



BOARD OF TRUSTEES

REGULAR MEETING AGENDA

January 13, 2021
7:00 PM
2 Park Avenue
Firestone, CO 80504

PRE-MEETING WORK SESSION 6:30 PM IN THE TRAINING ROOM

AGENDA FOR THE WORK SESSION IS A DISCUSSION OF THE REGULAR MEETING AGENDA BELOW

REGULAR MEETING 7:00 PM IN THE COURT ROOM

1. Access Information

1.a. Town of Firestone is inviting you to a scheduled Zoom meeting.

Topic: 01-13-2021 Board of Trustees Meeting
Time: Jan 13, 2021 07:00 PM Mountain Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/84307525587?pwd=TWM5MkhJRGJUUKxCSE1DeXRVbkhlZz09>

Meeting ID: 843 0752 5587

Passcode: 037109

One tap mobile

+12532158782,,84307525587#,,,,*037109# US (Tacoma)

+13462487799,,84307525587#,,,,*037109# US (Houston)

Dial by your location

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 669 900 9128 US (San Jose)

+1 301 715 8592 US (Washington D.C)

+1 312 626 6799 US (Chicago)

+1 646 558 8656 US (New York)

Meeting ID: 843 0752 5587

Passcode: 037109

Find your local number: <https://us02web.zoom.us/j/84307525587?pwd=TWM5MkhJRGJUUKxCSE1DeXRVbkhlZz09>

2. Call to Order & Roll Call

3. Pledge of Allegiance

* 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 303-531-6264 in advance of the meeting to make arrangements. A forty-eight-hour notice is requested.

4. Approval of Agenda

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

6. Consent Agenda

6.a. Approval of December 9, 2020 Meeting Minutes

6.b. **Resolution 21-01:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, DESIGNATING THE POSTING LOCATION FOR NOTICE OF MEETINGS OF THE BOARD OF TRUSTEES AND ALL OTHER LOCAL PUBLIC BODIES OF THE TOWN

6.c. **Resolution 21-03:** 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 IMPLEMENTATION OF THE BROADBAND ASSESSMENT AND FEASIBILITY STUDY RECOMMENDATIONS

6.d. **Resolution 21-02:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING A SERVICES AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND MTECH MECHANICAL TECHNOLOGIES GROUP INC FOR THE HVAC PREVENTIVE MAINTENANCE AT THE POLICE & MUNICIPAL COURT BUILDING

6.e. **Resolution 21-04:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, ADOPTING THE THREE MILE PLAN FOR THE TOWN OF FIRESTONE, COLORADO

6.f. **Resolution 21-05:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND TIMBERLAN SMALL BUSINESS GROUP, INC., FOR PROFESSIONAL INFORMATION TECHNOLOGY SERVICES

6.g. **Resolution 21-06:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, AUTHORIZING PAYMENT OF THE COLORADO INTERGOVERNMENTAL RISK SHARING AGENCY'S INSURANCE PREMIUMS FOR 2021 PROPERTY AND CASUALTY COVERAGE

6.h. **Resolution 21-11:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING THE SEVENTEENTH

* 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.

INTERIM AGREEMENT BETWEEN THE NORTHERN INTEGRATED SUPPLY
PROJECT WATER ACTIVITY ENTERPRISE AND THE TOWN OF FIRESTONE
FOR PARTICIPATION IN THE NORTHERN INTEGRATED SUPPLY PROJECT

- 6.i. **Resolution 21-12**: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING THE COMMON INTEREST JOINT DEFENSE AND CONFIDENTIALITY AGREEMENT BETWEEN THE TOWN OF FIRESTONE, NORTHERN COLORADO WATER CONSERVANCY DISTRICT ("NISP ENTERPRISE") ("NORTHERN WATER") AND THE GOVERNMENTAL ENTITY PARTICIPANTS IN THE NORTHERN INTEGRATED SUPPLY PROJECT
- 6.j. **Resolution 21-13**: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING THE APPLICATION TO THE NORTHERN COLORADO WATER CONSERVANCY DISTRICT FOR CANCELLATION OF TEMPORARY USE PERMITS
- 6.k. **Resolution 21-14**: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN APPLICATION TO THE NORTHERN COLORADO WATER CONSERVANCY DISTRICT FOR AN ANNUALLY RENEWABLE PERPETUAL WATER CONTRACT FOR THE RIGHT TO USE COLORADO-BIG THOMPSON PROJECT WATER UNDER C.R.S. § 37-45-131
- 6.l. **Resolution 21-08**: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING THE PAYMENT OF THE TOWN'S 2021 EMPLOYEE BENEFITS INSURANCE PREMIUMS

7. Land Development

- 7.a. **PUBLIC HEARING: Resolution 21-07**: A RESOLUTION MAKING CERTAIN FINDINGS OF FACT REGARDING THE PROPOSED ANNEXATION OF A PARCEL OF LAND LOCATED AT LOT 2, AMENDED RECORDED EXEMPTION NO. 1313-03-04-AMRE-626 TO THE TOWN OF FIRESTONE, COLORADO
- 7.b. **Ordinance 988**: AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO ANNEXING THE PROPERTY KNOWN AS TURNER COMMONS ANNEXATION NO. 2 TO THE TOWN OF FIRESTONE, COLORADO
- 7.c. **Resolution 21-10**: A RESOLUTION OF THE BOARD OF TRUSTEES, FIRESTONE, COLORADO, AUTHORIZING THE TURNER COMMONS ANNEXATION NO. 2 ANNEXATION 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.

- 7.d. PUBLIC HEARING: Ordinance 989:** AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO ZONING CERTAIN LAND, FULLY DESCRIBED HEREIN, TO TOWN OF FIRESTONE RC – REGIONAL COMMERCIAL ZONING DISTRICT; AND APPROVING AN APPLICATION TO AMEND THE TURNER COMMONS OUTLINE DEVELOPMENT PLAN

8. Discussion/Action

- 8.a.** Appointments to the Planning & Zoning Commission
- 8.b. Resolution 21-09:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING THE SECOND AMENDMENT TO THE WATER CREDIT PURCHASE AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND MORTGAGE CONSULTANTS, LLC
- 8.c. Resolution 20-15:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING THE THIRD AMENDMENT TO THE WATER CREDIT PURCHASE AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND MORTGAGE CONSULTANTS, LLC

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

10. Reports

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

11. Executive Session

- 11.a.** An executive session pursuant to C.R.S. 24-6-402(4)(e)(I) for determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations and instructing negotiators and C.R.S. 24-6-402(4)(b) for a conference with an attorney for the Town for the purpose of receiving legal advice on specific legal questions regarding Central Weld County Water District's service to the Town
- 11.b.** An executive session pursuant to C.R.S. 24-6-402(4)(a) regarding the purchase or acquisition of real property and pursuant to C.R.S. 24-6-402 (e)(I) determining positions relative to matters that may be subject to negotiations, developing strategy

* 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.

for negotiations and directing negotiators concerning such real property and an oil and gas agreement

- 11.c. An executive session pursuant to C.R.S. 24-6-204(4)(f)(I) for a personnel matter regarding the Town Board's annual performance review of the Town Clerk

12. Adjournment

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

If you need special assistance in order to participate in a Board of Trustees meeting, please contact the Town 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#: 6.a

Consent Agenda

Meeting Date: January 13, 2021

Initiated By: Jessica Koenig

Dept: Town Clerk

AGENDA TITLE

Approval of December 9, 2020 Meeting Minutes

SUMMARY

HISTORY AND PREVIOUS BOARD ACTION

RECOMMENDATION

Approve the draft December 9, 2020 Meeting Minutes

ALTERNATIVES

ATTACHMENTS

1. 12-09-2020 Draft Meeting Minutes

FINANCIAL CONSIDERATIONS

TOWN OF FIRESTONE, COLORADO
Board of Trustees Regular Meeting
MINUTES
December 9, 2020

1. Access Information

1.a. Town of Firestone is inviting you to a scheduled Zoom meeting.

Topic: 12-09-2020 Board of Trustees Meeting
Time: Dec 9, 2020 07:00 PM Mountain Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/84321748813?pwd=NGJVaK5VSUIRYmYxaHNuNmK4UkYxdz09>

Meeting ID: 843 2174 8813

Passcode: 992555

One tap mobile

+16699009128,,84321748813#,,,,,0#,,992555# US (San Jose)

+12532158782,,84321748813#,,,,,0#,,992555# US (Tacoma)

Dial by your location

+1 669 900 9128 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 646 558 8656 US (New York)

+1 301 715 8592 US (Washington D.C)

+1 312 626 6799 US (Chicago)

Meeting ID: 843 2174 8813

Passcode: 992555

Find your local number: <https://us02web.zoom.us/j/84321748813?pwd=NGJVaK5VSUIRYmYxaHNuNmK4UkYxdz09>

2. Call to Order & Roll Call

The Board of Trustees of the Town of Firestone met for a Regular Meeting on December 9, 2020, at the Police Department, 2 Park Avenue, Firestone, Colorado. Mayor Sindelar called the meeting to order at 7:08 PM.

The following were present upon the call of the roll:

Mayor: Bobbi Sindelar

Mayor Pro-tem: Frank A. Jimenez

Trustees: Don Conyac
David Whelan

Samantha Meiring
Sean Doherty
Doug Sharp

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; Katie Hansen, Director of Communications; Jessica Clanton, Director of Finance; Julie Pasillas, Director of Public Works; Todd Bjerkaas, Director of Planning; Marty Ostholhoff, Planning Manager; David Montgomery, Chief of Police; Jessica Koenig, Town Clerk; AJ Krieger, Town Manager; & William Hayashi, Town Attorney

3. Pledge of Allegiance

Mayor Sindelar led the pledge of allegiance.

4. Approval of Agenda

Motion by Trustee Conyac, **second** by Trustee Whelan, to Approve the Agenda

Roll Call Vote:

Yes: Trustee Conyac, Trustee Whelan, Trustee Meiring, Mayor Pro Tem Jimenez, Trustee Doherty, Trustee Sharp

No: None

Abstain: None

Motion carried.

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

Wally and Molly Tryan gave public comment regarding the damage to their home.

Chris Woody gave public comment regarding the crosswalk near his home.

Rick Patterson gave public comment regarding Mr. Woody's comment about the crosswalk. Mr. Patterson also inquired about the town limits displayed incorrectly on various map apps. Mr. Patterson also commented on the construction of the Town Hall building.

6. Consent Agenda

Motion by Mayor Pro Tem Jimenez, **second** by Trustee Doherty, to Approve the Consent Agenda

Roll Call Vote:

Yes: Trustee Conyac, Trustee Whelan, Trustee Meiring, Mayor Pro Tem Jimenez, Trustee Doherty, Trustee Sharp

No: None

Abstain: None

Motion carried.

6.a. Approval of November 18, 2020 Meeting Minutes

6.b. **Resolution 20-118:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING A PROFESSIONAL SERVICES CONTRACT MASTER SERVICES AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND LEONARD RICE CONSULTING WATER ENGINEERS, INC.

6.c. **Resolution 20-119:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND THE RURAL DITCH COMPANY FOR CONSTRUCTION OF A TURN-OUT STRUCTURE ON RURAL DITCH AND CONSTRUCTION OF AN INTERIM DRAINAGE STRUCTURE TO DIRECT TRI-TOWN DRAINAGE BACK TO ST. VRAIN CREEK THROUGH THE RURAL DITCH

6.d. **Resolution 20-120:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN ENGINEERING SERVICES AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND PLUMMER ASSOCIATES, INC., REGARDING THE WATER TREATMENT PLANT PROJECT

7. Discussion/Action

7.a. **Resolution 20-110:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, LEVYING GENERAL PROPERTY TAXES FOR THE 2020 TAX YEAR, TO HELP DEFRAY THE COSTS OF GOVERNMENT FOR THE TOWN OF FIRESTONE, COLORADO, FOR THE 2021 BUDGET YEAR

Motion by Trustee Whelan, **second** by Trustee Conyac, to Approve **Resolution 20-110:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, LEVYING GENERAL PROPERTY TAXES FOR THE 2020 TAX YEAR, TO HELP DEFRAY THE COSTS OF GOVERNMENT FOR THE TOWN OF FIRESTONE, COLORADO, FOR THE 2021 BUDGET YEAR

Roll Call Vote:

Yes: Trustee Conyac, Trustee Whelan, Trustee Meiring, Mayor Pro Tem Jimenez, Trustee Doherty, Trustee Sharp

No: None

Abstain: None

Motion carried.

7.b. **Ordinance 985:** AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, REPEALING IN ITS ENTIRETY ORDINANCE 720, AND THEREBY ACKNOWLEDGING TERMINATION OF THE IMPROVEMENTS REIMBURSEMENT AGREEMENT (FIRELIGHT PARK ANNEXATION) BETWEEN THE

TOWN OF FIRESTONE AND FAIRVIEW ESTATES, LLC

Motion by Trustee Sharp, **second** by Trustee Whelan, to Approve **Ordinance 985:** AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, REPEALING IN ITS ENTIRETY ORDINANCE 720, AND THEREBY ACKNOWLEDGING TERMINATION OF THE IMPROVEMENTS REIMBURSEMENT AGREEMENT (FIRELIGHT PARK ANNEXATION) BETWEEN THE TOWN OF FIRESTONE AND FAIRVIEW ESTATES, LLC

Roll Call Vote:

Yes: Trustee Conyac, Trustee Whelan, Trustee Meiring, Mayor Pro Tem Jimenez, Trustee Doherty, Trustee Sharp

No: None

Abstain: None

Motion carried.

7.c. Ordinance 986: AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, REPEALING IN ITS ENTIRETY SECTION 3.08.190 OF THE FIRESTONE MUNICIPAL CODE REGARDING THE FIRELIGHT PARK ANNEXATION IMPROVEMENTS REIMBURSEMENT AGREEMENT

Motion by Trustee Doherty, **second** by Mayor Pro Tem Jimenez, to Approve **Ordinance 986:** AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, REPEALING IN ITS ENTIRETY SECTION 3.08.190 OF THE FIRESTONE MUNICIPAL CODE REGARDING THE FIRELIGHT PARK ANNEXATION IMPROVEMENTS REIMBURSEMENT AGREEMENT

Roll Call Vote:

Yes: Trustee Conyac, Trustee Whelan, Trustee Meiring, Mayor Pro Tem Jimenez, Trustee Doherty, Trustee Sharp

No: None

Abstain: None

Motion carried.

7.d. Ordinance 987: AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, REPEALING IN ITS ENTIRETY ORDINANCE NO. 721 REGARDING THE FIRELIGHT PARK DEVELOPMENT AGREEMENT PERTAINING TO VESTED PROPERTY RIGHTS AGREEMENT

Motion by Trustee Conyac, **second** by Trustee Whelan, to Approve **Ordinance 987:** AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, REPEALING IN ITS ENTIRETY ORDINANCE NO. 721 REGARDING THE FIRELIGHT PARK DEVELOPMENT AGREEMENT PERTAINING TO VESTED PROPERTY RIGHTS AGREEMENT

Roll Call Vote:

Yes: Trustee Conyac, Trustee Whelan, Trustee Meiring, Mayor Pro Tem Jimenez, Trustee Doherty, Trustee Sharp

No: None

Abstain: None

Motion carried.

7.e. Resolution 20-117: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, PRESCRIBING WATER RATES, FEES, TOLLS AND CHARGES FOR THE TOWN OF FIRESTONE, COLORADO

Motion by Trustee Conyac, **second** by Trustee Doherty, to Approve **Resolution 20-117**: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, PRESCRIBING WATER RATES, FEES, TOLLS AND CHARGES FOR THE TOWN OF FIRESTONE, COLORADO

Roll Call Vote:

Yes: Trustee Conyac, Trustee Whelan, Trustee Meiring, Mayor Pro Tem Jimenez, Trustee Doherty, Trustee Sharp

No: None

Abstain: None

Motion carried.

7.f. Resolution 20-122: A RESOLUTION OF THE BOARD OF TRUSTEES OF FIRESTONE, COLORADO, APPROVING A SUMMARY OF GRANT AWARD TERMS AND CONDITIONS BETWEEN THE TOWN OF FIRESTONE AND THE STATE OF COLORADO FOR DEVELOPMENT OF THE OLD TOWN FIRESTONE SUB-AREA PLAN

Motion by Trustee Meiring, **second** by Trustee Conyac, to Approve **Resolution 20-122**: A RESOLUTION OF THE BOARD OF TRUSTEES OF FIRESTONE, COLORADO, APPROVING A SUMMARY OF GRANT AWARD TERMS AND CONDITIONS BETWEEN THE TOWN OF FIRESTONE AND THE STATE OF COLORADO FOR DEVELOPMENT OF THE OLD TOWN FIRESTONE SUB-AREA PLAN

Roll Call Vote:

Yes: Trustee Conyac, Trustee Whelan, Trustee Meiring, Mayor Pro Tem Jimenez, Trustee Doherty, Trustee Sharp

No: None

Abstain: None

Motion carried.

7.g. Resolution 20-121: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND DESIGN WORKSHOP INC. REGARDING THE CENTRAL PARK MASTER PLAN

Motion by Trustee Conyac, **second** by Trustee Sharp, to Approve **Resolution 20-121**: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND DESIGN WORKSHOP INC. REGARDING THE CENTRAL PARK MASTER PLAN

Roll Call Vote:

Yes: Trustee Conyac, Trustee Whelan, Trustee Meiring, Mayor Pro Tem Jimenez, Trustee Doherty, Trustee Sharp

No: None

Abstain: None

Motion carried.

7.h. **Resolution 20-123:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING A DESIGN DEVELOPMENT SERVICES AGREEMENT FOR THE NEIGHBORS POINT PARK PROJECT BETWEEN THE TOWN OF FIRESTONE AND COLORADO CIVIL GROUP, INC.

Motion by Mayor Pro Tem Jimenez, **second** by Trustee Conyac, to Approve **Resolution 20-123:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING A DESIGN DEVELOPMENT SERVICES AGREEMENT FOR THE NEIGHBORS POINT PARK PROJECT BETWEEN THE TOWN OF FIRESTONE AND COLORADO CIVIL GROUP, INC.

Roll Call Vote:

Yes: Trustee Conyac, Trustee Whelan, Trustee Meiring, Mayor Pro Tem Jimenez, Trustee Doherty, Trustee Sharp

No: None

Abstain: None

Motion carried.

7.i. **Resolution 20-124:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING A CHANGE ORDER TO THE CONSTRUCTION AGREEMENT WITH FRANSEN PITTMAN CONSTRUCTION CO., REGARDING THE TOWN HALL PROJECT

Motion by Trustee Whelan, **second** by Trustee Sharp, to Approve **Resolution 20-124:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING A CHANGE ORDER TO THE CONSTRUCTION AGREEMENT WITH FRANSEN PITTMAN CONSTRUCTION CO., REGARDING THE TOWN HALL PROJECT

Roll Call Vote:

Yes: Trustee Conyac, Trustee Whelan, Trustee Meiring, Mayor Pro Tem Jimenez, Trustee Doherty, Trustee Sharp

No: None

Abstain: None

Motion carried.

7.j. Coffee with Trustees Discussion

7.k. Broadband Initiative - ALLO Direction

The Board reached a consensus to provide a letter affirming the Town's continued interest in moving forward with Allo.

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

Wallace Tryon gave public comment regarding the damage to his property.

Rick Patterson thanked Mayor Pro Tem Jimenez and Trustee Sharp for their dedication on moving forward with broadband.

9. Reports

9.a. Staff

AJ Krieger, Town Manager, reported that he would email the Firestone Urban Renewal Authority regarding the letter of engagement for the bond counsel. Mr. Krieger acknowledged town staff for their work during a challenging year.

9.a.i. Monthly Board Reports

9.b. Mayor

Mayor Sindelar reported that the holiday festival was a huge success and expressed appreciation for events moving forward.

9.c. Trustees

Trustee Conyac thanked all town staff and the Board for their work and dedication during a challenging year. Trustee Conyac expressed appreciation that the Town has still moved forward despite 2020's challenges. Trustee Conyac wished everyone a Merry Christmas and a Happy New Year.

Trustee Meiring reported on the second Colorado Municipal League policy meeting and continued discussions about expected goals in the upcoming legislative session. Trustee Meiring echoed Trustee Conyac's comments, asked that everyone stay safe, and wished all a great rest of the season.

Trustee Sharp reported that 2020 has been quite the year, but he has seen this community come together. Trustee Sharp expressed appreciation for all town staff. Trustee Sharp wished everyone a Merry Christmas, happy holidays, etc., and expressed that 2021 has got to be better.

Trustee Whelan reported that it has been a great experience serving on the Board. Trustee Whelan thanked the Board for their help with his questions. Trustee Whelan thanked Mr. Wallace for his comments. Trustee Whelan reported on Mr. Woody's comments and concerns regarding the crosswalk. Trustee Whelan reported that he and Trustee Conyac are working on a date to meet with Mr. Williamson.

Trustee Doherty reported that at the ad hoc meeting of the legislature approved a COVID relief package, including rent assistance. Trustee Doherty reminded everyone to keep in mind that there are resources.

Mayor Pro Tem Jimenez echoed statements from the Board thanking town staff and the Town during this challenging time and for completing achievements and meeting goals.

10. Adjournment

Motion by Trustee Conyac, **second** by Trustee Sharp, to Adjourn, All in Favor, **Motion carried.**

Introduced and Approved the 13th of January, 2021.

TOWN OF FIRESTONE, COLORADO

ATTEST

Bobbi Sindelar, Mayor

Jessica Koenig, Town Clerk

**AGENDA INFORMATION
MEMORANDUM**

FIRESTONE
TOWN BOARD OF TRUSTEES



AIM#: 6.b

Consent Agenda

Meeting Date: January 13, 2021

Initiated By: Jessica Koenig

Dept: Town Clerk

AGENDA TITLE

Resolution 21-01: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, DESIGNATING THE POSTING LOCATION FOR NOTICE OF MEETINGS OF THE BOARD OF TRUSTEES AND ALL OTHER LOCAL PUBLIC BODIES OF THE TOWN

SUMMARY

C.R.S. § 24-6-402 (2)(c) requires that the Board of Trustees annually designate at the Board's first regular meeting of each calendar year the public place for posting of notice for the meetings of the Board of Trustees and other local public bodies of the Town. Pursuant to C.R.S. § 24-6-402 (2)(c), notice of meetings of the Board of Trustees and other local bodies of the Town shall be posted at the front entrance window of the Firestone Town Hall, 151 Grant Ave., Firestone, CO, 80520. Pursuant to C.R.S. § 24-6-402 (2)(c) (III), notices of such meetings may also be published no less than twenty-four hours before the holding of such meetings on the Town's website (www.firestoneco.gov), which serves all local public bodies of the Town.

HISTORY AND PREVIOUS BOARD ACTION

The Board of Trustees designated posting locations in January of 2020.

RECOMMENDATION

Approve Resolution 21-01.

ALTERNATIVES

ATTACHMENTS

1. Reso 21-01 Meetings Posting Res

FINANCIAL CONSIDERATIONS

RESOLUTION NO. 21-01

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE,
COLORADO, DESIGNATING THE POSTING LOCATION FOR NOTICE OF
MEETINGS OF THE BOARD OF TRUSTEES AND ALL OTHER LOCAL PUBLIC
BODIES OF THE TOWN**

WHEREAS, C.R.S. § 24-6-402 (2)(c) requires that the Board of Trustees annually designate at the Board's first regular meeting of each calendar year the public place for posting of notice for the meetings of the Board of Trustees and other local public bodies of the Town; and

WHEREAS, local public body means any municipality, board, committee, commission, authority, or other advisory, policy-making or formally constituted body of the Town; and

WHEREAS, with the goal of having local governments transition from the posting of notices at a fixed physical location the legislature amended the Open Meetings Law last year to permit the posting of meetings of local public bodies upon a public website no less than twenty-four hours before the meeting; and

WHEREAS, the legislature further declared that such posting on a public website would constitute full and timely notice of a public meeting and that it would monitor the transition over the next two years with the goal of having notice of all public meetings posted online.

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

1. Pursuant to C.R.S. § 24-6-402 (2)(c), notice of meetings of the Board of Trustees and other local bodies of the Town shall be posted at the front entrance window of the Firestone Town Hall, 151 Grant Ave., Firestone, CO, 80520.

2. Pursuant to C.R.S. § 24-6-402 (2)(c) (III) notices of such meetings may also be published no less than twenty-four hours prior to the holding of such meetings on the Town's website (www.firestoneco.gov) which serves all local public bodies of the Town.

INTRODUCED, READ AND ADOPTED this ___ day of _____, 2021.

TOWN OF FIRESTONE, COLORADO

Bobbi Sindelar, Mayor

ATTEST:

Jessica Koenig, CMC, Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

AGENDA INFORMATION MEMORANDUM

FIRESTONE TOWN BOARD OF TRUSTEES



AIM#: 6.c

Consent Agenda

Meeting Date: January 13, 2021

Initiated By: Raelynn Ferrera

Dept: Administration

AGENDA TITLE

Resolution 21-03: 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 IMPLEMENTATION OF THE BROADBAND ASSESSMENT AND FEASIBILITY STUDY RECOMMENDATIONS

SUMMARY

This agreement will allow Fred Diehl Consulting to engage with staff, the Board of Trustees, and community stakeholders to implement approved recommendations outlined in the Broadband final report, work through Cable Franchise renewal and negotiation, research grant opportunities, and coordinate the submission of grants.

HISTORY AND PREVIOUS BOARD ACTION

Fred Diehl Consulting has successfully been serving as a consultant for Firestone initiatives over the past year and a half.

RECOMMENDATION

Approve Resolution 21-03, authorizing the execution of the agreement and authorizing Staff to expend funds.

ALTERNATIVES

ATTACHMENTS

1. Fred Diehl Agmt Res
2. Professional Services agreement - Fred Diehl - 2021 Consulting Services 1 6 2021

FINANCIAL CONSIDERATIONS

RESOLUTION NO. 21-03

**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
IMPLEMENTATION OF THE BROADBAND ASSESSMENT AND
FEASIBILITY STUDY RECOMMENDATIONS**

WHEREAS, by Resolution No. 19-81 the Town based upon its experience and expertise retained Fred Diehl Consulting LLC to serve as a liaison for the Town with other governmental entities involved in broadband and telecommunications and assist in the development and implementation of a Request for Proposal for a Broadband Assessment and Feasibility Study; and

WHEREAS, the resulting Broadband Assessment and Feasibility Study which was presented to the Board at its meeting of June 15, 2020, contained recommendations, approved by Board, which included proceeding with the renewal and negotiations regarding the Towns cable franchise agreement and the research and submittal of grants for broadband services; and

WHEREAS Fred Diehl Consulting LLC has the skill and experience to provide the services sought by the Town and given its prior services to the Town is uniquely qualified to provide the services recommended by the Broadband Assessment and Feasibility Study.

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

The Agreement between the Town of Firestone and Fred Diehl Consulting, LLC, for implementation of Broadband Assessment and Feasibility Study recommendations 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 _____, 2021.

TOWN OF FIRESTONE, COLORADO

Bobbi Sindelar, Mayor

ATTEST:

Jessica Koenig, CMC, 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 ____ day of _____, 2021 (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: **2021 Consulting Services**.

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 **\$100,000.00**. 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 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

Bobbi Sindelar, Mayor

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, Fred Diehl, am a sole proprietor doing business as Fred Diehl Consulting, LLC. 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

01/06/2021

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 _____, 2021, by _____ as _____ of _____.

My commission expires:

(SEAL)

Notary Public

EXHIBIT A
SCOPE OF SERVICES

Contractor's Duties- as detailed in the attached "PROPOSAL FOR SERVICE – TOWN OF FIRESTONE."

FRED DIEHL CONSULTING

PROPOSAL FOR SERVICES – TOWN OF FIRESTONE

Dear Ms. Ferrera,

Thank you for the opportunity to submit this proposal for services to support the Town of Firestone in achieving its goals. Serving as a consultant for several Firestone initiatives over the past year and a half, I have worked directly with senior staff, members of the Board of Trustees and community stakeholders. I believe my unique skill set will be of continued value in assisting you with maintaining the Town as a sustainable and prosperous community.

The scope of work in this proposal is for the 2021 calendar year. However, please know that I am available immediately to continue to assist with the identified projects on an hourly basis.

PROPOSAL

BROADBAND INITIATIVE – IMPLEMENTATION OF RECOMMENDATIONS: Fred Diehl (Consultant) will serve as project lead to implement approved recommendations as outlined in the Broadband Feasibility Study Final Report.

On August 12, 2020, the Board of Trustees was presented with the Broadband Feasibility Study Final Report and Recommendations. Following the presentation of the final report, the Board directed staff to conduct outreach to Allo Communications the top ranked respondent of the Town's RFI for enhanced broadband services. Subsequent meetings between the internet service provider, staff and the Board of Trustees have been positive and productive. Moving forward the Consultant will:

- Work with Allo Communications to continue negotiations focused on establishing a privately funded, ubiquitous Fiber to the Premise (FTTP) network in Firestone
- Assist Allo with obtaining necessary network engineering data
- Coordinate and manage introductions and meetings between Allo, staff and stakeholders including but not limited to United Power, School District and Fire District
- Identify and communicate needs and expectations of all stakeholders to ensure efficient planning, engineering, permitting and construction process
- Identify Town-owned fiber assets and potential 'Smart City' applications with staff and provide data to Allo
- Maintain and share appropriate milestone timelines
- Work with staff to identify potential locations for Allo's Customer Service Center
- Arrange community engagement and economic development meetings with Allo, public and stakeholders
- Assist Town Staff with consistent, transparent and inclusive communications including but not limited to media releases and community notices

FRED DIEHL CONSULTING

- Serve as a liaison between the Town of Firestone and support agencies such as the Colorado Communication and Utilities Alliance, Next Century Cities and the National Association of Telecommunications Officers and Advisors
- Maintain communication/dialogue with major cellular service providers to help improve cell coverage in the community
- Leverage partnership with Allo Communications to assist cellular and wireless providers with improved coverage
- Work with the Town's telecommunications attorney with a Video/Cable Franchise Agreement between the Town and Allo Communications (*see section below for details*)

Total Hours Estimate: 700 Hours

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

FRANCHISE AGREEMENTS: In January of this year, Fred Diehl Consulting, in its capacity as an Independent Contractor, entered into an agreement with the Town to perform a variety of tasks related to the Cable Franchise Renewal with Comcast. During that time, the Colorado Communication and Utilities Alliance (CCUA) has developed a new model franchise agreement for its members. The Town's telecommunications attorney, Kissinger & Fellman has presented staff with a final draft for review. This same model agreement will be the starting point for negotiations between the Town and Allo Communications. Moving forward the Consultant will:

- Work with staff and telecom attorney to identify and resolve remaining issues and execute a final franchise agreement with Comcast
- Work with Allo, staff and telecom attorney to identify key issues and begin franchise agreement negotiations
- Participate in negotiating sessions with staff, attorney and Allo
- Attend Firestone Board meetings as necessary for each of these franchise agreements

Total Hours Estimate: 75 Hours

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

GRANT MANAGEMENT – CENTRAL PARK: Perform grant and contract administration; research grant opportunities and coordinate the submission of grant activity to include drafting and presenting submissions, manage the budget and fiscal implications of grant awards, ensure compliance with grant deadlines, applications and monitoring process.

