



BOARD OF TRUSTEES

REGULAR MEETING AGENDA

February 23, 2022
7:00 PM
9900 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 BOARD ROOM

1. **Call to Order & Roll Call**
2. **Pledge of Allegiance**
3. **Approval of Agenda**
4. **Public Comment** *(maximum time permitted for all Public Comment is 30 minutes)
5. **Consent Agenda**
 - a. Approval of February 9, 2022 Meeting Minutes
 - b. **Ordinance 1005**: AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, AMENDING CHAPTER 5.08 ALCOHOLIC BEVERAGES, OF THE FIRESTONE MUNICIPAL CODE
6. **Presentation**
 - a. STAR Award
 - b. Compensation Process Review
7. **Discussion/Action**
 - a. **Ordinance 1006**: AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, AUTHORIZING THE RENEWAL OF THE EXISTING CABLE FRANCHISE AGREEMENT HELD BY COMCAST OF COLORADO IX, LLC, LOCALLY KNOWN AS COMCAST AND AUTHORIZING THE MAYOR AND TOWN CLERK TO EXECUTE, ON BEHALF OF THE TOWN OF FIRESTONE, THE CABLE FRANCHISE 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. Individuals are allotted 3 minutes of Public Comment during the entirety of the meeting. Maximum time permitted for all Public Comment during a meeting 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.

- b. **Resolution 22-30:** 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
- c. **Resolution 22-31:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN OPERATING AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND THE LAST CHANCE DITCH COMPANY
- d. **Resolution 22-32:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND VECTOR DISEASE CONTROL INTERNATIONAL LLC FOR INTEGRATED MOSQUITO MANAGEMENT SERVICES

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

9. **Reports**

- a. Staff
 - 9.a.i. January Monthly Finance Report
- b. Mayor
- c. Trustees
- d. Frederick-Firestone Fire Protection 2021 Fourth Quarter Service Report (*report only*)

10. **Adjournment**

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**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 5.a

Consent Agenda

Meeting Date: February 23, 2022

Initiated By: Jessica Koenig

Dept: Town Clerk

AGENDA TITLE

Approval of February 9, 2022 Meeting Minutes

SUMMARY

HISTORY AND PREVIOUS BOARD ACTION

RECOMMENDATION

Approval of February 9, 2022 draft meeting minutes

ALTERNATIVES

ATTACHMENTS

1. February 9, 2022 Draft Meeting Minutes

FINANCIAL CONSIDERATIONS

TOWN OF FIRESTONE, COLORADO
Board of Trustees Regular Meeting
MINUTES
February 9, 2022

1. Call to Order & Roll Call

The Board of Trustees of the Town of Firestone met for a Regular Meeting on February 9, 2022, at the Police Department & Municipal Court building, 9900 Park Avenue, Firestone, Colorado. Mayor Sindelar called the meeting to order at 7:01 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; David Angelo, Chief of Police; Jessica Koenig, Town Clerk; AJ Krieger, Town Manager; & William Hayashi, Town Attorney

2. Pledge of Allegiance

Mayor Sindelar led the pledge of allegiance.

3. Approval of Agenda

Motion by Trustee Conyac, **second** by Mayor Pro Tem Jimenez, to Amend the Agenda to remove Agenda Item 5c from agenda to reschedule for Work Session to be determined, All in Favor, **Motion carried.**

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

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

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

5. Consent Agenda

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

Favor, **Motion carried.**

- a. Approval of January 26, 2022 Meeting Minutes
- b. **Resolution 22-23:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND WELD COUNTY FOR VOTER REGISTRATION SPECIALIST SERVICES
- c. **Resolution 22-24:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, TERMINATING THE CROSSING GUARD PROGRAM AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND ST. VRAIN VALLEY SCHOOL DISTRICT

Resolution 22-24 was removed from the Consent Agenda and delayed to a future Work Session.

6. Presentations

- a. STAR Award
- b. Introduction of Chief Angelo

7. Discussion/Action

- a. **Resolution 22-22:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND DITESCO LLC FOR THE HISTORIC FIRESTONE WATER LINE DESIGN

Motion by Mayor Pro Tem Jimenez, **second** by Trustee Conyac, to Approve **Resolution 22-22:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND DITESCO LLC FOR THE HISTORIC FIRESTONE WATER LINE DESIGN

Roll Call Vote:

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

No: None

Abstain: None

Motion carried.

- b. **Resolution 22-25:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF PLATTEVILLE AND THE TOWN OF FIRESTONE REGARDING GROWTH AND PLANNING AREAS

Motion by Trustee Sharp, **second** by Trustee Whelan, to Approve **Resolution 22-25:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF PLATTEVILLE AND THE TOWN OF FIRESTONE REGARDING GROWTH AND PLANNING AREAS

Roll Call Vote:

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

No: None

Abstain: None

Motion carried.

- c. **Resolution 22-26:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, ACTING BY AND THROUGH ITS WATER ACTIVITY ENTERPRISE APPROVING A PURCHASE AND SALE AGREEMENT WITH L.G. EVERIST, INCORPORATED

Motion by Trustee Conyac, **second** by Trustee Doherty, to Approve **Resolution 22-26:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, ACTING BY AND THROUGH ITS WATER ACTIVITY ENTERPRISE APPROVING A PURCHASE AND SALE AGREEMENT WITH L.G. EVERIST, INCORPORATED

Roll Call Vote:

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

No: None

Abstain: None

Motion carried.

- d. **Resolution 22-27:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND MILLER GROUNDWATER ENGINEERING LLC

Motion by Mayor Pro Tem Jimenez, **second** by Trustee Whelan, to Approve **Resolution 22-27:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND MILLER GROUNDWATER ENGINEERING 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.

e. Local Liquor License Authority Discussion

The Board reached a consensus to move forward with appointing the Municipal Judge as a Local Liquor License Authority Hearing Officer.

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

Matt Holcomb, Firestone resident, gave public comment encouraging the Board to continue to serve as the Local Liquor License Authority.

9. Reports

a. Staff

9.a.i. Hart Dog Park; other dog park relocates

Julie Pasillas, Public Works Director, presented to the Board of Trustees regarding dog park relocates.

9.a.ii. 2022 Special Events Update & 2022 George E. Heath Scholarship Update

Katie Hansen, Marketing & Communications Director, presented to the Board of Trustees regarding events and the George E. Heath Scholarship.

b. Mayor

c. Trustees

Trustee Sharp reported on a letter from Betty Heath and a recommendation for a STAR Award.

Trustee Meiring reported on a meeting with the lobbyists, and that the lobbyists would present at the March 16, 2022 Work Session.

Trustee Whelan reported on an idea to have presentations included in the agenda packet or included in a separate section on the website.

d. How to donate to those impacted by the Marshall fires

AJ Krieger, Town Manager, and the Board of Trustees discussed various donation options.

10. Adjournment

Motion by Trustee Sharp, **second** by Trustee Conyac, to Adjourn at 9:30 PM, All in Favor, **Motion carried.**

TOWN OF FIRESTONE, COLORADO

ATTEST

Bobbi Sindelar, Mayor

Jessica Koenig, Town Clerk

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 5.b

Consent Agenda

Meeting Date: February 23, 2022

Initiated By: Jessica Koenig

Dept: Town Clerk

AGENDA TITLE

Ordinance 1005: AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, AMENDING CHAPTER 5.08 ALCOHOLIC BEVERAGES, OF THE FIRESTONE MUNICIPAL CODE

SUMMARY

Ordinance 1005 establishes a Local Liquor Licensing Authority that will consist of a sole hearing officer. A sole hearing officer will enhance the Town's responsiveness and increase administrative efficiency as to liquor licensing matters and better meet the desires of liquor license applicants and licensees.

HISTORY AND PREVIOUS BOARD ACTION

In accordance with C.R.S. § 44-3-103 (27), the Board of Trustees serves as the "Local Licensing Authority" and performs the duties of such body as set forth in the Colorado Liquor Code, C.R.S. Article 3, Title 44.

RECOMMENDATION

Approval of Ordinance 1005.

ALTERNATIVES

Provide staff with further direction.

ATTACHMENTS

1. 1005 Alcoholic Beverages Amend Ord

FINANCIAL CONSIDERATIONS

ORDINANCE NO. 1005

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, AMENDING CHAPTER 5.08 ALCOHOLIC BEVERAGES, OF THE FIRESTONE MUNICIPAL CODE

WHEREAS, in accordance with C.R.S. § 44-3-103 (27), the Board of Trustees serves as the “Local Licensing Authority” and performs the duties of such body as set forth in the Colorado Liquor Code, C.R.S. Article 3, Title 44; and

WHEREAS, the Board of Trustees, as provided for in C.R.S. § 44-3-103 (27), desires to establish a Local Licensing Authority that will consist of a sole hearing officer; and

WHEREAS, the Board of Trustees finds that a sole hearing officer will enhance the Town’s responsiveness and increase administrative efficiency as to liquor licensing matters and better meet the desires of liquor license applicants and licensees.

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

Section 1. Section 5.08.090, Local Licensing Authority: Duties and Powers, of the Firestone Municipal Code is enacted to provide:

- (a) *Authority, powers and duties.* The local liquor licensing authority ("Authority") shall have all powers and duties granted to local liquor licensing authorities as set forth in the Colorado Liquor Code Article 3, Title 44, C.R.S., as amended. The Authority shall have the duty and be empowered to grant or refuse licenses for the possession, sale and offering for sale of malt, special malt, vinous or spirituous liquors and fermented malt beverages as provided by law, to conduct investigations as are required by law and to levy penalties against licensees in the manner provided by law.
- (b) *Composition, appointment, and compensation.* Subject to the delegation of duties set forth below, the Authority shall consist of a sole hearing officer who shall serve at the pleasure of the Board of Trustees. The hearing officer shall be appointed by the Board of Trustees by resolution and may be removed with or without cause by a majority vote of the Board of Trustees. The Board of Trustees shall establish the compensation for the hearing officer. The Board of Trustees may, in its discretion, appoint an alternate hearing officer who may serve in the event that the appointed hearing officer is unavailable. The term "hearing officer" shall be synonymous with "local liquor licensing authority," and “Authority” as used throughout this section.
- (c) *Qualifications of hearing officer.* The hearing officer shall be an individual over the age of 21 years with sufficient knowledge and expertise to apply and enforce the State of Colorado Liquor Code. The hearing officer shall not hold any other town office, appointment or position, except that the Board of Trustees may appoint the municipal court judge to serve as the hearing officer. Additionally, the hearing officer shall not

have any financial interest or be involved in the management or operation of any business located or operating in the town that seeks or holds a liquor license.

- (d) *Rules of procedure; conduct of hearings.* In conformity with applicable statutes and the Firestone Municipal Code, the Authority shall have the power to adopt rules of procedure and regulations concerning the application and renewal processes, procedures for hearings before it, and the presentation of evidence at such hearings. All hearings before the Authority shall be public and shall be conducted in accordance with the rules and regulations concerning the procedures for hearings before the Authority.
- (e) *Meetings.* The Authority shall hold a regular meeting once each calendar month unless there is no business to conduct. The Authority may unilaterally call special meetings upon and after consultation with the town clerk.
- (f) *Subpoena power and violations.* The local liquor licensing authority shall have the power to administer oaths and issue subpoenas to require the presence of persons and the production of documents, data compilations and other evidence at any hearing before the Authority. All subpoenas shall be served in the same manner as a subpoena issued by a district court of the State of Colorado. It shall be unlawful for any person to fail to comply with any subpoena or order to produce documents, data compilations or other evidence issued by the Authority. The municipal court shall enforce the subpoenas of the Authority and, upon good cause shown, shall enter orders compelling witnesses to attend and testify or produce documents, data compilations or other evidence, and shall impose penalties or punishment for contempt in case of failure to comply with such orders.
- (g) *Town staff duties.*
 - (1) Town Clerk. In addition to the duties and authority set forth in this section, the town clerk or the town's clerk's designee shall:
 - i. Receive all license applications and issue those licenses granted by the local liquor licensing authority upon receipt of such license fees as are required by law.
 - ii. Attend all meetings of the local liquor licensing authority and serve as the secretary of the Authority.
 - iii. Establish a calendar of regular meetings for the local liquor licensing authority, which calendar may be modified by the Authority.
 - iv. Post and publish all required notices in conformance with Colorado Liquor Code.
 - (2) Town Attorney. The town attorney shall represent the town at hearings to show cause and at hearings on applications or renewals that are contested by the town, and shall present matters into evidence before the Authority. The town attorney shall also represent the town and the Authority in the event of an appeal of any decision of the Authority.

Section 2. If any article, section, paragraph, sentence, clause, or phrase of this

ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The Board of Trustees hereby declare 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 3. Violations of this ordinance shall be punishable in accordance with Section 1.16.010 of the Municipal Code of the Town of Firestone, Colorado.

Section 4. 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 IN FULL this 23rd day of February, 2022.

TOWN OF FIRESTONE, COLORADO

Bobbi Sindelar, Mayor

ATTEST:

APPROVED AS TO FORM:

Jessica Koenig, CMC, Town Clerk

William P. Hayashi, Town Attorney

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 6.a

Presentation

Meeting Date: February 23, 2022

Initiated By: Jan Sloat

Dept: Human Resources

AGENDA TITLE

STAR Award

SUMMARY

Presentation of the STAR Award in recognition of outstanding service by Neal Lucero.

HISTORY AND PREVIOUS BOARD ACTION

In May 2019, the Board approved a new employee recognition program to award employees for demonstrating exceptional service and exceeding expectations in their work performance.

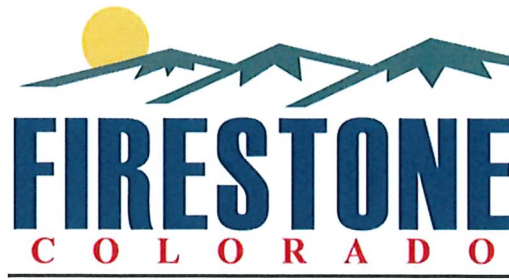
RECOMMENDATION

ALTERNATIVES

ATTACHMENTS

1. STAR Award

FINANCIAL CONSIDERATIONS



Special Thanks And Recognition - STAR Award

The STAR Award is being created to recognize and express appreciation for services rendered by Town employees who demonstrate exceptional service and/or performance in one or more of the following categories:

- **Customer Service:** Exceeds customer service standards when serving the residents of the Town of Firestone.
- **Safety:** Recognizes employees for providing exceptional care and service while administering first aid and/or support until professional services arrive.
- **Creativity:** One-time innovation or creation that results in time/dollar savings, revenue enhancement, and productivity improvement; and/or ongoing innovative activities that will benefit the Town of Firestone.
- **Teamwork:** Acting as an exceptionally effective and cooperative team member or team leader for a group that has significantly exceeded goals and objectives of the department or unit.
- **Outstanding Achievement:** Awarded to the team member(s) for exceeding expectations and serving the Town in an exemplary manner.

To nominate an employee for consideration of the STAR Award you must submit your request in writing identifying the circumstance for the recommendation. Recipients of this award should demonstrate exceptional service and/or performance in one of the aforementioned categories.

Selected recipients of this award will be recognized at a regularly scheduled Town Board meeting by the Mayor and Board of Trustees and be presented with the STAR Award and a limited edition Town inspired t-shirt. Employees awarded the STAR Award will also have their name added to the STAR Award recipient plaque that will be located in the Board Room at Town Hall.

Recipients will be informed of their selection by means of a congratulatory email and letter inviting them to the next practicable Board meeting for this honor. We encourage recipients to invite family and friends as we recognize their achievement.

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 6.b

Presentation

Meeting Date: February 23, 2022

Initiated By: Jan Sloat

Dept: Human Resources

AGENDA TITLE

Compensation Process Review

SUMMARY

Comprehensive presentation of the Compensation Process Review with Laurie Graves of Graves Consulting

HISTORY AND PREVIOUS BOARD ACTION

RECOMMENDATION

ALTERNATIVES

ATTACHMENTS

1. Firestone Town Board Presentation - Comp Process Overview - 2.18.22 v2

FINANCIAL CONSIDERATIONS



Compensation Process Overview

February 2022

Who are we?

Graves Consulting is a Human Resources consulting firm that specializes in the municipal sector. We have worked with dozens of municipalities throughout Colorado, Oklahoma, Wyoming and North Dakota on a variety of projects including compensation, employee retention, organizational culture, employee communication and executive selection.

Laurie Graves - President, Graves Consulting, LLC

- HR/Compensation expert with 25+ years experience - private sector, non-profit and municipal governments

Eric Marburger - Senior Consultant, Graves Consulting, LLC

- HR/Compensation expert with 25+ years experience, primarily with municipal governments in Colorado

Primary focus for both is Public Sector Compensation

What will we cover?

- Town's Defined Market
- Data Sources & Job Matching
- Weighted Market Average
- Pay Range Example
- Classification and Reclassification
- Pay Structure
- Annual Market Update Process

Firestone Defined Market

- Who does the Town compare itself to for wages?

BERTHOUD	FREDERICK	NORTHGLENN
BOULDER	JOHNSTOWN	PLATTEVILLE
BRIGHTON	GREELEY	SUPERIOR
BROOMFIELD	LAFAYETTE	THORNTON
COMMERCE CITY	LONGMONT	WESTMINSTER
DACONO	LOUISVILLE	WINDSOR
ERIE	LOVELAND	ADAMS COUNTY
EVANS	LYONS	BOULDER COUNTY
FORT LUPTON	MEAD	WELD COUNTY

Data Sources & Job Matching

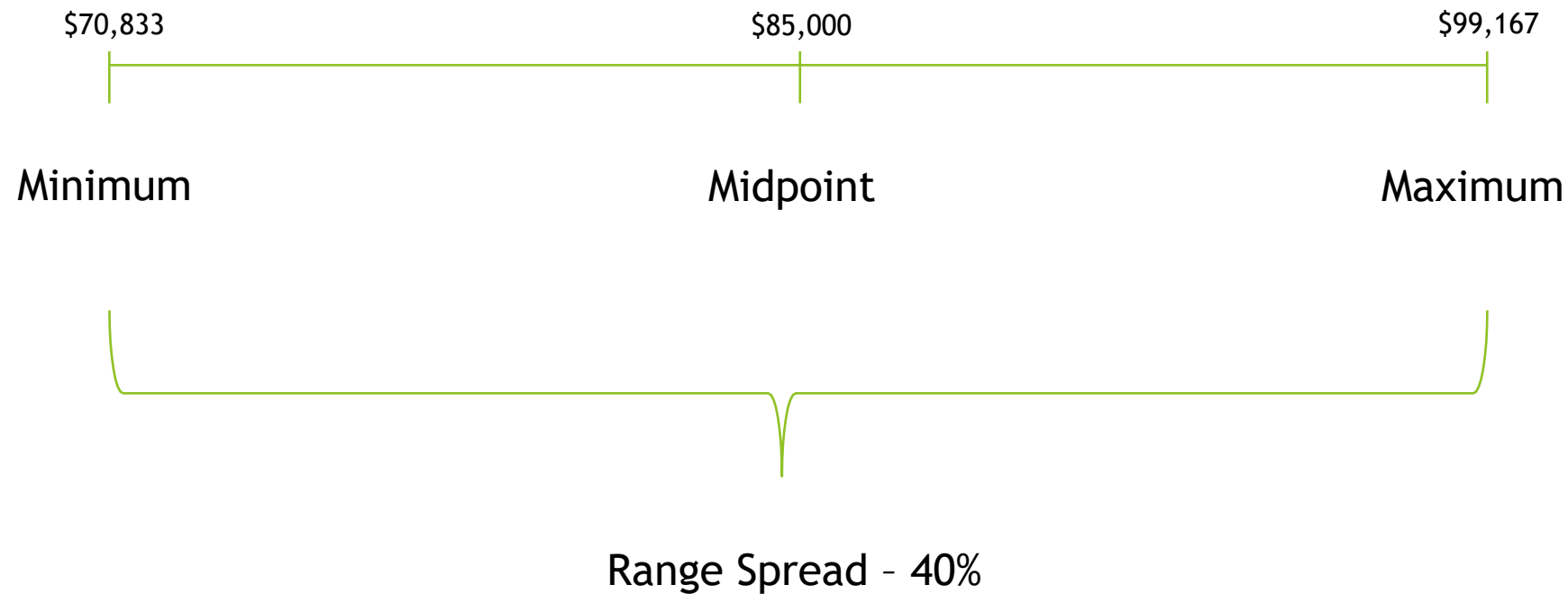
- Review job descriptions and have discussions with specific dept heads for unique positions or positions that have been revised
- Some benchmarks are a one-to-one match and some are a blend of two; Some benchmarks are scoped up or down to account for uniqueness in the role
- Survey data from Employers Council and Colorado Municipal League are primary sources
- Most jobs are matched externally, but some are unique - these are placed on the pay structure based on internal equity
- Pull the weighted average of actual wages paid to incumbents in the defined market

Example of Weighted Average

- ◆ A weighted average factors in the number of incumbents included in each response:

5	\$99,000	\$495,000
7	\$87,000	\$609,000
15	\$82,000	\$1,230,000
3	\$87,000	\$261,000
1	\$79,000	\$79,000
12	\$82,000	\$984,000
4	\$89,000	\$356,000
47		\$4,014,000
	Average	
	\$87,714	
	Wtd Average	
	\$85,404	

Pay Range Example



Classification and Reclassification

Classification

- ◆ Positions are placed (or classified) in a pay grade based on aligning the market average rate to the midpoint of the pay grade
- ◆ The idea is that pay would be below the market average when an employee is newer in their role and at market average (or above) as they gain more tenure and experience

Reclassification

- ◆ Two things can cause a position to be reclassified (or change pay grades)
 - ◆ Market rates for that position are moving up faster than average for that pay family
 - ◆ The job requirements have significantly changed which causes the position to be matched to a different survey job with a higher market average

Pay Structures

Different types of jobs move differently in the market, which is why the Town divides them into pay families

- The Town has two pay families/structures:
 - General Government
 - Sworn Non-Exempt Police
- The General Government pay structure is open range and has multiple grades, ranging from 30% to 40% wide (distance from Minimum to Maximum)
- Non-Exempt Sworn Police positions (Officer & Sergeant) are on a step plan with 7 predefined pay “steps”
- Each pay structure is adjusted annually based on the average market increase of the positions in that pay family

Annual Market Update Process

- Annually, we pull the most recent survey data for all positions
- Recommend market adjustments for each of the pay structures based on how much market has shifted for the positions in each pay family
- May recommend some positions be moved from one Pay Grade to another based on market results or job changes
- Provide market data on actual pay increase percentages for the Town's use in determining pay increase budget*
- Prepare and provide updated Pay Structures

*Context on Current Market Conditions

- The labor market has been extremely volatile the last couple of years and now with inflation rates higher than they've been since the early 80s, wages are rising rapidly
- This is impacting the municipal sector particularly hard as typical annual pay increase amounts have lagged the private sector
- Across our book of municipal business in Colorado, we are seeing 5-6% average increases in 2022 and being projected for 2023; which still does not keep pace with the rising cost of living; many have also added hiring or retention bonuses
- Specific to Law Enforcement, the market has been rising even more quickly and the trend is to condense the total number of steps in an Officer's pay range to bring them to top of range in 5-6 steps; the Town addressed this in 2021 in order to retain skilled Officers

Actual Comparative Wage Data for Town Leadership Positions

Position	Firestone	Market Average	Dacono	Windsor	Berthoud	Erie	Northglenn	Frederick	Lafayette	Louisville	Brighton	Loveland	Commerce City	Greeley	Thornton	Broomfield	Longmont
Town Manager	\$183,750	\$213,355	\$168,697	\$175,094	\$178,500	\$186,700	\$192,379	\$198,450	\$203,840	\$203,700	\$211,150	\$217,587	\$230,000	\$246,503	\$249,875	\$267,737	\$270,106
Assistant Town Manager		\$181,175	\$100,280		\$142,459	\$160,741	N/A	\$167,650	\$162,240	\$184,974	\$209,633	\$206,656	\$205,147	\$196,452	\$166,279	\$202,113	\$250,645
Assistant to Town Manager	\$105,000	\$93,722		N/A	\$60,444	N/A	\$95,721	N/A	N/A	N/A	N/A	N/A	N/A	\$125,000	N/A	N/A	N/A
Chief of Police	\$160,000	\$180,229	\$142,633	\$146,224		\$185,087	\$171,537	\$156,240	\$179,192	\$194,207	\$196,222	\$196,733	\$212,873	\$165,000	\$202,254	\$190,008	\$185,000
Director of Public Works	\$148,050	\$162,666		\$122,116	\$132,516	\$146,358	\$139,193	\$156,980	\$176,820	\$188,304	\$175,717	\$176,383	\$174,769	\$179,920	\$175,323	\$166,046	\$166,877
Director of Planning & Development	\$145,000	\$152,314	\$128,957	\$118,996	\$117,748	\$140,000	\$150,716	ATM	\$156,000	\$168,759	\$173,731	\$144,480	\$147,500	\$196,452	\$191,871	\$159,120	\$138,068
Director of Finance	\$133,012	\$162,921	\$118,652	\$146,224	\$123,177	\$134,849	\$156,686	\$164,456	\$151,216	\$189,205	\$154,500	\$175,000	\$189,704	\$188,700	\$185,756	\$189,009	\$176,682
Director of Economic Development	\$137,492	\$135,105	P&D Director	\$93,038	\$110,843	\$137,700	\$127,129	ATM	\$140,000	\$141,096	\$131,032	\$159,407	\$162,554	\$89,232	\$195,528	\$162,302	\$106,507
Director of Human Resources	\$144,007	\$162,338	Fin Director	\$118,996	Fin Director	\$140,522	\$159,452	\$156,525	\$137,966	\$175,011	\$192,237	\$179,155	\$175,029	\$161,160	\$182,734	\$176,800	\$154,808
Director of Marketing & Communications	\$126,126	\$130,245	Vacant	\$91,561		\$134,849	\$141,856	\$91,783	\$140,732	131, 130	\$168,113	\$93,251	\$87,870	\$165,000	\$164,401	\$158,849	\$124,670
Town Engineer	\$120,750	\$132,504				\$117,000	\$95,388	\$149,502		\$143,888	\$115,519	\$122,802	\$144,221	\$128,972	\$143,057	\$132,704	\$164,490
Town Clerk	\$92,610	\$129,524	\$101,453	\$119,371	\$100,193	\$106,131	\$150,009	\$123,000	\$137,925	\$129,468	\$134,606	\$120,016	\$116,943	\$161,411	\$144,203	\$166,462	\$131,667
Municipal Court Administrator	\$82,000	\$77,476	\$64,961	\$49,316		\$54,267	\$90,001	\$61,692	\$56,659	\$56,325	\$96,536	\$53,383	\$82,507	\$87,494	\$133,248	\$113,193	\$85,082
Accounting Division Manager	\$97,180	\$117,757		\$101,483		\$121,232	\$112,840	\$106,110	\$91,145	\$102,417	\$89,609	\$141,814	\$149,953	\$130,000	\$124,004	\$132,267	\$127,969
Police Commander	\$122,813	\$136,993	\$115,956	\$115,003		\$137,952	\$138,028	\$142,305	\$136,656	\$138,028	\$155,152		\$121,116	\$136,240	\$154,299	\$145,683	\$144,488
Chief Building Official	\$110,882	\$114,087				\$99,160		\$111,416	\$83,740	\$121,406	\$132,700	\$113,477	\$103,423	\$108,498	\$134,770	\$127,857	\$118,511
Operations & Maintenance Manager	\$100,289	\$104,750	\$70,055	\$103,105	\$85,696	\$122,102	\$97,136	\$77,563	\$122,096	\$92,145	\$130,352	\$132,983	\$108,994	\$86,300	\$97,879	\$125,216	\$119,631
Parks Division Manager	\$92,700	\$101,116		\$81,036	\$62,171	\$105,312	\$80,017	\$128,074	\$102,835	\$121,139	\$109,631	\$109,218	\$107,760	\$83,400	\$98,169	\$110,344	\$116,514
Accountant	\$64,480	\$63,050	\$52,000	\$49,316	\$49,067	\$65,665	\$65,998	\$71,316	\$55,827	\$54,154	\$65,420	\$70,623	\$58,730	\$64,454	\$62,893	\$66,248	\$94,033

*This information was gathered through CORA requests made to each community in the Defined Market; some have not yet responded

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 7.a

Discussion/Action

Meeting Date: February 23, 2022

Initiated By: Raelynn Ferrera

Dept: Administration

AGENDA TITLE

Ordinance 1006: AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, AUTHORIZING THE RENEWAL OF THE EXISTING CABLE FRANCHISE AGREEMENT HELD BY COMCAST OF COLORADO IX, LLC, LOCALLY KNOWN AS COMCAST AND AUTHORIZING THE MAYOR AND TOWN CLERK TO EXECUTE, ON BEHALF OF THE TOWN OF FIRESTONE, THE CABLE FRANCHISE AGREEMENT

SUMMARY

During 2019-2020, the Town and its consultant completed negotiations with Comcast to renew the expired 2016 Cable Franchise Agreement and enter into a new 10-year nonexclusive agreement.

The agreement includes requirements for placement of cable in rights-of-way, permit requirements, franchise fee payments, franchise fee reports, grant funds for online access programming costs, customer service standards, and franchise renewal.

HISTORY AND PREVIOUS BOARD ACTION

RECOMMENDATION

Approval of Ordinance authorizing execution of said agreement

ALTERNATIVES

ATTACHMENTS

1. 1006 Firestone Comcast Ordinance (Jan 2022)
2. Comcast Franchise Agreement 2022

FINANCIAL CONSIDERATIONS

Access Programming capital equipment grant of ten thousand (\$10,000) dollars

Quarterly Franchise Fee payments equal to five percent (5%) of the Grantee's Gross Revenues

ORDINANCE NO. 1006

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, AUTHORIZING THE RENEWAL OF THE EXISTING CABLE FRANCHISE AGREEMENT HELD BY COMCAST OF COLORADO IX, LLC, LOCALLY KNOWN AS COMCAST AND AUTHORIZING THE MAYOR AND TOWN CLERK TO EXECUTE, ON BEHALF OF THE TOWN OF FIRESTONE, THE CABLE FRANCHISE AGREEMENT

WHEREAS, the Town of Firestone previously granted a non-exclusive franchise for the construction, maintenance, and operation of a cable television system within the Town of Firestone to Comcast of Colorado IV, LLC, with an effective date of November 18, 2015; and

WHEREAS, Comcast of Colorado IV, LLC, locally known as Comcast (“Comcast”), is the successor in interest to Comcast of Colorado X, LLC, and the current holder of said franchise, and operates the cable television system within the Town of Firestone; and

WHEREAS, the Board of Trustees is authorized to renew the previously authorized franchise for an additional term; and

WHEREAS, Comcast is seeking a renewal of its cable television franchise, and an Agreement renewing the franchise acceptable to both the Town of Firestone and Comcast has been prepared; and

WHEREAS, pursuant to public notice, the Board of Trustees of the Town of Firestone conducted a public hearing on the renewal Agreement for the cable television franchise on February 23, 2022; and

WHEREAS, the Board of Trustees of the Town of Firestone hereby finds that the public has had adequate notice and opportunity to comment upon the proposed cable television franchise renewal; and

WHEREAS, the Board of Trustees hereby finds that it would serve the public interest of the citizens of the Town of Firestone to renew the cable television franchise to Comcast pursuant to the terms of said renewal Agreement.

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

Section 1. The Board of Trustees of the Town of Firestone, Colorado, hereby renews the non-exclusive cable franchise by and between the Town of Firestone, Colorado, and Comcast of Colorado IX, LLC, locally known as Comcast, pursuant to the terms of the Cable Franchise Agreement for a term of ten (10) years, which Agreement is incorporated herein by this reference.

Section 2. The Board of Trustees of the Town of Firestone hereby authorizes the Mayor and Town Clerk to execute the Agreement on behalf of the Town of Firestone.

