be completed. The LCMS2 RST will be used to perform a surface condition assessment of all City streets. Instead of using the subjective feet on ground or windshield sampling method, all data will be collected continuously and recorded in 15-foot intervals in the form of a detailed database complete with GPS coordinates. The data will also be aggregated to the section level, following the sectioning and referencing methodology determined after IMS and City review.



GIS and Pavement Management Linkage

The role of GIS in pavement management cannot be overstated. It is a powerful tool that provides the capability to handle and present vast amounts of data in an efficient manner. IMS can provide a link between the City's GIS environment and the pavement management data to enable the City to display and generate color-coded maps based upon existing pavement conditions, street rehabilitation plans or most of the data in the pavement management program. An output of a 5-year maintenance prioritization program is illustrated in the adjacent image.



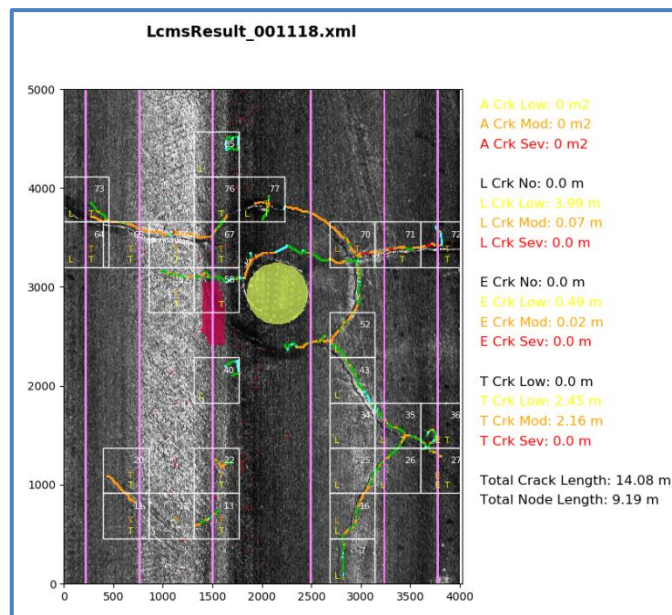
Digital Imagery & ROW Asset Inventories

The LCMS2 RST utilizes up to four GPS-referenced HD camera views (4112x3008) for our QA/QC program, ROW asset inventory development, virtual drives, and/or other supplemental image deliverables. For the City of Firestone, IMS will utilize two HD cameras that will be proofed out prior to data collection and a single forward view can be processed as a deliverable to the City. IMS can then utilize the HD imagery collected by the LCMS2 RST to inventory many Right of Way assets that the City maintains.



Objective Distress Identification & Quantification (ASTM D6433)

The IMS Laser Crack Measurement System (LCMS2) is one of the most technologically advanced devices available for pavement performance assessments. The 2-sensor array completes a 3D millimeter-level scanning of the pavement surfaces that pass below the laser array. With a high-speed 1-millimeter resolution, this means the LCMS2 device deploys a continuous scan of laser points (approximately 3,657) across a mere 12 feet of pavement, making it one of the highest resolution pavement laser scanners available. The onboard processing software further amplifies its capabilities by analyzing pavement elevation (range and intensity) and automatically identifying cracking, rutting, roughness in the form of IRI, potholes, and bleeding.

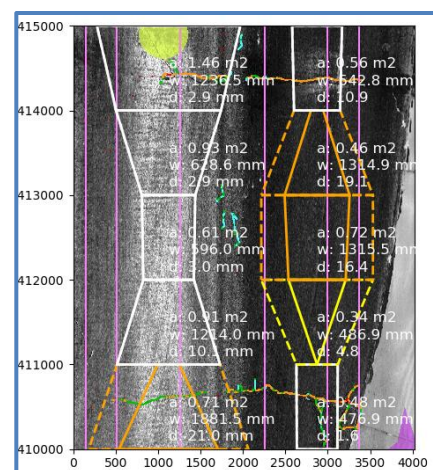


While any engineering firm could deploy the LCMS2 equipment for data collection, processing the information for distress quantification requires a complete understanding of automated technologies, GIS mapping, and distress measurement protocols found in standards such as ASTM D6433. Simply reviewing the LCMS cracking vectors (colored cracks) with the human eye dilutes the objectivity of the equipment.

IMS engineers and technologists have developed a computerized processing application that automatically applies an 18"x18" grid to the LCMS downward images (FIS files) and uses pre-programmed geometric algorithms to classify and quantify distresses by

type. These automated processing routines result in an unparalleled level of objectivity and efficiency in distress pattern recognition analysis. The image above illustrates the quantity of several distresses as well as the presence of a manhole, which was automatically scrubbed from the dataset.

In addition to the auto-quantification and classification of ASTM D6433 distresses, the LCMS2 device also operates as a Class I profile device that collects longitudinal profile (in the form of the International Roughness Index) and transverse profile (rutting) using **advanced 3D profile laser scanning technology**. The system is not subject to vehicle wander like other automated technologies, and it compensates for variation in driver ability. The adjacent images show the processing software's ability to calculate rutting width and depth following the AASHTO Taut Wire methodology. The solid white lines indicate there was no rutting in the left wheel path and that rutting was detected and measured in the right wheel path. Filters can also be applied to account for rehabilitation activity overlap, which can be as much as a ¼ inch depending on the application.



Cracking, Faulting, Texture, Bleeding, & Potholes – The LCMS2 allows IMS to conduct an objective distress survey, thus increasing the accuracy of an otherwise subjective manual survey. High-speed lasers and an onboard processing computer accurately measure the surface profile of the road. Included in this profile are all cracks and faults as small as 1/8" (2 mm) wide that pass beneath the lasers. Processing software then reduces and filters this information to determine the *total number of cracks, crack width/depth, as well as the crack interval*, plus faulting information. From this information, quantified crack data can be determined at both the sample and summary intervals. Crack identification includes all cracking such as alligator, transverse, longitudinal, map, and edge cracking (where applicable).

The LCMS2 device is also capable of automatically collecting, identifying, and reporting supplemental distresses such as bleeding and potholes on asphalt roadways.

Rutting – The LCMS device collects continuous 3D transverse profile data at 1-millimeter resolution at highway speed. This configuration is far superior to other types of vehicles that utilize three lasers or sonic transducers to calculate "relative rutting." Even five sensor units are sensitive to driver error since it is essential in that case that the driver keep the data collection vehicle's wheel exactly in the rutted wheel tracks (assuming that they fit).