Moving forward the Consultant will:

- Meet with staff re. Central Park project overview and technical details

FRED DIEHL CONSULTING

- Research grant opportunities and communicate with public and private organizations and foundations. Potential applications to include Department of Local Affairs, National Recreation and Park Association related opportunities and major Colorado foundations.
- Write grants and prepare for submittal
- Distribute drafts to staff for review / update grants for submission / grant submittal
- Follow up communications with organizations and foundations
- Maintain and share appropriate milestone timelines
- Attend appropriate Board of Trustees meetings

Total Hours Estimate: 225 Hours

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

I look forward to continuing working with you and the Town of Firestone and supporting the Town's efforts in achieving its goals. If you have questions on this proposal, feel free to contact me at your convenience by email at freddiehl@msn.com or by phone at 303-944-9273.

Thank you again for this opportunity.



Fred Diehl

freddiehl@msn.com | [LinkedIn](#)

2225 Jewel Street Longmont, Colorado 80501

303-944-9273

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 6.d

Consent Agenda

Meeting Date: January 13, 2021

Initiated By: Raelynn Ferrera

Dept: Administration

AGENDA TITLE

Resolution 21-02: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING A SERVICES AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND MTECH MECHANICAL TECHNOLOGIES GROUP INC FOR THE HVAC PREVENTIVE MAINTENANCE AT THE POLICE & MUNICIPAL COURT BUILDING

SUMMARY

This agreement is for 12 months of seasonal preventive maintenance service for all HVAC units at the Poice and Municipal Court Building; services include:

- Cooling and heating seasonal startup on HVAC equipment.
- Cooling and heating mid-season inspection on HVAC equipment.
- Annual belt changes on all equipment.
- Quarterly filter changes on all rooftop units.
- Annual power washing of condenser coils.
- Annual replacement of condensate neutralizers on boilers and domestic water heaters.
- Annual combustion analysis on boilers.

HISTORY AND PREVIOUS BOARD ACTION

RECOMMENDATION

Approve Resolution 21-02, authorizing execution of said agreement and authorizing Staff to expend funds

ALTERNATIVES

ATTACHMENTS

1. 2021 HVAC - MTech RESO
2. 2021 HVAC - MTech Agreement -
3. 2021 HVAC - MTech Proposal

FINANCIAL CONSIDERATIONS

Labor	\$8,635.00
Materials	<u>\$2,598.00</u>
Total	\$11,233.00

RESOLUTION NO. 21-02

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE,
COLORADO, APPROVING A SERVICES AGREEMENT BETWEEN THE TOWN OF
FIRESTONE AND MTECH MECHANICAL TECHNOLOGIES GROUP INC FOR THE
HVAC PREVENTIVE MAINTENANCE AT THE POLICE & MUNICIPAL COURT
BUILDING**

WHEREAS, the Town of Firestone ("Firestone") is in need of preventive maintenance services regarding the HVAC at the Police & Municipal Court Building; and

WHEREAS, Colorado Mtech Mechanical Technologies Group Inc ("Mtech") has the required expertise for providing HVAC preventive maintenance services; and

WHEREAS, Mtech is thus best suited to perform the HVAC preventive maintenance services required by Firestone in a cost effective manner.

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

The Services Agreement between the Town of Firestone and Mtech Mechanical Technologies Group Inc 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 _____, 2021.

TOWN OF FIRESTONE, COLORADO

Bobbi Sindelar, Mayor

ATTEST:

Jessica Koenig, CMC, Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

AGREEMENT FOR SERVICES

THIS AGREEMENT FOR SERVICES (the "Agreement") is made and entered into this ____ day of _____, 2021 (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 **MTECH MECHANICAL** an independent contractor with a principal place of business at 12300 Pecos Street Westminster, Colorado 80234 ("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 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: **2020 HVAC PM- Police & Municipal Building**.

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 the amount not to exceed **\$11,233.00**. 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. 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. The work and services to be performed by Contractor hereunder shall be done in compliance with applicable laws, ordinances, rules and regulations.

C. 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.

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.

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

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.

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 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 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 Boulder 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 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 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, 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 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.

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

TOWN OF FIRESTONE, COLORADO

Mayor, Bobbi Sindelar

ATTEST:

Jessica Koenig, Town Clerk

M-TECH Mechanical

By:

Richard L. Hobbs

STATE OF COLORADO)

) ss.

COUNTY OF _____)

The foregoing instrument was subscribed, sworn to and acknowledged before me this ____ day of _____, 2021, by _____ as _____ of _____.

My commission expires:

(SEAL)

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 per the 12/1/2020 proposal.



Firestone Police Department
December 1, 2020

Revision:

THE MTECH APPROACH TO SUPERIOR SERVICE PLANNING & DELIVERY

MTech promises to understand our client's expectations and to exceed them. We do this by starting with the creation of a plan with exacting detail of what we are delivering, providing some of the best technicians in the business and ending with our unwavering support and client obsession.

At MTech we sell accountability. Our open book approach to service planning ensures that the client knows exactly what is included in their preventive maintenance agreement. It is our open-book approach to "planning the work and working the plan" that builds trust in the relationships we have with our clients.

Our ability to **deliver** the work is equal to our skill in service **planning**. We provide documented evidence of our work, which enables the client to judge for themselves whether they are receiving value for their service dollar.

Our client HVAC and Plumbing service plans provide you with the following:

- **A task-based maintenance approach.** A separate task template for each piece of equipment so there can be no doubt as to the specific work that is to be performed.
- **A comprehensive equipment list** that includes every piece of equipment included in the service plan, leaving nothing to chance.
- **A complete list of all materials** to be used during PM visits.
- **A 12 month schedule of PM visits** which clearly outlines the months in which the work is to be performed.
- **A complete accounting of labor hours** for each PM visit, as well as a total number of hours to be delivered during the contract period.
- **An On-Site Book** to be used whenever we perform maintenance, including an area for the tech to sign and date their work. Trend logs are used to document our work and observations. They also enable the technician to determine how each piece of equipment is performing. Our goal is to solve small problems before they become costly equipment failures.
- **Plumbing Services:** MTech offers a full array of plumbing services to our HVAC preventive maintenance clients. These include repairs and equipment additions, drain jetting, underground repair services, camera services and back flow preventer certification.

At MTech, we have taken a very intangible product (service sales) and given it form and substance. No guesswork. No grey area. Our mission is to deliver what the client bought in the most efficient manner possible. *That's quality service and that's just good business.*



Attachment A

Building: Firestone Police Department

Date: 12/1/20

Revision:

Tag	Equipment Description	Fall and Winter	Spring and Summer	Winter				Summer			
				Winter		Spring		Summer		Fall	
Air Handling Unit - 1	YORK/ XTO-078X090	2.00	2.00	X	2.00			X	2.00		
		3.00	3.00			X	3.00			X	3.00
Air Handling Unit - 2	YORK/ XTO-057X084	1.50	1.50	X	1.50			X	1.50		
		2.00	2.00			X	2.00			X	2.00
Chiller - 1	YORK/ YLAA0100SE17XFBBCXCHXXBL	-	2.00					X	2.00		
		-	6.00			X	6.00				
Boiler - 1	BUDERUS/ SSB-1000 TL	2.00	-	X	2.00						
		5.00	-							X	5.00
Boiler - 2	BUDERUS/ SSB-1000 TL	2.00	-	X	2.00						
		5.00	-							X	5.00
Domestic Water Heater - 1	PVII/ 25 L 100A-GCL	-	-								
		1.00	1.00			X	1.00			X	1.00
Domestic Water Heater - 2	PVII/ 25 L 100A-GCL	-	-								
		1.00	1.00			X	1.00			X	1.00
Chilled Water Pump - 1		-	0.25					X	0.25		
		-	0.50			X	0.50				
Chilled Water Pump - 2		-	0.25					X	0.25		
		-	0.50			X	0.50				
Hot Water Pump - 1		0.25	-	X	0.25						
		0.50	-							X	0.50
Hot Water Pump - 2		0.25	-	X	0.25						
		0.50	-							X	0.50



Attachment A

Building: Firestone Police Department

Date: 12/1/20

Revision:

Tag	Equipment Description	Fall and Winter	Spring and Summer	Winter	Spring	Summer	Fall
Expansion Tank - 1		-	-				
		0.50	0.50	X	0.50		X 0.50
Glycol Feeder - 1		-	-				
		0.25	0.25	X	0.25		X 0.25
Air Compressor - 1	INGERSON RAND/ 2340	0.50	0.50	X		X 0.50	
		1.00	1.00	X	1.00		X 1.00
Air Dryer - 1	INGERSON RAND/	0.25	0.25	X		X 0.25	
		0.50	0.50	X	0.50		X 0.50
Condensing Unit - 1	MITSUBISHI/ PUY-A12NKA7	0.25	0.25	X		X 0.25	
		0.25	1.00	X	1.00		X 0.25
Condensing Unit - 2	MITSUBISHI/ PUY-A12NKA7	0.25	0.25	X		X 0.25	
		0.25	1.00	X	1.00		X 0.25
Fan Coil Unit - 1	MITSUBISHI/	0.25	0.25	X		X 0.25	
		0.50	0.50	X	0.50		X 0.50
Fan Coil Unit - 2	MITSUBISHI/	0.25	0.25	X		X 0.25	
		0.50	0.50	X	0.50		X 0.50
Exhaust Fan - 1	GREENHECK/ G-103-VG-4-X	0.17	0.17	X		X 0.17	
		-	-				
Exhaust Fan - 2	GREENHECK/ G-123-VG-5-X	0.17	0.17	X		X 0.17	
		-	-				
Exhaust Fan - 3 Rev 1	GREENHECK/ G143-VG-10-X	0.17	0.17	X		X 0.17	
		-	-				



Attachment A

Building: Firestone Police Department

Date: 12/1/20

Revision:

Tag	Equipment Description	Fall and Winter	Spring and Summer	Winter	Spring	Summer	Fall
Exhaust Fan - 4 Rev 1	GREENHECK/ CUBE-101HP-4-X	0.17	0.17	X	0.17	X	0.17
Exhaust Fan - 5	GREENHECK/ G-123-VG-5-X	0.17	0.17	X	0.17	X	0.17
Exhaust Fan - 6	GREENHECK/ G-133-VG-7-X	0.17	0.17	X	0.17	X	0.17
Exhaust Fan - 7	GREENHECK/ G-123-VG-5-X	0.17	0.17	X	0.17	X	0.17
Exhaust Fan - 8	GREENHECK/ G-123-VG-5-X	0.17	0.17	X	0.17	X	0.17
Exhaust Fan - 9	GREENHECK/ SP	0.17	0.17	X	0.17	X	0.17
Exhaust Fan - 10	GREENHECK/ SQ	0.17	0.17	X	0.17	X	0.17
Exhaust Fan - 11	GREENHECK/ CUE-060-VG-X	0.17	0.17	X	0.17	X	0.17
Exhaust Fan - 12	GREENHECK/	0.17	0.17	X	0.17	X	0.17
ACCU-1	LIEBERT/ PFH037A-YHN	0.25	0.25	X	0.25	X	0.25
CRAC Unit - 1	LIEBERT/ MMD	1.00	1.00	X	1.00	X	1.00



Attachment A

Building: Firestone Police Department

Date: 12/1/20

Revision:

Tag	Equipment Description	Fall and Winter	Spring and Summer	Winter	Spring	Summer	Fall
Domestic Hot Water Circ Pump - 1	TACO/	-	-				
		0.25	0.25				
		70.50		14.00	22.00	11.00	23.50
		8.00					
		78.50					
Total Hours for Preventive Maintenance							
Travel and Setup Time							
Total Hours							

Condenser Coil Powerwash Time (Included in Spring visit)

5.75



PREVENTIVE MAINTENANCE MATERIAL LIST
Attachment B

193081

Firestone Police Department

12/1/20

Revision:

0

EQUIPMENT	MATERIAL DESCRIPTION	CHANGES PER YEAR	QUANTITY	ANNUAL QUANTITY
Air Handling Unit - 1	Filter 16 x 20 x 4 pleated	4	24	96
Air Handling Unit - 2	Filter 12 x 24 x 4 pleated	4	18	72
Exhaust Fan - 4 Rev 1	3L180	1	1	1
Air Compressor	B-60	1	4	4
	Air Filter 32170979	2	1	2
	SAE 20 Non Detergent - 1 Qt.	2	1	2
Boiler - 1	Burner Gasket 7738004985	1	2	2
	Combustion Analyzer	1	1	1
	Condensing Boiler Limestone Filter	1	1	1
Boiler - 2	Burner Gasket 7738004985	1	2	2
	Combustion Analyzer	1	1	1
	Condensing Boiler Limestone Filter	1	1	1
Domestic Water Heater - 1	Condensing Boiler Limestone Filter	1	1	1
Domestic Water Heater - 2	Condensing Boiler Limestone Filter	1	1	1
CRAC Unit - 1	Filter 16 x 25 x 4 pleated	4	1	4

Materials Subject to Field Verification



Firestone Police Department
12/1/20

Attachment C

Revision:

Alternates:

Last year's preventive maintenance cost was \$10,995

Included:

1. Cooling and heating seasonal startup on HVAC equipment.
2. Cooling and heating mid season inspection on HVAC equipment.
3. Annual belt changes on all equipment.
4. Quarterly filter changes on all roof top units.
5. Annual powerwashing of condenser coils.
6. Annual replacement of condensate neutralizers on boilers and domestic water heaters.
7. Annual combustion analysis on boilers.

Excluded:

1. Water treatment.
2. Building automation system.
3. Any equipment not listed on the equipment summary page is excluded.



Firestone Police Department

December 1, 2020

Revision:

THE MTECH APPROACH TO SUPERIOR SERVICE PLANNING & DELIVERY

MTech promises to understand our client's expectations and to exceed them. We do this by starting with the creation of a plan with exacting detail of what we are delivering, providing some of the best technicians in the business and ending with our unwavering support and client obsession.

At MTech we sell accountability. Our open book approach to service planning ensures that the client knows exactly what is included in their preventive maintenance agreement. It is our open-book approach to "planning the work and working the plan" that builds trust in the relationships we have with our clients.

Our ability to **deliver** the work is equal to our skill in service **planning**. We provide documented evidence of our work, which enables the client to judge for themselves whether they are receiving value for their service dollar.

Our client HVAC and Plumbing service plans provide you with the following:

- **A task-based maintenance approach.** A separate task template for each piece of equipment so there can be no doubt as to the specific work that is to be performed.
- **A comprehensive equipment list** that includes every piece of equipment included in the service plan, leaving nothing to chance.
- **A complete list of all materials** to be used during PM visits.
- **A 12 month schedule of PM visits** which clearly outlines the months in which the work is to be performed.
- **A complete accounting of labor hours** for each PM visit, as well as a total number of hours to be delivered during the contract period.
- **An On-Site Book** to be used whenever we perform maintenance, including an area for the tech to sign and date their work. Trend logs are used to document our work and observations. They also enable the technician to determine how each piece of equipment is performing. Our goal is to solve small problems before they become costly equipment failures.
- **Plumbing Services:** MTech offers a full array of plumbing services to our HVAC preventive maintenance clients. These include repairs and equipment additions, drain jetting, underground repair services, camera services and back flow preventer certification.

At MTech, we have taken a very intangible product (service sales) and given it form and substance. No guesswork. No grey area. Our mission is to deliver what the client bought in the most efficient manner possible. *That's quality service and that's just good business.*



Attachment A

Building: Firestone Police Department
Date: 12/1/20
Revision:

				Winter		Spring		Summer		Fall	
Tag	Equipment Description	Fall and Winter	Spring and Summer								
Air Handling Unit - 1	YORK/ XTO-078X090	2.00	2.00	X	2.00			X	2.00		
		3.00	3.00			X	3.00			X	3.00
Air Handling Unit - 2	YORK/ XTO-057X084	1.50	1.50	X	1.50			X	1.50		
		2.00	2.00			X	2.00			X	2.00
Chiller - 1	YORK/ YLAA0100SE17XFBBXCCHXXBL	-	2.00					X	2.00		
		-	6.00			X	6.00				
Boiler - 1	BUDERUS/ SSB-1000 TL	2.00	-	X	2.00						
		5.00	-							X	5.00
Boiler - 2	BUDERUS/ SSB-1000 TL	2.00	-	X	2.00						
		5.00	-							X	5.00
Domestic Water Heater - 1	PVI/ 25 L 100A-GCL	-	-								
		1.00	1.00			X	1.00			X	1.00
Domestic Water Heater - 2	PVI/ 25 L 100A-GCL	-	-								
		1.00	1.00			X	1.00			X	1.00
Chilled Water Pump - 1		-	0.25					X	0.25		
		-	0.50			X	0.50				
Chilled Water Pump - 2		-	0.25					X	0.25		
		-	0.50			X	0.50				
Hot Water Pump - 1		0.25	-	X	0.25						
		0.50	-							X	0.50
Hot Water Pump - 2		0.25	-	X	0.25						
		0.50	-							X	0.50



Attachment A

Building: Firestone Police Department
Date: 12/1/20
Revision:

				Winter		Spring		Summer		Fall	
Tag	Equipment Description	Fall and Winter	Spring and Summer								
Expansion Tank - 1		-	-								
		0.50	0.50			X	0.50			X	0.50
Glycol Feeder - 1		-	-								
		0.25	0.25			X	0.25			X	0.25
Air Compressor - 1	INGERSON RAND/ 2340	0.50	0.50	X	0.50			X	0.50		
		1.00	1.00			X	1.00			X	1.00
Air Dryer - 1	INGERSON RAND/	0.25	0.25	X	0.25			X	0.25		
		0.50	0.50			X	0.50			X	0.50
Condensing Unit - 1	MITSUBISHI/ PUY-A12NKA7	0.25	0.25	X	0.25			X	0.25		
		0.25	1.00			X	1.00			X	0.25
Condensing Unit - 2	MITSUBISHI/ PUY-A12NKA7	0.25	0.25	X	0.25			X	0.25		
		0.25	1.00			X	1.00			X	0.25
Fan Coil Unit - 1	MITSUBISHI/	0.25	0.25	X	0.25			X	0.25		
		0.50	0.50			X	0.50			X	0.50
Fan Coil Unit - 2	MITSUBISHI/	0.25	0.25	X	0.25			X	0.25		
		0.50	0.50			X	0.50			X	0.50
Exhaust Fan - 1	GREENHECK/ G-103-VG-4-X	0.17	0.17	X	0.17			X	0.17		
		-	-								
Exhaust Fan - 2	GREENHECK/ G-123-VG-5-X	0.17	0.17	X	0.17			X	0.17		
		-	-								
Exhaust Fan - 3 Rev 1	GREENHECK/ G143-VG-10-X	0.17	0.17	X	0.17			X	0.17		
		-	-								



Attachment A

Building: Firestone Police Department
Date: 12/1/20
Revision:

				Winter		Spring		Summer		Fall	
Tag	Equipment Description	Fall and Winter	Spring and Summer								
Exhaust Fan - 4 Rev 1	GREENHECK/ CUBE-101HP-4-X	0.17	0.17	X	0.17			X	0.17		
		-	-								
Exhaust Fan - 5	GREENHECK/ G-123-VG-5-X	0.17	0.17	X	0.17			X	0.17		
		-	-								
Exhaust Fan - 6	GREENHECK/ G-133-VG-7-X	0.17	0.17	X	0.17			X	0.17		
		-	-								
Exhaust Fan - 7	GREENHECK/ G-123-VG-5-X	0.17	0.17	X	0.17			X	0.17		
		-	-								
Exhaust Fan - 8	GREENHECK/ G-123-VG-5-X	0.17	0.17	X	0.17			X	0.17		
		-	-								
Exhaust Fan - 9	GREENHECK/ SP	0.17	0.17	X	0.17			X	0.17		
		-	-								
Exhaust Fan - 10	GREENHECK/ SQ	0.17	0.17	X	0.17			X	0.17		
		-	-								
Exhaust Fan - 11	GREENHECK/ CUE-060-VG-X	0.17	0.17	X	0.17			X	0.17		
		-	-								
Exhaust Fan - 12	GREENHECK/	0.17	0.17	X	0.17			X	0.17		
		-	-								
ACCU-1	LIEBERT/ PFH037A-YHN	0.25	0.25	X	0.25			X	0.25		
		0.25	1.25			X	1.25			X	0.25
CRAC Unit - 1	LIEBERT/ MMD	1.00	1.00	X	1.00			X	1.00		
		1.00	1.00			X	1.00			X	1.00



Attachment A

Building: Firestone Police Department
Date: 12/1/20
Revision:

				Winter		Spring		Summer		Fall		
Tag	Equipment Description	Fall and Winter	Spring and Summer									
Domestic Hot Water Circ Pump - 1	TACO/	-	-									
		0.25	0.25			X	0.25			X	0.25	
Total Hours for Preventive Maintenance		70.50			14.00		22.00		11.00		23.50	
Travel and Setup Time		8.00										
Total Hours		78.50										

Condenser Coil Powerwash Time (Included in Spring visit) 5.75



PREVENTIVE MAINTENANCE MATERIAL LIST
Attachment B

193081
Firestone Police Department
12/1/20
Revision: 0

EQUIPMENT	MATERIAL DESCRIPTION	CHANGES PER YEAR	QUANTITY	ANNUAL QUANTITY
Air Handling Unit - 1	Filter 16 x 20 x 4 pleated	4	24	96
Air Handling Unit - 2	Filter 12 x 24 x 4 pleated	4	18	72
Exhaust Fan - 4 Rev 1	3L180	1	1	1
Air Compressor	B-60	1	4	4
	Air Filter 32170979	2	1	2
	SAE 20 Non Detergent - 1 Qt.	2	1	2
Boiler - 1	Burner Gasket 7738004985	1	2	2
	Combustion Analyzer	1	1	1
	Condensing Boiler Limestone Filter	1	1	1
Boiler - 2	Burner Gasket 7738004985	1	2	2
	Combustion Analyzer	1	1	1
	Condensing Boiler Limestone Filter	1	1	1
Domestic Water Heater - 1	Condensing Boiler Limestone Filter	1	1	1
Domestic Water Heater - 2	Condensing Boiler Limestone Filter	1	1	1
CRAC Unit - 1	Filter 16 x 25 x 4 pleated	4	1	4

Materials Subject to Field Verification



Firestone Police Department
12/1/20

Attachment C

Revision:

Alternates:

Last year's preventive maintenance cost was \$10,995

Included:

1. Cooling and heating seasonal startup on HVAC equipment.
2. Cooling and heating mid season inspection on HVAC equipment.
3. Annual belt changes on all equipment.
4. Quarterly filter changes on all roof top units.
5. Annual powerwashing of condenser coils.
6. Annual replacement of condensate neutralizers on boilers and domestic water heaters.
7. Annual combustion analysis on boilers.

Excluded:

1. Water treatment.
2. Building automation system.
3. Any equipment not listed on the equipment summary page is excluded.



Proposal for:		Proposal by:	
Contact:	Raelynn Ferrera		Rick Hodge
Client:	Town of Firestone		MTech Mechanical
Address:	7500 Pine Cone Avenue		12300 Pecos Street
City, State, Zip:	Firestone, CO 80504		Westminster, CO 80234
Phone:	303-531-6257		303-650-4000
Email:			
Building:	Firestone Police Department	Site Address:	
Date:	12/1/20		2 Park Avenue
Revision:			Firestone, CO 80504

This Proposal becomes a binding Services Agreement upon signature by the client as long as it is signed before _____ unless extended in writing by the MTech Mechanical ("MTech").

The name and address of the building owner is _____.
(Provide if different than the client information listed above.)

The Value of this Agreement is **\$11,233.00** the cost breakdown and payment terms are as follows:

Labor	\$8,635.00
Materials	\$2,598.00
Tax	\$.00
Subcontracts	\$.00

Payment Cycle

- | | |
|--|--------------------|
| ☐ Lump sum payment after first visit | \$11,233.00 |
| ☐ Quarterly payments starting after the first maintenance visit | \$2,808.25 |

The Service Task Summary page(s), Attachment A, and the Material List page(s), Attachment B, that follow reflect all of the equipment, hours and parts included in this preventive maintenance agreement. Alternates, clarifications and exclusions are noted in Attachment C and the MTech rate sheet is Attachment D.

Credit card payments are subject to a 3% increase on total invoice.

The maintenance visit schedule is as set out in Attachment A. Should a need for repair occur outside the time of a scheduled visit, a maintenance visit may be conducted at that time and MTech may adjust the schedule in Attachment A accordingly.

MTech's response to a service call is dependent on the urgency level. Calls are classified as follows:

Emergency (mission critical failure or life threatening):

MTech will make its best efforts to respond within 2 hours of receiving notice. Client is responsible for taking precautions to prevent bodily injury, death or property damage including, but not limited to, contacting fire and medical emergency responders.

Urgent (conditions are compromising the ability to use the premises):

MTech will make its best efforts to respond same business day.

Routine:

MTech will be at your site as soon as our normal schedule will allow.



Client will meet MTech at the site of any service call and approve the services to be performed in writing. Should Client fail to do so, the service call will be completed and Client hereby waives any objections to the invoice for the service call.

Either party to this Agreement may terminate it upon 30 days written notice to the other. In the event of nonpayment, MTech may terminate this Agreement on 3 days written notice.

If MTech retains counsel due to client's failure to comply with its obligations under this Agreement, client agrees to pay the reasonable attorneys' fees, costs and expenses incurred by MTech even if there is no litigation or arbitration. In the event of arbitration or litigation the prevailing party shall be awarded its reasonable attorneys' fees, costs and related expenses of litigation. Payments must be received by MTech within 45 days of the date of the invoice. Payments not made when due will accrue interest at the rate of 5% per month beginning on the date the payment was due. Client agrees to pay all cost of collection, including but not limited to, attorney fees and costs.

Should a dispute arise out of this Agreement the parties may agree to resolve it by arbitration to be conducted in Denver, Colorado. Should the parties not agree to arbitration then the exclusive jurisdiction and venue for any litigation shall be in the courts of the City and County of Denver. Any dispute will be governed exclusively by the laws of the State of Colorado.

MTech's site maintenance books contain company proprietary and confidential information and may be left at the site for use by MTech technicians. Though Client is not obligated to secure the maintenance books, Client agrees not to distribute or otherwise make public the maintenance books or the information within.

This Agreement cannot be assigned without the written consent of MTech.

Written communications between the parties will be addressed to the contacts identified above.

This document contains the entire agreement between the parties.

For the protection of persons and property, MTech will comply with electrical flash protection rules and regulations established by OSHA, The National Electrical Code and NFPA 70E and others. Client acknowledges that unanticipated cost and time impacts may arise out of compliance with rules and regulations related to electrical flash protection.

A regulation issued by the State Engineers Office for the Colorado Division of Water Resources requires mechanical equipment service contractors to obtain a special permit for cleaning Heat Transfer Equipment (HTE). The Best Management Practices associated with this permitting process limit the type of chemicals and amount of water that can be used to clean HTE. Excessively dirty or oily HTE may require additional labor to clean. This will be done as needed on a time and materials basis. Client acknowledges that unanticipated cost and time impacts may arise out of compliance with regulations related to HTE service.

Rick Hodge

12/1/2020

MTech Name

Date

Client Name

Date

12/1/2020

MTech Signature

Date

Client Signature

Date

Firestone Police Department
Revision:

12/1/20



Firestone Police Department
December 1, 2020

MTech Mechanical Service Labor Rates

Effective March 1, 2020 through April 1, 2021

Preferred Hourly Rates / PM Contract Clients

	Straight Time	Over Time	Double Time
HVAC Hourly Rate PM	\$110.00	\$165.00	\$220.00
HVAC Hourly Rate T&M	\$113.00	\$169.50	\$226.00
Plumbing Hourly Rate PM	\$110.00	\$165.00	\$220.00
Plumbing Hourly Rate T&M	\$116.00	\$174.00	\$232.00
Specialist Chiller Technician Hourly Rate	\$175.00	\$262.50	\$393.75
Specialist Boiler Technician Hourly Rate	\$175.00	\$262.50	\$393.75

Street Hourly Rates

	Minimum Hour Charge	Straight Time	Over Time	Double Time
HVAC Hourly Rate	1.5	\$128.00	\$192.00	\$256.00
Plumbing Hourly Rate	1.5	\$120.00	\$180.00	\$240.00

Drain Cleaning Rates

	Minimum Hour Charge	Hourly Plumber Rate	Equipment Rate Per Visit
Drain Cleaning	1.5	\$110.00	\$0.00
Hydro Jetting (2 techs required)	2.0	\$110.00	\$300.00
Mini Jetting	1.5	\$110.00	\$150.00
Main and Secondary Line	1.5	\$110.00	\$25.00
Camera & Locate	1.5	\$110.00	\$55.00

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 6.e

Consent Agenda

Meeting Date: January 13, 2021

Initiated By: Marty Ostholthoff

Dept: Planning & Development

AGENDA TITLE

Resolution 21-04: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, ADOPTING THE THREE MILE PLAN FOR THE TOWN OF FIRESTONE, COLORADO

SUMMARY

Staff has prepared a resolution for consideration by the Board of Trustees to adopt the Three Mile Plan for the Town of Firestone.

Section 31-12-105(1)(e) C.R.S. requires the Town to adopt and update a plan at least annually, which generally describes the location, character, and extent of various public facilities in an area extending three miles beyond the municipal boundaries, prior to completing annexations of land within the three-mile area. The practice of most municipalities in Colorado has relied upon a compilation of various land use plans, procedures, and other documents that were previously adopted and utilized by the municipality as the "Three Mile Plan." Therefore, a resolution formally designating the compilation of land use plans, procedures, and documents as the "Three Mile Plan" for the Town of Firestone is proposed.

HISTORY AND PREVIOUS BOARD ACTION

n/a

RECOMMENDATION

Staff recommends that the Board of Trustees approve the attached resolution adopting the Three Mile Plan for the Town of Firestone.

ALTERNATIVES

n/a

ATTACHMENTS

1. Resolution 21-04

FINANCIAL CONSIDERATIONS

n/a

RESOLUTION NO. 21-04

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, ADOPTING THE THREE MILE PLAN FOR THE TOWN OF FIRESTONE, COLORADO

WHEREAS, pursuant to Section 31-12-105(1)(e), C.R.S. prior to the completion of any annexation within a three-mile area outside of the municipal boundaries of a municipality (“Three Mile Area”), a municipality is required to have in place a plan (“Three Mile Plan”) which generally describes the proposed location, character and extent of certain public facilities, located within the Three Mile Area; and;

WHEREAS, the Town of Firestone has enacted, adopted and approved the various plans, documents, ordinances and resolutions (collectively “Plans”) listed on “Exhibit A,” attached hereto and incorporated herein; and

WHEREAS, the Town Board has determined that the Plans, when considered together as a whole, adequately comply with the requirements of state law for the Three Mile Plan for the Town of Firestone;

WHEREAS, to ensure that future annexations by the Town of Firestone are completed in compliance with the provisions of state law, the Town Board, by this Resolution, desires to formalize its understanding and intention that the Plans serve as the Three Mile Plan for the Town of Firestone;

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

Section 1. The Plans, as described in “Exhibit A,” attached hereto and made a part of this resolution, when considered together as a whole, shall constitute the Three Mile Plan for the Town of Firestone required pursuant to Section 31-12-105(1)(e)(I), C.R.S. (the “Three Mile Plan”).

Section 2. The Three Mile Plan is hereby adopted.

Section 3. The Three Mile Plan shall be reviewed and revised as may be necessary or advisable, and shall be updated annually, and additional plans may be added to the Three Mile Plan from time to time, as they are developed and adopted.

[SIGNATURES ON FOLLOWING PAGE]

INTRODUCED, READ AND ADOPTED this 13th day of January, 2021.