Section 3. If any article, section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The Board of Trustees hereby declare 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 4. 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 IN FULL this 23rd day of February, 2022.

TOWN OF FIRESTONE, COLORADO

Bobbi Sindelar, Mayor

ATTEST:

APPROVED AS TO FORM:

Jessica Koenig, CMC, Town Clerk

William P. Hayashi, Town Attorney

**COMCAST OF COLORADO IX, LLC AND
THE TOWN OF FIRESTONE, COLORADO**

CABLE FRANCHISE AGREEMENT

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**COMCAST OF COLORADO IX, LLC AND
TOWN OF FIRESTONE, COLORADO**

CABLE FRANCHISE AGREEMENT

SECTION 1. DEFINITIONS AND EXHIBITS

(A) DEFINITIONS

For the purposes of this Franchise, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Words not defined shall be given their common and ordinary meaning. The word "shall" is always mandatory and not merely directory.

1.1 “Access Programming” means the creation and distribution of video programming and other services and signals where governmental institutions or their designees are the primary users having editorial control over programming and services.

1.2 “Activated” means the status of any capacity or part of the Cable System in which any Cable Service requiring the use of that capacity or part is available without further installation of system equipment, whether hardware or software.

1.3 “Affiliate,” when used in connection with Grantee, means any Person who owns or controls, is owned or controlled by, or is under common ownership or control with, Grantee.

1.4 “Applicable Law” means any statute, ordinance, judicial decision, executive order or regulation having the force and effect of law, that determines the legal standing of a case or issue.

1.5 “Bad Debt” means amounts lawfully billed to a Subscriber and owed by the Subscriber for Cable Service and accrued as revenues on the books of Grantee, but not collected after reasonable efforts have been made by Grantee to collect the charges.

1.6 “Basic Service” is the level of programming service which includes, at a minimum, all Broadcast Channels, and any additional Programming added by the Grantee, and is made available to all Cable Services Subscribers in the Franchise Area.

1.7 “Broadcast Channel” means local commercial television stations, qualified low power stations and qualified local noncommercial educational television stations, as referenced under 47 USC § 534 and 535.

1.8 “Broadcast Signal” means a television or radio signal transmitted over the air to a wide geographic audience, and received by a Cable System by antenna, microwave, satellite dishes or any other means.

1.9 “Cable Act” means the Title VI of the Communications Act of 1934, as amended.

1.10 “Cable Operator” means any Person or groups of Persons, including Grantee, who provide(s) Cable Service over a Cable System and directly or through one or more affiliates owns a significant interest in such Cable System or who otherwise control(s) or is (are) responsible for, through any arrangement, the management and operation of such a Cable System.

1.11 “Cable Service” means the one-way transmission to Subscribers of video programming or other programming service, and Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

1.12 “Cable System” means any facility, including Grantee’s, consisting of a set of closed transmissions paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple Subscribers within a community, but such term does not include (A) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (B) a facility that serves Subscribers without using any Right-of-Way; (C) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the federal Communications Act (47 U.S.C. 201 et seq.), except that such facility shall be considered a Cable System (other than for purposes of Section 621(c) (47 U.S.C. 541(c)) to the extent such facility is used in the transmission of video programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services; (D) an open video system that complies with federal statutes; or (E) any facilities of any electric utility used solely for operating its electric utility systems.

1.13 “Channel” means a portion of the electromagnetic frequency spectrum which is used in the Cable System and which is capable of delivering a television channel (as television channel is defined by the FCC by regulation).

1.14 “Colorado Communications and Utility Alliance” or “CCUA” means the non-profit entity formed by franchising authorities and/or local governments in Colorado or its successor entity, whose purpose is, among other things, to communicate with regard to franchising matters collectively and cooperatively.

1.15 “Commercial Subscribers” means any Subscribers other than Residential Subscribers.

1.16 “Designated Access Provider” means the entity or entities designated now or in the future by the Grantor to manage or co-manage Access Channels and facilities. The Grantor may be a Designated Access Provider.

1.17 “Digital Starter Service” means the Tier of optional video programming services, which is the level of Cable Service received by most Subscribers above Basic Service, and does not include Premium Services.

1.18 “Downstream” means carrying a transmission from the Headend to remote points on the Cable System or to Interconnection points on the Cable System.

1.19 “Dwelling Unit” means any building, or portion thereof, that has independent living facilities, including provisions for cooking, sanitation and sleeping, and that is designed for residential occupancy. Buildings with more than one set of facilities for cooking shall be considered Multiple Dwelling Units unless the additional facilities are clearly accessory.

1.20 “FCC” means the Federal Communications Commission.

1.21 “Fiber Optic” means a transmission medium of optical fiber cable, along with all associated electronics and equipment, capable of carrying Cable Service by means of electric lightwave impulses.

1.22 “Franchise” means the document in which this definition appears, *i.e.*, the contractual agreement, executed between the Grantor and Grantee, containing the specific provisions of the authorization granted, including references, specifications, requirements and other related matters.

1.23 “Franchise Area” means the area within the jurisdictional boundaries of the Grantor, including any areas annexed by the Grantor during the term of this Franchise.

1.24 “Franchise Fee” means that fee payable to the Grantor described in subsection 3.1 (A).

1.25 “Grantee” means Comcast of Colorado IX, LLC or its lawful successor, transferee or assignee.

1.26 “Grantor” or “Town” is the Town of Firestone, Colorado, a body politic and corporate under the laws of the State of Colorado.

1.27 “Gross Revenues” means, and shall be construed broadly to include all revenues derived directly or indirectly by Grantee and/or an Affiliated Entity that is the cable operator of the Cable System, from the operation of Grantee’s Cable System to provide Cable Services within the Town. Gross revenues include, by way of illustration and not limitation:

- monthly fees for Cable Services, regardless of whether such Cable Services are provided to residential or commercial customers, including revenues derived from the provision of all Cable Services (including but not limited to pay or premium Cable Services, digital Cable Services, pay-per-view, pay-per-event and video-on-demand Cable Services);
- installation, reconnection, downgrade, upgrade or similar charges associated with changes in subscriber Cable Service levels;
- fees paid to Grantee for channels designated for commercial/leased access use and shall be allocated on a pro rata basis using total Cable Service subscribers within the Town;
- converter, remote control, and other Cable Service equipment rentals, leases, or sales;
- Advertising Revenues as defined herein;

- late fees, convenience fees and administrative fees which shall be allocated on a pro rata basis using Cable Services revenue as a percentage of total subscriber revenues within the Town;
- revenues from program guides;
- Franchise Fees;
- FCC Regulatory Fees; and,
- commissions from home shopping channels and other Cable Service revenue sharing arrangements which shall be allocated on a pro rata basis using total Cable Service subscribers within the Town.

(A) “Advertising Revenues” shall mean revenues derived from sales of advertising that are made available to Grantee’s Cable System subscribers within the Town and shall be allocated on a pro rata basis using total Cable Service subscribers reached by the advertising. Additionally, Grantee agrees that Gross Revenues subject to franchise fees shall include all commissions, rep fees, Affiliated Entity fees, or rebates paid to National Cable Communications (“NCC”) and Comcast Spotlight (“Spotlight”) or their successors associated with sales of advertising on the Cable System within the Town allocated according to this paragraph using total Cable Service subscribers reached by the advertising.

(B) “Gross Revenues” shall not include:

- actual bad debt write-offs, except any portion which is subsequently collected which shall be allocated on a *pro rata* basis using Cable Services revenue as a percentage of total subscriber revenues within the Town;
- any taxes and/or fees on services furnished by Grantee imposed by any municipality, state or other governmental unit, provided that Franchise Fees and the FCC regulatory fee shall not be regarded as such a tax or fee;
- fees imposed by any municipality, state or other governmental unit on Grantee including but not limited to Public, Educational and Governmental (PEG) Fees;
- launch fees and marketing co-op fees; and,
- unaffiliated third party advertising sales agency fees which are reflected as a deduction from revenues.

(C) To the extent revenues are received by Grantee for the provision of a discounted bundle of services which includes Cable Services and non-Cable Services, Grantee shall calculate revenues to be included in Gross Revenues using a methodology that allocates revenue on a *pro rata* basis when comparing the bundled service price and its components to the sum of the published rate card, except as required by specific federal, state or local law, it is expressly

understood that equipment may be subject to inclusion in the bundled price at full rate card value. This calculation shall be applied to every bundled service package containing Cable Service from which Grantee derives revenues in the Town. The Grantor reserves its right to review and to challenge Grantee's calculations.

(D) Grantee reserves the right to change the allocation methodologies set forth in this Section 1.28 in order to meet the standards required by governing accounting principles as promulgated and defined by the Financial Accounting Standards Board ("FASB"), Emerging Issues Task Force ("EITF") and/or the U.S. Securities and Exchange Commission ("SEC"). Grantee will explain and document the required changes to the Grantor within three (3) months of making such changes, and as part of any audit or review of franchise fee payments, and any such changes shall be subject to 1.27(E) below.

(E) Resolution of any disputes over the classification of revenue should first be attempted by agreement of the Parties, but should no resolution be reached, the Parties agree that reference shall be made to generally accepted accounting principles ("GAAP") as promulgated and defined by the Financial Accounting Standards Board ("FASB"), Emerging Issues Task Force ("EITF") and/or the U.S. Securities and Exchange Commission ("SEC"). Notwithstanding the forgoing, the Grantor reserves its right to challenge Grantee's calculation of Gross Revenues, including the interpretation of GAAP as promulgated and defined by the FASB, EITF and/or the SEC.

1.28 "Headend" means any facility for signal reception and dissemination on a Cable System, including cables, antennas, wires, satellite dishes, monitors, switchers, modulators, processors for Broadcast Signals, equipment for the Interconnection of the Cable System with adjacent Cable Systems and Interconnection of any networks which are part of the Cable System, and all other related equipment and facilities.

1.29 "Leased Access Channel" means any Channel or portion of a Channel commercially available for video programming by Persons other than Grantee, for a fee or charge.

1.30 "Manager" means the Town Manager of the Grantor or designee.

1.31 "Person" means any individual, sole proprietorship, partnership, association, or corporation, or any other form of entity or organization.

1.32 "Premium Service" means programming choices (such as movie Channels, pay-per-view programs, or video on demand) offered to Subscribers on a per-Channel, per-program or per-event basis.

1.33 "Residential Subscriber" means any Person who receives Cable Service delivered to Dwelling Units or Multiple Dwelling Units, excluding such Multiple Dwelling Units billed on a bulk-billing basis.

1.34 "Right-of-Way" means each of the following which have been dedicated to the public or are hereafter dedicated to the public and maintained under public authority or by others and located

within the Town: streets, roadways, highways, avenues, lanes, alleys, bridges, sidewalks, easements, rights-of-way and similar public property and areas.

1.35 “State” means the State of Colorado.

1.36 “Subscriber” means any Person who or which elects to subscribe to, for any purpose, Cable Service provided by Grantee by means of or in connection with the Cable System and whose premises are physically wired and lawfully Activated to receive Cable Service from Grantee's Cable System, and who is in compliance with Grantee's regular and nondiscriminatory terms and conditions for receipt of service.

1.37 “Subscriber Network” means that portion of the Cable System used primarily by Grantee in the transmission of Cable Services to Residential Subscribers.

1.38 “Telecommunications” means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received (as provided in 47 U.S.C. Section 153(43)).

1.39 “Telecommunications Service” means the offering of Telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used (as provided in 47 U.S.C. Section 153(46)).

1.40 “Tier” means a group of Channels for which a single periodic subscription fee is charged.

1.41 “Town Board of Trustees” means the Firestone Board of Trustees, or its successor, the governing body of the Town of Firestone, Colorado.

1.42 “Two-Way” means that the Cable System is capable of providing both Upstream and Downstream transmissions.

1.43 “Upstream” means carrying a transmission to the Headend from remote points on the Cable System or from Interconnection points on the Cable System.

(B) EXHIBITS

The following documents, which are occasionally referred to in this Franchise, are formally incorporated and made a part of this Franchise by this reference:

- 1) ***Exhibit A***, entitled Customer Service Standards.
- 2) ***Exhibit B***, entitled Report Form.

SECTION 2. GRANT OF FRANCHISE

2.1 Grant

(A) The Grantor hereby grants to Grantee a nonexclusive authorization to make reasonable and lawful use of the Rights-of-Way within the Town to construct, operate, maintain, reconstruct and rebuild a Cable System for the purpose of providing Cable Service subject to the terms and conditions set forth in this Franchise and in any prior utility or use agreements entered into by Grantee with regard to any individual property. This Franchise shall constitute both a right and an obligation to provide the Cable Services required by, and to fulfill the obligations set forth in, the provisions of this Franchise.

(B) Nothing in this Franchise shall be deemed to waive the lawful requirements of any generally applicable Grantor ordinance existing as of the Effective Date, as defined in subsection 2.3.

(C) Each and every term, provision or condition herein is subject to the provisions of State law, federal law, the Charter of the Grantor, and the ordinances and regulations enacted pursuant thereto. The Charter and Municipal Code of the Grantor, as the same may be amended from time to time, are hereby expressly incorporated into this Franchise as if fully set out herein by this reference. Notwithstanding the foregoing, the Grantor may not unilaterally alter the material rights and obligations of Grantee under this Franchise.

(D) This Franchise shall not be interpreted to prevent the Grantor from imposing additional lawful conditions for use of the Rights-of-Way.

(E) Grantee promises and guarantees, as a condition of exercising the privileges granted by this Franchise, that any Affiliate of the Grantee directly involved in the offering of Cable Service in the Franchise Area, or directly involved in the management or operation of the Cable System in the Franchise Area, will also comply with the obligations of this Franchise.

(F) No rights shall pass to Grantee by implication. Without limiting the foregoing, by way of example and not limitation, this Franchise shall not include or be a substitute for:

(1) Any other permit or authorization required for the privilege of transacting and carrying on a business within the Town that may be required by the Grantor's ordinances and laws;

(2) Any permit, agreement, or authorization required by the Grantor for Right-of-Way users in connection with operations on or in Rights-of-Way or public property including, by way of example and not limitation, street cut permits; or

(3) Any permits or agreements for occupying any other property of the Grantor or private entities to which access is not specifically granted by this Franchise including, without limitation, permits and agreements for placing devices on poles, in conduits or in or on other structures.

(G) This Franchise is intended to convey limited rights and interests only as to those Rights-of-Way in which the Grantor has an actual interest. It is not a warranty of title or interest in any Right-of-Way; it does not provide the Grantee with any interest in any particular location within the Right-of-Way; and it does not confer rights other than as expressly provided in the grant hereof.

2.2 Use of Rights-of-Way

(A) Subject to the Grantor's supervision and control, Grantee may erect, install, construct, repair, replace, reconstruct, and retain in, on, over, under, upon, across, and along the Rights-of-Way within the Town such wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, pedestals, attachments and other property and equipment as are necessary and appurtenant to the operation of a Cable System within the Town. Grantee, through this Franchise, is granted extensive and valuable rights to operate its Cable System for profit using the Grantor's Rights-of-Way in compliance with all applicable Grantor construction codes and procedures. As trustee for the public, the Grantor is entitled to fair compensation as provided for in Section 3 of this Franchise to be paid for these valuable rights throughout the term of the Franchise.

(B) Grantee must follow Grantor established nondiscriminatory requirements for placement of Cable System facilities in Rights-of-Way, including the specific location of facilities in the Rights-of-Way, and must in any event install Cable System facilities in a manner that minimizes interference with the use of the Rights-of-Way by others, including others that may be installing communications facilities. Within limits reasonably related to the Grantor's role in protecting public health, safety and welfare, the Grantor may require that Cable System facilities be installed at a particular time, at a specific place or in a particular manner as a condition of access to a particular Right-of-Way; may deny access if Grantee is not willing to comply with Grantor's requirements; and may remove, or require removal of, any facility that is not installed by Grantee in compliance with the requirements established by the Grantor, or which is installed without prior Grantor approval of the time, place or manner of installation, and charge Grantee for all the costs associated with removal; and may require Grantee to cooperate with others to minimize adverse impacts on the Rights-of-Way through joint trenching and other arrangements.

2.3 Effective Date and Term of Franchise

This Franchise and the rights, privileges and authority granted hereunder shall take effect on _____, 2022 (the "Effective Date"), and shall terminate on _____, 2032 unless terminated sooner as hereinafter provided.

2.4 Franchise Nonexclusive

This Franchise shall be nonexclusive, and subject to all prior rights, interests, easements or licenses granted by the Grantor to any Person to use any property, Right-of-Way, right, interest or license for any purpose whatsoever, including the right of the Grantor to use same for any purpose it deems fit, including the same or similar purposes allowed Grantee hereunder. The Grantor may at any time grant authorization to use the Rights-of-Way for any purpose not incompatible with

Grantee's authority under this Franchise and for such additional franchises for Cable Systems as the Grantor deems appropriate.

2.5 Police Powers

Grantee's rights hereunder are subject to the police powers of the Grantor to adopt and enforce ordinances necessary to the safety, health, and welfare of the public, and Grantee agrees to comply with all laws and ordinances of general applicability enacted, or hereafter enacted, by the Grantor or any other legally constituted governmental unit having lawful jurisdiction over the subject matter hereof. The Grantor shall have the right to adopt, from time to time, such ordinances as may be deemed necessary in the exercise of its police power; provided that such hereinafter enacted ordinances shall be reasonable and not materially modify the terms of this Franchise. Any conflict between the provisions of this Franchise and any other present or future lawful exercise of the Grantor's police powers shall be resolved in favor of the latter.

2.6 Competitive Equity

(A) The Grantee acknowledges and agrees that the Grantor reserves the right to grant one (1) or more additional franchises or other similar lawful authorization to provide Cable Services within the Town. If the Grantor grants such an additional franchise or other similar lawful authorization containing material terms and conditions that differ from Grantee's material obligations under this Franchise, then the Grantor agrees that the obligations in this Franchise will, pursuant to the process set forth in this Section, be amended to include any material terms or conditions that it imposes upon the new entrant, or provide relief from existing material terms or conditions, so as to insure that the regulatory and financial burdens on each entity are materially equivalent. "Material terms and conditions" include, but are not limited to: Franchise Fees and Gross Revenues; insurance; System build-out requirements; security instruments; Access Programming support; customer service standards; required reports and related record keeping; competitive equity (or its equivalent); audits; dispute resolution; remedies; and notice and opportunity to cure breaches. The parties agree that this provision shall not require a word for word identical franchise or authorization for a competitive entity so long as the regulatory and financial burdens on each entity are materially equivalent. Video programming services (as defined in the Cable Act) delivered over wireless broadband networks are specifically exempted from the requirements of this Section.

(B) The modification process of this Franchise as provided for in Section 2.6 (A) shall only be initiated by written notice by the Grantee to the Grantor regarding specified franchise obligations. Grantee's notice shall address the following: (1) identifying the specific terms or conditions in the competitive cable services franchise which are materially different from Grantee's obligations under this Franchise; (2) identifying the Franchise terms and conditions for which Grantee is seeking amendments; (3) providing text for any proposed Franchise amendments to the Grantor, with a written explanation of why the proposed amendments are necessary and consistent.

(C) Upon receipt of Grantee's written notice as provided in Section 2.6 (B), the Grantor and Grantee agree that they will use best efforts in good faith to negotiate Grantee's

proposed Franchise modifications, and that such negotiation will proceed and conclude within a ninety (90) day time period, unless that time period is reduced or extended by mutual agreement of the parties. If the Grantor and Grantee reach agreement on the Franchise modifications pursuant to such negotiations, then the Grantor shall amend this Franchise to include the modifications.

(D) In the alternative to Franchise modification negotiations as provided for in Section 2.6 (C), or if the Grantor and Grantee fail to reach agreement in such negotiations, Grantee may, at its option, elect to replace this Franchise by opting into the franchise or other similar lawful authorization that the Grantor grants to another provider of Cable Services, with the understanding that Grantee will use its current system design and technology infrastructure to meet any requirements of the new franchise so as to insure that the regulatory and financial burdens on each entity are equivalent. If Grantee so elects, the Grantor shall immediately commence proceedings to replace this Franchise with the franchise issued to the other Cable Services provider.

(E) Notwithstanding anything contained in this Section 2.6(A) through (D) to the contrary, the Grantor shall not be obligated to amend or replace this Franchise unless the new entrant makes Cable Services available for purchase by Subscribers or customers under its franchise agreement with the Town.

(F) Notwithstanding any provision to the contrary, at any time that a wireline facilities based entity, legally authorized by state or federal law, makes available for purchase by Subscribers or customers, Cable Services or multiple Channels of video programming within the Franchise Area without a franchise or other similar lawful authorization granted by the Grantor, then:

(1) Grantee may negotiate with the Grantor to seek Franchise modifications as per Section 2.6(C) above; or

(a) the term of Grantee's Franchise shall, upon ninety (90) days written notice from Grantee, be shortened so that the Franchise shall be deemed to expire on a date eighteen (18) months from the first day of the month following the date of Grantee's notice; or,

(b) Grantee may assert, at Grantee's option, that this Franchise is rendered "commercially impracticable," and invoke the modification procedures set forth in Section 625 of the Cable Act.

2.7 Familiarity with Franchise

The Grantee acknowledges and warrants by acceptance of the rights, privileges and agreements granted herein, that it has carefully read and fully comprehends the terms and conditions of this Franchise and is willing to and does accept all lawful and reasonable risks of the meaning of the provisions, terms and conditions herein. The Grantee further acknowledges and states that it has fully studied and considered the requirements and provisions of this Franchise,

and finds that the same are commercially practicable at this time, and consistent with all local, State and federal laws and regulations currently in effect, including the Cable Act.

2.8 Effect of Acceptance

By accepting the Franchise, the Grantee: (1) acknowledges and accepts the Grantor's legal right to issue and enforce the Franchise; (2) accepts and agrees to comply with each and every provision of this Franchise subject to Applicable Law; and (3) agrees that the Franchise was granted pursuant to processes and procedures consistent with Applicable Law, and that it will not raise any claim to the contrary.

SECTION 3. FRANCHISE FEE PAYMENT AND FINANCIAL CONTROLS

3.1 Franchise Fee

As compensation for the benefits and privileges granted under this Franchise and in consideration of permission to use the Grantor's Rights-of-Way, Grantee shall continue to pay as a Franchise Fee to the Grantor, throughout the duration of and consistent with this Franchise, an amount equal to five percent (5%) of Grantee's Gross Revenues.

3.2 Payments

Grantee's Franchise Fee payments to the Grantor shall be computed quarterly for the preceding calendar quarter ending March 31, June 30, September 30, and December 31. Each quarterly payment shall be due and payable no later than forty-five (45) days after said dates.

3.3 Acceptance of Payment and Recomputation

No acceptance of any payment shall be construed as an accord by the Grantor that the amount paid is, in fact, the correct amount, nor shall any acceptance of payments be construed as a release of any claim the Grantor may have for further or additional sums payable or for the performance of any other obligation of Grantee.

3.4 Quarterly Franchise Fee Reports

Each payment shall be accompanied by a written report to the Grantor, or concurrently sent under separate cover, verified by an authorized representative of Grantee, containing an accurate statement in summarized form, as well as in detail, of Grantee's Gross Revenues and the computation of the payment amount. Such reports shall detail all Gross Revenues of the Cable System.

3.5 Annual Franchise Fee Reports

Grantee shall, within sixty (60) days after the end of each year, furnish to the Grantor a statement stating the total amount of Gross Revenues for the year and all payments, deductions and computations for the period.

3.6 Audits

On an annual basis, upon thirty (30) days prior written notice, the Grantor, including the Grantor's Auditor or his/her authorized representative, shall have the right to conduct an independent audit/review of Grantee's records reasonably related to the administration or enforcement of this Franchise. Pursuant to subsection 1.28, as part of the Franchise Fee audit/review the Grantor shall specifically have the right to review relevant data related to the allocation of revenue to Cable Services in the event Grantee offers Cable Services bundled with non-Cable Services. For purposes of this section, "relevant data" shall include, at a minimum, Grantee's records, produced and maintained in the ordinary course of business, showing the subscriber counts per package and the revenue allocation per package for each package that was available for Grantor subscribers during the audit period. To the extent that the Grantor does not believe that the relevant data supplied is sufficient for the Grantor to complete its audit/review, the Grantor may require other relevant data. For purposes of this Section 3.6, the "other relevant data" shall generally mean all: (1) billing reports, (2) financial reports (such as General Ledgers) and (3) sample customer bills used by Grantee to determine Gross Revenues for the Franchise Area that would allow the Grantor to recompute the Gross Revenue determination. If the audit/review shows that Franchise Fee payments have been underpaid by five percent (5%) or more (or such other contract underpayment threshold as set forth in a generally applicable and enforceable regulation or policy of the Grantor related to audits), Grantee shall pay the total cost of the audit/review, such cost not to exceed five thousand dollars (\$5,000.00) for each year of the audit period. The Grantor's right to audit/review and the Grantee's obligation to retain records related to this subsection shall expire three (3) years after each Franchise Fee payment has been made to the Grantor.

3.7 Late Payments

In the event any payment due quarterly is not received within forty-five (45) days from the end of the calendar quarter, Grantee shall pay interest on the amount due (at the prime rate as listed in the Wall Street Journal on the date the payment was due), compounded daily, calculated from the date the payment was originally due until the date the Grantor receives the payment.

3.8 Underpayments

If a net Franchise Fee underpayment is discovered as the result of an audit, Grantee shall pay interest at the rate of the eight percent (8%) per annum, compounded quarterly, calculated from the date each portion of the underpayment was originally due until the date Grantee remits the underpayment to the Grantor.

3.9 Alternative Compensation

In the event the obligation of Grantee to compensate the Grantor through Franchise Fee payments is lawfully suspended or eliminated, in whole or part, then Grantee shall comply with any other Applicable Law related to the right to occupy the Grantor's Rights-of-Way and compensation therefor..

3.10 Maximum Legal Compensation

The parties acknowledge that, at present, applicable federal law limits the Grantor to collection of a maximum permissible Franchise Fee of five percent (5%) of Gross Revenues. In the event that at any time during the duration of this Franchise, the Grantor is authorized to collect an amount in excess of five percent (5%) of Gross Revenues, then this Franchise may be amended unilaterally by the Grantor through the same process that the Franchise was adopted to provide that such excess amount shall be added to the Franchise Fee payments to be paid by Grantee to the Grantor hereunder, provided that Grantee has received at least ninety (90) days prior written notice from the Grantor of such amendment, so long as all cable operators in the Grantor are paying the same Franchise Fee amount.

3.11 Additional Commitments Not Franchise Fee Payments

(A) The PEG Capital Contribution pursuant to Section 9.5, as well as any charges incidental to the awarding or enforcing of this Franchise (including, without limitation, payments for bonds, security funds, letters of credit, insurance, indemnification, penalties or liquidated damage) and Grantee's costs of compliance with Franchise obligations (including, without limitation, compliance with customer service standards and build out obligations) shall not be offset against Franchise Fees. Furthermore, the Grantor and Grantee agree that any local tax of general applicability shall be in addition to any Franchise Fees required herein, and there shall be no offset against Franchise Fees. Notwithstanding the foregoing, Grantee reserves all rights to offset cash or non-cash payments from Franchise Fees, consistent with Applicable Law. The Grantor likewise reserves all rights it has under Applicable Law. Should Grantee elect to offset the items set forth herein, or other franchise commitments such as complimentary Cable Service, against the Franchise Fees in accordance with Applicable Law, including any Orders resulting from the FCC's 621 proceeding, MB Docket No. 05-311, Grantee shall provide the Grantor with advance written notice. Such notice shall document the proposed offset or service charges so that the Grantor can make an informed decision as to its course of action. Upon receipt of such notice Grantor shall have up to one hundred twenty (120) days to either (1) maintain the commitment with the understanding that the value shall be offset from Franchise Fees; (2) relieve Grantee from the commitment obligation under the Franchise; or (3) pay for the services rendered pursuant to the commitment in accordance with Grantee's regular and nondiscriminatory term and conditions.

(B) Grantee's notice pursuant to Section 3.11(A) shall, at a minimum, address the following: (1) identify the specific cash or non-cash consideration or obligations that must be offset from Grantee's Franchise Fee obligations; (2) identify the Franchise terms and conditions for which Grantee is seeking amendments; (3) provide text for any proposed Franchise amendments to the Grantor, with a written explanation of why the proposed amendments are necessary and consistent with Applicable Law; (4) provide all information and documentation reasonably necessary to address how and why specific offsets are to be calculated and (5) if applicable provide all information and documentation reasonably necessary to document how Franchise Fee offsets may be passed through to Subscribers in accordance with 47 U.S.C. 542(e). Nothing in this Section 3.11(B) shall be construed to extend the one hundred twenty (120) day time period for Grantor to make its election under Section 3.11(A); provided however, that any disagreements or disputes

over whether sufficient information has been provided pursuant to this Paragraph (B) may be addressed under Sections 13.1 or 13.2 of this Franchise.

(C) Upon receipt of Grantee's written notice as provided in Section 3.11 (B), the Grantor and Grantee agree that they will use best efforts in good faith to negotiate Grantee's proposed Franchise modifications and agree to what offsets, if any, are to be made to the Franchise Fee obligations. Such negotiation will proceed and conclude within a one hundred twenty (120) day time period, unless that time period is reduced or extended by mutual agreement of the parties. If the Grantor and Grantee reach agreement on the Franchise modifications pursuant to such negotiations, then the Grantor shall amend this Franchise to include the modifications.

(D) If the parties are unable to reach agreement on any Franchise Fee offset issue within one hundred twenty (120) days or such other time as the parties may mutually agree, each party reserves all rights it may have under Applicable Law to address such offset issues.

(E) The Grantor acknowledges that Grantee currently provides one outlet of Basic Service and Digital Starter Service and associated equipment to certain Grantor owned and occupied or leased and occupied buildings, schools, fire stations and public libraries located in areas where Grantee provides Cable Service. For purposes of this Franchise, "school" means all State-accredited K-12 public and private schools. Outlets of Basic and Digital Starter Service provided in accordance with this subsection may be used to distribute Cable Services throughout such buildings, provided such distribution can be accomplished without causing Cable System disruption and general technical standards are maintained. Grantee's commitment to provide this service is voluntary, and may be terminated by Grantee, at its sole discretion.

- (i) Grantee's termination of complimentary services provided shall be pursuant to the provisions of Section 3.11(A)-(E) above. Grantor may make a separate election for each account or line of service identified in the notice (for example, Grantor may choose to accept certain services or accounts as offsets to Franchise Fees, and discontinue other services or accounts), so long as all elections are made within one hundred twenty (120) days. Grantee shall also provide written notice to each entity that is currently receiving complimentary services with copies of those notice(s) sent to the Grantor.
- (ii) Notwithstanding the foregoing, Grantee reserves all rights to offset cash or non-cash consideration or obligations from Franchise Fees, consistent with Applicable Law. The Grantor likewise reserves all rights it has under Applicable Law.

(F) The parties understand and agree that offsets may be required and agreed to as a result of the FCC's Order in what is commonly known as the 621 Proceeding, MB Docket No. 05-311, and that this Order is on appeal. Should there be a final Order in the appeal of the 621 Proceeding, which would permit any cash or non-cash consideration or obligations to be required by this Franchise without being offset from Franchise Fees, or would change the scope of the Grantor's regulatory authority over the use of the rights-of-way by the Grantee, the parties shall,

within one hundred twenty (120) days of written notice from the Grantor, amend this Franchise to reinstate such consideration or obligations without offset from Franchise Fees, and to address the full scope of the Grantor's regulatory authority.

3.12 Tax Liability

The Franchise Fees shall be in addition to any and all taxes or other levies or assessments which are now or hereafter required to be paid by businesses in general by any law of the Grantor, the State or the United States including, without limitation, sales, use and other taxes, business license fees or other payments. Payment of the Franchise Fees under this Franchise shall not exempt Grantee from the payment of any other license fee, permit fee, tax or charge on the business, occupation, property or income of Grantee that may be lawfully imposed by the Grantor. Any other license fees, taxes or charges shall be of general applicability in nature and shall not be levied against Grantee solely because of its status as a Cable Operator, or against Subscribers, solely because of their status as such.