The Taut Wire method is used to calculate the rut depth in both the right and left wheel track on a continuous basis. Either the right or deeper of the two-wheel path ruts may be used for rut depth calculations with the average rut depth for that wheel path reported for each section. *Rut depth results, quantified by 3-4 severity thresholds (with break points at user-defined levels such as 0.25, 0.50 and 0.65 inches) and percentage of section will be provided for every segment.*

Roughness – International Roughness Index (IRI) data is calculated in real time from continuous longitudinal profile data collected by the LCMS2's 3D profile device. To determine the road profile, data is simultaneously obtained from three devices: a pulse transducer-based distance-measuring instrument (DMI), high-speed 3D laser sensors operating at 112 MHz, and an accelerometer in conformance with ASTM E 950. The LCMS2 unit conforms to a Class I profiling device, and it can also "pause" over non-valid roadway sections such as localized maintenance activities, railroad crossings, or brick inlays and not affect the overall IRI value.

Distortions, Raveling, Patching, & Other Custom Attributes – While the LCMS automatically collects the majority of ASTM D6433 distresses, the LCMS platform can be configured to collect the remaining distresses (raveling, distortions, and patching) using the integrated touchscreen. By means of a touchscreen-based tablet computer, highly trained IMS technicians input changes in observed distress severities and extents or identify specific roadway assets or attributes such as curb reveal or lip of gutter information. The touchscreen is integrated into the data flow through time code, GPS, DMI distance and inventory control. The data is then post-processed in the office to generate extent quantities for each observed distress severity level throughout every surveyed road section.



PCI Development, Analysis Configuration & Multi-Year Plan

Immediately following the completion of the field survey's IMS will begin processing the pavement distress severity and extent scores in an effort to develop a Pavement Condition Index (PCI) for each roadway segment. The condition results are analyzed by a team of IMS engineers, who then develop the City's multi-year pavement management plan. This section provides a brief summary of the functionality of the IMS pavement analysis in order to emphasize our implementation expertise as well as the abilities and constraints within a pavement analysis.

The purpose of pavement management is to produce cost effective maintenance programs that maximize available resources and roadway life. By incorporating key components of a cost benefit analysis into the analysis operating parameters, we can develop a game plan that is optimized to meet the needs of the City of Firestone. In addition, the analysis operating parameters described within this section will be delivered in an easy to use Interactive Excel Spreadsheet (ESA) including the segment PCI data, pavement deterioration curves, triggers (priority weighting factors), and the prioritized multi-year rehabilitation plan. Everything is linked to GIS in the form of simple shape files or even a personal geodatabase.

Field Inspection Data and Pavement Condition Index (PCI)

The IMS analysis allows you to store information regarding your pavements, including surface types, number of lanes, patching estimates, cross slopes, and sidewalk & curb types with replacement estimates. Pavement condition data including surface distress, roughness, and deflection results can be stored and analyzed. Using an in-house Pavement Manager Setup module, we can develop customized condition elements, distress types (load & non-load), Indices (SDI, RI, & SI), weightings, and overall PCI calculations.

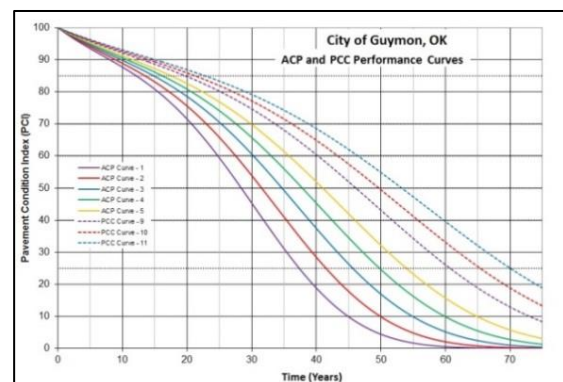
In addition to the yearly programs, the net impact each budget scenario has on the expected condition of the road network over time can be determined. This budget impact can be illustrated both in terms of the yearly increase or decrease in the average network PCI score, PCI distribution, or % Backlog of roads that were not selected by the budgets. IMS converts the difficult to understand FHWA and ASTM D6433 data to a 0-10 distress rating scale with distress weighted factors (DWF), where $DWF = \{\text{Area under D6433 deduct curves}/3000\}$.

Modeling and Performance Curves

With an IMS analysis, you can forecast various budget scenarios to help you determine your ideal maintenance and rehabilitation schedule. The IMS approach will help you decide what rehab activities should be performed, when and where to perform them, and an ideal budget for your system to maintain it at a specific level of service.

IMS engineers use pavement deterioration models that can be customized to reflect the climatic conditions and structural characteristics of the Firestone road network.

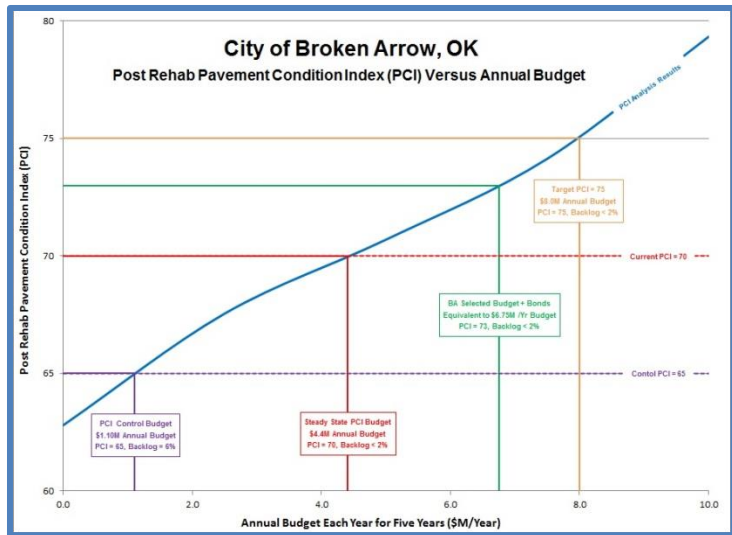
As a result, performance curves can be developed on factors such as functional class, pavement type and sub-grade strength.



Rehabilitation Analysis

An unlimited number of pavement maintenance and rehabilitation strategies can be defined within our system. An analysis is then run, incorporating the performance curves, set points, filter criteria and rehab alternatives to identify the overall need in terms of rehab strategies and costs for the City's road network, for today as well as year on year for the next 5 to 10 years.

The IMS approach allows you to input any number of "what if" budget scenarios and produce prioritized yearly rehab programs based on those funding levels over a 10-year analysis period. Typical budget scenarios include Budget \$/Year, Unlimited Budget \$, "Do Nothing" Budget, and a Target PCI Budget.



What is included in an IMS analysis & report?