TOWN OF FIRESTONE, COLORADO

Bobbi Sindelar, Mayor

ATTEST:

Jessica Koenig, Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

EXHIBIT A

TOWN OF FIRESTONE THREE MILE AREA PLAN ELEMENTS

Documents as may be amended from time to time:

- **Town of Firestone Municipal Code**
- **Town of Firestone 2013 Master Plan**
- **Town of Firestone Development Regulations**
- **Sump Basin Master Drainage Plan**
- **South Weld I-25 Corridor Master Drainage Plan**
- **Town of Firestone Design Standards & Construction Specifications for Public Improvements, 2020 Edition**
- **Town of Firestone Parks Design Criteria Manual**
- **Town of Firestone Raw Water Irrigation System Master Plan**
- **Town of Firestone Potable Master Plan**
- **Ordinance 916 – Residential Development Impact Fees & Funds**

AGENDA INFORMATION MEMORANDUM

FIRESTONE TOWN BOARD OF TRUSTEES



AIM#: 6.f

Consent Agenda

Meeting Date: January 13, 2021

Initiated By: Raelynn Ferrera

Dept: Administration

AGENDA TITLE

Resolution 21-05: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND TIMBERLAN SMALL BUSINESS GROUP, INC., FOR PROFESSIONAL INFORMATION TECHNOLOGY SERVICES

SUMMARY

TimberLAN Small Business Group (TimberLAN) has served as the Town of Firestone's IT management consultant since 2007. TimberLAN has been in business since 2001, serving municipalities, including Town of Frederick, Town of Pierce, Town of Kersey, Town of Lochbuie, City of Dacono, St. Vrain Sanitation District, and Carbon Valley Academy.

This agreement for Annual IT Services will replace the Engagement Agreement entered into in 2007 and renewed annually.

The 2020 Services include:

Professional Services:

Annual IT Service Agreement - TimberLAN

TH Construction project - TimberLAN

PW Remodel and Expansion project - TimberLAN

Cell Phone Management – TimberLAN

PD MDT & Video Support - TimberLAN

Service Subscriptions/Maintenance:

VDI Subscriptions – TimberLAN

Virus, Spam & Endpoint Security

Hosted Services:

Disaster Recovery & Remote Backup - TimberLAN

HISTORY AND PREVIOUS BOARD ACTION

RECOMMENDATION

Staff recommends approval of the Professional Services Agreement with TimberLAN Small Business Group and authorizing Town staff to execute the agreement and expend budgeted funds.

ALTERNATIVES

ATTACHMENTS

1. 2121 TimberLAN Annual IT Services -RESO
2. TimberLAN-Firestone 2021 Agreement

FINANCIAL CONSIDERATIONS

Annual IT Service Agreement	\$
	120,000.00
Anti-Virus Subscription	\$
	8,200.00
Special Projects	\$
	3,200.00
Virtual Server Rebuilds	\$
	35,000.00
Network Maintenance	\$
	132,000.00
Cisco Phone Support	\$ 7,200.0
	0
Hosted Services	\$ 94,800.
	00
VDI Subscriptions	\$ 51,000.
	00
MDT Support & PD Video Support	\$ 30,000.
	00
Disaster Recovery & Remote Backup	\$ 50,400.
	00
Email Security	\$
	2,000.00
Security - Virus, Spam and Endpoint	\$
	11,800.00
PD Panasonic Project	\$
	15,000.00

RESOLUTION NO. 21-05

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE,
COLORADO, APPROVING AN AGREEMENT BETWEEN THE TOWN OF
FIRESTONE AND TIMBERLAN SMALL BUSINESS GROUP, INC., FOR
PROFESSIONAL INFORMATION TECHNOLOGY SERVICES**

WHEREAS, TimberLAN Small Business Group, Inc., has been providing Information Technology ("IT") Services to the Town of Firestone ("Town") on an annual basis since 2007; and

WHEREAS, in negotiating terms for the agreement's annual renewal, the Town, as part of its updating of administrative procedures, desires to use its current Professional Services Agreement.

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

The Professional IT Services Agreement between the Town of Firestone and TimberLAN Small Business Group, Inc., 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 _____, 2021.

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 ____ day of _____, 2021 (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 **TIMBERLAN SMALL BUSINESS GROUP, INC** an independent contractor with a principal place of business at 191 University Blvd. Suit 313 Denver, Colorado 80206.

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: **2021 Annual IT Services**.

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 an amount not to exceed **\$570,600.00**. 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

Bobbi Sindelar , Mayor

ATTEST:

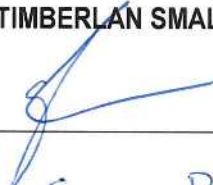
Jessica Koenig, Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

TIMBERLAN SMALL BUSINESS GROUP, INC

By:


Eric Bradac
President

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:

(SEAL)

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:

Annual IT Service Agreement	\$ 120,000.00
Anti-Virus Subscription	\$ 8,200.00
Special Projects	\$ 3,200.00
Virtual Server Rebuilds	\$ 35,000.00
Network Maintenance	\$ 132,000.00
Cisco Phone Support	\$ 7,200.00
Hosted Services	\$ 94,800.00
VDI Subscriptions	\$ 51,000.00
MDT Support & PD Video Support	\$ 30,000.00
Disaster Recovery & Remote Backup	\$ 50,400.00
Email Security	\$ 2,000.00
Security - Virus, Spam and Endpoint	\$ 11,800.00
PD Panasonic Project	\$ 15,000.00

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 6.g

Consent Agenda

Meeting Date: January 13, 2021

Initiated By: Raelynn Ferrera

Dept: Administration

AGENDA TITLE

Resolution 21-06: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, AUTHORIZING PAYMENT OF THE COLORADO INTERGOVERNMENTAL RISK SHARING AGENCY'S INSURANCE PREMIUMS FOR 2021 PROPERTY AND CASUALTY COVERAGE

SUMMARY

This resolution will authorize the payment to CIRSA for 2021 insurance premiums for the following coverages:

Coverages

Police Professional Liability
Water Line Ruptures / Sewer Back-up
Property Damage
Property Damage from Mobile Equipment
General Liability
Auto Physical Damage
Auto Liability
Public Officials E&O Liability
Excess Crime
Community Service Workers Accident Medical Plan
(CSWAMP)
Detainee Medical
Equipment Breakdown

HISTORY AND PREVIOUS BOARD ACTION

RECOMMENDATION

Approve Resolution 21-06, authorizing Staff to expend funds.

ALTERNATIVES

ATTACHMENTS

1. CIRSA Ins Premium 2021 Reso

FINANCIAL CONSIDERATIONS

Coverage	2021 Premium
Police Professional Liability	\$82,733.25
Water Line Ruptures / Sewer Back-up	\$1,768.00
Property Damage	\$40,257.25

Property Damage from Mobile Equipment	\$1,000.00
General Liability	\$28,278.04
Auto Physical Damage	\$21,787.89
Auto Liability	\$31,903.44
Public Officials E&O Liability	\$73,030.42
Excess Crime	\$550.00
CSWAMP	\$163.50
Detainee Medical	\$6,668.00
Equipment Breakdown	\$1,868.00
2020 Loss Control Audit Credit	(\$4,223.00)
Loss Control Credit Account	(\$2,902.00)
Total	\$282,882.79

RESOLUTION NO. 21-06

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF
FIRESTONE, COLORADO, AUTHORIZING PAYMENT OF THE
COLORADO INTERGOVERNMENTAL RISK SHARING AGENCY'S
INSURANCE PREMIUMS FOR 2021 PROPERTY AND CASUALTY
COVERAGE**

WHEREAS, the Colorado Intergovernmental Risk Sharing Agency ("CIRSA") is a municipal self-insurance pool that provides coverage for municipal entities within the state; and

WHEREAS, the Town of Firestone is a CIRSA member and thus responsible for payment of the coverages provided by CIRSA for the Town; and

WHEREAS, the Board of Trustees desires to approve the 2021 premiums for the coverages listed herein.

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

The Board of Trustees authorizes payment to CIRSA for the 2021 premiums for the following coverages: police professional liability, waterline ruptures/sewer backups, property damage, property damage from mobile equipment, general liability, auto physical damage, auto liability, public officials errors and omissions liability, excess crime, community service workers accident plan and equipment breakdown.

INTRODUCED, READ AND ADOPTED this __ day of _____, 2021.

TOWN OF FIRESTONE, COLORADO

Bobbi Sindelar, Mayor

ATTEST:

Jessica Koenig, CMC Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 6.h

Consent Agenda

Meeting Date: January 13, 2021

Initiated By: Julie Pasillas

Dept: Public Works

AGENDA TITLE

Resolution 21-11: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING THE SEVENTEENTH INTERIM AGREEMENT BETWEEN THE NORTHERN INTEGRATED SUPPLY PROJECT WATER ACTIVITY ENTERPRISE AND THE TOWN OF FIRESTONE FOR PARTICIPATION IN THE NORTHERN INTEGRATED SUPPLY PROJECT

SUMMARY

The Seventeenth Interim Agreement is to be executed with all NISP participants. The costs associated with the agreement will cover 4 phases explained below. The 2021 cost for the Town of Firestone's participation is \$474,500.00.

Phase 3A consists of a continuation of the permitting work associated with NISP. The work in 2021 will largely be remaining efforts supporting the final 404 permit and Record of Decision, response to comments on the Final EIS, mitigation development, and continuation of the Larimer County IGA process. Additionally, there will be work in support of the public information effort for NISP and overall Northern Water administration and legal support.

Phase 5 will consist of the Glade geotechnical investigation and embankment design advancement and Highway 287 relocation thirty percent design. Construction Management/General Contractors (CM/GC) will be selected for Glade Reservoir and Highway 287 and will assist in design development and cost estimating.

Phase 6 involves the following additional 2021 activities:

- NISP conveyance will continue to be refined, including evaluation of Participant flow requirements, pipeline sizing and route refinement, delivery system exchange potential, C-BT exchange potential, conveyance cost estimating, and cost allocation methodology development.
- South Platte Water Conservation Project negotiations will be advanced with the affected ditch companies, and shareholder cooperative agreements will be developed.
- Land and easement requirements will be more specifically identified.
- Mitigation plans will continue to be advanced, and time-sensitive mitigation activities may be pursued.

Phase 7 involves the following 2021 activities:

- Project financial planning
- Allotment contract development
- Legal defense of the Army Corps of Engineers 404 permit, the State of Colorado 401 Water Quality Certification, and the Larimer County 1041 Permit.

HISTORY AND PREVIOUS BOARD ACTION

In January 2020, the Sixteenth Interim Agreement between Northern Colorado Water Conservancy District and the Town of Firestone was approved by the Board of Trustees.

Until the fiscal year 2009, the Town of Firestone participated in the NISP project under the umbrella of the Central Weld County Water District (CWCWD). At the regular Board meeting on October 22, 2009, the Town of Firestone Board of Trustees approved a NISP Assignment Agreement negotiated with CWCWD. In general, the agreement allowed for the transfer of 1,300 acre-feet (3.25% of the total project) of CWCWD's interest to the Town of Firestone. Once executed, the Town of Firestone became a direct participant of the project.

RECOMMENDATION

Staff recommends that the Board of Trustees approve the NISP Seventeenth Interim Agreement with NCWCD and fund the payment as requested in the agreement for the Town's participation in NISP.

ALTERNATIVES

The Board may decide not to approve the Agreement and provide staff with additional direction.

ATTACHMENTS

1. Res No 21-11 NISP Seventeenth Interim Participation Agreement
2. NISP Seventeenth Interim Participation Agreement

FINANCIAL CONSIDERATIONS

The Town has budgeted for NISP participation costs of \$474,500.00 for 2021, to be paid by the Water Fund.

RESOLUTION NO. 21-11

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING THE SEVENTEENTH INTERIM AGREEMENT BETWEEN THE NORTHERN INTEGRATED SUPPLY PROJECT WATER ACTIVITY ENTERPRISE AND THE TOWN OF FIRESTONE COLORADO ACTING WITH AND ON BEHALF OF THE FIRESTONE WATER ACTIVITY ENTERPRISE FOR PARTICIPATION IN THE NORTHERN INTEGRATED SUPPLY PROJECT

WHEREAS, the Northern Integrated Supply Project Water Activity Enterprise (“NISP Enterprise”) is developing a water project (“Project”) for the purpose of developing a new reliable water supply for the beneficial use of the Town of Firestone acting with and on behalf of the Firestone Water Activity Enterprise and other entities; and

WHEREAS, overall Project costs are divided among the entities that participate in the Project; and

WHEREAS, Phases 1, 2 and 4 of the Project have been completed and years one through six of the 3rd Phase, have been completed; and

WHEREAS, it is necessary that the NISP Enterprise pursue years 7 through 18 of the Project (referred to as Phase 3A) and Phases 5, 6 and 7 of the Project at this time in order to be able to complete the Project on the time schedule desired by the participants; and

WHEREAS, pursuing Phases 3A, 5, 6 and 7 of the Project on behalf of the participants will require funding from the participants.

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

The Seventeenth Interim Agreement between the Northern Integrated Supply Project Water Activity Enterprise and the Town of Firestone acting with and on behalf of the Firestone Water Activity Enterprise for Participation in the Northern Integrated Supply 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 Seventeenth Interim Agreement on behalf of the Town of Firestone acting with and on behalf of the Firestone Water Activity Enterprise.

INTRODUCED, READ AND ADOPTED this 13th day of January, 2021.

TOWN OF FIRESTONE, COLORADO

Bobbi Sindelar, Mayor

ATTEST:

Jessica Koenig, CMC, Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

SEVENTEENTH INTERIM AGREEMENT WITH THE
NORTHERN INTEGRATED SUPPLY PROJECT WATER ACTIVITY ENTERPRISE,
FOR PARTICIPATION IN THE
NORTHERN INTEGRATED SUPPLY PROJECT

This Agreement is made and entered into as of _____, 2021, by and between the Northern Integrated Supply Project Water Activity Enterprise, a government-owned business within the meaning of Article X, § 20(2)(d) of the Colorado Constitution, organized pursuant to C.R.S. §§ 37-45.1-101 *et seq.*, owned by the Northern Colorado Water Conservancy District, and whose address is 220 Water Avenue, Berthoud, Colorado 80513 (the "NISP Enterprise"), and the Town of Firestone, a municipal corporation, acting with and on behalf of the Firestone Water Activity Enterprise, a government-owned business within the meaning of Article X, § 20(2)(d) of the Colorado Constitution, organized pursuant to C.R.S. § 37-45.1-101 *et seq.*, and owned by the Town of Firestone, whose address is P.O. Box 100, Firestone, CO 80520-0100 ("Participant").

Recitals

- A. The NISP Enterprise is developing a water project (the "Project") for the purpose of developing a new reliable water supply for the beneficial use of the Participant and other entities.
- B. Overall Project costs will be divided among the entities that participate in the Project.
- C. The First, Second, and Fourth Phases of the Project, and years one through six of the Third Phase, have been completed.
- D. The Third Phase, Years 7 through 18 (hereinafter referred to as "Phase 3A"), will consist of further agency consultation, permitting with the U.S. Army Corps of Engineers and other agencies, compliance with the National Environmental Policy Act and other requirements for federal permitting, field work, and analysis for permitting, modeling, and other activities related to designing and permitting the Project.
- E. The Fifth Phase of the Project consists of the Glade Reservoir geotechnical investigation and embankment design advancement, Glade Reservoir Construction Manager/General Contractor (CM/GC) design involvement, Highway 287 relocation thirty percent design and CM/GC design involvement, and completion of the Galeton Dam preliminary design.
- F. The Sixth Phase involves continued NISP conveyance delivery refinement, South Platte Water Conservation Project negotiations, land and easement definition and potential purchase, and potential advancement of time-sensitive mitigation activities.
- G. The Seventh Phase involves the development of a NISP Allotment Contract, financial project planning, legal defense of the Project permits, and overall project administration.
- H. It is necessary that the NISP Enterprise pursue Phases 3A, 5, 6, and 7 of the Project at

this time in order to be able to complete the Project on the time schedule desired by the participants.

- J. Pursuing this Phases 3A, 5, 6, and 7 of the Project on behalf of the participants will require continued funding from the participants.

Agreement

1. The Participant agrees to participate in Phases 3A, 5, 6, and 7 of the Project, under and pursuant to the terms and conditions of this Agreement. The Participant acknowledges that it shares a common interest in development of the Project and that privileged material may be shared with the Participant from time to time. A description of Phase 3A, Phase 5, Phase 6, and Phase 7 is included in Exhibit A. Participation in these phases of the Project in no way obligates the Participant to participate in subsequent phases of the Project or to continue involvement in the Project in any manner.
2. For the purposes of cost allocation in Phase 3A, Phase 5, Phase 6, and Phase 7, the cost is based upon the Participant's base requested capacity divided by the total requested base Project yield. The Participant's initial base requested capacity in the Project is 1,300 acre-feet of water yield. Attached hereto as Exhibit B is a table showing the currently anticipated permitted capacity in the Project and the pro rata share of the costs of the Project for 2021 for each Participant. Exhibit B also shows the projected budgets and projected pro rata shares of the costs of the Project for 2022 and 2023 for each Participant. The costs covered by this Agreement shall be separate from costs covered by the NISP Phase I Agreement between the NISP Enterprise and the Participant. The Participant may request a reduction, but not an increase, in base requested capacity, which will be implemented by the NISP Enterprise so long as any increased costs of design, environmental studies, permitting or other matters are paid by the Participant pursuant to its pro-rata cost basis. If a reduction in the Participant's base requested capacity is made, the formula for allocation of costs among the participants shall be changed accordingly so that all participants bear a pro rata share of the Phase 3A, Phase 5, Phase 6, and Phase 7 costs of the Project after the change based on their final base requested capacities. For purposes of the environmental analysis for the Project, the Participant's permitted capacity in the Project is 1,300 acre-feet of water yield. In the event that the Participant's base requested capacity is increased or decreased, the Participant's permitted capacity shall be increased or decreased in the same percentage as the percentage increase or decrease of the base requested capacity.
3. The Participant agrees to provide to the NISP Enterprise funds for its pro rata share of the anticipated 2021 costs necessary for Phase 3A, Phase 5, Phase 6, and Phase 7 of the Project. The NISP Enterprise estimates that the Participant's pro rata share of the costs of the Project is \$474,500.00 for 2021. The Participant will pay the NISP Enterprise its pro rata share of these 2021 costs on or before January 15, 2021. The NISP Enterprise will invoice the Participant for this payment. These estimated costs will not be increased or exceeded without the prior written approval of the Participant. Participant funds that are not expended during Phase 3A, Phase 5, Phase 6, and Phase 7 will be rebated back to

each participant pro rata based on each participant's contribution of funds to the Project in Phase 3A, Phase 5, Phase 6, and Phase 7.

4. In the event that the Participant fails to make the payment set forth above at the specified time, the NISP Enterprise shall have the right to terminate this Agreement and cease all work on the Project for the benefit of the Participant. The NISP Enterprise shall give the Participant thirty (30) days' advance written notice of its intention to terminate this Agreement and cease work on the Project for the Participant's benefit under this paragraph. The Participant shall have until the end of said 30-day period in which to make all past due payments in full in order to cure its default hereunder. The Participant shall in any event be responsible for its pro rata share of the 2021 costs of Phase 3A, Phase 5, Phase 6, and Phase 7 of the Project actually incurred by the NISP Enterprise up to the date of termination of this Agreement.
5. The NISP Enterprise agrees to diligently pursue Phase 3A, Phase 5, Phase 6, and Phase 7 of the Project in good faith to the extent that funds therefor are provided by the Participant under this Agreement and by other participants under similar agreements. By entering into this Agreement and accepting payments from the Participant, the NISP Enterprise does not obligate itself to, nor does the NISP Enterprise warrant that it will, proceed with the Project beyond Phase 7 or that it will construct or operate the Project. At the end of the Sixth Phase, the NISP Enterprise will determine after consultation with the participants whether to proceed with the Project. The NISP Enterprise agrees that, if the participants provide all required funding, if the NISP Enterprise has the ability, and if the Project is feasible and practical, it will pursue the construction and operation of the Project if requested to do so by a sufficient number of participants to fully fund the Project. In the event that the NISP Enterprise decides not to proceed with the Project, it will so notify the Participant and this Agreement will immediately and automatically terminate upon the giving of such notice.
6. In the event of termination of the Project, the Participant shall not be entitled to any return of funds paid to the NISP Enterprise for the Project, unless payments by participants exceed the NISP Enterprise's costs, in which case a pro rata refund will be made. In the event of such termination, the Participant shall be entitled to receive copies of any work products developed by the NISP Enterprise or its consultants on behalf of the Participant, and NISP Enterprise Board shall, in its sole discretion: (i) convey to the Participant, as a tenant in common with all other participants who have not been terminated under paragraph 4 above, a pro rata interest in all real and personal property acquired by the NISP Enterprise for the Project with funds provided under this Agreement or similar agreements with other participants; or (ii) disburse to the Participants the proceeds of any sale of assets in proportion to each Participant's Cost Share.
7. The Participant shall have the right to assign this Agreement and the Participant's rights hereunder, with the written consent of the NISP Enterprise, which consent shall not be unreasonably withheld, to any person or entity that is eligible to receive water deliverable through the Project and that is financially able to perform this Agreement.

8. In the event that this Agreement is terminated for any reason, the Participant shall not be entitled to any return of any funds paid to the NISP Enterprise for the Project, and the NISP Enterprise shall have no further obligations to the Participant, except as provided in Paragraphs 3 and 6 above for those participants who have not been terminated under Paragraph 4 above.
9. Notwithstanding any other provision of this Agreement to the contrary, the Participant's maximum financial obligation under this Agreement shall be the payment of \$474,500.00 set forth in paragraph 3 above. The Participant shall have the right to terminate this Agreement at any time. In the event of such termination, each of the parties hereto shall be immediately released from all obligations recited herein as if this Agreement had not been entered into, except that the Participant shall be entitled to a return of funds paid to the NISP Enterprise as provided in paragraph 8 above.
10. In the event that additional costs must be incurred for Phase 3A, Phase 5, Phase 6, and Phase 7 in 2021, the parties may amend this Agreement in writing to provide for further payment by the Participant of the costs for 2021. However, the Participant is not obligated under this Agreement to pay any costs for Phase 3A, Phase 5, Phase 6, and Phase 7 beyond the costs stated in paragraph 3 above.
11. This Agreement shall be interpreted under the laws of the State of Colorado. Venue for any disputes concerning this Agreement shall be in the Weld County, Colorado, District Court.
12. Nothing in this Agreement shall be construed to waive the protections and immunities afforded the NISP Enterprise and the Participant under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101 et seq., and any similar or successor statutes of the State of Colorado.
13. Except for the obligation to pay money, neither party shall be liable to the other party for any delay or inability to perform its obligations hereunder by reason of acts of God, acts of the public enemy, riot, civil commotion, insurrection, acts or failure to act of governmental authorities, war, pandemic, or any other cause or causes beyond the party's reasonable control.
11. This Agreement is the entire agreement between the NISP Enterprise and the Participant regarding participation in Phase 3A, Phase 5, Phase 6, and Phase 7 of the Project and shall be modified by the parties only by a duly executed written instrument approved by the Participant and the NISP Enterprise's Board of Directors.
12. This Agreement is subject to approval by the NISP Enterprise's Board of Directors and shall become binding on the NISP Enterprise only upon such approval.

**The Northern Integrated Supply Project Water
Activity Enterprise**

By: _____

Name: Bradley D. Wind

Title: General Manager

**The Town of Firestone, a municipal corporation,
acting with and on behalf of the Firestone Water
Activity Enterprise, a government-owned
business within the meaning of Article X, §
20(2)(d) of the Colorado Constitution, organized
pursuant to C.R.S. § 37-45.1-101 *et seq.*, and
owned by the Town of Firestone**

By: _____

Name: _____

Title: _____

EXHIBIT A
DESCRIPTION OF PHASE 3A, PHASE 5, PHASE 6, and PHASE 7
NORTHERN INTEGRATED SUPPLY PROJECT

Phase 3A consists of a continuation of the permitting work associated with NISP. The work in 2021 will largely be remaining efforts in support of the final 404 permit and Record of Decision, response to comments on the Final EIS, mitigation development, and continuation of the Larimer County IGA process. Additionally, there will be work in support of the public information effort for NISP as well as overall Northern Water administration and legal support.

Phase 5 will consist of the Glade geotechnical investigation and embankment design advancement and Highway 287 relocation thirty percent design. Additionally, Construction Management/General Contractors (CM/GC) will be selected for Glade Reservoir and Highway 287 and will assist in design development and cost estimating.

Phase 6 involves the following additional 2021 activities:

- NISP conveyance will continue to be refined including evaluation of Participant flow requirements, pipeline sizing and route refinement, delivery system exchange potential, C-BT exchange potential, conveyance cost estimating, and cost allocation methodology development.
- South Platte Water Conservation Project negotiations will be advanced with the affected ditch companies and shareholder cooperative agreements will be developed.
- Land and easement requirements will be more specifically identified.
- Mitigation plans will continue to be advanced and time sensitive mitigation activities may be pursued.

Phase 7 involves the following 2021 activities:

- Project financial planning
- Allotment contract development
- Legal defense of the Army Corps of Engineers 404 permit, the State of Colorado 401 Water Quality Certification, and the Larimer County 1041 Permit.

EXHIBIT B
PARTICIPANT YIELD AND COSTS
PHASE 3A, PHASE 5, PHASE 6, and PHASE 7

Northern Integrated Supply Project	Rev. 2.1	11/18/2020			
Year 2021-2023 Preliminary Preconstruction Budget					
<i>Assumes Construction Starting in Oct. 2023</i>					
Item	2021	2022	2023		
Glade Design Activities	\$ 3,600,000	\$ 6,100,000	\$ 4,700,000		
Glade CMGC Design Support	\$ 1,400,000	\$ 4,900,000	\$ 300,000		
HW 287 Design Activities	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000		
NISP Delivery Refinement	\$ 1,000,000	\$ 1,700,000	\$ 1,800,000		
River Intake Predesign and Design	\$ 300,000	\$ 300,000	\$ 400,000		
Program Management	\$ 300,000	\$ 600,000	\$ 600,000		
Environment&Mitigation	\$ 2,500,000	\$ 2,800,000	\$ 2,000,000		
Financing Consultant	\$ -	\$ 100,000	\$ 100,000		
WQ Sample Testing	\$ 200,000	\$ 200,000	\$ 200,000		
Northern Water	\$ 1,600,000	\$ 1,700,000	\$ 1,800,000		
Legal	\$ 400,000	\$ 400,000	\$ 400,000		
Communications	\$ 100,000	\$ 100,000	\$ 100,000		
ROW-Land Appraisal/Title/Survey	\$ 200,000	\$ 200,000	\$ 200,000		
Pipeline Easements	\$ 500,000	\$ 500,000	\$ 500,000		
SPWCP Negotiations	\$ 200,000	\$ 200,000	\$ 200,000		
Contingency/Other (10%)	\$ 1,300,000	\$ 2,100,000	\$ 1,400,000		
Total	\$ 14,600,000	\$ 22,900,000	\$ 15,700,000		
	Project Yield	Percent of	2021	2022	2023
Participant	(Acre-ft)	Project	Budget	Budget	Budget
Central Weld Co. W.D.	3,500	8.75%	\$ 1,277,500	\$ 2,003,750	\$ 1,373,750
Dacono	1,250	3.13%	\$ 456,250	\$ 715,625	\$ 490,625
Firestone	1,300	3.25%	\$ 474,500	\$ 744,250	\$ 510,250
Frederick	2,600	6.50%	\$ 949,000	\$ 1,488,500	\$ 1,020,500
Eaton	1,300	3.25%	\$ 474,500	\$ 744,250	\$ 510,250
Erie	6,500	16.25%	\$ 2,372,500	\$ 3,721,250	\$ 2,551,250
Evans	1,200	3.00%	\$ 438,000	\$ 687,000	\$ 471,000
Fort Collins-Loveland. W.D.	3,400	8.50%	\$ 1,241,000	\$ 1,946,500	\$ 1,334,500
Fort Lupton	2,050	5.13%	\$ 748,250	\$ 1,173,625	\$ 804,625
Fort Morgan	3,600	9.00%	\$ 1,314,000	\$ 2,061,000	\$ 1,413,000
Lafayette	1,800	4.50%	\$ 657,000	\$ 1,030,500	\$ 706,500
Lefthand W.D.	4,900	12.25%	\$ 1,788,500	\$ 2,805,250	\$ 1,923,250
Morgan County Q.W.D.	1,300	3.25%	\$ 474,500	\$ 744,250	\$ 510,250
Severance	2,000	5.00%	\$ 730,000	\$ 1,145,000	\$ 785,000
Windsor	3,300	8.25%	\$ 1,204,500	\$ 1,889,250	\$ 1,295,250
Total	40,000	100.00%	\$ 14,600,000	\$ 22,900,000	\$ 15,700,000

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 6.i

Consent Agenda

Meeting Date: January 13, 2021

Initiated By: Julie Pasillas

Dept: Public Works

AGENDA TITLE

Resolution 21-12: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING THE COMMON INTEREST JOINT DEFENSE AND CONFIDENTIALITY AGREEMENT BETWEEN THE TOWN OF FIRESTONE, NORTHERN COLORADO WATER CONSERVANCY DISTRICT ("NISP ENTERPRISE") ("NORTHERN WATER") AND THE GOVERNMENTAL ENTITY PARTICIPANTS IN THE NORTHERN INTEGRATED SUPPLY PROJECT

SUMMARY

At Northern Water's request, all NISP participants will enter into a Common Interest, Joint Defense, and Confidentiality Agreement. With the anticipated final Record of Decision by the Army Corps of Engineers, there is the anticipation of future legal challenges. This agreement confirms the existence of common interests among all participants of the project.

HISTORY AND PREVIOUS BOARD ACTION

Since 2009, the Town of Firestone has been a direct participant in NISP.

RECOMMENDATION

Staff recommends that the Board of Trustees approve the Common Interest, Joint Defense, and Confidentiality Agreement.

ALTERNATIVES

The Board may decide not to approve the Agreement and provide staff with additional direction.

ATTACHMENTS

1. Res No 21-12 NISP Common Interest Joint Defense
2. NISP Common Interest Agreement

FINANCIAL CONSIDERATIONS

None at this time.

RESOLUTION NO. 21-12

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF
FIRESTONE, COLORADO, APPROVING THE COMMON INTEREST JOINT
DEFENSE AND CONFIDENTIALITY AGREEMENT BETWEEN THE TOWN
OF FIRESTONE, NORTHERN COLORADO WATER CONSERVANCY
DISTRICT (“NISP ENTERPRISE”) (“NORTHERN WATER”) AND THE
GOVERNMENTAL ENTITY PARTICIPANTS IN THE NORTHERN
INTEGRATED SUPPLY PROJECT**

WHEREAS, Northern Water and the NISP Enterprise are developing and constructing and will operate the Northern Integrated Supply Project (“Project”) that will deliver water to the Project’s Participants, all of which, including the Town of Firestone are municipal water providers serving communities on the East Slope of the State; and

WHEREAS, all the parties have engaged the services of attorneys, engineers, and consultants, and seek that the work of all be conducted pursuant to a Common Interest, Joint Defense and Confidentiality Agreement (“Agreement”); and

WHEREAS, the Agreement will allow the parties to make available to each other privileged information and communications and permit the parties to pursue a joint defense for any potential or actual litigation; and

WHEREAS, the Agreement will also facilitate common interest representation among the parties while also acknowledging that at times, dependent upon the circumstances, certain information may not be disclosed among the parties.