3.13 Financial Records

Grantee agrees to meet with a representative of the Grantor upon request to review Grantee's methodology of record-keeping, financial reporting, the computing of Franchise Fee obligations and other procedures, the understanding of which the Grantor deems necessary for reviewing reports and records.

3.14 Payment on Termination

If this Franchise terminates for any reason, the Grantee shall file with the Grantor within ninety (90) calendar days of the date of the termination, a financial statement, certified by an independent certified public accountant, showing the Gross Revenues received by the Grantee since the end of the previous fiscal year. The Grantor reserves the right to satisfy any remaining financial obligations of the Grantee to the Grantor by utilizing the funds available in the letter of credit or other security provided by the Grantee.

SECTION 4. ADMINISTRATION AND REGULATION

4.1 Authority

(A) The Grantor shall be vested with the power and right to reasonably regulate the exercise of the privileges permitted by this Franchise in the public interest, or to delegate that power and right, or any part thereof, to the extent permitted under Federal, State and local law, to any agent including, but not limited to, the CCUA, in its sole discretion.

(B) Nothing in this Franchise shall limit nor expand the Grantor's right of eminent domain under State law.

4.2 Rates and Charges

All of Grantee's rates and charges related to or regarding Cable Services shall be subject to regulation by the Grantor to the full extent authorized by applicable federal, State and local laws.

4.3 Rate Discrimination

All of Grantee's rates and charges shall be published (in the form of a publicly-available rate card) and be non-discriminatory as to all Persons and organizations of similar classes, under similar circumstances and conditions. Grantee shall apply its rates in accordance with Applicable Law, with identical rates and charges for all Subscribers receiving identical Cable Services, without regard to race, color, ethnic or national origin, religion, age, sex, sexual orientation, marital, military or economic status, or physical or mental disability or geographic location within the Town. Grantee shall offer the same Cable Services to all Residential Subscribers at identical rates to the extent required by Applicable Law and to Multiple Dwelling Unit Subscribers to the extent authorized by FCC rules or applicable Federal law. Grantee shall permit Subscribers to make any lawful in-residence connections the Subscriber chooses without additional charge nor penalizing the Subscriber therefor. However, if any in-home connection requires service from Grantee due to signal quality, signal leakage or other factors, caused by improper installation of such in-home wiring or faulty materials of such in-home wiring, the Subscriber may be charged reasonable service charges by Grantee. Nothing herein shall be construed to prohibit:

(A) The temporary reduction or waiving of rates or charges in conjunction with valid promotional campaigns; or,

(B) The offering of reasonable discounts to senior citizens or economically disadvantaged citizens; or,

(C) The offering of rate discounts for Cable Service; or,

(D) The Grantee from establishing different and nondiscriminatory rates and charges and classes of service for Commercial Subscribers, as allowable by federal law and regulations.

4.4 Filing of Rates and Charges

(A) Throughout the term of this Franchise, Grantee shall maintain on file with the Grantor a complete schedule of applicable rates and charges for Cable Services provided under this Franchise. Nothing in this subsection shall be construed to require Grantee to file rates and charges under temporary reductions or waivers of rates and charges in conjunction with promotional campaigns.

(B) Upon request of the Grantor, Grantee shall provide a complete schedule of current rates and charges for any and all Leased Access Channels, or portions of such Channels, provided by Grantee. The schedule shall include a description of the price, terms, and conditions established by Grantee for Leased Access Channels.

4.5 Cross Subsidization

Grantee shall comply with all Applicable Laws regarding rates for Cable Services and all Applicable Laws covering issues of cross subsidization.

4.6 Reserved Authority

Both Grantee and the Grantor reserve all rights they may have under the Cable Act and any other relevant provisions of federal, State, or local law.

4.7 Franchise Amendment Procedure

Either party may at any time seek an amendment of this Franchise by so notifying the other party in writing. Within thirty (30) days of receipt of notice, the Grantor and Grantee shall meet to discuss the proposed amendment(s). If the parties reach a mutual agreement upon the suggested amendment(s), such amendment(s) shall be submitted to the Board of Trustees for its approval. If so approved by the Board of Trustees and the Grantee, then such amendment(s) shall be deemed part of this Franchise. If mutual agreement is not reached, there shall be no amendment.

4.8 Performance Evaluations

(A) The Grantor may hold performance evaluation sessions upon ninety (90) days written notice, provided that such evaluation sessions shall be held no more frequently than once every two (2) years. All such evaluation sessions shall be conducted by the Grantor.

(B) Special evaluation sessions may be held at any time by the Grantor during the term of this Franchise, upon ninety (90) days written notice to Grantee.

(C) All regular evaluation sessions shall be open to the public and announced at least two (2) weeks in advance in any manner within the discretion of the Grantor. Grantee shall also include with or on the Subscriber billing statements for the billing period immediately preceding the commencement of the session, written notification of the date, time, and place of the regular performance evaluation session, and any special evaluation session as required by the Grantor, provided Grantee receives appropriate advance notice.

(D) Topics which may be discussed at any evaluation session may include, but are not limited to, Cable Service rate structures; Franchise Fee payments; liquidated damages; free or discounted Cable Services; application of new technologies; Cable System performance; Cable Services provided; programming offered; Subscriber complaints; privacy; amendments to this Franchise; judicial and FCC rulings; line extension policies; and the Grantor or Grantee's rules; provided that nothing in this subsection shall be construed as requiring the renegotiation of this Franchise.

(E) During evaluations under this subsection, Grantee shall fully cooperate with the Grantor and shall provide such information and documents as the Grantor may reasonably require to perform the evaluation.

4.9 Late Fees

(A) For purposes of this subsection, any assessment, charge, cost, fee or sum, however characterized, that the Grantee imposes upon a Subscriber solely for late payment of a bill is a late fee and shall be applied in accordance with the Grantor's Customer Service Standards, as the same may be amended from time to time by the Board of Trustees acting by ordinance or resolution, or as the same may be superseded by Applicable Law.

(B) Nothing in this subsection shall be deemed to create, limit or otherwise affect the ability of the Grantee, if any, to impose other assessments, charges, fees or sums other than those permitted by this subsection, for the Grantee's other services or activities it performs in compliance with Applicable Law, including FCC law, rule or regulation.

(C) The Grantee's late fee and disconnection policies and practices shall be consistent with Applicable Law.

4.10 Force Majeure

In the event Grantee is prevented or delayed in the performance of any of its obligations under this Franchise by reason beyond the control of Grantee, Grantee shall have a reasonable time, under the circumstances, to perform the affected obligation under this Franchise or to procure a substitute for such obligation which is satisfactory to the Grantor. Those conditions which are not within the control of Grantee include, but are not limited to, natural disasters, civil disturbances, work stoppages or labor disputes, pandemics, power outages, telephone network outages, and severe or unusual weather conditions which have a direct and substantial impact on the Grantee's ability to provide Cable Services in the Town and which was not caused and could not have been avoided by the Grantee which used its best efforts in its operations to avoid such results.

If Grantee believes that a reason beyond its control has prevented or delayed its compliance with the terms of this Franchise, Grantee shall provide documentation as reasonably required by the Grantor to substantiate the Grantee's claim. If Grantee has not yet cured the deficiency, Grantee shall also provide the Grantor with its proposed plan for remediation, including the timing for such cure.

SECTION 5. FINANCIAL AND INSURANCE REQUIREMENTS

5.1 Indemnification

(A) General Indemnification. Grantee shall indemnify, defend and hold the Grantor, its officers, officials, boards, commissions, agents and employees, harmless from any action or claim for injury, damage, loss, liability, cost or expense, including court and appeal costs and reasonable attorneys' fees or reasonable expenses, arising from any casualty or accident to Person or property, including, without limitation, copyright infringement, defamation, and all other damages in any way arising out of, or by reason of, any construction, excavation, operation, maintenance, reconstruction, or any other act done under this Franchise, by or for Grantee, its agents, or its

employees, or by reason of any neglect or omission of Grantee. Grantee shall consult and cooperate with the Grantor while conducting its defense of the Grantor. Grantee shall not be obligated to indemnify the Grantor to the extent of the Grantor's negligence or willful misconduct.

(B) Indemnification for Relocation. Grantee shall indemnify the Grantor for any damages, claims, additional costs or reasonable expenses assessed against, or payable by, the Grantor arising out of, or resulting from, directly or indirectly, Grantee's failure to remove, adjust or relocate any of its facilities in the Rights-of-Way in a timely manner in accordance with any relocation required by the Grantor.

(C) Additional Circumstances. Grantee shall also indemnify, defend and hold the Grantor harmless for any claim for injury, damage, loss, liability, cost or expense, including court and appeal costs and reasonable attorneys' fees or reasonable expenses in any way arising out of:

(1) The lawful actions of the Grantor in granting this Franchise to the extent such actions are consistent with this Franchise and Applicable Law.

(2) Damages arising out of any failure by Grantee to secure consents from the owners, authorized distributors, or licensees/licensors of programs to be delivered by the Cable System, whether or not any act or omission complained of is authorized, allowed or prohibited by this Franchise.

(D) Procedures and Defense. If a claim or action arises, the Grantor or any other indemnified party shall promptly tender the defense of the claim to Grantee, which defense shall be at Grantee's expense. The Grantor may participate in the defense of a claim, but if Grantee provides a defense at Grantee's expense then Grantee shall not be liable for any attorneys' fees, expenses or other costs that Grantor may incur if it chooses to participate in the defense of a claim, unless and until separate representation as described below in Paragraph 5.1(F) is required. In that event the provisions of Paragraph 5.1(F) shall govern Grantee's responsibility for Town's attorney's fees, expenses or other costs. In any event, Grantee may not agree to any settlement of claims affecting the Grantor without the Grantor's approval.

(E) Non-waiver. The fact that Grantee carries out any activities under this Franchise through independent contractors shall not constitute an avoidance of or defense to Grantee's duty of defense and indemnification under this subsection.

(F) Expenses. If separate representation to fully protect the interests of both parties is or becomes necessary, such as a conflict of interest between the Grantor and the counsel selected by Grantee to represent the Grantor, Grantee shall pay, from the date such separate representation is required forward, all reasonable expenses incurred by the Grantor in defending itself with regard to any action, suit or proceeding indemnified by Grantee. Provided, however, that in the event that such separate representation is or becomes necessary, and Grantor desires to hire counsel or any other outside experts or consultants and desires Grantee to pay those expenses, then Grantor shall be required to obtain Grantee's consent to the engagement of such counsel, experts or consultants, such consent not to be unreasonably withheld. The Grantor's expenses shall include all reasonable out-of-pocket expenses, such as consultants' fees, and shall also include the reasonable value of

any services rendered by the Grantor Attorney or his/her assistants or any employees of the Grantor or its agents but shall not include outside attorneys' fees for services that are unnecessarily duplicative of services provided the Grantor by Grantee.

5.2 Insurance

(A) Grantee shall maintain in full force and effect at its own cost and expense each of the following policies of insurance, but in no event shall occurrence basis minimum limits be less than provided for by C.R.S. §24-10-114(1)(b):

(1) Commercial General Liability insurance with limits of no less than one million dollars (\$1,000,000.00) per occurrence and three million dollars (\$3,000,000.00) general aggregate. Coverage shall be at least as broad as that provided by ISO CG 00 01 1/96 or its equivalent and include severability of interests. Such insurance shall name the Grantor, its officers, officials and employees as additional insureds per ISO CG 2026 or its equivalent. There shall be a waiver of subrogation and rights of recovery against the Grantor, its officers, officials and employees. Coverage shall apply as to claims between insureds on the policy, if applicable.

(2) Commercial Automobile Liability insurance with minimum combined single limits of one million dollars (\$1,000,000.00) each occurrence with respect to each of Grantee's owned, hired and non-owned vehicles assigned to or used in the operation of the Cable System in the Town. The policy shall contain a severability of interests provision.

(B) The insurance shall not be canceled or materially changed so as to be out of compliance with these requirements without thirty (30) days' written notice first provided to the Grantor, via certified mail, and ten (10) days' notice for nonpayment of premium. If the insurance is canceled or materially altered so as to be out of compliance with the requirements of this subsection within the term of this Franchise, Grantee shall provide a replacement policy. Grantee agrees to maintain continuous uninterrupted insurance coverage, in at least the amounts required, for the duration of this Franchise and, in the case of the Commercial General Liability, for at least one (1) year after expiration of this Franchise.

5.3 Deductibles / Certificate of Insurance

Any deductible of the policies shall not in any way limit Grantee's liability to the Grantor.

(A) Endorsements.

(1) All policies shall contain, or shall be endorsed so that:

(a) The Grantor, its officers, officials, boards, commissions, employees and agents are to be covered as, and have the rights of, additional insureds with respect to liability arising out of activities performed by, or on behalf of, Grantee under this Franchise or Applicable Law, or in the construction, operation or repair,

or ownership of the Cable System;

(b) Grantee's insurance coverage shall be primary insurance with respect to the Grantor, its officers, officials, boards, commissions, employees and agents. Any insurance or self-insurance maintained by the Grantor, its officers, officials, boards, commissions, employees and agents shall be in excess of the Grantee's insurance and shall not contribute to it; and

(c) Grantee's insurance shall apply separately to each insured against whom a claim is made or lawsuit is brought, except with respect to the limits of the insurer's liability.

(B) Acceptability of Insurers. The insurance obtained by Grantee shall be placed with insurers with a Best's rating of no less than "A VII."

(C) Verification of Coverage. The Grantee shall furnish the Grantor with certificates of insurance and endorsements or a copy of the page of the policy reflecting blanket additional insured status. The certificates and endorsements for each insurance policy are to be signed by a Person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements for each insurance policy are to be on standard forms or such forms as are consistent with standard industry practices.

(D) Self-Insurance. In the alternative to providing a certificate of insurance to the Grantor certifying insurance coverage as required above, Grantee may provide self-insurance in the same amount and level of protection for Grantee and Grantor, its officers, agents and employees as otherwise required under this Section. The adequacy of self-insurance shall be subject to the periodic review and approval of the Grantor.

5.4 Letter of Credit

(A) If there is a claim by the Grantor of an uncured breach by Grantee of a material provision of this Franchise or pattern of repeated violations of any provision(s) of this Franchise, then the Grantor may require and Grantee shall establish and provide within thirty (30) days from receiving notice from the Grantor, to the Grantor as security for the faithful performance by Grantee of all of the provisions of this Franchise, a letter of credit from a financial institution satisfactory to the Grantor in the amount of twenty-five thousand dollars (\$25,000).

(B) In the event that Grantee establishes a letter of credit pursuant to the procedures of this Section, then the letter of credit shall be maintained at twenty-five thousand dollars (\$25,000) until the allegations of the uncured breach have been resolved.

(C) As an alternative to the provision of a Letter of Credit to the Grantor as set forth in Subsections 5.4 (A) and (B) above, if the Grantor is a member of CCUA, and if Grantee provides a Letter of Credit to CCUA in an amount agreed to between Grantee and CCUA for the benefit of its members, in order to collectively address claims reference in 5.4 (A), Grantee shall not be required to provide a separate Letter of Credit to the Grantor.

(D) After completion of the procedures set forth in Section 13.1 or other applicable provisions of this Franchise, the letter of credit may be drawn upon by the Grantor for purposes including, but not limited to, the following:

(1) Failure of Grantee to pay the Grantor sums due under the terms of this Franchise;

(2) Reimbursement of costs borne by the Grantor to correct Franchise violations not corrected by Grantee;

(3) Monetary remedies or damages assessed against Grantee due to default or breach of Franchise requirements; and,

(4) Failure to comply with the Customer Service Standards of the Grantor, as the same may be amended from time to time by the Board of Trustees acting by ordinance or resolution.

(E) The Grantor shall give Grantee written notice of any withdrawal under this subsection upon such withdrawal. Within seven (7) days following receipt of such notice, Grantee shall restore the letter of credit to the amount required under this Franchise.

(F) Grantee shall have the right to appeal to the Board of Trustees for reimbursement in the event Grantee believes that the letter of credit was drawn upon improperly. Grantee shall also have the right of judicial appeal if Grantee believes the letter of credit has not been properly drawn upon in accordance with this Franchise. Any funds the Grantor erroneously or wrongfully withdraws from the letter of credit shall be returned to Grantee with interest, from the date of withdrawal at a rate equal to the prime rate of interest as quoted in the Wall Street Journal.

SECTION 6. CUSTOMER SERVICE

6.1 Customer Service Standards

Grantee shall comply with Customer Service Standards of the Grantor, as the same may be amended from time to time by the Board of Trustees in its sole discretion, acting by ordinance. Any requirement in Customer Service Standards for a “local” telephone number may be met by the provision of a toll-free number. The Customer Services Standards in effect as of the Effective Date of this Franchise are attached as Exhibit A. Grantee reserves the right to challenge any customer service ordinance which it believes is inconsistent with its contractual rights under this Franchise.

6.2 Subscriber Privacy

Grantee shall fully comply with any provisions regarding the privacy rights of Subscribers contained in federal, State, or local law.

6.3 Subscriber Contracts

Grantee shall not enter into a contract with any Subscriber which is in any way inconsistent with the terms of this Franchise, or any Exhibit hereto, or the requirements of any applicable Customer Service Standard. Upon request, Grantee will provide to the Grantor a sample of the Subscriber contract or service agreement then in use.

6.4 Advance Notice to Grantor

The Grantee shall use reasonable efforts to furnish information provided to Subscribers or the media in the normal course of business to the Grantor in advance.

6.5 Identification of Local Franchise Authority on Subscriber Bills

Within sixty (60) days after written request from the Grantor, Grantee shall place the Grantor's phone number on its Subscriber bills, to identify where a Subscriber may call to address escalated complaints.

SECTION 7. REPORTS AND RECORDS

7.1 Open Records

Grantee shall manage all of its operations in accordance with a policy of keeping its documents and records open and accessible to the Grantor. The Grantor, including the Grantor's Auditor or his/her authorized representative, shall have access to, and the right to inspect, any books and records of Grantee, its parent corporations and Affiliates which are reasonably related to the administration or enforcement of the terms of this Franchise. Grantee shall not deny the Grantor access to any of Grantee's records on the basis that Grantee's records are under the control of any parent corporation, Affiliate or a third party. The Grantor may, in writing, request copies of any such records or books and Grantee shall provide such copies within thirty (30) days of the transmittal of such request. One (1) copy of all reports and records required under this or any other subsection shall be furnished to the Grantor, at the sole expense of Grantee. If the requested books and records are too voluminous, or for security reasons cannot be copied or removed, then Grantee may request, in writing within ten (10) days, that the Grantor inspect them at Grantee's local offices. If any books or records of Grantee are not kept in a local office and not made available in copies to the Grantor upon written request as set forth above, and if the Grantor determines that an examination of such records is necessary or appropriate for the performance of any of the Grantor's duties, administration or enforcement of this Franchise, then all reasonable travel and related expenses incurred in making such examination shall be paid by Grantee.

7.2 Confidentiality

The Grantor agrees to treat as confidential any books or records that constitute proprietary or confidential information under federal or State law, to the extent Grantee makes the Grantor aware of such confidentiality. Grantee shall be responsible for clearly and conspicuously stamping the word "Confidential" on each page that contains confidential or proprietary information, and

shall provide a brief written explanation as to why such information is confidential under State or federal law. If the Grantor believes it must release any such confidential books and records in the course of enforcing this Franchise, or for any other reason, it shall advise Grantee in advance so that Grantee may take appropriate steps to protect its interests. If the Grantor receives a demand from any Person for disclosure of any information designated by Grantee as confidential, the Grantor shall, so far as consistent with Applicable Law, advise Grantee and provide Grantee with a copy of any written request by the party demanding access to such information within a reasonable time. Until otherwise ordered by a court or agency of competent jurisdiction, the Grantor agrees that, to the extent permitted by State and federal law, it shall deny access to any of Grantee's books and records marked confidential as set forth above to any Person. Grantee shall reimburse the Grantor for all reasonable costs and attorneys fees incurred in any legal proceedings pursued under this Section.

7.3 Records Required

(A) Grantee shall at all times maintain, and shall furnish to the Grantor upon 30 days written request and subject to Applicable Law:

(1) A complete set of maps showing the exact location of all Cable System equipment and facilities in the Right-of-Way but excluding detail on proprietary electronics contained therein and Subscriber drops. As-built maps including proprietary electronics shall be available at Grantee's offices for inspection by the Grantor's authorized representative(s) or agent(s) and made available to such during the course of technical inspections as reasonably conducted by the Grantor. These maps shall be certified as accurate by an appropriate representative of the Grantee;

(2) A copy of all FCC filings on behalf of Grantee, its parent corporations or Affiliates which relate to the operation of the Cable System in the Board of Trustees;

(3) Current Subscriber Records and information;

(4) A log of Cable Services added or dropped, Channel changes, number of Subscribers added or terminated, all construction activity, and total homes passed for the previous twelve (12) months; and

(5) A list of Cable Services, rates and Channel line-ups.

(B) Subject to subsection 7.2, all information furnished to the Grantor is public information, and shall be treated as such, except for information involving the privacy rights of individual Subscribers.

7.4 Annual Reports

Within sixty (60) days of the Grantor's written request, Grantee shall submit to the Grantor a written report, in a form acceptable to the Grantor, which shall include, but not necessarily be limited to, the following information for the Grantor:

- (A) A Gross Revenue statement, as required by subsection 3.5 of this Franchise;
- (B) A summary of the previous year's activities in the development of the Cable System, including, but not limited to, Cable Services begun or discontinued during the reporting year, and the number of Subscribers for each class of Cable Service (*i.e.*, Basic, Digital Starter, and Premium);
- (C) The number of homes passed, beginning and ending plant miles, any services added or dropped, and any technological changes occurring in the Cable System;
- (D) A statement of planned construction, if any, for the next year; and,
- (E) A copy or hyperlink of the most recent annual report Grantee filed with the SEC or other governing body.

The parties agree that the Grantor's request for these annual reports shall remain effective, and need only be made once. Such a request shall require the Grantee to continue to provide the reports annually, until further written notice from the Grantor to the contrary.

7.5 Copies of Federal and State Reports

Within thirty (30) days of a written request, Grantee shall submit to the Grantor copies of all pleadings, applications, notifications, communications and documents of any kind, submitted by Grantee or its parent corporation(s), to any federal, State or local courts, regulatory agencies and other government bodies if such documents directly relate to the operations of Grantee's Cable System within the Town. Grantee shall not claim confidential, privileged or proprietary rights to such documents unless under federal, State, or local law such documents have been determined to be confidential by a court of competent jurisdiction, or a federal or State agency.

7.6 Complaint File and Reports

(A) Grantee shall keep an accurate and comprehensive file of any complaints regarding the Cable System, in a manner consistent with the privacy rights of Subscribers, and Grantee's actions in response to those complaints. These files shall remain available for viewing to the Grantor during normal business hours at Grantee's local business office.

(B) Within thirty (30) days of a written request, Grantee shall provide the Grantor a quarterly executive summary in the form attached hereto as Exhibit B, which shall include the following information from the preceding quarter:

- (1) A summary of service calls, identifying the number and nature of the requests and their disposition;
- (2) A log of all service interruptions;

- (3) A summary of customer complaints referred by the Grantor to Grantee; and,
- (4) Such other information as reasonably requested by the Grantor.

The parties agree that the Grantor's request for these summary reports shall remain effective, and need only be made once. Such a request shall require the Grantee to continue to provide the reports quarterly, until further written notice from the Grantor to the contrary.

7.7 Failure to Report

The failure or neglect of Grantee to file any of the reports or filings required under this Franchise or such other reports as the Grantor may reasonably request (not including clerical errors or errors made in good faith), may, at the Grantor's option, be deemed a breach of this Franchise.

7.8 False Statements

Any false or misleading statement or representation in any report required by this Franchise (not including clerical errors or errors made in good faith) may be deemed a material breach of this Franchise and may subject Grantee to all remedies, legal or equitable, which are available to the Grantor under this Franchise or otherwise.

SECTION 8. PROGRAMMING

8.1 Broad Programming Categories

Grantee shall provide or enable the provision of at least the following initial broad categories of programming to the extent such categories are reasonably available:

- (A) Educational programming;
- (B) Colorado news, weather & information;
- (C) Sports;
- (D) General entertainment (including movies);
- (E) Children/family-oriented;
- (F) Arts, culture and performing arts;
- (G) Foreign language;
- (H) Science/documentary;
- (I) National news, weather and information; and,

(J) Public, Educational and Government Access, to the extent required by this Franchise.

8.2 Deletion or Reduction of Broad Programming Categories

(A) Grantee shall not delete or so limit as to effectively delete any broad category of programming within its control without the prior written consent of the Grantor.

(B) In the event of a modification proceeding under federal law, the mix and quality of Cable Services provided by Grantee on the Effective Date of this Franchise shall be deemed the mix and quality of Cable Services required under this Franchise throughout its term.

8.3 Obscenity

Grantee shall not transmit, or permit to be transmitted over any Channel subject to its editorial control, any programming which is obscene under, or violates any provision of, Applicable Law relating to obscenity, and is not protected by the Constitution of the United States. Grantee shall be deemed to have transmitted or permitted a transmission of obscene programming only if a court of competent jurisdiction has found that any of Grantee's officers or employees or agents have permitted programming which is obscene under, or violative of, any provision of Applicable Law relating to obscenity, and is otherwise not protected by the Constitution of the United States, to be transmitted over any Channel subject to Grantee's editorial control. Grantee shall comply with all relevant provisions of federal law relating to obscenity.

8.4 Parental Control Device

Upon request by any Subscriber, Grantee shall make available a parental control or lockout device, traps or filters to enable a Subscriber to control access to both the audio and video portions of any or all Channels. Grantee shall inform its Subscribers of the availability of the lockout device at the time of their initial subscription and periodically thereafter. Any device offered shall be at a rate, if any, in compliance with Applicable Law.

8.5 Continuity of Service Mandatory

(A) It shall be the right of all Subscribers to continue to receive Cable Service from Grantee insofar as their financial and other obligations to Grantee are honored. The Grantee shall act so as to ensure that all Subscribers receive continuous, uninterrupted Cable Service regardless of the circumstances. For the purposes of this subsection, "uninterrupted" does not include short-term outages of the Cable System for maintenance or testing.

(B) In the event of a change of grantee, or in the event a new Cable Operator acquires the Cable System in accordance with this Franchise, Grantee shall cooperate with the Grantor, new franchisee or Cable Operator in maintaining continuity of Cable Service to all Subscribers. During any transition period, Grantee shall be entitled to the revenues for any period during which it operates the Cable System, and shall be entitled to reasonable costs for its services when it no longer operates the Cable System.

(C) In the event Grantee fails to operate the Cable System for four (4) consecutive days without prior approval of the Manager, or without just cause, the Grantor may, at its option, operate the Cable System itself or designate another Cable Operator until such time as Grantee restores service under conditions acceptable to the Grantor or a permanent Cable Operator is selected. If the Grantor is required to fulfill this obligation for Grantee, Grantee shall reimburse the Grantor for all reasonable costs or damages that are the result of Grantee's failure to perform.

8.6 Services for the Disabled

Grantee shall comply with the Americans with Disabilities Act and any amendments thereto.

SECTION 9. ACCESS

9.1 Designated Access Providers

The Grantor shall have the sole and exclusive responsibility for identifying the Designated Access Providers, including itself for Access Programming purposes, to control and manage the use of any or all Access Facilities provided by Grantee under this Franchise. As used in this Section, such "Access Facilities" includes the services, facilities, equipment, technical components and/or financial support provided under this Franchise, which is used or useable by and for Access Programming.

9.2 Support for Access Programming Costs

In recognition of the Town's demonstration of its community needs and interests related to the startup of an online Access Programming operation, Grantee agrees to provide an Access Programming capital equipment grant of ten thousand (\$10,000) dollars ("Grant") to the Grantor, to be delivered within one hundred twenty (120) days of written request made. Grantee shall be entitled to recover the Grant in any manner consistent with Applicable Law.

9.3 Access Programming Support Not Franchise Fees

Grantee agrees that capital support for Access Programming arising from or relating to the obligations set forth in this Section shall in no way modify or otherwise affect Grantee's obligations to pay Franchise Fees to Grantor. Grantee agrees that although the sum of Franchise Fees plus the payments set forth in this Section may total more than five percent (5%) of Grantee's Gross Revenues in any 12-month period, the additional PEG Contribution shall not be offset or otherwise credited in any way against any Franchise Fee payments under this Franchise Agreement so long as such support is used for capital Access purposes consistent with this Franchise and federal law.

SECTION 10. GENERAL RIGHT-OF-WAY USE AND CONSTRUCTION

10.1 Right to Construct

Subject to Applicable Law, regulations, rules, resolutions and ordinances of the Grantor

and the provisions of this Franchise, Grantee may perform all construction in the Rights-of-Way for any facility needed for the maintenance or extension of Grantee's Cable System.

10.2 Right-of-Way Meetings

Grantee will regularly attend and participate in meetings of the Grantor, of which the Grantee is made aware, regarding Right-of-Way issues that may impact the Cable System.

10.3 Joint Trenching/Boring Meetings

Grantee will regularly attend and participate in planning meetings of the Grantor, of which the Grantee is made aware, to anticipate joint trenching and boring. Whenever it is possible and reasonably practicable to joint trench or share bores or cuts, Grantee shall work with other providers, licensees, permittees, and franchisees so as to reduce so far as possible the number of Right-of-Way cuts within the Grantor.

10.4 General Standard

All work authorized and required hereunder shall be done in a safe, thorough and workmanlike manner and in accordance with the current edition of the Town of Firestone's Design Standards and Construction Specifications for Public Improvements.

10.5 Permits Required for Construction

Prior to doing any work in the Right-of Way or other public property and prior to any work requiring permits under the Grantor's adopted building codes, Grantee shall apply for, and obtain, appropriate permits from the Grantor. As part of the permitting process, the Grantor may impose such conditions and regulations as are necessary for the purpose of protecting any structures in such Rights-of-Way, proper restoration of such Rights-of-Way and structures, the protection of the public, and the continuity of pedestrian or vehicular traffic. Such conditions may also include the provision of a construction schedule and maps showing the location of the facilities to be installed in the Right-of-Way. Grantee shall pay all applicable fees for the requisite Grantor permits received by Grantee.

10.6 Emergency Permits

In the event that emergency repairs are necessary, Grantee shall immediately notify the Grantor of the need for such repairs. Grantee may initiate such emergency repairs, and shall apply for appropriate permits within forty-eight (48) hours after discovery of the emergency.

10.7 Compliance with Applicable Codes

(A) Grantor Construction Codes. Grantee shall comply with all adopted and applicable Grantor construction codes, including, without limitation, the International Building Code and other building codes, the International Fire Code, the International Mechanical Code, the National Electric Code, the Electronic Industries Association Standard for Physical Location and Protection

of Below-Ground Fiber Optic Cable Plant, the Firestone Development Code, and other applicable zoning codes and regulations.

(B) Tower Specifications. Antenna supporting structures (towers) shall be designed for the proper loading as specified by the Electronics Industries Association (EIA), as those specifications may be amended from time to time. Antenna supporting structures (towers) shall be painted, lighted, erected and maintained in accordance with all applicable rules and regulations of the Federal Aviation Administration and all other applicable federal, State, and local codes or regulations.

(C) Safety Codes. Grantee shall comply with all federal, State and Grantor safety requirements, rules, regulations, laws and practices, and employ all necessary devices as required by Applicable Law during construction, operation and repair of its Cable System. By way of illustration and not limitation, Grantee shall comply with the National Electric Code, National Electrical Safety Code and Occupational Safety and Health Administration (OSHA) Standards.