- *Street ownership and inventory/attribute report*
- *Present condition ranking* – detailed and summary condition data including; Good/Fair/Poor, Load Associated Distresses (LAD), Non-LAD, and Project reviews of each street in the network, as well as the network as a whole.
- *Fix all budget analysis* – this identifies the upper limit of spending by rehabilitating all streets assuming unlimited funding.
- *Do nothing analysis* – this identifies the effects of not performing roadway rehabilitation projects.
- *Steady state rehabilitation life cycle analysis* – this identifies the minimum amount of rehabilitation that must be completed in order to maintain the existing level of service over 3, 5, or 10 years.
- *PCI & funding levels* – what funding will be necessary to maintain a PCI of 75, 80, & 85.
- *Plus or minus 50% and other additional runs* – additional budget runs are completed at rates of +50% and -50% of the suggested steady state analysis. Up to 10 budget scenarios will be run.
- *Integration of capital projects and Master Plans* – ongoing and proposed projects that affect roadway rehabilitation planning will be incorporated into the analysis.
- *Draft multi-year rehabilitation and prioritized paving plans* – based on need, available budget and level of service constraints; a minimum of three budget runs will be completed.
- *Final prioritized paving plan* – incorporating feedback from stakeholder departments and utilities, complete with budget and level of service constraints.

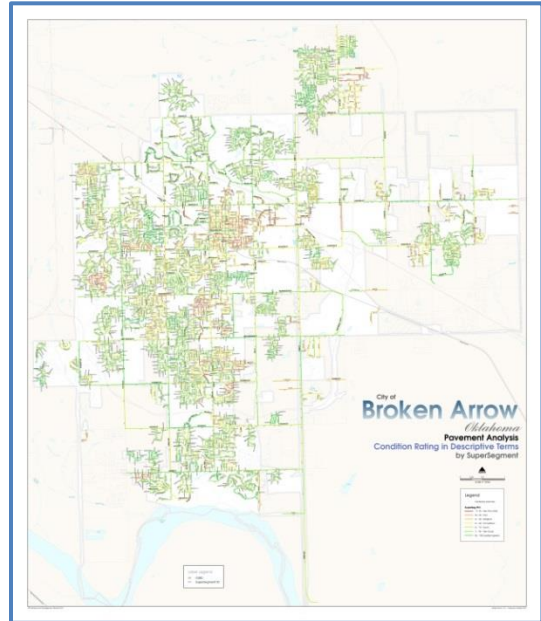
An IMS pavement management program is comprehensive, from the data collection process to the implementation of software, and ensures that the City of Firestone will have the capability to utilize the pavement condition data for the implementation of real-world maintenance and construction programs.

GIS Integration & Mapping

The role of GIS in asset management cannot be overstated. It is a powerful tool that provides the ability to handle and present vast amounts of data in an efficient manner. Not only does GIS allow an agency to visually plot textural data, it also establishes an easy access portal to the data through an efficient integration with many 3rd party asset management applications.

IMS kicks off every project by completing a brief review of the agency's GIS environment to assess suitability for network referencing, survey map preparation, and pavement management purposes. Our team will consume the City's existing GIS files and use the GIS as the basis for developing the network segmentation on a logical block-to-block or intersection-to-intersection basis. If the City retains an existing pavement inventory linked to an asset management system, no changes will be made unless approved by City staff.

The data collected by IMS is linked to the existing GIS environment and is supplied as a personal geodatabase, spatial database engine, Auto CAD files, or a series of shape files. IMS collects XY coordinates for all data elements using GPS technology coupled with inertial navigation and integrates with most 3rd party GIS applications, including ESRI.



At a minimum, the GIS supplied by the City should have an ownership attribute, functional classifications, contiguous line work, and be in a digital format such as shape files and/or personal/file geodatabases. As a supplemental task, IMS also offers full service “GIS Clean-Up” and “Functional Class Review” activities for agencies that require additional GIS development above and beyond standard network referencing activities. IMS can also compare the existing roadway inventory within any current asset management system to the City's GIS environment. If they do not match and a one-to-one relationship is required, IMS has the team available to develop the correct referencing information. This remains an optional activity to be conducted at the discretion of City staff.

For this assignment, GIS will be used in four key areas of work:

1. GIS will be used to verify the streets to be surveyed and to create the routing maps for use during the field surveys.
2. The survey productivity will be tracked through the plotting of the GPS data collected during the field surveys. This will allow IMS to review all streets that have been covered, identify anomalies in the referencing, and spot missed streets.
3. GIS will be used in processing the distress and inventory data. By plotting the data, we can QA the data and identify data exceptions in addition to proofing out the GIS.
4. Personal geodatabases, spatial database engines, shape and/or KML files, can be created for the visual presentation of condition data and analysis results.

Firestone, CO 2020 Pavement Data Collection

Easy Street Analysis Spreadsheet

It is imperative that City staff have direct access to the pavement condition and analysis results without having to become software experts. While the results of the survey will certainly be documented and bound into a final report that illustrates the findings of the survey, those results will remain static. To provide interactive results that enhance our final report, we have engineered a simple and easy-to-use Excel spreadsheet called Easy Street Analysis (ESA). ESA utilizes the core metrics of any great pavement management system, such as the ability to prioritize and optimize the multi-year plans, and ESA can be consulted independently or integrated into third-party pavement management applications. With ESA, we can introduce IRI, structural integrity, logical projects, custom Priority Weighting Factors (PWF), and cost-benefit techniques.

ESA will be programmed to develop a multi-year maintenance and rehabilitation plan using “cost of deferral” as a rehabilitation candidate selection constraint in an effort to introduce cost-benefit techniques into the City’s Pavement Management Plan. In addition, ESA will have referenced deterioration curves for each functional classification, pavement type, and even pavement strength rating. Storing the data in this open architecture empowers the City to utilize third-party software in the future if desired. ESA will also contain a full suite of maintenance and rehabilitation techniques, unit rates, and associated PCI resets. The parameters of the analysis (Priority Weighting Factors) can also be modified and reprioritized whenever required. This flexibility will allow the City’s data to evolve with the priorities of elected officials and department staff. Programmed Priority Weighting Factors include functional classification, pavement type, and pavement strength, while actual candidate selection is based on the incremental cost of deferral.

As demonstrated in the image below, the analysis data in the spreadsheet is supplemented with many cells highlighted in yellow. The yellow highlighted cells indicate that they are “HOT” and can be modified by the end user. Two of the yellow cells shown below represent the Annual Budget and the Project ID. The Annual Budget cell can be modified with a new budget, and the five-year plan will automatically re-prioritize. Although IMS will have already aggregated the City’s segments (intersection-to-intersection) into viable projects (multiple segments strung together to form a logical project), the user has the ability to aggregate additional segments into a project or even remove a segment from a project.