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

The Common Interest Joint Defense and Confidentiality Agreement Between the Town of Firestone, Northern Colorado Water Conservancy District (“NISP Enterprise”) (“Northern Water”) and the Participants in the Northern Integrated Supply 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 __ day of _____, 2021.

TOWN OF FIRESTONE, COLORADO

Bobbi Sindelar, Mayor

ATTEST:

APPROVED AS TO FORM:

Jessica Koenig, CMC, Town Clerk

William P. Hayashi, Town for Attorney

COMMON INTEREST, JOINT DEFENSE, AND CONFIDENTIALITY AGREEMENT

This Common Interest, Joint Defense, and Confidentiality Agreement ("Agreement") is made and entered into on _____, by and among the Northern Integrated Supply Project Water Activity Enterprise, a government-owned business within the meaning of Article X, §20(2)(d) of the Colorado Constitution, organized pursuant to C.R.S. § 37-42.5-101 et seq., and owned by the Northern Colorado Water Conservancy District ("NISP Enterprise"), the Northern Colorado Water Conservancy District ("Northern Water"), and the governmental entities listed on attached Exhibit A, which Exhibit may be amended by Northern Water and the NISP Enterprise from time to time to add entities that have a legal interest in NISP (sometimes referred to collectively in this Agreement as the "Parties," or individually as a "Party"). The date of this Agreement is _____.

RECITALS

- A. Northern Water and the Enterprise are in the process of developing and constructing, and will in the future operate, the Northern Integrated Supply Project, which will include, without limitation, new reservoirs, forebay reservoirs, pumping plants and pipelines (the "Project"). The Project will deliver water from the Cache La Poudre and South Platte Rivers to the Participants. The Participants are municipal water providers serving communities on the East Slope of the state of Colorado. The Participants are: Central Weld County Water District, Town of Dacono, Town of Eaton, Town of Erie, City of Evans, Town of Firestone, Fort Collins-Loveland Water District, City of Fort Lupton, City of Fort Morgan, Town of Frederick, City of Lafayette, Left Hand Water District, Morgan County Quality Water District, Town of Severance, and the Town of Windsor. The Participants will receive water through the Project.
- B. All Parties are interested in and will be affected and/or benefited by the development, construction and operation of the Project.
- C. Since at least 2004, Northern Water has been developing and permitting the Project with federal, state and local authorities, including *inter alia*, the U.S. Army Corps of Engineers, Colorado Department of Public Health and Environment, Colorado Department of Natural Resources and Larimer County.
- D. The Parties anticipate that one or more persons or entities may bring legal challenges relating to the development, construction or operation of the Project.
- E. The parties understand and agree that the purpose of this Agreement is to confirm the existence of a common interest among the Parties in the development, construction and operation of the Project, which provides benefits to the Parties including, but not necessarily limited to, the following:
 - i. Allowing and encouraging the free exchange of information by and between the signatories to this Agreement regarding development, construction and operation of the Project and prosecution or defense of legal actions challenging the Project; and

- ii. Sharing of labor in connection with research, investigation, expert analysis and opinions related to the Project; and
- iii. Reduction in legal fees, engineering fees, and other costs related to the Project.

AGREEMENT

1. The Parties have engaged the services of various attorneys, law firms, engineers and consultants with respect to the Project.
2. All work performed by, and all communications between, the Parties and their officers, employees, attorneys, law firms, engineers, consultants and consulting firms with respect to the development, analysis, and prosecution of the Project shall be conducted and perceived pursuant to the joint defense doctrine recognized in such cases as *Black v. Southwestern Water Conservation District*, 74 P.3d 462 (Colo. Ct. App. 2003), *Gordon v. Boyles*, 9. P.3d 1106 (Colo. 2000), and *Ritter v. Jones*, 207 P.3d 954 (Colo. Ct. App. 2009), and subject to the privilege therein described ("Common Interest Privilege").
3. The Parties may make available to each other privileged information and communications, both oral and written, including but not limited to, past and future, notes, reports, documents, memoranda, research, discussions among the Parties or their attorneys or consultants, at meetings, conferences or on telephones to investigate or to pursue a joint defense to any potential litigation or to litigation that commences; written or electronic communications between the Parties or their attorneys or consultants to investigate or to pursue a joint defense to any potential litigation or to litigation that commences; reports/analyses prepared by the Parties or their attorneys or consultants for any potential litigation or for any litigation that commences; and written and oral communications to or from the Parties and their attorneys or consultants, all in connection with the Project relating to the respective representations of the Parties, ("Common Interest Information"). The Common Interest Information may reflect and incorporate confidential communications made by the Parties to their attorneys and by their attorneys to them, which are protected by the attorney/client privilege, work product doctrine, or other applicable privilege from disclosure to others ("Primary Privilege"). It is the intent of this Agreement to ensure that the exchange of Common Interest Information among the Parties, shall not, in and of itself, result in any waiver or termination of the Primary Privilege because of the Parties' common interest in, and joint defense of, the Project and to preserve any privilege applicable to the Common Interest Information while pursuing the Parties' common interest and to keep all Common Interest Information confidential to the maximum extent allowed by law. Information obtained by the Parties as a result of exchanging Common Interest Information is protected from disclosure to any third party or non-client by the Parties' Primary Privilege in the same manner as if the exchange of Common Interest Information had not taken place.
4. A Party's disclosure of Common Interest Information exchanged pursuant to this Agreement shall not be deemed a waiver by the other Parties of their right to assert a

claim of the Common Interest Privilege and attorney/client or work-product privilege with respect to any Common Interest Information.

5. Because of the privileged nature of the Common Interest Information, no Party shall provide Common Interest Information to any non-Party or its representatives except as required by law or with the consent of the Party who first disclosed the Common Interest Information.
6. The Parties understand that the purpose of this Agreement is to facilitate common interest representation by increasing the information flow between the Parties. The Parties recognize, however, that under some circumstances, information known to one Party may not be shared with the other Parties to the Agreement.
7. Nothing in this Agreement is intended as, shall constitute, or shall be interpreted, construed or used as evidence of an admission by a Party of any wrongdoing, liability or fault (including comparative or proportionate fault), a waiver of any privilege, claim, right or defense, estoppel, or an admission as to any matter of law or fact, either as between the Parties or with respect to any person or entity not a party to this Agreement provided, however, that any Party shall be entitled to use this Agreement to enforce its terms.
8. Disclosure of information obtained from another Party by one of the Party's attorneys to his or her client is made pursuant to this Agreement and is not a waiver of the Primary Privilege or the Common Interest Privilege.
9. If any person or entity not a Party to this Agreement requests or demands, by subpoena or otherwise, any Common Interest Information from any Party or from any Party's agent, officer, employee, consultant, or representative, such Party shall: (1) immediately notify the other Parties, and (2) assert the Common Interest Privilege with respect to the requested Common Interest Information. Each Party and each Party's respective attorney shall take all steps necessary to assert all applicable rights and Primary Privilege with respect to such Common Interest Information and shall cooperate fully with the other Parties in any judicial proceedings related to the disclosure of the Common Interest Information.
10. All previous privileged communications, and all Common Interest Information previously exchanged, between the Parties and their respective attorneys, officers, agents, employees, consultants, and representatives, are subject to this Agreement.
11. Neither the execution nor the performance of this Agreement shall result in the inability of any party to this Agreement to use any data contributed by it to the effort, any raw data generated under this Agreement, or any expert opinion which has been disclosed to other parties in this or other litigation, in other ongoing or subsequent litigation.
12. Any Party may withdraw from this Agreement by giving written notice to every other Party of its election to withdraw.

13. Any Party that withdraws from this Agreement, together with such Party's respective attorneys and consultants, remains subject to all provisions herein as they pertain to Common Interest Information theretofore received, but not as to subsequent information. Any Party that withdraws from this Agreement shall promptly destroy or return to the other Parties all Common Interest Information in its possession or in the possession of its attorneys or consultants.
14. Each Party understands and acknowledges that it is represented only by its attorneys in this matter, that while an attorney representing any other Party has a duty to preserve the confidences disclosed to him or her pursuant to this Agreement, the attorneys representing any other Party will be acting only as attorneys for that other Party and will owe a duty of loyalty to their respective client only. Each Party will pay for the services of its respective attorneys.
15. Each Party understands that the Parties may now or in the future have some adverse interests and that the sharing of some confidences pursuant to this Agreement may lead to potential conflicts of interest of the various attorneys in the future. The Parties do not intend that the exchange of Common Interest Information will be a basis for the future disqualification of their respective attorneys and consultants and agree that they will not move for disqualification of attorneys or consultants in any matter solely on account of the exchange of Common Interest Information pursuant to this Agreement and waive any conflicts arising from the sharing of such confidences.
16. Colorado law shall control the interpretation and enforcement of this Agreement. This Agreement may be enforced in the Weld County, Colorado, District Court by a temporary restraining order and injunction in the event of a breach or anticipatory breach. The Parties accept jurisdiction and venue in that court. Any modification to this Agreement shall be in writing and signed by all Parties.
17. This Agreement shall be binding upon the Parties, their agents, consultants, and respective attorneys, even after the Northern Integrated Supply Project has been constructed and is operating. In addition, this Agreement shall be binding on the successors and assigns of the Parties, their agents, consultants, and respective attorneys.
18. Although the Parties are engaged in a common enterprise as described in paragraph E above, nothing in this Agreement shall be deemed to create a partnership, joint venture, and/or principal and agent relationship between the Parties and/or their respective attorneys or consultants.
19. If any provision of this Agreement is deemed invalid or unenforceable, the balance of the Agreement shall remain in full force and effect.
20. The Parties acknowledge that this Agreement is the result of joint negotiations among the Parties, and agree that this Agreement shall not be construed or interpreted against any Party on the grounds of sole or primary authorship.

21. Each person signing this Agreement represents and warrants that he or she has been duly authorized to execute this Agreement by the entity on whose behalf it is indicated that the person is signing.

22. This Agreement may be executed in counterparts, each of which shall be deemed an original.

IN WITNESS WHEREOF, the Parties have executed this Agreement in duplicate originals, as of the date first above written.

Northern Integrated Supply Project Water Activity Enterprise

By: _____
Bradley D. Wind, General Manager

**Central Weld County Water District Water Activity Enterprise, organized pursuant to
C.R.S. § 37-45.1-101 *et seq.*, and owned by Central Weld County Water District, a
Colorado special district and quasi-municipal corporation**

By: _____

Name: _____

Title: _____

The City of Dacono, a municipal corporation

By:_____

Name:_____

Title:_____

The Town of Firestone, a municipal corporation, acting with and on behalf of the Firestone Water Activity Enterprise, a government-owned business within the meaning of Article X, § 20(2)(d) of the Colorado Constitution, organized pursuant to C.R.S. § 37-45.1-101 *et seq.*, and owned by the Town of Firestone

By: _____

Name: _____

Title: _____

Town of Frederick

By:_____

Name:_____

Title:_____

Town of Eaton, Colorado, Water Enterprise, a government-owned business within the meaning of Article X, § 20(2)(d) of the Colorado Constitution, a government-owned business organized pursuant to C.R.S. 37-45.1-101 *et seq.*

Town of Eaton, Colorado, Water Enterprise

Kevin Ross, Mayor

ATTEST:

Margaret Jane Winter

The Town of Erie, acting by and through its Erie Water Activity Enterprise, a water activity enterprise and government-owned business within the meaning of Article X, Section 20(2)(d), of the Colorado Constitution organized pursuant to C.R.S. 37-45.1-101 *et seq.*

By: _____

Name: _____

Title: _____

City of Evans

By:_____

Name:_____

Title:_____

The Fort Collins-Loveland Water District, acting by and through its Water Activity Enterprise, a quasi-municipal corporation and political subdivision of the State of Colorado

By:_____

Name:_____

Title:_____

City of Fort Lupton Utility Enterprise

By: _____

Name: _____

Title: _____

Fort Morgan Water Works and Distribution Enterprise, an enterprise of the City of Fort Morgan, a Colorado home rule municipal corporation and political subdivision of the State of Colorado

By: _____

Name: _____

Title: _____

The City of Lafayette, a Colorado home-rule municipality, acting with and on behalf of the Lafayette Water Fund Enterprise, a government-owned business within the meaning of Article X, § 20(2)(d) of the Colorado Constitution, organized pursuant to C.R.S. § 37-45.1-101 *et seq.*, and owned by the City of Lafayette

By: _____

Name: _____

Title: _____

Left Hand Water District, acting by and through its Water Activity Enterprise, a Colorado quasi-municipal corporation and political subdivision of the State of Colorado

By: _____

Name: _____

Title: _____

Morgan County Quality Water District acting by and through the Morgan County Quality Water District Enterprise, a government-owned business within the meaning of Article X, § 20(2)(d) of the Colorado Constitution, organized pursuant to C.R.S. § 37-45.1-101 *et seq.*, and owned by the Morgan County Quality Water District

By: _____

Name: _____

Title: _____

Town of Severance, a Colorado Statutory Town

By: _____

Name: _____

Title: _____

The Town of Windsor Water Utility Enterprise, an enterprise within the meaning of Article X, §of the Colorado Constitution, owned and operated by the Town of Windsor, a Colorado home rule municipal corporation

By:_____

Name:_____

Title:_____

EXHIBIT “A”

- The Northern Integrated Supply Project Water Activity Enterprise
- Central Weld County Water District Water Activity Enterprise, organized pursuant to C.R.S. § 37-45.1-101 *et seq.*, and owned by Central Weld County Water District, a Colorado special district and quasi-municipal corporation
- The City of Dacono, a municipal corporation
- Town of Eaton, Colorado, Water Enterprise, a government-owned business within the meaning of Article X, § 20(2)(d) of the Colorado Constitution, a government-owned business organized pursuant to C.R.S. 37-45.1-101 *et seq.*
- The Town of Erie, acting by and through its Erie Water Activity Enterprise, a water activity enterprise and government-owned business within the meaning of Article X, Section 20(2)(d), of the Colorado Constitution organized pursuant to C.R.S. 37-45.1-101 *et seq.*
- City of Evans
- The Town of Firestone, a municipal corporation, acting with and on behalf of the Firestone Water Activity Enterprise, a government-owned business within the meaning of Article X, § 20(2)(d) of the Colorado Constitution, organized pursuant to C.R.S. § 37-45.1-101 *et seq.*, and owned by the Town of Firestone
- Town of Frederick
- The Fort Collins-Loveland Water District, acting by and through its Water Activity Enterprise, a quasi-municipal corporation and political subdivision of the State of Colorado
- City of Fort Lupton Utility Enterprise
- Fort Morgan Water Works and Distribution Enterprise, an enterprise of the City of Fort Morgan, a Colorado home rule municipal corporation and political subdivision of the State of Colorado
- The City of Lafayette, a Colorado home-rule municipality, acting with and on behalf of the Lafayette Water Fund Enterprise, a government-owned business within the meaning of Article X, § 20(2)(d) of the Colorado Constitution, organized pursuant to C.R.S. § 37-45.1-101 *et seq.*, and owned by the City of Lafayette
- Left Hand Water District, acting by and through its Water Activity Enterprise, a Colorado quasi-municipal corporation and political subdivision of the State of Colorado
- Morgan County Quality Water District acting by and through the Morgan County Quality Water District Enterprise, a government-owned business within the meaning of Article X, § 20(2)(d) of the Colorado Constitution, organized pursuant to C.R.S. § 37-45.1-101 *et seq.*, and owned by the Morgan County Quality Water District
- Town of Severance, a Colorado Statutory Town
- The Town of Windsor Water Utility Enterprise, an enterprise within the meaning of Article X, § of the Colorado Constitution, owned and operated by the Town of Windsor, a Colorado home rule municipal corporation

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 6.j

Consent Agenda

Meeting Date: January 13, 2021

Initiated By: Julie Pasillas

Dept: Public Works

AGENDA TITLE

Resolution 21-13: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING THE APPLICATION TO THE NORTHERN COLORADO WATER CONSERVANCY DISTRICT FOR CANCELLATION OF TEMPORARY USE PERMITS

SUMMARY

Each year Northern Water requires the Town to cancel all temporary use permits for water transfers in the prior water year. By canceling the temporary use permits and completing the Section 131 Annual Renewable Water Contract, the water will be converted from temporary water rights to annually renewable perpetual water rights in the Colorado-Big Thompson ("C-BT") system. At present, the Town has 6 temporary use permits for 92 acre-foot units, transferred by developers complying with water dedication requirements during 2020. This is an annual process, and all forms must be returned to Northern Water.

HISTORY AND PREVIOUS BOARD ACTION

This procedural matter is required for all temporary use permits for water shares accepted by the Town during the previous year. The Town had to complete this procedure in 2020, as 87 acre-foot units had been transferred in 2019.

RECOMMENDATION

Staff recommends the Board of Trustees approve the attached resolution to apply for the beneficial use of 92 acre-foot units of C-BT water and authorize the Mayor to complete and sign the applications for cancellation of the temporary use permits and annually renewable perpetual water contract.

ALTERNATIVES

None at this time.

ATTACHMENTS

1. Res No 21-13 NCWCD Cancellation Temp Use Permit
2. Firestone Cancellation of TU Permit-2020

FINANCIAL CONSIDERATIONS

There is no cost to convert the temporary use permit for 92 acre-foot units to an annual renewable water contract. The Town pays annual water assessment fees to Northern Water for the use of the C-BT system.

RESOLUTION NO. 21-13

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF
FIRESTONE, COLORADO, APPROVING THE APPLICATION TO THE
NORTHERN COLORADO WATER CONSERVANCY DISTRICT FOR
CANCELLATION OF TEMPORARY USE PERMITS**

WHEREAS, the Town of Firestone desires to submit its application to the Northern Colorado Water Conservancy District for cancellation of temporary use permits.

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

The Board of Trustees of the Town of Firestone ("Town") approves the Town's Application to Northern Colorado Water Conservancy District for Cancellation of Temporary Use Permits, as set forth in the copy attached hereto and made a part of this resolution. The Mayor is authorized to execute the Application for cancellation on behalf of the Town.

INTRODUCED, READ AND ADOPTED this 13th day of January, 2021.

TOWN OF FIRESTONE, COLORADO

Bobbi Sindelar, Mayor

ATTEST:

Jessica Koenig, CMC, Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

**APPLICATION TO
NORTHERN COLORADO WATER CONSERVANCY DISTRICT
FOR CANCELLATION OF TEMPORARY USE PERMITS**

The Town of Firestone hereby applies for the cancellation of the following Temporary Use Permits:

<u>Permits Dated</u>	<u>Acre-Feet</u>
January 9, 2020	09
April 9, 2020	18
April 9, 2020	04
April 9, 2020	07
June 11, 2020	35
June 11, 2020	19
Total Quantity to be Released	92

Dated at Firestone, Colorado this _____ day of _____, 2021.

TOWN OF FIRESTONE

ATTEST:

By_____

(SEAL)

ORDER ON APPLICATION

Application having been made by the Town of Firestone for the cancellation of the above Temporary Use Permits, and Hearing having been held by the Board of Directors of Northern Colorado Water Conservancy District, it is hereby ORDERED that the above Temporary Use Permits be canceled.

Dated the _____ day of _____, 2021.

NORTHERN COLORADO WATER
CONSERVANCY DISTRICT

ATTEST:

President

Secretary

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 6.k

Consent Agenda

Meeting Date: January 13, 2021

Initiated By: Julie Pasillas

Dept: Public Works

AGENDA TITLE

Resolution 21-14: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN APPLICATION TO THE NORTHERN COLORADO WATER CONSERVANCY DISTRICT FOR AN ANNUALLY RENEWABLE PERPETUAL WATER CONTRACT FOR THE RIGHT TO USE COLORADO-BIG THOMPSON PROJECT WATER UNDER C.R.S. § 37-45-131

SUMMARY

Each year, Northern Water requires the Town to cancel all temporary use permits for water transfers in the prior water year. By canceling the temporary use permits and completing the Section 131 Annual Renewable Water Contract, the water will be converted from temporary water rights to annually renewable perpetual water rights in the Colorado-Big Thompson ("C-BT") system. At present, the Town has 6 temporary use permits for 92 acre-foot units, transferred by developers complying with water dedication requirements during 2020. This is an annual process, and all forms must be returned to Northern Water.

HISTORY AND PREVIOUS BOARD ACTION

This procedural matter is required for all temporary use permits for water shares accepted by the Town during the previous year. The Town had to complete this procedure in 2020, as 87 acre-foot units had been transferred in 2019.

RECOMMENDATION

Staff recommends the Board of Trustees approve the attached resolution to apply for the beneficial use of 92 acre-foot units of C-BT water and authorize the Mayor to complete and sign the applications for cancellation of the temporary use permits and annually renewable perpetual water contract.

ALTERNATIVES

None at this time.

ATTACHMENTS

1. Res No 21-14 NCWCD Annual Renewable Right to Use Water
2. Application for Town of Firestone - Section 131 Contract-2020

FINANCIAL CONSIDERATIONS

There is no cost to convert the temporary use permit for 92 acre-foot units to an annual renewable water contract. The Town pays annual water assessment fees to Northern Water for the use of the C-BT system.

RESOLUTION NO. 21-14

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF
FIRESTONE, COLORADO, APPROVING AN APPLICATION TO THE
NORTHERN COLORADO WATER CONSERVANCY DISTRICT FOR AN
ANNUALLY RENEWABLE PERPETUAL WATER CONTRACT FOR THE
RIGHT TO USE COLORADO-BIG THOMPSON PROJECT WATER
UNDER C.R.S. § 37-45-131**

WHEREAS, the Town of Firestone (“Town”) must, in accordance with state law, annually apply to the Northern Colorado Water Conservancy District for its beneficial use of 92 acre foot units of Colorado-Big Thompson Project Water; and

WHEREAS, such water must be used in accordance with the terms and conditions set forth in the application.

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

The Board of Trustees of the Town of Firestone (“Town”) approves the Town’s Application to the Northern Colorado Water Conservancy District for Annually Renewable Perpetual Water Contract for Right to Use Colorado-Big Thompson Project Water under C.R.S. § 37-45-131, as set forth in the copy attached hereto and made a part of this resolution. The Mayor is authorized to execute the Application on behalf of the Town.

INTRODUCED, READ AND ADOPTED this 13th day of January, 2021.

TOWN OF FIRESTONE, COLORADO

Bobbi Sindelar, Mayor

ATTEST:

Jessica Koenig, CMC, Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

APPLICATION TO
NORTHERN COLORADO WATER CONSERVANCY DISTRICT
FOR ANNUALLY RENEWABLE
PERPETUAL WATER CONTRACT FOR RIGHT TO USE
COLORADO-BIG THOMPSON PROJECT WATER
UNDER C.R.S. 37-45-131

Applicant, Town of Firestone, a Colorado municipal corporation acting in its governmental capacity or a water activity enterprise (circle capacity in which applicant is acting), hereby applies to Northern Water, a political subdivision of the State of Colorado, organized and existing by virtue of Title 37, Article 45, Colorado Revised Statutes, for a contract for the right to beneficially use Colorado-Big Thompson Project water under the following terms and conditions:

1. The quantity of water herein requested by Applicant for annual application to beneficial use is **92 acre-feet** to be used so long as the Applicant fully complies with all of the terms, conditions, and obligations hereinafter set forth.
2. It is understood and agreed by the Applicant that any water provided for use under this contract by the Board of Directors of Northern Water shall be primarily for municipal, domestic, irrigation, or industrial use within or through facilities or upon lands owned or served by said Applicant, provided however, that all lands, facilities, and serviced areas which receive benefit from the use of water (whether water service is provided by direct delivery, by exchange, or otherwise) shall be situated within the boundaries of Northern Water.
3. Applicant agrees that an acre-foot of water as referred to herein is defined as being one-three-hundred-thousandth (1/310,000) of the quantity of water annually declared by the Board of Directors of Northern Water to be available for delivery from the water supplies of Northern Water. Applicant agrees that such water shall be delivered from the works of Northern Water at such existing Northern Water delivery point or points as may be specified by the Applicant and that the water delivery obligation of Northern Water shall terminate upon release of water from said works. Further, the Applicant agrees that on November 1 of each year, any water undelivered from the annual quantity made available to the Applicant shall revert to the water supplies of Northern Water.
4. Applicant agrees to pay annually in advance for the amount of water herein provided for use under this contract by the Board of Directors of Northern Water at a price per acre-foot to be fixed annually by said Board; and, further, agrees that the initial annual payment shall be made, in full, within fifteen (15) days after the date of notice from Northern Water that the initial payment is due hereunder. Said notice will advise the Applicant, among other things, of the water year to which the initial payment shall apply and the price per acre-foot which is applicable to that year. Annual payments for each water year thereafter shall be made in advance by the Applicant on or before each October 1, 31 days prior to the start of the water year, at the rate per acre-foot

established by the Board for municipal water use in that water year. For the purpose of this water contract, the water year is defined to be from November 1 to October 31 of the following year.

If an annual payment as herein provided is not made by due date, written notice thereof, by certified mail, will be given by Northern Water to the Applicant at the following address: P.O. Box 100, Firestone, Colorado 80520.

Water deliveries shall be suspended as of November 1 of the new water year until payment of the delinquency is made. If payment is not made within ninety (90) days after the date of mailing of said written notice, Applicant shall have no further right, title, or interest under this contract; and the right of use of water as herein made, shall be disposed of at the discretion of the Board of Directors of Northern Water. Any proceeds from any sale of the right of use to another allottee shall be paid to Applicant over and above Northern Water's actual expense in terminating and disposing of the contract right of use.

5. This right of use shall be perpetual on an annually renewable basis. If the annual payment is made as provided in this application, the right of use shall be automatically renewed another water year without any further notice of Northern Water; if the annual payment is not timely made, as provided above, the right of use shall terminate.
6. Applicant agrees that the water allocation shall be beneficially used for the purposes and in the manner specified herein, and that this right of use is made for the exclusive benefit of the Applicant and shall not inure to the benefit of any successors or assigns of said Applicant without prior specific approval of the Board of Directors of Northern Water.
7. Applicant agrees to be bound by the provisions of the Water Conservancy Act of Colorado; the rules, regulations and policies of the Board of Directors of Northern Water as they now exist or as they exist in the future; and by the Repayment Contract of July 5, 1938, between Northern Water and the United States and all amendments thereof and supplements thereto.
8. Applicant agrees, as a condition of this contract, to enter into an "Operating Agreement" with Northern Water if and when the Board of Northern Water finds and determines that such an agreement is required by reason of additional or special services requested by the Applicant and provided by Northern Water. Said agreement may contain, but not be limited to, provision for water delivery at times or by means not provided within the terms of standard contracts of Northern Water; additional annual monetary consideration for extension of Northern Water delivery services and for additional administration, operation and maintenance costs; or for other costs to Northern Water which may arise through provision of services to the Applicant.

9. Acquisition of this annually renewable perpetual right of use water contract for the Colorado-Big Thompson Project water from Northern Water and the right to the beneficial use of water thereunder by the Applicant is necessary; the continued acquisition and use of this water supply is essential for the well-being of the community and for the preservation of the public peace, health, and safety; and the adequate protection of the health of the inhabitants of the community.
10. The governing body of Applicant has duly approved this Application in accordance with all legally required procedures.

Signed this _____ day of _____, A.D., ____.

TOWN OF FIRESTONE

By _____

ATTEST:

(SEAL)

ORDER ON APPLICATION

Application having been made by or on behalf of all parties interested in this allocation of the right to use Colorado-Big Thompson Project water and after a Hearing by the Board, it is hereby ORDERED that the above application be granted and an allotment contract for **92 acre-feet** of water is hereby made to the Town of Firestone, a Colorado municipal corporation, for the beneficial uses set forth in said application upon the terms, conditions, and manner of payment as therein specified.

NORTHERN COLORADO WATER
CONSERVANCY DISTRICT

By _____
President

I hereby certify that the above Order was entered by the Directors of Northern Colorado Water Conservancy District on the _____ day of _____, A.D., _____.

ATTEST: _____
Secretary

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 6.I

Consent Agenda

Meeting Date: January 13, 2021

Initiated By: Jan Sloat

Dept: Human Resources

AGENDA TITLE

Resolution 21-08: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING THE PAYMENT OF THE TOWN'S 2021 EMPLOYEE BENEFITS INSURANCE PREMIUMS

SUMMARY

Resolution 21-08 requests the Board's authorization of the Town's 2021 Employee Benefits Insurance Premiums set forth below.

Cigna - Medical	\$1,200,000.00
Delta - Dental	\$ 79,200.00
VSP - Vision	\$ 14,400.00
Mutual of Omaha -	\$ 90,000.00
(includes Group Life and AD&D, Short Term, Long Term Disability, Voluntary Coverages paid by Employees)	
Pinnacol - Workers Compensation -	\$125,825.00

HISTORY AND PREVIOUS BOARD ACTION

The Board of Trustees has approved and appropriated funds annually for Employee Benefits Insurance Premiums as part of the total compensation package for Town employees. The Board of Trustees last approved the Employee Benefits Insurance Premiums on January 8, 2020. Appropriations approved for this purpose were paid to insurance carriers monthly, effective January 1 - December 31, 2020.

RECOMMENDATION

Staff Recommends approval of Resolution 21-08 for the appropriation of funds to pay for 2021 Employee Benefits Insurance Premiums.

ALTERNATIVES

ATTACHMENTS

1. 2021.Town Employee Benefits Insurance Premiums Reso

FINANCIAL CONSIDERATIONS

Cigna - Medical	\$1,200,000.00
Delta - Dental	79,200.00
VSP - Vision	14,400.00
Mutual of Omaha -	90,000.00
(includes Group Life and AD&D, Short Term, Long Term Disability, Voluntary Coverages paid by Employees)	
Pinnacol - Workers Compensation -	125,825.00

RESOLUTION NO. 21-08

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF
FIRESTONE, COLORADO, APPROVING THE PAYMENT OF THE
TOWN'S 2021 EMPLOYEE BENEFITS INSURANCE PREMIUMS**

WHEREAS, the Town of Firestone's 2021 budget adopted by the Board of Trustees appropriates funds for the Town's 2021 employee benefits insurance premiums; and

WHEREAS, the Board of Trustees desires to specifically authorize such payments.

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

The Board of Trustees of the Town of Firestone authorizes payment of the Town's employee benefits insurance premiums in the amounts set forth herein below.

Cigna - Medical	\$1,200,000.00
Delta - Dental	\$ 79,200.00
VSP - Vision	\$ 14,400.00
Mutual of Omaha (includes Group Life and AD&D, Short Term, Long Term Disability. Voluntary coverages paid by Employees)	\$ 90,000.00
Pinnacol – Worker's Compensation	\$ 125,825.00

INTRODUCED, READ AND ADOPTED this ___ day of _____, 2021.

TOWN OF FIRESTONE, COLORADO

Bobbi Sindelar, Mayor

ATTEST:

Jessica Koenig, CMC, Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

AGENDA INFORMATION MEMORANDUM

FIRESTONE TOWN BOARD OF TRUSTEES



AIM#: 7.a

Land Development

Meeting Date: January 13, 2021

Initiated By: Millissa Berry

Dept: Planning & Development

AGENDA TITLE

PUBLIC HEARING: Resolution 21-07: A RESOLUTION MAKING CERTAIN FINDINGS OF FACT REGARDING THE PROPOSED ANNEXATION OF A PARCEL OF LAND LOCATED AT LOT 2, AMENDED RECORDED EXEMPTION NO. 1313-03-04-AMRE-626 TO THE TOWN OF FIRESTONE, COLORADO

SUMMARY

Resolution 21-07 states the findings of fact for the Turner Commons Annexation No. 2.