10.8 GIS Mapping

Grantee shall upon written request of Grantor, provide Grantor with current maps and details of all Grantee facilities located in Right-of-Way or other public property in a geographic information systems (GIS) format acceptable to the Grantor..

10.9 Minimal Interference

Work in the Right-of-Way, on other public property, near public property, or on or near private property shall be done in a manner that causes the least interference with the rights and reasonable convenience of property owners and residents. Grantee's Cable System shall be constructed and maintained in such manner as not to interfere with sewers, water pipes, or any other property of the Grantor, or with any other pipes, wires, conduits, pedestals, structures, or other facilities that may have been laid in the Rights-of-Way by, or under, the Grantor's authority. The Grantee's Cable System shall be located, erected and maintained so as not to endanger or interfere with the lives of Persons, or to interfere with new improvements the Grantor may deem proper to make or to unnecessarily hinder or obstruct the free use of the Rights-of-Way or other public property, and shall not interfere with the travel and use of public places by the public during the construction, repair, operation or removal thereof, and shall not obstruct or impede traffic. In the event of such interference, the Grantor may require the removal or relocation of Grantee's lines, cables, equipment and other appurtenances from the property in question at Grantee's expense.

10.10 Prevent Injury/Safety

Grantee shall provide and use any equipment and facilities necessary to control and carry Grantee's signals so as to prevent injury to the Grantor's property or property belonging to any Person. Grantee, at its own expense, shall repair, renew, change and improve its facilities to keep them in good repair, and safe and presentable condition. All excavations made by Grantee in the Rights-of-Way shall be properly safeguarded for the prevention of accidents by the placement of

adequate barriers, fences or boarding in a manner acceptable to Grantor, the bounds of which, during periods of dusk and darkness, shall be clearly designated by warning lights.

10.11 Hazardous Substances

(A) Grantee shall comply with any and all Applicable Laws, statutes, regulations and orders concerning hazardous substances relating to Grantee's Cable System in the Rights-of-Way.

(B) Grantor may inspect Grantee's facilities in the Rights-of-Way to determine if any release of hazardous substances has occurred, or may occur, from or related to Grantee's Cable System. In removing or modifying Grantee's facilities as provided in this Franchise, Grantee shall also remove all residue of hazardous substances related thereto.

(C) Grantee agrees to indemnify the Grantor against any claims, costs, and expenses, of any kind, whether direct or indirect, incurred by the Grantor arising out of a release of hazardous substances caused by Grantee's Cable System.

10.12 Locates

Prior to doing any work in the Right-of-Way, Grantee shall give appropriate notices to the Grantor and to the notification association established in C.R.S. Section 9-1.5-105, as such may be amended from time to time. Grantor shall locate any Grantor owned underground facilities in accordance with C.R.S. Section 9-1.5-103

10.13 Notice to Private Property Owners

Grantee shall give notice to private property owners of work on or adjacent to private property in accordance with the Grantor's Customer Service Standards, as the same may be amended from time to time by the Board of Trustees acting by Ordinance or resolution.

10.14 Underground Construction and Use of Poles

(A) When required by general ordinances, resolutions, regulations or rules of the Grantor or applicable State or federal law, Grantee's Cable System shall be placed underground at Grantee's expense unless funding is generally available for such relocation to all users of the Rights-of-Way. Placing facilities underground does not preclude the use of ground-mounted appurtenances.

(B) Where electric, telephone, and other above-ground utilities are installed underground at the time of Cable System construction, or when all such wiring is subsequently placed underground, all Cable System lines shall also be placed underground with other wireline service at no expense to the Grantor or Subscribers unless funding is generally available for such relocation to all users of the Rights-of-Way. Related Cable System equipment, such as pedestals, must be placed in accordance with the Grantor's applicable code requirements and rules.

(C) The Grantee shall utilize existing poles and conduit wherever possible.

(D) In the event Grantee cannot obtain the necessary poles and related facilities pursuant to a pole attachment agreement, and only in such event, then it shall be lawful for Grantee to make all needed excavations in the Rights-of-Way for the purpose of placing, erecting, laying, maintaining, repairing, and removing poles, supports for wires and conductors, and any other facility needed for the maintenance or extension of Grantee's Cable System. All poles of Grantee shall be located as designated by the proper Grantor authorities.

(E) This Franchise does not grant, give or convey to the Grantee the right or privilege to install its facilities in any manner on specific utility poles or equipment of the Grantor or any other Person. Copies of agreements for the use of poles, conduits or other utility facilities must be provided upon request by the Grantor.

10.15 Undergrounding of Multiple Dwelling Unit Drops

In cases of single site Multiple Dwelling Units, Grantee shall minimize the number of individual aerial drop cables by installing multiple drop cables underground between the pole and Multiple Dwelling Unit where determined to be technologically feasible in agreement with the owners and/or owner's association of the Multiple Dwelling Units.

10.16 Burial Standards

(A) Depths. Unless otherwise required by law, Grantee, and its contractors, shall comply with the following burial depth standards. In no event shall Grantee be required to bury its cable deeper than electric or gas facilities, or existing telephone facilities in the same portion of the Right-of-Way, so long as those facilities have been buried in accordance with Applicable Law:

Underground cable drops from the curb shall be buried at a minimum depth of twelve (12) inches, unless a sprinkler system or other construction concerns preclude it, in which case, underground cable drops shall be buried at a depth of at least six (6) inches.

Feeder lines shall be buried at a minimum depth of eighteen (18) inches.

Trunk lines shall be buried at a minimum depth of thirty-six (36) inches.

Fiber Optic cable shall be buried at a minimum depth of thirty-six (36) inches.

In the event of a conflict between this subsection and the provisions of any customer service standard, this subsection shall control.

(B) Timeliness. Cable drops installed by Grantee to residences shall be buried according to these standards within one calendar week of initial installation, or at a time mutually-agreed upon between the Grantee and the Subscriber. When freezing surface conditions prevent Grantee from achieving such timetable, Grantee shall apprise the Subscriber of the circumstances and the revised schedule for burial, and shall provide the Subscriber with Grantee's telephone

number and instructions as to how and when to call Grantee to request burial of the line if the revised schedule is not met.

10.17 Cable Drop Bonding

Grantee shall ensure that all cable drops are properly bonded at the home, consistent with applicable code requirements.

10.18 Prewiring

Any ordinance or resolution of the Grantor which requires prewiring of subdivisions or other developments for electrical and telephone service shall be construed to include wiring for Cable Systems.

10.19 Repair and Restoration of Property

(A) The Grantee shall protect public and private property from damage. If damage occurs, the Grantee shall promptly notify the property owner within twenty-four (24) hours in writing.

(B) Whenever Grantee disturbs or damages any Right-of-Way, other public property or any private property, Grantee shall promptly restore the Right-of-Way or property to at least its prior condition, normal wear and tear excepted, at its own expense.

(C) Rights-of-Way and Other Public Property. Grantee shall warrant any restoration work performed by or for Grantee in the Right-of-Way or on other public property in accordance with Applicable Law. If restoration is not satisfactorily performed by the Grantee prior to the completion date provided for in the Right-of-way permit, the Grantor may, after prior notice to the Grantee, or without notice where the disturbance or damage may create a risk to public health or safety, cause the repairs to be made and recover the cost of those repairs from the Grantee. Within thirty (30) days of receipt of an itemized list of those costs, including the costs of labor, materials and equipment, the Grantee shall pay the Grantor.

(D) Private Property. Upon completion of the work which caused any disturbance or damage, Grantee shall promptly commence restoration of private property, and will use best efforts to complete the restoration within seventy-two (72) hours, considering the nature of the work that must be performed. Grantee shall also perform such restoration in accordance with the Grantor's Customer Service Standards, as the same may be amended from time to time by the Board of Trustees acting by ordinance or resolution.

10.20 Acquisition of Facilities

Upon Grantee's acquisition of Cable System-related facilities in any Grantor Right-of-Way, or upon the addition to the Grantor of any area in which Grantee owns or operates any such facility, Grantee shall, at the Grantor's request, submit to the Grantor a statement describing all such facilities involved, whether authorized by franchise, permit, license or other prior right, and

specifying the location of all such facilities to the extent Grantee has possession of such information. Such Cable System-related facilities shall immediately be subject to the terms of this Franchise.

10.21 Discontinuing Use/Abandonment of Cable System Facilities

Whenever Grantee intends to discontinue using any facility within the Rights-of-Way, Grantee shall submit for the Grantor's approval a complete description of the facility and the date on which Grantee intends to discontinue using the facility. Grantee may remove the facility or request that the Grantor permit it to remain in place. Notwithstanding Grantee's request that any such facility remain in place, the Grantor may require Grantee to remove the facility from the Right-of-Way or modify the facility to protect the public health, welfare, safety, and convenience, or otherwise serve the public interest. The Grantor may require Grantee to perform a combination of modification and removal of the facility. Grantee shall complete such removal or modification in accordance with a schedule set by the Grantor. Until such time as Grantee removes or modifies the facility as directed by the Grantor, or until the rights to and responsibility for the facility are accepted by another Person having authority to construct and maintain such facility, Grantee shall be responsible for all necessary repairs and relocations of the facility, as well as maintenance of the Right-of-Way, in the same manner and degree as if the facility were in active use, and Grantee shall retain all liability for such facility. If Grantee abandons its facilities, the Grantor may choose to use such facilities for any purpose whatsoever including, but not limited to, Access purposes.

10.22 Movement of Cable System Facilities For Grantor Purposes

The Grantor shall have the right to require Grantee to relocate, remove, replace, modify or disconnect Grantee's facilities and equipment located in the Rights-of-Way or on any other property of the Grantor for public purposes, in the event of an emergency, or when the public health, safety or welfare requires such change (for example, without limitation, by reason of traffic conditions, public safety, Right-of-Way vacation, Right-of-Way construction, change or establishment of Right-of-Way grade, installation of sewers, drains, gas or water pipes, or any other types of structures or improvements by a public entity for public purposes). Such work shall be performed at the Grantee's expense. Except during an emergency, the Grantor shall provide reasonable notice to Grantee, not to be less than forty-five (45) business days, and allow Grantee with the opportunity to perform such action. In the event of any capital improvement project exceeding \$500,000 in expenditures by the Grantor which requires the removal, replacement, modification or disconnection of Grantee's facilities or equipment, the Grantor shall provide at least sixty (60) days' written notice to Grantee. Following notice by the Grantor, Grantee shall relocate, remove, replace, modify or disconnect any of its facilities or equipment within any Right-of-Way, or on any other property of the Grantor. If the Grantor requires Grantee to relocate its facilities located within the Rights-of-Way, the Grantor shall make a reasonable effort to provide Grantee with an alternate location within the Rights-of-Way. If funds are generally made available to users of the Rights-of-Way for such relocation, Grantee shall be entitled to its pro rata share of such funds.

If the Grantee fails to complete this work within the time prescribed and to the Grantor's satisfaction, the Grantor may cause such work to be done and bill the cost of the work to the

Grantee, including all costs and expenses incurred by the Grantor due to Grantee's delay. In such event, the Grantor shall not be liable for any damage to any portion of Grantee's Cable System. Within thirty (30) days of receipt of an itemized list of those costs, the Grantee shall pay the Grantor.

10.23 Movement of Cable System Facilities for Other Franchise Holders

If any removal, replacement, modification or disconnection of the Cable System is required to accommodate the construction, operation or repair of the facilities or equipment of another Grantor franchise holder, Grantee shall, after at least thirty (30) days' advance written notice, take action to effect the necessary changes requested by the responsible entity. Grantee shall require that the costs associated with the removal or relocation be paid by the benefited party unless the benefited party is a public entity.

10.24 Temporary Changes for Other Permittees

At the request of any Person holding a valid permit and upon reasonable advance notice, Grantee shall temporarily raise, lower or remove its wires as necessary to permit the moving of a building, vehicle, equipment or other item. The expense of such temporary changes must be paid by the permit holder, and Grantee may require a reasonable deposit of the estimated payment in advance.

10.25 Reservation of Grantor Use of Right-of-Way

Nothing in this Franchise shall prevent the Grantor or public utilities owned, maintained or operated by public entities other than the Grantor from constructing sewers; grading, paving, repairing or altering any Right-of-Way; laying down, repairing or removing water mains; or constructing or establishing any other public work or improvement. All such work shall be done, insofar as practicable, so as not to obstruct, injure or prevent the use and operation of Grantee's Cable System.

10.26 Tree Trimming

Grantee may prune or cause to be pruned, using proper pruning practices, any tree in the Grantor's Rights-of-Way which interferes with Grantee's Cable System. Grantee shall comply with any general ordinance or regulations of the Grantor regarding tree trimming. Except in emergencies, Grantee may not prune trees at a point below thirty (30) feet above sidewalk grade until one (1) week written notice has been given to the owner or occupant of the premises abutting the Right-of-Way in or over which the tree is growing. The owner or occupant of the abutting premises may prune such tree at his or her own expense during this one (1) week period. If the owner or occupant fails to do so, Grantee may prune such tree at its own expense. For purposes of this subsection, emergencies exist when it is necessary to prune to protect the public or Grantee's facilities from imminent danger only.

10.27 Inspection of Construction and Facilities

The Grantor may inspect any of Grantee's facilities, equipment or construction at any time. The Grantor shall have the right to charge generally applicable inspection fees therefore. If an unsafe condition is found to exist, the Grantor, in addition to taking any other action permitted under Applicable Law, may order Grantee, in writing, to make the necessary repairs and alterations specified therein forthwith to correct the unsafe condition by a time the Grantor establishes. The Grantor has the right to correct, inspect, administer and repair the unsafe condition if Grantee fails to do so, and to charge Grantee therefore.

10.28 Stop Work

(A) On notice from the Grantor that any work is being performed contrary to the provisions of this Franchise, or in an unsafe or dangerous manner as determined by the Grantor, or in violation of the terms of any applicable permit, laws, regulations, ordinances, or standards, the work may immediately be stopped by the Grantor.

(B) The stop work order shall:

- (1) Be in writing;
- (2) Be given to the Person doing the work, or posted on the work site;
- (3) Be sent to Grantee by overnight delivery at the address given herein;
- (4) Indicate the nature of the alleged violation or unsafe condition; and
- (5) Establish conditions under which work may be resumed.

10.29 Work of Contractors and Subcontractors

Grantee's contractors and subcontractors shall be licensed and bonded in accordance with the Grantor's ordinances, regulations and requirements. Work by contractors and subcontractors is subject to the same restrictions, limitations and conditions as if the work were performed by Grantee. Grantee shall be responsible for all work performed by its contractors and subcontractors and others performing work on its behalf as if the work were performed by it, and shall ensure that all such work is performed in compliance with this Franchise and other Applicable Law, and shall be jointly and severally liable for all damages and correcting all damage caused by them. It is Grantee's responsibility to ensure that contractors, subcontractors or other Persons performing work on Grantee's behalf are familiar with the requirements of this Franchise and other Applicable Law governing the work performed by them.

SECTION 11. CABLE SYSTEM, TECHNICAL STANDARDS AND TESTING

11.1 Subscriber Network

(A) Grantee's Cable System shall be equivalent to or exceed technical characteristics of a traditional HFC 750 MHz Cable System and provide Activated Two-Way capability. The Cable System shall be capable of supporting video and audio. The Cable System shall deliver no less than one hundred ten (110) Channels of digital video programming services to Subscribers, provided that the Grantee reserves the right to use the bandwidth in the future for other uses based on market factors.

(B) Equipment must be installed so that all closed captioning programming received by the Cable System shall include the closed caption signal so long as the closed caption signal is provided consistent with FCC standards. Equipment must be installed so that all local signals received in stereo or with secondary audio tracks (broadcast and Access) are retransmitted in those same formats.

(C) All construction shall be subject to the Grantor's permitting process.

(D) Grantee and Grantor shall meet, at the Grantor's request, to discuss the progress of the design plan and construction.

(E) Grantee will take prompt corrective action if it finds that any facilities or equipment on the Cable System are not operating as expected, or if it finds that facilities and equipment do not comply with the requirements of this Franchise or Applicable Law.

(F) Grantee's construction decisions shall be based solely upon legitimate engineering decisions and shall not take into consideration the income level of any particular community within the Franchise Area.

11.2 Technology Assessment

(A) The Grantor may notify Grantee on or after five (5) years after the Effective Date, that the Grantor will conduct a technology assessment of Grantee's Cable System. The technology assessment may include, but is not be limited to, determining whether Grantee's Cable System technology and performance are consistent with current technical practices and range and level of services existing in the fifteen (15) largest U.S. cable systems owned and operated by Grantee's Parent Corporation and/or Affiliates pursuant to franchises that have been renewed or extended since the Effective Date.

(B) Grantee shall cooperate with the Grantor to provide necessary non-confidential and proprietary information upon the Grantor's reasonable request as part of the technology assessment.

(C) At the discretion of the Grantor, findings from the technology assessment may be included in any proceeding commenced for the purpose of identifying future cable-related

community needs and interests undertaken by the Grantor pursuant to 47 U.S.C. §546.

11.3 Standby Power

Grantee's Cable System Headend shall be capable of providing at least twelve (12) hours of emergency operation. In addition, throughout the term of this Franchise, Grantee shall have a plan in place, along with all resources necessary for implementing such plan, for dealing with outages of more than four (4) hours. This outage plan and evidence of requisite implementation resources shall be presented to the Grantor no later than thirty (30) days following receipt of a request.

11.4 Emergency Alert Capability

(A) Grantee shall provide an operating Emergency Alert System ("EAS") throughout the term of this Franchise in compliance with FCC standards. Grantee shall test the EAS as required by the FCC. Upon request, the Grantor shall be permitted to participate in and/or witness the EAS testing up to twice a year on a schedule formed in consultation with Grantee. If the test indicates that the EAS is not performing properly, Grantee shall make any necessary adjustment to the EAS, and the EAS shall be retested.

11.5 Technical Performance

The technical performance of the Cable System shall meet or exceed all applicable federal (including, but not limited to, the FCC), State and local technical standards, as they may be amended from time to time, regardless of the transmission technology utilized. The Grantor shall have the full authority permitted by Applicable Law to enforce compliance with these technical standards.

11.6 Cable System Performance Testing

(A) Grantee shall provide to the Grantor a copy of its current written process for resolving complaints about the quality of the video programming services signals delivered to Subscriber and shall provide the Grantor with any amendments or modifications to the process at such time as they are made.

(B) Grantee shall, at Grantee's expense, maintain all aggregate data of Subscriber complaints related to the quality of the video programming service signals delivered by Grantee in the Grantor for a period of at least one (1) year, and individual Subscriber complaints from the Grantor for a period of at least three (3) years, and make such information available to the Grantor upon reasonable request.

(C) Grantee shall maintain written records of all results of its Cable System tests, performed by or for Grantee. Copies of such test results will be provided to the Grantor upon reasonable request.

(D) Grantee shall perform any tests required by the FCC.

11.7 Additional Tests

Where there exists other evidence which in the judgment of the Grantor casts doubt upon the reliability or technical quality of Cable Service, the Grantor shall have the right and authority to require Grantee to test, analyze and report on the performance of the Cable System. Grantee shall fully cooperate with the Grantor in performing such testing and shall prepare the results and a report, if requested, within thirty (30) days after testing. Such report shall include the following information:

- (A) the nature of the complaint or problem which precipitated the special tests;
- (B) the Cable System component tested;
- (C) the equipment used and procedures employed in testing;
- (D) the method, if any, in which such complaint or problem was resolved; and
- (E) any other information pertinent to said tests and analysis which may be required.

SECTION 12. SERVICE AVAILABILITY

(A) In General. Except as otherwise provided herein, Grantee shall provide Cable Service within seven (7) days of a request by any Person within the Grantor. For purposes of this Section, a request shall be deemed made on the date of signing a service agreement, receipt of funds by Grantee, receipt of a written request by Grantee or receipt by Grantee of a verified verbal request. Except as otherwise provided herein, Grantee shall provide such service:

(1) With no line extension charge except as specifically authorized elsewhere in this Franchise Agreement.

(2) At a non-discriminatory installation charge for a standard installation, consisting of a 125 foot drop connecting to an inside wall for Residential Subscribers, with additional charges for nonstandard installations computed according to a non discriminatory methodology for such installations, adopted by Grantee and provided in writing to the Town;

(3) At non discriminatory monthly rates for Residential Subscribers.

(B) Service to Multiple Dwelling Units. Consistent with this Section 12.1, the Grantee shall offer the individual units of a Multiple Dwelling Unit all Cable Services offered to other Dwelling Units in the Town and shall individually wire units upon request of the property owner or renter who has been given written authorization by the owner; provided, however, that any such offering is conditioned upon the Grantee having legal access to said unit. The Town acknowledges that the Grantee cannot control the dissemination of particular Cable Services beyond the point of demarcation at a Multiple Dwelling Unit.

(C) Customer Charges for Extensions of Service. Grantee agrees to extend its Cable

System to all persons living in areas with a residential density of thirty (30) residences per mile of Cable System plant. If the residential density is less than thirty (30) residences per 5,280 cable-bearing strand feet of trunk or distribution cable, service may be made available on the basis of a capital contribution in aid of construction, including cost of material, labor and easements. For the purpose of determining the amount of capital contribution in aid of construction to be borne by the Grantee and customers in the area in which service may be expanded, the Grantee will contribute an amount equal to the construction and other costs per mile, multiplied by a fraction whose numerator equals the actual number of residences per 5,280 cable-bearing strand feet of its trunk or distribution cable and whose denominator equals thirty (30). Customers who request service hereunder will bear the remainder of the construction and other costs on a pro rata basis. The Grantee may require that the payment of the capital contribution in aid of construction borne by such potential customers be paid in advance.

SECTION 13. FRANCHISE VIOLATIONS

13.1 Procedure for Remedying Franchise Violations

(A) If the Grantor reasonably believes that Grantee has failed to perform any obligation under this Franchise or has failed to perform in a timely manner, the Grantor shall notify Grantee in writing, stating with reasonable specificity the nature of the alleged default. Grantee shall have thirty (30) days from the receipt of such notice to:

(1) respond to the Grantor, contesting the Grantor's assertion that a default has occurred, and requesting a meeting in accordance with subsection (B), below;

(2) cure the default; or,

(3) notify the Grantor that Grantee cannot cure the default within the thirty (30) days, because of the nature of the default. In the event the default cannot be cured within thirty (30) days, Grantee shall promptly take all reasonable steps to cure the default and notify the Grantor in writing and in detail as to the exact steps that will be taken and the projected completion date. In such case, the Grantor may set a meeting in accordance with subsection (B) below to determine whether additional time beyond the thirty (30) days specified above is indeed needed, and whether Grantee's proposed completion schedule and steps are reasonable.

(B) If Grantee does not cure the alleged default within the cure period stated above, or by the projected completion date under subsection (A)(3), or denies the default and requests a meeting in accordance with (A)(1), or the Grantor orders a meeting in accordance with subsection (A)(3), the Grantor shall set a meeting to investigate said issues or the existence of the alleged default. The Grantor shall notify Grantee of the meeting in writing and such meeting shall take place no less than thirty (30) days after Grantee's receipt of notice of the meeting. At the meeting, Grantee shall be provided an opportunity to be heard and to present evidence in its defense.

(C) If, after the meeting, the Grantor determines that a default exists, the Grantor shall order Grantee to correct or remedy the default or breach within fifteen (15) days or within such other reasonable time frame as the Grantor shall determine. In the event Grantee does not cure

within such time to the Grantor's reasonable satisfaction, the Grantor may:

- (1) Withdraw an amount from the letter of credit as monetary damages;
- (2) Recommend the revocation of this Franchise pursuant to the procedures in subsection 13.2; or,
- (3) Recommend any other legal or equitable remedy available under this Franchise or any Applicable Law.

(D) The determination as to whether a violation of this Franchise has occurred shall be within the discretion of the Grantor, provided that any such final determination may be subject to appeal to a court of competent jurisdiction under Applicable Law.

(E) It shall not be a violation of this Franchise if Grantee decides, on a company-wide basis, to cease providing Cable Services. Grantee shall provide a minimum of one year's written notice to Grantor of the termination date, and upon that date all rights, duties and obligations of this Franchise shall terminate except for those that by their nature, should survive termination.

13.2 Revocation

(A) In addition to revocation in accordance with other provisions of this Franchise, the Grantor may revoke this Franchise and rescind all rights and privileges associated with this Franchise in the following circumstances, each of which represents a material breach of this Franchise:

- (1) If Grantee fails to perform any material obligation under this Franchise or under any other agreement, ordinance or document regarding the Grantor and Grantee;
- (2) If Grantee willfully fails for more than forty-eight (48) hours to provide continuous and uninterrupted Cable Service;
- (3) If Grantee attempts to evade any material provision of this Franchise or to practice any fraud or deceit upon the Grantor or Subscribers; or
- (4) If Grantee becomes insolvent, or if there is an assignment for the benefit of Grantee's creditors;
- (5) If Grantee makes a material misrepresentation of fact in the application for or negotiation of this Franchise.

(B) Following the procedures set forth in subsection 13.1 and prior to forfeiture or termination of the Franchise, the Grantor shall give written notice to the Grantee of its intent to revoke the Franchise and set a date for a revocation proceeding. The notice shall set forth the exact nature of the noncompliance.

(C) Any proceeding under the paragraph above shall be conducted by the Grantor Council and open to the public. Grantee shall be afforded at least forty-five (45) days prior written notice of such proceeding.

(1) At such proceeding, Grantee shall be provided a fair opportunity for full participation, including the right to be represented by legal counsel, to introduce evidence, and to question witnesses. A complete verbatim record and transcript shall be made of such proceeding and the cost shall be shared equally between the parties. The Board of Trustees shall hear any Persons interested in the revocation, and shall allow Grantee, in particular, an opportunity to state its position on the matter.

(2) Within ninety (90) days after the hearing, the Board of Trustees shall determine whether to revoke the Franchise and declare that the Franchise is revoked and the letter of credit forfeited; or if the breach at issue is capable of being cured by Grantee, direct Grantee to take appropriate remedial action within the time and in the manner and on the terms and conditions that the Board of Trustees determines are reasonable under the circumstances. If the Grantor determines that the Franchise is to be revoked, the Grantor shall set forth the reasons for such a decision and shall transmit a copy of the decision to the Grantee. Grantee shall be bound by the Grantor's decision to revoke the Franchise unless it appeals the decision to a court of competent jurisdiction within fifteen (15) days of the date of the decision.

(3) Grantee shall be entitled to such relief as the Court may deem appropriate.

(4) The Board of Trustees may at its sole discretion take any lawful action which it deems appropriate to enforce the Grantor's rights under the Franchise in lieu of revocation of the Franchise.

13.3 Procedures in the Event of Termination or Revocation

(A) If this Franchise expires without renewal after completion of all processes available under this Franchise and federal law or is otherwise lawfully terminated or revoked, the Grantor may, subject to Applicable Law:

(1) Allow Grantee to maintain and operate its Cable System on a month-to-month basis or short-term extension of this Franchise for not less than six (6) months, unless a sale of the Cable System can be closed sooner or Grantee demonstrates to the Grantor's satisfaction that it needs additional time to complete the sale; or

(2) Purchase Grantee's Cable System in accordance with the procedures set forth in subsection 13.4, below.

(B) In the event that a sale has not been completed in accordance with subsections (A)(1) and/or (A)(2) above, the Grantor may order the removal of the above-ground Cable System facilities and such underground facilities from the Town at Grantee's sole expense within a reasonable period of time as determined by the Grantor. In removing its plant, structures and

equipment, Grantee shall refill, at its own expense, any excavation that is made by it and shall leave all Rights-of-Way, public places and private property in as good condition as that prevailing prior to Grantee's removal of its equipment without affecting the electrical or telephone cable wires or attachments. The indemnification and insurance provisions and the letter of credit shall remain in full force and effect during the period of removal, and Grantee shall not be entitled to, and agrees not to request, compensation of any sort therefore.

(C) If Grantee fails to complete any removal required by subsection 13.3 (B) to the Grantor's satisfaction, after written notice to Grantee, the Grantor may cause the work to be done and Grantee shall reimburse the Grantor for the costs incurred within thirty (30) days after receipt of an itemized list of the costs, or the Grantor may recover the costs through the letter of credit provided by Grantee.

(D) The Grantor may seek legal and equitable relief to enforce the provisions of this Franchise.

13.4 Purchase of Cable System

(A) If at any time this Franchise is revoked, terminated, or not renewed upon expiration in accordance with the provisions of federal law, the Grantor shall have the option to purchase the Cable System.

(B) The Grantor may, at any time thereafter, offer in writing to purchase Grantee's Cable System. Grantee shall have thirty (30) days from receipt of a written offer from the Grantor within which to accept or reject the offer.

(C) In any case where the Grantor elects to purchase the Cable System, the purchase shall be closed within one hundred twenty (120) days of the date of the Grantor's audit of a current profit and loss statement of Grantee. The Grantor shall pay for the Cable System in cash or certified funds, and Grantee shall deliver appropriate bills of sale and other instruments of conveyance.

(D) For the purposes of this subsection, the price for the Cable System shall be determined as follows:

(1) In the case of the expiration of the Franchise without renewal, at fair market value determined on the basis of Grantee's Cable System valued as a going concern, but with no value allocated to the Franchise itself. In order to obtain the fair market value, this valuation shall be reduced by the amount of any lien, encumbrance, or other obligation of Grantee which the Grantor would assume.

(2) In the case of revocation for cause, the equitable price of Grantee's Cable System.

13.5 Receivership and Foreclosure

(A) At the option of the Grantor, subject to Applicable Law, this Franchise may be revoked one hundred twenty (120) days after the appointment of a receiver or trustee to take over and conduct the business of Grantee whether in a receivership, reorganization, bankruptcy or other action or proceeding, unless:

(1) The receivership or trusteeship is vacated within one hundred twenty (120) days of appointment; or

(2) The receivers or trustees have, within one hundred twenty (120) days after their election or appointment, fully complied with all the terms and provisions of this Franchise, and have remedied all defaults under the Franchise. Additionally, the receivers or trustees shall have executed an agreement duly approved by the court having jurisdiction, by which the receivers or trustees assume and agree to be bound by each and every term, provision and limitation of this Franchise.

(B) If there is a foreclosure or other involuntary sale of the whole or any part of the plant, property and equipment of Grantee, the Grantor may serve notice of revocation on Grantee and to the purchaser at the sale, and the rights and privileges of Grantee under this Franchise shall be revoked thirty (30) days after service of such notice, unless:

(1) The Grantor has approved the transfer of the Franchise, in accordance with the procedures set forth in this Franchise and as provided by law; and

(2) The purchaser has covenanted and agreed with the Grantor to assume and be bound by all of the terms and conditions of this Franchise.

13.6 No Monetary Recourse Against the Grantor

Grantee shall not have any monetary recourse against the Grantor or its officers, officials, boards, commissions, agents or employees for any loss, costs, expenses or damages arising out of any provision or requirement of this Franchise or the enforcement thereof, in accordance with the provisions of applicable federal, State and local law. The rights of the Grantor under this Franchise are in addition to, and shall not be read to limit, any immunities the Grantor may enjoy under federal, State or local law.

13.7 Alternative Remedies

No provision of this Franchise shall be deemed to bar the right of the Grantor to seek or obtain judicial relief from a violation of any provision of the Franchise or any rule, regulation, requirement or directive promulgated thereunder. Neither the existence of other remedies identified in this Franchise nor the exercise thereof shall be deemed to bar or otherwise limit the right of the Grantor to recover monetary damages for such violations by Grantee, or to seek and obtain judicial enforcement of Grantee's obligations by means of specific performance, injunctive relief or mandate, or any other remedy at law or in equity.