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City of Arcadia, CA
Inventory and Condition Summary

These attributes may be edited by the user and all calculations will auto-update

If a new street is to be added, copy and insert the second to last row above the last row and overwrite the data as required

10150

Unhide Commitment

Unhide Filters

Unhide Sidewalks

Unhide Zones

Unhide Distresses

Unhide EIA Calls

Hide Commitment

Hide Filters

Hide Sidewalks

Hide Zones

Hide Distresses

Hide EIA Calls

Network Analysis Summary

Five Year Rehab Plan Development

Convert POI Data to Network

Analysis Start Date: 5/1/2016

MM/DD/YYYY

% of Budget Dedicated to Surface Treatments

Reallocate POI to Previous Date:

8.00%

69.00%

Update POI

Restore POI

Run EIM Profile

Run Control

Reallocate POI

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Firestone, CO
2020 Pavement Data Collection

ESA also allows an agency to refresh the five-year plan by entering the maintenance and rehabilitation work completed. As seen in the image below, ESA contains “PCI Override” functionality. When work has been completed on a particular segment, the user inserts the override PCI value along with a date. ESA then removes the segment from the five-year plan and updates all referenced network PCI averages.

Pavement Condition Summary									Condition Details												
Surface Distress Index (SDI)	Roughness Index (RI)	Structural Index (SI)	Pavement Cndtn Index (PCI)	Strength Rating	Condition Rating	Load Assoc Distress Deducts (LADD)	Non-Load Distress Deducts (NLAD)	PCI Override (OPCI) OPCI Date	Current Segment PCI (CPCI)	Segment IRI (mm/m)	Deflection Results	Rutting (ACP Only)	L&T Cracking / Linear Crk	Alligator Cracking Divided Slab / Blow Up	Map Crk / Crnr Brk / D Crk	Edge Cracking Joint Spall / Joint Sealant	Distortions / Faulting	Bleeding / Polished Agg	Raveling / Scaling / CAL	Patches / Potholes	
74	63	60	70	Mod	V Good	24	3		70	3.9	0	10.0	10.0	8.9	10.0	10.0	10.0	9.1	10.0	9.4	9.2
79	53	60	70	Mod	V Good	7	14		70	6.6	0	10.0	8.9	10.0	10.0	10.0	10.0	10.0	10.0	9.1	9.1
60	58	60	59	Mod	Fair	34	7		59	4.4	0	10.0	9.6	7.0	10.0	10.0	10.0	10.0	10.0	9.3	9.5
57	66	30	60	Weak	Good	41	2		60	3.5	0	10.0	10.0	6.1	10.0	10.0	10.0	9.7	10.0	9.7	10.0
70	59	80	66	Strng	Good	6	24		66	4.3	0	10.0	7.2	9.5	10.0	10.0	10.0	9.9	10.0	9.8	9.9
81	60	80	74	Strng	V Good	0	19		74	4.2	0	10.0	10.0	10.0	10.0	10.0	10.0	10.0	10.0	6.5	10.0
91	98	60	93	Mod	Excellent	4	6		93	1.4	0	10.0	10.0	9.6	10.0	10.0	10.0	10.0	10.0	9.0	10.0
83	71	60	79	Mod	V Good	8	10		79	3.1	0	10.0	10.0	10.0	10.0	8.8	9.7	9.8	8.4	10.0	10.0
80	85	60	82	Mod	V Good	0	20		82	2.1	0	10.0	10.0	10.0	10.0	10.0	10.0	10.0	10.0	6.3	10.0
83	88	60	85	Mod	V Good	6	12		84	1.9	0	10.0	10.0	10.0	10.0	10.0	10.0	10.0	9.8	8.0	9.3
86	67	60	80	Mod	V Good	4	11		79	3.7	0	10.0	10.0	9.7	10.0	10.0	9.9	10.0	8.0	10.0	10.0

Additional Features of the IMS Easy Street Analysis Spreadsheet

- Red triangle tips that trigger a dialogue box explaining cell contents
- Ability to spontaneously add new road segments and attributes
- Modifiable distress indices for City field inspections
- Input work completed and override segment level PCI scores
- Prioritize by neighborhoods, zones, or districts
- Ability to modify project lengths – includes aggregating and splits
- Commit projects and force “Must Do’s” or “Must Never Do”
- Program-varying annual budgets over a five-year horizon
- Commit a percentage of the budget to surface treatments if desired
- Automated rehabilitation plan prioritization and optimization
- Macros that automatically sort and filter simple rehabilitation and inventory lists
- Ability to sync the spreadsheet with the Data Viewer though a .CSV file export

The ESA spreadsheet has proven to be a viable pavement management system for agencies that do not desire to maintain a dedicated application or for agencies that run an application that is unable to prioritize and optimize projects to meet their needs. For the City of Firestone, we will update the current ESA to reflect the 2020 updated pavement condition data.

Firestone, CO
2020 Pavement Data Collection

Proposed Project Budget

The detailed budget presented below is based on the IMS work plan and deliverables. It represents a realistic budget to complete the work, and we are confident we can maintain an on-time, on-budget approach to the assignment.

Task	Activity	Quant	Units	Unit Rate	Total
Project Initiation					
1	Project Initiation	1	LS	\$3,500.00	\$3,500.00
2	Network Referencing, Validation, & GIS Linkage	94	T-Mi	\$30.00	\$2,820.00
Field Surveys					
3	RST Mobilization/Calibration	1	LS	\$3,500.00	\$3,500.00
4	RST Field Data Collection - Pavements	94	T-Mi	\$115.00	\$10,810.00
Data Management					
5	Provision of Digital Images at 25-foot Intervals (Per View)	94	T-Mi	\$25.00	\$2,350.00
6	Data QA/QC, Processing, Format, & Supply (Excel; Shapefile; KML)	94	T-Mi	\$27.00	\$2,538.00
7	Pavement Condition Data Load	1	LS	\$3,000.00	\$3,000.00
8	Pavement Analysis, Budget Development, & Report	1	LS	\$8,500.00	\$8,500.00
	a. "ESA - Easy Street Analysis" Pavement Management Spreadsheet Software			Included in Base Activities	
	b. Customizable Prioritization & Cost-Benefit Analysis			Included in Base Activities	
	c. Online ESA Spreadsheet Training via WebEx			Included in Base Activities	
9	Project Management	1	LS	\$2,888.00	\$2,888.00
Project Total:					\$39,906.00