HISTORY AND PREVIOUS BOARD ACTION

The Board of Trustees approved the substantial compliance of the Turner Commons Annexation No. 2 petition at the November 18, 2020 regular meeting. Turner Commons Annexation No. 1 was annexed to the Town in 2012.

RECOMMENDATION

Staff recommends approval of Resolution 21-07.

ALTERNATIVES

ATTACHMENTS

1. Turner Commons Annexation No. 2 BOT Staff Report v2
2. Reso 21-07 Findings re Eligibility (Turner Commons Anx 2)
3. QT4202_ANNEX MAP
4. Turner Commons AX Presentation
5. QT4202_PetitionForAnnexation_signed (2)
6. Reso 20-111 Finding Compliance Res (Turner Commons ANX #2) v2
7. Memo_TelephonicOption

FINANCIAL CONSIDERATIONS



Staff Report

Turner Commons Annexation No. 2

Annexation

Resolution 21-07 & Ordinance 988

Resolution 21-07: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, DESIGNATING THE POSTING LOCATION FOR NOTICE OF MEETINGS OF THE BOARD OF TRUSTEES AND ALL OTHER LOCAL PUBLIC BODIES OF THE TOWN

Ordinance 988: AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO ANNEXING THE PROPERTY KNOWN AS TURNER COMMONS ANNEXATION NO. 2 TO THE TOWN OF FIRESTONE, COLORADO

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

January 7, 2021

Applications

This staff report is for the property known as the Turner Commons Annexation No. 2. The applicant for this submittal is Galloway & Company Inc. representing Quik Trip Corporation.

Notice

Pursuant to the Firestone Development Code, proper notification of the public hearing to consider the annexation was published.

Location and Process

The approximate location of the Turner Commons Annexation No. 2 property is immediately north of the intersection of Turner Blvd and SH 119 Boulevard as noted in the map below. Town limits abut to property to the north and east. The formal annexation map is included in the Town Board meeting packet.



subject property location: yellow & red highlight; properties within town limits are shaded in green

Site Analysis

The area to be annexed is approximately 0.69 acres and is comprised of a vacant commercial building and the associated parking. The existing building will eventually be removed and the site re-configured for future commercial development. The commercial use is consistent with the current Weld County zoning of C-3 (Commercial). An existing billboard sign is also located on the property. The property is generally flat and is adjacent to existing infrastructure and Highway 119.

Board of Trustees Approval Criteria

The Board of Trustees may approve an annexation application if it complies with the Firestone Development Code and the annexation is in compliance with the Municipal Annexation Act of 1965 (C.R.S. 31-12-101, et seq. as amended. Subsections 31-12-108 through 110 list the requirements to be met.

C.R.S. 31-21-108 - 110 requirements met:

- (31-21-108) The Clerk has properly noticed the annexation request and set hearing dates.
- (31-21-108.5) An annexation impact report is not required due to the size of the property requesting annexation.
- (31-21-109) A public hearing is being held.
- (31-21-110) The requirements of C.R.S. 31-12-104 and 31-12-105 have been met:
 - The site perimeter has more than 1/6th contiguity to existing town limits.
 - The Town has an interest in the area.
 - The property is urban.
 - The area is capable of being integrated into the Town of Firestone.
 - More than 50% of property owners have commercial uses on the property and no portion of the property is in agricultural use.
 - It is physically practical to extend urban services to the area.
 - There is one property owner for the entire property and the entire property is being proposed for annexation.
 - The property has not been annexed nor is being considered for annexation by another municipality.
 - There is no change in school district.
 - The property is within 3 miles of the Town limits.
- (31-21-110) An election is not required; and no additional terms and conditions are not imposed beyond those found in the annexation agreement.

Staff Comment: The petition is in substantial compliance with the applicable laws of Colorado per Town Board review on November 18, 2020 and Ordinance 20-111. The Firestone Development Code With these findings of fact, the Town may annex the property.

RECOMMENDATION

Town staff recommends the Board of Trustees approve the Annexation of the Turner Commons No. 2 property by approving Resolution 21-07 in regard to Findings of Fact and Ordinance 988 for annexation of the property.

RESOLUTION NO. 21-07

A RESOLUTION MAKING CERTAIN FINDINGS OF FACT REGARDING THE PROPOSED ANNEXATION OF A PARCEL OF LAND LOCATED AT LOT 2, AMENDED RECORDED EXEMPTION NO. 1313-03-04-AMRE-626 TO THE TOWN OF FIRESTONE, COLORADO

WHEREAS, the Board of Trustees of the Town of Firestone, Colorado, has found a petition for the annexation of the hereinafter described parcel of land to be in substantial compliance with the requirements of C.R.S. § 31-12-107(a), by duly adopted Resolution No. 20-111; and

WHEREAS, the Town Clerk has provided notice of public hearing on the proposed annexation by publication once per week for four successive weeks, and by registered mail to the Clerk of the Board of County Commissioners, the County Attorney, the school district and to any special district having territory in the area to be annexed; and

WHEREAS, the Town Board of Trustees has completed a public hearing on January 13, 2021 to determine if the proposed annexation complies with Article II, Section 30 of the Colorado Constitution and C.R.S. §§ 31-12-104; -105, to establish eligibility for annexation.

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

1. The Town Board of Trustees hereby finds and concludes with regard to the annexation of the territory described in Exhibit A attached hereto and incorporated herein, that not less than one-sixth of the perimeter of the area proposed to be annexed is contiguous with the existing boundaries of the Town and, thus, because of such contiguity, a community of interest exists between the territory proposed to be annexed and the Town; the territory proposed to be annexed is urban or will be urbanized in the near future; and that the territory proposed to be annexed is integrated or is capable of being integrated with the Town.

2. The Town Board of Trustees further finds and determines that no land held in identical ownership has been divided or included without written consent of the owner thereof; that no annexation proceedings have been commenced by another municipality; that the annexation will not result in the detachment of area from a school district; that the annexation will not result in the extension of a municipal boundary more than three miles; that the Town has a plan for said three mile area; and that in establishing the boundaries of the area to be annexed the entire width of any street or alley is included within the area to be annexed.

3. An election is not required, and no additional terms or conditions are to be imposed upon the area to be annexed.

4. Based on the foregoing finding and conclusions, the Board of Trustees finds that the proposed annexation complies with C.R.S. §§ 31-12-104; -105, and that the subject property is eligible for annexation to the Town of Firestone.

INTRODUCED, READ AND ADOPTED this ___ day of _____, 2021.

TOWN OF FIRESTONE, COLORADO

Bobbi Sindelar, Mayor

ATTEST:

Jessica Koenig, CMC, Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

EXHIBIT A
(RESOLUTION NO. 21-07)

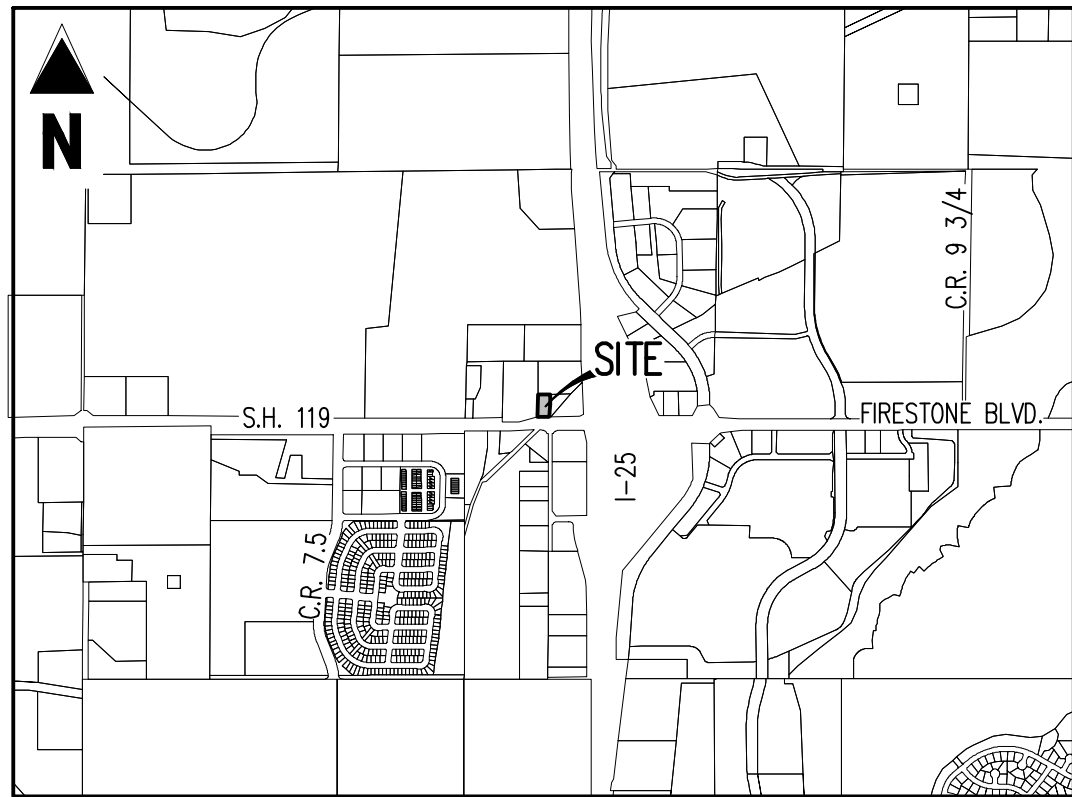
legal description of parcel to be annexed per the Annexation Petition

LOT 2, AMENDED RECORDED EXEMPTION NO. 1313-03-04-AMRE-626, ACCORDING TO THE
PLAT THEREOF RECORDED 12/17/2009 AT RECEPTION NO. 3665637, WELD COUNTY,
COLORADO

TURNER COMMONS ANNEXATION NO. 2

LOT 2, AMENDED RECORDED EXEMPTION 1313-03-4-AmRE-626
LOCATED IN THE SOUTHEAST CORNER OF SECTION 3,
TOWNSHIP 2 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN,
COUNTY OF WELD, STATE OF COLORADO

VICINITY MAP
1" = 2000'



NORTHWEST CORNER
REC. 3361152
FOUND #4 REBAR
WITH PLASTIC CAP
STAMPED "PLS 12697"

S89°17'31"W 346.64'

FOUND #5 REBAR
NO IDENTIFICATION

LEGEND

- FOUND ALIQUOT MONUMENT AS DESCRIBED
- FOUND PROPERTY MONUMENT AS DESCRIBED
- SET PROPERTY MONUMENT AS DESCRIBED
- EXISTING TOWN BOUNDARY

LOT 1
RECORDED EXEMPTION 1313-3-4-RE-626
REC. 01940086
OWNER: QUIKTRIP CORPORATION, AN OKLAHOMA CORPORATION
ANNEXED ORDINANCE 787
REC. 3834190
TURNER COMMONS ANNEXATION

REC. 3361152
OWNER: KARMA, LLC.

LOT 2
AMENDED RECORDED EXEMPTION
1313-03-4-AmRE-626
REC. 3665637
OWNER: QUIKTRIP CORPORATION,
AN OKLAHOMA CORPORATION
0.69 ACRES (29,905 SQ. FT.)

SE-1156 LOT
SUBDIVISION EXEMPTION SE-1156
REC. 3665635
OWNER: QUIKTRIP CORPORATION, AN OKLAHOMA CORPORATION
ANNEXED ORDINANCE 787
REC. 3834190
TURNER COMMONS ANNEXATION

INTERSTATE HIGHWAY 119
PUBLIC RIGHT OF WAY
(WIDTH VARIES)

FOUND #4 REBAR
NO IDENTIFICATION

S06°52'57"W
72.56'
FOUND #4 REBAR
NO IDENTIFICATION
S00°16'10"E
20.04'

FOUND #4 REBAR
NO IDENTIFICATION
S20°07'48"W
34.95'

STATE HIGHWAY 119
PUBLIC RIGHT OF WAY
(WIDTH VARIES)
ANNEXED ORDINANCE 787
REC. 3834190
TURNER COMMONS ANNEXATION

SECTION CORNER
T2N R68W
SEC. 3 | SEC. 2
SEC. 10 | SEC. 11
FOUND 3-1/4" ALUMINUM CAP
STAMPED "PLS 24307"
IN A RANGE BOX

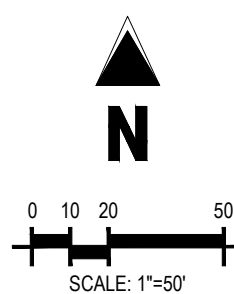
EAST 1/16 CORNER
T2N R68W
SEC. 3
SEC. 10
FOUND 3-1/4" ALUMINUM CAP
STAMPED "PLS 34977"
IN A RANGE BOX

FOUND NAIL WITH
ILLEGIBLE BRASS DISC
(NOT ACCEPTED) UNABLE TO
DETERMINE WHAT MONUMENT
REPRESENTS OR HOW IT WAS
ESTABLISHED—
1.62'NW OF CORNER

SOUTHWEST CORNER
REC. 3361152
FOUND #5 REBAR
WITH PLASTIC CAP
STAMPED "PLS 20876"

SET PK NAIL
WITH 1-1/2" ALUMINUM DISC
STAMPED "PLS 38069"

SOUTH LINE SE/4 SE/4 SEC. 3
S89°47'08"W 1320.56'
BASIS OF BEARINGS



OWNER'S APPROVAL

KNOW ALL MEN BY THESE PRESENTS, THAT QUIKTRIP CORPORATION, AN OKLAHOMA CORPORATION, BEING THE SOLE OWNER AND PROPRIETOR OF THE FOLLOWING DESCRIBED LAND, TO WIT:

LOT 2, AMENDED RECORDED EXEMPTION 1313-03-4-AmRE-626, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 17, 2009 AT RECEPTION NUMBER 3665637, WELD COUNTY RECORDS;

HAVE CAUSED THE ABOVE DESCRIBED TRACT OF LAND TO BE ANNEXED UNDER THE NAME OF "TURNER COMMONS ANNEXATION NO. 2".

OWNER:

QUIKTRIP CORPORATION, AN OKLAHOMA CORPORATION

BY: _____

AS _____ OF
QUIKTRIP CORPORATION, AN OKLAHOMA CORPORATION

NOTARY CERTIFICATE:

STATE OF _____ }
COUNTY OF _____ } SS

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME

THIS _____ DAY OF _____, 20____

BY _____

AS _____ OF
QUIKTRIP CORPORATION, AN OKLAHOMA CORPORATION

WITNESS MY HAND AND SEAL

NOTARY PUBLIC _____

MY COMMISSION EXPIRES _____

TOWN APPROVAL

THIS IS TO CERTIFY THAT TURNER COMMONS ANNEXATION NO. 2 WAS APPROVED

ON THE _____ DAY OF _____, 20____ BY ORDINANCE _____
AND THAT THE MAYOR OF THE TOWN OF FIRESTONE ON BEHALF OF THE TOWN OF FIRESTONE,
HEREBY ACKNOWLEDGES SAID ANNEXATION UPON WHICH THIS CERTIFICATE IS ENDORSED FOR ALL
PURPOSES INDICATED THEREON.

MAYOR _____

ATTEST: TOWN CLERK _____

CONTIGUITY

PERIMETER OF ANNEXATION PARCEL: 714.66'
REQUIRED CONTIGUITY (1/6 TOTAL PERIMETER): 119.11'
CONTIGUITY WITH EXISTING TOWN LIMITS: 479.44'
CONTIGUITY EXCEEDING 1/6 MINIMUM REQUIRED: 360.33'

BASIS OF BEARING

ALL BEARINGS ARE GRID BEARINGS OF THE COLORADO STATE PLANE COORDINATE SYSTEM,
CENTRAL ZONE, NORTH AMERICAN DATUM 1983. BEARINGS ARE BASED ON THE SOUTH LINE OF
THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 3, TOWNSHIP 2 NORTH,
RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, AND IS CONSIDERED TO BEAR S 89°47'08" W,
MONUMENTED AS SHOWN.

DESCRIPTION:

LOT 2, AMENDED RECORDED EXEMPTION NO. 1313-03-4-AmRE-626, ACCORDING TO THE PLAT THEREOF RECORDED 12/17/2009 AT RECEPTION NUMBER 3665637, WELD COUNTY, COLORADO.

NOTES:

- THIS MAP WAS PREPARED FOR ANNEXATION PURPOSES ONLY. THIS MAP IS NOT A LAND SURVEY PLAT OR IMPROVEMENT SURVEY PLAT.
- ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCE MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.
- CONTIGUOUS BOUNDARY OF THE TOWN OF FIRESTONE EXTENDED FROM ANNEXATION ORDINANCE 787, RECEPTION NUMBER 3834190.
- THIS MAP DOES NOT REPRESENT A TITLE SEARCH BY GALLOWAY & COMPANY, INC. TO DETERMINE OWNERSHIP OR THIS TRACT, VERIFY THE DESCRIPTION SHOWN, VERIFY THE COMPATIBILITY OF THIS DESCRIPTION WITH THAT OF ADJACENT TRACTS OR VERIFY EASEMENTS OF RECORD. FOR ALL INFORMATION REGARDING EASEMENTS, RIGHT OF WAY OR TITLE THEREOF, GALLOWAY & COMPANY INC. RELIED UPON TITLE COMMITMENT PROVIDED BY CLIENT AND PREPARED BY OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY, COMMITMENT NO. AB225164279-3, WITH A COMMITMENT DATE OF 05/29/2019 AT 5:00 PM.
- THE LAND BEING ANNEXED TO THE TOWN OF FIRESTONE CONTAINS AN AREA OF 0.69 ACRES (29,905 SQUARE FEET), MORE OR LESS.
- BASIS OF BEARING: ALL BEARINGS ARE GRID BEARINGS OF THE COLORADO STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE, NORTH AMERICAN DATUM 1983. BEARINGS ARE BASED ON THE SOUTH LINE OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 3, TOWNSHIP 2 NORTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, AND IS CONSIDERED TO BEAR S89°47'08"W, MONUMENTED AS SHOWN.
- NOTE: THE MEASURED LINES SHOWN FOR LOT 2 WITHIN THIS ANNEXATION MAP ARE THE SAME LINES AS MEASURED ON "TURNER COMMONS ANNEXATION". THERE ARE NO GAPS OR OVERLAPS OF THE LINES.

Galloway

1155 Kelly Johnson Blvd., Suite 305
Colorado Springs, CO 80920
719.900.7220 • GallowayUS.com



TURNER COMMONS ANNEXATION NO. 2

LOT 2, AMENDED RECORDED EXEMPTION 1313-03-4-AmRE-626
LOCATED IN THE SOUTHEAST CORNER OF SECTION 3,
TOWNSHIP 2 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN,
COUNTY OF WELD, STATE OF COLORADO

#	Date	Issue / Description	Init.
1	05/05/2020	ADDRESS TOWN COMMENTS	EMV
2	12/01/2020	UPDATED OWNERSHIP	EMV
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			

Project No.: QKT004202.10
Drawn By: EMV
Checked By: BJD
Date: 02/04/2020

BRIAN J. DENNIS
COLORADO PROFESSIONAL LAND SURVEYOR NO. 38069
PROJECT NO.: QKT004202.10
FOR AND ON BEHALF OF GALLOWAY & COMPANY, INC.

TURNER COMMONS ANNEXATION NO. 2 & ANNEXATION AGREEMENT

RESOLUTION 21- 07
ORDINANCE 988

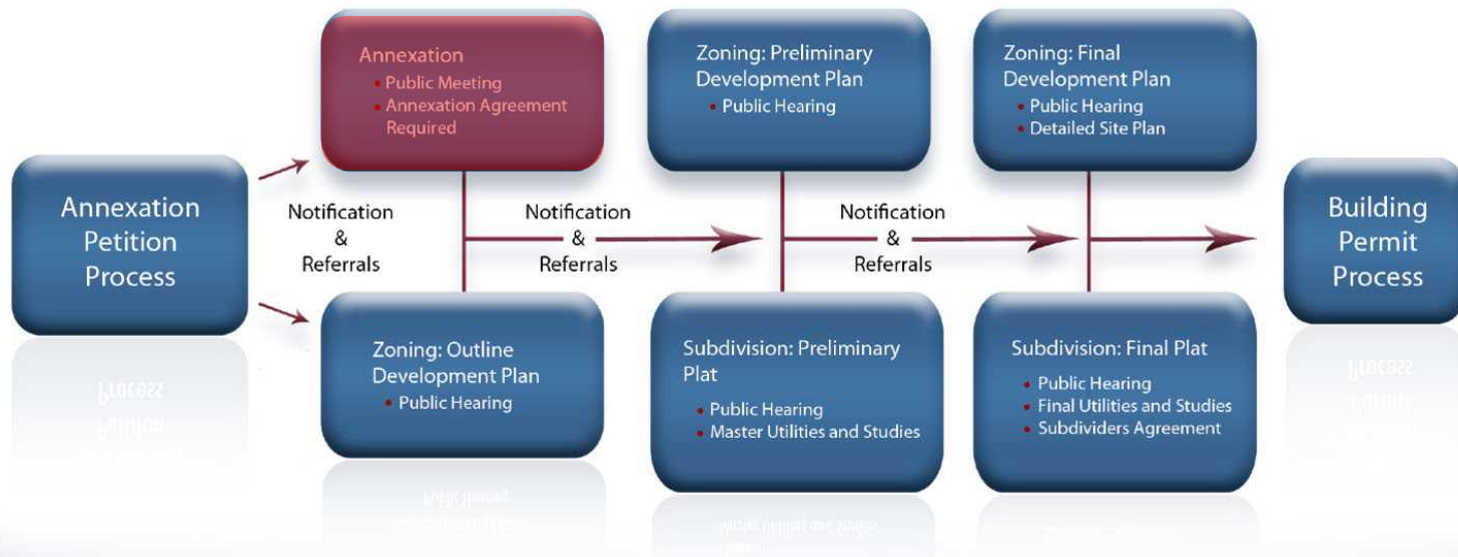


Board of Trustees – January 13, 2021

Process



Development Flow Chart | Firestone PUD Zoning

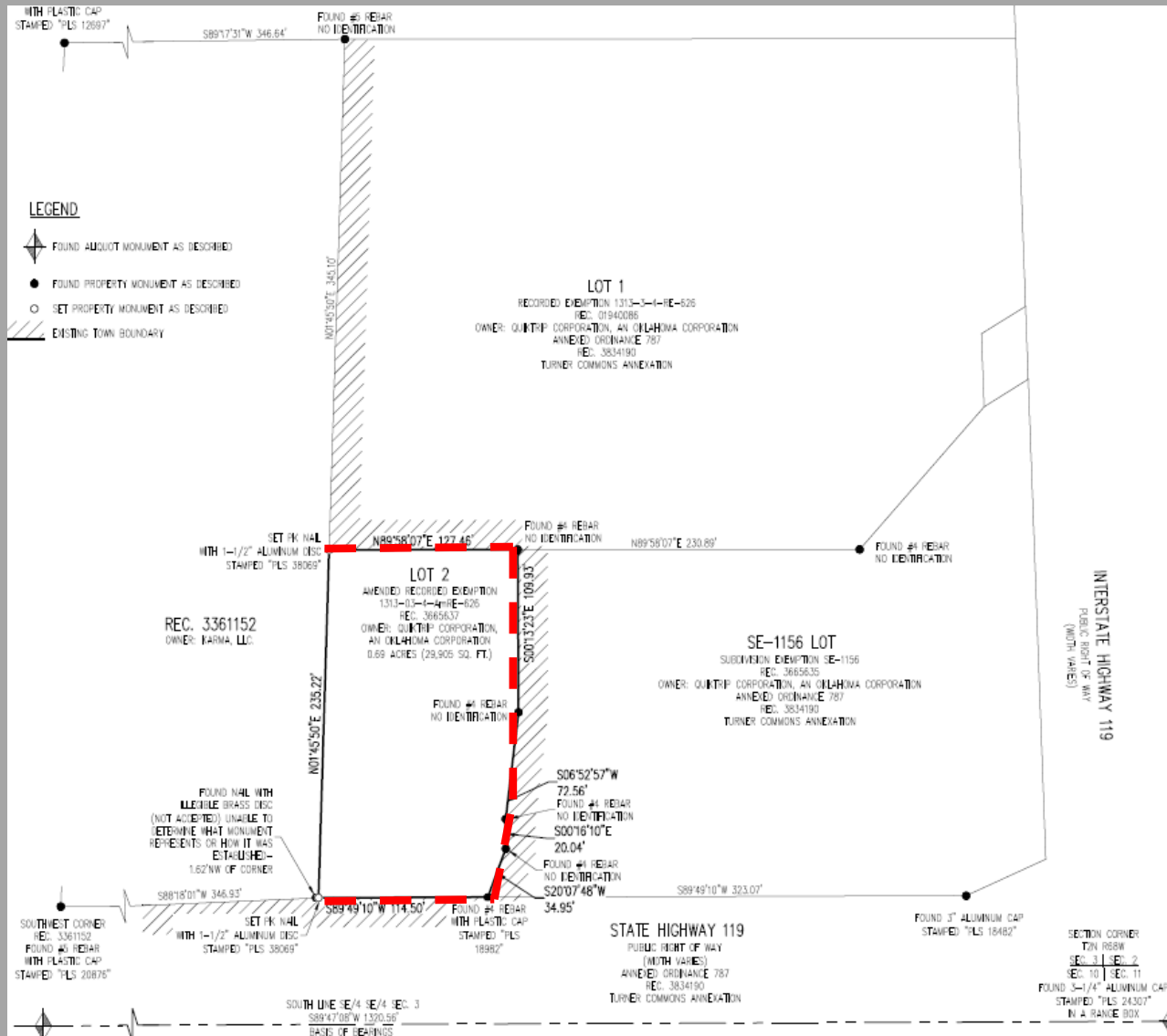


Location



Subject Property





Staff Recommendations



Staff Recommends that the Board of Trustees:

- 1) Approve Resolution 21-07 – Annexation Findings of Fact**
- 2) Approve Ordinance 988 - An ordinance annexing the property into the Town of Firestone**

Annexation Agreement



Staff Recommendations



**Staff Recommends that the Board of Trustees approve
Resolution 21-10 – the Annexation Agreement for
Turner Commons Annexation No. 2**

PETITION FOR ANNEXATION

TO: THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO

We, the undersigned landowners, in accordance with Colorado law, hereby petition the Town of Firestone and its Board of Trustees for annexation to the Town of Firestone of the unincorporated territory, the legal description of which is attached hereto as Exhibit A and incorporated herein by this reference, located in the County of Weld and the State of Colorado, and to be known as the Turner Commons Addition Annexation to the Town of Firestone.

As part of this petition, your petitioners further state to the Board of Trustees that:

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

hundred thousand dollars (\$200,000.00) for ad valorem tax purposes for the year next preceding the annexation, has been included within the area proposed to be annexed without the written consent of the landowner or landowners.

- g. No annexation proceedings have been commenced for any portion of the territory proposed to be annexed for the annexation of such territory to another municipality.
 - h. The annexation of the territory proposed to be annexed will not result in the detachment of area from any school district.
 - i. The annexation of the territory proposed to be annexed will not have the effect of extending the boundary of the Town of Firestone more than three miles in any direction from any point of the boundary of the Town of Firestone in any one year.
 - j. The territory proposed to be annexed is 0.69 acres in total area.
 - k. Prior to completion of the annexation of the area proposed to be annexed, a plan will be in place, pursuant to Section 31-12-105(1)(e), C.R.S., which generally describes the proposed location, character, and extent of streets, subways, bridges, waterways, waterfronts, parkways, playgrounds, squares, parks, aviation fields, other public ways, grounds, open spaces, public utilities, and terminals for water, light, sanitation, transportation, and power to be provided by the Town of Firestone; and the proposed land uses for the area; such plan to be updated at least once annually.
 - l. In establishing the boundary of the area proposed to be annexed, if a portion of a platted street or alley is to be annexed, the entire width of the street or alley has been included within the area annexed, and reasonable access will not be denied to any landowners, owners of any easement, or the owners of any franchise adjoining any platted street or alley which is to be annexed to the Town of Firestone but is not bounded on both sides by the Town of Firestone.
 - m. If required, an impact report will be prepared and filed pursuant to Section 31-12-108.5, C.R.S.
3. The owners of more than fifty percent of the area proposed to be annexed, exclusive of dedicated streets and alleys, have signed this petition and hereby petition for annexation of such territory.

The signatures on this petition comprise one-hundred percent (100%) of the landowners of the territory to be annexed and said landowners attesting to the

facts and agreeing to the conditions herein contained will negate the necessity of any annexation election.

4. Accompanying this petition are four copies of an annexation map containing the following information:
 - a. A written legal description of the boundaries of the area proposed to be annexed;
 - b. A map showing the boundary of the area proposed to be annexed, said map prepared by and containing the seal of a registered engineer;
 - c. Within the annexation boundary map, a showing of the location of each ownership tract in unplatted land and, if part or all of the area is platted, the boundaries and the plat numbers of plots or of lots and blocks;
 - d. Next to the boundary of the area proposed to be annexed, a drawing of the contiguous boundary of the Town of Firestone and the contiguous boundary of any other municipality abutting the area proposed to be annexed, and a showing of the dimensions of such contiguous boundaries.
5. Upon the annexation ordinance becoming effective, all lands within the area proposed to be annexed will become subject to all ordinances, resolutions, rules, and regulations of the Town of Firestone, except for general property taxes of the Town of Firestone, which shall become effective as of the January 1 next ensuing.
6. The zoning classification requested for the area proposed to be annexed is RC.

The petitioners agree that said annexed land shall be brought under the provisions of Title 17 of the Firestone Municipal Code within ninety (90) days from the effective date of the annexation ordinance.

7. There shall be no duty or obligation upon the Town of Firestone to furnish water or sanitary sewer facilities to the area proposed to be annexed. Such services will be provided at such time, in the sole discretion of the Town, when such services for water and sanitary sewer can be economically and reasonably installed to service a sufficient number of inhabitants within the area so as to make the construction and establishment of such services feasible and at no additional cost for the same or similar type of services provided to inhabitants within the existing corporate limits of the Town.
8. If required by the Town, an annexation agreement has been or will be executed by the petitioners herein and the Town of Firestone relating to this annexation and the petitioners hereby expressly consent to the terms and conditions set forth in the annexation agreement.

9. The petitioners agree to the following terms and conditions, which shall be covenants running with the land, and which may, at the option of the Town, appear on the annexation map:
 - a. Water rights shall be provided pursuant to Town Ordinance.
 - b. All conditions set out in the annexation agreement executed by the petitioner.
 - c. Other:

WHEREFORE, the petitioners, whose signatures are on the signature sheet on the next page, respectfully request that the Town of Firestone, acting through its Board of Trustees, approve the annexation of the area proposed to be annexed.

AFFIDAVIT OF CIRCULATOR

The undersigned, being of lawful age, who being first duly sworn upon oath deposes and says:

That (he or she) was the circulator of the foregoing Petition for Annexation of lands to the Town of Firestone, Colorado, consisting of 5 pages, including this page and that each signature thereon was witnessed by your affiant and is the true signature of the person whose name it purports to be.