13.8 Assessment of Monetary Damages

(A) The Grantor may assess against Grantee monetary damages (i) up to five hundred dollars (\$500.00) per day for general construction delays, violations of PEG obligations or payment obligations, (ii) up to two hundred fifty dollars (\$250.00) per day for any other material breaches, or (iii) up to one hundred dollars (\$100.00) per day for defaults, and withdraw the assessment from the letter of credit or collect the assessment as specified in this Franchise. Damages pursuant to this Section shall accrue for a period not to exceed one hundred twenty (120) days per violation proceeding. To assess any amount from the letter of credit, Grantor shall follow the procedures for withdrawals from the letter of credit set forth in the letter of credit and-in this Franchise. Such damages shall accrue beginning thirty (30) days following Grantee's receipt of the notice required by subsection 13.1(A), or such later date if approved by the Grantor in its sole discretion, but may not be assessed until after the procedures in subsection 13.1 have been completed.

(B) The assessment does not constitute a waiver by Grantor of any other right or remedy it may have under the Franchise or Applicable Law, including its right to recover from Grantee any additional damages, losses, costs and expenses that are incurred by Grantor by reason of the breach of this Franchise.

13.9 Effect of Abandonment

If the Grantee abandons its Cable System during the Franchise term, or fails to operate its Cable System in accordance with its duty to provide continuous service, the Grantor, at its option, may operate the Cable System; designate another entity to operate the Cable System temporarily until the Grantee restores service under conditions acceptable to the Grantor, or until the Franchise is revoked and a new franchisee is selected by the Grantor; or obtain an injunction requiring the Grantee to continue operations. If the Grantor is required to operate or designate another entity to operate the Cable System, the Grantee shall reimburse the Grantor or its designee for all reasonable costs, expenses and damages incurred.

13.10 What Constitutes Abandonment

The Grantor shall be entitled to exercise its options in subsection 13.9 if:

(A) The Grantee fails to provide Cable Service in accordance with this Franchise over a substantial portion of the Franchise Area for four (4) consecutive days, unless the Grantor authorizes a longer interruption of service; or

(B) The Grantee, for any period, willfully and without cause refuses to provide Cable Service in accordance with this Franchise.

SECTION 14. FRANCHISE RENEWAL AND TRANSFER

14.1 Renewal

(A) The Grantor and Grantee agree that any proceedings undertaken by the Grantor that relate to the renewal of the Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act, unless the procedures and substantive protections set forth therein shall be deemed to be preempted and superseded by the provisions of any subsequent provision of federal or State law.

(B) In addition to the procedures set forth in said Section 626(a), the Grantor agrees to notify Grantee of the completion of its assessments regarding the identification of future cable-related community needs and interests, as well as the past performance of Grantee under the then current Franchise term. Notwithstanding anything to the contrary set forth herein, Grantee and Grantor agree that at any time during the term of the then current Franchise, while affording the public adequate notice and opportunity for comment, the Grantor and Grantee may agree to undertake and finalize negotiations regarding renewal of the then current Franchise and the Grantor may grant a renewal thereof. Grantee and Grantor consider the terms set forth in this subsection to be consistent with the express provisions of Section 626 of the Cable Act.

(C) Should the Franchise expire without a mutually agreed upon renewed Franchise Agreement and Grantee and Grantor are engaged in an informal or formal renewal process, the Franchise shall continue on a month-to-month basis, with the same terms and conditions as provided in the Franchise, and the Grantee and Grantor shall continue to comply with all obligations and duties under the Franchise.

14.2 Transfer of Ownership or Control

(A) The Cable System and this Franchise shall not be sold, assigned, transferred, leased or disposed of, either in whole or in part, either by involuntary sale or by voluntary sale, merger or consolidation; nor shall title thereto, either legal or equitable, or any right, interest or property therein pass to or vest in any Person or entity without the prior written consent of the Grantor, which consent shall be by the Board of Trustees, acting by ordinance/resolution.

(B) The Grantee shall promptly notify the Grantor of any actual or proposed change in, or transfer of, or acquisition by any other party of control of the Grantee. The word "control" as used herein is not limited to majority stockholders but includes actual working control in whatever manner exercised. Every change, transfer or acquisition of control of the Grantee shall make this Franchise subject to cancellation unless and until the Grantor shall have consented in writing thereto.

(C) The parties to the sale or transfer shall make a written request to the Grantor for its approval of a sale or transfer and furnish all information required by law and the Grantor.

(D) In seeking the Grantor's consent to any change in ownership or control, the proposed transferee shall indicate whether it:

(1) Has ever been convicted or held liable for acts involving deceit including any violation of federal, State or local law or regulations, or is currently under an indictment, investigation or complaint charging such acts;

(2) Has ever had a judgment in an action for fraud, deceit, or misrepresentation entered against the proposed transferee by any court of competent jurisdiction;

(3) Has pending any material legal claim, lawsuit, or administrative proceeding arising out of or involving a cable system or a broadband system;

(4) Is financially solvent, by submitting financial data including financial statements that are audited by a certified public accountant who may also be an officer of the transferee, along with any other data that the Grantor may reasonably require; and

(5) Has the financial, legal and technical capability to enable it to maintain and operate the Cable System for the remaining term of the Franchise.

(E) The Grantor shall act by ordinance on the request within one hundred twenty (120) days of the request, provided it has received all information required by this Franchise and/or by Applicable Law. The Grantor and the Grantee may by mutual agreement, at any time, extend the 120 day period. Subject to the foregoing, if the Grantor fails to render a final decision on the request within one hundred twenty (120) days, such request shall be deemed granted unless the requesting party and the Grantor agree to an extension of time.

(F) Within thirty (30) days of any transfer or sale, if approved or deemed granted by the Grantor, Grantee shall file with the Grantor a copy of the deed, agreement, lease or other written instrument evidencing such sale or transfer of ownership or control, certified and sworn to as correct by Grantee and the transferee, and the transferee shall file its written acceptance agreeing to be bound by all of the provisions of this Franchise, subject to Applicable Law. In the event of a change in control, in which the Grantee is not replaced by another entity, the Grantee will continue to be bound by all of the provisions of the Franchise, subject to Applicable Law, and will not be required to file an additional written acceptance.

(G) In reviewing a request for sale or transfer, the Grantor may inquire into the legal, technical and financial qualifications of the prospective controlling party or transferee, and Grantee shall assist the Grantor in so inquiring. The Grantor may condition said sale or transfer upon such terms and conditions as it deems reasonably appropriate, in accordance with Applicable Law.

(H) Notwithstanding anything to the contrary in this subsection, the prior approval of the Grantor shall not be required for any sale, assignment or transfer of the Franchise or Cable System to an entity controlling, controlled by or under the same common control as Grantee, provided that the proposed assignee or transferee must show financial responsibility as may be determined necessary by the Grantor and must agree in writing to comply with all of the provisions of the Franchise. Further, Grantee may pledge the assets of the Cable System for the purpose of financing without the consent of the Grantor; provided that such pledge of assets shall not impair or mitigate Grantee's responsibilities and capabilities to meet all of its obligations under the

provisions of this Franchise.

SECTION 15. SEVERABILITY

If any Section, subsection, paragraph, term or provision of this Franchise is determined to be illegal, invalid or unconstitutional by any court or agency of competent jurisdiction, such determination shall have no effect on the validity of any other Section, subsection, paragraph, term or provision of this Franchise, all of which will remain in full force and effect for the term of the Franchise.

SECTION 16. MISCELLANEOUS PROVISIONS

16.1 Preferential or Discriminatory Practices Prohibited

NO DISCRIMINATION IN EMPLOYMENT. In connection with the performance of work under this Franchise, the Grantee agrees not to refuse to hire, discharge, promote or demote, or discriminate in matters of compensation against any Person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability; and the Grantee further agrees to insert the foregoing provision in all subcontracts hereunder. Throughout the term of this Franchise, Grantee shall fully comply with all equal employment or non-discrimination provisions and requirements of federal, State and local laws, and in particular, FCC rules and regulations relating thereto.

16.2 Notices

Throughout the term of the Franchise, each party shall maintain and file with the other a local address for the service of notices by mail. All notices shall be sent overnight delivery postage prepaid to such respective address and such notices shall be effective upon the date of mailing. These addresses may be changed by the Grantor or the Grantee by written notice at any time. At the Effective Date of this Franchise:

Grantee's address shall be:

Comcast of Colorado IX, LLC
8000 E. Iliff Ave.
Denver, CO 80231
Attn: Government Affairs

The Grantor's address shall be:

Town of Firestone
9950 Park Avenue
Firestone, CO 80504
ATTN: Town Manager

16.3 Descriptive Headings

The headings and titles of the Sections and subsections of this Franchise are for reference purposes only, and shall not affect the meaning or interpretation of the text herein.

16.4 Publication Costs to be Borne by Grantee

Grantee shall reimburse the Grantor for all costs incurred in publishing this Franchise, if such publication is required.

16.5 Binding Effect

This Franchise shall be binding upon the parties hereto, their permitted successors and assigns.

16.6 No Joint Venture

Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the parties, and neither party is authorized to, nor shall either party act toward third Persons or the public in any manner which would indicate any such relationship with the other.

16.7 Waiver

The failure of the Grantor at any time to require performance by the Grantee of any provision hereof shall in no way affect the right of the Grantor hereafter to enforce the same. Nor shall the waiver by the Grantor of any breach of any provision hereof be taken or held to be a waiver of any succeeding breach of such provision, or as a waiver of the provision itself or any other provision.

16.8 Reasonableness of Consent or Approval

Whenever under this Franchise “reasonableness” is the standard for the granting or denial of the consent or approval of either party hereto, such party shall be entitled to consider public and governmental policy, moral and ethical standards as well as business and economic considerations.

16.9 Entire Agreement

This Franchise and all Exhibits represent the entire understanding and agreement between the parties hereto with respect to the subject matter hereof and supersede all prior oral negotiations between the parties.

16.10 Jurisdiction

Venue for any judicial dispute between the Grantor and Grantee arising under or out of this Franchise shall be in Weld County District Court, Colorado, or in the United States District Court in Denver.

IN WITNESS WHEREOF, this Franchise is signed in the name of the Town of Firestone, Colorado this ____ day of _____, 202__.

ATTEST:

TOWN OF FIRESTONE, COLORADO:

Town Clerk

Mayor

APPROVED AS TO FORM:

RECOMMENDED AND APPROVED:

Town Attorney

Town Manager

Accepted and approved this ____ day of _____, 2021.

ATTEST:

COMCAST OF COLORADO IX, LLC:

Public Notary

Name/Title: _____

**EXHIBIT A:
CUSTOMER SERVICE STANDARDS**

TOWN OF FIRESTONE, COLORADO CUSTOMER SERVICE STANDARDS

I. POLICY

The Cable Operator should resolve citizen complaints without delay and interference from the Franchising Authority.

Where a given complaint is not addressed by the Cable Operator to the citizen's satisfaction, the Franchising Authority should intervene. In addition, where a pattern of unremedied complaints or noncompliance with the Standards is identified, the Franchising Authority should prescribe a cure and establish a reasonable deadline for implementation of the cure. If the noncompliance is not cured within established deadlines, monetary sanctions should be imposed to encourage compliance and deter future non-compliance.

These Standards are intended to be of general application, and are expected to be met under normal operating conditions; however, the Cable Operator shall be relieved of any obligations hereunder if it is unable to perform due to a region-wide natural emergency or in the event of force majeure affecting a significant portion of the franchise area. The Cable Operator is free to exceed these Standards to the benefit of its Customers and such shall be considered performance for the purposes of these Standards.

These Standards supersede any contradictory or inconsistent provision in federal, state or local law (Source: 47 U.S.C. § 552(a)(1) and (d)), provided, however, that any provision in federal, state or local law, or in any original franchise agreement or renewal agreement, that imposes a higher obligation or requirement than is imposed by these Standards, shall not be considered contradictory or inconsistent with these Standards. In the event of a conflict between these Standards and a Franchise Agreement, the Franchise Agreement shall control.

These Standards apply to the provision of any Cable Service, provided by a Cable Operator over a Cable System, within the Town of Firestone.

II. DEFINITIONS

When used in these Customer Service Standards (the "Standards"), the following words, phrases, and terms shall have the meanings given below.

"Adoption" shall mean the process necessary to formally enact the Standards within the Franchising Authority's jurisdiction under applicable ordinances and laws.

"Affiliate" shall mean any person or entity that is owned or controlled by, or under common

ownership or control with, a Cable Operator, and provides any Cable Service or Other Service.

“Applicable Law” means, with respect to these standards and any Cable Operator’s privacy policies, any statute, ordinance, judicial decision, executive order or regulation having the force and effect of law, that determines the legal standing of a case or issue.

"Cable Operator" shall mean any person or group of persons (A) who provides Cable Service over a Cable System and directly or through one or more affiliates owns a significant interest in such cable system, or (B) who otherwise controls or is responsible for, through any arrangement, the management and operation of such a Cable System. Source: 47 U.S.C. § 522(5).

“Cable Service” shall mean (A) the one-way transmission to subscribers of (i) video programming, or (ii) other programming service, and (B) subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service. Source: 47 U.S.C. § 522(6). For purposes of this definition, “video programming” is programming provided by, or generally considered comparable to programming provided by a television broadcast station. Source: 47 U.S.C. § 522(20). “Other programming service” is information that a Cable Operator makes available to all subscribers generally. Source: 47 U.S.C. § 522(14).

“Cable System” shall mean a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include (A) a facility that serves only to retransmit the televisions signals of one or more television broadcast stations, or (B) a facility that serves subscribers without using any public right of way. Source: 47 U.S.C. § 522(7).

"Colorado Communications and Utilities Alliance" or "CCUA" shall mean an association comprised primarily of local governmental subdivisions of the State of Colorado, or any successor entity. The CCUA may, on behalf of its members, be delegated the authority to review, investigate or otherwise take some related role in the administration and/or enforcement of any functions under these Standards.

“Contractor” shall mean a person or entity that agrees by contract to furnish materials or perform services for another at a specified consideration.

"Customer" shall mean any person who receives any Cable Service from a Cable Operator.

"Customer Service Representative" (or "CSR") shall mean any person employed with or under contract or subcontract to a Cable Operator to assist, or provide service to, customers, whether by telephone, writing service or installation orders, answering customers' questions in person, receiving and processing payments, or performing any other customer service-related tasks.

“Escalated complaint” shall mean a complaint that is referred to a Cable Operator by the Franchising Authority.

"Franchising Authority" shall mean the Town.

"Necessary" shall mean required or indispensable.

"Non-cable-related purpose" shall mean any purpose that is not necessary to render or conduct a legitimate business activity related to a Cable Service or Other Service provided by a Cable Operator to a Customer. Market research, telemarketing, and other marketing of services or products that are not related to a Cable Service or Other Service provided by a Cable Operator to a Customer shall be considered Non-cable-related purposes.

“Normal business hours” shall mean those hours during which most similar businesses in the community are open to serve customers. In all cases, “normal business hours” must include at least some evening hours one night per week, and include some weekend hours. Source: 47 C.F.R. § 76.309.

“Normal operating conditions” shall mean those service conditions which are within the control of a Cable Operator. Conditions which are not within the control of a Cable Operator include, but are not necessarily limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Conditions which are ordinarily within the control of a Cable Operator include, but are not necessarily limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods and maintenance or upgrade to the Cable System.

“Other Service(s)” shall mean any wire or radio communications service provided using any of the facilities of a Cable Operator that are used in the provision of Cable Service.

"Personally Identifiable Information" shall mean specific information about an identified Customer, including, but not be limited to, a Customer's (a) login information for the use of Cable Service and management of a Customer's Cable Service account, (b) extent of viewing of video programming or Other Services, (c) shopping choices, (d) interests and opinions, (e) energy uses, (f) medical information, (g) banking data or information, or (h) any other personal or private information. "Personally Identifiable Information" shall not mean any aggregate information about Customers which does not identify particular persons, or information gathered by a Cable Operator necessary to install, repair or service equipment or Cable System facilities at a Customer's premises.

“Service interruption” or “interruption” shall mean (i) the loss or substantial impairment of picture and/or sound on one or more cable television channels.

“Service outage” or “outage” shall mean a loss or substantial impairment in reception on all channels.

“Subcontractor” shall mean a person or entity that enters into a contract to perform part or all of the obligations of another's contract.

“Town” shall mean the Town of Firestone, Colorado.

“Writing” or “written” as the term applies to notification shall include electronic communications.

Any terms not specifically defined in these Standards shall be given their ordinary meaning, or where otherwise defined in applicable federal law, such terms shall be interpreted consistent with those definitions.

III. CUSTOMER SERVICE

A. Courtesy

Cable Operator employees, contractors and subcontractors shall be courteous, knowledgeable and helpful and shall provide effective and satisfactory service in all contacts with customers.

B. Accessibility

1. A Cable Operator shall provide customer service centers/business offices (“Service Centers”) which are conveniently located, and which are open during Normal Business Hours. Service Centers shall be fully staffed with Customer Service Representatives offering the following services to Customers who come to the Service Center: bill payment, equipment exchange, processing of change of service requests, and response to Customer inquiries and request.

Unless otherwise requested by the Town, a Cable Operator shall post a sign at each Service Center, visible from the outside of the Service Center, advising Customers of its hours of operation and of the telephone number at which to contact the Cable Operator if the Service Center is not open at the times posted.

The Cable Operator shall use commercially reasonable efforts to implement and promote “self-help” tools and technology, in order to respond to the growing demand of Customers who wish to interact with the Cable Operator on the Customer’s own terms and timeline and at their own convenience, without having to travel to a Service Center. Without limitation, examples of self-help tools or technology may include self-installation kits to Customers upon request; pre-paid mailers for the return of equipment upon Customer request; an automated phone option for Customer bill payments; and equipment exchanges at a Customer’s residence in the event of damaged equipment. A Cable Operator shall provide free exchanges of faulty equipment at the

customer's address if the equipment has not been damaged in any manner due to the fault or negligence of the customer.

2. A Cable Operator shall maintain local telephone access lines that shall be available twenty-four (24) hours a day, seven (7) days a week for service/repair requests and billing/service inquiries.

3. A Cable Operator shall have dispatchers and technicians on call twenty-four (24) hours a day, seven (7) days a week, including legal holidays.

4. If a customer service telephone call is answered with a recorded message providing the customer with various menu options to address the customer's concern, the recorded message must provide the customer the option to connect to and speak with a CSR within sixty (60) seconds of the commencement of the recording. During Normal Business Hours, a Cable Operator shall retain sufficient customer service representatives and telephone line capacity to ensure that telephone calls to technical service/repair and billing/service inquiry lines are answered by a customer service representative within thirty (30) seconds or less from the time a customer chooses a menu option to speak directly with a CSR or chooses a menu option that pursuant to the automated voice message, leads to a direct connection with a CSR. Under normal operating conditions, this thirty (30) second telephone answer time requirement standard shall be met no less than ninety (90) percent of the time measured quarterly.

5. Under normal operating conditions, a customer shall not receive a busy signal more than three percent (3%) of the time. This standard shall be met ninety (90) percent or more of the time, measured quarterly.

C. Responsiveness

1. Guaranteed Seven-Day Residential Installation

a. A Cable Operator shall complete all standard residential installations or modifications to service requested by customers within seven (7) business days after the order is placed, unless a later date for installation is requested. "Standard" residential installations are those located up to one hundred twenty five (125) feet from the existing distribution system. If the customer requests a nonstandard residential installation, or the Cable Operator determines that a nonstandard residential installation is required, the Cable Operator shall provide the customer in advance with a total installation cost estimate and an estimated date of completion.

b. All underground cable drops to the home shall be buried at a depth of no less than twelve inches (12"), or such other depth as may be required by the Franchise Agreement or local code provisions, or if there are no applicable Franchise or code requirements, at such other depths as may be agreed to by the parties if other construction concerns preclude the twelve inch

requirement , and within no more than one calendar week from the initial installation, or at a time mutually agreed upon between the Cable Operator and the customer.

2. Residential Installation and Service Appointments

a. The “appointment window” alternatives for specific installations, service calls, and/or other installation activities will be either a specific time, or at a maximum, a four (4) hour time block between the hours of 8:00 a.m. and 6:00 p.m., six (6) days per week. A Cable Operator may schedule service calls and other installation activities outside of the above days and hours for the express convenience of customers. For purposes of this subsection “appointment window” means the period of time in which the representative of the Cable Operator must arrive at the customer’s location.

b. A Cable Operator may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment, unless the customer’s issue has otherwise been resolved.

c. If a Cable Operator is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the Cable Operator shall take reasonable efforts to contact the customer promptly, but in no event later than the end of the appointment window. The appointment will be rescheduled, as necessary at a time that is convenient to the customer, within Normal Business Hours or as may be otherwise agreed to between the customer and Cable Operator.

d. A Cable Operator shall be deemed to have responded to a request for service under the provisions of this section when a technician arrives within the agreed upon time, and, if the customer is absent when the technician arrives, the technician leaves written notification of arrival and return time, and a copy of that notification is kept by the Cable Operator. In such circumstances, the Cable Operator shall contact the customer within forty-eight (48) hours.

3. Residential Service Interruptions

a. In the event of system outages resulting from Cable Operator equipment failure, the Cable Operator shall correct such failure within 2 hours after the 3rd customer call is received.

b. All other service interruptions resulting from Cable Operator equipment failure shall be corrected by the Cable Operator by the end of the next calendar day.

c. Records of Complaints.

i. A Cable Operator shall keep an accurate and comprehensive file of any complaints regarding the cable system or its operation of the cable system, in a manner consistent with the privacy rights of customers, and the Cable Operator's actions in

response to those complaints. These files shall remain available for viewing by the Franchising Authority during normal business hours at the Cable Operator's business office, and shall be retained by the Cable Operator for a period of at least three (3) years.

ii. Upon written request a Cable Operator shall provide the Franchising Authority an executive summary quarterly, which shall include information concerning customer complaints referred by the Franchising Authority to the Grantee and any other requirements of a Franchise Agreement but no personally identifiable information. These summaries shall be provided within fifteen (15) days after the end of each quarter. Once a request is made, it need not be repeated and quarterly executive summaries shall be provided by the Cable Operator until notified in writing by the Franchising Authority that such summaries are no longer required.

iii. Upon written request a summary of service requests, identifying the number and nature of the requests and their disposition, shall also be completed by the Cable Operator for each quarter and submitted to the Franchising Authority by the fifteenth (15th) day of the month after each calendar quarter. Once a request is made, it need not be repeated and quarterly summary of service requests shall be provided by the Cable Operator until notified in writing by the Franchising Authority that such summaries are no longer required. Complaints shall be broken out by the nature of the complaint and the type of Cable service subject to the complaint.

d. Records of Service Interruptions and Outages. A Cable Operator shall maintain records of all outages and reported service interruptions. Such records shall indicate the type of cable service interrupted, including the reasons for the interruptions. A log of all service interruptions shall be maintained and provided to the Franchising Authority quarterly, upon written request, within fifteen (15) days after the end of each quarter. Such records shall be submitted to the Franchising Authority with the records identified in Section 3.c.ii above if so requested in writing, and shall be retained by the Cable Operator for a period of three (3) years.

e. All service outages and interruptions for any cause beyond the control of the Cable Operator shall be corrected within thirty-six (36) hours, after the conditions beyond its control have been corrected.

4. TV Reception

a. A Cable Operator shall provide clear television reception that meets or exceeds technical standards established by the United States Federal Communications Commission (the "FCC"). A Cable Operator shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Scheduled interruptions shall be preceded by notice and shall occur during periods of minimum use of the system, preferably between midnight and six a.m. (6:00 a.m.).

b. If a customer experiences poor video or audio reception attributable to a Cable Operator's equipment, the Cable Operator shall:

- i. Assess the problem within one (1) day of notification;
- ii. Communicate with the customer regarding the nature of the problem and the expected time for repair;
- iii. Complete the repair within two (2) days of assessing the problem unless circumstances exist that reasonably require additional time.

c. If an appointment is necessary to address any video or audio reception problem, the customer may choose a block of time described in Section III.C.2.a. At the customer's request, the Cable Operator shall repair the problem at a later time convenient to the customer, during Normal Business Hours or at such other time as may be agreed to by the customer and Cable Operator. A Cable Operator shall maintain periodic communications with a customer during the time period in which problem ascertainment and repair are ongoing, so that the customer is advised of the status of the Cable Operator's efforts to address the problem.

5. Problem Resolution

A Cable Operator's customer service representatives shall have the authority to provide credit for interrupted service, to waive fees, to schedule service appointments and to change billing cycles, where appropriate. Any difficulties that cannot be resolved by the customer service representative shall be referred to the appropriate supervisor who shall contact the customer within four (4) hours and resolve the problem within forty eight (48) hours or within such other time frame as is acceptable to the customer and the Cable Operator.

6. Billing, Credits, and Refunds

a. In addition to other options for payment of a customer's service bill, a Cable Operator shall make available a telephone payment option where a customer without account irregularities can enter payment information through an automated system, without the necessity of speaking to a CSR.

b. A Cable Operator shall allow at least thirty (30) days from the beginning date of the applicable service period for payment of a customer's service bill for that period. If a customer's service bill is not paid within that period of time the Cable Operator may apply an administrative fee to the customer's account. The administrative fee must reflect the average costs incurred by the Cable Operator in attempting to collect the past due payment in accordance with applicable law. If the customer's service bill is not paid within forty-five (45) days of the beginning date of the applicable service period, the Cable Operator may perform a "soft" disconnect of the customer's service. If a customer's service bill is not paid within fifty-two (52) days of the

beginning date of the applicable service period, the Cable Operator may disconnect the customer's service, provided it has provided two (2) weeks notice to the customer that such disconnection may result.

c. The Cable Operator shall issue a credit or refund to a customer within 30 days after determining the customer's entitlement to a credit or refund.

d. Whenever the Cable Operator offers any promotional or specially priced service(s) its promotional materials shall clearly identify and explain the specific terms of the promotion, including but not limited to manner in which any payment credit will be applied.

7. Treatment of Property

To the extent that a Franchise Agreement does not contain the following procedures for treatment of property, Operator shall comply with the procedures set forth in this Section.

a. A Cable Operator shall keep tree trimming to a minimum; trees and shrubs or other landscaping that are damaged by a Cable Operator, any employee or agent of a Cable Operator during installation or construction shall be restored to their prior condition or replaced within seven (7) days, unless seasonal conditions require a longer time, in which case such restoration or replacement shall be made within seven (7) days after conditions permit. Trees and shrubs on private property shall not be removed without the prior permission of the owner or legal tenant of the property on which they are located. This provision shall be in addition to, and shall not supersede, any requirement in any franchise agreement.

b. A Cable Operator shall, at its own cost and expense, and in a manner approved by the property owner and the Franchising Authority, restore any private property to as good condition as before the work causing such disturbance was initiated. A Cable Operator shall repair, replace or compensate a property owner for any damage resulting from the Cable Operator's installation, construction, service or repair activities. If compensation is requested by the customer for damage caused by any Cable Operator activity, the Cable Operator shall reimburse the property owner one hundred (100) percent of the actual cost of the damage.

c. Except in the case of an emergency involving public safety or service interruption to a large number of customers, a Cable Operator shall give reasonable notice to property owners or legal tenants prior to entering upon private premises, and the notice shall specify the work to be performed; provided that in the case of construction operations such notice shall be delivered or provided at least twenty-four (24) hours prior to entry, unless such notice is waived by the customer. For purposes of this subsection, "reasonable notice" shall be considered:

i. For pedestal installation or similar major construction, seven (7) days.

ii. For routine maintenance, such as adding or dropping service, tree trimming and the like, reasonable notice given the circumstances. Unless a Franchise Agreement has a different requirement, reasonable notice shall require, at a minimum, prior notice to a property owner or tenant, before entry is made onto that person's property.

iii. For emergency work a Cable Operator shall attempt to contact the property owner or legal tenant in person, and shall leave a door hanger notice in the event personal contact is not made. Door hangars must describe the issue and provide contact information where the property owner or tenant can receive more information about the emergency work.

Nothing herein shall be construed as authorizing access or entry to private property, or any other property, where such right to access or entry is not otherwise provided by law.

d. Cable Operator personnel shall clean all areas surrounding any work site and ensure that all cable materials have been disposed of properly.

D. Services for Customers with Disabilities

1. For any customer with a disability, a Cable Operator shall deliver and pick up equipment at customers' homes at no charge unless the malfunction was caused by the actions of the customer. In the case of malfunctioning equipment, the technician shall provide replacement equipment, hook it up and ensure that it is working properly, and shall return the defective equipment to the Cable Operator.

2. A Cable Operator shall provide either TTY, TDD, TYY, VRS service or other similar service that are in compliance with the Americans With Disabilities Act and other applicable law, with trained operators who can provide every type of assistance rendered by the Cable Operator's customer service representatives for any hearing-impaired customer at no charge.

3. A Cable Operator shall provide free use of a remote control unit to mobility-impaired (if disabled, in accordance with Section III.D.4) customers.

4. Any customer with a disability may request the special services described above by providing a Cable Operator with a letter from the customer's physician stating the need, or by making the request to the Cable Operator's installer or service technician, where the need for the special services can be visually confirmed.

E. Cable Services Information

1. At any time a customer or prospective customer may request, a Cable Operator shall provide the following information, in clear, concise written form, easily accessible and located on Cable Operator's website (and in Spanish, when requested by the customer):

- a. Products and services offered by the Cable Operator, including its channel lineup;
- b. The Cable Operator's complete range of service options and the prices for these services;
- c. The Cable Operator's billing, collection and disconnection policies;
- d. Privacy rights of customers;
- e. All applicable complaint procedures, including complaint forms and the telephone numbers and mailing addresses of the Cable Operator, and the FCC;
- f. Use and availability of parental control/lock out device;
- g. Special services for customers with disabilities;
- h. Days, times of operation, and locations of the service centers;

2. At a Customer's request, a Cable Operator shall make available either a complete copy of these Standards and any other applicable customer service standards, or a summary of these Standards, in a format to be approved by CCUA and the Franchising Authority, which shall include at a minimum, the URL address of a website containing these Standards in their entirety; provided however, that if the CCUA or Franchising Authority does not maintain a website with a complete copy of these Standards, a Cable Operator shall be under no obligation to do so;

If acceptable to a customer, Cable Operator may fulfill customer requests for any of the information listed in this Section by making the requested information available electronically, such as on a website or by electronic mail.

3. Upon written request, a Cable Operator shall meet annually with the Franchising Authority to review the format of the Cable Operator's bills to customers. Whenever the Cable Operator makes substantial changes to its billing format, it will contact the Franchising Authority at least thirty (30) days prior to the time such changes are to be effective, in order to inform the Franchising Authority of such changes.

4. Copies of notices provided to the customer in accordance with subsection 5 below shall be filed (by fax or email acceptable) concurrently with the Franchising Authority and the CCUA.

5. A Cable Operator shall provide customers with written notification of any change in rates for nondiscretionary cable services, and for service tier changes that result in a deletion of programming from a customer's service tier, at least thirty (30) days before the effective date of change. For purposes of this section, "nondiscretionary" means the subscribed tier and any other Cable Services that a customer has subscribed to, at the time the change in rates are announced by the Cable Operator.

6. All officers, agents, and employees of the Cable Operator or its contractors or subcontractors who are in personal contact with customers and/or when working on public property, shall wear on their outer clothing identification cards bearing their name and photograph and identifying them as representatives of the Cable Operator. The Cable Operator shall account for all identification cards at all times. Every vehicle of the Cable Operator shall be clearly visually identified to the public as working for the Cable Operator. Whenever a Cable Operator work crew is in personal contact with customers or public employees, a supervisor must be able to communicate clearly with the customer or public employee. Every vehicle of a subcontractor or contractor shall be labeled with the name of the contractor and further identified as contracting or subcontracting for the Cable Operator.

7. Each CSR, technician or employee of the Cable Operator in each contact with a customer shall state the estimated cost of the service, repair, or installation orally prior to delivery of the service or before any work is performed, and shall provide the customer with an oral statement of the total charges before terminating the telephone call or before leaving the location at which the work was performed. A written estimate of the charges shall be provided to the customer before the actual work is performed.