Supplemental Activities:

10	Dynaflect Mobilization	1	LS	\$2,500.00	\$2,500.00
11	Deflection Testing (Major Roadways)	48	T-Mi	\$175.00	\$8,470.00
12	Council Presentation	1	LS	\$3,500.00	\$3,500.00
13	Web Hosted Digital Image Viewer	1	LS	\$7,000.00	\$7,000.00
14	Provision of Digital Images at 25-foot Intervals (Per View)	94	T-Mi	\$20.00	\$1,880.00
15	Right-of-Way Asset Data Collection (GPS & ROW Imagery)	94	T-Mi	\$30.00	\$2,820.00
	a. Signs & Support Database	94	T-Mi	\$100.00	\$9,400.00
	b. ADA Ramp & Obstructions Database	94	T-Mi	\$60.00	\$5,640.00
	c. Street Lights Database	94	T-Mi	\$50.00	\$4,700.00
	d. Sidewalk & Obstructions Database	94	T-Mi	\$50.00	\$4,700.00
	e. Curb & Gutter Database	94	T-Mi	\$50.00	\$4,700.00
16	GIS Clean Up	12	HR	\$175.00	\$2,100.00
17	Functional Classification Review	94	T-Mi	\$15.00	\$1,410.00
18	Additional Report	1	EA	\$200.00	\$200.00
19	Additional Meeting	1	EA	\$3,500.00	\$3,500.00

Thank you for considering IMS as a viable solution to your pavement management needs and we will strive to become an asset and extension of the City of Firestone staff and team. If any questions arise, please do not hesitate to contact me at (417) 372-7021 or jmyers@imsanalysis.com.

Best Regards,

IMS Infrastructure Management Services



Jeff Myers, M.S.A.
Client Services Manager

AGENDA INFORMATION MEMORANDUM

FIRESTONE TOWN BOARD OF TRUSTEES



AIM#: 7.c

Discussion/Action

Meeting Date: March 11, 2020

Initiated By: Julie Pasillas

Dept: Public Works

AGENDA TITLE

Resolution 20-33: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND SPLIT RAIL FENCE COMPANY, INC., DBA SPLIT RAIL FENCE, FOR THE REMOVAL AND REPLACEMENT OF THE HART PARK BASEBALL FIELD BACKSTOP AND DUGOUT FENCE

SUMMARY

The agreement with Split Rail Fence will be for replacement of the backstop at Hart Park baseball field. Since the construction of the Hart Park baseball field in the mid 1980's, repairs or replacement have not been completed and with many years of wear and tear, this site is in need of this service.

With the backstop being so small the chances of a foul ball reaching the nearby spectators, vehicles and houses is extremely high. Replacing the current backstop with one that is higher, newer and more presentable to visitors of Hart Park.

HISTORY AND PREVIOUS BOARD ACTION

The backstop was one of many items listed on the deferred maintenance list presented to the Board in February of 2019.

RECOMMENDATION

Staff recommends approval of Resolution 20-33, a resolution approving an Agreement for Construction Services with Split Rail Fence for replacement of the backstop at Hart Park baseball field.

ALTERNATIVES

The Board may choose not to approve Resolution 20-33, and provide Staff with additional direction.

ATTACHMENTS

1. Res 20-33 Split Rail Fence Agmt
2. Construction Contract Split Rail Fence-Hart Park Backstop Replacement
3. Exhibit A-Split Rail Fence

FINANCIAL CONSIDERATIONS

The agreement includes an amount not to exceed \$21,150.00. Sufficient funds have been budgeted and appropriated in the Town's Park account to cover this cost.

RESOLUTION NO. 20-33

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE,
COLORADO, APPROVING AN AGREEMENT BETWEEN THE TOWN OF
FIRESTONE AND SPLIT RAIL FENCE COMPANY, INC., DBA SPLIT RAIL FENCE,
FOR THE REMOVAL AND REPLACEMENT OF THE HART PARK BASEBALL
FIELD BACKSTOP AND DUGOUT FENCE**

WHEREAS, the Town of Firestone ("Town") Hart Park baseball field's backstop and dugout fence are in need of replacement; and

WHEREAS, the Town solicited bids and selected Split Rail Fence as the most qualified and responsive contractor.

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

The Agreement between the Town of Firestone and Split Rail Fence Company, Inc., for the removal and replacement of the Hart Park Baseball field backstop and dugout fence 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 11th day of March, 2020.

TOWN OF FIRESTONE, COLORADO

Bobbi Sindelar, Mayor

ATTEST:

Jessica Koenig, Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

CONSTRUCTION CONTRACT

THIS CONSTRUCTION CONTRACT (the "Construction Contract" or "Agreement") is made and entered into this ____ day of _____, 2020 (the "Effective Date"), by and between the TOWN OF FIRESTONE, a Colorado municipal corporation with an address of 151 Grant Avenue, P.O. Box 100, Firestone, Colorado 80520 (the "Town" or the "Owner"), and SPLIT RAIL FENCE, an independent contractor with a principal place of business at 8065 Brandon Drive Littleton, Colorado 80125 ("Contractor") (each a "Party" and collectively the "Parties").

WHEREAS, the Town requires services; and

WHEREAS, Contractor has held itself out to the Town as having the requisite expertise and experience to perform the required services.

NOW THEREFORE, for the consideration hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

I. SCOPE OF WORK

A. Contractor shall complete all Work and perform all Services which are described or reasonably implied from the Scope of Work set forth in Exhibit A and the Contract Documents, attached hereto and incorporated herein by this reference and known as: **Replacement of backstop at Hart Park (P2020-9324) Project.**

B. A change in the Scope of Work shall not be effective unless authorized as a written amendment to this Agreement or change order in accordance with the Contract Documents. If Contractor proceeds without such written authorization, Contractor shall be deemed to have waived any claim for additional compensation, including a claim based on the theory of unjust enrichment, quantum merit or implied contract. Except as expressly provided herein, no agent, employee, or representative of the Town is authorized to modify any term of this Agreement, either directly or implied by a course of action.

C. Within 10 days of the Effective Contract Date, Contractor shall provide the performance bond and labor & material payment bond and certificate of insurance required by the contract Documents.

II. RESERVED

III. CONTRACT TIMES; COMMENCEMENT AND COMPLETION OF WORK

A. The Work shall be substantially completed within 120 days of the Effective Date of this contract, and shall continue until Contractor completes the Scope of Services to the satisfaction of the Town, or until terminated as provided herein.