Circulator

ACKNOWLEDGMENT

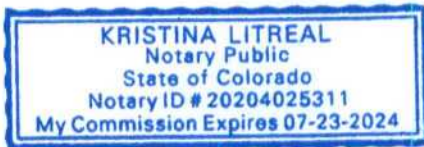
STATE OF COLORADO)
)ss
COUNTY OF Adams)

The above and foregoing Affidavit of Circulator was subscribed and sworn to before me this 9 day of November, 2020

Witness my hand and official seal.

My commission expires on: 7/23/2020


Notary Public



1199 W 126th Ave
Address

Westminster CO 80234

(SEAL)

SIGNATURE SHEET

Signature of Landowner / Petitioner	Date of signing of Each Signature	Mailing Address of Landowner / Petitioner	Are you a registered elector, resident landowner of the area proposed to be annexed? (Yes or No)	Are you a nonresident landowner of the area proposed to be annexed? (Yes or No)	See Exhibit _____ attached hereto and incorporated into this petition by this reference for the legal description of the land owned by this signer
 IN BEHALF OF GUINTEP CORP; ITS DIRECTOR OR REAL ESTATE	11/09/2020	1499 W. 120th SUITE 110 WESTMINSTER, CO 80234	Yes No	YES	

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

LOT 2, AMENDED RECORDED EXEMPTION NO. 1313-03-04-AMRE-626, ACCORDING TO THE
PLAT THEREOF RECORDED 12/17/2009 AT RECEPTION NO. 3665637, WELD COUNTY,
COLORADO

RESOLUTION NO. 20-111

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, FINDING SUBSTANTIAL COMPLIANCE OF AN ANNEXATION PETITION FOR PROPERTY LOCATED AT LOT 2, AMENDED RECORDED EXEMPTION NO. 1313-03-04-AmRE-626, ACCORDING TO THE PLAT THEREOF RECORDED 12/17/2009 AT RECEPTION NUMBER 3665637, WELD COUNTY, COLORADO AND SETTING A PUBLIC HEARING ON THE PETITION IN ACCORDANCE WITH THE MUNICIPAL ANNEXATION ACT OF 1965

WHEREAS, a Petition for Annexation of the hereinafter described real property has been filed with the Town Clerk of the Town of Firestone, Colorado; and

WHEREAS, the Petition has been referred to the Board of Trustees of the Town of Firestone, Colorado, for a determination of substantial compliance with the requirements of C.R.S. § 31-12-107(1); and

WHEREAS, the Board of Trustees has been advised by the staff, and has taken official notice of all maps, records and other information and other materials on file with the Town of Firestone, Colorado, regarding said petition.

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

Section 1. The Petition for Annexation of the following described real property:

Lot 2, Amended Recorded Exemption No. 1313-03-04-AmRE-626, according to the plat thereof recorded 12/17/2009 at Reception Number 3665637, Weld County, Colorado.

is determined to be in substantial compliance with C.R.S. § 31-12-107(1).

Section 2. The Board of Trustees shall hold a public hearing on the proposed annexation on January 13, 2021 at 7:00 P.M., or as soon thereafter as possible, at Firestone Town Hall, 9900 Park Avenue (formerly addressed as 2 Park Avenue), to determine if the proposed annexation complies with Section 30 of Article II of the Colorado Constitution and C.R.S. §§ 31-12-104 and -105, or such parts thereof as may be required to establish eligibility for annexation.

Section 3. The Town Clerk shall publish a Notice of Public Hearing once a week for four successive weeks in a newspaper of general circulation in the area proposed to be annexed, with the first publication of such notice to be at least thirty days prior to the date of the hearing. The Town Clerk shall further provide notice to the Clerk of the Board of County Commissioners of Weld County, the Weld County Attorney, and to any special district or school district having territory within the area proposed to be annexed, in the manner and within the time provided in C.R.S. § 31-12-108(2).

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

TOWN OF FIRESTONE, COLORADO

Bobbi Sindelar, Mayor

ATTEST:

Jessica Koenig, CMC Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

To: Town of Firestone
Planning Department

From: Galloway and Company, Inc
Aaron McLean

Date: December 28, 2020

Re: **Public Hearing Option
Orientation Telephonic Participation Policy**

Ms. Berry:

We represent QuikTrip Corporation in connection with its pending application with the Town of Firestone. Galloway and Company, Inc. as the applicant in such application, hereby expressly authorizes the Town to proceed with conducting the Town Board public hearing for the Turner Commons Annexation No. 2 and Initial Zoning/ODP Amendment No. 1 under the Town's Orientation Telephonic Participation Policy. The applicant understands that the hearing will include accommodations made for Telephonic Participation by the applicant and/or the public. The applicant is waiving any legal challenge on the basis that the hearing will be conducted via Telephone Participation.



**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 7.b

Land Development

Meeting Date: January 13, 2021

Initiated By: Millissa Berry

Dept: Planning & Development

AGENDA TITLE

Ordinance 988: AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO ANNEXING THE PROPERTY KNOWN AS TURNER COMMONS ANNEXATION NO. 2 TO THE TOWN OF FIRESTONE, COLORADO

SUMMARY

This hearing will consider if the Turner Commons Annexation No. 2 complies with the Firestone Development Code and the Colorado Revised Statutes for annexation (Municipal Annexation Act of 1965). Beyond the subject ordinance, please see attachments and staff report for Resolution 21-07.

HISTORY AND PREVIOUS BOARD ACTION

The Board adopted Resolution 20-111 that found the annexation petition was in substantial compliance with state statutes and set the hearing date for the subject annexation hearing on November 18, 2020. Turner Commons Annexation No. 1 was annexed to the Town in 2012.

RECOMMENDATION

Staff recommends approval of Ordinance 988 - the annexation of Turner Commons No. 2.

ALTERNATIVES

ATTACHMENTS

1. Ord 988 Annexation (Turner Commons No 2)-O010420

FINANCIAL CONSIDERATIONS

ORDINANCE NO. 988

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO ANNEXING THE PROPERTY KNOWN AS TURNER COMMONS ANNEXATION NO. 2 TO THE TOWN OF FIRESTONE, COLORADO

WHEREAS, the Board of Trustees previously adopted Resolution 20-111, finding substantial compliance and initiating annexation proceedings for the Turner Commons Annexation No. 2, as described therein and as described below; and

WHEREAS, the Board of Trustees previously adopted Resolution 21-07, setting forth findings of fact and determinations regarding the eligibility of Turner Commons Annexation No. 2 for annexation; and

WHEREAS, the Board of Trustees has determined that it is in the best interests of the Town of Firestone to annex the property to be known as Turner Commons Annexation No. 2 (the "Property") to the Town.

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

Section 1. The Board of Trustees makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. The Board of Trustees hereby incorporates the findings of Resolution 20-111 and Resolution 21-07; the Board of Trustees further finds that the annexation of the Property is in compliance with the Municipal Annexation Act of 1965 and that it is in the best interests of the Town to annex the Property to the Town.

Section 3. The Property, as more particularly described in Exhibit A attached hereto, is hereby annexed to the Town and made a part of the Town, in series and in the sequence as set forth in Exhibit A, to be known as the Turner Commons Annexation No. 2, which annexation shall become effective upon completion of the conditions contained in C.R.S. § 31-12-113, including, without limitation, all required filings for recording with the Weld County Clerk and Recorder.

Section 4. That in annexing the Property to the Town, the Town does not assume any obligation regarding the construction of water mains, sewer lines, gas mains, electrical service lines, streets or any other service or utilities in connection with the Property hereby annexed, except as may be provided by ordinances of the Town.

INTRODUCED, READ, ADOPTED, APPROVED, AND ORDERED PUBLISHED BY
TITLE this ____th day of _____, 2021.

TOWN OF FIRESTONE, COLORADO

Bobbi Sindelar, Mayor

ATTEST:

Jessica Koenig, CMC Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

EXHIBIT A
(ORDINANCE NO. 988)

legal description of parcel to be annexed

LOT 2, AMENDED RECORDED EXEMPTION NO. 1313-03-04-AMRE-626, ACCORDING TO THE
PLAT THEREOF RECORDED 12/17/2009 AT RECEPTION NO. 3665637, WELD COUNTY,
COLORADO

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 7.c

Land Development

Meeting Date: January 13, 2021

Initiated By: Millissa Berry

Dept: Planning & Development

AGENDA TITLE

Resolution 21-10: A RESOLUTION OF THE BOARD OF TRUSTEES, FIRESTONE, COLORADO, AUTHORIZING THE TURNER COMMONS ANNEXATION NO. 2 ANNEXATION AGREEMENT

SUMMARY

For review and action by the Board of Trustees regarding the annexation agreement for Turner Commons Annexation No. 2. For information beyond the staff report, annexation agreement, and resolution, please see materials for Resolution 21-07.

HISTORY AND PREVIOUS BOARD ACTION

The Town Board is holding a Public Hearing on January 13, 2021, (this meeting agenda) to consider the Turner Commons Annexation No. 2.

RECOMMENDATION

Staff recommends approval of the Resolution 21-10, Turner Commons Annexation No. 2 Annexation Agreement.

ALTERNATIVES

ATTACHMENTS

1. Reso 21-10 Authorizing Annex Agmt (Turner Commons Annexation No 2)
2. Turner Commons AA
3. Turner Commons Annexation No. 2 Annexation Agreement BOT Staff Report

FINANCIAL CONSIDERATIONS

RESOLUTION NO. 21-10

**A RESOLUTION OF THE BOARD OF TRUSTEES, FIRESTONE, COLORADO,
AUTHORIZING THE TURNER COMMONS ANNEXATION NO. 2 ANNEXATION
AGREEMENT**

WHEREAS, Quicktrip Corporation (“Quicktrip”) submitted a Petition to Annex certain property to the Town of Firestone, which property is referenced herein as the Turner Commons Annexation No. 2; and

WHEREAS, Quicktrip and the Town wish to agree to certain terms pertaining to said annexation.

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

The Annexation Agreement between Quicktrip and the Town of Firestone pertaining to Turner Commons Annexation No. 2 is approved in substantially the same form as the copy attached hereto as Exhibit A. The Mayor is authorized to execute the agreement on behalf of the Town.

INTRODUCED, READ AND ADOPTED this __ day of _____, 2021.

TOWN OF FIRESTONE, COLORADO

Bobbi Sindelar, Mayor

ATTEST:

Jessica Koenig, CMC, Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

ANNEXATION AGREEMENT

THIS AGREEMENT is made and entered into this _____ day of _____, _____, by and between QUIKTRIP CORPORATION an Oklahoma Corporation hereinafter referred to as "Owner," and the TOWN OF FIRESTONE, a municipal corporation of the State of Colorado, hereinafter referred to as "Firestone" or "Town".

WITNESSETH:

WHEREAS, Owner desires the Town to annex the property more particularly described on Exhibit "A," which is attached hereto, incorporated herein, and made a part hereof (such property is hereinafter referred to as "the Property"); and

WHEREAS, Owner has executed a petition to annex the Property, a copy of which petition is on file with the Town Clerk; and

WHEREAS, it is to the mutual benefit of the parties hereto to enter into the following Agreement; and

WHEREAS, Owner acknowledges that upon annexation, the Property will be subject to all ordinances, resolutions, and other regulations of the Town of Firestone, as they may be amended from time to time; and

WHEREAS, Owner acknowledges that the need for conveyances and dedication of certain property, including but not limited to property for ways and easements to Firestone as contemplated in this Agreement, are directly related to and generated by development intended to occur within the Property and that no taking thereby will occur requiring any compensation.

NOW, THEREFORE, IN CONSIDERATION OF THE ABOVE PREMISES AND THE COVENANTS AS HEREINAFTER SET FORTH, IT IS AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:

1. Incorporation of Recitals. The parties confirm and incorporate the foregoing recitals into this Agreement.

2. Purpose. The purpose of this Agreement is to set forth the terms and conditions of the annexation of the Property to the Town. Except as expressly provided for herein to the contrary, all terms and conditions herein are in addition to all requirements concerning annexation contained in the Firestone Municipal Code, Development Regulations and Comprehensive Plan, and the

Municipal Annexation Act of 1965, as amended, C.R.S. Section 31-12-101 .et seq.

3. Further-Acts. Owner agrees to execute, promptly upon request of Firestone, any and all surveys and other documents necessary to effect the annexation of the Property and the other provisions of this Agreement. Owner agrees to not sign any other petition for annexation of the Property or any petition for an annexation election relating to the Property, except upon request of Firestone.

4. Annexation Documents. Owner agrees to provide legal documents, surveys, engineering work, newspaper publication, maps, and reports determined by Firestone to be necessary to accomplish the annexation. Firestone shall at Owner's expense prepare the annexation impact report.

5. Action on Annexation Petition. Firestone shall act upon the annexation petition within six months of the date of filing thereof with the Town Clerk, unless Owner consents to later action.

6. Zoning and Development. The parties recognize that it is the intent and desire of Owner to develop the Property in a manner generally consistent with the zoning requested and that the granting of such zoning by the Town of Firestone is a condition to annexation of the Property. Owner shall take all action necessary to permit zoning by Firestone of the annexed Property within the time prescribed by state statutes.

7. Dedications. Owner agrees to dedicate by Special Warranty Deed or appropriate instrument of conveyance acceptable to the Town any easements and rights- of-way for streets and other public ways and for other public purposes, as required by Town ordinances and resolutions. Such dedications shall occur immediately upon request of the Town except that internal rights-of-way shall be dedicated at the time of subdivision platting, unless the Town specifies another time.

8. Public Improvements. Owner agrees to design, improve, and provide signage, lighting, and signalization for, all public streets and other public ways within or adjacent to the Property in accordance with Town ordinances and resolutions and other applicable standards, subject to any reimbursement which may be provided for in such ordinances, resolutions, and standards, and to make such other improvements as required by Town ordinances and resolutions, to guarantee construction of all required improvements, and, if requested by Firestone, to dedicate to Firestone any or all other required improvements. If requested by Firestone, Owner agrees to enter into an agreement pertaining to such improvements and other matters prior to any development of the Property.

9. Improvement Districts. If requested by Firestone, Owner agrees to include the Property in one or more special improvement districts or other mechanisms established by Firestone for making improvements to streets and other public ways, or for making other public improvements authorized by law.

10. Conformity with Laws. Owner agrees that the design, improvement, construction, development, and use of the Property shall be in conformance with, and that Owner shall comply with, all Town ordinances and resolutions including, without limitation, ordinances and resolutions pertaining to annexation, subdivision, zoning, storm drainage, utilities, access to Town Streets and flood control.

11. No Repeal of Laws. Nothing contained in this Agreement shall constitute or be interpreted as a repeal of the Town's ordinances or resolutions, or as a waiver of the Town's legislative, governmental, or police powers to promote and protect the health, safety, and welfare of the Town and its inhabitants; nor shall this Agreement prohibit the enactment or increase by the Town of any tax or fee.

12. Disconnection. No right or remedy of disconnection of the Property from the Town shall accrue from this Agreement, other than that provided by applicable state laws. In the event the Property or any portion thereof is disconnected at Owner's request, Firestone shall have no obligation to serve the disconnected Property or portion thereof and this Agreement shall be void and of no further force and effect as to such Property or portion thereof.

13. Severability. The parties agree that if any part, term, portion, or provision of this Agreement is held by a court of competent jurisdiction to be illegal or in conflict with any law of the State of Colorado, the validity of the remaining parts, terms, portions, or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, portion, or provision held to be invalid.

14. Municipal Services. Firestone agrees to make available to the Property all of the usual municipal services in accordance with the ordinances and policies of the Town. Owner acknowledges that Town services do not include, as of the date of the execution of this Agreement water services and sanitary sewer services, but the Property is presently included within the boundaries of and is entitled to receive such services from the Left Hand Water District and the St. Vrain Sanitation District. Owner further acknowledge and agree the Town provides fire protection, emergency medical services, and other fire services through a contract with the Frederick-Firestone Fire Protection District. Owner shall, within sixty (60) days of the Effective Date, (i) file a petition for inclusion of the Property into, and obtain services from, the Frederick-Firestone Fire Protection District and (ii) file a petition for exclusion of the Property from the Mountain View Fire Protection District. Owner shall also, within sixty (60) days of the Effective Date, file a petition for inclusion of the Property into the Carbon Valley Park and Recreation District.

15. Water Rights - Appurtenant Water Rights/Right of First Refusal. Owner represents that there are appurtenant to the Property certain surface and/or groundwater water rights owned by Owner and set forth on Exhibit "B", which is attached hereto, incorporated herein, and made a part hereof (hereinafter referred to as "the Water Rights"). Owner further represents that the Water Rights constitute all of the water rights appurtenant to the Property, that the Water Rights are and will be used in

connection with current uses of the Property until the Property is developed.

If the Owner at any time determines to sell or transfer all or any portion of the Water Rights for any use other than a use upon the Property, then the Owner shall provide the Town with written notice of Owner's intent to make such a sale or transfer. The notice shall include a description of the Water Rights proposed for sale or transfer, the proposed sale or transfer price, and all other material terms and conditions of the proposed sale or transfer. For a period of sixty (60) days after receipt of such notice, the Town shall have the first right to purchase the Water Rights intended for sale or transfer.

The Town may purchase the Water Rights intended for sale or transfer upon terms and conditions that are mutually acceptable to Owner and the Town, but which are in no event less favorable than the terms and conditions of Owner's intended sale or transfer to any third party who is a bona fide purchaser for value. In the event the purchase price cannot be determined by reference to an offer by a bona fide purchaser, the purchase price to be paid by the Town shall be established by a qualified water rights appraiser selected by agreement of the Town and Owner within ten (10) days after Town receipt of Owner's notice of intent to sell or transfer the Water Rights. In the event the Town and Owner are unable to agree upon an appraiser, then each party shall within fifteen (15) days of Town receipt of such notice select its own appraiser, and the two of them shall appoint a single appraiser within twenty (20) days of Town receipt of such notice. In the event Owner and the Town have not entered into an agreement within sixty (60) days of the Town's receipt of Owner's notice of intent to sell or transfer the Water Rights, then the Town's first right to purchase the Water Rights shall terminate. The Owner may thereafter proceed to sell or transfer the Water Rights on terms and conditions no more favorable than the terms and conditions last offered to the Town.

The Owner and Firestone agree that the above provisions shall apply in lieu of the requirement in Firestone Municipal Code Section 1.08.050.C, requiring the Owner offer to sell appurtenant water rights at the time of annexation. The right of first refusal under this Paragraph shall terminate upon the consummation of the sale to a third party of all or that portion of the Water Rights conveyed of the above-described Water Rights, but only as to the portion and interest so sold, and only after full compliance with the terms of this right of first refusal, and provided the sale is on the same terms and conditions and for the price set forth in the notice sent to the Town; however, if such sale is not consummated, this right of first refusal shall remain in effect. In any event, all rights under this Paragraph shall terminate ninety years from the date of this Agreement.

16. Special Provisions.

All existing signs, buildings, and structures on the Property, excluding the existing billboard sign, shall be removed within six (6) months of the effective date of this Agreement. **The existing billboard shall be removed from the Property upon modification or termination of the current lease or June 30, 2036, whichever occurs first.**

17. Owners Association. If required by state law, Owner shall organize an appropriate unit owners association or associations for given parcels and/or unit types within the development of the Property. Owner shall form any such association(s) pursuant to the Colorado Common Interest Ownership Act ("Act"). C.R.S. Section 38-33.3-101 et seq. The Owner shall also execute and record covenants and instruments of conveyance which comply with the Act and which adequately provide for continuous ownership, operation, maintenance, repair and replacement of common elements of the development, including but not limited to any private roads, private

common areas and private facilities. At least ten (10) days prior to recording any covenants or instruments of conveyance to the association(s), Owner shall provide such documents to the Town Attorney for review and comment.

18. Future Cooperation. The parties agree that they will cooperate with one another in accomplishing the terms, conditions, and provisions of the Agreement, and will execute such additional documents as necessary to effectuate the same.

19. Amendment. This Agreement may be amended by the Town and any Owner without the consent of any other Owner as long as such amendment affects only that Owner's portion of the Property. Such amendments shall be in writing, shall be recorded with the County.

20. Entire Agreement. This Agreement embodies the entire agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein; and this Agreement supersedes all previous communications, representations, or agreements, either verbal or written, between the parties.

21. Indemnification. Owner agrees to save, indemnify, defend and hold harmless the Town and the Town's officers, employees, agents, and contractors, from and against all liability, claims, and demands, including attorneys' fees and court costs, brought by any third party against the Town which are attributable to any act or omission of the Owner, its employees, agents, contractors, subcontractors, and consultants with respect to: (i) this Agreement; (ii) the annexation of the Property. Owner further agrees to save, indemnify, defend and hold the Town harmless from and against all liability, claims, and demands, including attorneys' fees and court costs, brought by any third party against the Town arising out of or resulting from (i) the Town's enforcement of this Agreement; (ii) any change in the direction, nature, quality, or quantity of historical drainage flow resulting from the development of the Property or from the construction of streets, and/or storm sewers on the Property; or (iii) any prior vested rights to the Property acquired in Weld County or granted from any other governmental entity.

22. Owner. As used in this Agreement, the term "Owner" shall include any of the heirs, transferees, successors, or assigns of Owner, and all such parties shall have the right to enforce this Agreement, and shall be subject to the terms of this Agreement, as if they were the original parties thereto.

23. Amendments to Law. As used in this Agreement, unless otherwise specifically provided herein, any reference to any provision of any Town ordinance, resolution, or policy is intended to refer to any subsequent amendments or revisions to such ordinance, resolution, or policy, and the parties agree that such amendments or revisions shall be binding upon Owner.

24. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the heirs, transferees, successors, and assigns hereof, and shall constitute covenants running with the land. This Agreement shall be recorded with the County Clerk of Weld County, Colorado, at Owner's expense.

25. Failure to Annex. This Agreement shall be null and void if the Town fails to approve the annexation of the Property.

27. Election Owner agrees that it is voluntarily entering into this Agreement. Owner represents and submits that, to the extent an election would be required pursuant to C.R.S. 31-12-112, as amended, to approve the annexation or to impose terms and conditions upon the Property to be annexed, Owner owns 100 percent of the Property, excluding public streets and alleys, and would vote to approve the annexation and all terms and conditions as set forth herein. Thus, any election would necessarily result in a majority of the electors' approval to the annexation and the terms and conditions.

28. Legislative Discretion. The Owner acknowledges that the annexation and zoning of the Property are subject to the legislative discretion of the Board of Trustees of the Town of Firestone. No assurances of annexation or zoning have been made or relied upon by Owner. In the event that, in the exercise of its legislative discretion, any action with respect to the Property herein contemplated is not taken, then the sole and exclusive right of Owner with respect to such exercise of discretion shall be the withdrawal of the petition for annexation by the Owner, or disconnection from the Town in accordance with state law, as may be appropriate, and this Agreement shall terminate and be of no further force and effect at such time.

29. No Third-Party Rights. This Agreement is made solely for the benefit of the parties hereto, and is not intended to nor shall it be deemed to confer rights to any persons or entities not named as parties hereto.

30. Governing Law. The laws of the State of Colorado shall govern the validity, performance, and enforcement of this Agreement. Should either party institute legal suit or action

for enforcement of any obligation contained herein, it is agreed that the exclusive venue of such suit or action shall be in Weld County, Colorado.

31. Headings. The paragraph headings in this Agreement shall not be used in the construction or interpretation hereof as they have no substantive effect and are for convenience only.

32. No Warranties by Town. The Town is entering into this Agreement in good faith and with the present intention, on the part of the present Town Board, that this Agreement will be complied with. However, because some of the provisions of this Agreement may involve areas of legal uncertainty, the Town makes no representation as to the validity or enforceability of this Agreement against the Town, and by entering into this Agreement the Owner acknowledges and accepts that no such warranty is made on the part of the Town.

OWNER



By: Tracy C. Devos
ITS DIRECTOR OF REAL ESTATE
TOWN OF FIRESTONE

By: _____
Bobbi Sindelar, Mayor

ATTEST:

Town Clerk

ACKNOWLEDGEMENT (Owner)

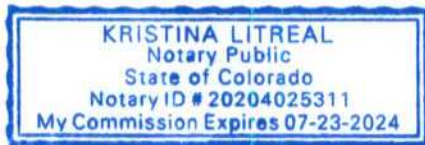
STATE OF COLORADO)
COUNTY OF Adams)ss

The above and foregoing signature of Troy Dabs
was subscribed and sworn to before me this 11/9/20 day of 2020

Witness my hand and official seal.

My commission expires on: 7/23/2024

(SEAL)



Kristina Litreal

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

LOT 2, AMENDED RECORDED EXEMPTION NO. 1313-03-04-AmRE-626, ACCORDING TO THE PLAT
THEREOF RECORDED 12/17/2009 AT RECEPTION NUMBER 3665637, WELD COUNTY, COLORADO.

EXHIBITB

DESCRIPTION OF APPURTENANT WATER RIGHTS

THERE ARE NO WATER RIGHTS ASSOCIATED WITH THIS DEVELOPMENT.



Staff Report

Turner Commons Annexation No. 2

Annexation Agreement

**Resolution 21-10 - A RESOLUTION OF THE BOARD OF TRUSTEES,
FIRESTONE, COLORADO, AUTHORIZING THE TURNER COMMONS
ANNEXATION NO. 2 ANNEXATION AGREEMENT**

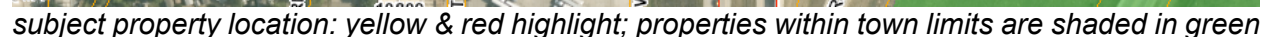
**Prepared by the
Town of Firestone for the
Board of Trustees**

January 7, 2021

This staff report is for the property known as the Turner Commons Annexation No. 2. The applicant for this submittal is Galloway & Company Inc. representing Quik Trip Corporation. A public hearing is being held on January 13, 2021 to consider the annexation of the subject property. This report is for the consideration of the annexation agreement associated with the annexation.

This action does not require public notice.

The approximate location of the Turner Commons Annexation No. 2 property is immediately north of the intersection of Turner Blvd and SH 119 Boulevard as noted in the map below. Town limits abut to property to the north and east.



The area to be annexed is approximately 0.69 acres and is comprised of a vacant commercial building and the associated parking. The existing building will eventually be removed and the site re-configured for future commercial development. The commercial use is consistent with the current Weld County zoning of C-3 (Commercial). An existing billboard sign is also located on the property. The property is generally flat and is adjacent to existing infrastructure and Highway 119.

Board of Trustees Consideration

An annexation agreement has been prepared and executed by the property owner for Turner Commons Annexation No. 2. The agreement is in the standard format by the Town with an added special provision that all existing signs, buildings, and structures on the property, excluding the existing billboard sign, shall be removed within six months of the effective date of the agreement. The existing billboard shall be removed from the property upon modification or termination of the current lease or June 30, 2036, whichever comes first.

RECOMMENDATION

Town staff recommends the Board of Trustees approve Resolution 21-10 for the Annexation Agreement associated with the Turner Commons Annexation No. 2.

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 7.d

Land Development

Meeting Date: January 13, 2021

Initiated By: Millissa Berry

Dept: Planning & Development

AGENDA TITLE

PUBLIC HEARING: Ordinance 989: AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO ZONING CERTAIN LAND, FULLY DESCRIBED HEREIN, TO TOWN OF FIRESTONE RC – REGIONAL COMMERCIAL ZONING DISTRICT; AND APPROVING AN APPLICATION TO AMEND THE TURNER COMMONS OUTLINE DEVELOPMENT PLAN

SUMMARY

Initial zoning of the Turner Commons Annexation No. 2 property to RC by amending the boundaries of the Turner Commons ODP.

HISTORY AND PREVIOUS BOARD ACTION

The Board of Trustees approved the Turner Commons ODP in 2011; the ODP was recorded in 2012.

RECOMMENDATION

Staff recommends approval of Ordinance 989 for the initial zoning of the Turner Commons No. 2 property.

ALTERNATIVES

ATTACHMENTS

1. Turner Commons Annexation No. 2 Initial Zoning Staff Report
2. Ordinance 989
3. Outline Development Plan, Amendment No. 2
4. Turner Commons IZ Presentation
5. Telephonic Participation Option Memo

FINANCIAL CONSIDERATIONS



Staff Report

Turner Commons Annexation No. 2

Initial Zoning & Turner Commons ODP Amendment No.1

Ordinance 989 - AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO ZONING CERTAIN LAND, FULLY DESCRIBED HEREIN, TO TOWN OF FIRESTONE RC – REGIONAL COMMERCIAL ZONING DISTRICT; AND APPROVING AN APPLICATION TO AMEND THE TURNER COMMONS OUTLINE DEVELOPMENT PLAN

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

January 7, 2021

Application

This staff report is for the property known as the Turner Commons Annexation No. 2. This report is for Initial Zoning of the property to RC – Regional Commercial which is also the first amendment to the current Turner Commons Outline Development Plan (“ODP”). The applicant for this submittal is Galloway & Company Inc. representing Quik Trip Corporation.

Notice

Pursuant to the Firestone Development Code, proper notification of the public hearing was published. Proof of notification to owners of interest and surrounding property owners and an affidavit of property posting will be provided by the applicant prior to the hearing.

Location

The approximate location of the Turner Commons Annexation No. 2 property is immediately north of the intersection of Turner Blvd and SH 119 Boulevard as noted in the map below. This property is currently zoned Weld County C-3 (Commercial).



subject property

Analysis

The site is approximately 0.69 acres, is generally flat, and is adjacent to existing infrastructure and Highway 119. It is comprised of a vacant commercial building and the associated parking. An existing billboard sign is also located on the property.

The zoning requested by the applicant is Regional Commercial (RC). The applicant is requesting approval of an amendment to the Turner Commons Outline Development Plan to include the subject property in the overall Turner Commons ODP area. The Turner Commons ODP also calls for the RC zoning and uses. The boundaries of the ODP would be modified to include the subject

Turner Commons Annexation No. 2

Initial Zoning / Turner Commons ODP Amendment No. 1

Staff Report

property. Future development (density, height, uses, signage, etc.) on the property will follow the Firestone Development Code for the RC zoning. The access point to Hwy 119 remains as planned for in the original ODP – north of the intersection of Turner Blvd and Hwy 119 to create the north portion of the intersection. Modifications to the internal circulation system shown in the original ODP may be modified during final development plan review.

The applicant acquired the property in 2020, and has planned to date, to include the property in a redevelopment of a portion of the Turner Commons property which is located immediately east and north of the subject property. The existing building, signage and structures will be removed and the site re-configured for future commercial development.

Board of Trustees Approval Criteria

The Board may approve an official map amendment if the proposed initial zoning meets the following criteria. Rationale for meeting the criteria is noted under each criterion. In summary, staff has determined that the zoning proposed is appropriate and desired for the subject property.

- a. That the proposed zoning promotes the health, safety or welfare of the inhabitants of the Town and the purposes of this FDC; and

Staff Comment: The zoning of the property is consistent with the zoning of adjacent properties and future commercial development is supportable by the current infrastructure and utilities in the immediate area. The zoning will allow for safe, new commercial development for the community that will contribute to the Town's revenue source.

- b. The proposed zoning is generally consistent with the Town's Comprehensive Master Plan, or the proposed zoning is necessary to provide land for a community need that was not anticipated at the time of the adoption of the Town's plan.

Staff Comment: The zoning is consistent with the Firestone Master Plan. The Master Plan applies a commercial land use to the property.

- c. Adequate facilities and services (including streets and transportation, water, gas, electric, police and fire protection, and sewage and waste disposal, as applicable) will be available to serve the subject property while maintaining adequate levels of service to existing development;

Staff Comment: Adequate infrastructure, facilities and services are currently available to serve the property while maintaining adequate levels of service if the existing and future development. Utility and service providers were included in the review of the application. No conflicts or issues were provided. Future development plan applications will also be referred to infrastructure, service and utility providers to determine any additional needs that may arise due to a specific development type or scale.