F. Customer Privacy

1. Cable Customer Privacy. In addition to complying with the requirements in this subsection, a Cable Operator shall fully comply with all obligations under 47 U.S.C. Section 551.

2. Collection and Use of Personally Identifiable Information.

a. A Cable Operator shall not use the Cable System to collect, monitor or observe Personally Identifiable Information without the prior affirmative written or electronic consent of the Customer unless, and only to the extent that such information is: (i) used to detect unauthorized reception of cable communications, or (ii) necessary to render a Cable Service or Other Service provided by the Cable Operator to the Customer and as otherwise authorized by applicable law.

b. A Cable Operator shall take such actions as are necessary using then-current industry standard practices to prevent any Affiliate from using the facilities of the Cable Operator in any manner, including, but not limited to, sending data or other signals through such

facilities, to the extent such use will permit an Affiliate unauthorized access to Personally Identifiable Information on equipment of a Customer (regardless of whether such equipment is owned or leased by the Customer or provided by a Cable Operator) or on any of the facilities of the Cable Operator that are used in the provision of Cable Service. This subsection F.2.b shall not be interpreted to prohibit an Affiliate from obtaining access to Personally Identifiable Information to the extent otherwise permitted by this subsection F.

c. A Cable Operator shall take such actions as are necessary using then-current industry standard practices to prevent a person or entity (other than an Affiliate) from using the facilities of the Cable Operator in any manner, including, but not limited to, sending data or other signals through such facilities, to the extent such use will permit such person or entity unauthorized access to Personally Identifiable Information on equipment of a Customer (regardless of whether such equipment is owned or leased by the Customer or provided by a Cable Operator) or on any of the facilities of the Cable Operator that are used in the provision of Cable Service.

3. Disclosure of Personally Identifiable Information. A Cable Operator shall not disclose Personally Identifiable Information without the prior affirmative written or electronic consent of the Customer, unless otherwise authorized by applicable law.

a. A minimum of thirty (30) days prior to making any disclosure of Personally Identifiable Information of any Customer for any Non-Cable related purpose as provided in this subsection F.3.a, where such Customer has not previously been provided the notice and choice provided for in subsection III.F.9, the Cable Operator shall notify each Customer (that the Cable Operator intends to disclose information about) of the Customer's right to prohibit the disclosure of such information for Non-cable related purposes. The notice to Customers may reference the Customer to his or her options to state a preference for disclosure or non-disclosure of certain information, as provided in subsection III.F.10.

b. A Cable Operator may disclose Personally Identifiable Information only to the extent that it is necessary to render, or conduct a legitimate business activity related to, a Cable Service or Other Service provided by the Cable Operator to the Customer.

c. To the extent authorized by applicable law, a Cable Operator may disclose Personally Identifiable Information pursuant to a subpoena, court order, warrant or other valid legal process authorizing such disclosure.

4. Access to Information. Any Personally Identifiable Information collected and maintained by a Cable Operator shall be made available for Customer examination within thirty (30) days of receiving a request by a Customer to examine such information about himself or herself at the local offices of the Cable Operator or other convenient place within the Town designated by the Cable Operator, or electronically, such as over a website. Upon a reasonable showing by the Customer that such Personally Identifiable Information is inaccurate, a Cable Operator shall

correct such information.

5. Privacy Notice to Customers

a. A Cable Operator shall annually mail or provide a separate, written or electronic copy of the privacy statement to Customers consistent with 47 U.S.C. Section 551(a)(1), and shall provide a Customer a copy of such statement at the time the Cable Operator enters into an agreement with the Customer to provide Cable Service. The written notice shall be in a clear and conspicuous format, which at a minimum, shall be in a comparable font size to other general information provided to Customers about their account as it appears on either paper or electronic Customer communications.

b. In or accompanying the statement required by subsection F.5.a, a Cable Operator shall state substantially the following message regarding the disclosure of Customer information: "Unless a Customer affirmatively consents electronically or in writing to the disclosure of personally identifiable information, any disclosure of personally identifiable information for purposes other than to the extent necessary to render, or conduct a legitimate business activity related to, a Cable Service or Other Service, is limited to:

- i. Disclosure pursuant to valid legal process authorized by applicable law.
- ii. Disclosure of the name and address of a Customer subscribing to any general programming tiers of service and other categories of Cable Services provided by the Cable Operator that do not directly or indirectly disclose: (A) A Customer's extent of viewing of a Cable Service or Other Service provided by the Cable Operator; (B) The extent of any other use by a Customer of a Cable Service; (C) The nature of any transactions made by a Customer over the Cable System; or (D) The nature of programming or websites that a Customer subscribes to or views (i.e., a Cable Operator may only disclose the fact that a person subscribes to a general tier of service, or a package of channels with the same type of programming), provided that with respect to the nature of websites subscribed to or viewed, these are limited to websites accessed by a Customer in connection with programming available from their account for Cable Services."

The notice shall also inform the Customers of their right to prohibit the disclosure of their names and addresses in accordance with subsection F.3.a. If a Customer exercises his or her right to prohibit the disclosure of name and address as provided in subsection F.3.a or this subsection, such prohibition against disclosure shall remain in effect, unless and until the Customer subsequently changes their disclosure preferences as described in subsection F.9 below.

6. Privacy Reporting Requirements. The Cable Operator shall include in its regular periodic reports to the Franchising Authority required by its Franchise Agreement information summarizing:

- a. The type of Personally Identifiable Information that was actually collected or disclosed

by Cable Operator during the reporting period;

b. For each type of Personally Identifiable Information collected or disclosed, a statement from an authorized representative of the Cable Operator certifying that the Personally Identifiable Information collected or disclosed was: (A) collected or disclosed to the extent Necessary to render, or conduct a legitimate business activity related to, a Cable Service or Other Service provided by the Cable Operator; (B) used to the extent Necessary to detect unauthorized reception of cable communications; (C) disclosed pursuant to valid legal process authorized by applicable law; or (D) a disclosure of Personally Identifiable Information of particular subscribers, but only to the extent affirmatively consented to by such subscribers in writing or electronically, or as otherwise authorized by applicable law.

c. The standard industrial classification (SIC) codes or comparable identifiers pertaining to any entities to whom such Personally Identifiable Information was disclosed, except that a Cable Operator need not provide the name of any court or governmental entity to which such disclosure was made pursuant to valid legal process authorized by applicable law;

d. The general measures that have been taken to prevent the unauthorized access to Personally Identifiable Information by a person other than the Customer or the Cable Operator. A Cable Operator shall meet with Franchising Authority if requested to discuss technology used to prohibit unauthorized access to Personally Identifiable Information by any means.

7. Nothing in this subsection III.F shall be construed to prevent the Franchising Authority from obtaining Personally Identifiable Information to the extent not prohibited by Section 631 of the Communications Act, 47 U.S.C. Section 551 and applicable laws.

8. Destruction of Personally Identifiable Information. A Cable Operator shall destroy any Personally Identifiable Information if the information is no longer necessary for the purpose for which it was collected and there are no pending requests or orders for access to such information under subsection 4 of this subsection III.F, pursuant to a court order or other valid legal process, or pursuant to applicable law.

9. Notice and Choice for Customers. The Cable Operator shall at all times make available to Customers one or more methods for Customers to use to prohibit or limit disclosures, or permit or release disclosures, as provided for in this subsection III.F. These methods may include, for example, online website “preference center” features, automated toll-free telephone systems, live toll-free telephone interactions with customer service agents, in-person interactions with customer service personnel, regular mail methods such as a postage paid, self-addressed post card, an insert included with the Customer’s monthly bill for Cable Service, the privacy notice specified in subsection III.F.5, or such other comparable methods as may be provided by the Cable Operator. Website “preference center” features shall be easily identifiable and navigable by Customers, and shall be in a comparable size font as other billing information provided to

Customers on a Cable Operator's website. A Customer who provides the Cable Operator with permission to disclose Personally Identifiable Information through any of the methods offered by a Cable Operator shall be provided follow-up notice, no less than annually, of the Customer's right to prohibit these disclosures and the options for the Customer to express his or her preference regarding disclosures. Such notice shall, at a minimum, be provided by an insert in the Cable Operator's bill (or other direct mail piece) to the Customer or a notice or message printed on the Cable Operator's bill to the Customer, and on the Cable Operator's website when a Customer logs in to view his or her Cable Service account options. The form of such notice shall also be provided on an annual basis to the Franchising Authority. These methods of notification to Customers may also include other comparable methods as submitted by the Cable Operator and approved by the Franchising Authority in its reasonable discretion.

G. Safety

A Cable Operator shall install and locate its facilities, cable system, and equipment in compliance with all federal, state, local, and company safety standards, and in such manner as shall not unduly interfere with or endanger persons or property. Whenever a Cable Operator receives notice that an unsafe condition exists with respect to its equipment, the Cable Operator shall investigate such condition immediately, and shall take such measures as are necessary to remove or eliminate any unsafe condition.

H. Cancellation of New Services

In the event that a new customer requests installation of Cable Service and is unsatisfied with their initial Cable Service, and provided that the customer so notifies the Cable Operator of their dissatisfaction within 30 days of initial installation, then such customer can request disconnection of Cable Service within 30 days of initial installation, and the Cable Operator shall provide a credit to the customer's account consistent with this Section. The customer will be required to return all equipment in good working order; provided such equipment is returned in such order, then the Cable Operator shall refund the monthly recurring fee for the new customer's first 30 days of Cable Service and any charges paid for installation. This provision does not apply to existing customers who request upgrades to their Cable Service, to discretionary Cable Service such as PPV or movies purchased and viewed On Demand, or to customer moves and/or transfers of Cable Service. The service credit shall be provided in the next billing cycle.

IV. COMPLAINT PROCEDURE

A. Complaints to a Cable Operator

1. A Cable Operator shall establish written procedures for receiving, acting upon, and resolving customer complaints, and crediting customer accounts and shall have such procedures printed

and disseminated at the Cable Operator's sole expense, consistent with Section III.E.1.e of these Standards.

2. Said written procedures shall prescribe a simple manner in which any customer may submit a complaint by telephone or in writing to a Cable Operator that it has violated any provision of these Customer Service Standards, any terms or conditions of the customer's contract with the Cable Operator, or reasonable business practices. If a representative of the Franchising Authority notifies the Cable Operator of a customer complaint that has not previously been made by the customer to the Cable Operator, the complaint shall be deemed to have been made by the customer as of the date of the Franchising Authority's notice to the Cable Operator.
3. At the conclusion of the Cable Operator's investigation of a customer complaint, but in no more than ten (10) calendar days after receiving the complaint, the Cable Operator shall notify the customer of the results of its investigation and its proposed action or credit.
4. A Cable Operator shall also notify the customer of the customer's right to file a complaint with the Franchising Authority in the event the customer is dissatisfied with the Cable Operator's decision, and shall thoroughly explain the necessary procedures for filing such complaint with the Franchising Authority.
5. A Cable Operator shall immediately report all customer Escalated complaints that it does not find valid to the Franchising Authority.
6. A Cable Operator's complaint procedures shall be filed with the Franchising Authority prior to implementation.

B. Complaints to the Franchising Authority

1. Any customer who is dissatisfied with any proposed decision of the Cable Operator or who has not received a decision within the time period set forth below shall be entitled to have the complaint reviewed by the Franchising Authority.
2. The customer may initiate the review either by calling the Franchising Authority or by filing a written complaint together with the Cable Operator's written decision, if any, with the Franchising Authority.
3. The customer shall make such filing and notification within twenty (20) days of receipt of the Cable Operator's decision or, if no decision has been provided, within thirty (30) days after filing the original complaint with the Cable Operator.
4. If the Franchising Authority decides that further evidence is warranted, the Franchising Authority shall require the Cable Operator and the customer to submit, within ten (10) days of

notice thereof, a written statement of the facts and arguments in support of their respective positions.

5. The Cable Operator and the customer shall produce any additional evidence, including any reports from the Cable Operator, which the Franchising Authority may deem necessary to an understanding and determination of the complaint.

6. The Franchising Authority shall issue a determination within fifteen (15) days of receiving the customer complaint, or after examining the materials submitted, setting forth its basis for the determination.

7. The Franchising Authority may extend these time limits for reasonable cause and may intercede and attempt to negotiate an informal resolution.

C. Security Fund or Letter of Credit

A Cable operator shall comply with any Franchise Agreement regarding Letters of Credit. If a Franchise Agreement is silent on Letter of Credit the following shall apply:

1. Within thirty (30) days of the written notification to a Cable Operator by the Franchising Authority that an alleged Franchise violation exists, a Cable Operator shall deposit with an escrow agent approved by the Franchising Authority twenty-five thousand dollars (\$25,000) or, in the sole discretion of the Franchising Authority, such lesser amount as the Franchising Authority deems reasonable to protect subscribers within its jurisdiction. Alternatively, at the Cable Operator's discretion, it may provide to the Franchising Authority an irrevocable letter of credit in the same amount. A letter of credit or cash deposit, with the approval of the Franchising Authority, may be posted jointly for more than one member of the CCUA, and may be administered, and drawn upon, jointly by the CCUA or drawn upon individually by each member; provided however that if such letter of credit or cash deposit is provided to CCUA on behalf of more than one of its members, the letter of credit or cash deposit may, in the sole discretion of CCUA and its effected members, be required in an amount not to exceed one hundred thousand dollars (\$100,000).

The escrowed funds or letter of credit shall constitute the "Security Fund" for ensuring compliance with these Standards for the benefit of the Franchising Authority. The escrowed funds or letter of credit shall be maintained by a Cable Operator at the amount initially required, even if amounts are withdrawn pursuant to any provision of these Standards, until any claims related to the alleged Franchise violation(s) are paid in full.

2. The Franchising Authority may require the Cable Operator to increase the amount of the Security Fund, if it finds that new risk factors exist which necessitate such an increase.

3. The Security Fund shall serve as security for the payment of any penalties, fees, charges or credits as provided for herein and for the performance by a Cable Operator of all its obligations under these Customer Service Standards.

4. The rights reserved to the Franchising Authority with respect to the Security Fund are in addition to all other rights of the Franchising Authority, whether reserved by any applicable franchise agreement or authorized by law, and no action, proceeding or exercise of a right with respect to same shall in any way affect, or diminish, any other right the Franchising Authority may otherwise have.

D. Verification of Compliance

A Cable Operator shall establish its compliance with any or all of the standards required through annual reports that demonstrate said compliance, or as requested by the Franchising Authority.

E. Procedure for Remedying Violations

1. If the Franchising Authority has reason to believe that a Cable Operator has failed to comply with any of these Standards, or has failed to perform in a timely manner, the Franchising Authority may pursue the procedures in its Franchise Agreement to address violations of these Standards in a like manner as other franchise violations are considered.

2. Following the procedures set forth in any Franchise Agreement governing the manner to address alleged Franchise violations, if the Franchising Authority determines in its sole discretion that the noncompliance has been substantiated, in addition to any remedies that may be provided in the Franchise Agreement, the Franchising Authority may:

a. Impose assessments of up to one thousand dollars (\$1,000.00) per day, to be withdrawn from the Security Fund in addition to any franchise fee until the non-compliance is remedied; and/or

b. Order such rebates and credits to affected customers as in its sole discretion it deems reasonable and appropriate for degraded or unsatisfactory services that constituted noncompliance with these Standards; and/or

c. Reverse any decision of the Cable Operator in the matter and/or

d. Grant a specific solution as determined by the Franchising Authority; and/or

e. Except for in emergency situations, withhold licenses and permits for work by the Cable Operator or its subcontractors in accordance with applicable law.

V. MISCELLANEOUS

A. Severability

Should any section, subsection, paragraph, term, or provision of these Standards be determined to be illegal, invalid, or unconstitutional by any court or agency of competent jurisdiction with regard thereto, such determination shall have no effect on the validity of any other section, subsection, paragraph, term, or provision of these Standards, each of the latter of which shall remain in full force and effect.

B. Non-Waiver

Failure to enforce any provision of these Standards shall not operate as a waiver of the obligations or responsibilities of a Cable Operator under said provision, or any other provision of these Standards.

EXHIBIT B

Report Form

Comcast
Quarterly Executive Summary - Escalated Complaints
Section 7.6 (B) of our Franchise Agreement
Quarter Ending _____, Year
FIRESTONE, COLORADO

<u>Type of Complaint</u>	<u>Number of Calls</u>
Accessibility	0
Billing, Credit and Refunds	0
Courtesy	0
Drop Bury	0
Installation	0
Notices/Easement Issues (Non-Rebuild)	0
Pedestal	0
Problem Resolution	0
Programming	0
Property Damage (Non-Rebuild)	0
Rates	0
Rebuild/Upgrade Damage	0
Rebuild/Upgrade Notices/Easement Issues	0
Reception/Signal Quality	0
Safety	0
Service and Install Appointments	0
Service Interruptions	0
Serviceability	0
<u>TOTAL</u>	0

Compliments

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AGENDA INFORMATION MEMORANDUM

FIRESTONE TOWN BOARD OF TRUSTEES



AIM#: 7.b

Discussion/Action

Meeting Date: February 23, 2022

Initiated By: Raelynn Ferrera

Dept: Administration

AGENDA TITLE

Resolution 22-30: 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

This agreement is for 2022 Annual IT services with TimberLAN Small Business Group (TimberLAN).

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.

The 2022 adopted budget reflected \$284,920 for TimberLAN's scope of work. Staff was able to reduce TimberLAN's scope for 2022 with the addition of an IT Manager. TimberLAN's scope was reduced from \$284,920 to \$138,040.

2022 Services include:

Annual IT Network Support	\$ 84,000
Phone Support	\$ 8,040.00
Migration to Central Square (PD)	\$ 40,000
Special Projects	\$ 6,000
Virtual Server Rebuilds	\$ 35,000.00

HISTORY AND PREVIOUS BOARD ACTION

RECOMMENDATION

Approval of Resolution authorizing execution of said Agreement and authorizing staff to expend funds

ALTERNATIVES

ATTACHMENTS

1. 2022 TimberLAN Annual IT Services_Reso 22-30
2. Firestone - TimberLAN 2022 Agreement

FINANCIAL CONSIDERATIONS

Annual IT Network Support	\$ 84,000
Phone Support	\$ 8,040.00
Migration to central square (PD)	\$ 40,000
Special Projects	\$ 6,000

Virtual Server Rebuilds

\$ 35,000.00

RESOLUTION NO. 22-30

**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., (“TimberLAN”) has been providing Information Technology (“IT”) Services to the Town of Firestone (“Town”) on an annual basis since 2007; and

WHEREAS, given their expertise and experience with the Town’s Information Technology’s services and needs staff recommends approval of the proposed Agreement between the Town and TimberLAN for Professional Information Technology Services.

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

The Professional Information Technology 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 _____, 2022.

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 _____, 2022 (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: **2022 Annual IT Support 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 meruit 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 \$173,040**. 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:

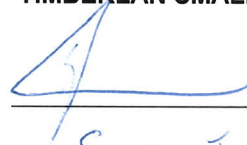
Jessica Koenig, Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

TIMBERLAN SMALL BUSINESS GROUP, INC

By:



Eric J. 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 _____, 2022, 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 services, as directed by the Town:

Annual IT Network Support - TimberLAN	\$ 84,000
Phone Support Cisco - TimberLAN	\$ 8,040.00
IT Support for migration to central square Spillmen - TimberLAN	\$ 40,000
Special Project - TimberLAN	\$ 6,000
Virtual Server Rebuilds - TimberLAN	\$ 35,000.00

EXHIBIT B
TimberLAN Engagement Agreement

TimberLAN Engagement Agreement

V 5.0

This Agreement, between The Town of Firestone, (hereinafter referred to as "Customer") and TimberLAN Inc., a Colorado corporation, (hereinafter referred to as "Servicer"), relating to services, terms and conditions which are further described below.

Description of Services

Network, LAN, WAN, server, workstation, database, consulting, support, internet-related activities, accessories, and sales services.

Rates and Expense Reimbursement

Servicer shall charge Customer a minimum base rate of \$225 per hour for services provided on behalf of Customer. A higher base rate may apply based on the scope of work and/or engineer involved. Work to be performed at a higher base rate will be presented and approved and agreed upon by the Customer and Servicer, prior to its start, in writing. This may be as an individual agreement only outlining the rate change, or included in a Statement of Work. The effective base rate shall be for work performed between the hours of 8:00 AM to 5:00 PM Monday through Friday excluding any Holidays. Work performed outside the effective base rate hours shall be billed at 1.5 times the effective base rate. Work performed between 5:00 PM Saturday and 8:00 AM Monday and/or on Holidays will be billed at 2 times the effective base rate. Customer agrees to pay Servicer for those hours worked in a manner stated on the invoice provided by Servicer. Servicer has a right to collect funds for work performed, as well as any expenses incurred on behalf of Customer, while performing work for Customer. Rates will be invoiced monthly and under terms of net 30 days. Unpaid invoices will incur finance charges equal to 1.5% monthly or 18% annually. Customer also agrees to pay court costs and reasonable attorney fees and interest as a result of nonpayment for services rendered.

Liability Disclaimer

When planning, maintaining or resolving issues in a network environment, there is an inherent risk of data loss due to failure of equipment or software. Servicer will exercise reasonable diligence to prevent the loss of data as well as the avoidance of system down time or failure. Customer specifically agrees that Servicer may not be held accountable for the loss of data or the cost of reconstruction of systems or data during the course of this engagement. Should data loss or system failure occur during this engagement, Servicer will, without assuming fault, make all reasonable attempts in the recovery of data and the repair of systems. The repair and recovery will both be billed at the usual hourly rate.

Customer Facilities

Customer agrees that Servicer has designed the IT infrastructure around the Servicer's current facility environment used to house, power, cool, and run the equipment. Customer is fully responsible for the management, maintenance and upkeep required to maintain that environment. Service is not responsible for any damage to equipment, loss of data, or downtime due to Customer's environmental failures. In the event of a facility or facility component failure that causes service interruption, Customer understands and agrees that the time Servicer spends to restore services will be billed as described in the Rates and Expense Reimbursement section of this agreement. Furthermore, Customer also agrees that these charges are separate and not covered under any other agreement or service cap.

Back-up Copies of Database

Servicer recommends and Customer agrees to create, maintain and verify back-up copies of all data prior to any services being rendered on said data.

Limited Warranties

Servicer does not guarantee any warranties of any kind, express or implied, including, but not limited to,

any manufacturer's implied warranties of merchantability or fitness for a particular purpose. Servicer's responsibilities for installing hardware and software and for product warranties are limited to the manufacturer's specifications, terms and conditions.

Soliciting Employees

Servicer and Customer realize each other's staff members are valuable assets to each other's corporation. Servicer and Customer therefore agree not to directly or indirectly solicit, hire, contract or employ each other's employees, whether directly or indirectly involved with this effort, for a period of 180 days after this Agreement ceases, unless agreed to in writing by both parties. Furthermore, Servicer and Customer agree not to hire, contract, or employ an employee who has separated from either organization for any reason for a period of 180 days.

Force Majeure

Servicer shall not be liable for any delay, failure in performance or interruption of services resulting from acts of God, civil or military catastrophe, transportation delays, inability to obtain materials from suppliers, product deficiencies or any other situation beyond the reasonable control of Servicer.

Further Assurances

Servicer provides a warranty for good workmanship with regard to services rendered under this Agreement. The Warranty extends only to services actually performed by Servicer or its employees and is in lieu of all other warranties, express or implied; however, Servicer shall not be liable for any indirect, special, or consequential damages arising out of this Agreement.

Dispute Resolution

Any dispute or disagreement arising out of this Agreement shall be settled through binding arbitration, regardless of any other means previously or otherwise stated. It will be the obligation of Servicer to choose the arbitration association and obtain the required arbitrators. The parties will pay the fees for arbitrators equally hereto.

AGENDA INFORMATION MEMORANDUM

FIRESTONE TOWN BOARD OF TRUSTEES



AIM#: 7.c

Discussion/Action

Meeting Date: February 23, 2022

Initiated By: Dave Lindsay

Dept: Public Works

AGENDA TITLE

Resolution 22-31: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN OPERATING AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND THE LAST CHANCE DITCH COMPANY

SUMMARY

The Last Chance Irrigation Ditch crosses the southern end of the Firestone Reservoir No. 1 property. The Town intended to use this ditch as one means to deliver surface water to Reservoir No. 1 and Reservoir No. 2. As part of the Reservoir No. 1 construction project, the Town entered into a construction agreement with the Last Chance Ditch to allow for the installation of diversion and check structures. The Town does not currently own any shares in the Last Chance Ditch, so as part of the previous construction agreement there was a provision that allowed the Town and Last Chance Ditch to enter into an Operating Agreement to allow the Town to convey non-Last Chance Ditch share water when there is available conveyance capacity in the ditch. Staff has completed negotiations of the terms of the Operating Agreement and is presenting it to the Board of Trustees for consideration and action. The agreement allows for the Town to use the ditch to bring specific water rights included in our current water court change case through the ditch and to take them out at our diversion at Reservoir No. 1. The agreement also allows us to bring "free river" water down the ditch when there is capacity in the ditch and there are no calls on the St. Vrain River. There is a provision in the agreement that assures that if the Town ever does own shares in the ditch, nothing in the agreement would interfere with our rights and privileges as a shareholder. Because the Town currently does not own shares in the ditch, there are charges that will be assessed for its use. The Town will be required to pay an annual Use Charge of \$3,000.00 and will pay a Delivery Charge of \$12.00/acre-foot of water delivered to our turnout structure.

HISTORY AND PREVIOUS BOARD ACTION

On October 10, 2018, the Board of Trustees approved a contract for the design of the Firestone Reservoir No. 1 Supply and Delivery project, which included construction of a check structure and diversion structures in the Last Chance Ditch.

On September 23, 2020, the Board of Trustees approved Resolution 20-85 awarding a contract for the construction of the Firestone Reservoir No. 1 Supply and Delivery project, which included construction of a check structure and diversion structures in the Last Chance Ditch.

On November 18, 2020, the Board of Trustees approved Resolution 20-112 approving a construction agreement with the Last Chance Ditch which included construction of a check structure and diversion structures in the Last Chance Ditch.

RECOMMENDATION

Staff recommends the Board of Trustees approve the attached resolution approving the Operating Agreement between the Town of Firestone and the Last Chance Ditch Company, and authorize the Mayor to execute the agreement on behalf of the Town.

ALTERNATIVES

The Board could direct Staff to modify the terms of the agreement.

ATTACHMENTS

1. Res 22-31 Last Chance Ditch Op Agree
2. Operations Agreement _ final (executable)
3. Vicinity Map

FINANCIAL CONSIDERATIONS

At the beginning of each water year (November 1) Firestone will be invoiced for an annual Use Charge of \$3,000.00 for the use of the ditch to convey non-shareholder water. In addition, annually after the end of each water year (October 31) Firestone will receive an invoice for the Delivery Charge for water delivered to the Towns diversion at Reservoir 1. The charge will be \$12.00 per acre-foot of water delivered. For 2022, that charge is estimated to be \$13,200.00 for 1,100 acre-feet of delivered water to fill Reservoir No. 1.

RESOLUTION NO. 22-31

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF
FIRESTONE, COLORADO, APPROVING AN OPERATING AGREEMENT
BETWEEN THE TOWN OF FIRESTONE AND THE LAST CHANCE
DITCH COMPANY**

WHEREAS, the Last Chance Ditch Company (“Company”) is the owner of a “Ditch” which is capable of diverting, carrying and delivering water from St. Vrain Creek to structures presently owned or which may be owned by the Town of Firestone (“Town”) as part of its water treatment and distribution system; and

WHEREAS, on November 18, 2020 the Company and the Town entered into a Construction Agreement (“Agreement”), which in part, included the construction of diversion and check structures to convey water from the Ditch to Firestone Reservoirs #1 and 2; and

WHEREAS, though the Town does not own any shares of the Company’s capital stock the Agreement authorized the parties to enter into an Operating Agreement which would allow the Town to convey non-Ditch share water when there is available conveyance capacity in the Ditch and also under certain conditions convey “free river” water through the Ditch; and

WHEREAS, the Operating Agreement also permits the Town to use the Ditch to convey and divert specific water rights to Reservoir #1, and ensures that if the Town ever does own capital stock in the Company that nothing within the Operating Agreement would interfere with its rights as a shareholder.

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

1. The Operating Agreement between the Town of Firestone and the Last Chance Ditch Company 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 _____, 2022.

TOWN OF FIRESTONE, COLORADO

Bobbi Sindelar, Mayor

ATTEST:

APPROVED AS TO FORM:

Jessica Koenig, CMC Town Clerk

William P. Hayashi, Town Attorney

LAST CHANCE DITCH COMPANY
OPERATING AGREEMENT FOR CONVEYANCE OF NON-SHARE WATER

This Operating Agreement (the “**Agreement**”) is entered into this ____ day of _____, 2022, by the Water Activity Enterprise of the Town of Firestone (the “**Town**”) and the Last Chance Ditch Company (the “**Company**”). The Company and the Town are referred to herein as the **Parties**.

RECITALS

- A. The Company is the owner of the Last Chance Ditch (the “**Ditch**”), which is capable of diverting, carrying and delivering water from the St. Vrain Creek to structures presently owned or which may be owned by the Town.
- B. The Parties are subject to that certain November 18, 2020 LAST CHANCE–FIRESTONE AGREEMENT FOR CONSTRUCTION OF: (1) A STRUCTURE THROUGH WHICH TO DELIVER WATER FROM RURAL DITCH INTO LAST CHANCE DITCH; (2) A CHECK STRUCTURE AND DELIVERY TURNOUT STRUCTURE INTENDED TO CONVEY WATER FROM LAST CHANCE DITCH INTO FIRESTONE RES. NOS. 1 AND 2; AND (3) AN INTERIM STRUCTURE BY WHICH TO DIRECT TRI-TOWN DRAINAGE BACK TO ST. VRAIN CREEK THROUGH LAST CHANCE DITCH (the “**Construction Agreement**”).
- C. The Town desires to divert and deliver water for its uses (“**Town Water**”) through the Ditch to various points along the Ditch as further identified in this Agreement.
- D. The Town does not currently own any shares of the capital stock of the Company.
- E. Pursuant to a Unused Capacity Agreement between the Town and L.G. Everist (“**LGE**”) dated December 20, 2018 (the “**Use Agreement**”), the Town desires to use all or a portion of the excess capacity in the Ditch that LGE is entitled to use, pursuant to such Use Agreement and only at times when the Company determines that such excess capacity exists. The amount of excess capacity which the Company may allocate to LGE is based upon LGE’s status as a shareholder of the Company and upon approval from the Company pursuant to its Policy on use of excess capacity in the Ditch.
- F. The Town and the Company agree that the terms and conditions contained in this Agreement are appropriate for the delivery of the Town Water to and through the Ditch.

OPERATING CONDITIONS

1. **Town Water**. The Town shall only be entitled to deliver Town Water through the Ditch. Town Water is defined as “free river” water and those certain water rights which are subject of a pending water court application in Water Division No. 1 under Case No. 19CW3236. The water rights are identified in **Exhibit A**, which is attached hereto and incorporated by reference herein. To the extent that the Town obtains additional water

rights it wishes to deliver through the Ditch, the Town shall notify the Company of modification to **Exhibit A** and provide the Company with such modification in writing. Any such additional water rights shall be conveyed within the capacity the Town may have in the Ditch pursuant to the Use Agreement and only as the Company determines that excess capacity is available.