B. Either Party may terminate this Agreement upon 30 days advance written notice. The Town shall pay Contractor for all work previously authorized and completed prior to the date of termination. If, however, Contractor has substantially or materially breached this Agreement, the Town shall have any remedy or right of set-off available at law and equity.

C. Should a delay in completion constitute a compensable inconvenience to the Town and its residents, the liquidated damages established in this Section shall be enforced. Such damages are not a penalty, the parties recognize the delays, expense and difficulties involved in proving the actual loss suffered by the Town if the Work is not completed on time. For each day that all or a portion of the Work is delayed beyond the deadlines set forth in Section III hereof, plus any extensions thereof allowed, the Contractor shall be assessed the amount of two hundred fifty dollars (\$250) each day until the Work is complete.

IV. COMPENSATION

In consideration for the completion of the Work by Contractor, the Town shall pay Contractor, subject to all of the terms and conditions of the Contract Documents, an amount not to exceed \$21,150.00 (the "Contract Price"). The Contract Price shall include all fees, costs and expenses incurred by Contractor, and no additional amounts shall be paid by the Town for such fees, costs and expenses.

V. PAYMENT PROCEDURES

Contractor may submit Applications for Payment for completed work per the UNIT-PRICE BID FORM or the LUMP-SUM BID FORM. Contractor may submit periodic invoices, which shall be paid by the Town within 30 days of receipt.

VI. RESPONSIBILITY

A. Contractor hereby warrants that it is qualified to assume the responsibilities and render the services described herein and has all requisite corporate authority and licenses in good standing, required by law.

B. The Work performed by Contractor shall be in accordance with generally accepted practices and the level of competency presently maintained by other practicing contractors in the same or similar type of work in the applicable community.

C. The Work performed by Contractor hereunder shall be done in compliance with applicable laws, ordinances, rules and regulations, including the Keep Jobs in Colorado Act, C.R.S. 8-17-101, et seq.

(the "Act") and the rules adopted by the Division of Labor of the Colorado Department of Labor and Employment implementing the Act (the "Rules").

D. The Town's review, approval or acceptance of, or payment for any completed Work shall not be construed to operate as a waiver of any rights under this Construction Contract or of any cause of action arising out of the performance of this Construction Contract.

E. Contractor hereby warrants to the Town that all materials and equipment used in the Work, and made a part of the Work, or placed permanently in the Work, shall be new unless otherwise specified in the Contract Documents. Contractor further warrants that all equipment and materials shall be of good quality, conform to the requirements of the Contract Documents and will be free from defects. All Work, materials, or equipment not conforming to the Contract Documents shall be considered defective.

F. The Contractor shall warrant and guarantee all materials and equipment furnished under the Contract and all Work performed for one year after the date of Substantial Completion. Under this warranty, Contractor agrees to repair or replace, at its own expense, any Work that is found to be defective. The expiration of the warranty period shall in no way limit the Town's legal or equitable remedies, or the period in which such remedies may be asserted, for work negligently or defectively performed.

VII. OWNERSHIP

Any materials, items, and work specified in the Scope of Work, and any and all related documentation and materials provided or developed by Contractor shall be exclusively owned by the Town. Contractor expressly acknowledges and agrees that all work performed under the Scope of Work constitutes a "work made for hire." To the extent, if at all, that it does not constitute a "work made for hire," Contractor hereby transfers, sells, and assigns to the Town all of its right, title, and interest in such work. The Town may, with respect to all or any portion of such work, use, publish, display, reproduce, distribute, destroy, alter, retouch, modify, adapt, translate, or change such work without providing notice to or receiving consent from Contractor.

VIII. INDEPENDENT CONTRACTOR

Contractor is an independent contractor. Notwithstanding any other provision of this Construction Contract, all personnel assigned by Contractor to perform work under the terms of this Construction Contract shall be, and remain at all times, employees or agents of Contractor for all purposes. Contractor shall make no representation that it is a Town employee for any purposes.

IX. INSURANCE

A. Contractor agrees to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands, and other obligations assumed by Contractor pursuant to this Construction Contract. At a minimum, Contractor shall procure and maintain, and shall cause

any subcontractor to procure and maintain, the insurance coverages listed below, with forms and insurers acceptable to the Town.

1. Worker's Compensation insurance as required by law.
2. Commercial General Liability insurance with minimum combined single limits of \$1,000,000 each occurrence and \$2,000,000 general aggregate. The policy shall be applicable to all premises and operations, and shall include coverage for bodily injury, broad form property damage, personal injury (including coverage for contractual and employee acts), blanket contractual, 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. No additional insured endorsement shall contain any exclusion for bodily injury or property damage arising from completed operations.

B. Such insurance shall be in addition to any other insurance requirements imposed by law. The coverages afforded under the policies shall not be canceled, terminated or materially changed without at least 30 days prior written notice to the Town. 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 Contractor. Contractor shall be solely responsible for any deductible losses under any policy.

C. Contractor shall provide to the Town a certificate of insurance as evidence that the required policies are in full force and effect. The certificate shall identify this Construction Contract.

X. INDEMNIFICATION

Contractor agrees to indemnify and hold harmless the Town and its officers, insurers, volunteers, representative, agents, employees, heirs and assigns from and against all claims, liability, damages, losses, expenses and demands, including attorney fees, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Construction Contract if such injury, loss, or damage is caused in whole or in part by, the act, omission, error, professional error, mistake, negligence, or other fault of Contractor, any subcontractor of Contractor, or any officer, employee, representative, or agent of Contractor, or which arise out of a worker's compensation claim of any employee of Contractor or of any employee of any subcontractor of Contractor.

XI. ILLEGAL ALIENS

A. Certification. By entering into this Construction Contract, Contractor hereby certifies that, at the time of this certification, it does not knowingly employ or contract with an illegal alien who will perform work under this Construction Contract and that Contractor will participate in either the E-Verify Program

administered by the U.S. Department of Homeland Security and Social Security Administration or the Department Program administered by the Colorado Department of Labor and Employment to confirm the employment eligibility of all employees who are newly hired to perform work under this Construction Contract.

B. Prohibited Acts. Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Construction Contract, or enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Construction Contract.

C. Verification.

1. If Contractor has employees, Contractor has confirmed the employment eligibility of all employees who are newly hired to perform work under this Construction Contract through participation in either the E-Verify Program or the Department Program.

2. Contractor shall not use the E-Verify Program or Department Program procedures to undertake pre-employment screening of job applicants while this Construction Contract is being performed.