- d. The proposed zoning is not likely to result in significant adverse impacts upon the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts will be substantially mitigated;

Staff Comment: The zoning is not likely to result in significant adverse impacts to the environment. The property is currently developed as a commercial facility - although vacant at the current time – as are the properties in the immediate vicinity. Its zoning in the county is also commercial allowing for similar uses as the Town's RC zone. No

modifications to the property are proposed at this time but redevelopment is anticipated. The annexation agreement does call for the removal of existing buildings, signage (except for the current billboard sign) and structures within 6 months of the annexation agreement date of execution. Proper permits that minimize any environmental impacts with the removal of the structures will be required. When an application for redevelopment is submitted an environmental assessment will be required and the proposal will be sent to proper referral agencies for comment.

- e. The proposed zoning is not likely to result in significant adverse impacts upon other property in the vicinity of the subject property;

Staff Comment: The zoning is consistent with the zoning in the immediate vicinity of the property and no significant adverse impacts upon other property in the vicinity is anticipated.

- f. Future uses on the subject property will be compatible in scale with uses on other properties in the vicinity of the subject property; and

Staff Comment: Future development will be compatible in scale with uses on adjacent properties and will follow the Firestone Development Code standards for the RC zone district.

- g. The proposed zoning is generally consistent with the Town's economic development goals and objectives in bringing positive growth and sustainable revenues to the Town.

Staff Comment: Redevelopment of the property with commercial uses is intended to bring positive and sustainable revenues to the Town through building permit fees, property tax, and sales tax. It will also provide employment to the area.

RECOMMENDATION

Town staff recommends the Board of Trustees to approve Ordinance 989 to apply the initial zoning of RC – Regional Commercial to the property and amend the Turner Commons ODP to include the subject property.

ORDINANCE NO. 989

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO ZONING CERTAIN LAND, FULLY DESCRIBED HEREIN, TO TOWN OF FIRESTONE RC – REGIONAL COMMERCIAL ZONING DISTRICT; AND APPROVING AN APPLICATION TO AMEND THE TURNER COMMONS OUTLINE DEVELOPMENT PLAN

WHEREAS, Quicktrip Corporation (the “Applicant”), who is the fee owner of certain real property described as Lot 2, Amended Recorded Exemption No. 1313-03-04-AmRE-626 (the “Property”), which is approximately 0.69 acres in size, has submitted an application for the initial zoning of the Property, and to amend the existing Turner Commons Outline Development Plan (the “ODP Amendment”), to add the Property to the original boundaries of the Turner Commons ODP (the “Application”); and

WHEREAS, the ODP Amendment would modify the existing Turner Commons ODP to include the Property to the existing boundaries of the Turner Commons ODP. However, the ODP Amendment would not change the zoning, height, bulk, landscaping architectural or other land use or development standards of the Turner Commons ODP as it relates to other property for other allowable uses or other use areas throughout the Turner Commons ODP, as originally approved and contained in the Turner Commons Outline Development Plan; and

WHEREAS, on January 13, 2021, the Board of Trustees conducted a public hearing on the Application; and

WHEREAS, after considering the testimony, evidence and argument presented at the Board of Trustees public hearing, the Board of Trustees finds and determines that the Application is complete, that the Applicant has met the applicable requirements and standards set forth in Section 16.7.4 of the Firestone Development Code, including Step 9 of Section 16.7.4.

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

Section 1. The land described as Lot 2, Amended Recorded Exemption No. 1313-03-04-AmRE-626, which consists of approximately 0.69 acres, more or less, shall be zoned Town of Firestone RC (Regional Commercial) Zoning District.

Section 2. The Turner Commons Outline Development Plan Amendment No. 1, attached hereto as Exhibit A, is hereby approved. As it relates to the Property, the Turner Commons Outline Development Plan Amendment No. 1 hereby extends the boundaries of the Turner Commons ODP area to include the Property and, to that extent, modifies and amends the approved Turner Commons Outline Development Plan. Except as explicitly provided in the ODP Amendment, the existing height, bulk, landscaping, architectural, or any other standards as it relates to the Property, along with the zoning or other land use standards for other use areas throughout the Turner Commons ODP, as originally approved and contained in the Turner Commons Outline Development Plan, remain in place and shall remain in full force and effect. In the event of any conflict between Turner Commons Outline Development Plan and the Turner Commons Outline Development Plan Amendment No. 1, the Turner Commons Outline Development Plan Amendment No. 1 shall prevail.

Section 3. The Board of Trustees certifies a change in the Zoning Map zoning the property described herein to Town of Firestone RC (Regional Commercial) Zoning District.

Section 4. The Board of Trustees directs that a certified copy of this Ordinance be filed with the Town Clerk and further, that the Town Clerk index, file and make the Ordinance available to the public.

Section 5. If any article, section, paragraph, sentence, clause or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision will not affect the validity or constitutionality of the remaining portions of this ordinance. The Board of Trustees hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 6. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

INTRODUCED, READ, ADOPTED, APPROVED, AND ORDERED PUBLISHED
BY TITLE this ___th day of _____, 2021.

TOWN OF FIRESTONE, COLORADO

Bobbi Sindelar, Mayor

ATTEST:

Jessica Koenig, CMC Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

EXHIBIT A
(ORDINANCE NO. 989)

legal description of parcel to be annexed and zoned

LOT 2, AMENDED RECORDED EXEMPTION NO. 1313-03-04-AMRE-626, ACCORDING TO THE
PLAT THEREOF RECORDED 12/17/2009 AT RECEPTION NO. 3665637, WELD COUNTY,
COLORADO

Q
P
N
M
L
K
J
H
G
F
E
D
C
B
A

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15

FILE LOCATION\\H:\Quiktrip\QKT0040202-Firestone, CO\CADD\2 Plan\83-4202 Civil - Annex & ODP.dwg TAB NAME:Cover - ODP USER:Treven-Edwards SAVED:12/1/2020 3:18 PM PLOTTED:12/1/2020 3:27 PM

PROJECT CONCEPT

THE PURPOSE OF THIS OUTLINE DEVELOPMENT PLAN (ODP) IS TO EXPAND THE BOUNDARIES OF THE ORIGINAL TURNER COMMONS ODP WITH THE ANNEXATION OF A 0.69-ACRE PARCEL IN THE SOUTHWEST CORNER, CURRENTLY OUTSIDE THE LIMITS OF THE ODP. TOGETHER, THE AREA UNDER THE TURNER COMMONS ODP AMENDMENT NO. 1 WILL TOTAL 6.24 ACRES, WHICH MAY BE SUBDIVIDED BY SUBSEQUENT TOWN OF FIRESTONE PROCESS(ES).

THE ALLOWED LAND USES UNDER THE TURNER COMMONS ODP SHALL APPLY WITH THE AMENDMENT, AND GENERALLY FOLLOW THE TOWN OF FIRESTONE'S REGIONAL COMMERCIAL (RC) ZONE DISTRICT LAND USE CLASSIFICATIONS. THE CHARACTER OF THE DEVELOPMENT WILL BE CONSISTENT WITH THE SURROUNDING RETAIL DEVELOPMENT IN FIRESTONE ALONG FIRESTONE BOULEVARD AND STATE HIGHWAY 119, WHICH INCLUDES A VARIETY OF FAST FOOD RESTAURANTS, GAS STATIONS WITH CONVENIENCE STORE, LIQUOR STORES, BANKS, AND HOTELS.

REGIONAL IMPACTS

ANNEXATION OF THE 0.69 PARCEL INTO THE TOWN OF FIRESTONE, AND RELATED PD ZONING UNDER THE TURNER COMMONS ODP AMENDMENT NO. 1 WILL ENABLE THE TOWN TO BENEFIT FROM TAX REVENUE THAT THE PROJECT WILL BE ABLE TO GENERATE. THE PROPOSED REGIONAL COMMERCIAL LAND USES ARE COMPATIBLE WITH THE EXISTING AND PROPOSED LAND USES IN THE SURROUNDING AREA, WHICH ATTRACTS REGIONAL COMMUTERS AND RESIDENTS OF FIRESTONE AND NEIGHBORING COMMUNITIES. THE PROPOSED PROJECT WILL ALSO PROVIDE NECESSARY COMMERCIAL SERVICES LOCALLY, TO THE BENEFIT OF FIRESTONE AND ARE RESIDENTS, EMPLOYEES AND OTHERS.

ENVIRONMENTAL INFORMATION

ACCORDING TO THE ORIGINAL TURNER COMMONS ODP, IT WAS NOTATED THAT THERE WAS PREVIOUSLY A GAS STATION ON PORTIONS OF THE SUBJECT PROPERTY THAT WAS DESTROYED IN A FIRE, AND THE UNDERGROUND STORAGE TANKS (USTS) SERVING THE USE WERE REMOVED FROM WITH SITE. REMEDIATION WAS THEN CONDUCTED TO REMOVE AND CLEAN THE SOILS AND GROUNDWATER THAT WERE CONTAMINATED WITH PETROLEUM. THE ORIGINAL TURNER COMMONS ODP ALSO REFERENCED VARIOUS PHASE I ENVIRONMENTAL SITE ASSESSMENT (ESA) REPORTS THAT WERE CONDUCTED FOR THE SUBJECT PROPERTY; HOWEVER, THIS TURNER COMMONS ODP AMENDMENT NO 1 MAKES NO ASSERTION TO THE FINDINGS AND/OR CONCLUSIONS OF THOSE PHASE I ESA REPORTS.

THE ENVIRONMENTAL SITE ASSESSMENT TITLED "PHASE I AND LIMITED PHASE II ENVIRONMENTAL SITE ASSESSMENT REPORT" DATED JUNE 18, 2019 PREPARED BY APEX COMPANIES, LLC STATES: "THE RURAL DITCH MAY BE CONSIDERED A WETLAND AND WATER OF THE UNITED STATES (U.S.) ON THE SUBJECT PROPERTY."THE US ARMY CORPS OF ENGINEERS (ACOE) WILL NEED TO DETERMINE IF THE WETLANDS IDENTIFIED IN THIS REPORT ARE CONSIDERED JURISDICTIONAL, AND PROPER PROCESS AFTER DETERMINATION WILL BE REQUIRED. FURTHERMORE, THE ESA STATES THAT "DURING SITE RECONNAISSANCE, APEX PERSONNEL OBSERVED BOTH LIVE PRAIRIE DOGS AND EVIDENCE OF PRAIRIE DOG DENS AT THE SUBJECT PROPERTY."AS SUCH, PRAIRIE DOGS INHABITING PORTIONS OF THE SITE SHALL BE RELOCATED OR HUMANELY EUTHANASIED BY THE DEVELOPER OR DEVELOPER'S AGENT USING LEGALLY APPROVED METHODS FOR RELOCATION AND EUTHANASIA WHICH DO NOT DISPLACE PRAIRIE DOGS ONTO OTHER PROPERTIES PRIOR TO THE ONSET OF CONSTRUCTION ACTIVITY. DESTRUCTION OF PRAIRIE DOG TOWNS SHALL NOT OCCUR DURING THE NESTING SEASON (MAY 15 - SEPTEMBER 15) OF THE BURROWING OWL UNLESS THE TOWN HAS BEEN SURVEYED BY A PROFESSIONAL BIOLOGIST/ECOLOGIST FAMILIAR WITH BURROWING OWL BEHAVIOR AND IT IS FOUND THAT BURROWING OWLS ARE NOT ENGAGED IN NESTING/BROOD-REARING ACTIVITIES.

UTILITIES

NEW UTILITY MAIN LINES FOR WATER, SANITARY SEWER, STORM SEWER, ELECTRIC AND GAS SERVICES WILL BE CONSTRUCTED FOR THE DEVELOPMENT AS PART OF SUBSEQUENT SUBDIVISION PROCESS(ES) AND/OR FINAL DEVELOPMENT PLAN (FDP) PROCESS(ES). ALL UTILITIES ARE AVAILABLE TO SERVE THE DEVELOPMENT AND SERVICES WILL BE STUBBED TO FUTURE LOT(S) AS REQUIRED PER TOWN OF FIRESTONE DEVELOPMENT REGULATIONS.

THE PROPERTY IS WITHIN THE LEFT HAND WATER DISTRICT (LHWD) AND CURRENTLY HAS ONE (1) WATER TAP THAT THE DISTRICT HAS PREVIOUSLY NOTED UNDER THE FORMER TURNER COMMONS ODP WILL BE CREDITED TO THE DEVELOPMENT. LHWD HAS THE CAPACITY AVAILABLE TO SERVE THE DEVELOPMENT AND WILL CONTINUE TO PROVIDE POTABLE WATER TO THE SITE THROUGH AN EXISTING 12-INCH MAIN IN STATE HIGHWAY 119.

SANITARY SEWER SERVICE IS PROVIDED BY THE ST VRAIN SANITATION DISTRICT. THERE IS AN EXISTING 15" SANITARY SEWER LINE THAT RUNS NORTHEAST THROUGH THE PROPERTY SITE AND WILL BE RELOCATED WITHIN THE DEVELOPMENT.

GRADING CONCEPT

THE RURAL DITCH BISECTS THE PROPERTY, RUNNING FROM THE SOUTHWEST CORNER OF THE SE 1156 LOT, HEADING NORTHEAST TO THE SOUTHEAST PORTION OF THE RE-626 LOT. THIS DITCH WILL BE PIPED AND RELOCATED TO THE SOUTHERN AND EASTERN PERIMETERS, IN ACCORDANCE WITH RURAL DITCH COMPANY STANDARDS. THE REQUIRED LICENSE AGREEMENT WILL BE PROCESSED CONCURRENTLY WITH THE FIRST FINAL DEVELOPMENT PLAN (FDP) APPLICATION FOR THE SUBJECT PROPERTY.

SERVICE REQUIREMENTS

THIS DEVELOPMENT WILL BE SURVEYED BY THE FOLLOWING UTILITY COMPANIES:

- POTABLE WATER - LEFT HAND WATER DISTRICT
- SANITARY SEWER - ST. VRAIN SANITATION DISTRICT
- NATURAL GAS - SOURCE GAS
- POWER - UNITED POWER
- POLICE PROTECTION - TOWN OF FIRESTONE
- FIRE PROTECTION - FREDRICK-FIRESTONE FIRE PROTECTION DISTRICT
- TELEPHONE - CENTURY LINK
- RECREATION - CARBON VALLEY RECREATION DISTRICT
- STREET MAINTENANCE - PROPERTY OWNERS' ASSOCIATION
- SCHOOLS - ST. VRAIN VALLEY SCHOOL DISTRICT

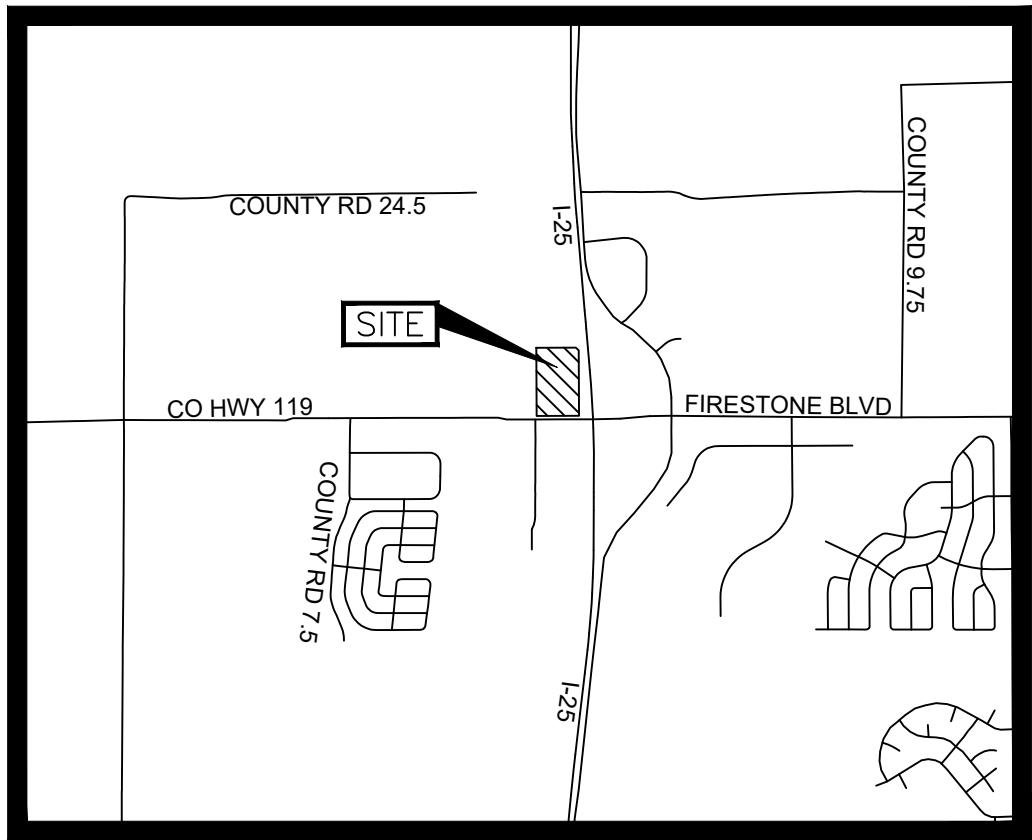
THE PROPERTY OWNER'S ASSOCIATION SHALL NOT BE RESPONSIBLE FOR THE MAINTENANCE OF STATE HIGHWAY 119.

LAND USE AND ZONING

THE ORIGINAL TURNER COMMONS ODP ALLOWED FOR LAND USES PER THE TOWN OF FIRESTONE'S REGIONAL COMMERCIAL (RC) ZONE DISTRICT. PURSUANT TO THE TURNER COMMONS ODP AMENDMENT NO 1, THE PROPERTY WILL CONTINUE TO FOLLOW THE RC ZONE DISTRICT TO PROVIDE GOODS AND SERVICES ON A REGIONAL BASIS, WHICH WILL INCLUDE GAS (FUEL) STATIONS AND CONVENIENCE STORE WITH ON-SITE LIQUOR SALES. LAND USES ON ADJACENT PROPERTIES ARE COMMERCIAL.

OUTLINE DEVELOPMENT PLAN
TURNER COMMONS
AMENDMENT NO. 1
TOWN OF FIRESTONE
COUNTY OF WELD
STATE OF COLORADO

SHEET 1 OF 2



Vicinity Map

Not to Scale

PROJECT CONTACT LIST:

SURVEYOR OF RECORD
MCCLURE ENGINEERING CO.
STAN LLOYD
1700 SWIFT, SUITE 100
NORTH KANSAS CITY, MO, 64116
TEL: (816) 756-0444
FAX: (816) 756-1763

ENGINEER OF RECORD
GALLOWAY & CO.
AARON MCLEAN
6162 S. WILLOW DR., SUITE 320
GREENWOOD VILLAGE, CO, 80111
TEL: (303) 770-8884
FAX: (303) 770-3636

QT REAL ESTATE PROJECT MANAGER
QUIKTRIP CORPORATION
MIKE TALCOTT
1499 WEST 120TH AVENUE, SUITE 110
WESTMINSTER, CO 8023-2719
TEL: (913) 905-2069

QT CIVIL PROJECT MANAGER
QUIKTRIP CORPORATION
JOSH POTTER
4705 SOUTH 129TH EAST AVE.
TULSA, OK 74134
TEL: (918) 615-7685

LAND USE TABLE

ZONING	LAND USE	AREA (AC)	% AREA
RC	COMMERCIAL	6.24	100
TOTAL AREA 6.24 AC			

PARK DEVELOPMENT

NO PARK OR OPEN SPACE DEDICATIONS ARE PLANNED WITH THIS DEVELOPMENT. PURSUANT TO PARAGRAPH 7 OF THE ANNEXATION AGREEMENT, THE TOWN OF FIRESTONE HAS WAIVED THIS REQUIREMENT.

PRIVATE MAINTENANCE AND ENFORCEMENT

THE SITE WILL BE MAINTAINED BY THE LOT OWNERS IN ACCORDANCE WITH THE FIRESTONE MUNICIPAL CODE, THE FIRESTONE DEVELOPMENT REGULATIONS, AND THE APPROVED OVERALL FINAL DEVELOPMENT PLAN AND PRIVATE COVENANTS FOR THE PROPERTY. RECIPROCAL EASEMENTS AND RESTRICTIONS SHALL BE ESTABLISHED AND PROVIDED WITH THE OVERALL FINAL DEVELOPMENT PLAN.

LEGAL DESCRIPTION:

PARCEL A:
LOT 1, RECORDED EXEMPTION NO. 1313-3-4-RE 626, RECORDED SEPTEMBER 12, 1883 UNDER RECEPTION NO. 01940086, BEING A PART OF THE SE ¼ OF SECTION 3, TOWNSHIP 2 NORTH, RANGE 68 WEST OF THE 6TH P.M.,

EXCEPTING THEREFROM, THAT PARCEL CONVEYED IN SPECIAL WARRANTY DEED RECORDED JUNE 9, 1997 UNDER RECEPTION NO. 2552005,

COUNTY OF WELD, STATE OF COLORADO.

PARCEL B:
LOT 2, AMENDED RECORDED EXEMPTION NO. 1313-03-4-AMRE-626, RECORDED DECEMBER 17, 2009 UNDER RECEPTION NO. 3665637, BEING A PART OF THE SE ¼ OF SECTION 3, TOWNSHIP 2 NORTH, RANGE 68 WEST OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO.

PARCEL C:
SE-1156 LOT, SUBDIVISION EXCEPTION NO. SE-1156, RECORDED DECEMBER 17, 2009 UNDER RECEPTION NO. 3665635, BEING A PART OF THE SE ¼ OF SECTION 3, TOWNSHIP 2 NORTH, RANGE 68 WEST OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO.

OWNER'S APPROVAL

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

OWNERS:

QUIKTRIP CORPORATION

BY: _____
QUIKTRIP CORPORATION

NOTARY CERTIFICATE

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

BY: _____
OWNER

STATE OF COLORADO

COUNTY OF WELD

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

WITNESS MY HAND AND OFFICIAL SEAL

NOTARY PUBLIC

MY COMMISSION EXPIRES _____

TOWN APPROVAL

APPROVED BY THE TOWN BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO THIS

_____ DAY OF _____, _____, BY ORDINANCE NO. _____.

MAYOR

ATTEST: TOWN CLERK

FIRESTONE INFORMATION BLOCK	
ODP COVER SHEET	
NAME OF APPLICATION:	TURNER COMMONS AMENDMENT NO. 1
TYPE OF SUBMITTAL:	OUTLINE DEVELOPMENT PLAN
FILING NUMBER:	
PHASE NUMBER:	
SHEET TITLE:	COVER SHEET
PREPARATION DATE:	FEBRUARY 12, 2020
REVISION DATE:	
REVISION DATE:	
REVISION DATE:	
SHEET 1 OF 2	



PROJECT NO.: QKT0040202



Turner Commons ODP
Amendment No. 1



© COPYRIGHT QUIKTRIP CORPORATION 2011
ANY UNAUTHORIZED USE, REPRODUCTION,
PUBLICATION, DISTRIBUTION, OR SALE IN
WHOLE OR IN PART, IS STRICTLY FORBIDDEN.

PROTOTYPE:
DIVISION:
VERSION:
DESIGNED BY: TPT
DRAWN BY: TPT
REVIEWED BY: JRR

DATE: 12/28/20
REV: 1
REV: 2

SHEET TITLE:
ODP COVER SHEET

SHEET NUMBER:
ODP1

TOWN OF FIRESTONE
COUNTY OF WELD
STATE OF COLORADO

SHEET 2 OF 2

FOUND #5 REBAR
NO IDENTIFICATION

453.13'
S89°58'07"W

SEWER
EASEMENT
REC. 2181779

N2°07'03"W
180.79'

LOT 1
RECORDED EXEMPTION
1313-3-4-RE-626
REC. 01940086
OWNER: QUIKTRIP CORPORATION,
AN OKLAHOMA CORPORATION
ANNEXED ORDINANCE 787
REC. 3834190
PLANNED UNIT DEVELOPMENT
REGIONAL COMMERCIAL

345.10'
S1°45'50"W

INGRESS / EGRESS EASEMENT
REC. 1912310

INGRESS & EGRESS EASEMENT
REC. 01940086

SET PK NAIL
WITH 1-1/2" ALUMINUM DISC
STAMPED "PLS 38069"

N89°58'07"E
127.46'

LOT 2
AMENDED RECORDED EXEMPTION
1313-03-4-AmRE-626
REC. 3665637
OWNER: QUIKTRIP CORPORATION,
AN OKLAHOMA CORPORATION
0.69 ACRES (29,905 SQ. FT.)

N0°13'23"W
109.93'

FOUND #4 REBAR
NO IDENTIFICATION

N89°58'07"E
230.89'

FOUND #4 REBAR
NO IDENTIFICATION

SEWER EASEMENT
REC. 2181780

UTILITY EASEMENT
REC. 3665635

7± RURAL ELECTRIC
EASEMENT REC. #1579946
& REC. #1579947

UTILITY EASEMENT
REC. 1939039

ELECTRIC EASEMENT
REC. 2622233

SE-1156 LOT
SUBDIVISION EXEMPTION SE-1156
REC. 3665635
OWNER: QUIKTRIP CORPORATION,
AN OKLAHOMA CORPORATION
ANNEXED ORDINANCE 787
REC. 3834190
PLANNED UNIT DEVELOPMENT
REGIONAL COMMERCIAL

N6°52'57"E
72.56'

FOUND #4 REBAR
NO IDENTIFICATION

INGRESS / EGRESS
EASEMENT
REC. 1912310

FUTURE ACCESS

FOUND NAIL WITH
ILLEGIBLE BRASS DISC
NOT ACCEPTED—
ERROR OF 1.6"
OUTSIDE TOLERANCE

SET PK NAIL
WITH 1-1/2" ALUMINUM DISC
STAMPED "PLS 38069"

N89°49'10"E
114.50'

FOUND #4 REBAR
WITH PLASTIC CAP
STAMPED "PLS
18982"

UNITED POWER INC.
ELECTRICAL EASEMENT
REC. 2605536

N20°07'48"E
34.95'

FOUND #4 REBAR
NO IDENTIFICATION

N0°16'10"W
20.04'

5' WIDE TELEPHONE
EASEMENT
REC. #1471523

N89°49'10"E
323.07'

N65°20'52"E
59.32'

STATE HIGHWAY 119
PUBLIC RIGHT OF WAY
(WIDTH VARIES)
ANNEXED ORDINANCE 787
REC. 3834190

EXISTING DRIVE ACCESS
TO BE VACTAED

INTERSTATE HIGHWAY 25 OFF RAMP
PUBLIC RIGHT OF WAY
(WIDTH VARIES)

SECTION CORNER
T2N R68W
SEC. 3 | SEC. 2
SEC. 10 | SEC. 11
FOUND 3-1/4" ALUMINUM CAP
STAMPED "PLS 24307"

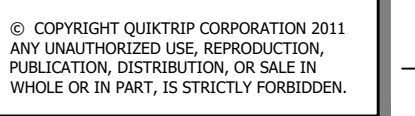
ZONING	LAND USE	AREA (AC)	% AREA
RC	COMMERCIAL	6.24	100
TOTAL AREA 6.24 AC			



SHEET TITLE:
ODP SITE PLAN
SHEET NUMBER:
ODP2

Turner Commons ODP
Amendment No. 1

FIRESTONE, CO 80
O HIGHWAY 119 & T



PROTOTYPE:
DIVISION:
VERSION:
DESIGNED BY: TPT
DRAWN BY: TPT
REVIEWED BY: JRR

DESERIALIZED DEPERTOCOMMENTS

[illegible]

SHEET TITLE:
ODP SITE PLAN

SHEET NUMBER:

ODP2

[illegible]