2. Diversions Limitation. Town Water shall be diverted from: (1) the river headgate of the Ditch on St. Vrain Creek, or (2) the Rural Ditch, through the Rural Pipeline and the New Structure as each are defined in the Construction Agreement.
 - a. The Town's water which is diverted into the Ditch shall be delivered to the point(s) of delivery described in paragraph 5 herein, or to any other point of delivery by mutual written agreement of the Parties.
3. Transit Loss. The Town understands and acknowledges that transit loss has historically occurred in the Ditch as water was being delivered to its historical places of use. The amount of Town Water delivered in the Ditch will be reduced to account for transit loss, which will be determined by the Company by applying the same percentage to all shareholders taking delivery of their share water on the day.
4. Diversions Season. The Town understands and acknowledges that the Company has historically delivered water at such times when demand existed and when weather and other operating conditions reasonably allowed diversions to be safely made by the Company. The diversion season applicable to the Town Water shall be the same as the season for all shareholders as determined in the sole discretion of the Company.
5. Point(s) of Delivery. The Company agrees that the Town may take delivery of the Town Water at any of the following delivery structures:
 - a. Firestone Reservoir No. 1/No. 2 Turnout in SW Quarter of NW Quarter of Section 6, Township 2 North, Range 67 West of the 6th PM, Weld County, Colorado.

Each such approved location is depicted on the map(s) attached hereto as **Exhibit B**, which is incorporated by reference herein.

The Town reserves the right, subject to prior notice to and approval by the Company, to deliver Town Water out of the water storage structures identified as Firestone Reservoir No. 1 and Firestone Reservoir No. 2 above and into the Ditch for subsequent delivery of the same through the Ditch and into St. Vrain Creek. The Company reserves the right to require the Town to obtain a separate agreement or an amendment to this Agreement for such operation.

6. No Guarantee of Water Quality. The Company makes no guarantee of the quality of the Town Water delivered pursuant to this Agreement or the Town Water's suitability for any purposes whatsoever. Any Town Water delivered under this Agreement shall be delivered "as is" without any treatment by the Company.
7. Force Majeure. No Party to this Agreement shall be liable for any delay or failure to perform due solely to conditions or events of force majeure, as that term is defined in this paragraph; provided that: (a) the non-performing Party gives the other Party prompt written notice describing the particulars of the force majeure; (b) the suspension of performance is of no greater scope and of no longer duration than required by the force majeure event or condition; and (c) the nonperforming Party proceeds with reasonable diligence to remedy its inability to perform. As used in this Paragraph, "force majeure" shall mean any delay or failure of performance under this Agreement caused by events beyond a Party's reasonable control and without the fault or negligence of the Party, including, without limitation, (i) acts of God, (ii) sudden actions of the elements such as floods, earthquakes, hurricanes, or tornadoes, (iii) sabotage, (iv) vandalism beyond that which can be reasonably prevented by the Party, (v) terrorism, (vi) war, (vii) riots, (viii) fire, (ix) explosion, (x) blockades, (xi) insurrection, (xii) strike, slow down or labor disruptions (even if such difficulties could be resolved by conceding to the demands of a labor group), (xiii) denial or revocation of any governmental or regulatory permit, agreement, or approval necessary to perform under this Agreement, (xiv) freezing conditions that prevent the conveyance of water through the Company's Facilities, (xv) disruptions or breakdowns in ditches or other of the Company's Facilities, or (xvi) governmental restriction, denial, or moratoria related to the issuance of necessary permits or approvals to conduct the Company's or the Town's operations. To the extent either Party's performance is excused by an event of force majeure, the other Party's corresponding obligation to perform shall likewise be excused. A Force Majeure event shall not give the Company any right to divert and beneficially use Town Water. During a Force Majeure event which prevents the Company's performance, the Company shall leave the Town Water undiverted unless such Force Majeure event makes it impossible for the Company to stop the Town Water from being diverted into the Ditch.
8. Ownership and Maintenance/Repair/Replacement of Structures. The Company owns the delivery structures described as items 5.a. through 5.d. in paragraph 5. The Town is responsible for the maintenance, repair, and replacement of the delivery structures described as items 5.a. through 5.d. in paragraph 5. At any time the Company determines, in its sole and absolute discretion, that delivery of Town Water into the Ditch requires additional fortification to protect the integrity of the Ditch at the point of initial delivery or at any of the Points of Delivery, the Town shall install such additional fortification promptly upon written notice and at the Town's sole expense
9. Notification of Delivery of Town Water. The Town shall provide the Company with notice of its intent to deliver Town Water into the Ditch. The Town shall provide such

notice as directed by the Company, to the person designated by the Company, and pursuant to the schedule required by the Company. Such process shall be agreed upon by the Parties prior to the delivery of any Town Water in the Ditch. The Parties may modify such schedule as necessary, but all deliveries of the Town Water are subject to this requirement.

10. Measurement; Accounting. The Town is responsible for ensuring that all Points of Delivery are equipped with measuring devices approved by the Company. The Town shall maintain, repair, and replace all such measuring devices to ensure that the Company is able to measure all deliveries of Town Water to the Points of Delivery. The Town is responsible for all accounting of the delivery of the Town Water to the Points of Delivery as required by the Division Engineer for Water Division No. 1. The Town shall provide its monthly accounting therefor to the Company concurrent with its submission of the same to the Division Engineer's Office.
11. Delivery Charge; Use Charge; Payments. The Company shall invoice the Town for the delivery of Town Water to the Points of Delivery at the cost of \$12.00/acre-foot (the "**Delivery Charge**") for the water year to commence on November 1, 2021 and to terminate on October 31, 2022 (each such subsequent year shall be referred to as a "**Water Year**"). The Parties agree that the Delivery Charge is intended to cover the incremental operating, maintenance and capital costs associated with increased utilization caused by the Town's use of the Ditch. The Company shall provide the Town with an invoice of the Delivery Charge for the previous Water Year within thirty (30) days after the Water Year in which the Delivery Charge accrues. The Town shall pay the invoiced Delivery Charge within thirty (30) days of receipt of the invoice. The Company may review and adjust the Delivery Charge at any time but shall provide written notice to the Town of such adjustment no less than sixty (60) days prior to the commencement of any Water Year. The parties agree that the Delivery Charge shall be in-lieu of any charge levied on LGE by the Company for the Town's use of the Secondary Excess Carriage Rights as that term is defined in the Use Agreement.

In addition to the Delivery Charge, the Town shall pay the Company \$3,000.00 during each Water Year for the right to deliver Town Water through the Company's infrastructure regardless of whether any Town Water is delivered through the Company's infrastructure (the "**Use Charge**"). The Company shall invoice the Town for the Use Charge no later than October 1st of each year that this Agreement is in force. The Town shall pay the Company the Use Charge no later than November 1st each year that the Agreement is in force.

12. Term of Agreement. This Agreement shall commence upon the later of the dates on which both the Town and the Company execute the Agreement or the date on which the Interim Drainage Structure is installed by the Town and approved by the Company. The

Agreement shall be in effect as long as the Town has a right to capacity in the Ditch through the Use Agreement.

13. Access to the Structures. The Town shall have access as is reasonably necessary along the right-of-way of the Ditch for purposes of ingress and egress to accomplish the terms of this Agreement; provided, however, that the Town has no authority to do any work upon the Ditch or to contract therefore except as may be specifically agreed to in advance by the Parties.
14. Indemnification. To the extent allowed by law, the Town indemnifies and agrees to hold harmless the Company of and from any claims or causes or action from third parties against the Company arising out of the use, operation, construction, maintenance, repair, and replacement of the Town's delivery structures and measuring devices. However, nothing herein shall be construed as a waiver of the Town's immunity under the Governmental Immunity Act.
15. Not Entire Agreement of the Parties. This Operating Agreement does not represent the entire agreement of the Parties related to the delivery of Town Water in the Ditch. Other essential terms and conditions are included in Construction Agreement, and other essential terms and conditions may be included in a stipulation executed by the Parties to resolve Case No. 19CW236.
16. Town's Status as Non-shareholder. If the Town later becomes a shareholder of the Company, the Town shall have all rights and privileges to and of the use of the capacity in the Ditch, as such rights and privileges for shareholders are set forth in the Company's Bylaws, without regard to the obligations and limitations on the Town's use of such capacity is set forth in this Agreement.
17. Amendment. This Agreement may be amended by written agreement signed by the Parties.
18. Binding. This Agreement is binding upon the Parties, their successors and assigns.

[The remainder of this page is left intentionally blank]

THE LAST CHANCE DITCH COMPANY

By _____

Garrett Varra, President

Angie Swanson, Secretary

WATER ACTIVITY ENTERPRISE OF THE TOWN OF FIRESTONE

By _____

Its _____

EXHIBIT A

1. New Consolidated Lower Boulder Reservoir and Ditch Company

3.97 Preferred Shares (stock cert. P86)

6.6667 Common Shares (stock cert. L28)

2. Rural Ditch

4.31 Shares (stock cert. 416, 423, and 414)

3. Free River

Untitled Map

Write a description for your map.

Legend

Feature 1

EXHIBIT B



1000 ft

26

26

LG Everist, Inc. - Carbon Valley

Colorado Blvd

Pelican Shores Dr

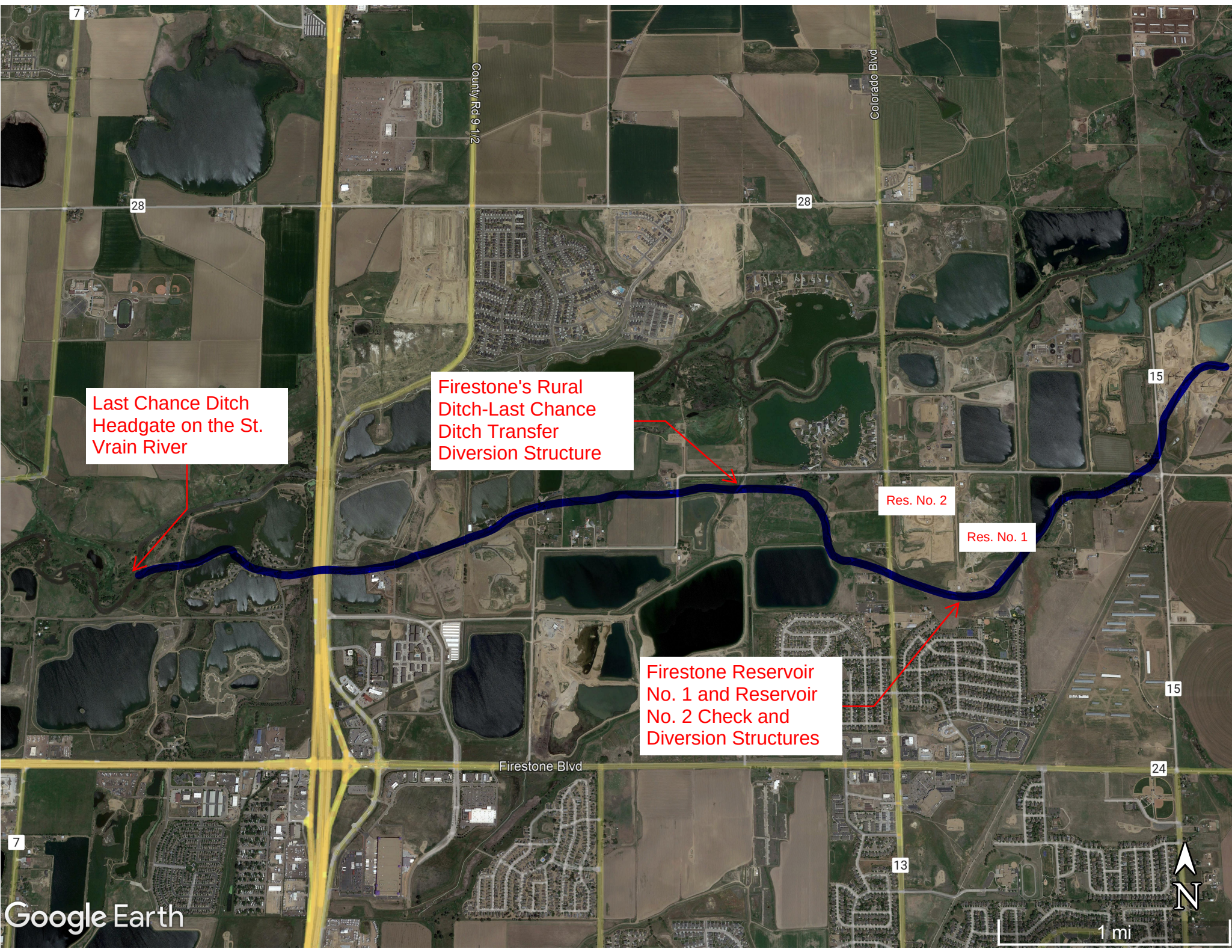
Firestone
Reservoir No. 1

Firestone Reservoir No. 2

Last Chance Ditch

Gated Turnout with
Flume Meter at
40°10'09.05" N
104°56'16.19" W

Google Earth



Last Chance Ditch
Headgate on the St.
Vrain River

Firestone's Rural
Ditch-Last Chance
Ditch Transfer
Diversion Structure

Res. No. 2

Res. No. 1

Firestone Reservoir
No. 1 and Reservoir
No. 2 Check and
Diversion Structures

AGENDA INFORMATION MEMORANDUM

FIRESTONE TOWN BOARD OF TRUSTEES



AIM#: 7.d

Discussion/Action

Meeting Date: February 23, 2022

Initiated By: Julie Pasillas

Dept: Public Works

AGENDA TITLE

Resolution 22-32: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND VECTOR DISEASE CONTROL INTERNATIONAL LLC FOR INTEGRATED MOSQUITO MANAGEMENT SERVICES

SUMMARY

A Professional Service Agreement with Vector Disease Control International, LLC to provide integrated mosquito management services for the Town of Firestone for the 2022 mosquito season. In 2021, the town was split into three general zones for monitoring and adulticiding. During the presentation of the 2021 season results and discussions with the Board, it was decided to increase the number of zones to six for 2022. Increasing the number of zones will allow for a greater focus on the subdivisions within each zone.

HISTORY AND PREVIOUS BOARD ACTION

On February 10, 2021, the Board of Trustee approved Resolution 21-25 for the 2021 Professional Services Agreement between the Town of Firestone and Vector Disease Control International, LLC for mosquito management services. Before the approval of the 2021 agreement, mosquito control was performed internally by Public Works staff. During the 2021 Budget preparation, Staff examined the cost to continue to provide this service in-house. Alternate solutions were investigated because of the equipment's current age and condition, the need for replacement, the Town's growth, and staff overtime costs. Vector Disease Control International LLC was selected because of the professional service they provide and are the leading provider of integrated mosquito management services in Colorado. This professional service's annual cost is less than what was annually budgeted for Public Works to provide this service.

RECOMMENDATION

Staff recommends approval of Resolution 22-32, a resolution approving the Professional Services Agreement with Vector Disease Control International, LLC for integrated mosquito management services.

ALTERNATIVES

The Board may choose not to approve Resolution 22-32 and provide staff with additional direction.

ATTACHMENTS

1. Res 22-32 Vector Disease Control International LLC (1)
2. 2022 Professional Services Contract-VECTOR DISEASE CONTROL INTERNATIONAL, LLC
3. 2022 Firestone - Amendment No. 1_
4. 2022 Firestone Mosquito Zones

FINANCIAL CONSIDERATIONS

The agreement includes an amount not to exceed \$41,500.00. Sufficient funds are available in the Stormwater Fund-Operations account.

RESOLUTION NO. 22-32

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND VECTOR DISEASE CONTROL INTERNATIONAL LLC FOR INTEGRATED MOSQUITO MANAGEMENT SERVICES

WHEREAS, the Town of Firestone (“Town”) is in need of professional services to provide integrated mosquito management services; and

WHEREAS, Town staff finds that Vector Disease Control International LLC has the necessary experience and qualifications and they are the sole source provider of mosquito management services for governmental entities within the state.

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

The Agreement between the Town of Firestone and Vector Disease Control International LLC for integrated mosquito management services 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 23rd day of February, 2022.

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 23rd day of February, 2022 (the "Effective Date"), by and between the TOWN OF FIRESTONE, a Colorado municipal corporation with an address of 9950 Park Ave, Firestone, Colorado 80504 (the "Town"), and VECTOR DISEASE CONTROL INTERNATIONAL, LLC, an independent contractor with a principal place of business at 7000 Broadway, Suite 108, Denver, Colorado 80221 ("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: INTEGRATED MOSQUITO MANAGEMENT SERVICES and Amendment #01

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 \$41,500.00. 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. WORKERS WITHOUT AUTHORIZATION

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 workers without authorization 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:

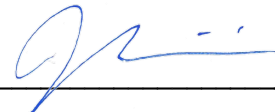
Jessica Koenig, CMC, Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

VECTOR DISEASE CONTROL
INTERNATIONAL, LLC

By:



Jason W. Williams, Regional Director

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, Jason W. Williams, 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

2/16/2022

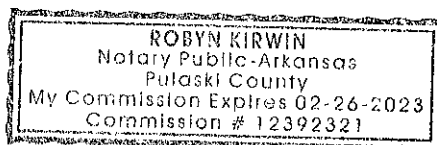
Date

STATE OF ARKANSAS)
) ss.
COUNTY OF PULASKI)

The foregoing instrument was subscribed, sworn to (or affirmed) before me this 16th day of February, 2022 by Jason W. Williams as Regional Director of Vector Disease Control International, LLC.

My commission expires: 2-26-2023

(S E A L)



Notary Public



EXHIBIT A
SCOPE OF SERVICES

Contractor's Duties

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

- The Contractor shall perform the duties identified in Section II of the attached Integrated Mosquito Management Services Proposal and Amendment #01 to the Integrated Mosquito Management Services Proposal.

AMENDMENT #01
TO 2021-2023 INTERGRATED MOSQUITO MANAGEMENT SERVICES
FOR TOWN OF FIRESTONE, COLORADO

The Town and Contractor desire to amend the the scope of services and budget for year 2022 and 2023.

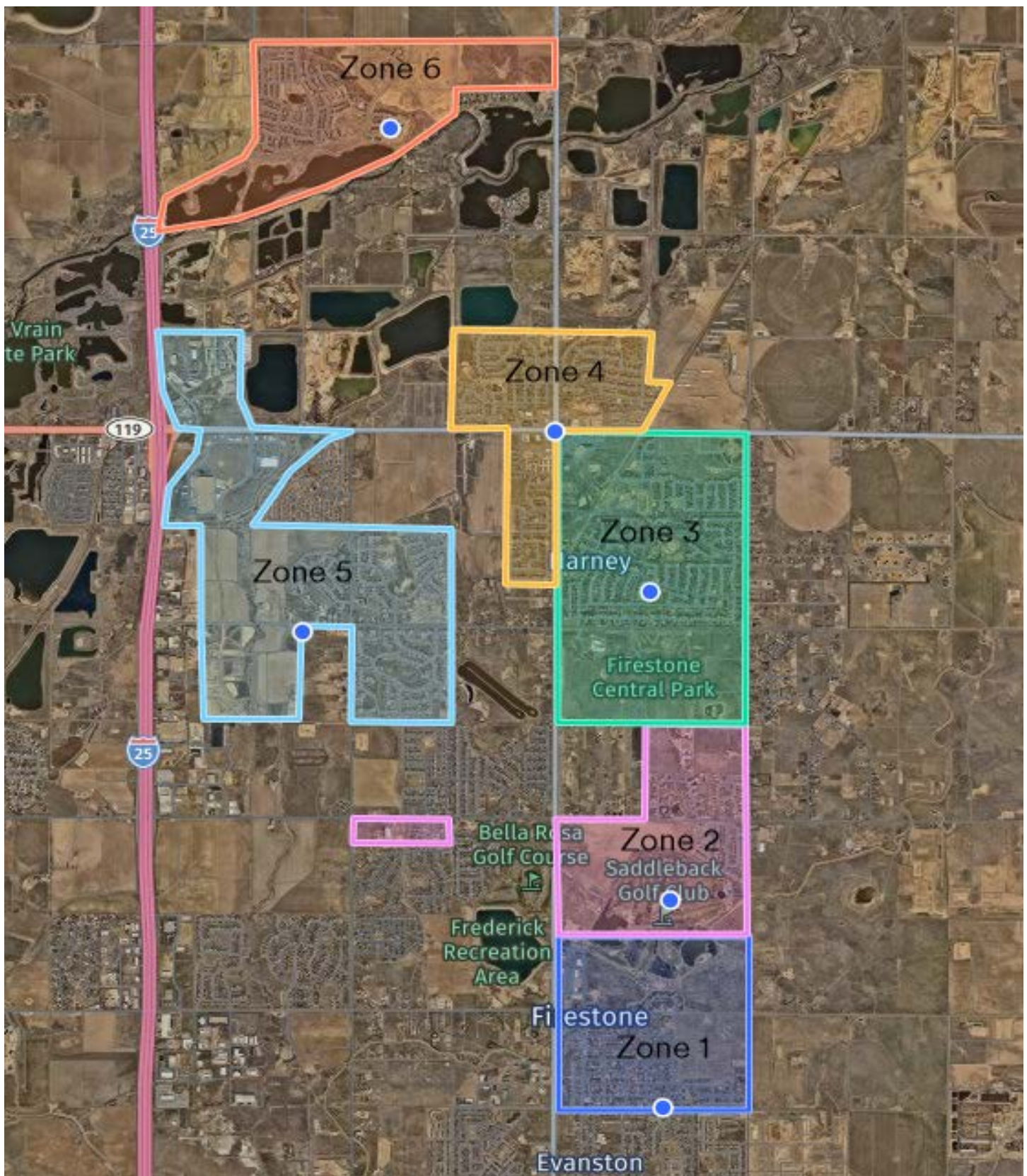
NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises herein contained, the parties agree as follows:

1. The Contractor shall provide an additional three (3) surveillance traps that will be monitored/reported on a weekly basis. A total of six (6) surveillance traps will be monitored through the Town, with one (1) surveillance trap placed each zone, with a total of six (6) zones that cover the entirety of the Town (zone map attached).
2. Based on surveillance data, the Contractor will provide truck-based adulticiding throughout each zone where mosquito numbers have exceeded thresholds and/or citizen complaints indicate elevated mosquito activity.

For services rendered for 2022, the Town shall pay a yearly fee to Contractor of Forty-One Thousand Five-Hundred Dollars (\$41,500).

For services rendered for 2023, the Town shall pay a yearly fee to Contractor of Forty-Two Thousand Five-Hundred Thirty-Eight Dollars (\$42,538) upon approval of the 2023 Professional Services Agreement. The 2023 price reflects a 2.5% inflation rate increase.

Except as expressly amended by this Amendment #01, all other terms and conditions of the Agreement and Integrated Mosquito Management Services Proposal shall remain unchanged and in full force and effect. In the event of a conflict between the terms of the Agreement, Integrated Mosquito Management Services Proposal, and this Amendment #01, this Amendment #01 shall prevail.



- Zone 1**-Historic Firestone, Globe, Russel, Westwind Village, Overlook, Firestone Retail Center, and Saddleback Square Subdivisions
- Zone 2**- Saddleback Filling 1, 2 & 3, Saddleback Heights, Owl Lake Estates, and Del Ray Subdivisions
- Zone 3**-Central Park, Firestone Sporks Complex, St. Vrain Ranch, Ridgecrest, Sagebrush, and High Plain Market Place Subdivisions
- Zone 4**-Booth Farms, Cimarron Point, Mtn View Retail Center, Firestone Crossing, Firestone Center, Oak Meadows, Oak Meadows Village, Firestone Meadows, and Mtn. Shadows Subdivisions
- Zone 5**- Stone Ridge, Neighbors Point, Monarch Estates, Cottonwood Hollows, Firestone Centre, Gateway North, and Del Camino Junction Business Park Subdivisions
- Zone 6**-Barefoot Lakes Subdivision

Hours/Units/Types Summary

PC	Title	Hours	Net Type	Amount	Info Type	Amount
1-00	Regular Pay	7,189.25	Direct Deposit Net	414,821.92	Informational	0.00
1-06	PD Shift Supervisor	22.00	Net	109.94	Fringe Benefits	10.36
2-00	Overtime Pay	155.50	3rd Party Pay Net	0.00		
3-00	Paid Time Off & EIB	1,790.90				
5-00	Call Outs	22.00				
5-03	Standby	0.00				
7-00	HolidayTO, Holiday Wrk	2,203.50				
8-10	PD Grant/Contracts	8.00				
8-00	Miscellaneous Pay	82.00				
8-25	Reserve Active Duty	160.00				
8-26	PHE - Public Health Emerg	439.00				
8-27	Leave of Absence wo Pay	0.00				
8-28	PD POPS Programs	0.00				
9-01	Comp Time Earned	30.50				
9-02	Comp Time Used	22.88				
Grand Totals:		<u>12,125.53</u>		<u>414,931.86</u>		<u>10.36</u>

Pay Code Totals - Employee

PC	Title	Amount	PC	Title	Amount	PC	Title	Amount
1-01	Regular Pay	470,176.12	8-16	Employee Bonus	0.00	61-02	HSA7300	-7,105.24
1-03	Mayor/Trustee	2,150.00	8-20	Retro Pay (non-FPPA)	1,557.13	61-10	FSA- Dependent Care	-1,666.64
1-04	Temporary	980.00	8-25	Reserve Active Duty	0.00	61-11	FSA- Limited Purpose	-441.66
1-06	PD Shift Supervisor	1,402.71	8-26	PHE - Public Health Emergenc	8,662.78	61-12	FSA - Medical	-1,919.94
2-00	Overtime	6,734.89	8-28	PD POPS Programs	0.00	62-00	Dental Insurance	-911.96
3-01	PTO	44,915.92	9-02	Comp Time	515.66	63-00	Vision	-304.00
3-05	PTO Payout	157.23	19-00	3rd Party Pay	0.00	64-97	Critical Illness Insurance	#N/A
3-10	Contract PTO	0.00	21-01	Stipend	0.00	64-98	Vol/ADD, Sps,Chld LIFE	-1,499.10
4-00	EIB	0.00	21-02	Cell Phone Stipend	250.00	64-99	Accident Insurance	-763.94
5-01	Call Outs	385.93	30-04	Life Ins > 50k	10.36	70-01	Misc Deduction	0.00
5-02	PD Call Outs	335.28	50-01	FPPA 457	-1,916.51	70-02	Child Support	-837.50
5-03	Standby	0.00	50-02	FPPA PD Pension	-23,063.24	70-03	Garnishment	0.00
7-01	Holiday Time Off	37,942.47	50-03	FPPA ROTH	-400.00	70-04	Equipment	-296.60
7-02	Holiday Work SW	15,281.43	51-01	PERA	-32,209.75	70-05	ICMA Loan Payment	0.00
7-03	Holiday Work NSW	3,515.03	51-02	PERA+457	-527.52	74-00	Soc Sec	-840.23
8-01	Misc Pay	0.00	51-03	PERA Life	-62.00	75-00	Medicare	-8,232.03
8-02	Retro Pay	1,634.96	51-05	PERA 401k	-327.70	76-00	FWT	-59,297.36
8-04	Bereavement	2,323.90	51-07	PERA 457 Roth	-859.04	77-00	SWT	-19,858.00
8-06	Snow Day	0.00	52-01	ICMA 401a	-250.00	79-00	3rd Party Medicare	0.00
8-08	Pd Admin Leave	0.00	52-02	ICMA 457b-Pre	-807.74	85-00	Net Pay - check	109.94
8-10	PD Grant	513.84	52-04	ICMA 457b-Post	-323.08	86-00	Dir Deposit	414,821.92
8-12	Jury Duty	0.00	60-00	Health Insurance	-17,192.28	89-00	3rd Party Net	0.00
8-13	Military Leave	0.00	61-01	HSA3650	-1,920.66			

Pay Code Totals - Employer

PC	Title	Amount	PC	Title	Amount	PC	Title	Amount
50-02	FPPA - Polic	18,267.82	61-02	HSA7300	5,250.00	75-00	Medicare	8,232.03
51-01	PERA	53,904.17	62-00	Dental Insurance	5,648.35	91-00	Long Term Disability	2,064.10
51-04	PERA AED/SAED	522.98	63-00	Vision Insurance	844.74	92-00	Short Term Disability	2,033.19
52-01	ICMA 401a	1,600.00	64-97	Critical Illness Insurance	9.80	93-00	Police Pension	6,250.65
52-02	ICMA 457b	1,696.16	64-98	Vol/ADD, Sps,Chld LIFE	15.90	94-00	Basic Life & AD&D	1,457.43
60-00	Health Insurance	77,816.55	64-99	Accident Insurance	12.39	95-01	Employee Asst Plan	586.80
61-01	HSA3650	2,600.00	74-00	Social Security	840.23	98-00	State Unemployment	1,190.90

Name	Total Paid
Total 4 RIVERS EQUIPMENT, LLC:	172.12
Total ABS CONCRETE INC:	18,999.00
Total ACCESS/ADAMS DATA MANAGEMENT, LLC:	162.55
Total ACE HARDWARE OF FIRESTONE:	27.98
Total ADAMSON POLICE PRODUCTS:	618.35
Total Agency 360:	1,197.00
Total AIRGAS INC:	35.88
Total ALAN PLUMMER AND ASSOCIATES, INC:	104,503.91
Total ALERUS (CLAIM REIMB):	22,509.12
Total ALERUS (EMPLOYER FUND):	1,097.14
Total ALERUS (FEE FUND):	331.85
Total ALERUS (WKLY CARD FUND):	556.75
Total ALERUS (COBRA):	2,278.95
Total ALL AMERICAN TRAILERS:	13,309.00
Total AMAZON:	2,830.52
Total AMERICAN CONSERVATION & BILLING SOLUTION:	200.00
Total APEX SHREDDING, INC.:	90.00
Total ArchiveSocial, Inc:	2,388.00
Total ASCEND PROJECT MGMT & STORMWATER SVC INC:	233.75
Total AUSMUS LAW FIRM, P.C.:	1,200.00
Total AXON ENTERPRISE INC:	15,707.96
Total B K TIRE, INC:	3,096.42
Total BAREFOOT RESIDENTIAL LLC:	458.20
Total BASELINE INC:	2,786.00
Total BC INTERIORS:	17,758.53
Total BEACON COMMUNICATIONS LLC:	442.00
Total Black Hills Energy:	36,910.37
Total BLUE MOON RENTAL LLC:	2,600.00
Total BLUESCOPE CONSTRUCTION INC:	629,978.94
Total BOHANNAN HUSTON INC:	2,684.70
Total BROWNELLS, INC.:	1,249.00
Total C & W TRUCK AND TRAILER, LLC:	690.32
Total CAMPBELL SCIENTIFIC INC:	7,234.02
Total CANVAS CREDIT UNION:	40.00
Total CELLX ANALYTICS:	2,962.50
Total CENTRAL WELD COUNTY WATER DISTRICT:	52.54
Total CENTURY LINK:	673.87
Total CESARE, INC:	220.80
Total CHASE PAYMENTNET:	80,323.40

Name	Total Paid
Total CIGNA HEALTH & LIFE INSURANCE CO:	94,996.45
Total CINTAS FIRST AID & SAFETY:	1,344.54
Total CIRSA:	341,909.71
Total CIVIC PLUS, INC:	6,931.86
Total COALRIDGE ANIMAL HOSPITAL, INC:	186.98
Total COLLECTOR CAR CHECK LLC:	400.00
Total COLORADO CIVIL GROUP INC.:	75,256.75
Total COLORADO DEPT OF REVENUE (MTR VEH):	105.00
Total COLORADO MATERIALS, INC:	1,327.01
Total CUSTOM FLAG COMPANY INC:	480.00
Total DANA KEPNER COMPANY INC.:	7,561.07
Total DBC IRRIGATION SUPPLY:	31,171.71
Total DELTA DENTAL OF COLORADO, INC:	6,610.37
Total DESIGN CONCEPTS CLA, INC:	7,881.75
Total DESIGN WORKSHOP INC:	32,600.00
Total ELEVATED CLOUD SERVICES LLC:	10,890.50
Total EMPLOYEE REIMBURSEMENTS & PER DIEMS:	656.16
Total EMPLOYERS COUNCIL SERVICES, INC:	187.20
Total ENVIROTECH SERVICES INC.:	43,456.51
Total ESY RAY AND ASSOCIATES:	180.00
Total E-Z EXCAVATING INC:	870,207.97
Total FASTENAL COMPANY:	48.83
Total FIDELITY NATIONAL TITLE - S DENVER:	72.55
Total FILEONQ INC:	7,020.00
Total FIRST AMERICAN TITLE (GRLY):	39.45
Total FIRST AMERICAN TITLE 17TH ST:	47.88
Total FIRST AMERICAN TITLE CO:	168.96
Total FIRST AMERICAN TITLE INSURANCE COMPANY-E:	35.42
Total FOUR SEASONS VETERINARY SPECIALISTS LLC:	.00
Total FRED DIEHL CONSULTING:	3,700.00
Total FRONT RANGE COMPLIANCE SERVICE, LLC:	561.25
Total FRONTIER BUSINESS PRODUCTS:	3,002.21
Total FRONTIER COMPUTER CORP.:	39,816.00
Total FUZION FIELD SERVICES LLC:	4,358.14
Total G & G EQUIPMENT INC:	3,399.95
Total GRAINGER:	763.14
Total GRAVES CONSULTING LLC:	1,000.00
Total GREEN GIRL RECYCLING SERVICES:	203.00
Total GROUND ENGINEERING CONSULTANTS, INC:	1,170.50

Name	Total Paid
Total HALCYON DESIGN LLC:	5,500.00
Total HARDLINE EQUIPMENT LLC:	7.43
Total HAYASHI & MACSALKA, LLC:	11,303.50
Total HEI CIVIL:	786,174.92
Total HOLLAND SIGNS INC:	18,958.00
Total INTEGRATED WATER SERVICES, INC:	187,262.27
Total INTERNATIONAL ASSOC FOR PROPERTY & EVIDE:	65.00
Total INTERSTATE BATTERY OF THE ROCKIES:	133.95
Total INTERSTATE FORD:	201.85
Total JONES, STEPHEN:	1,100.00
Total KAMAKELE ENTERPRISES:	202.16
Total KATHLEEN A. OATIS:	1,250.00
Total KB HOME COLORADO INC:	10.90
Total KG CLEAN INC:	4,366.78
Total KIMBALL MIDWEST:	68.98
Total KING CHEVROLET BUICK GMC:	343.86
Total KINSCO, LLC:	1,765.34
Total KUNC THE COLORADO SOUND:	40.00
Total L.A.W.S.:	265.00
Total LAND TITLE-DENVER-2:	121.83
Total LAND TITLE-LONGMONT:	3.70
Total LANGUAGELINE SOLUTIONS:	26.24
Total LAWRENCE CUSTER GRASMICK JONES & DONOVAN:	23,243.64
Total LENNAR COLORADO:	127.14
Total LEONARD RICE ENGINEERS, INC:	45,883.00
Total LIFE SAFETY TECHNOLOGIES LLC:	174.50
Total LITTLE THOMPSON WATER DISTRICT:	277.90
Total LONGMONT HUMANE SOCIETY:	1,166.67
Total MAC EQUIPMENT INC LONGMONT:	2,016.02
Total MAIN STREET MAT COMPANY, INC:	547.17
Total MCCANDLESS TRUCK CENTER, LLC:	2,261.71
Total MCCI, LLC:	10,615.56
Total MCDONALD FARMS ENTERPRISES INC:	744.00
Total MCGEE COMPANY:	72.64
Total MCI:	53.12
Total MINES AND ASSOCIATES INC:	6,411.00
Total MISC VENDOR:	93,262.82
Total MOUNTAIN STATES LIGHTING, LLC:	8,295.53
Total MTECH MECHANICAL TECHNOLOGIES GROUP:	3,921.25

Name	Total Paid
Total MUNICIPAL CODE CORPORATION:	1,315.00
Total MUTUAL OF OMAHA INSURANCE CO:	7,143.05
Total NCSI:	85.50
Total NEW IPT INC:	25,893.50
Total NORTHERN COLORADO WATER CONSERVANCY DIST:	670,812.78
Total O.J. WATSON COMPANY, INC.:	74.74
Total OFFICE DEPOT INC:	747.36
Total O'REILLY AUTO PARTS:	1,366.49
Total PAUL D. BASSO:	1,000.00
Total PLACER LABS, INC:	16,900.00
Total POCKET PRESS, LLC:	600.37
Total PRO FORCE:	14,406.40
Total PRO HYDRAULIC & MACHINE:	595.00
Total PUREWATER DYNAMICS, INC:	731.88
Total QUICK-SET AUTO GLASS:	75.00
Total RAMEY ENVIRONMENTAL COMPLIANCE, INC:	100.00
Total RED WING SHOE STORE:	809.69
Total RESTITUTION / COURT REFUNDS:	200.00
Total RICHDELL CONSTRUCTION INC:	105,266.22
Total RICHMOND AMERICAN HOMES:	338.51
Total RIPTIDE CAR & PET WASH:	66.50
Total SAFE BUILT COLORADO INC:	20,604.00
Total SAFETY AND CONSTRUCTION SUPPLY INC:	21,394.69
Total SEAHORSE SAFE & LOCKOUT SERVICE, LLC:	290.00
Total SHERWIN WILLIAMS CO.:	72.59
Total SOUNDS OF THE ROCKIES ENTERTAINMENT:	1,700.00
Total SPORTS FACILITIES ADVISORY LLC:	5,000.00
Total ST VRAIN SANITATION DISTRICT:	3,299.22
Total STANLEY M SLOWIK, INC:	338.45
Total STEVE BALCEROVICH:	1,250.00
Total Sturgeon Electric Company:	539.60
Total SUBURBAN TOPPERS INC:	4,075.00
Total SUMMIT DATA PROTECTION LLC:	15,975.00
Total SUNRISE ENVIROMENTAL SCIENTIFIC:	209.73
Total Tier One Networking LLC:	70,153.56
Total TIMBER LINE ELECTRIC & CONTROL CORP:	1,007.00
Total TIMBERLAN, INC:	12,057.50
Total TLTC DISTRIBUTING LLC:	2,681.04
Total TRAFFIC SIGNAL CONTROLS, INC:	243.00

Name	Total Paid
Total TRANSWEST TRUCK TRAILER RV:	183.58
Total Treetop Products, Inc.:	3,701.53
Total TRIDENT SECURITY SYSTEMS INC:	666.00
Total UME CUSTOM EMBROIDERY:	203.21
Total UNIVERSITY AUTO PARTS, INC:	3,552.42
Total UTILITY NOTIFICATION CENTER OF COLORADO:	426.36
Total UTILITY REFUNDS -1:	59.43
Total VALLI INFORMATION SYSTEMS:	2,793.76
Total VANCE BROTHERS INC:	9,875.25
Total VERMEER SALES AND SERVICE OF C, INC:	43,478.00
Total VIA MOBILITY SERVICES:	5,368.00
Total VISION SERVICE PLAN - VSP:	1,134.54
Total WAGNER EQUIPMENT CO.:	11,460.45
Total WAGNER WELDING SUPPLY CO.:	8.68
Total WEAR PARTS & EQUIP CO. INC:	740.22
Total WELD COUNTY DEPT OF PUBLIC HEALTH & ADMI:	3,216.00
Total WELD COUNTY DETENTION CENTER:	148.55
Total WELD COUNTY REGIONAL COMMUNICATIONS CNTR:	80,184.00
Total WESTERN PAPER DISTRIBUTORS:	1,120.12
Total WEX BANK:	10,108.66
Total WHITESIDE'S BOOTS & CLOTHING 2 - BRIGHTO:	2,550.85
Total WHITESIDE'S BOOTS & CLOTHING-3, GREELEY:	104.97
Total WICKHAM TRACTOR CO, Inc:	105.84
Total WORKWELL OCCUPATIONAL MEDICINE LLC:	39.00
Total XPRESS BILL PAY / XPRESS SOLUTIONS:	2,204.05
Total ZILLOW CLOSING SERVICES:	83.61
Grand Totals:	4,989,541.09

Name	Total Paid
MISC VENDOR	
Total BYBEE, JAMIE OR BYBEE, CRAIG:	90,000.00
Total MOUNTAIN DOOD:	50.00
Total UNIVERSITY OF NORTHERN COLORADO:	485.77
Total VARRA, GARRETT:	2,677.05
Total WHOLE YOU MEDIA:	50.00
Grand Totals:	93,262.82



FOURTH QUARTER SERVICE REPORT
October 1 – December 31, 2021

Prepared for: **The Town of Firestone**

**FREDERICK-FIRESTONE
FIRE PROTECTION
DISTRICT**
*Leading Together,
By Serving Together*



**OFFICE OF THE
FIRE CHIEF**
Office: 303.833.2742
Fax: 303.833.3736
E-Mail: jyoung@fffd.us

January 19, 2022

Town of Firestone
9950 Park Avenue
Firestone, CO 80504

Mayor Sindelar, Honorable Trustees, and Town Manager Krieger

In compliance with the District's Inter-Governmental Agreement (IGA) with the Town of Firestone, enclosed is the written quarterly service report of our performance during the 4th Quarter of 2021. The report contains three (3) categories, response times, training hours, and community risk reduction activities for the Fire District.

The response time report contains two (2) sections; total average response time and explanations for response times over seven (7) minutes. The average response time required by the IGA is 5.5 minutes 80% of the time. The District responded to a total of 732 fire, rescue and medical emergency incidents between October 1 and December 31, 2021, with an average emergency response time of 4 minutes and 45 seconds. The summary of responses over seven (7) minutes can be found on the *Incident Response Time Overages* report. Please note, it is District policy not to respond emergent to routine incidents such as blood draws, agency assist calls, or other non-emergency and non-life-threatening situations. For a specific explanation of all overages, please see the report included.

The training report is divided into two (2) sections as well, fire and rescue training hours and emergency medical training hours. All training conducted by the District is taught according to State of Colorado Division of Fire Prevention & Control standards which in turn encompass International Fire Services Accreditation Council (IFSAC) and National Fire Protection Association (NFPA) standards. All medical training is approved by the District's Medical Director to meet or exceed Denver Metropolitan Medical Care Protocols and Procedures. For the 4th Quarter of 2021, District employees participated in 5,136 hours of fire, rescue, and emergency medical service training.

The Community Risk Reduction Division completed 116 fire safety inspections during the 4th Quarter of 2021. Additionally, eleven (11) Certificates of Occupancies were issued for businesses in the District. Also, there were three (3) fire investigations completed during the 4th quarter of 2021.

➤ **District Updates/Intergovernmental and News for the Fourth Quarter of 2021**

- Chief Young and Staff continue to attend multiple Weld County meetings through the 4th Quarter of 2021. Meetings include the Communication Board Meetings, E-911 Authority, County Workgroups, and the Weld County Utility Board Commission as requested or required.
- The Quarterly Officers Meeting was conducted on October 27. Leadership and Management talks were provided in relation to communication and adding value to others each and every day. Chief Young reviewed 2022 plans with all the officers and reviewed the District's Strategic Plan updates.
- Chief Young, AC Iacino and BC Reasoner all attended the Colorado State Fire Chiefs – Leadership Challenge October 19 – 22. The conference was well attended by state and regional fire service leaders. This was the first year the conference implemented a Fire Marshal track that provided continuing education credits for Fire Inspectors and Fire Investigators.
- Chief Young met with the Chief Beebe from Mt. View Fire and Rescue on November 2. The meeting was to discuss mutual aid, automatic aid, conforming some boundaries, future build-out and needs from both Districts. We have advised Mt. View that we would assist in providing service to areas of their District to the East that are difficult for them to serve, since our fire stations are closer and may work on conforming boundaries. Currently Mt. View has some interest in discussing and working out details as we work on providing services together for the entire area. More to come on this in the future and is a work in progress.
- Chief Young met with the Town of Frederick's Town Manager three (3) times in the 4th Quarter of 2021 to finalize a few things on Impact Fees and Emergency Services Agreement. We also discussed about Station 5 and Glacier Way requirements for the Fire District. The Town Manager is in agreement that the Fire District should have no responsibility on building out public roadways and will be working to ensure this is communicated.
- Chief Young continues to lead the Weld County Fire Chief's Association. Topics were upcoming potential of Weld County Communications, COVID – Vaccine Requirements, Banking Changes for the Association, and upcoming elections of officers for 2022-2023.
- AirLife Denver will be continuing the lease for air base at Station 2 in 2022 on a case-by-case basis. At this time, we have been informed that AirLife Denver will be leaving the lease in 2023 or maybe earlier due to changes in their business model due to staffing and COVID.
- Chief Young assisted with the Firestone Police Chief Candidate panel. The Town of Firestone has narrowed the search down to three (3) final candidates. All the panels met on November 8th to interview and help with final decisions on the new Police Chief for the Town of Firestone.
- Chief Young and COS Campos hosted the three (3) public opinion meetings within the community the first week of December. The meetings were conducted the week after the District planning and update flyers were distributed to all registered voters in the

community. A District public opinion survey began to be delivered last week with a deadline or return of December 31, 2021. The information gathered from the survey will be delivered in January to the Board to assist in making an informed decision of the potential bond election in May of 2022.

- Staff put the final touches and planning for the annual Santa Run in the 4th Quarter. The Santa Run will be a non-contact type of event with parade style through all the neighborhoods and subdivisions in the District as we did in 2020. All the parade route maps were posted on the District's website and social media links. The Santa Run took place December 17 – 19. We had three (3) Santa divisions running each night and each division lasted between 3 – 5 hours each evening.
- Chief Young remained in contact with the Town Manager of Firestone in relation to the Emergency Services Agreement and Emergency Services Impact Fees within the Town of Firestone during the 4th Quarter. Chief Young presented to the Town of Firestone Mayor and Trustees on December 8th answering any question or concerns they may have and presented the third quarterly report.
- Chief Young met with the Director of Carbon Valley Parks and Recreation District to discuss the potential election in May of 2022. Both Districts are considering running a potential ballot initiative and strategy was discussed on how both Districts may be able to assist and not take away from each other while educating the community moving forward.
- The District hosted the Carbon Valley Chamber of Commerce Before Hours on November 17th. This event was well attended and allowed Chief Young time to inform the Chamber of District updates and upcoming planning. Over 25 business owners from the Community were in attendance.
- On December 30, 2021, the Marshall Fire started in Boulder County directly effecting the Towns of Superior and Louisville. The District received request the evening of December 30th for assistance, and it was provided immediately by sending 3432 our Type VI Engine with staff to assist in the fire fight. Since that date, we have provided Command Staff to assist with overhead support and command, 3404 one of our Type 1 Engines with staff to assist with coverage within the Towns of Superior and Louisville, and 3432 Type VI Engine is also still there to assist with the ongoing mitigation and recovery efforts. The weather that moved in on December 31 and January 5 assisted with adding moisture to our area but prolonged the mitigation and recovery efforts.

Please review the enclosed materials and supporting data at your convenience. If you have any questions or should you need any additional information, please feel free to contact me. As always, if we can do anything to improve our service to the Town, please do not hesitate to contact me directly.

Respectfully,

A handwritten signature in blue ink, reading "Jeremy A. Young", enclosed in a yellow rectangular box.

Jeremy A. Young MS, EFO, CFO
Fire Chief

**FREDERICK-FIRESTONE
FIRE PROTECTION
DISTRICT**



**ASSISTANT CHIEF
OF OPERATIONS**

Office: 303.833.2742

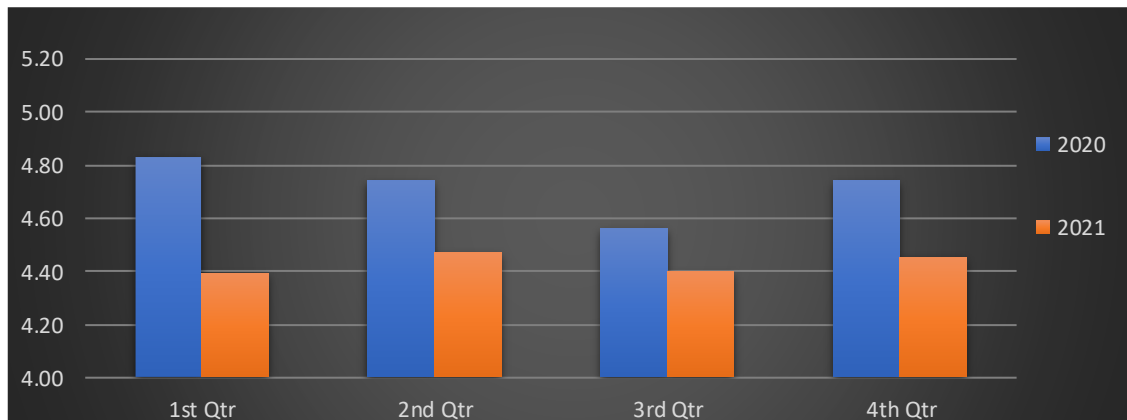
Fax: 303.833.3736

E-Mail: dprunk@fffd.us

**RESPONSE SUMMARY
October 1 – December 31, 2021**

	<u>2020</u>	<u>2021</u>
Total incidents October – December:	607	732
Total number of non-emergency response calls:	338	303
Total number of emergency response calls:	269	429
<u>Total number of patient transports by ambulance:</u>	<u>254</u>	<u>349</u>
Average response time for emergency response calls:	4.74 min	4.45 min

**Average Emergency Response Times
(Minutes & Seconds)**



**FREDERICK-FIRESTONE
FIRE PROTECTION
DISTRICT**



**ASSISTANT CHIEF
OF OPERATIONS**

Office: 303.833.2742

Fax: 303.833.3736

E-Mail: dprunk@fffd.us

**RESPONSE TIME OVERAGES
October 1 – December 31, 2021**

INCIDENT	DATE	ALARM TIME	RESPONSE MINUTES	EXPLANATION
Station 1				
2021-02358	11/12/2021	10:06	8	Distance only no outside factors
2021-02392	11/15/2021	07:54	9	Multiple calls for service
2021-02733	12/29/2021	10:03	8	Multiple calls for service
Station 2				
2021-02164	10/20/2021	08:06	8	Multiple calls for service
2021-02166	10/20/2021	12:53	8	Primary unit in training/meeting
2021-02333	11/07/2021	14:46	7	Response and access to I-25
2021-02389	11/15/2021	04:38	8	Response and access to I-25
2021-02622	12/14/2021	09:45	10	Response and access to I-25
Station 3				
2021-02114	10/12/2021	13:28	9	Primary unit in training/meeting
2021-02346	11/09/2021	13:55	8	Distance only no outside factors
2021-02465	11/24/2021	02:48	9	Distance only no outside factors
2021-02470	11/25/2021	19:09	9	Distance only no outside factors
2021-02503	11/30/2021	08:37	7	Distance only no outside factors
2021-02673	12/20/2021	21:10	7	Speed control/school zone
2021-02759	12/31/2021	22:42	10	Road conditions, weather/construction
Station 4				
2021-02223	10/26/2021	11:29	7	Distance only no outside factors
2021-02304	11/04/2021	02:18	9	Distance only no outside factors
2021-02307	11/04/2021	09:13	7	Distance only no outside factors
2021-02371	11/13/2021	20:08	8	Mechanical issue
2021-02615	12/13/2021	14:52	7	Distance only no outside factors
2021-02650	12/18/2021	04:37	9	Scene access issue/rural address
2021-02679	12/21/2021	18:54	8	Distance only no outside factors

**FREDERICK-FIRESTONE
FIRE PROTECTION
DISTRICT**



**OPERATIONS SECTION
TRAINING DIVISION**

Office: 303.833.2742

Fax: 303.833.3736

E-Mail: bjoseph@fffd.us

**TRAINING SUMMARY
October 1 – December 31, 2021**

Total Fire Training Hours: 4,393

Total EMS Training Hours: 743

Overview of Training Events:

- Training Div. working on multiple goals for the strategic plan.
- All members completed Monthly CME with Medical Director.
- Two (2) members attended EMS Primary Instructor Course.
- Three (3) members attended the Colorado Fire Leadership Challenge Conference.
- Three (3) members continue to work on Recruit Task Books.
- Three (3) members completed their Recruit Task Books.
- Three (3) members successfully passed their six-month recruit test.
- One (1) member completed Ten-month Recruit Test.
- Officer Development members completed the Blue Card Simulation Lab.
- Two (2) members obtained state Driver Operator certification.
- All members completed Oil and Gas Live Fire Training at Crestone Peak.
- Three (3) members completed the District's Driver/Operator-Utility Academy.
- Three (3) members attended and presented at the Arson Investigator conference.
- One (1) member attended the International Emergency Managers Conference.
- All members completed active shooter drills within the Administration Building.
- Three (3) members completed new-hire orientation.
- Four (4) EMT Field Instruction program completed.
- Four (4) members obtained state Driver/Operator Utility certifications.
- Four (4) members obtained state Firefighter-II certifications.
- One (1) member obtained state Fire Instructor-I certification.
- One (1) member obtained state Fire Instructor-II certification.
- One (1) member attended O2X-Human Performance training at NMFR.
- One (1) Paramedic Field Instruction began and is now entering Phase-III.
- All members completed CPR renewals for the year.
- All members completed fire behavior modules and training.
- 2021 Officer Development Program completed by six (6) members.
- FFFD is now a recognized EMS training agency with the State of Colorado.
- 2021 third-quarter certification audit completed.
- 2022 Training Outline completed.
- Training Division members attended multiple Local, County and State meetings.

**FREDERICK-FIRESTONE
FIRE PROTECTION
DISTRICT**



**ASSISTANT CHIEF OF
PLANNING**

Office: 303.833.2742

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E-Mail: siacino@fffd.us

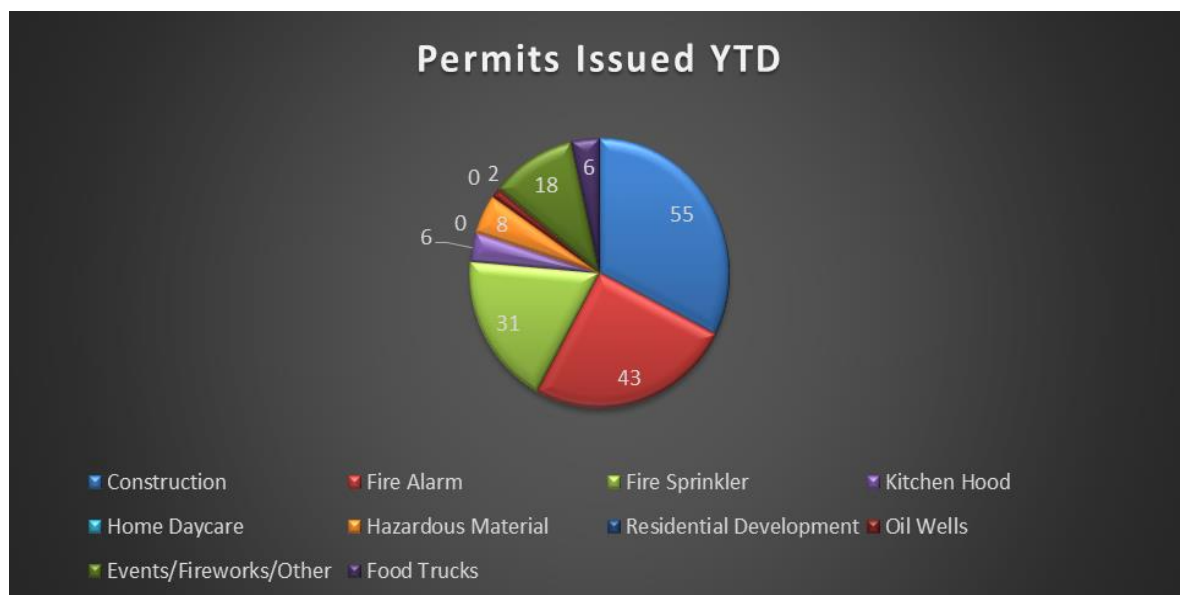
**PLANNING SECTION SUMMARY
October 1 – December 31, 2021**

Fire Safety Inspections completed October through December 2021

- 116 Fire and Life Safety Inspections



169 Permits Issued in 2021



Certificate of Occupancy Inspections and completed projects October through December 2021

- Safeway TI - Firestone
- 8177 Raspberry Way
- Carbon Valley Rec TI
- Lot 1 City Centre – Inline Shops
- Jersey Mikes Subs
- Mountain Cowboy Brewery
- 7-Eleven Firestone TI
- Carbon Valley Lutheran Church
- Hytorc – 4250 Salazar
- Spark Discovery TI
- SVVSD AES (Wireless Radio Project) – 6 schools

Fire Investigations October through December 2021

- One (1) commercial vehicle fire
- Two (2) residential structure fires

Youth Firesetter Program October through December 2021

- There were no new YFS cases during the fourth quarter

Community Outreach Programs / Pub Ed October through December 2021

- Fire District Open House at Station 3 in October.
- Completed a CPR/AED/Basic First Aid course with 36 students at Frederick High School.
- Met with Youth Firesetter Interventionist Specialists to discuss statewide reporting needs and requirements.
- Hosted Carbon Valley Chamber Business Before Hours at our Administration Building.
- Community AED Program – Replaced 14 AEDS and added one (1) for a total of 15 AEDs in the community. Completed AED training with staff in community locations.
- 17th Annual Santa Run was completed in the month of December.



○ **2021-2026 Strategic Plan 1st Quarterly Update 2022**

Goal 1: Objectives 1C/1D 2022 – Executive Staff:

Goal 1 is an intensive goal with many layers of policy, politics, and legal requirements involved. The committee understands this Goal will take numerous years to complete as we enhance relationships and services for our community on an ongoing basis. Work continues identifying future needs, trends, and stakeholders to assist with those needs and funding requirements associated. Along with Weld County Fire Chief's Association, Weld County Haz-Mat and Technical Rescue relationships and teams are being reviewed and discussed at the Fire Chief level of all 21 agencies. The District's neighboring Fire Districts have been reviewing and discussing future service needs, fire stations, conforming boundaries, closest unit dispatching, and future inclusions and exclusions. Enhancing the auto aid and mutual aid process with the new computer aided dispatch being implemented in August of 2022. This new change will allow Fire Districts to change service needs by approval of Fire Chief's rather than fully executed changes within the County Mutual Aid Agreements or Automatic Aid Agreements improving services in a more efficient and timely manner. We have extensively been working with the Towns on Emergency Services IGA's and Developer Impact Fee IGA's with both Towns. The Town of Frederick approved the Developer Impact Fee IGA in December of 2021 and will be approving the Emergency Services IGA in January. Still working with the Town of Firestone on both IGA's in 2022.

Goal 2: Objectives 2C/2D - 2022 – Community Risk Reduction Division:

The Strategic Goal #2 Committee met on October 28, 2021, to discuss the community feedback and look at what programs should be revised and/or developed (Objective 2B). At the meeting COS Campos presented a program proposal, based on the collected data, to the committee. Discussion focused on how best to get residents involved in programs and what type of incentives could be offered to increase engagement in District programs. Several ideas were brought forward and included items such as a read to ride program for students, a fire safety scavenger hunt, as well as new ways to advertise around the Carbon Valley Area (grocery carts, gas pumps, etc.) New program discussion centered around academies for adults, summer camps for kids, fall prevention, tween cooking, and business continuity planning. The program proposal and internal committee suggestions were all collected by the Community Engagement Manager and will be used to begin the first draft of the Comprehensive Marketing and Outreach Plan (CMOP) (Objective 2C). Once the initial draft is complete, COS Campos will present to Executive Staff for feedback and revisions.

Goal 3: Objectives 3B/3C/3D 2022 – Training Division:

The committee was unable to meet in the third quarter of 2021. The next meeting is scheduled for Thursday, January 6, 2022. Meeting agenda and assignments are as follows:

Discussion Points

- Results of the survey
- Emphasize development above the Lieutenant rank
- Emphasize development on the administrative side

Action Items

- Engineer job descriptions for neighboring agencies
- Job description for shift safety officer/SAM officer and shift training officer
- Finish the review of the admin job descriptions
- Committee – Draft development pathways based on the current information

Goal 4: Objectives 4B/4C/4D 2022 – Finance Section:

Since the last update (9-29-2021), the Team continues to focus on Historical Maintenance, Service Life Expectations and Condition of assets. Relative to **Historical Maintenance**, the team working with data taken from the annual District Audits and progress here is the major aspect since the last update report. This data being total cost of the assets, depreciated value of the assets, and the accumulated depreciation itself. The objective being to learn and quantify how maintenance costs vary with increasing total costs of assets, depreciated value of assets and increasing accumulated depreciation. Progress has been made in running regressions using Microsoft Excel, although admittedly, the R Squared values derived were a bit on the low side. Relative to **Service Life Expectations**, certain of the Team's members submitted estimates based upon their background and experience relative to specific asset service lives and this data has been categorized at a basal level. The objective here is to come to a more realistic quantification of the lives of assets.

Goal 5: Objectives 5B/5C/5D 2022 – Safety and Wellness Committee (SWC):

The SWC utilized the identified proficiencies and deficiencies from the previous objective. This data was used to determine if our (the SWC) goals were in line with objectives and the needs or deficiencies. The current goals were deemed to be current and in line.

- Add more certified Safety Officers to the department to assist in the daily operational safety.
- Create a fitness plan for the District with more clarity on VO2 vs. METS.
- Continue and enhance the current safety incentive program.
- To foster a culture that inspires health, wellness, and safety always.
- Serve the needs of the District, with an emphasis on physical, mental, and emotional wellbeing.

The SWC took steps to offer additional health related programs and are currently looking into funding options for the future. These steps included hosting Sigma Tactical Health, sponsoring one (1) individual to attend the O2X class and the development of an SOG for the District's gym reimbursement.

Goal 6: Objectives 6B/6C/6D 2022 – Operations Section / L/M Committee:

The fourth quarter of 2021 was challenging for the District regarding minimum staffing levels. The Fire Chief put into place August 9, 2021, ensured at least 15 persons per shift were response ready each day. Between COVID, parental leave, short-and long-term injuries and annual vacation leave, meeting even the 15-person minimum required several mandatory shifts to be required. The Goal 6 Committee still has a focus on achieving a 17-person minimum staffing goal but will spend the first part of 2022 focusing on employee retention and hiring practices to build a consistent flow of qualified and dedicated employees. In addition to retention, the committee will continue to work on staffing plans under the current budgetary constraints.

Goal 7: Objectives 7D/7E/7F 2022 – Planning Section:

The final draft of the Threat and Hazard Identification and Risk Assessment (THIRA) should be complete by the end of January 2022. Once complete we can start working on the Standards of Cover document. Assistant Chief Iacino and Specialist Campos are currently working on objective 7E which is the self-assessment. There are ten (10) objectives with multiple criteria in each. We have the outline and are identifying our subject matter experts for each of the criteria so we can start gathering the data for the self-assessment. A Draft of Category 1 which is governance and administration is currently being reviewed by the Fire Chief.



Mission Statement

To enhance your quality of life, by always earning trust, reducing loss of life, preventing harm, and protecting property with compassion and integrity.

Vision Statement

The Frederick-Firestone Fire District and its members will be a model of excellence in emergency services, risk reduction, and life safety programs. We will strategically engage the needs of our community; while remaining committed to continuous organizational development through trust, involvement, innovation, creativity, and accountability, while consistently remaining rooted in service.

Enhanced Core Values

Service: Our members believe in standing ready with duty, honor, and loyalty to help others during any time of need. This core value inspires our culture and is the cornerstone of our mission and vision.

Family: Our members believe in developing relationships of emotional support with love and respect to serve one another, teach one another, and share life's joys and sorrows with one another for personal growth.

Professionalism: Our members believe in ownership, accountability, and mastery of their knowledge, skills, and abilities within our profession of emergency services, even as expectations and demands continue in the ever-changing world around us.

Compassion: Our members believe in empathy and kindness, which empowers us to do our best at relieving the suffering of physical, mental, and emotional misfortunes of others.

Integrity: Our members believe in maintaining strong moral and ethical principles of honesty, fairness, and respect in all aspects of life.

Organizational Motto

"Leading Together, By Serving Together"