3. If Contractor obtains actual knowledge that a subcontractor performing work under this Construction Contract knowingly employs or contracts with an illegal alien who is performing work under this Construction Contract, Contractor shall: notify the subcontractor and the Town within 3 days that Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien who is performing work under this Construction Contract; and terminate the subcontract with the subcontractor if within 3 days of receiving the notice required pursuant to subsection 1 hereof, the subcontractor does not stop employing or contracting with the illegal alien who is performing work under this Construction Contract; except that Contractor shall not terminate the subcontract if during such 3 days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien who is performing work under this Construction Contract.

D. Duty to Comply with Investigations. Contractor shall comply with any reasonable request by the Colorado Department of Labor and Employment made in the course of an investigation conducted pursuant to C.R.S. § 8-17.5-102(5)(a) to ensure that Contractor is complying with the terms of this Section XI.

E. Affidavits. If Contractor does not have employees, Contractor shall sign the "No Employee Affidavit" attached hereto. If Contractor wishes to verify the lawful presence of newly hired employees who perform work under the Construction Contract via the Department Program, Contractor shall sign the "Department Program Affidavit" attached hereto.

XII. CONTRACT DOCUMENTS

The Contract Documents, which comprise the entire agreement between the Town and Contractor concerning the Scope of Services, consist of the following:

- A. Exhibit to this Construction Contract:
 - 1. Exhibit A: Scope of Work

There are no Contract Documents other than those listed above in this Section XII.

XIII. MISCELLANEOUS

A. Governing Law and Venue. This Construction Contract shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Weld County, Colorado.

B. No Waiver. Delays in enforcement or the waiver of any one or more defaults or breaches of this Construction Contract by the Town shall not constitute a waiver of any of the other terms or obligation of this Construction Contract.

C. Integration. This Construction Contract and any attached exhibits constitutes the entire agreement between the Parties, superseding all prior oral or written communications.

D. Third Parties. There are no intended third-party beneficiaries to this Construction Contract.

E. Notice. Any notice under this Construction Contract shall be in writing, and shall be deemed sufficient when directly presented or sent pre-paid, first class U.S. Mail to the Party at the address set forth on the first page of this Agreement.

F. Severability. If any provision of this Construction Contract is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

G. Modification. This Construction Contract may only be modified upon written agreement of the Parties.

H. Assignment. Neither this Construction Contract nor any of the rights or obligations of the Parties shall be assigned by either Party without the written consent of the other.

I. Governmental Immunity. The Town and its officers, attorneys and employees, are relying on, and do 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, C.R.S. § 24-10-101, *et seq.*, as amended, or otherwise available to the Town and its officers, attorneys or employees.

J. Rights and Remedies. The rights and remedies of the Town under this Construction Contract are in addition to any other rights and remedies provided by law. The expiration of this Construction Contract shall in no way limit the Town's legal or equitable remedies, or the period in which such remedies may be asserted, for work negligently or defectively performed.

K. Subject to Annual Appropriation. Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the Town not performed during the current fiscal year is subject to annual appropriation, shall extend only to monies currently appropriated, and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.

NO EMPLOYEE AFFIDAVIT

To be completed only if Contractor has no employees

1. Check and complete one:

☐ I, _____, am a sole proprietor doing business as _____. I do not currently employ any individuals. Should I employ any employees during the term of my Agreement with the Town of Firestone (the "Town"), I certify that I will comply with the lawful presence verification requirements outlined in that Agreement.

OR

☐ I, _____, am the sole owner/member/shareholder of _____, a _____ [specify type of entity – i.e., corporation, limited liability company], that does not currently employ any individuals. Should I employ any individuals during the term of my Agreement with the Town, I certify that I will comply with the lawful presence verification requirements outlined in that Agreement.

2. Check one.

☐ I am a United States citizen or legal permanent resident.

The Town must verify this statement by reviewing one of the following items:

- A valid Colorado driver's license or a Colorado identification card;
- A United States military card or a military dependent's identification card;
- A United States Coast Guard Merchant Mariner card;
- A Native American tribal document;
- In the case of a resident of another state, the driver's license or state-issued identification card from the state of residence, if that state requires the applicant to prove lawful presence prior to the issuance of the identification card; or
- Any other documents or combination of documents listed in the Town's "Acceptable Documents for Lawful Presence Verification" chart that prove both Contractor's citizenship/lawful presence and identity.

OR

☐ I am otherwise lawfully present in the United States pursuant to federal law.

Contractor must verify this statement through the federal Systematic Alien Verification of Entitlement ("SAVE") program, and provide such verification to the Town.

Signature

Date

DEPARTMENT PROGRAM AFFIDAVIT

To be completed only if Contractor participates in the Department of Labor Lawful Presence Verification Program

I, _____, as a public contractor under contract with the Town of Firestone (the "Town"), hereby affirm that:

1. I have examined or will examine the legal work status of all employees who are newly hired for employment to perform work under this public contract for services ("Agreement") with the Town within 20 days after such hiring date;

2. I have retained or will retain file copies of all documents required by 8 U.S.C. § 1324a, which verify the employment eligibility and identity of newly hired employees who perform work under this Agreement; and

3. I have not and will not alter or falsify the identification documents for my newly hired employees who perform work under this Agreement.

Signature

Date

STATE OF COLORADO)

) ss.

COUNTY OF _____)

The foregoing instrument was subscribed, sworn to and acknowledged before me this ____ day of _____, 2020, by _____ as _____ of _____.

My commission expires:

(S E A L)

Notary Public

EXHIBIT A

SCOPE OF WORK

Contractor's Duties

During the term of this Construction Contract, Contractor shall perform the following duties, as directed by the Town:

- Replacement of backstop at Hart Park baseball field

Proposal

PAGE 1



**SPLIT RAIL
FENCE**
8065 Brandon Drive
LITTLETON, COLORADO 80125



(303) 791-1997 FAX (303) 791-1986

"The Respected Leader in the Industry for Over 30 Years"

PROJECT NO.

20-0073

PROPOSAL SUBMITTED TO	PHONE	DATE
STREET	JOB NAME	
CITY, STATE and ZIP CODE	JOB LOCATION	
CONTACT	E-MAIL	JOB PHONE

Dollars (\$ **1 LS @ \$21,150.00**).

Balance due upon completion. The buyer agrees that if the balance is not paid when due, the principal amount shall bear the interest at the rate of 2% per month, and the Buyer shall pay all costs of collection including reasonable attorney's fees.

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from specifications below involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workman's Compensation Insurance.

Authorized
Signature

Ben Rabinoff

Note: this proposal may be withdrawn by
us if not accepted within

15 days.