TURNER COMMONS ANNEXATION NO. 2
INITIAL ZONING/ODP AMENDMENT NO. 1

ORDINANCE 989

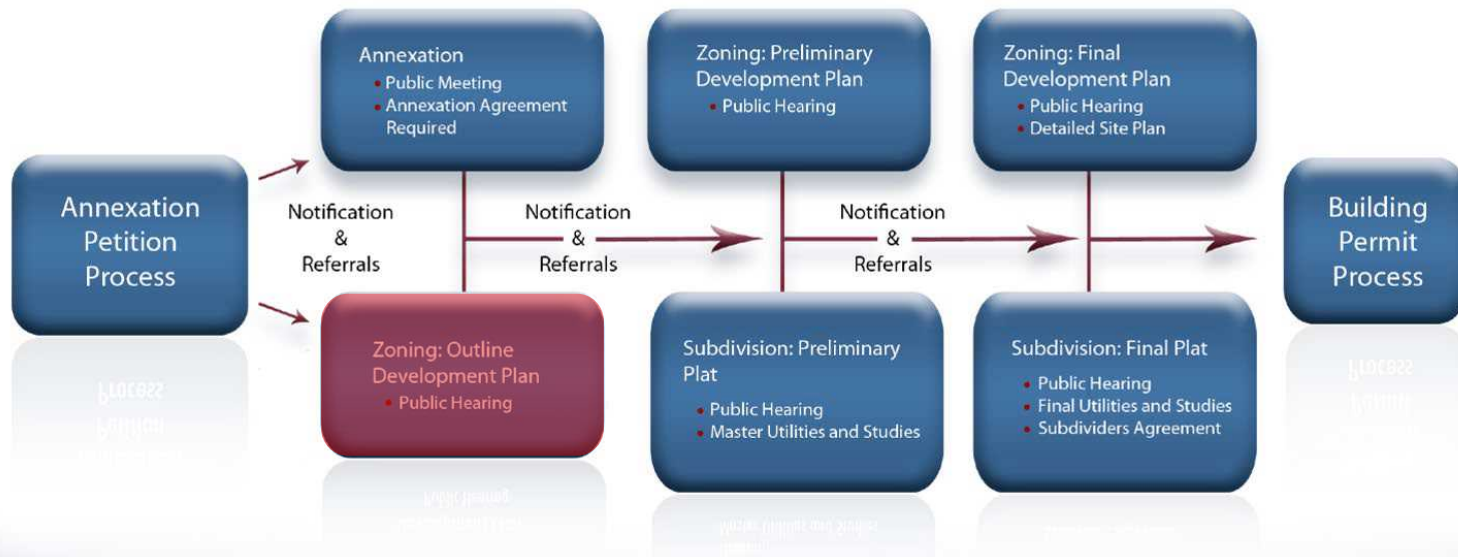


Board of Trustees – January 13, 2021

Process

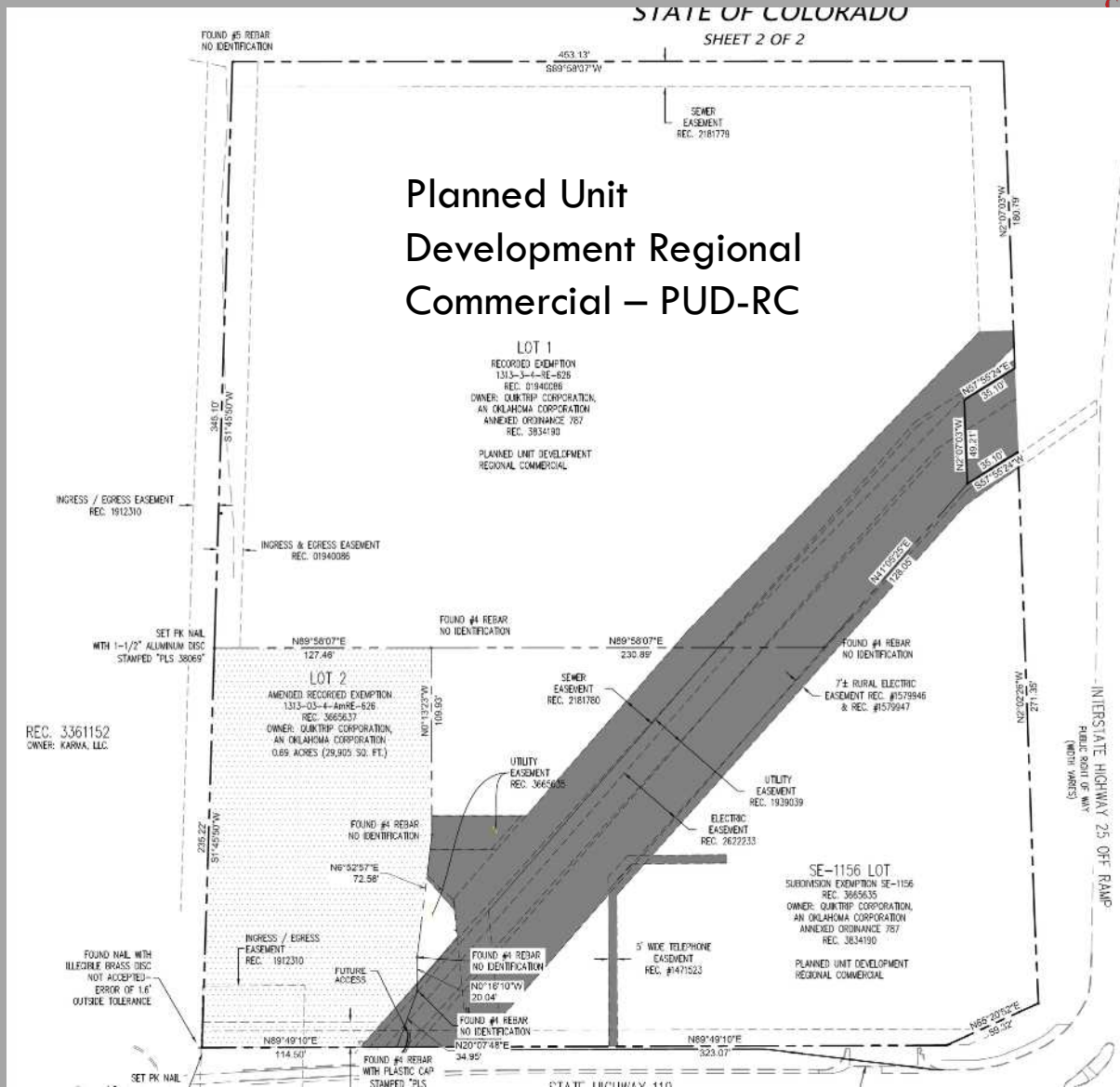


Development Flow Chart | Firestone PUD Zoning

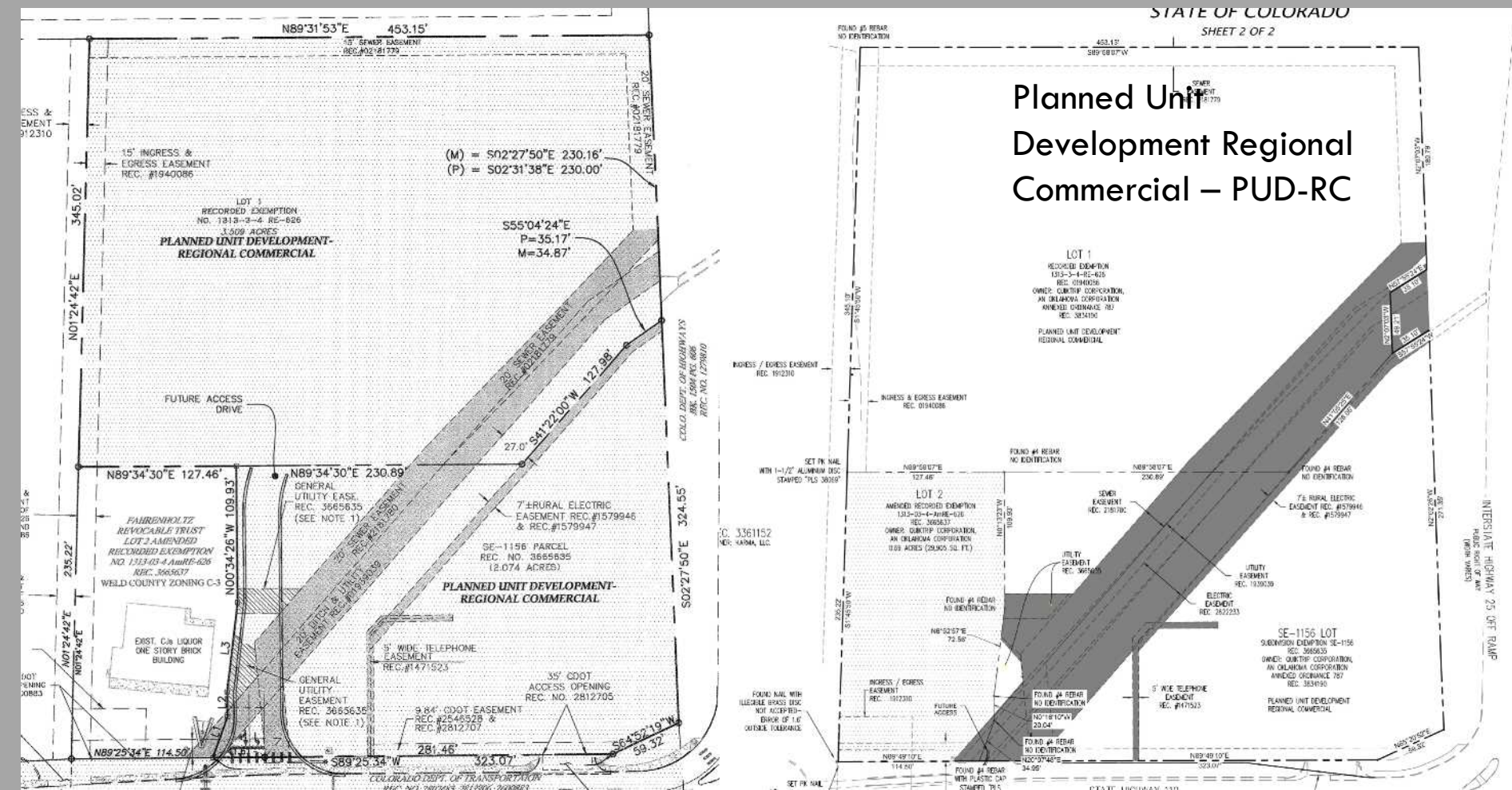


Location





FIRESTONE
COLORADO



Master Plan Map



	Parks		Commercial/ Office		Residential Low Density
	Open Space		Mixed Use		Residential Medium Density
	St. Vrain State Park		Employment/ Office		Residential High Density

Staff Recommendations



Staff Recommends that the Board of Trustees:

Approve Ordinance 989 – An ordinance zoning the property to Regional Commercial (RC) and amending the Turner Commons ODP to include the subject property.

To: Town of Firestone
Planning Department

From: Galloway and Company, Inc
Aaron McLean

Date: December 28, 2020

Re: **Public Hearing Option
Orientation Telephonic Participation Policy**

Ms. Berry:

We represent QuikTrip Corporation in connection with its pending application with the Town of Firestone. Galloway and Company, Inc. as the applicant in such application, hereby expressly authorizes the Town to proceed with conducting the Town Board public hearing for the Turner Commons Annexation No. 2 and Initial Zoning/ODP Amendment No. 1 under the Town's Orientation Telephonic Participation Policy. The applicant understands that the hearing will include accommodations made for Telephonic Participation by the applicant and/or the public. The applicant is waiving any legal challenge on the basis that the hearing will be conducted via Telephone Participation.



**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 8.a

Discussion/Action

Meeting Date: January 13, 2021

Initiated By:

Dept: Town Clerk

AGENDA TITLE

Appointments to the Planning & Zoning Commission

SUMMARY

HISTORY AND PREVIOUS BOARD ACTION

RECOMMENDATION

ALTERNATIVES

ATTACHMENTS

None

FINANCIAL CONSIDERATIONS

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 8.b

Discussion/Action

Meeting Date: January 13, 2021

Initiated By: Julie Pasillas

Dept: Public Works

AGENDA TITLE

Resolution 21-09: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING THE SECOND AMENDMENT TO THE WATER CREDIT PURCHASE AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND MORTGAGE CONSULTANTS, LLC

SUMMARY

The Board approved Resolution 18-08 on February 7, 2018, which approved a Water Credit Purchase Agreement between the Town of Firestone and Mortgage Consultants, LLC for 131 water credits to be used on the Cottonwood Hollow development. The agreement had a provision that water credits shall expire on February 7, 2020, if not dedicated to the Town before the expiration date. Town staff received a request from the owner of Mortgage Consultants, LLC for a 12-month extension for the original agreement, which the Board granted a one-time extension on January 22, 2020.

To date, 56.33 water credits have been dedicated to Cottonwood Hollows Filling 1 development leaving a remaining 74.67 water credit not dedicated. Mortgage Consultants, LLC has requested an additional extension to accommodate the timing of a pending sale for the remaining Cottonwood Hollow development properties to Alberta Development Partners, LLC. The Second Amendment, as presented, incorporates a 30-day extension for Mortgage Consultants, LLC, and language expressing the Town's willingness to content to an assignment of the Agreement to Alberta Development Partners, LLC. The agreement provides for the assignment and 12-month extension upon the execution of Exhibit B, the Third Amendment if the remaining properties are acquired by Alberta Development Partners, LLC before the expiration date outlined in the Second Amendment.

HISTORY AND PREVIOUS BOARD ACTION

The Board approved a long-term lease of water from the City of Loveland at the regular meeting on December 14, 2016.

The Board authorized staff to proceed with a process to bid 300 water dedication credits to owners of undeveloped property in the Town corporate limits at the regular meeting on August 9, 2017.

The Board approved Resolution 18-08, which approved the Water Credit Purchase Agreement at the special meeting on February 7, 2018.

The Board approved Resolution 20-18 approving the First Amendment of the Water Credit Purchase Agreement at the regular meeting on January 22, 2020.

RECOMMENDATION

Staff recommends that the Board approves Resolution 21-09 resolution approving the Second Amendments to the Water Credit Purchase Agreement with Mortgage Consultants, LLC and Exhibit B the Third Amendment to the Water Credit Purchase Agreement with Alberta Development Partners, LLC.

ALTERNATIVES

The Board may choose not to approve the resolution and provide staff with additional direction.

ATTACHMENTS

1. Res No 21-09 Second Amendment Mortgage Consultants_Water Rights Dedication 1.12.21
2. Water Credit 2nd Amendment_Mortgage Consultants-1-13-21

FINANCIAL CONSIDERATIONS

None at this time.

RESOLUTION NO. 21-09

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING THE SECOND AMENDMENT TO THE WATER CREDIT PURCHASE AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND MORTGAGE CONSULTANTS, LLC

WHEREAS, Mortgage Consultants, LLC, (“Mortgage Consultants”) pursuant to an Annexation Agreement, agreed to dedicate water rights/shares to the Town of Firestone (“Firestone”), which water rights and or shares must be dedicated prior to the first recording of a final plat, final subdivision or final development plan or receiving a building permit; and

WHEREAS, Firestone obtained water supplies and in accordance with its procedures sought bids and Mortgage Consultants was the successful bidder and awarded the right to and purchased 131 water credits to fulfill its dedication requirement; and

WHEREAS, Firestone in its sole discretion agreed to accept the water credits to fulfill Mortgage Consultants dedication requirement and on February 18, 2018 the parties entered into a Water Credit Purchase Agreement (“Agreement”) which specified in part that the water credits if not dedicated to Firestone by February 7, 2020, would expire and that the Agreement was not assignable; and

WHEREAS, Mortgage Consultants advised Firestone that as a result of contractual difficulties it would be unable to meet the February 7, 2020 dedication deadline but could meet the deadline if it was extended for one year; and

WHEREAS, Firestone and Mortgage Consultants entered into the First Amendment of the Agreement which in part, extended the Expiration Date to February 7, 2021; and

WHEREAS, Mortgage Consultants has advised Firestone that it has entered into a contract to sell certain property (“Property”) described in the Annexation Agreement to Alberta Development Partners LLC, which contract is set to close after the February 7, 2021 Expiration Date, which would result in forfeiture of Mortgage Consultants remaining 74.67 water credits and any claim to proceeds or reimbursement and subsequent sale by Firestone of the forfeited water credits; and

WHEREAS Mortgage Consultants requests Firestone extend the Expiration Date to (May 10, 2021); and

WHEREAS, Mortgage Consultants also requests that Firestone consent to an assignment of the Agreement, as amended, to Alberta Development Partners, LLC in connection with its purchase of the Property; and

WHEREAS, Mortgage Consultants in consideration of such extension agrees that it will not seek an additional extension of the Expiration Date.

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

The Second Amendment to the Water Credit Purchase Agreement between the Town of Firestone and Mortgage Consultants, 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 Second Amendment on behalf of the Town.

INTRODUCED, READ AND ADOPTED this 13th day of January, 2021.

TOWN OF FIRESTONE, COLORADO

Bobbi Sindelar, Mayor

ATTEST:

Jessica Koenig, CMC, Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

**SECOND AMENDMENT TO WATER CREDIT PURCHASE AGREEMENT BETWEEN
THE TOWN OF FIRESTONE AND MORTGAGE CONSULTANTS, LLC.**

WHEREAS, Mortgage Consultants, LLC, (“Buyer”) is a “subdivider, or developer” as that term is defined in Section 16.11.3 of the Firestone Development Code (“Code”), who agreed to dedicate “water rights” and/or “shares” to the Town of Firestone (“Firestone”) pursuant to an Annexation Agreement dated January 16, 1999 (“Annexation Agreement”), and who must actually dedicate those “water rights” and/or “shares” prior to the first recording of a final plat, final subdivision, or final development plan or receiving a building permit; and

WHEREAS, Firestone obtained certain water supplies and made these water supplies available to Bidders pursuant to the Firestone Municipal Water Credit Bidding Rules and Procedures (“Bidding Rules and Procedures”) as Water Credits; and

WHEREAS, Buyer placed a successful bid and was awarded the right to and purchase of 131 Water Credits from Firestone; and

WHEREAS, Firestone, in its sole discretion, agreed to accept the Water Credits to fulfill Buyer's dedication of “water rights” and/or “shares” requirement as outlined in the Code and specified in the Water Credit Purchase Agreement (“Agreement”) entered into by Firestone and Buyer on February 8, 2018; and

WHEREAS, Buyer has dedicated 56.33 of the 131 Water Credits which are the subject of the Agreement leaving 74.67 Water Credits available pursuant to the Agreement; and

WHEREAS, Section 8 of the Agreement provides:

Expiration. The Water Credits described herein shall expire on February 7, 2020 (“Expiration Date”) if not dedicated to Firestone prior to the Expiration Date. All of Buyer's rights in and to the Water Credits, and/or to dedicate said Water Credits, shall extinguish if not dedicated prior to the Expiration Date. Buyer shall not be entitled to any proceeds or reimbursement from any sale subsequent to the Expiration Date; and

WHEREAS, Buyer and Firestone entered into a First Amendment to the Agreement which, among other things, extended the Expiration Date until February 7, 2021; and

WHEREAS, Buyer has advised Firestone that, Buyer intends to enter into a contract to sell the property described in Exhibit 1 to the Agreement which it still owns (the “Property”) to Alberta Development Partners, LLC or one of its affiliates (“Alberta”). AS used in this Second Amendment, an “affiliate of Alberta” means an entity of which Donald G. Provost is, directly or indirectly, a member and manager. Said contract is set to close after the February 7, 2021 Expiration Date, which would result in forfeiture of its Water Credits and any claim to proceeds or reimbursement from any subsequent sale by Firestone of the forfeited Water Credits; and

WHEREAS, Buyer requests Firestone include an extension of the Expiration Date; and

WHEREAS, Buyer requests Firestone indicate its willingness to consent to an assignment of the Agreement, as amended, to Alberta Development Partners, LLC in connection with their purchase of the Property; and

WHEREAS, Firestone as an accommodation to Buyer is willing to grant a one-time extension of the Expiration Date till May 10, 2021; and

WHEREAS, in consideration of such extension, Buyer agrees that it shall not request any additional extension of the Agreement's Expiration Date; and

WHEREAS, Section 9 of the Agreement provides that it may be amended by a writing signed by both parties.

THEREFORE, in consideration of the terms and conditions set forth herein, including the above recitals which are included herein and made a part of this Second Amendment, the parties agree as follows:

Section One: Section 8, "Expiration" of the Water Credit Purchase Agreement is amended to read as follows:

Expiration. The Water Credits described herein shall expire on May 10, 2021 ("Expiration Date") if not dedicated to Firestone prior to the Expiration Date. All of Buyer's rights in and to the Water Credits, and/or to dedicate said Water Credits, shall extinguish if not dedicated prior to Firestone or assigned to Alberta concurrently with title to the Property prior to the Expiration Date. Buyer shall not be entitled to any proceeds or reimbursement from any sale subsequent to the Expiration Date; and

Section Two: Firestone hereby consent to an assignment of the Agreement, as amended herein, to Alberta if Alberta acquires the Property from Buyer prior to the Expiration Date and pursuant to terms of the Third Amendment attached here to as Exhibit A

Section Three: Section 6, "No Assignment" of the Water Credit Purchase Agreement is amended to read as follows:

No Assignment. This Agreement shall not be assigned by Buyer except in connection with the sale of the Property and only upon the prior written consent of Firestone which may be withheld in its sole discretion. The Water Credits described herein are otherwise non-transferable. If unforeseen circumstances occur that result in Buyer needing less than all of the Water Credits acquired by this Agreement, the Water Credits shall be re-assigned to Firestone in a timely fashion. Should Firestone, in its sole discretion, re-sell the Water Credits described herein prior to the Expiration Date of the Water Credits, the associated proceeds will be reimbursed to Buyer, up to, but not exceeding the Purchase Price described herein. This Paragraph shall in no way require Firestone to re-sell any Water Credits re-assigned to Firestone, and shall not entitle Buyer to any reimbursement for Water Credits re-assigned to Firestone that are not re-sold prior to the Expiration Date of

the Credits. Any purported transfer or assignment in violation of this provision shall be void.

Section Four: All other terms and conditions of the Agreement remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Second Amendment with an effective date of January ____ 2021.

TOWN OF FIRESTONE, COLORADO

MORTGAGE CONSULTANTS, LLC.
By: SAG Management, LLC

Bobbi Sindelar, Mayor

By_____
Stephen A. Grove, its Manager

ATTEST:

Jessica Koenig, CMC, Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 8.c

Discussion/Action

Meeting Date: January 13, 2021

Initiated By: Julie Pasillas

Dept: Public Works

AGENDA TITLE

Resolution 20-15: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING THE THIRD AMENDMENT TO THE WATER CREDIT PURCHASE AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND MORTGAGE CONSULTANTS, LLC

SUMMARY

The Board approved Resolution 18-08 on February 7, 2018, which approved a Water Credit Purchase Agreement between the Town of Firestone and Mortgage Consultants, LLC for 131 water credits to be used on the Cottonwood Hollow development. The agreement had a provision that water credits shall expire on February 7, 2020, if not dedicated to the Town before the expiration date. Town staff received a request from the owner of Mortgage Consultants, LLC for a 12-month extension for the original agreement, which the Board granted a one-time extension on January 22, 2020.

To date, 56.33 water credits have been dedicated to Cottonwood Hollows Filling 1 development leaving a remaining 74.67 water credit not dedicated. Mortgage Consultants, LLC has requested an additional extension to accommodate the timing of a pending sale for the remaining Cottonwood Hollow development properties to Alberta Development Partners, LLC. The Second Amendment, as presented, incorporates a 30-day extension for Mortgage Consultants, LLC, and language expressing the Town's willingness to consent to an assignment of the Agreement to Alberta Development Partners, LLC. The agreement provides for the assignment and 12-month extension upon the execution of Exhibit B if the remaining properties are acquired by Alberta Development Partners, LLC, before the expiration date outlined in the Second Amendment.

HISTORY AND PREVIOUS BOARD ACTION

The Board approved a long-term lease of water from the City of Loveland at the regular meeting on December 14, 2016.

The Board authorized staff to proceed with a process to bid 300 water dedication credits to owners of undeveloped property in the Town corporate limits at the regular meeting on August 9, 2017.

The Board approved Resolution 18-08, which approved the Water Credit Purchase Agreement at the special meeting on February 7, 2018.

The Board approved Resolution 20-18, approving the First Amendment of the Water Credit Purchase Agreement at the regular meeting on January 22, 2020.

RECOMMENDATION

Staff recommends that the Board approves Resolution 21-15, a resolution approving the Third Amendments to the Water Credit Purchase Agreement with Mortgage Consultants, LLC with an assignment to Alberta Development Partners, LLC.

ALTERNATIVES

The Board may choose not to approve the resolution and provide staff with additional direction.

ATTACHMENTS

1. Res No 21-15 Third Amendment Mortgage Consultants_Water Rights Dedication
2. Water Credit 3rd Amendment_Mortgage Consultants-Alberta-1-13-21

FINANCIAL CONSIDERATIONS

None at this time.

RESOLUTION NO. 21-15

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING THE THIRD AMENDMENT TO THE WATER CREDIT PURCHASE AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND MORTGAGE CONSULTANTS, LLC

WHEREAS, Mortgage Consultants, LLC, (“Mortgage Consultants”) pursuant to an Annexation Agreement, agreed to dedicate water rights/shares to the Town of Firestone (“Firestone”), which water rights and or shares must be dedicated prior to the first recording of a final plat, final subdivision or final development plan or receiving a building permit; and

WHEREAS, Firestone obtained water supplies and in accordance with its procedures sought bids and Mortgage Consultants was the successful bidder and awarded the right to and purchased 131 water credits to fulfill its dedication requirement; and

WHEREAS, Firestone in its sole discretion agreed to accept the water credits to fulfill Mortgage Consultants dedication requirement and on February 18, 2018 the parties entered into a Water Credit Purchase Agreement (“Agreement”) which specified in part that the water credits if not dedicated to Firestone by February 7, 2020, would expire and that the Agreement was not assignable; and

WHEREAS, Mortgage Consultants advised Firestone that as a result of contractual difficulties it would be unable to meet the February 7, 2020 dedication deadline but could meet the deadline if it was extended for one year; and

WHEREAS, Firestone and Mortgage Consultants entered into the First Amendment of the Agreement which in part, extended the Expiration Date to February 7, 2021; and

WHEREAS, Mortgage Consultants advised Firestone that it had entered into a contract to sell certain property (“Property”) described in the Annexation Agreement to Alberta Development Partners LLC, (“Alberta”) which contract was set to close after the February 7, 2021 Expiration Date, which would result in forfeiture of Mortgage Consultants remaining 74.67 water credits and any claim to proceeds or reimbursement and subsequent sale by Firestone of the forfeited water credits; and

WHEREAS, Mortgage Consultants requested Firestone extend the Expiration Date to (March 8, 2021); and

WHEREAS, Mortgage Consultants also requested that Firestone consent to an assignment of the Agreement, as amended, to Alberta in connection with Alberta’s purchase of the Property; and

WHEREAS, Firestone consented to such requests which the parties memorialized in entering into the Second Amendment to Water Credit Purchase Agreement; and

WHEREAS, Mortgage Consultants has therefore assigned the Agreement and the remaining 74.67 water credits to Alberta; and

WHEREAS, Alberta to facilitate development of the Property requests that the Expiration Date be extended from March 8, 2021 to March 8, 2022 and Firestone consents to such request upon the condition that Alberta will not request an additional extension of the Expiration Date; and

WHEREAS, Alberta further agrees to assume all benefits and burdens and be bound by the terms and conditions of the Agreement, as amended.

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

The Third Amendment to the Water Credit Purchase Agreement between the Town of Firestone and Mortgage Consultants, 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 Third Amendment on behalf of the Town.

INTRODUCED, READ AND ADOPTED this __ day of _____, 2021.

TOWN OF FIRESTONE, COLORADO

Bobbi Sindelar, Mayor

ATTEST:

Jessica Koenig, CMC, Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

**THIRD AMENDMENT TO WATER CREDIT PURCHASE AGREEMENT BETWEEN
THE TOWN OF FIRESTONE AND MORTGAGE CONSULTANTS, LLC.**

WHEREAS, Mortgage Consultants, LLC, (“MC”) is a “subdivider, or developer” as that term is defined in Section 16.11.3 of the Firestone Development Code (“Code”), who agreed to dedicate “water rights” and/or “shares” to the Town of Firestone (“Firestone”) pursuant to an Annexation Agreement dated January 16, 1999 (“Annexation Agreement”), and who must actually dedicate those “water rights” and/or “shares” prior to the first recording of a final plat, final subdivision, or final development plan or receiving a building permit; and

WHEREAS, Firestone obtained certain water supplies and made these water supplies available to Bidders pursuant to the Firestone Municipal Water Credit Bidding Rules and Procedures (“Bidding Rules and Procedures”) as Water Credits; and

WHEREAS, MC placed a successful bid and was awarded the right to and purchase of 131 Water Credits from Firestone; and

WHEREAS, Firestone, in its sole discretion, agreed to accept the Water Credits to fulfill MC’s dedication of “water rights” and/or “shares” requirement as outlined in the Code and specified in the Water Credit Purchase Agreement (“Agreement”) entered into by Firestone and Buyer on February 8, 2018; and

WHEREAS, MC has dedicated 56.33 of the 131 Water Credits which are the subject of the Agreement leaving 74.67 Water Credits available pursuant to the Agreement; and

WHEREAS, MC shall transfer the Agreement as it pertains to the remaining 74.67 Water Credits to Alberta Development Partners, LLC (“Alberta”) or an affiliate of Alberta as the term affiliate is defined in the Second Amendment to this Agreement (hereinafter now referred to collectively as “Buyer”) in connection with the remainder of the Property as described in Exhibit 1 to the Agreement (the “Property”) which was owned by MC and as illustrated in the conceptual plan attached hereto as Exhibit A (the “Conceptual Plan”¹), which assignment was approved by the Town pursuant to Section 6 of the Agreement and subject to Firestone and Buyer’s approval of this Third Amendment; and

WHEREAS, Buyer has agreed to bound to the terms and conditions of the Agreement as amended; and

WHEREAS, Section 8 of the Agreement provides:

Expiration. The Water Credits described herein shall expire on February 7, 2020 (“Expiration Date”) if not dedicated to Firestone prior to the Expiration Date. All of Buyer’s rights in and to the Water Credits, and/or to dedicate said Water Credits, shall

¹ Buyer and Firestone acknowledge the Conceptual Plan shows Buyer’s current intended development but is subject to change and has not yet been approved by Firestone.

extinguish if not dedicated prior to the Expiration Date. Buyer shall not be entitled to any proceeds or reimbursement from any sale subsequent to the Expiration Date; and

WHEREAS, MC and Firestone entered into a Second Amendment to the Agreement which, among other things, extended the Expiration Date until May 10, 2021; and

WHEREAS, Buyer desires to extend the Expiration Date to May 10, 2022, to facilitate its development of the Property; and

WHEREAS, in consideration of such extension, Buyer agrees that it shall not request any additional extension of the Agreement's Expiration Date; and

WHEREAS, Section 9 of the Agreement provides that it may be amended by a writing signed by both parties.

THEREFORE, in consideration of the terms and conditions set forth herein, including the above recitals which are included herein and made a part of this Second Amendment, the parties agree as follows:

Section One: Upon assignment to Buyer of the agreement Buyer shall assume all of the benefits and burdens and agrees to be bound to all of the terms and conditions of the Agreement, as amended. Buyer shall provide Firestone with a copy of the deed conveying the Property to Buyer as soon as possible following recording of the deed.

Section Two: Section 8, "Expiration" of the Water Credit Purchase Agreement is amended to read as follows:

Expiration. The Water Credits described herein shall expire on May 10, 2022 ("Expiration Date") if not dedicated to Firestone prior to the Expiration Date. All of Buyer's rights in and to the Water Credits, and/or to dedicate said Water Credits, shall extinguish if not dedicated to Firestone prior to the Expiration Date. Buyer shall not be entitled to any proceeds or reimbursement from any sale subsequent to the Expiration Date. Buyer may only obtain an extension of the Expiration Date if its failure to dedicate the Water Credits prior to the Expiration Date is directly due to the occurrence of a Force Majeure event, as that term is defined herein, provided that: a) Buyer gives Firestone written notice describing the particulars of the Force Majeure event and details how it impacts Buyer's ability to dedicate the Water Credits; b) suspension of Buyer's obligation to dedicate the Water Credits and extension of the Expiration Date shall be of no longer duration than is required by the Force Majeure event; and c) Buyer proceeds with reasonable diligence to remedy its inability to dedicate the Water Credits. As used herein, "Force Majeure" shall mean events occurring beyond the reasonable control of the Buyer which would prevent it from completing the requirements which are necessary preconditions to dedicating the Water Credits to Firestone including acts of God, epidemic or pandemic, delays in obtaining any necessary government approval or permits beyond normal process times and which delays are not the result of Buyer's actions or inactions, war or terrorism..

Section Three: All other terms and conditions of the Agreement, as amended, remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Third Amendment with an effective date of January ____ 2021.

TOWN OF FIRESTONE, COLORADO
PARTNERS, LLC.

ALBERTA DEVELOPMENT

Bobbi Sindelar, Mayor

By: _____

ATTEST:

Jessica Koenig, CMC, Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 11.a

Executive Session

Meeting Date: January 13, 2021

Initiated By:

Dept: Town Clerk

AGENDA TITLE

An executive session pursuant to C.R.S. 24-6-402(4)(e)(I) for determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations and instructing negotiators and C.R.S. 24-6-402(4)(b) for a conference with an attorney for the Town for the purpose of receiving legal advice on specific legal questions regarding Central Weld County Water District's service to the Town

SUMMARY

HISTORY AND PREVIOUS BOARD ACTION

RECOMMENDATION

ALTERNATIVES

ATTACHMENTS

None

FINANCIAL CONSIDERATIONS

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 11.b

Executive Session

Meeting Date: January 13, 2021

Initiated By:

Dept: Town Clerk

AGENDA TITLE

An executive session pursuant to C.R.S. 24-6-402(4)(a) regarding the purchase or acquisition of real property and pursuant to C.R.S. 24-6-402 (e)(I) determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations and directing negotiators concerning such real property and an oil and gas agreement

SUMMARY

HISTORY AND PREVIOUS BOARD ACTION

RECOMMENDATION

ALTERNATIVES

ATTACHMENTS

None

FINANCIAL CONSIDERATIONS

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 11.c

Executive Session

Meeting Date: January 13, 2021

Initiated By:

Dept: Town Clerk

AGENDA TITLE

An executive session pursuant to C.R.S. 24-6-204(4)(f)(I) for a personnel matter regarding the Town Board's annual performance review of the Town Clerk

SUMMARY

HISTORY AND PREVIOUS BOARD ACTION

RECOMMENDATION

ALTERNATIVES

ATTACHMENTS

None

FINANCIAL CONSIDERATIONS