We propose to furnish and install approximately 82 LF of 8' Tall Dugout Fence

1LSUM@ \$4,650.00

Includes: 82LF 8' Tall 2" 9GA Galvanized Chain Link mesh with 1-5/8" OD Top Rail. 1-7/8" OD Line posts and 2-3/8" Terminal posts set 10'O.C. max with concrete footers. NO GATES.

We propose to furnish and install 16' high supporting Back Stop .

1LSUM@ \$16, 500.00

Includes: Back stop to be 20'x20'x20' at 16' Tall with 5' overhang. 2x6x10 Wood base plate anchored to bottom of back stop. All horizontal rails to be welded to vertical posts. 6 GA 2" galvanized chain link mesh behind center of back stop(20') . 9 GA 2" mesh for remaining fence sections.

NOTE: Price does not include plating posts or core drilling. No Gates included. All material to be galvanized. Split Rail fence will need clear access for equipment during install. Mow-band must be removed prior to install. Site must be graded before install.

Submittals will be provided at time of signing.

*Steel Pricing on this quote is based on today's price points. All quotes from our steel suppliers are subject to price adjustments, depending on the market conditions. SRF will offer proof of any increase in price due to current market instability.

INCLUDES TAX

Exclusions: Permits, night work, traffic control, survey, electrical grounding, prevailing wages, demolition, clearing and grubbing, grading must be completed prior to crew arriving to set fence post, dirt removal, core drilling, asphalt cutting, fall protection, excludes staining/painting unless otherwise noted. An additional charge will be added to invoice if rocky ground or difficult drilling conditions are encountered. If underground utilities are within 18" of the fence line hand digging may be required. Therefore hand dug holes are subject to a minimum charge of \$39.00 per hole. Not responsible for damage or repair to underground lines including sprinkler systems. Private locates by others (excluded). Proposal excludes any & all engineering if needed, testing shop welds. NOTE: If bond is required please add 3.5%

Buyers Right To Cancel

If you decide you do not want the goods or services, you may cancel this agreement by mailing a notice to Split Rail indicating you do not the goods or services before midnight on the 3rd business day after you sign this agreement. Cancellation after the 3 days will result in 15% of the contract price be retained for costs incurred and any return shipping charges

Acceptance of Proposal -

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Signature: _____

Date: _____



Sign in

8' CL to extend off of
Backstop fence.
Continue fence along
dug outs

40'-0"

20'-0"

40'-0"

20'-0"

20'-0"

20' of back stop fence to
be 6GA CL.



Google



**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 7.d

Discussion/Action

Meeting Date: March 11, 2020

Initiated By:

Dept: Board of Trustees

AGENDA TITLE

Resolution 20-34: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, SUPPORTING PASSAGE OF BALLOT ISSUE 2A; WHICH WITHOUT INCREASING THE TOWN'S CURRENT TOTAL SALES AND USE TAX RATE AUTHORIZES THE EXPANSION OF THE 0.6% SALES AND USE TAX APPROVED IN 2017 FOR THE OPERATION AND MAINTENANCE OF THE POLICE AND MUNICIPAL COURT FACILITY AND CONSTRUCTION, OPERATION AND MAINTENANCE OF OTHER TOWN FACILITIES

SUMMARY

Resolution 20-34 expresses Board of Trustees support of the passage of Ballot Issue 2A.

HISTORY AND PREVIOUS BOARD ACTION

RECOMMENDATION

ALTERNATIVES

ATTACHMENTS

1. 20-34 - Supporting Ballot Issue 2A (Sales Use Tax Rate)

FINANCIAL CONSIDERATIONS

RESOLUTION NO. 20-34

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, SUPPORTING PASSAGE OF BALLOT ISSUE 2A; WHICH WITHOUT INCREASING THE TOWN'S CURRENT TOTAL SALES AND USE TAX RATE AUTHORIZES THE EXPANSION OF THE 0.6% SALES AND USE TAX APPROVED IN 2017 FOR THE OPERATION AND MAINTENANCE OF THE POLICE AND MUNICIPAL COURT FACILITY AND CONSTRUCTION, OPERATION AND MAINTENANCE OF OTHER TOWN FACILITIES

WHEREAS, in 2017, the Town of Firestone's ("Town") voters approved a 0.6% sales and use tax to fund the construction of the new Police Department and Municipal Court Facility, which opened last October on time and on budget; and

WHEREAS, the funds collected from the 0.6% sales and use tax exceed the Town's current debt obligation for construction of the Police Department and the Municipal Court Facility; and

WHEREAS, the Town desires to use the surplus 0.6% sales and use tax revenues for other public projects, including the operation and maintenance of the Police Department and Municipal Court Facility, and construction, operation and maintenance of other Town facilities, which includes a new Town Hall, remodel and expansion of the Public Works Facility, and development of Central Park; and

WHEREAS, specifically the Town Board seeks to address the citizens' desire for increased recreational facilities such as the development of Central Park, including soccer fields and the expansion and maintenance of the Town's trail network; and

WHEREAS, the Town Board also desires to improve the Public Works Facility so that it will be better able to provide for the Town's streets and roads and parks and trails infrastructure and maintenance and

WHEREAS, additionally in realization that the Town's growth has exceeded the administrative operational capacity of Town Hall the Town Board has been planning and acquiring funds for a new Town Hall; and

WHEREAS, though the Town is using other revenue sources, such as debt financing, public facility impact fees and urban renewal revenue, to assist in meeting all of these goals, the addition of the 0.6% sales and use tax surplus revenues would expedite all of the projects, and benefit all of the Town's citizens; and

WHEREAS, expanding the use of the 0.6% sales and use tax revenues as set forth in this resolution requires that the voters approve Ballot Issue 2A; and

WHEREAS, Ballot Issue 2A does not call for any other changes in the 2017 0.6% sales and use tax ballot issue and the Towns sales and use tax shall remain at 3.6%; and

WHEREAS, the Fair Campaign Practices Act, Section 1-45-101 *et seq.*, C.R.S., specifically authorizes the Board of Trustees to pass a resolution advocating support for any ballot issue.

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

The Board of Trustees is in support of and strongly urges all registered electors to vote “YES” at the April 7, 2020 election regarding Ballot Issue 2A calling for the use of 2017, 0.6% sales and use tax revenues for the operation and maintenance of the Police Department and Municipal Court Facility, and construction, operation and maintenance of other Town Facilities, without amending any other condition of the 2017 0.6% sales and use tax nor increasing the Town’s current sales and use tax rate.

INTRODUCED, READ AND ADOPTED this ___ day of _____, 2020.

TOWN OF FIRESTONE, COLORADO

Bobbi Sindelar, Mayor

ATTEST:

Jessica Koenig, Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney