



BOARD OF TRUSTEES
REGULAR MEETING AGENDA

June 8, 2022
6:00 PM
9900 Park Avenue
Firestone, CO 80504

PRE-MEETING WORK SESSION 5:30 PM IN THE TRAINING ROOM

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

REGULAR MEETING 6:00 PM IN THE BOARD ROOM

- 1. Call to Order & Roll Call**
- 2. Pledge of Allegiance**
- 3. Approval of Agenda**
- 4. Training - 6:00 PM**
 - a. CIRSA Training
- 5. Public Comment** *(maximum time permitted for all Public Comment is 30 minutes)
- 6. Consent Agenda**
 - a. Approval of May 25, 2022 Meeting Minutes
 - b. **Resolution 22-70:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, FINDING SUBSTANTIAL COMPLIANCE OF AN ANNEXATION PETITION FOR CERTAIN PROPERTY LOCATED IN WELD COUNTY, COLORADO AND SETTING A PUBLIC HEARING ON THE PETITION IN ACCORDANCE WITH THE MUNICIPAL ANNEXATION ACT OF 1965
 - c. **Resolution 22-76:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN AMENDED AND RESTATED SUBDIVISION AGREEMENT PERTAINING TO THE BAREFOOT LAKES FILING NO. 5 SUBDIVISION

* 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.

- d. **Resolution 22-75:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, ADOPTING THE TOWN OF FIRESTONE INVESTMENT POLICY

7. Presentation

- a. Audit Presentation

8. Land Development

- a. **PUBLIC HEARING: Resolution 22-53:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN AMENDED AND RESTATED SERVICE PLAN FOR THE NEIGHBORS POINT METROPOLITAN DISTRICT
- b. **Resolution 22-71:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND MIG, INC FOR PRELIMINARY SERVICES FOR THE DEVELOPMENT OF THE TOWN OF FIRESTONE COMPREHENSIVE MASTER PLAN

9. Discussion/Action

- a. **Resolution 22-72:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING A CONSTRUCTION CONTRACT BETWEEN THE TOWN OF FIRESTONE AND A-1 CHIPSEAL COMPANY FOR CHIPSEAL SERVICES IN THE ST VRAIN RANCH AND RIDGE CREST SUBDIVISIONS
- b. **Resolution 22-73:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING CHANGE ORDER NO. 1 TO THE CONSTRUCTION CONTRACT BETWEEN THE TOWN OF FIRESTONE AND BRANNAN SAND AND GRAVEL COMPANY FOR THE MILL AND OVERLAY PAVING PROJECT FOR PORTIONS OF FIRESTONE AND COLORADO BOULEVARDS
- c. **Resolution 22-74:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING A MASTER LICENSE AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND HIGHLINE COLORADO LLC REGARDING THE INSTALLATION OF FIBER OPTIC NETWORK EQUIPMENT IN TOWN- RIGHTS OF WAY

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- d. **ORDINANCE 1011:** AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO ENACTING CHAPTER 8.05 "ADMINISTRATIVE CITATIONS" OF TITLE 8 OF THE FIRESTONE MUNICIPAL CODE
- e. **ORDINANCE 1012:** AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, REPEALING, RE-ENACTING AND RENAMING TITLE 8 OF THE FIRESTONE MUNICIPAL CODE TO "NUISANCES AND ENVIRONMENT"; AND REPEALING IN ITS ENTIRETY SECTION 12.28.140 "SNOW REMOVAL" AND SUBSECTION 12.32.060(V) CONCERNING FIREWORKS
- f. **ORDINANCE 1013:** AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, ADOPTING CHAPTER 10.12, ENTITLED "ABANDONED VEHICLES" OF THE FIRESTONE MUNICIPAL CODE
- g. **ORDINANCE 1014:** AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, REPEALING AND RE-ENACTING IN ITS ENTIRETY TITLE 6 "ANIMALS" OF THE FIRESTONE MUNICIPAL CODE
- h. Cancellation of the June 22, 2022 Regular Board of Trustees Meeting
- i. Cancellation of the June 15, 2022 Board of Trustees Work Session
- j. Rules of Order Training
- k. Future Procedure for Board & Commission Appointments

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

11. Reports

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

12. Adjournment

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**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 6.a

Consent Agenda

Meeting Date: June 8, 2022

Initiated By: Jessica Koenig

Dept: Town Clerk

AGENDA TITLE

Approval of May 25, 2022 Meeting Minutes

SUMMARY

HISTORY AND PREVIOUS BOARD ACTION

RECOMMENDATION

Approval of draft May 25, 2022 Meeting Minutes

ALTERNATIVES

ATTACHMENTS

1. May 25, 2022 Draft Board of Trustees Minutes

FINANCIAL CONSIDERATIONS

TOWN OF FIRESTONE, COLORADO
Board of Trustees Regular Meeting
MINUTES
May 25, 2022

1. Call to Order & Roll Call

The Board of Trustees of the Town of Firestone met for a Regular Meeting on May 25, 2022, at the Police Department & Municipal Court building, 9900 Park Avenue, Firestone, Colorado. Mayor Peterson called the meeting to order at 7:04 PM.

The following were present upon the call of the roll:

Mayor: Drew Peterson

Mayor Pro-tem: Frank A. Jimenez

Trustees: Don Conyac
David Whelan
Matt Holcomb
Sean Doherty
Doug Sharp

Staff: **Present:** Jan Sloat, Director of Human Resources; Matt Wiederspahn, Town Engineer; Paula Mehle, Director of FURA & Economic Development; Raelynn Ferrera, Assistant to the Town Manager; Katie Hansen, Director of Marketing & Communications; Jessica Clanton, Director of Finance; Julie Pasillas, Director of Public Works; Todd Bjerkaas, Director of Planning & Development; Marty Ostholhoff, Planning Manager; David Angelo, Chief of Police; Jessica Koenig, Town Clerk; AJ Krieger, Town Manager; & William Hayashi, Town Attorney

2. Pledge of Allegiance led by Boy Scout Troop No. 67

Boy Scout Troop No. 67 led the pledge of allegiance followed by a moment of silence in honor of those impacted by the shooting in Uvalde, Texas.

3. Approval of Agenda

Motion by Trustee Conyac, **second** by Trustee Whelan, to Approve the Agenda, All in Favor, **Motion carried.**

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

Amy Schrader, a Firestone resident, gave public comment in favor of Resolution 22-68. Ms. Schrader also expressed concerns about how staff and the Board were being treated.

Matt Holcomb, a Firestone resident, gave public comment as a candidate, regarding a Fair

Campaign Finance penalty assessed against him due to a late disclosure filing.

Lou Ann Matthews, a Firestone resident, gave public comment in opposition to Resolution 22-68.

Joanne Kidd, a Firestone resident, gave public comment on a Memorial Day service organized by the American Legion. Ms. Kidd also gave public comment regarding the car show to raise funds for a scholarship. Ms. Kidd also gave public comment in opposition to Resolution 22-68.

Becky Duckworth, a Firestone resident, gave public comment in opposition to Resolution 22-68.

5. Consent Agenda

Motion by Trustee Sharp, **second** by Mayor Pro Tem Jimenez, to Approve the Consent Agenda, All in Favor, **Motion carried.**

- a. Approval of May 11, 2022 Meeting Minutes

6. Discussion/Action

- a. **Resolution 22-69:** 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 LEE KEITH AND MANDI BROOK HAGLER

Motion by Mayor Pro Tem Jimenez, **second** by Trustee Sharp, to Approve **Resolution 22-69:** 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 LEE KEITH AND MANDI BROOK HAGLER

Roll Call Vote:

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

No: None

Abstain: None

Motion carried.

- b. **Resolution 22-57:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN AGREEMENT BETWEEN THE TOWN

OF FIRESTONE AND ONLINE SOLUTIONS LLC FOR SOFTWARE DEVELOPMENT,
IMPLEMENTATION, AND SUPPORT SERVICES

Motion by Trustee Doherty, **second** by Trustee Conyac, to Approve **Resolution 22-57**: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND ONLINE SOLUTIONS LLC FOR SOFTWARE DEVELOPMENT, IMPLEMENTATION, AND SUPPORT SERVICES

Roll Call Vote:

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

No: None

Abstain: None

Motion carried.

- c. **Resolution 22-66**: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND HAYNIE & COMPANY FOR AUDIT SERVICES

Motion by Trustee Whelan, **second** by Trustee Conyac, to Approve **Resolution 22-66**: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND HAYNIE & COMPANY FOR AUDIT SERVICES

Roll Call Vote:

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

No: None

Abstain: None

Motion carried.

- d. **Resolution 22-67**: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING A DESIGN AND CONSTRUCTION CONTRACT BETWEEN THE TOWN OF FIRESTONE AND AMERICAN RAMP COMPANY FOR THE DESIGN AND CONSTRUCTION OF MOUNTAIN SHADOWS PUMP TRACK AND BIKE PARK

Motion by Mayor Pro Tem Jimenez, **second** by Trustee Conyac, to Approve **Resolution 22-67**: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING A DESIGN AND CONSTRUCTION CONTRACT BETWEEN THE TOWN OF FIRESTONE AND AMERICAN RAMP COMPANY FOR THE DESIGN AND CONSTRUCTION OF MOUNTAIN SHADOWS PUMP TRACK AND BIKE PARK

Roll Call Vote:

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

No: None

Abstain: None

Motion carried.

- e. **Resolution 22-68:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING THE SECOND AMENDMENT TO THE TOWN MANAGER'S EMPLOYMENT AGREEMENT

Motion by Trustee Doherty, **second** by Trustee Conyac, to Approve **Resolution 22-68:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING THE SECOND AMENDMENT TO THE TOWN MANAGER'S EMPLOYMENT AGREEMENT

Roll Call Vote:

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

No: Trustee Holcomb

Abstain: None

Motion carried.

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

Amy Schrader, a Firestone resident, gave public comment congratulating Mr. Krieger for this raise. Ms. Schrader thanked Trustee Conyac for his accountability for a mistake and asked if Mayor Peterson would also be accountable.

Pat Conner, a Firestone resident, gave public comment regarding Mountain Shadows Park and expressed his concerns about capped wells nearby.

Becky Duckworth, a Firestone resident, gave public comment regarding Mr. Krieger's PTO balance and concerns about safety regarding a landscaping company hired by the homeowner's association in her neighborhood.

8. Reports

a. Staff

AJ Krieger, Town Manager, reported that he was a finalist for the City of Littleton City Manager position, but he withdrew his candidacy.

8.a.i. April Monthly Finance Report

b. Mayor

Mayor Peterson reported that the Board should review the monthly financial reports.

c. Trustees

Trustee Conyac asked for details on repairs and upgrades to the Neighbors Point Park trail.

Trustee Sharp reported on possibly helping the American Legion Car Show with their fundraising efforts by waiving application fees. The Board reached a consensus to direct the Town Clerk to contact the American Legion to find out more information regarding the scholarship fundraiser at the American Legion Car Show event.

Trustee Whelan reported on and obtained Board support to add two topics to a future work session agenda: reorganization of the committees and virtual/streaming meetings.

9. Adjournment

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

Introduced and Approved the 8th of June, 2022

TOWN OF FIRESTONE, COLORADO

ATTEST

Drew Peterson, Mayor

Jessica Koenig, Town Clerk

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 6.b

Consent Agenda

Meeting Date: June 8, 2022

Initiated By: Michelle Dollmaier

Dept: Planning & Development

AGENDA TITLE

Resolution 22-70: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, FINDING SUBSTANTIAL COMPLIANCE OF AN ANNEXATION PETITION FOR CERTAIN PROPERTY LOCATED IN WELD COUNTY, COLORADO AND SETTING A PUBLIC HEARING ON THE PETITION IN ACCORDANCE WITH THE MUNICIPAL ANNEXATION ACT OF 1965

SUMMARY

On February 28, 2022, Denmore LLC submitted a "Petition for Annexation to the Town of Firestone" (Petition) for the Denmore property. The Denmore property is located at the northwest corner of Firestone Boulevard and Frontier Street. The total area proposed for annexation is approximately 147.334 acres.

Acceptance of Petition by the Board of Trustees via Resolution 22-70 does the following:

- a. Establishes that the Board of Trustees finds the Petition to be in substantial compliance with the Firestone Development Code and the laws of the State of Colorado; and,
- b. Sets a Public Hearing date and time for the Denmore Annexation for July 13, 2022, at 7:00 p.m., in the Firestone Municipal Court and Board Room, 9900 Park Avenue, Firestone, Colorado, 80504.

HISTORY AND PREVIOUS BOARD ACTION

n/a

RECOMMENDATION

Staff recommends that the Board of Trustees approve draft Resolution 22-70.

ALTERNATIVES

n/a

ATTACHMENTS

1. Resolution 22-70
2. Denmore Petition for Annexation
3. Denmore Annexation Map

FINANCIAL CONSIDERATIONS

n/a

RESOLUTION NO. 22-70

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, FINDING SUBSTANTIAL COMPLIANCE OF AN ANNEXATION PETITION FOR CERTAIN PROPERTY LOCATED IN WELD COUNTY, COLORADO AND SETTING A PUBLIC HEARING ON THE PETITION IN ACCORDANCE WITH THE MUNICIPAL ANNEXATION ACT OF 1965

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

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

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

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

Section 1. The Petition for Annexation, whose legal description is attached hereto as “Exhibit A” and incorporated by reference herein, is determined to be in substantial compliance with C.R.S. § 31-12-107(1).

Section 2. The Board of Trustees shall hold a public hearing on the proposed annexation on July 13, 2022 at 7:00 P.M., or as soon thereafter as possible, at Firestone Municipal Court and Board Room, 9900 Park Avenue, to determine if the proposed annexation complies with Section 30 of Article II of the Colorado Constitution and C.R.S. §§ 31-12-104 and -105, or such parts thereof as may be required to establish eligibility for annexation.

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

INTRODUCED, READ AND ADOPTED this __ day of _____, 2022.

TOWN OF FIRESTONE, COLORADO

Drew Alan Peterson, Mayor

ATTEST:

Jessica Koenig, CMC Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

EXHIBIT A
Legal Description

A PARCEL OF LAND SITUATED IN SECTION 6 AND THE NORTHWEST QUARTER OF SECTION 5, TOWNSHIP 2 NORTH, RANGE 67 WEST OF THE 6th/ PRINCIPAL MERIDIAN; COUNTY OF WELD, STATE OF COLORADO; MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 6, FROM WHICH THE SOUTH QUARTER CORNER OF SAID SECTION 6 BEARS NORTH 88°49'02" WEST, A DISTANCE OF 2,640.90 FEET, WITH ALL BEARINGS HEREIN RELATIVE THERETO;

THENCE NORTH 43°58'58" WEST, A DISTANCE OF 42.55 FEET TO THE POINT OF BEGINNING, BEING THE INTERSECTION OF THE NORTHERLY RIGHT-OF-WAY OF FIRESTONE BOULEVARD AND THE WESTERLY RIGHT-OF-WAY OF COUNTY ROAD 15;

THENCE NORTH 88°49'02" WEST, ALONG SAID NORTHERLY RIGHT-OF-WAY OF FIRESTONE BOULEVARD, A DISTANCE OF 2,610.33 FEET;

THENCE NORTH 89°34'25" WEST, CONTINUING ALONG SAID NORTHERLY RIGHT-OF-WAY, A DISTANCE OF 54.21 FEET;

THENCE NORTH 29°40'23" EAST, A DISTANCE OF 1,409.64 FEET;

THENCE NORTH 29°41'27" EAST, A DISTANCE OF 3,103.47 FEET;

THENCE SOUTH 88°04'18" EAST, A DISTANCE OF 488.56 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY OF COUNTY ROAD 15;

THENCE NORTH 00°52'27" EAST, ALONG SAID WESTERLY RIGHT-OF-WAY, A DISTANCE OF 1,472.98 FEET TO A POINT ON THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 6;

THENCE SOUTH 89°33'20" EAST, ALONG SAID NORTH LINE, A DISTANCE OF 30.00 FEET TO THE NORTHEAST CORNER OF SAID SECTION 6;

THENCE SOUTH 89°41'30" EAST, ALONG THE NORTH LINE OF SAID NORTHWEST QUARTER OF SECTION 5, A DISTANCE OF 30.00 FEET TO THE POINT OF INTERSECTION WITH THE NORTHERLY EXTENSION OF THE EASTERLY RIGHT-OF-WAY OF SAID COUNTY ROAD 15;

THENCE SOUTH 00°52'27" WEST, ALONG SAID NORTHERLY EXTENSION AND EASTERLY RIGHT-OF-WAY THEREOF, A DISTANCE OF 2,811.97 FEET;

THENCE SOUTH 89°33'59" WEST, A DISTANCE OF 60.02 FEET TO A POINT ON SAID WESTERLY RIGHT-OF-WAY OF COUNTY ROAD 15;

THENCE SOUTH 00°51'05" WEST, ALONG SAID WESTERLY RIGHT-OF-WAY, A DISTANCE OF 2,619.26 FEET TO THE POINT OF BEGINNING.

CONTAINING AN AREA OF 147.334 ACRES, (6,417,888 SQUARE FEET), MORE OR LESS.

PETITION FOR ANNEXATION

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

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

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

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

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

- g. No annexation proceedings have been commenced for any portion of the territory proposed to be annexed for the annexation of such territory to another municipality.
 - h. The annexation of the territory proposed to be annexed will not result in the detachment of area from any school district.
 - i. The annexation of the territory proposed to be annexed will not have the effect of extending the boundary of the Town of Firestone more than three miles in any direction from any point of the boundary of the Town of Firestone in any one year.
 - j. The territory proposed to be annexed is 147.334 acres in total area.
 - k. Prior to completion of the annexation of the area proposed to be annexed, a plan will be in place, pursuant to Section 31-12-105(1)(e), C.R.S., which generally describes the proposed location, character, and extent of streets, subways, bridges, waterways, waterfronts, parkways, playgrounds, squares, parks, aviation fields, other public ways, grounds, open spaces, public utilities, and terminals for water, light, sanitation, transportation, and power to be provided by the Town of Firestone; and the proposed land uses for the area; such plan to be updated at least once annually.
 - l. In establishing the boundary of the area proposed to be annexed, if a portion of a platted street or alley is to be annexed, the entire width of the street or alley has been included within the area annexed, and reasonable access will not be denied to any landowners, owners of any easement, or the owners of any franchise adjoining any platted street or alley which is to be annexed to the Town of Firestone but is not bounded on both sides by the Town of Firestone.
 - m. If required, an impact report will be prepared and filed pursuant to Section 31-12-108.5, C.R.S.
3. The owners of more than fifty percent of the area proposed to be annexed, exclusive of dedicated streets and alleys, have signed this petition and hereby petition for annexation of such territory.

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

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

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

The petitioners agree that said annexed land shall be brought under the provisions of Title 16 of the Firestone Municipal Code within ninety (90) days from the effective date of the annexation ordinance.

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

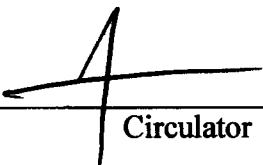
annexation agreement.

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

AFFIDAVIT OF CIRCULATOR

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

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


Circulator

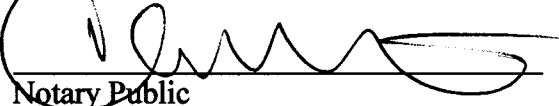
ACKNOWLEDGMENT

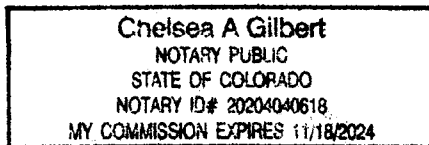
STATE OF COLORADO)
)ss
COUNTY OF Boulder)

The above and foregoing Affidavit of Circulator was subscribed and sworn to before me this 28th day of FEBRUARY, 2022.

Witness my hand and official seal.

My commission expires on: 11/18/2024


Notary Public



1751 HUNTER ST. B-4
Address

LOANBROOK, CO 80501

(SEAL)

SIGNATURE SHEET

Signature of Landowner / Petitioner	Date of signing of Each Signature	Mailing Address of Landowner / Petitioner	Are you a registered elector, resident landowner of the area proposed to be annexed? (Yes or No)	Are you a nonresident landowner of the area proposed to be annexed? (Yes or No)	See Exhibit <u>A</u> attached hereto and incorporated into this petition by this reference for the legal description of the land owned by this signer
Josh Steinsiek, Vice President of Denmore LLC	2/28/2022	PO Box 270474 Louisville, CO 80027	No	Yes	

EXHIBIT "A"

LEGAL DESCRIPTION

A PARCEL OF LAND SITUATED IN SECTION 6 AND THE NORTHWEST QUARTER OF SECTION 5, TOWNSHIP 2 NORTH, RANGE 67 WEST OF THE 6th/ PRINCIPAL MERIDIAN; COUNTY OF WELD, STATE OF COLORADO; MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 6, FROM WHICH THE SOUTH QUARTER CORNER OF SAID SECTION 6 BEARS NORTH 88°49'02" WEST, A DISTANCE OF 2,640.90 FEET, WITH ALL BEARINGS HEREIN RELATIVE THERETO;

THENCE NORTH 43°58'58" WEST, A DISTANCE OF 42.55 FEET TO THE POINT OF BEGINNING, BEING THE INTERSECTION OF THE NORTHERLY RIGHT-OF-WAY OF FIRESTONE BOULEVARD AND THE WESTERLY RIGHT-OF-WAY OF COUNTY ROAD 15;

THENCE NORTH 88°49'02" WEST, ALONG SAID NORTHERLY RIGHT-OF-WAY OF FIRESTONE BOULEVARD, A DISTANCE OF 2,610.33 FEET;

THENCE NORTH 89°34'25" WEST, CONTINUING ALONG SAID NORTHERLY RIGHT-OF-WAY, A DISTANCE OF 54.21 FEET;

THENCE NORTH 29°40'23" EAST, A DISTANCE OF 1,409.64 FEET;

THENCE NORTH 29°41'27" EAST, A DISTANCE OF 3,103.47 FEET;

THENCE SOUTH 88°04'18" EAST, A DISTANCE OF 488.56 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY OF COUNTY ROAD 15;

THENCE NORTH 00°52'27" EAST, ALONG SAID WESTERLY RIGHT-OF-WAY, A DISTANCE OF 1,472.98 FEET TO A POINT ON THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 6;

THENCE SOUTH 89°33'20" EAST, ALONG SAID NORTH LINE, A DISTANCE OF 30.00 FEET TO THE NORTHEAST CORNER OF SAID SECTION 6;

THENCE SOUTH 89°41'30" EAST, ALONG THE NORTH LINE OF SAID NORTHWEST QUARTER OF SECTION 5, A DISTANCE OF 30.00 FEET TO THE POINT OF INTERSECTION WITH THE NORTHERLY EXTENSION OF THE EASTERLY RIGHT-OF-WAY OF SAID COUNTY ROAD 15;

THENCE SOUTH 00°52'27" WEST, ALONG SAID NORTHERLY EXTENSION AND EASTERLY RIGHT-OF-WAY THEREOF, A DISTANCE OF 2,811.97 FEET;

THENCE SOUTH 89°33'59" WEST, A DISTANCE OF 60.02 FEET TO A POINT ON SAID WESTERLY RIGHT-OF-WAY OF COUNTY ROAD 15;

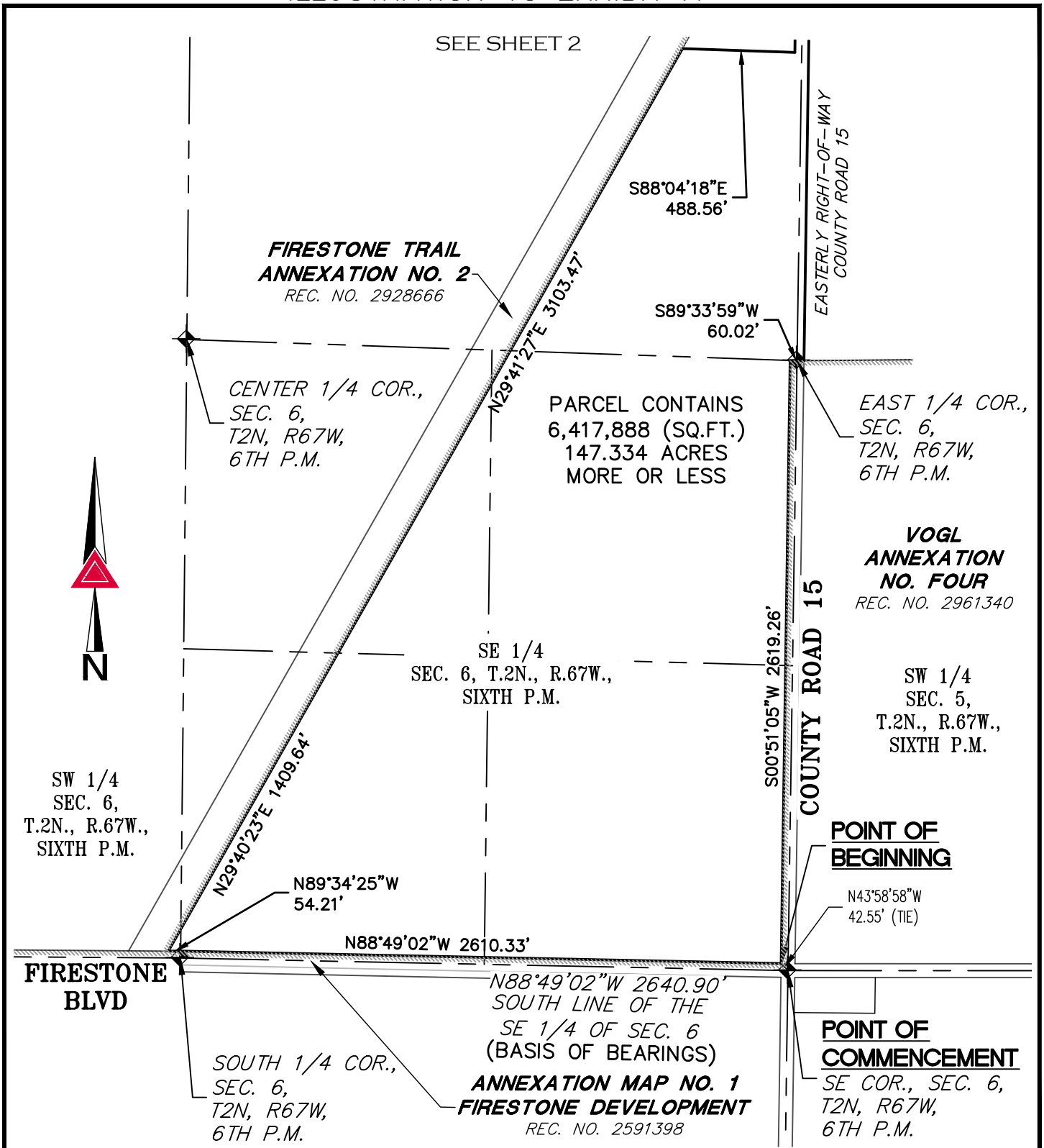
THENCE SOUTH 00°51'05" WEST, ALONG SAID WESTERLY RIGHT-OF-WAY, A DISTANCE OF 2,619.26 FEET TO THE POINT OF BEGINNING.

CONTAINING AN AREA OF 147.334 ACRES, (6,417,888 SQUARE FEET), MORE OR LESS.

ILLUSTRATION ATTACHED AND MADE A PART HEREOF.

JAMES E. LYNCH, PLS NO. 37933
FOR AND ON BEHALF OF AZTEC CONSULTANTS, INC.
300 E. MINERAL AVE., SUITE 1, LITTLETON, CO 80122
303-713-1898

ILLUSTRATION TO EXHIBIT A



PATH: Q:\DWG\EXHIBITS\
 DWG NAME: Denmore ANNEX.DWG
 DWG: JEL CHK:
 DATE: 5/5/2022
 SCALE: 1"=600'



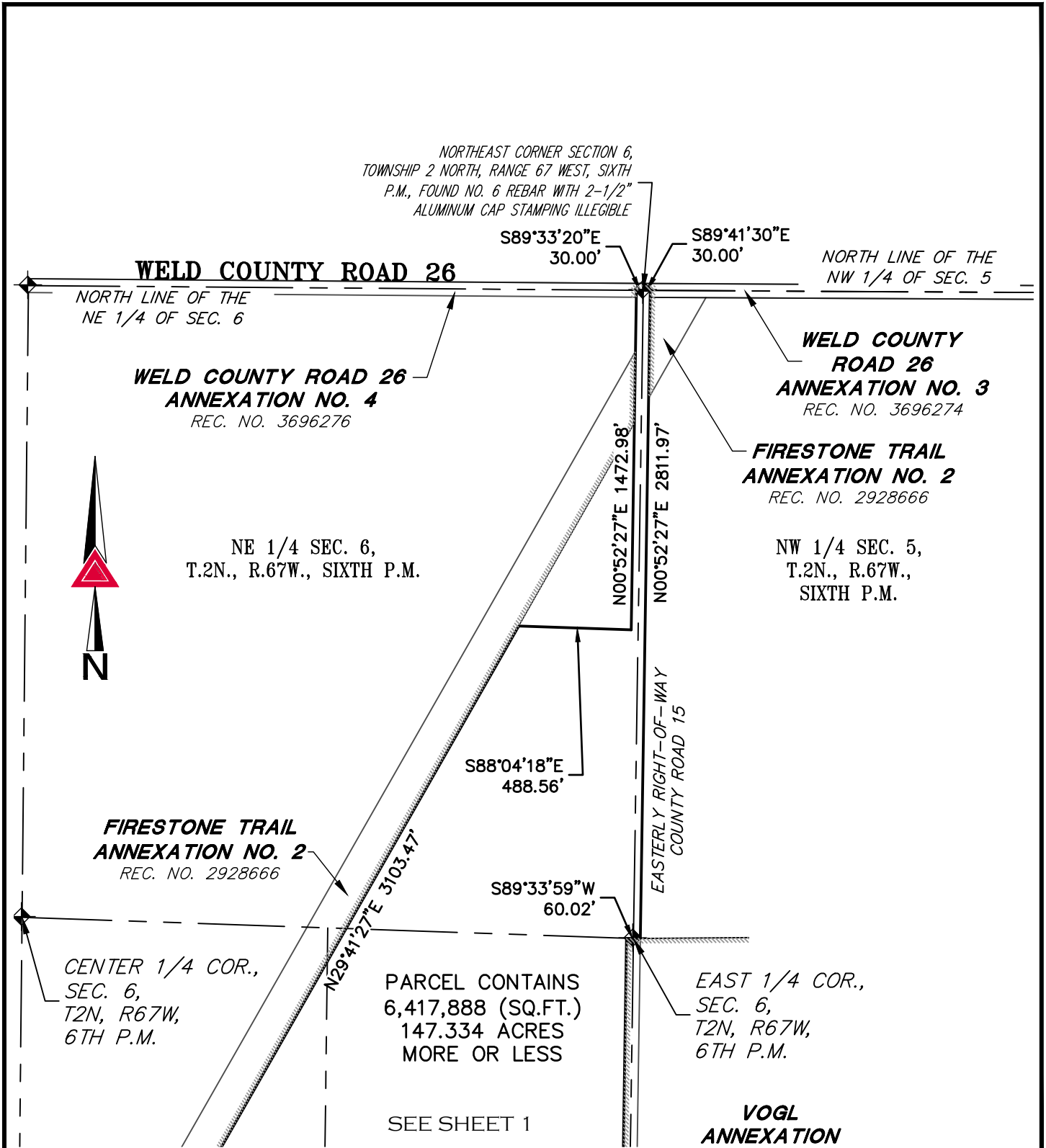
300 East Mineral Ave,
 Suite 1
 Littleton, Colorado 80122
 Phone: (303)713-1898
 Fax: (303)713-1897
www.aztecconsultants.com

DENMORE ANNEXATION EXHIBIT
 SEC. 5 & 6, T.2N, R.67W, 6TH P.M.
 FIRESTONE, COLORADO

JOB NUMBER 83922-03

1 OF 2 SHEETS

ILLUSTRATION TO EXHIBIT A



PATH: Q:\DWG\EXHIBITS\
 DWG NAME: Denmore ANNEX.DWG
 DWG: JEL CHK:
 DATE: 5/5/2022
 SCALE: 1"=600'



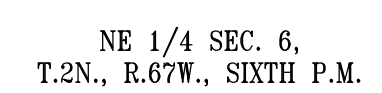
AZTEC
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DENMORE ANNEXATION EXHIBIT
 SEC. 5 & 6, T2N, R67W, 6TH P.M.
 FIRESTONE, COLORADO

JOB NUMBER 83922-03

2 OF 2 SHEETS



A PARCEL LOCATED IN SECTION 6 AND THE NORTHWEST QUARTER OF SECTION 5
TOWNSHIP 2 NORTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN,
COUNTY OF WELD, STATE OF COLORADO
AN-22-012/147.334 ACRES

NORTHEAST CORNER SECTION 6.

TOTAL PERIMETER OF AREA TO BE ANNEXED.....	14,690.44'
CONTIGUITY WITH TOWN LIMITS.....	10,695.36'
MINIMUM ALLOWABLE CONTIGUITY (1/6 TOTAL PERIMETER).....	2,448.41'

1. THE FIELD WORK FOR THIS SURVEY WAS PERFORMED BY AN AZTEC CONSULTANTS, INC. SURVEY CREW AND COMPLETED ON FEBRUARY 01, 2022.
2. PER C.R.S. 38-51-106, "ALL LINEAL UNITS DEPICTED ON THIS ANNEXATION MAP ARE U.S. SURVEY FEET. ONE METER EQUALS 39.37/12 U.S. SURVEY FEET, EXACTLY ACCORDING TO THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY."
3. ANY PERSON WHO KNOWINGLY REMOVES, ALTERS OR DEFACES ANY PUBLIC LAND SURVEY MONUMENT OR ACCESSORY COMMITTS A CLASS TWO (2) MISDEMEANOR PURSUANT TO STATE STATUTE 18-4-508, C.R.S.
4. BEARINGS SHOWN HEREON ARE GRID BEARINGS DERIVED FROM GPS OBSERVATION BASED UPON THE COLORADO COORDINATE SYSTEM OF 1983 NORTH ZONE (NAD 83, 2011) REFERENCED TO THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 2 NORTH, RANGE 67 WEST, SIXTH PRINCIPAL MERIDIAN, TAKEN TO BEAR SOUTH 88°49'02" EAST, A DISTANCE OF 2640.90 FEET.

I, JAMES E. LYNCH, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THE ANNEXATION MAP SHOWN HEREON IS A CORRECT DELINEATION OF THE ABOVE DESCRIBED PARCEL OF LAND AND THAT AT LEAST ONE-SIXTH (1/6) OF THE PERIPHERAL BOUNDARY OF SAID PARCEL IS CONTIGUOUS TO THE PRESENT BOUNDARY OF THE TOWN OF FIRESTONE.

I FURTHER CERTIFY THAT THIS MAP AND LEGAL DESCRIPTION WERE PREPARED UNDER MY PERSONAL SUPERVISION ON THIS _____, DAY OF _____ 2022.

BY: JAMES E. LYNCH, PLS NO. 37933
COLORADO LICENSED PROFESSIONAL LAND SURVEYOR
FOR AND ON BEHALF OF AZTEC CONSULTANTS, INC.

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

NOTICE: PER THE STATE OF COLORADO BOARD OF LICENSURE FOR ARCHITECTS, PROFESSIONAL ENGINEERS, AND PROFESSIONAL LAND SURVEYORS RULE 1.6.B.2 THE WORD "CERTIFY" AS USED HEREON MEANS AN EXPRESSION OF PROFESSIONAL OPINION AND DOES NOT CONSTITUTE A WARRANTY OR GUARANTEE, EXPRESSED OR IMPLIED. THE SURVEY REPRESENTED HEREIN HAS BEEN PERFORMED BY ME OR UNDER MY DIRECT SUPERVISION IN ACCORDANCE WITH APPLICABLE STANDARDS OF PRACTICE AND IS BASED UPON MY KNOWLEDGE, INFORMATION AND BELIEF.

THIS IS TO CERTIFY THAT THE DENMORE ANNEXATION WAS APPROVED ON THE _____ DAY OF _____, 2022 BY ORDINANCE NO. _____

AND THAT THE MAYOR OF THE TOWN OF FIRESTONE ON BEHALF OF THE TOWN OF FIRESTONE, HEREBY ACKNOWLEDGES SAID ANNEXATION MAP UPON WHICH THIS CERTIFICATE IS ENDORSED FOR ALL PURPOSES INDICATED THEREON.

MAYOR

ATTEST: TOWN CLERK

 AZTEC CONSULTANTS, INC.	300 East Mineral Ave., Suite 1 Littleton, Colorado 80122 Phone: (303) 713-1898 Fax: (303) 713-1897 www.aztecconsultants.com	DATE OF PREPARATION: 03-02-2022
		SCALE: 1" = 200' SHEET 1 OF 1
AzTec Proj. No.: 83922-03		Drawn By: RBA

AGENDA INFORMATION MEMORANDUM

FIRESTONE TOWN BOARD OF TRUSTEES



AIM#: 6.c

Consent Agenda

Meeting Date: June 8, 2022

Initiated By: Matt Wiederspahn

Dept: Engineering - Town

AGENDA TITLE

Resolution 22-76: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN AMENDED AND RESTATED SUBDIVISION AGREEMENT PERTAINING TO THE BAREFOOT LAKES FILING NO. 5 SUBDIVISION

SUMMARY

For the Board of Trustees' consideration is a resolution approving an Amended and Restated Subdivision Agreement for Barefoot Lakes Filing No. 5. The agreement expands the scope of Ronald Reagan Boulevard road improvements while removing restrictions on issuing certificates of occupancy in Barefoot Lakes Filing 5. In addition, with Lennar Homes now owning lots in Filing 5, this resolution will approve a Joinder, Ratification, and Adoption of Amended and Restated Subdivision Agreement between the Town and Lennar Homes.

In May 2020, as part of the Barefoot Lakes Filing 4 subdivision approval, the Town and Brookfield Homes agreed to the construction of Ronald Reagan Boulevard between Barefoot Lakes Parkway and Colorado Boulevard. This agreement only required the construction of two temporary paved lanes (one in each direction), with the ultimate construction of the Boulevard to occur with future filings. Soon after this, Brookfield management and philosophy changed, and they reached out to Town staff to discuss the option to construct the full south half of the ultimate Ronald Reagan Boulevard arterial road cross-section, instead of just two temporary paved lanes. In addition, a pedestrian underpass of Ronald Reagan Boulevard has been added to the project, which has extended the design time and will extend the construction timeline. Staff is supportive of this approach as it minimizes the number of construction projects and impacts on residents using Ronald Reagan Boulevard. It also removes the need for "throw-away" pavement for two temporary lanes and adds a beneficial pedestrian underpass to connect to future Barefoot Lakes filings north of Ronald Reagan Boulevard.

In November 2020, while negotiations were underway on Ronald Reagan Boulevard construction, Barefoot Lakes Filing No. 5 was approved. It was agreed that there would be a restriction on the Town issuing certificates of occupancy on homes in Filing 5 until the construction of Ronald Reagan Boulevard was complete. With homes currently under construction by both Brookfield Homes and Lennar Homes and the potential need for certificates of occupancy in July 2022, it is clear that construction of the Boulevard will not be completed by the time the homes are completed. With the design of Ronald Reagan Boulevard nearly complete, and utility work scheduled to begin by the end of June, Staff is supportive of removing the certificates of occupancy restriction, allowing new homeowners the ability to move into their new homes.

The current schedule for Ronald Reagan Boulevard is for final construction plan approval in July, the start of non-Town-owned utility construction by the end of June, and a tentative completion of the entire project by the end of 2022. In addition, due to the scope of this project, a lengthy full closure of Ronald Reagan Boulevard between Barefoot Lake Parkway and Colorado Boulevard will be required.

Finally, after the approval of Barefoot Lakes Filing 5, Lennar Homes has purchased lots in Filing 5 and therefore has become a successor to the original subdivision agreement. As such, a Joinder, Ratification, and Adoption of Amended and Restated Subdivision Agreement will need to be executed with Lennar for them to become a party to the Amended and Restated Subdivision Agreements for Barefoot Lakes Filing No. 5.

HISTORY AND PREVIOUS BOARD ACTION

The Board of Trustees entered into a Subdivision Agreement for Barefoot Lakes Filing 5 with Brookfield Homes in November of 2020.

RECOMMENDATION

Staff recommends approval of Resolution 22-76.

ALTERNATIVES**ATTACHMENTS**

1. Barefoot F5 Am and Restated DA Reso
2. Amended and Restated Barefoot Lakes F5 SA (FINAL)
3. Lennar Ratification (Barefoot Lakes F5 Amended and Restated SA)

FINANCIAL CONSIDERATIONS

N/A

RESOLUTION NO. 22-76

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE,
COLORADO, APPROVING AN AMENDED AND RESTATED SUBDIVISION
AGREEMENT PERTAINING TO THE BAREFOOT LAKES FILING NO. 5
SUBDIVISION**

WHEREAS, the Town and Barefoot LLC (“Barefoot”) entered into that certain Subdivision Agreement, dated November 16th, 2020(the “Original Agreement”), to set forth their respective rights and obligations with respect to the development of the Barefoot Lakes Filing No. 5 subdivision and the installation of certain public improvements required to serve the subdivision; an

WHEREAS, the Parties to the Original Agreement wish to amend, modify, change and alter certain provisions of the Original Agreement to provide for: (a) removal of restrictions on the issuance of certificates of occupancy.

WHEREAS, the Town Board wishes to authorize the execution of an “Amended and Restated Subdivision Agreement” with Barefoot to accommodate the above changes.

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

Section 1. The Amended and Restated Subdivision Agreement pertaining to the Barefoot Lakes Filing No. 5 subdivision is approved in substantially the same form as the copy attached to this resolution, subject to and contingent upon satisfaction of all of the conditions set forth in Section 2. The Mayor is authorized to execute the agreement on behalf of the Town.

Section 2. Within 90 days of the date of this resolution, Barefoot shall deliver to the Town a Joinder, Ratification and Adoption of Amended and Restated Subdivision Agreement, in a form substantially similar to the copy attached to this resolution, duly completed and executed by Lennar Colorado LLC.

INTRODUCED, READ AND ADOPTED this __ day of _____, 2022.

TOWN OF FIRESTONE, COLORADO

Drew Alan Peterson, Mayor

ATTEST:

Jessica Koenig, CMC, Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

AMENDED AND RESTATED SUBDIVISION AGREEMENT
[Barefoot Lakes Filing No. 5]

THIS AMENDED AND RESTATED SUBDIVISION AGREEMENT (“Agreement”) is made and entered into this _____ day of _____, 20____, by and between the **TOWN OF FIRESTONE**, a Colorado municipal corporation, whose address is 9950 Park Avenue, Firestone, CO 80504 (“Town”), and **BAREFOOT, LLC**, whose address is 6465 S. Greenwood Plaza Boulevard, Suite 700, Centennial, CO 80111 (“Subdivider”).

WHEREAS, Subdivider has submitted a final subdivision plat for the Barefoot Lakes Filing No. 5 subdivision (“Subdivision” or “Plat”), including utility plans for the Subdivision, a copy of which Plat is attached hereto as **Exhibit A** and incorporated herein by reference, and which Plat has been reviewed and approved by the Planning Commission and Town Board of Trustees; and

WHEREAS, the Town and Subdivider have entered into a Development and Vested Rights Agreement for the Barefoot Lakes Annexation dated May 27, 2015 (the “DVR Agreement”), which agreement was recorded with the Weld County Clerk and Recorder on October 12, 2015 at Reception No. 4149333; and

WHEREAS, the Subdivision is to be developed as a planned unit development and a large-scale development within the Town, pursuant to applicable provisions of the Firestone Municipal Code and Development Regulations; and

WHEREAS, additional filings are anticipated, and this Agreement applies only to Barefoot Lakes Filing No. 5;

WHEREAS, the subdivision regulations of the Town require that the Subdivider enter into a Subdivision Agreement (“Agreement”) with the Town relative to improvements related to the Subdivision; and

WHEREAS, the Town and Owner entered into that certain Subdivision Agreement, dated [INSERT DATE] (the “Original Agreement”), to set forth their respective rights and obligations with respect to the development of the proposed subdivision and the installation of certain public improvements required to serve the subdivision; and

WHEREAS, Owner intends to complete the public improvements as provided in the Original Agreement and as amended, restated, and modified herein; and

WHEREAS, it is the intent of the Parties that this Agreement, as an amendment and restatement of the Original Agreement, shall supersede or replace in its entirety the Original Agreement, effective on the date of execution of this Agreement; and

WHEREAS, it is the Parties’ further intent that in the event any provision of this Agreement conflicts with any provision of the Original Agreement, the provisions of this Agreement shall govern and control such conflicting provisions.

NOW, THEREFORE, in consideration of the foregoing, the parties hereto promise, covenant and agree as follows:

1.0 GENERAL CONDITIONS

1.1 Subdivision Obligation. Subdivider shall be responsible for performance of the covenants set forth in this Agreement.

1.2 Engineering Services. Subdivider agrees to furnish, at its expense, all necessary engineering services relating to the design and construction of the Subdivision and the Schedule of Improvements described in **Exhibit B**, attached hereto and incorporated herein by this reference. Said engineering services shall be performed by or under the supervision of a Registered Professional Engineer or Registered Land Surveyor, or other professionals as appropriate, licensed by the State of Colorado, and in accordance with applicable Colorado law; and, except as otherwise provided in this Agreement, shall conform to the standards and criteria for public improvements as established and approved by the Town as of the date of submittal to the Town.

1.3 Construction Standards and Deadline. (a) Subdivider shall construct, or shall cause a metropolitan district or special district with jurisdiction to construct, all improvements required by this Agreement, including but not limited to all water lines, sanitary sewer collection lines, storm sewer lines, streets, curbs, gutter, sidewalks, landscaping, bikepaths, and any other improvements constructed in relation to the Subdivision, in accordance with plans and specifications approved in writing by the Town, the Plat, this Agreement, and in full conformity with the Town's construction specifications applicable at the time of construction plan approval ("Construction Approval"). Construction Approval shall continue in effect for three (3) years from the effective date of this agreement. In the event that the Subdivider commences or performs any construction after such three (3) year period, the Subdivider shall resubmit the project utility plans to the Town for reexamination in accordance with Section 1.5. The Town may require the Subdivider to comply with the approved Town standards and specifications that are in effect at the time of resubmittal.

(b) Construction of public improvements shall be complete, and conditional acceptance of the public improvements shall be requested, by no later than three (3) years from the date of such Construction Approval, weather permitting. If Subdivider has not completed the improvements and requested conditional acceptance on or before the completion date, the Town may exercise its rights to secure performance as provided in Section 8.1 of this Agreement.

1.4 Development Coordination. Unless specifically provided in this Agreement to the contrary, all submittals to the Town shall be made to the Director of Planning & Development, and all approvals required of the Town in connection with this Agreement shall be rendered by the Town Manager, or the Manager's designee. The Town Engineer shall have general responsibility for coordinating development with Subdivider.

1.5 Plan Submission and Approval. (a) Subdivider shall furnish to the Town complete plans for public improvements for the Subdivision, and obtain approval of such plans prior to the commencement of any construction work thereon. The Town shall issue its written approval or

disapproval of said plans as expeditiously as reasonably possible. Said approval or disapproval shall be based upon the standards and criteria for public improvements as established and approved by the Town, and the Town shall notify Subdivider of all deficiencies which must be corrected prior to approval. All deficiencies shall be corrected and said plans shall be resubmitted to, and approved by, the Town prior to the construction of any improvements. In addition to the foregoing, prior to the commencement of any construction work on the sanitary sewer or water improvements, all sanitary sewer plans shall be submitted to and shall require the approval of the St. Vrain Sanitation District, and all water service plans shall be submitted to, and shall require the approval of the Little Thompson Water District.

(b) Except as provided in this subsection (b), building permits shall be issued only after improvements have been completed for the particular phase and have been granted conditional acceptance. The Subdivider may request and, provided there is no breach of this Agreement by Subdivider, the Town shall issue its approval of the following permits:

(1) Upon receipt of a letter of credit to secure performance of erosion control, dust management, and site stabilization work, the Town shall issue a grading permit.

(2) Following approval of plans for the construction of sanitary, storm, water, gas and electric utilities to serve model homes, and the Town's approval of plans for the construction of vehicular and pedestrian access to the model homes, building permits for the construction of up to nine (9) model homes within the Subdivision, in a location approved by the Town. Model homes shall not be sold to an end user as a residence until after all public improvements for the Subdivision or applicable phase have been completed and granted conditional acceptance.

(3) Following approval of plans for sanitary utility construction by the St. Vrain Sanitation District, Town permits required for construction of the sanitary sewer system (such as right-of-way permits) shall be issued.

(4) Following approval of plans for water utility construction by the Little Thompson Water District, Town permits required for construction of the water system (such as right-of-way permits) shall be issued.

1.6 Conditional Acceptance. (a) No later than fourteen (14) days after improvements are completed for each phase of the Subdivision, Subdivider shall request inspection by the Town. If Subdivider does not request this inspection within fourteen (14) days of completion of improvements for a phase, the Town may conduct the inspection without the approval of Subdivider. Subdivider shall provide "as-built" drawings, in both hard copy and electronic file format acceptable to the Town, and a certified statement of construction costs no later than forty-five (45) days after improvements for a phase are completed. If improvements completed by Subdivider are satisfactory, the Town shall grant "conditional acceptance", which shall be subject to "final acceptance" as set forth herein. If improvements completed by Subdivider are unsatisfactory, the Town shall provide written notice to Subdivider of the repairs, replacements, construction or other work required to receive "conditional acceptance." Subdivider shall complete all needed repairs, replacements, construction or other work

within thirty (30) days of said notice, weather permitting. After Subdivider completes the repairs, replacements, construction, or other work required, Subdivider shall request of the Town a re-inspection of such work to determine if conditional acceptance can be granted, and the Town shall provide written notice to Subdivider of the acceptability or unacceptability of such work. If Subdivider does not complete the repairs, replacements, construction or other work required within thirty (30) days of said notice, the Town may exercise its rights to secure performance as provided in Section 8.1 of this Agreement. The Town reserves the right to schedule reinspections, depending upon scope of deficiencies.

(b) Except as provided in Section 1.5(b)(2), no building permit for the construction of any structure shall be issued by the Town until all the water lines, fire hydrants, sanitary sewer lines and streets (including curb, gutter, sidewalk and pavement) serving such structure have been completed and granted conditional acceptance. Subdivider may delay the installation of the final lift of asphalt on streets until after conditional acceptance of such streets, but the installation of the final lift of asphalt shall be condition precedent to final acceptance of the improvements. If Subdivider elects to delay installation of the final lift of asphalt, then Subdivider shall provide security to the Town in the form of cash or letter of credit in an amount equal to one hundred percent (100%) of the estimated cost to install the final lift of asphalt as approved by the Town. Such letter of credit shall not be released until final acceptance of the improvements has been granted by the Town. Notwithstanding any provision herein to the contrary, the right to delay the installation of the final lift of asphalt on streets until after conditional acceptance of such streets is personal to Barefoot LLC, a Colorado limited liability company, as Subdivider, and may be exercised by Barefoot LLC only for so long as Barefoot LLC is a wholly owned subsidiary of Brookfield Residential Properties, Inc., and Barefoot LLC does not have the right to assign this right to any third party. Notwithstanding any provision herein to the contrary, successors and/or assigns of Barefoot LLC shall be required to install the full depth of asphalt required by approved constructions plans, including the final lift of asphalt on all streets, prior to conditional acceptance of the improvements.

1.7 Maintenance and Warranty of Improvements. For a minimum two (2) year period from the date of “conditional acceptance” of improvements related to each phase of the Subdivision or until Final Acceptance is issued, whichever is greater, Subdivider shall warrant all said improvements and, at its own expense, take all actions necessary to maintain said improvements and make all needed repairs or replacements which, in the reasonable opinion of the Town, shall become necessary. If within thirty (30) days after Subdivider’s receipt of written notice from the Town requesting such repairs or replacements, the Subdivider has not completed such repairs, the Town may exercise its rights to secure performance as provided in Section 8.1 of this Agreement.

1.8 Final Acceptance. At least thirty (30) days before two (2) years has elapsed from the issuance of conditional acceptance for each phase, or as soon thereafter as weather permits, Subdivider shall request a “final acceptance” inspection of the improvements for such phase. The Town shall inspect the improvements and shall notify the Subdivider in writing of all deficiencies and necessary repairs, if any. If there are no deficiencies, or after Subdivider has corrected all deficiencies and made all necessary repairs identified in said written notice, the Town shall issue to Subdivider a letter of “final acceptance.” If Subdivider does not correct all deficiencies and make repairs identified in said inspection to the Town's satisfaction within thirty (30) days after receipt of said notice, weather permitting, the Town may exercise its rights to secure performance as is provided in Section 8.1 of

this Agreement.

1.9 Reimbursement to Town. The Town may complete construction, repairs, replacements, or other work for Subdivider pursuant to Sections 1.6, 1.7, 1.8, or 8.1 of this Agreement with funds other than the Improvement Guarantee, in which event Subdivider shall reimburse the Town within thirty (30) days after receipt of written demand and supporting documentation from the Town. If Subdivider fails to so reimburse Town, then Subdivider shall be in default of the Agreement and the Town may exercise its rights under Section 8.1 of this Agreement.

1.10 Testing and Inspection. (a) Subdivider shall employ, at its own expense, a licensed and registered testing company, previously approved by the Town in writing, to perform all testing of materials or construction that may be reasonably required by the Town, including but not limited to compaction testing for embankment fills, structural backfills, pipe bedding, trench backfills, subgrades, road base course and asphalt, and concrete strength testing, and shall furnish copies of test results to the Town on a timely basis for Town review and approval prior to commencement or continuation of construction to which the testing is applicable. In addition, at all times during said construction the Town shall have access to inspect the materials and workmanship of said construction, determine the progress of the work, and determine compliance of the work with the approved plans and the Town's construction regulations, and all materials and work not conforming to such regulations, plans and specifications shall be repaired or removed and replaced at Subdivider's expense so as to conform to such regulations, plans and specifications. The Subdivider shall be responsible for, and shall promptly pay upon receipt of invoice therefor, all actual costs incurred by the Town for engineering, planning, inspection, testing, and legal services related to the Subdivision improvements to be constructed under this Agreement or to the administration of this Agreement. The Town and Subdivider shall in good faith cooperate to control such costs.

(b) All work shown on the Plat and approved construction plans shall be subject to inspection by the Town. Inspection by the Town shall not relieve the Subdivider from compliance with the approved plans and specifications or the Town's construction regulations. Inspection services requiring the presence of the Town are provided Monday through Friday, except legal holidays, from 9:00 a.m. to 4:00 p.m. During the hours listed above, inspections shall be scheduled a minimum of forty-eight (48) hours in advance with the Town. Requests for inspection services beyond the hours listed above, shall be submitted a minimum of forty-eight (48) hours in advance to the Town for approval. All requests for after-hours inspection services shall be made in writing to the Town. If the request is denied, the work shall not proceed after the time requested until an inspection has been performed during the hours listed above. The Subdivider shall comply with all notification and inspection requirements of the sanitation district serving the property with regard to sanitary sewer improvements.

1.11 Financing and Improvement Guarantees. (a) Except as otherwise specially agreed herein, the Subdivider agrees to install and pay for all improvements described in **Exhibit B** or otherwise required by this Subdivision as shown on the approved plat, utility plans, and other approved documents on file with the Town. Said Improvement Guarantee shall include, but not be limited to, street construction, landscaping, fencing, street lights, water, sewer, storm sewer and drainage improvements.

(b) Prior to commencing construction of the public improvements for any phase, Subdivider shall submit to the Town the following Improvement Guarantees:

(1) Infrastructure Improvement Guarantees. With respect to all of the public improvements described in **Exhibit B** aside from landscaping improvements (the “Infrastructure Improvements”), Subdivider shall submit to the Town the following Improvement Guarantees:

- (i) Subdivider shall provide a single letter of credit in form and substance as shown in **Exhibit C** as the Improvement Guarantee in an amount equal to one hundred percent (100%) of the total estimated cost, including labor and materials, to secure the performance of erosion control, dust management, and site stabilization work in the amount shown in **Exhibit B** for the Infrastructure Improvements; and
- (ii) For the remainder of the Infrastructure Improvements set forth in **Exhibit B** for all phases, Subdivider shall provide a single improvement guarantee as cash, letter of credit in form and substance as shown in **Exhibit C**, or a bond, in an amount equal to one hundred percent (100%) of the total estimated cost, including labor and materials, of the Infrastructure Improvements for all of the phases not secured by the letter of credit provided pursuant to subsection (b)(1), above. If Subdivider provides a bond, the bond must be in accordance with the requirements set forth in the DVR Agreement.

(2) Landscaping Improvement Guarantee. With respect to all of the landscaping public improvements described in **Exhibit B** (the “Landscaping Improvements”), Subdivider shall submit to the Town the following Improvement Guarantees:

- (i) Subdivider shall provide a single letter of credit in form and substance as shown in **Exhibit C** as the Improvement Guarantee in an amount equal to one hundred percent (100%) of the total estimated cost, including labor and materials, to secure the performance of erosion control, dust management, and site stabilization work in the amount shown in **Exhibit B** for the Landscaping Improvements; and
- (ii) For the remainder of the Landscaping Improvements, including all irrigation and other landscaping not specifically intended for construction related erosion control, dust management and site stabilization, set forth in **Exhibit B** for all phases, Subdivider shall provide a single improvement guarantee as cash, letter of credit in

form and substance as shown in **Exhibit C**, or a bond, in an amount equal to one hundred percent (100%) of the total estimated cost, including labor and materials, of the Landscaping Improvements for all of the phases not secured by the letter of credit provided pursuant to subsection (b)(2), above. If Subdivider provides a bond, the bond must be in accordance with the requirements set forth in the DVR Agreement.

(c) The term of every Improvement Guarantee provided by Subdivider shall be for a period of time sufficient to cover the completion of construction of all of the specific, associated public improvements to which such Improvement Guarantee applies, and, except as set forth in subsection (d) below, shall not be released until conditional acceptance of all of the public improvements to which the specific Improvement Guarantee applies has been granted by the Town. If the Subdivider provides a letter of credit, the letter of credit shall not expire during the winter season (November 1 – March 1).

(d) At the time of conditional acceptance of the Infrastructure Improvements, the Town shall reduce the amount of the Improvement Guarantees set forth in subsection (b)(1) above to fifteen percent (15%) of the certified statement of construction costs for the Infrastructure Improvements. At the time of conditional acceptance of the Landscaping Improvements, the Town shall reduce the amount of the Improvement Guarantees set forth in subsection (b)(2) above to fifteen percent (15%) of the certified statement of construction costs for the Landscaping Improvements.

(e) The remaining Improvement Guarantees set forth in subsection (b)(1) above shall be released upon final acceptance of the Infrastructure Improvements by the Town, and the remaining Improvement Guarantees set forth in subsection (b)(2) above shall be released upon final acceptance of the Landscaping Improvements by the Town, provided no mechanics' liens have been filed with respect to the public improvements and the Subdivider is not otherwise in breach of this Agreement. If any mechanics' liens have been filed with respect to the public improvements, the Town may retain all or a portion of the associated Improvement Guarantee up to the amount of such liens. If Subdivider fails to have such improvements for any phase finally accepted within two (2) years of the date of the issuance of conditional acceptance or any improvements are found not to conform to this Agreement, or to applicable Town standards and specifications, then Subdivider shall be in default of the Agreement and the Town may exercise its rights under Section 8.1 of this Agreement.

(f) In addition to any other remedies it may have, the Town may, at any time prior to Final Acceptance, draw on any Improvement Guarantee issued or provided pursuant to this Agreement if Subdivider fails to extend or replace any such Improvement Guarantee at least thirty (30) days prior to expiration of such Improvement Guarantee. If the Town draws on the guarantee to correct deficiencies and complete improvements, any portion of said guarantee not utilized in correcting the deficiencies and/or completing improvements shall be returned to Subdivider within thirty (30) days after said final acceptance. In the event that the Improvement Guarantee expires or the entity issuing the Improvement Guarantee becomes non-qualifying, or the cost of improvements and construction for a phase is reasonably determined by the Town to be greater than the amount of

the security provided for such phase, then the Town shall furnish written notice to the Subdivider of the condition, along with supporting documentation, and within thirty (30) days of receipt of such notice the Subdivider shall provide the Town with a substituted qualifying Improvement Guarantee, or augment the deficient security as necessary to bring the security into compliance with the requirements of this Section 1.11. If such an Improvement Guarantee is not submitted or maintained, then Subdivider is in default of this Agreement and is subject to the provisions of Section 8.1 of this Agreement, as well as the suspension of development activities by the Town including, but not limited to, the issuance of building permits and certificates of occupancy; provided, however, that no additional 30-day notice to cure under Section 8.1 is required prior to the suspension of the issuance of building permits and certificates of occupancy.

(g) Notwithstanding any provision herein to the contrary, the right to provide a bond as security for the completion of public improvements as set forth in subsections (b)(1)(ii) and (b)(2)(ii) above, is personal to Barefoot LLC, a Colorado limited liability company, as Subdivider and may be exercised by Barefoot LLC only for so long as Barefoot LLC is a wholly owned subsidiary of Brookfield Residential Properties, Inc., and Barefoot LLC does not have the right to assign this right to any third party. Notwithstanding any provision herein to the contrary, successors and/or assigns of Barefoot LLC shall not be able to provide a bond or bonds as security for the completion of public improvements, but shall provide a letter of credit in a form and substance acceptable to the Town in its sole discretion.

1.12 Indemnification and Release of Liability. Subdivider agrees to indemnify and hold harmless the Town, its officers, employees, agents, and servants, and to pay any and all judgments rendered against said persons on account of any suit, action, or claim caused by, arising from, or on account of acts or omissions by the Subdivider, its officers, employees, agents, consultants, contractors, and subcontractors, and to pay to the Town and said persons their reasonable expenses, including, but not limited to, reasonable attorney fees and reasonable expert witness fees, incurred in defending any such suit, action or claim; provided, however, that Subdivider's obligation herein shall not apply to the extent said suit, action or claim results from any acts or omissions of officers, employees, agents or servants of the Town or conformance with requirements imposed by the Town. Said obligation of Subdivider shall be limited to suits, actions or claims based upon conduct prior to "final acceptance" by the Town of the construction work. Subdivider acknowledges that the Town's review and approval of plans for development of the property is done in furtherance of the general public's health, safety and welfare and that no immunity is waived and no specific relationship with, or duty of care to, the Subdivider or third parties is assumed by such review or approval.

1.13 Insurance; OSHA. Subdivider shall, through contract requirements and other normal means, guarantee and furnish to the Town proof thereof that all employees and contractors engaged in the construction of improvements are covered by adequate Workers' Compensation Insurance and Public Liability Insurance, and shall require the faithful compliance with all provisions of the Federal Occupational Safety and Health Act (OSHA).

1.14 Phasing Plan; Issuance of Building Permits and Certificates of Occupancy. The Town has approved a phasing plan for the Subdivision, as is reflected in the approved Final Development Plan and **Exhibit B** attached hereto. Subdivider shall complete improvements for all phases and request conditional acceptance thereof on or before the completion deadline set forth in Section 1.3(b).

In addition:

(a) No building permits shall be issued until the full amount of the Improvement Guarantee for all phases have been provided to the Town;

(b) Except for building permits for nine (9) model homes as provided in Section 1.5(b)(2), no building permits shall be issued for the construction of any habitable structure within a phase until all the water lines, fire hydrants, sanitary sewer lines and streets (including curb, gutter, and sidewalk pavement with at least the base course completed) serving such phase of the Subdivision have been completed and granted conditional acceptance; and

(c) No building permits shall be issued for any structure located in excess of nine hundred feet from a single point of access.

(d) No certificates of occupancy shall be issued within a phase of the Subdivision until all infrastructure improvements identified on Exhibit B within such phase have been completed and have been granted conditional acceptance; provided, however, temporary certificates of occupancy may be issued for the nine (9) model homes; and

(e) Any modification to the phasing plan must be approved in accordance with Section 8.5 of this Agreement.

2.0 CONSTRUCTION OF IMPROVEMENTS

2.1 Rights-of-way, Easements and Permits. Prior to commencing construction of any improvements set forth herein, Subdivider shall acquire at its own expense and convey to the Town all necessary land, rights-of-way and easements required by the Town for Subdivider's construction of the proposed improvements related to the Subdivision. All such conveyances shall be free and clear of liens, taxes and encumbrances and shall be by Special Warranty Deed in form and substance acceptable to the Town Attorney. All title documents shall be recorded by the Town at the Subdivider's expense. The Subdivider shall also furnish, at its own expense, an ALTA title policy for all interest(s) so conveyed, subject to approval by the Town Attorney.

2.2 Construction. Subdivider shall furnish and install, at its own expense, the improvements listed on the "Schedule of Improvements" attached as **Exhibit B**, in conformance with the Plat and approved construction plans. If Subdivider does not meet the above obligations, then Subdivider shall be in default of the Agreement and the Town may exercise its rights under Section 8.1 of this Agreement. The Subdivider shall provide the Town Engineer with certified Record Drawings upon completion of the construction of public improvements and other documents as required by the Town. These documents shall show "as-built" locations of such improvements.

2.3 Utility Coordination and Installation. In addition to the Improvements described on **Exhibit B**, Subdivider shall also be responsible for coordination of and payment for installation of on-site and off-site electric, street lights, natural gas, telephone and utilities. All utilities shall be placed underground to the extent required by the Town Code.

3.0 STREET IMPROVEMENTS

3.1 Street Improvements. For the purposes of this Agreement, “street improvements” shall be defined to include, where applicable, but not limited to, all improvements within the right-of-way such as bridges, sub-base preparation, road base, asphalt, concrete, seal coat, curb and gutter, medians, entryways, underground utilities, sidewalks, bicycle paths, traffic signs, street lighting, street name signs, landscaping and drainage improvements. Street improvements other than curbs, gutters, walks and signs, shall not be installed until all utility lines to be placed within the right-of-way have been completely installed, including individual lot service lines leading in from the main to the property line. All street improvements shall be constructed and installed, at the minimum, pursuant to the Plat, approved construction plans, and the Schedule of Improvements attached as **Exhibit B**.

3.2 Street Signs, Traffic Signs and Striping. Subdivider will install, at Subdivider’s expense, striping, street name signs, stop signs, speed limit signs and other signs on local, collector and arterial streets. Signs and striping shall be installed in a manner reasonably approved by the Town and in accordance with the Model Traffic Code, as from time to time amended, and other applicable legal requirements.

4.0 PUBLIC USE DEDICATION AND LANDSCAPING

4.1 Public Use Dedication. (a) Subdivider shall convey to the St. Vrain Lakes Metropolitan District No. 1, prior to the issuance of any building permits, those tracts as shown on the Plat as to be owned by the St. Vrain Lakes Metropolitan District.

(b) The Subdivider specifically represents that to the best of its knowledge, all portions of the Subdivision either dedicated to the Town or comprising rights-of-way to be owned and maintained by the Town are in compliance with all environmental protection and anti-pollution laws, rules, regulations, orders, and requirements, including solid waste requirements, as defined by the US Environmental Protection Agency Regulations at 40 C.F.R., Part 261, and that such portions of the property as are dedicated to the Town pursuant to this development, are in compliance with all such requirements pertaining to the disposal or existence in or on such dedicated property of any hazardous substances, pollutants, or contaminants, as defined by the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, and regulations promulgated thereunder. The Subdivider does hereby indemnify and hold harmless the Town from any liability whatsoever that may be imposed upon the Town by any governmental authority, pertaining to the disposal of hazardous substances, pollutants or contaminants, and cleanup necessitated by leaking underground storage tanks, excavation and/or backfill of hazardous substances, pollutants or contaminants, or environmental cleanup responsibilities of any nature whatsoever on, of or related to any property dedicated to the Town pursuant to this development. The Subdivider further agrees to indemnify and hold harmless the Town from any claims or actions based directly, indirectly or in any manner on any of the aforementioned environmental risks brought against the Town by third parties arising as a result of the dedication of portions of the Property to the Town pursuant to this development. Said indemnification shall not extend to claims, actions or other liability arising as a result of any hazardous substance, pollutants or contaminants generated or deposited by the Town, its agents or representatives, upon portions of the property dedicated to the Town pursuant to this development.

4.2 Landscape Improvements. For public lands and rights-of-way within the Subdivision, Subdivider shall furnish to the Town complete final landscape and irrigation plans and obtain approval thereof by the Town prior to commencement of Public Improvements. Subdivider shall construct the landscape improvements as required in landscape and irrigation plans approved by the Town.

5.0 WATER LINES

5.1 Specifications. (a) All water mains, lines and appurtenances thereto shall be constructed and installed by the Subdivider, at the minimum, pursuant to Town-approved plans, Little Thompson Water District specifications, and the Schedule of Improvements attached as **Exhibit B**, including both on-site and off-site improvements.

(b) Except as provided for nine (9) model homes, all of the water lines, fire hydrants, valves, fittings, and appurtenances within a phase as shown on the approved utility plans shall be installed by the Subdivider prior to issuance of any building permits serving such phase. This shall include all water services for all of the lots shown on the Plat.

6.0 SEWER LINES

6.1 Specifications. All sewer lines and appurtenances thereto shall be constructed and installed by the Subdivider, at the minimum, pursuant to Town-approved plans, St. Vrain Sanitation District specifications, and the Schedule of Improvements attached as **Exhibit B**, and shall meet the requirements and have the approval of the sanitation district serving the property, including both on-site and off-site improvements.

7.0 OTHER IMPROVEMENTS

7.1 Street Lights. The total cost of street light installation shall be the Subdivider's obligation. Subdivider shall cause, at its own expense, the provider of electric and power service to install all required street lighting pursuant to Town-approved plans and specifications. Said street lights shall be installed concurrently with the streets on which they are located.

7.2 Drainage Improvements. (a) Drainage improvements for the Subdivision shall be constructed by Subdivider and, at the minimum, in accordance with plans and specifications approved by the Town and in accordance with the minimum requirements for storm drainage facilities as have been established by the Town. All storm drainage facilities shall be so designed and constructed by the Subdivider as to protect downstream and adjacent properties against injury and adequately serve the Subdivision. No overlot grading shall be initiated by Subdivider until the Town issues a grading permit in accordance with Section 1.5(b)(1).

(b) Except as provided in Section 1.5(b)(2) for nine (9) model homes, drainage improvements within a phase shall be completed and granted conditional acceptance by the Town prior to the issuance of building permits within such phase. Completion of the improvements shall include the certification by a licensed professional engineer that the drainage facilities which serve

the development have been constructed in conformance with said approved plans. Any deviation from the approved plans shall be the responsibility of the Subdivider to correct. Said certification shall be submitted to the Town at least two (2) weeks prior to the date of issuance for any subsequent building permit.

(c) Drainage improvements for each lot shall be constructed by the Subdivider, at the minimum, in accordance with the approved construction plans. Subdivider shall furnish copies of approved plans to subsequent purchasers (other than homeowners) of lots. Any changes from the approved plans with respect to grade elevation or storm drainage facility configuration that occur as a result of the construction of houses and or other development of lots, whether by the Subdivider or other parties, shall require the approval of the Town. The Town may withhold the issuance of building permits and certificates of occupancy until the Town has approved such changes as being acceptable for the safe and efficient delivery of storm drainage water.

7.3 Trash, Debris, Mud. Subdivider agrees that during construction of the Subdivision and improvements described herein, Subdivider shall take any and all steps necessary to control trash, debris and wind or water erosion in the Subdivision. If the Town determines that said trash, debris or wind or water erosion causes damage or injury or creates a nuisance, Subdivider agrees to abate said nuisance and/or to correct any damage or injury within five (5) working days after notification by Town. If Subdivider does not abate said nuisance or if an emergency situation exists, to be determined by the Town in its sole discretion, the Town may abate the nuisance and/or correct any damage or injury without notice to Subdivider at Subdivider's expense. Subdivider also agrees to take any and all steps necessary to prevent the transfer of mud or debris from the construction site onto public rights-of-way and to immediately remove such mud and debris from public rights-of-way after notification by the Town. If Subdivider does not abate such mud or debris, or if an emergency exists, Town may abate the same at Subdivider's expense.

7.4 Limitation of Construction Hours. The operation of construction equipment shall be prohibited between the hours of 7:00 p.m. and 7:00 a.m. The Town Manager may, upon written application and for good cause, alter the hours of operation for a defined period of time.

8.0 MISCELLANEOUS TERMS

8.1 Breach of Agreement. In the event that the Subdivider should fail to timely comply with any of the terms, conditions, covenants and undertakings of the Agreement, and if such noncompliance is not cured and brought into compliance within thirty (30) days of written notice of breach of the Subdivider by the Town, unless the Town in writing and in its sole discretion designates a longer cure period, then the Town may draw upon the Improvement Guarantee and may complete some or all the public improvements associated with such Improvement Guarantee at Subdivider's expense. Subdivider's expense shall be limited to the costs incurred by the Town, as defined herein. Notice by the Town to the Subdivider will specify the conditions of default. In the event that no Improvement Guarantee has been posted or the Improvement Guarantee has been exhausted or is insufficient, then the Town has the right enforce the restrictions on the issuance of building permits and other approval or permits, and, if it chooses, to begin work on the Improvements at the expense of the Subdivider. If the Town determines in its sole discretion that an emergency exists, such that the improvement must be completed in less than seven (7) days, the Town may immediately draw upon the Improvement Guarantee if available and may complete the Improvements at Subdivider's

expense even if the improvement guaranty is not available; in such event, the Town shall use its best efforts to notify Subdivider at the earliest practical date and time. The Town may also, during the cure period and until completion of the improvements in compliance with this Agreement, withhold any additional building permits, certificates of occupancy, or provision of new utilities fixtures or services. Nothing herein shall be construed to limit the Town from pursuing any other remedy at law or in equity which may be appropriate under municipal, state or federal law. Failure to timely complete construction of improvements which is solely due to inclement weather, acts of God, material shortages, labor strikes, and other matters not within the Subdivider's control shall not be considered a breach of the Agreement. Any costs incurred by the Town, including, but not limited to, administrative costs and reasonable attorney fees, in pursuit of any remedies due to the breach by the Subdivider shall be the responsibility of the Subdivider. The Town may deduct these costs from the Improvement Guarantee.

8.2 Recording of Agreement. The Town shall record this Agreement at Subdivider's expense in the office of the Clerk and Recorder, County of Weld, State of Colorado, and the Town shall retain the recorded Agreement.

8.3 Binding Effect of Agreement. This Agreement shall run with the land included within the Subdivision, shall be binding upon the successors and assigns of the parties hereto, and except as provided herein to the contrary, shall inure to the benefit of the successors and assigns of the parties hereto.

8.4 Assignment, Delegation and Notice. There shall be no transfer or assignment of any of the rights or obligations of the Subdivider under this Agreement without the prior written approval of the Town, and the Subdivider agrees to provide the Town with at least fourteen (14) days' advance notice of any such proposed transfer or assignment. Subdivider shall not sell or transfer any lots within the Subdivision before the Improvement Guarantee has been posted, or during any period Subdivider has been notified by the Town that the Improvement Guarantee is not in compliance with this Agreement. If such a sale or transfer is made, Subdivider shall be in default of this Agreement and is subject to the provisions of Section 8.1, and the Town may suspend all development activities relating to the Subdivision or Subdivider, or both, including but not limited to staff development reviews, public hearings, and issuance of building permits and certificates of occupancy. Subdivider and successor shall, until written Town approval of the proposed transfer of title and delegation of obligations, be jointly and severally liable for the obligations of Subdivider under this Agreement.

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

8.6 Addresses for Notice. Any notice or communication required or permitted hereunder shall be given in writing and shall be personally delivered, or sent by United States mail, postage prepaid, registered or certified mail, return receipt requested, addressed as follows:

TOWN:

Town of Firestone
Town Clerk
9950 Park Avenue
Firestone, CO 80504

SUBDIVIDER:

Barefoot LLC
6465 Greenwood Plaza Blvd #700
Centennial, CO 80111

With a required copy to:

Williamson & Hayashi, LLC
Attn: William Hayashi
1650 38th Street, Suite 103 West
Boulder, CO 80301

Lyons Gaddis Kahn Hall Jeffers
Dworak & Grant, P.C.
515 Kimbark Street
Longmont, CO 80501

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

8.7 Force Majeure. Whenever Subdivider is required to complete construction, maintenance, repair, or replacement of improvements by an agreed upon deadline, said deadline shall be extended for a reasonable time if the performance cannot as a practical matter, be completed in a timely manner due to Acts of God or other circumstances constituting force majeure or beyond the reasonable control of Subdivider.

8.8 Approvals. Whenever approval or acceptance of a matter is required or requested of the Town pursuant to any provisions of this Agreement, the Town shall act reasonably in responding to such matter.

8.9 Previous Agreements. All previous written and recorded agreements between the parties, their successors, and assigns, including, but not limited to, the Annexation Agreement and Development and Vested Rights Agreement, shall remain in full force and effect and shall control this Subdivision. If any prior agreements conflict with this Agreement, then this Agreement controls.

8.10 Title and Authority. Subdivider warrants to the Town that it is the record owner for the property within the Subdivision or is acting in accordance with the currently valid and unrevoked power of attorney of the record owner hereto attached. The undersigned further warrants to have full power and authority to enter into this Agreement on behalf of Subdivider.

8.11 Severability. This Agreement is to be governed and construed according to the laws of the State of Colorado. In the event that upon request of Subdivider or any agent thereof, any provision of the Agreement is held to be violative of the municipal, state, or federal laws and hereby rendered unenforceable, the Town, in its sole discretion, may determine whether the remaining provisions will or will not remain in force.

8.12 Agreement Status After Final Acceptance. Upon final acceptance by Town of all improvements and compliance by Subdivider with all terms and conditions of this Agreement, and provided that no litigation or claim is pending relating to this Agreement, the provisions of this Agreement relating to the construction of public improvements shall no longer be in effect except for the provisions of Sections 1.12 and 4.1(b) hereof, which provisions shall remain in effect and survive any expiration or termination of this Agreement.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

TOWN:
TOWN OF FIRESTONE, COLORADO

By: _____
Drew Peterson, Mayor

ATTEST:

Jessica Koenig, Town Clerk

SUBDIVIDER:
BAREFOOT, LLC

By: _____

Title: _____

and

By: _____

Title: _____

ACKNOWLEDGMENT

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by _____ as _____ and _____ as _____ of Barefoot, LLC.

Witness my hand and official seal.

My commission expires: _____

(SEAL)

Notary Public

EXHIBIT A
(reduced copy of Filing 5)

FINAL PLAT

BAREFOOT LAKES FILING NO. 5

A REPLAT OF TRACT G, BAREFOOT LAKES FILING NO. 4

LOCATED WITHIN THE NORTHWEST QUARTER OF SECTION 36,
TOWNSHIP 3 NORTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN,
TOWN OF FIRESTONE, COUNTY OF WELD, STATE OF COLORADO

73.622 ACRES – 184 RESIDENTIAL LOTS – 13 TRACTS

CERTIFICATION OF OWNERSHIP AND DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT BAREFOOT LLC, A COLORADO LIMITED LIABILITY COMPANY BEING THE SOLE OWNER OF THE LAND SHOWN IN THIS PLAT AND DESCRIBED AS FOLLOWS:

TRACT G, BAREFOOT LAKES FILING NO. 4, AS RECORDED ON NOVEMBER 25, 2019 UNDER RECEPTION NO. 45444503, SITUATED IN THE NORTHWEST QUARTER OF SECTION 36, TOWNSHIP 3 NORTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, TOWN OF FIRESTONE, COUNTY OF WELD, STATE OF COLORADO.

CONTAINING AN AREA OF 73.622 ACRES (3,206,954 SQUARE FEET), MORE OR LESS.

HAVE LAID OUT, SUBDIVIDED AND PLATTED SAID LAND AS PER DRAWING HEREON CONTAINED UNDER THE NAME AND STYLE OF **BAREFOOT LAKES FILING NO. 5**, A SUBDIVISION OF A PART OF THE TOWN OF FIRESTONE, COUNTY OF WELD, STATE OF COLORADO, AND BY THESE PRESENTS DO HEREBY DEDICATE TO THE TOWN OF FIRESTONE, THE STREETS, AVENUES (AND OTHER PUBLIC PLACES, TRACTS/OUTLOTS) AS SHOWN HEREON, AND TO THE PUBLIC USE OR THE PUBLIC USE OF THE TOWN OF FIRESTONE, THE TRACTS, LOTS, BLOCKS AND RIGHTS-OF-WAY, UTILITIES, EASEMENTS, AND ALL SERVING PUBLIC UTILITIES (AND OTHER APPROPRIATE ENTITIES) THOSE PORTIONS OF SAID REAL PROPERTY WHICH ARE SO DESIGNATED AS EASEMENTS AS SHOWN.

IT IS EXPRESSLY UNDERSTOOD AND AGREED BY THE UNDERSIGNED THAT ALL EXPENSES AND COSTS INVOLVED IN CONSTRUCTING AND INSTALLING SANITARY SEWER SYSTEM WORKS AND LINES, WATER SYSTEM WORKS AND LINES, GAS SERVICE LINES, ELECTRICAL SERVICE AND LINES, LANDSCAPING, CURBS, GUTTERS, STREET PAVEMENT, SIDEWALKS, AND OTHER SUCH UTILITIES AND SERVICES SHALL BE PAID BY THE TOWN OF FIRESTONE, COLORADO, AND SUCH SUMS SHALL NOT BE PAID BY THE TOWN OF FIRESTONE, AND THAT ANY ITEM SO CONSTRUCTED OR INSTALLED WHEN ACCEPTED BY THE TOWN OF FIRESTONE SHALL BECOME THE SOLE PROPERTY OF SAID TOWN OF FIRESTONE, COLORADO, EXCEPT PRIVATE ROADWAYS CURBS, GUTTER AND PAVEMENT AND ITEMS OWNED BY MUNICIPALITY FRANCHISED UTILITIES, OTHER SERVING PUBLIC ENTITIES AND/OR CENTURYLINK, WHICH WHEN CONSTRUCTED OR INSTALLED SHALL REMAIN AND/OR BECOME THE PROPERTY OF SUCH MUNICIPALITY FRANCHISED UTILITIES, OTHER SERVING PUBLIC ENTITIES, AND/OR CENTURYLINK AND SHALL NOT BECOME THE PROPERTY OF THE TOWN OF FIRESTONE, COLORADO.

OWNER:
BAREFOOT LLC, A COLORADO LIMITED LIABILITY COMPANY
6465 S. GREENWOOD PLAZA BLVD., STE. 700
CENTENNIAL, CO. 80111

BY: _____
NAME: _____
TITLE: _____
EXECUTED THIS ____ DAY OF _____, A.D., 20____.

STATE OF COLORADO }
COUNTY OF _____ } SS.

THE FOREGOING DEDICATION WAS ACKNOWLEDGED BEFORE ME
THIS ____ DAY OF _____, 20____.

BY _____ AS _____
OF BAREFOOT LLC, A COLORADO LIMITED LIABILITY COMPANY
MY COMMISSION EXPIRES _____
WITNESS MY HAND AND SEAL. _____ NOTARY PUBLIC

BY: _____
NAME: _____
TITLE: _____
EXECUTED THIS ____ DAY OF _____, A.D., 20____.

STATE OF COLORADO }
COUNTY OF _____ } SS.

THE FOREGOING DEDICATION WAS ACKNOWLEDGED BEFORE ME
THIS ____ DAY OF _____, 20____.

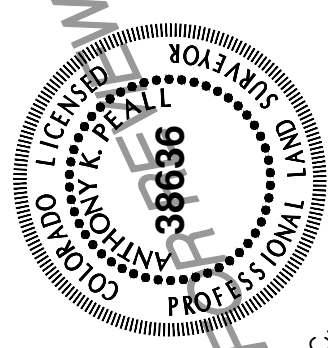
BY _____ AS _____
OF BAREFOOT LLC, A COLORADO LIMITED LIABILITY COMPANY
MY COMMISSION EXPIRES _____
WITNESS MY HAND AND SEAL. _____ NOTARY PUBLIC

SHEET INDEX

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| SHEET 1 | — | DEDICATION, APPROVALS, , VICINITY MAP, LEGAL DESCRIPTION |
| SHEET 2 | — | GENERAL NOTES AND SUBDIVISION DATA |
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| SHEET 9 | — | OIL AND GAS AREA DETAIL |

SURVEYING CERTIFICATE:

I, ANTHONY K. PEALL, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THE SURVEY REPRESENTED BY THIS PLAT WAS MADE UNDER MY PERSONAL SUPERVISION AND CHECKING. I FURTHER CERTIFY THAT THE SURVEY AND THIS PLAT COMPLY WITH ALL APPLICABLE RULES, REGULATIONS AND LAWS OF THE STATE OF COLORADO, STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS, PROFESSIONAL ARCHITECTS AND PROFESSIONAL LAND SURVEYORS, AND THE TOWN OF FIRESTONE.



BY: ANTHONY K. PEALL, P.L.S. NO. 38636
FOR AND ON BEHALF OF AZTEC CONSULTANTS, INC.

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

NOTICE: PER THE STATE OF COLORADO BOARD OF LICENSURE FOR ARCHITECTS, PROFESSIONAL ENGINEERS, AND PROFESSIONAL LAND SURVEYORS RULE 1.6.B.2 THE WORD "CERTIFY" AS USED HEREON MEANS AN EXPRESSION OF PROFESSIONAL OPINION AND DOES NOT CONSTITUTE A WARRANTY OR GUARANTEE, EXPRESSED OR IMPLIED. THE SURVEY REPRESENTED HEREON HAS BEEN PERFORMED BY ME OR UNDER MY DIRECT SUPERVISION IN ACCORDANCE WITH APPLICABLE STANDARDS OF PRACTICE AND IS BASED UPON MY KNOWLEDGE, INFORMATION AND BELIEF.

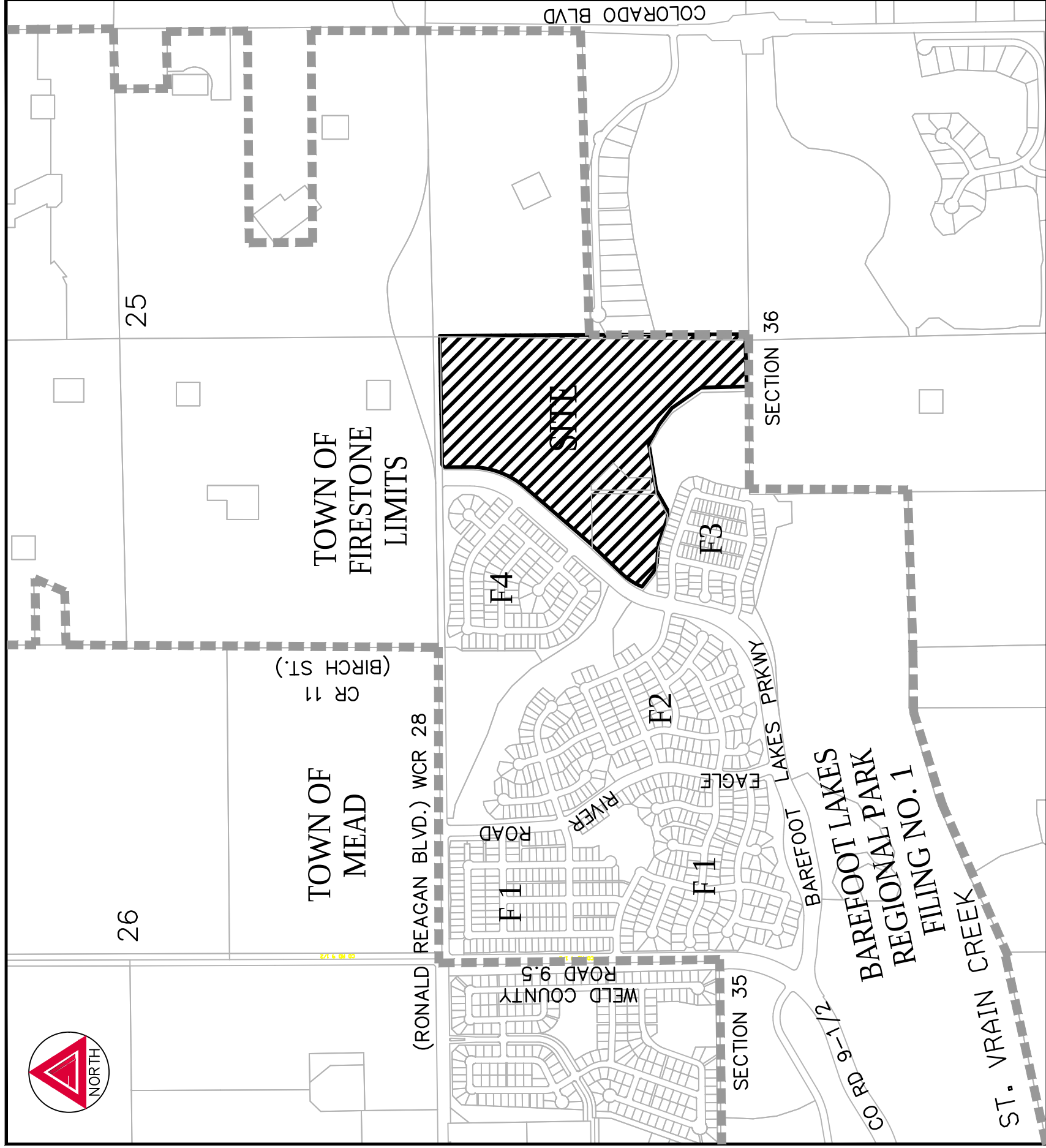
TOWN APPROVAL

THIS IS TO CERTIFY THAT THE PLAT OF **BAREFOOT LAKES FILING NO. 5** WAS APPROVED ON THIS ____ DAY OF _____, 20____, BY RESOLUTION NO. _____ AND THAT THE MAYOR OF THE TOWN OF FIRESTONE ON BEHALF OF THE TOWN OF FIRESTONE, HEREBY ACKNOWLEDGES SAID PLAT UPON WHICH THIS CERTIFICATE IS ENDORSED FOR ALL PURPOSES INDICATED THEREON.

MAYOR _____

ATTEST: TOWN CLERK _____

VICINITY MAP
SCALE: 1" = 1000'



LITTLE THOMPSON WATER DISTRICT
ACCEPTANCE CERTIFICATE

THE DEDICATION OF THE WATER EASEMENTS AS SHOWN HEREON ARE HEREBY ACCEPTED FOR OWNERSHIP AND MAINTENANCE BY THE LITTLE THOMPSON WATER DISTRICT

LITTLE THOMPSON WATER DISTRICT

BY: _____
PRESIDENT

STATE OF COLORADO }
COUNTY OF _____ } SS

ACKNOWLEDGED BEFORE ME THIS ____ DAY OF _____, 20____.

BY _____ AS _____
_____ OF LITTLE THOMPSON WATER DISTRICT

WITNESS MY HAND AND OFFICIAL SEAL

MY COMMISSION EXPIRES: _____

NOTARY PUBLIC _____

FIRESTONE INFORMATION BLOCK	
OWNER:	ENGINEER:
BAREFOOT LLC 6465 S. GREENWOOD PLAZA BLVD., SUITE 700 CENTENNIAL, COLORADO 80111 CONTACT: SHANNON ROBBINS SHANNON.ROBBINS@BROOKFIELDRDP.COM	REDLAND 1500 WEST CANAL COURT LITTLETON, COLORADO 80120 720-283-6783 CONTACT: FRED TAFOYA, P.E. FTAFOYA@REDLAND.COM
SURVEYOR:	DEVELOPER:
AZTEC CONSULTANTS, INC. 300 EAST MINERAL AVE., SUITE 1 LITTLETON, COLORADO 80122 CENTENNIAL, COLORADO 80111 CONTACT: TONY PEALL TPEALL@AZTECCONSULTANTS.COM	BROOKFIELD RESIDENTIAL 6465 S. GREENWOOD PLAZA BLVD., SUITE 700 CENTENNIAL, COLORADO 80111 CONTACT: SHANNON ROBBINS SHANNON.ROBBINS@BROOKFIELDRDP.COM
COVER PAGE ~ SHEET 1 of 9	
D E V E L O P E R	
BROOKFIELD RESIDENTIAL	
6465 S. GREENWOOD PLAZA BLVD., SUITE 700 CENTENNIAL, COLORADO 80111 (303) 706-9451	
DATE OF PREPARATION:	2019-05-17
SCALE:	N/A
S H E E T 1 O F 9	



AzTec
Consultants, Inc.

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Littleton, Colorado 80122
Phone: (303) 713-1887
Fax: (303) 713-1897
www.aztecconsultants.com

AzTec Proj. No.: 5489-23

Drawn By: BAM

BAREFOOT LAKES FILING NO. 5

FINAL PLAT

A REPLAT OF TRACT G, BAREFOOT LAKES FILING NO. 4
LOCATED WITHIN THE NORTHWEST QUARTER OF SECTION 36,
TOWNSHIP 3 NORTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN,
TOWN OF FIRESTONE, COUNTY OF WELD, STATE OF COLORADO
73.622 ACRES – 184 RESIDENTIAL LOTS – 13 TRACTS

SHEET 2 OF 9

GENERAL NOTES

- NOTE:** ACCORDING TO COLORADO LAW YOU **MUST** COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.
- ANY PERSON WHO KNOWINGLY REMOVES, ALTERS OR DEFACTS ANY PUBLIC LAND SURVEY MONUMENT OR LAND BOUNDARY MONUMENT OR ACCESSORY COMITS A CLASS TWO (2) MISDEMEANOR PURSUANT TO STATE STATUTE 18-4-508, COLORADO REVISED STATUTE.
- DISTANCES ON THIS PLAT ARE GROUND DISTANCES EXPRESSED IN U.S. SURVEY FEET AND DECIMALS THEREOF. A U.S. SURVEY FOOT IS DEFINED AS EXACTLY 1200/3937 METERS
- BASIS OF BEARINGS: BEARINGS ARE BASED ON THE NORTH LINE OF THE NORTHWEST QUARTER OF SECTION 36, TOWNSHIP 3 NORTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, ASSUMED TO BEAR NORTH 88°58'33" EAST, 2843.03 FEET AND MONUMENTED AS SHOWN HEREON.
- TITLE COMMITMENT: LAND TITLE GUARANTEE COMPANY PROPERTY INFORMATION BINDER ORDER NUMBER ABC25165540, DATED MARCH 17, 2020 AT 5:00 P.M. WAS RELIED UPON FOR RECORD INFORMATION REGARDING RIGHTS-OF-WAY, EASEMENTS AND ENCUMBRANCES. THIS SURVEY DOES NOT REPRESENT A TITLE SEARCH BY AZTEC CONSULTANTS INC. TO DETERMINE OWNERSHIP, RIGHTS-OF-WAY, EASEMENTS OR OTHER MATTERS OF PUBLIC RECORD.
- FLOODPLAIN: BASED ON GRAPHICAL REPRESENTATION, A PORTION OF THE SUBJECT PROPERTY LIES IN FLOOD ZONE X; AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN, AND A PORTION OF THE SUBJECT PROPERTY LIES WITHIN ZONE AEL, SPECIAL FLOOD HAZARD AREAS (SFHAS), SUBJECT TO MINIMUM FLOOD INSURANCE RATE MAP NUMBER 0812C1808E, PANEL 1880 OF 2250, WITH A REVISED DATE OF JANUARY 20, 2016. FLOOD ZONE LINE SHOWN ON SHEETS 3 AND 8.
- THE UTILITY AND DRAINAGE EASEMENTS AS SHOWN HEREON ARE DEDICATED TO THE TOWN OF FIRESTONE FOR THE INSTALLATION AND MAINTENANCE OF UTILITIES AND STORM DRAINAGE FACILITIES AND CONVEYANCE OF STORM DRAINAGE.
- ALLOWED USES IN UTILITY EASEMENTS INCLUDE FOR INSTALLATION AND MAINTENANCE OF ELECTRICAL, PHONE, FIBER OPTIC CABLE, WATER SERVICE, GAS SERVICE, AND DRAINAGE FACILITIES. THESE EASEMENTS DO NOT PROVIDE FOR THE FACILITIES WITHIN THESE EASEMENTS WILL INCLUDE BUT NOT LIMITED TO CENTURYLINK FOR CABLE AND TELEPHONE, UNITED POWER FOR ELECTRICAL AND SOURCE GAS FOR GAS.
- A BLANKET PEDESTRIAN EASEMENT OVER AND ACROSS TRACTS A, B, C, D, E, F, G, H, I, L AND M, INCLUSIVE, IS DEDICATED TO THE TOWN OF FIRESTONE FOR THE INSTALLATION, MAINTENANCE, AND USE OF WALKS AND TRAILS.
- THE WATER EASEMENTS SHOWN HEREON ARE DEDICATED TO THE LITTLE THOMPSON WATER DISTRICT FOR THE INSTALLATION AND MAINTENANCE OF DISTRICT WATER FACILITIES.
- THE VARIABLE WIDTH SIGHT DISTANCE EASEMENT(S) SHOWN HEREON ARE NO-BUILD AREAS AND RESTRICT VEGETATION AND PERMANENT STRUCTURES MORE THAN THREE FEET TALL. TREES WITH A BOTTOM OF CANOPY HEIGHT OF 13- FEET SHALL BE ALLOWED.
- TRACTS B, J AND K MAY BE DEVELOPED FOR ANY PURPOSE ALLOWED BY THE BAREFOOT LAKES FILING NO. 5 FINAL DEVELOPMENT PLAN OR OTHERWISE APPROVED BY THE TOWN OF FIRESTONE, INCLUDING, WITHOUT LIMITATION, FUTURE DEVELOPMENT AND/OR PUBLIC RIGHT-OF-WAY.
- A BLANKET DRAINAGE EASEMENT OVER TRACTS B, C, H, I, L AND M ARE DEDICATED TO THE TOWN OF FIRESTONE FOR THE INSTALLATION AND MAINTENANCE OF STORM DRAINAGE FACILITIES AND CONVEYANCE OF STORM DRAINAGE.
- A ONE FOOT (1-FT) WIDE DRAINAGE EASEMENT ALONG THE INTERIOR SIDE OF EACH LOT, UNLESS AS OTHERWISE SHOWN HEREIN, IS FOR THE PERPETUAL CONVEYANCE OF STORM DRAINAGE.

LINE TABLE		
LINE	BEARING	LENGTH
L1	S88°29'44"W	445.20'
L2	N01°30'16"W	388.59'
L3	N35°09'15"W	303.58'
L4	N52°36'18"W	176.29'
L5	N60°58'46"W	183.03'
L6	S80°47'09"W	401.77'
L7	S60°34'02"W	192.59'
L8	S88°29'02"W	62.59'

LINE TABLE		
LINE	BEARING	LENGTH
L9	N71°14'04"W	244.45'
L10	N85°34'54"W	172.27'
L11	N69°09'19"W	53.98'
L12	N52°10'29"W	173.58'
L13	N43°46'52"E	344.53'
L14	N40°44'33"E	714.06'
L15	N00°16'48"W	206.00'

CURVE TABLE			
CURVE	DELTA	RADIUS	LENGTH
C1	21°11'04"	569.00'	210.38'
C2	3°02'19"	666.00'	35.32'
C3	41°01'20"	720.00'	515.50'
C4	89°15'19"	30.00'	46.73'
C5	90°00'00"	25.00'	39.27'
C6	102°19'59"	15.00'	26.79'
C7	35°05'49"	39.00'	23.89'
C8	102°19'59"	15.00'	26.79'
C9	90°00'00"	15.00'	23.56'
C10	90°00'00"	15.00'	23.56'
C11	85°50'36"	25.00'	37.46'
C12	85°50'36"	25.00'	37.46'
C13	90°00'00"	15.00'	23.56'
C14	90°12'31"	15.00'	23.62'
C15	98°24'49"	15.00'	25.76'
C16	0°19'26"	529.00'	2.99'
C17	0°19'26"	471.00'	2.66'

CURVE TABLE			
CURVE	DELTA	RADIUS	LENGTH
C18	81°35'11"	15.00'	21.36'
C19	90°00'00"	15.00'	23.56'
C20	81°23'34"	15.00'	21.31'
C21	81°23'34"	15.00'	21.31'
C22	83°36'39"	25.00'	36.48'
C23	74°16'50"	34.00'	44.08'
C24	90°00'00"	15.00'	23.56'
C25	90°00'00"	15.00'	23.56'
C26	90°00'00"	15.00'	23.56'
C27	88°55'22"	15.00'	23.28'
C28	85°00'00"	15.00'	22.25'
C29	91°08'33"	15.00'	23.86'
C30	94°59'58"	15.00'	24.87'
C31	90°00'00"	15.00'	23.56'
C32	81°35'11"	15.00'	21.36'
C33	90°00'00"	15.00'	23.56'
C34	98°24'49"	15.00'	25.76'

CURVE TABLE			
CURVE	DELTA	RADIUS	LENGTH
C35	88°47'31"	15.00'	23.25'
C36	81°05'14"	15.00'	21.23'
C37	96°55'13"	15.00'	25.37'
C38	102°58'22"	15.00'	26.96'
C39	65°07'22"	16.00'	18.19'
C40	62°35'24"	16.00'	17.48'
C41	83°36'39"	25.00'	36.48'
C42	34°04'31"	39.00'	23.19'
C43	34°04'31"	39.00'	23.19'
C44	40°55'34"	39.00'	27.86'
C45	40°55'34"	39.00'	27.86'
C46	33°28'22"	39.00'	22.78'
C47	33°28'22"	39.00'	22.78'
C50	49°57'47"	39.00'	34.01'
C51	35°05'23"	39.00'	23.88'

TRACT USE SUMMARY TABLE				
TRACT	AREA (S.F. ±)	AREA (A.C. ±)	USE	OWNER*
A	50,663	1.163	OPEN SPACE, UTILITIES	SVMD
B	266,225	6.112	FUTURE DEVELOPMENT, DRAINAGE	BAREFOOT LLC
C	15,889	0.365	OPEN SPACE, UTILITIES	SVMD
D	96,839	2.223	OPEN SPACE, UTILITIES	SVMD
E	36,499	0.838	OPEN SPACE, UTILITIES	SVMD
F	42,804	0.983	OPEN SPACE	SVMD
G	107,603	2.470	OPEN SPACE, UTILITIES, DRAINAGE	SVMD
H	166,877	3.831	OPEN SPACE, UTILITIES, DRAINAGE	SVMD
I	5,484	0.126	OPEN SPACE, UTILITIES	SVMD
J	266,502	6.118	FUTURE DEVELOPMENT, DRAINAGE	BAREFOOT LLC
K	41,480	0.952	FUTURE DEVELOPMENT	BAREFOOT LLC
L	295,541	6.785	OPEN SPACE, UTILITIES, DRAINAGE	SVMD
M	6,413	0.147	OPEN SPACE, UTILITIES, DRAINAGE	SVMD
TOTAL	1,398,819	32.113	SVMD = ST. VRAIN LAKES METROPOLITAN DISTRICT	

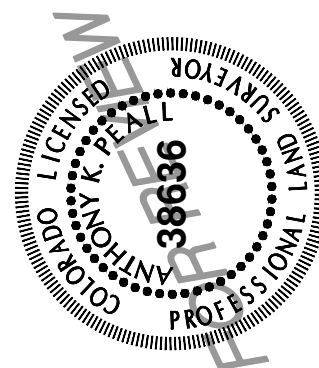
* TRACTS WITH OWNER SHOWN AS SVMD ARE TO BE DEEDED TO SVMD FOLLOWING RECORDATION OF THE PLAT

FIRESTONE INFORMATION BLOCK

Name of Application	BAREFOOT LAKES
Type of Submittal	FINAL PLAT
Filing Number	FILING NO. 5
Phase Number	N/A
Preparation Date	05-17-2019
Revision Date	11-20-2019
Revision Date	3-23-2020
Revision Date	6-1-2020
Revision Date	7-24-2020

GENERAL NOTES ~ SHEET 2 of 9

 AZtec Consultants, Inc.	300 East Mineral Ave. Suite 1 Little L, Colorado, 80122 Phone: (303) 713-1898 Fax: (303) 713-1897 www.aztecconsultants.com	D E V E L O P E R BROOKFIELD RESIDENTIAL		DATE OF PREPARATION:	2019-05-17
				SCALE:	N/A
			6465 S. GREENWOOD PLAZA BLVD., SUITE 700 CENTENNIAL, COLORADO 80111 (303) 706-9451		S H E E T 2 O F 9
AZtec Proj. No.: 5489-23	Drawn By: BAM				



FOR AND ON BEHALF OF
AZTEC CONSULTANTS, INC

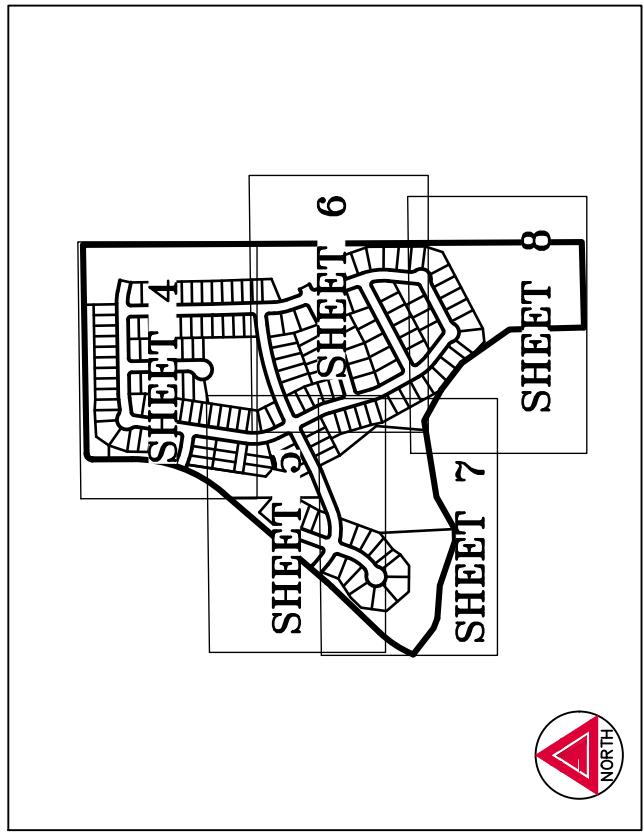


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www.aztecconsultants.com

AzTec Proj. No.: 5489-23

Drawn By: BAM

FINAL PLAT
BAREFOOT LAKES FILING NO. 5
A REPLAT OF TRACT G, BAREFOOT LAKES FILING NO. 4
LOCATED WITHIN THE NORTHWEST QUARTER OF SECTION 36,
TOWNSHIP 3 NORTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN,
TOWN OF FIRESTONE, COUNTY OF WELD, STATE OF COLORADO
73.622 ACRES - 184 RESIDENTIAL LOTS - 13 TRACTS
SHEET 3 OF 9



KEY MAP
SCALE = 1" = 1000'

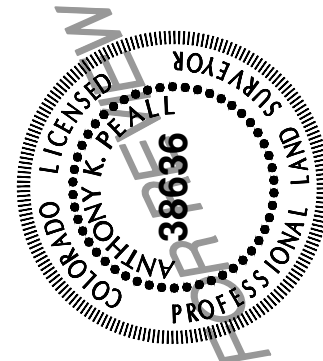
LEGEND

- RECOVERED SECTION CORNER AS NOTED
- NW 1/16 CORNER SECTION 36
- RECOVERED NO. 6 REBAR WITH 3-1/4" ALUMINUM CAP
- STAMPED "PLS 14615, 1999, EPP & ASSOCIATES INC."
- SET NO. 5 REBAR WITH 1-1/4" PINK PLASTIC CAP
- 1 STAMPED "AZTEC LS 38636"
- 1 RECOVERED NO. 5 REBAR WITH 1-1/4" ORANGE
- 1 PLASTIC CAP STAMPED "AZTEC PLS 38064"
- U.E. = UTILITY EASEMENT
- D.E. = DRAINAGE EASEMENT
- W.E. = WATER EASEMENT
- S.D.E. = SIGHT DISTANCE EASEMENT
- ROW = RIGHT-OF-WAY
- ⊕ = PLUGGED AND ABANDONED WELL
- ⊙ = SHUT IN WELL

SEE SHEET 2
FOR LINE &
CURVE TABLES

FIRESTONE INFORMATION BLOCK			
Name of Application	BAREFOOT LAKES		
Type of Submittal	FINAL PLAT		
Filing Number	FILING NO. 5		
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Revision Date	7-24-2020		

OVERALL PAGE ~ SHEET 3 of 9



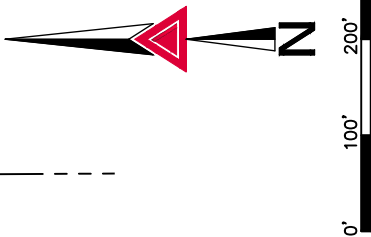
FOR AND ON BEHALF OF
AZTEC CONSULTANTS, INC.

Aztec
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300 East Mineral Ave., Suite 1
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Phone: (970) 713-1887
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Drawn By: BAM
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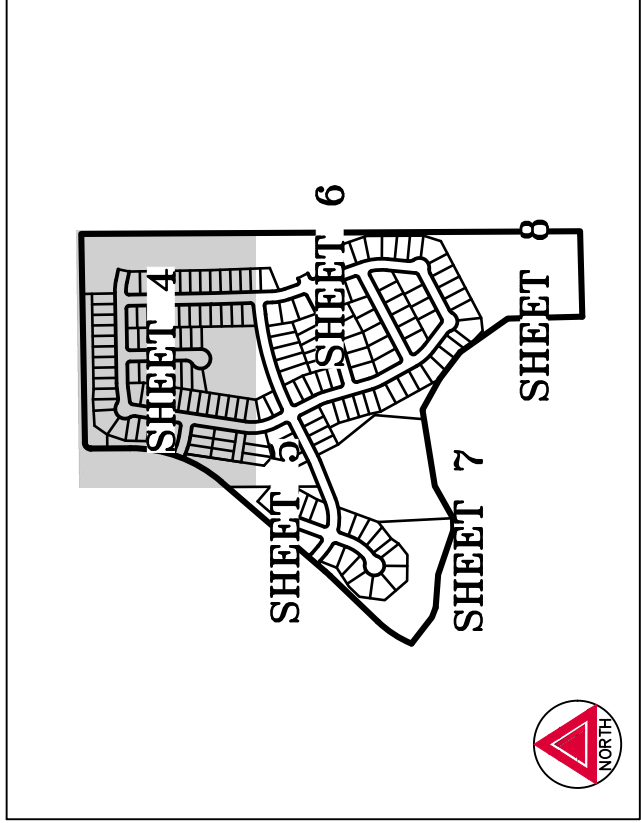
DEVELOPER
BROOKFIELD RESIDENTIAL
6465 S. GREENWOOD PLAZA BLVD., SUITE 700
CENTENNIAL, COLORADO 80111
(303) 706-9451

DATE OF
PREPARATION: 2019-05-17
SCALE: 1" = 200'
SHEET 3 OF 9



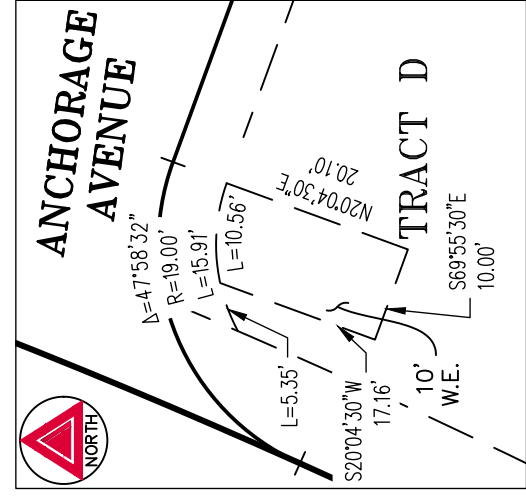
FINAL PLAT
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73.622 ACRES - 184 RESIDENTIAL LOTS - 13 TRACTS
SHEET 4 OF 9

SEE SHEET 2
FOR LINE &
CURVE TABLES

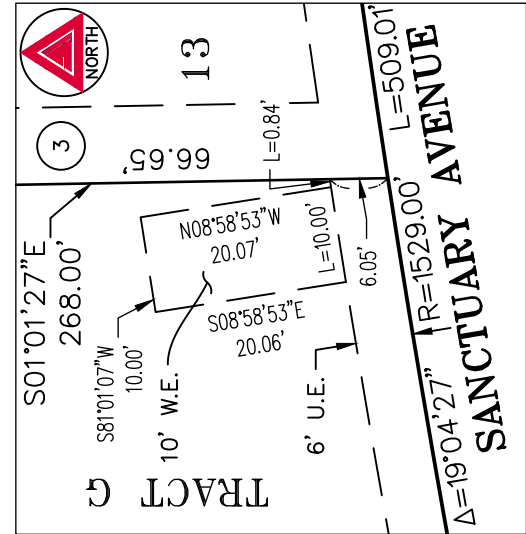


KEY MAP
SCALE = 1" = 1000'

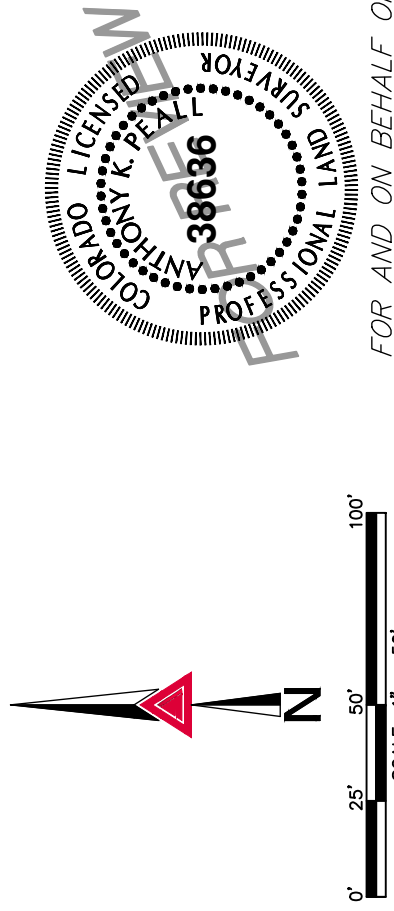
- LEGEND**
- RECOVERED SECTION CORNER AS NOTED
 - NW 1/4 CORNER SECTION 36
 - RECOVERED NO. 6 REBAR WITH 3-1/4" ALUMINUM CAP
 - STAMPED "PLS 14615, 1999, EPP & ASSOCIATES INC."
 - SET NO. 5 REBAR WITH 1-1/4" PINK PLASTIC CAP
 - STAMPED "AZTEC LS 38636"
 - RECOVERED NO. 5 REBAR WITH 1-1/4" ORANGE PLASTIC CAP STAMPED "AZTEC PLS 38064"
 - UTILITY EASEMENT
 - DRAINAGE EASEMENT
 - W.E. = WATER EASEMENT
 - S.D.E. = SIGHT DISTANCE EASEMENT
 - ROW = RIGHT-OF-WAY
 - PLUGGED AND ABANDONED WELL
 - SHUT IN WELL



SCALE: 1" = 20'



SCALE: 1" = 20'



FOR AND ON BEHALF OF
AZTEC CONSULTANTS, INC.

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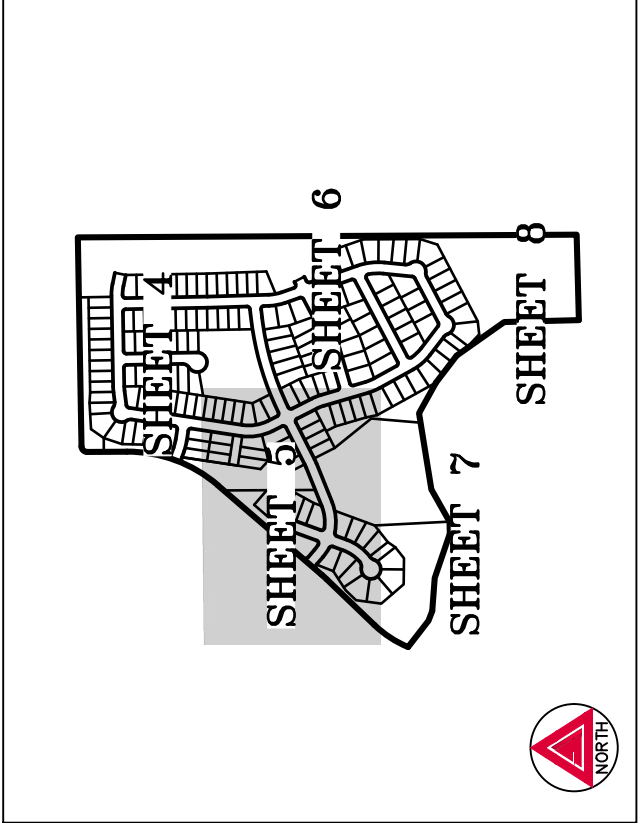
LOT DETAIL PAGE ~ SHEET 4 of 9

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DEVELOPER
BROOKFIELD RESIDENTIAL
6465 S. GREENWOOD PLAZA BLVD., SUITE 700
CENTENNIAL, COLORADO 80111
(303) 706-9451

Drawn By: **BAM**
Aztec Proj. No.: **5489-23**

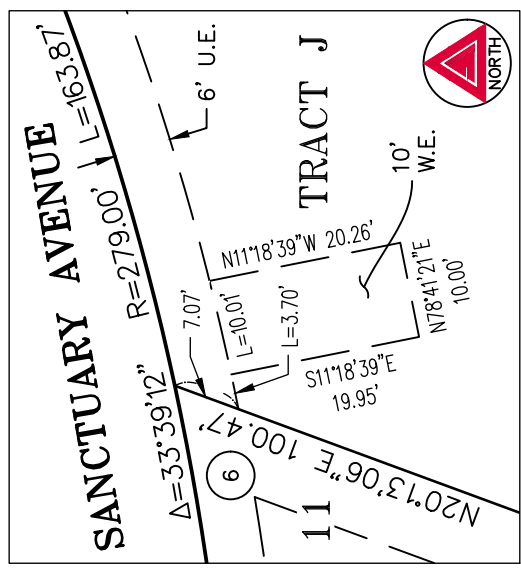
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73.622 ACRES - 184 RESIDENTIAL LOTS - 13 TRACTS
SHEET 5 OF 9



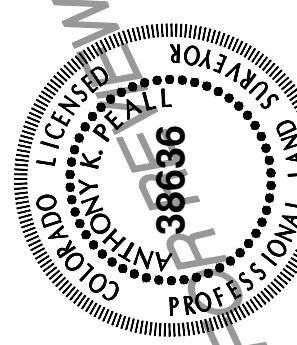
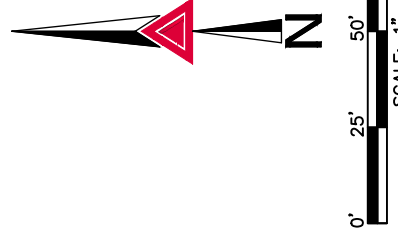
KEY MAP
SCALE = 1" = 1000'

LEGEND

- RECOVERED SECTION CORNER AS NOTED
- NW 1/16 CORNER SECTION 36
- RECOVERED NO. 6 REBAR WITH 3-1/4" ALUMINUM CAP STAMPED "PLS 14815, 1999, EPP & ASSOCIATES INC."
- SET NO. 5 REBAR WITH 1-1/4" PINK PLASTIC CAP STAMPED "AZTEC LS 38636"
- RECOVERED NO. 5 REBAR WITH 1-1/4" ORANGE PLASTIC CAP STAMPED "AZTEC PLS 38064"
- U.E. = UTILITY EASEMENT
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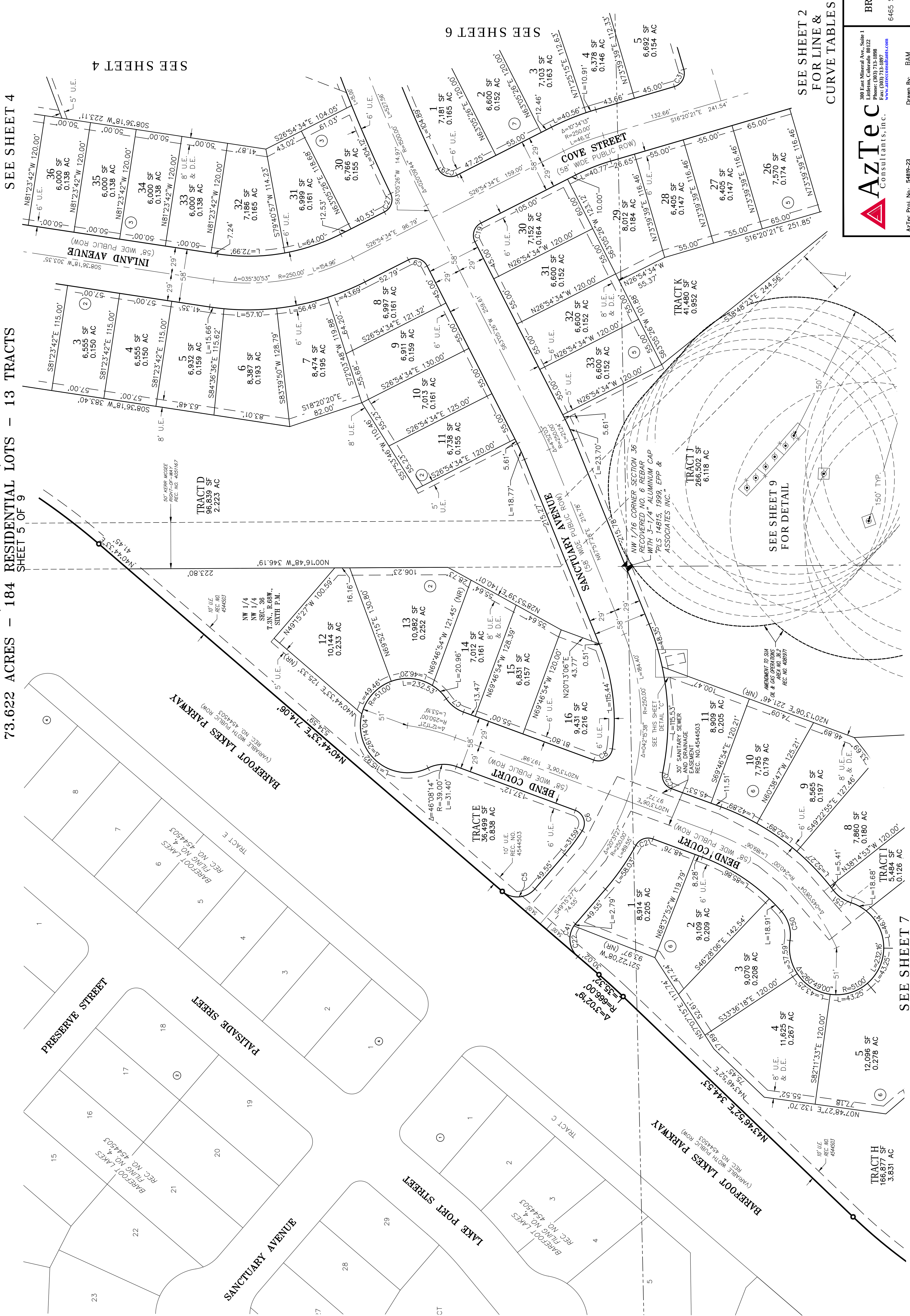


DETAIL "C"
SCALE: 1" = 20'

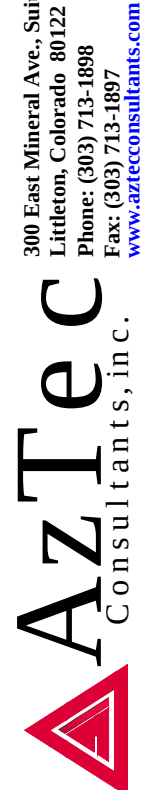


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LOT DETAIL PAGE ~ SHEET 5 of 9



SEE SHEET 2
FOR LINE &
CURVE TABLES



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www.aztecconsultants.com

DEVELOPER
BROOKFIELD RESIDENTIAL

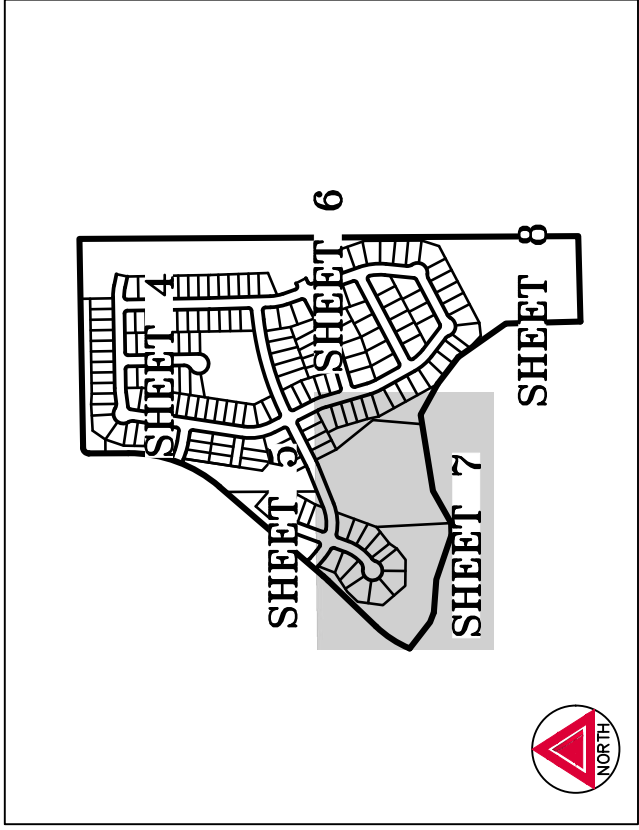
6465 S. GREENWOOD PLAZA BLVD., SUITE 700
CENTENNIAL, COLORADO 80111

Drawn By: BAM

Aztec Proj. No.: 5489-23

SHEET 5 OF 9

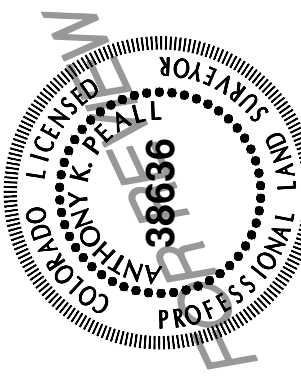
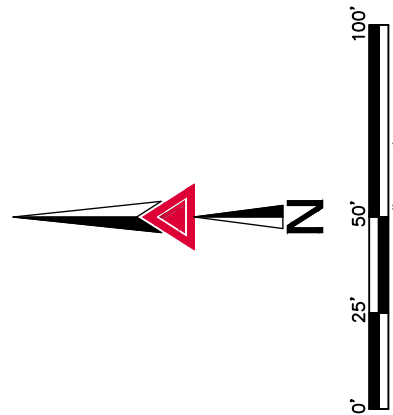
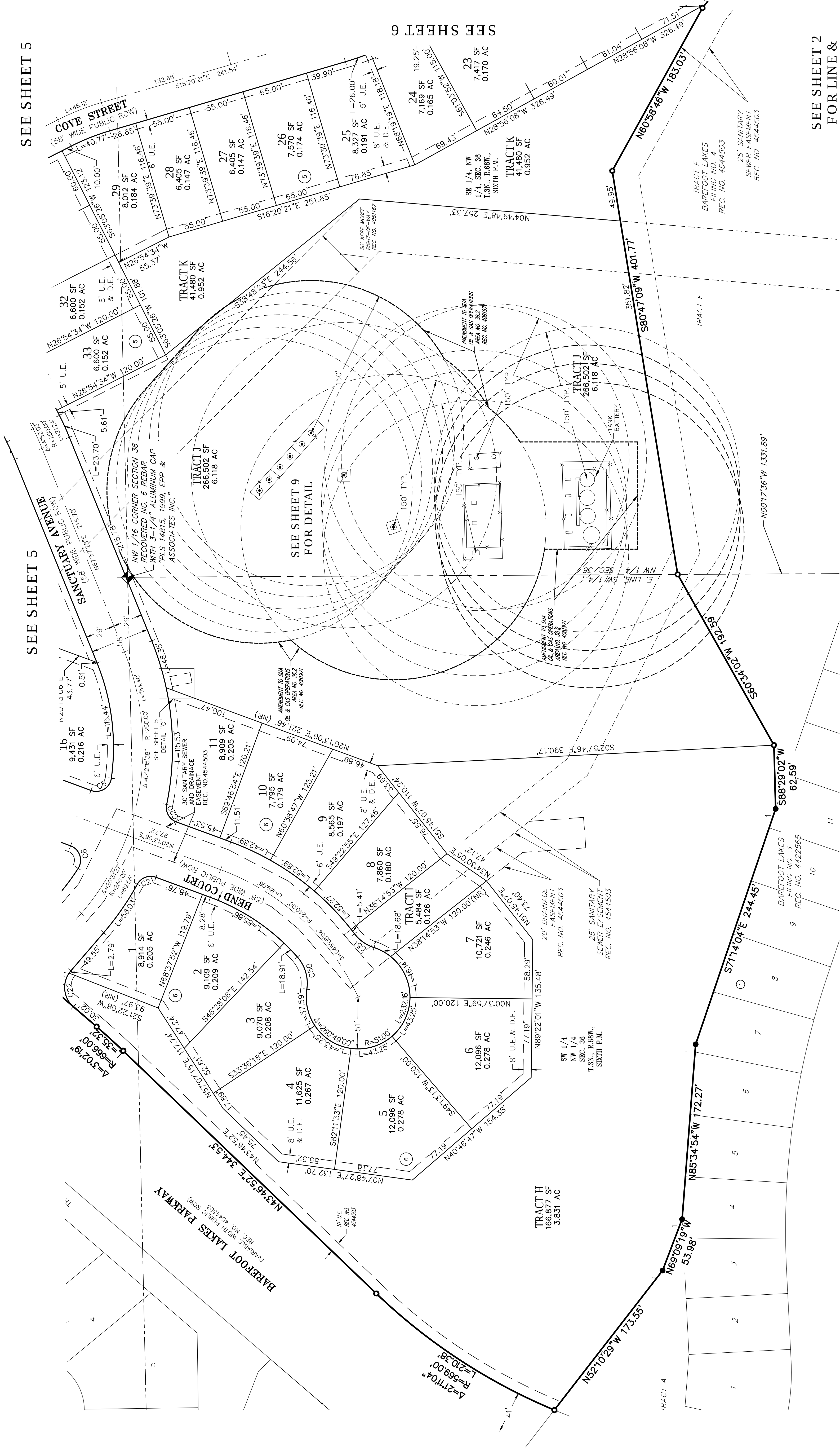
FINAL PLAT
BAREFOOT LAKES FILING NO. 5
A REPLAT OF TRACT G, BAREFOOT LAKES FILING NO. 4
LOCATED WITHIN THE NORTHWEST QUARTER OF SECTION 36,
TOWNSHIP 3 NORTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN,
TOWN OF FIRESTONE, COUNTY OF WELD, STATE OF COLORADO
73.622 ACRES - 184 RESIDENTIAL LOTS - 13 TRACTS
SHEET 7 OF 9



KEY MAP
SCALE = 1" = 1000'

LEGEND

- RECOVERED SECTION CORNER AS NOTED
- NW 1/16 CORNER SECTION 36
- RECOVERED NO. 6 REBAR WITH 3-1/4" ALUMINUM CAP
- STAMPED "PLS 14815, 1999, EPP & ASSOCIATES INC."
- SET NO. 5 REBAR WITH 1-1/4" PINK PLASTIC CAP
- STAMPED "AZTEC LS 38636"
- RECOVERED NO. 5 REBAR WITH 1-1/4" ORANGE PLASTIC CAP STAMPED "AZTEC PLS 38064"
- U.E. = UTILITY EASEMENT
- D.E. = DRAINAGE EASEMENT
- W.E. = WATER EASEMENT
- S.D.E. = SIGHT DISTANCE EASEMENT
- ROW = RIGHT-OF-WAY
- Plugged and Abandoned Well
- Shut In Well



FOR AND ON BEHALF OF
AZTEC CONSULTANTS, INC.

FIRESTONE INFORMATION BLOCK	
Name of Application	BAREFOOT LAKES
Type of Submittal	FINAL PLAT
Filing Number	FILING NO. 5
Phase Number	N/A
Preparation Date	05-17-2019
Revision Date	11-20-2019
Revision Date	3-23-2020
Revision Date	6-1-2020
Revision Date	7-24-2020

LOT DETAIL PAGE ~ SHEET 7 of 9

SEE SHEET 2
FOR LINE &
CURVE TABLES

Aztec
CONSULTANTS, INC.
300 East Mineral Ave., Suite 1
Firestone, Colorado 80122
Phone: (970) 713-1887
Fax: (970) 713-1887
www.aztecconsultants.com

DEVELOPER
BROOKFIELD RESIDENTIAL
6465 S. GREENWOOD PLAZA BLVD., SUITE 700
CENTENNIAL, COLORADO 80111
(303) 706-9451

Aztec Proj. No.: 5489-23
Drawn By: BAM

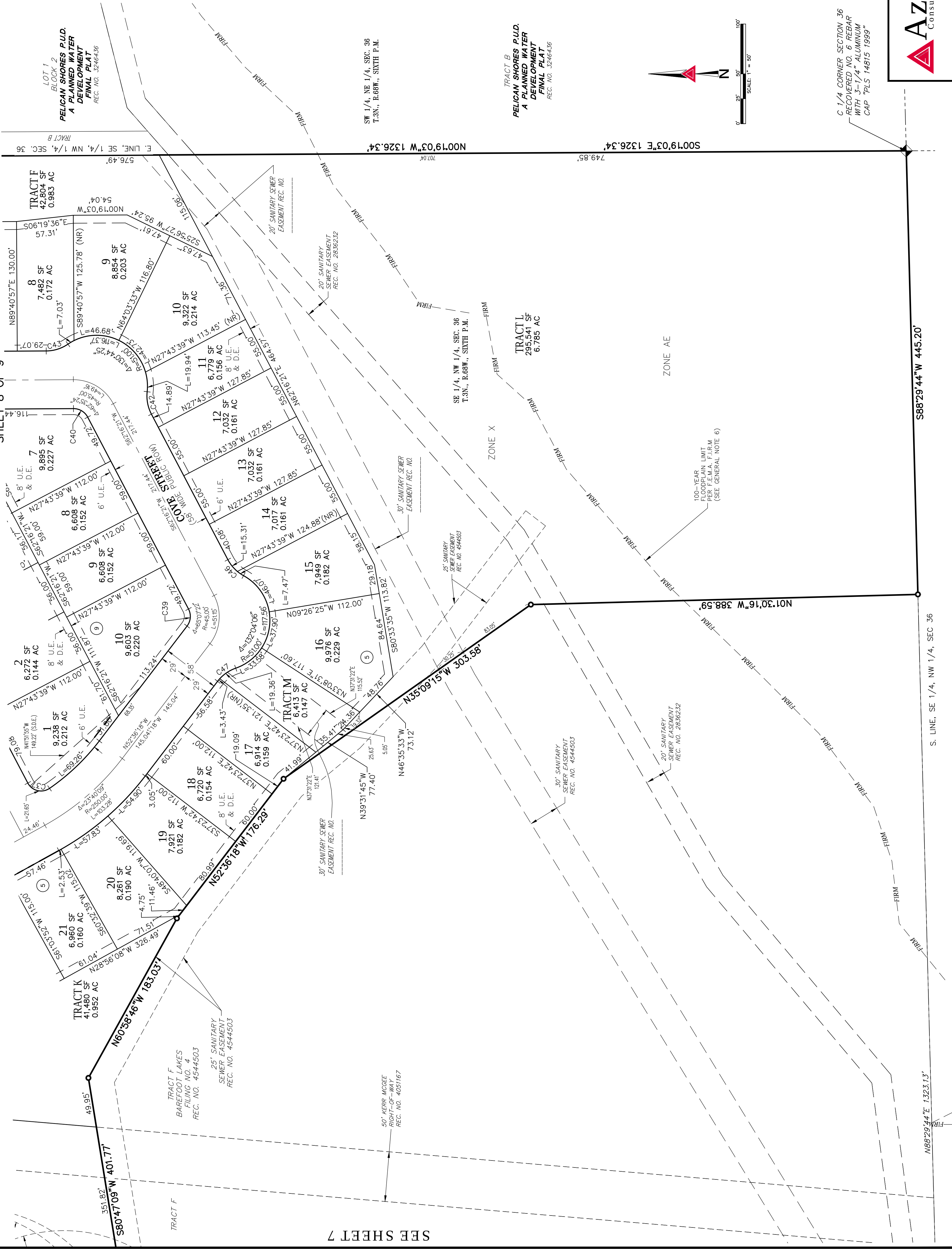
DATE OF PREPARATION: 2019-05-17
SCALE: 1" = 50'
SHEET 7 OF 9

FINAL PLAT
BAREFOOT LAKES FILING NO. 5

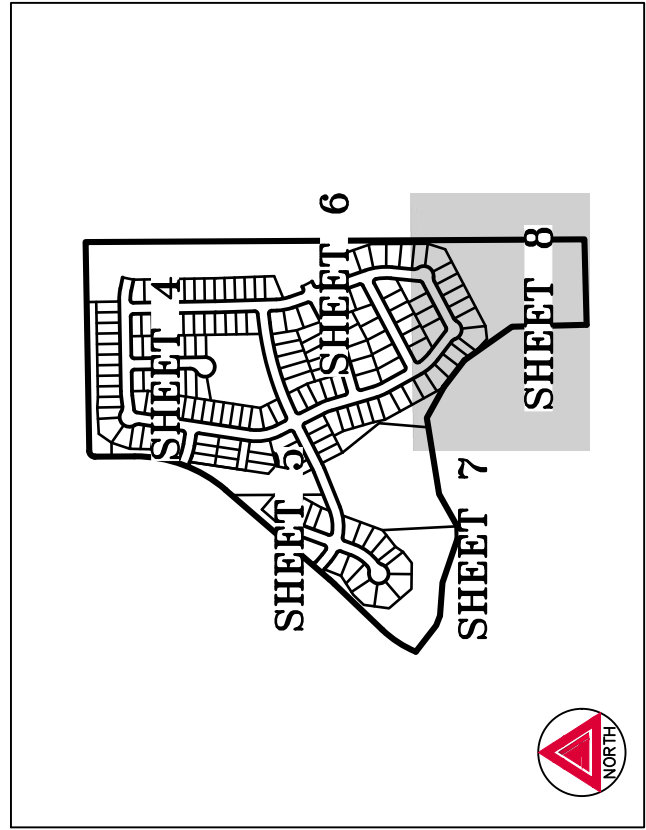
A REPLAT OF TRACT G, BAREFOOT LAKES FILING NO. 4
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TOWN OF FIRESTONE, COUNTY OF WELD, STATE OF COLORADO
73.622 ACRES – 184 RESIDENTIAL LOTS – 13 TRACTS
SHEET 8 OF 9

SEE SHEET 7

SEE SHEET 6



SEE SHEET 7



KEY MAP
SCALE = 1" = 1000'

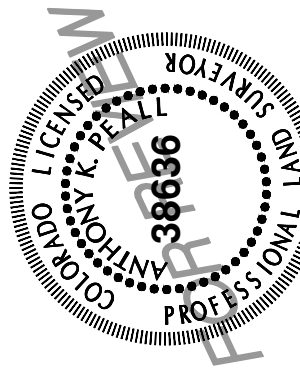
LEGEND

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- ROW = RIGHT-OF-WAY
- PLUGGED AND ABANDONED WELL
- SHUT IN WELL

SEE SHEET 2
FOR LINE &
CURVE TABLES

FIRESTONE INFORMATION BLOCK	
Name of Application	BAREFOOT LAKES
Type of Submittal	FINAL PLAT
Filing Number	FILING NO. 5
Phase Number	N/A
Preparation Date	05-17-2019
Revision Date	11-20-2019
Revision Date	3-23-2020
Revision Date	6-1-2020
Revision Date	7-24-2020

LOT DETAIL PAGE ~ SHEET 8 of 9



FOR AND ON BEHALF OF
AZTEC CONSULTANTS, INC.

Aztec
Consultants, Inc.
300 East Mineral Ave., Suite 1
Firestone, Colorado 80122
Tel: (937) 713-1336
Fax: (937) 713-1897
www.aztecconsultants.com

Drawn By: BAM

Aztec Proj. No.: 5489-23

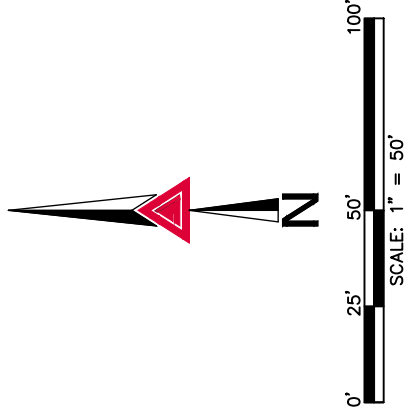
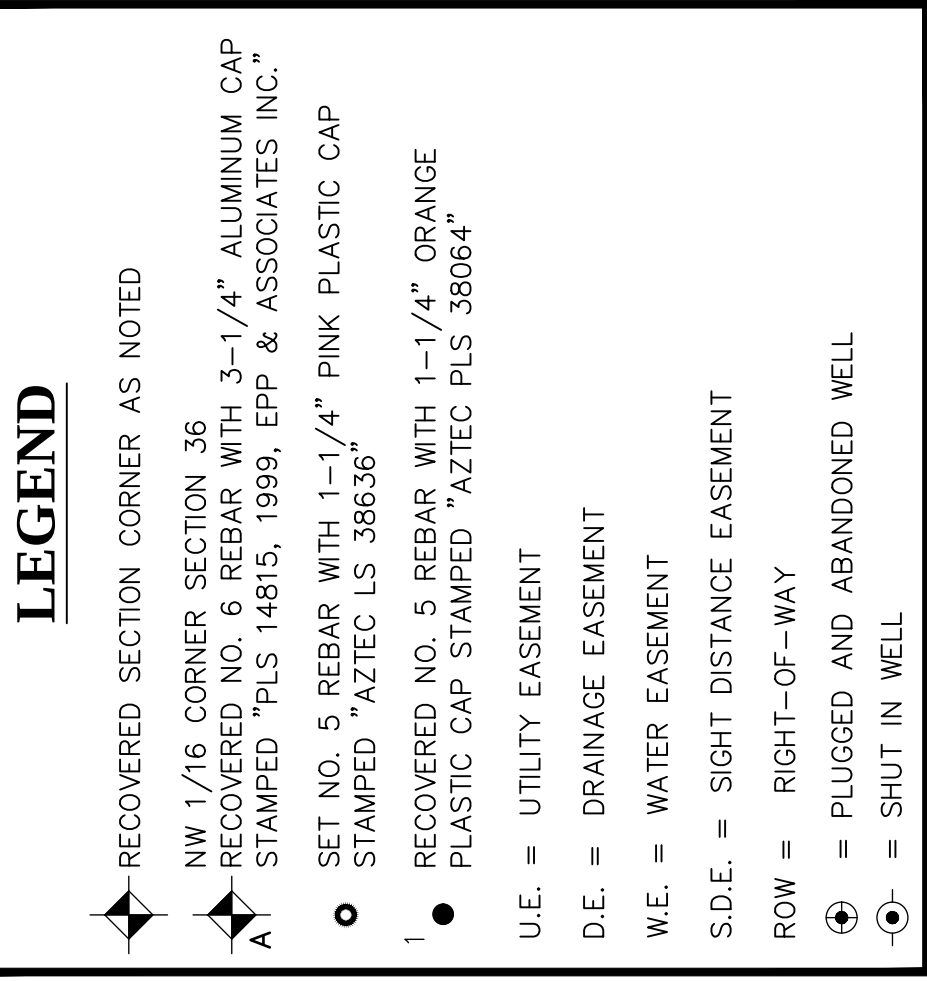
DEVELOPER
BROOKFIELD RESIDENTIAL

6465 S. GREENWOOD PLAZA BLVD., SUITE 700
CENTENNIAL, COLORADO 80111
(303) 706-9451

DATE OF PREPARATION: 2019-05-17
SCALE: 1" = 50'
SHEET 8 OF 9

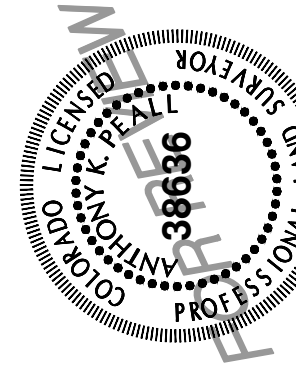
FINAL PLAT

SHEET 9 OF 9



FIRESTONE INFORMATION BLOCK	
Name of Application	BAREFOOT LAKES
Type of Submittal	FINAL PLAT
Filing Number	FILING NO. 5
Phase Number	N/A
Preparation Date	05-17-2019
Revision Date	11-20-2019
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Revision Date	7-24-2020

LOT DETAIL PAGE ~ SHEET 9 of 9



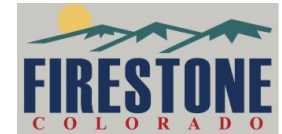
FOR AND ON BEHALF OF
AZTEC CONSULTANTS, INC.

	300 East Mineral Ave., Suite 1 Denver, CO 80202 Phone: (303) 713-1898 Fax: (303) 713-1897 www.aztecinc.com		DATE OF PREPARATION: 2019-05-17	
	DEVELOPER BROOKFIELD RESIDENTIAL		SCALE: 1" = 50'	
	6465 S. GREENWOOD PLAZA BLVD., SUITE 700 CENTENNIAL, COLORADO 80111 (303) 760-9451		SHEET 9 OF 9	
AZtec Proj. No.: 54819-23		Drawn By: BAM		

EXHIBIT B
(list of Public Improvements)



Barefoot Lakes Filing No. 5
Exhibit B - Schedule of Improvements
Date: 6-04-2020



Cost Summary By Phase

JN: 08001.24

Summary Table

Phase	I-1	I-2	L-1	L-2
Bond				
B	\$1,057,626	\$146,056	n/a	n/a
C	\$598,500	\$286,614	n/a	n/a
D	\$399,838	\$0	n/a	n/a
E	\$646,932	\$184,609	\$17,920	\$44,268
F	\$394,268	\$190,247	n/a	n/a
G	\$17,600	\$11,200	n/a	n/a
H	n/a	n/a	n/a	n/a
Subtotal	\$3,114,764	\$818,726	\$17,920	\$44,268
Letter of Credit				
A	\$2,780	\$0	n/a	n/a
B	n/a	n/a	n/a	n/a
C	n/a	n/a	n/a	n/a
D	n/a	n/a	n/a	n/a
E	n/a	n/a	n/a	n/a
F	\$127,873	\$66,699	n/a	n/a
G	n/a	n/a	n/a	n/a
H	n/a	n/a	\$437,590	\$313,377
Subtotal	\$130,653	\$66,699	\$437,590	\$313,377
Total	\$3,245,417	\$885,425	\$455,510	\$357,645

A - Erosion Control E - Concrete

B - Sanitary Sewer F - Asphalt Pavement Signage & Striping

C - Water G - Street Lights

D - Storm Sewer H - Landscape and Irrigation



Cost Summary By Phase

INFRASTRUCTURE PHASING

Totals - Filing 5 Phase 1 Letter of Credit

A - Erosion Control	\$2,780
F - Asphalt Pavement Signage & Striping	\$127,873

Totals - Filing 5 Phase 1 Bond

B - Sanitary Sewer	\$1,057,626
C - Water	\$598,500
D - Storm Sewer	\$399,838
E - Concrete	\$646,932
F - Asphalt Pavement Signage & Striping	\$394,268
G - Street Lights	\$17,600
ALL	Total - Phase 1 Improvements \$3,245,417

Totals - Filing 5 Phase 2 Letter of Credit

A - Erosion Control	\$0
F - Asphalt Pavement Signage & Striping	\$66,699

Totals - Filing 5 Phase 2 Bond

B - Sanitary Sewer	\$146,056
C - Water	\$286,614
D - Storm Sewer	\$0
E - Concrete	\$184,609
F - Asphalt Pavement Signage & Striping	\$190,247
G - Street Lights	\$11,200
ALL	Total - Phase 2 Improvements \$885,425

LANDSCAPE PHASING

Totals - Landscape Phase 1 Letter of Credit

H - Landscape and Irrigation	\$437,590
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Totals - Landscape Phase 1 Bond

E - Concrete	\$17,920
ALL	\$455,510

Totals - (Landscape) Phase 2 Letter of Credit

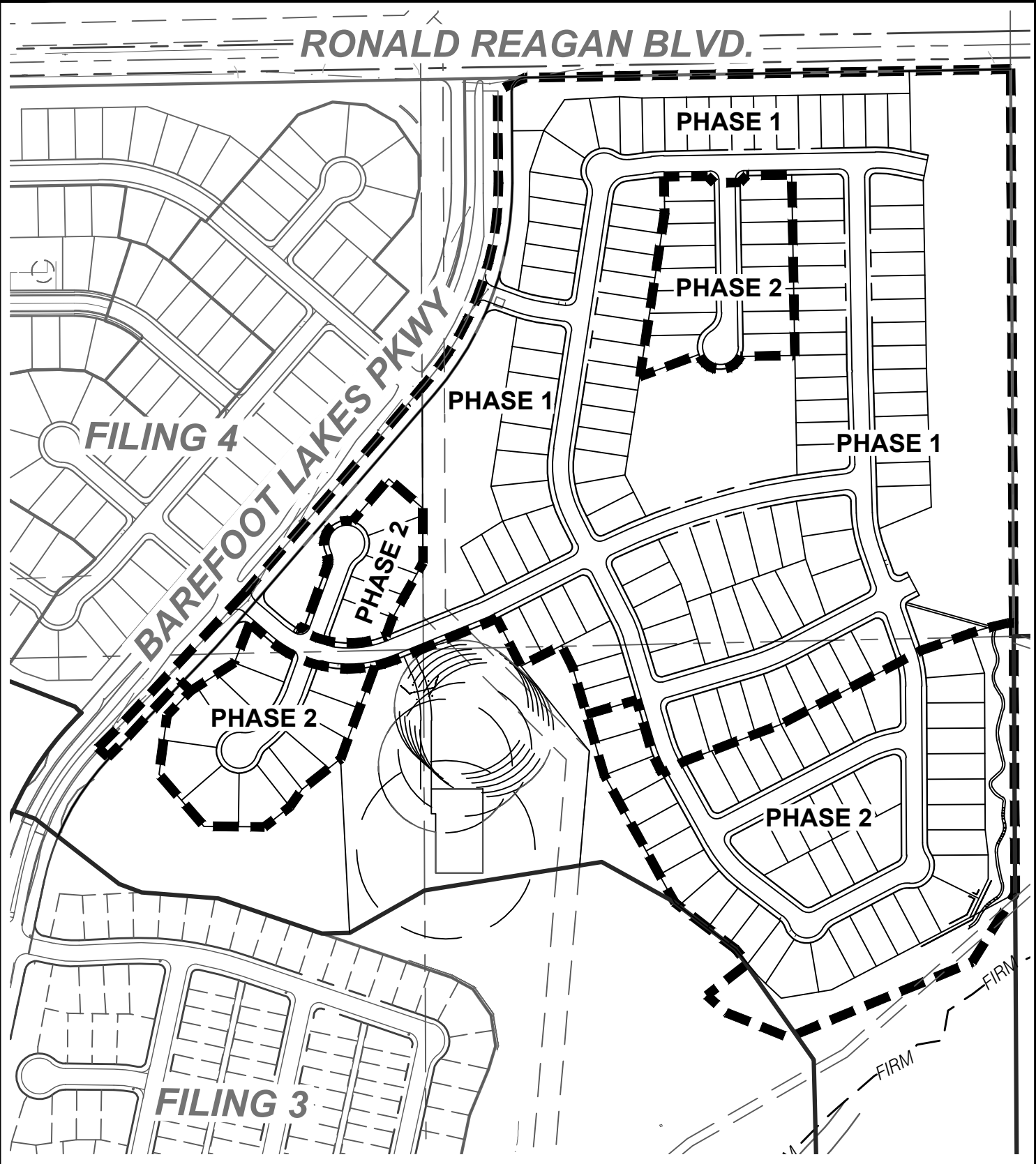
H - Landscape and Irrigation	\$313,377
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Totals - (Landscape) Phase 2 Bond

E - Concrete	\$44,268
ALL	\$357,645

Total All Landscape Improvements All Phases \$813,155

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Redland
WHERE GREAT PLACES BEGIN
720.283.6783 Office
1500 West Canal Court
Littleton, Colorado 80120
REDLAND.COM

BAREFOOT LAKES

FILING 5

SIA PHASING EXHIBIT

FIRESTONE CO

DATE	05.29.2020
PROJ. NO.	08001.24
SHEET	1 OF 1



Filing 5 Phase 1

Letter of Credit Items

A - Erosion Control	QUANTITY	UNIT	UNIT PRICE	TOTAL COST
Concrete Washout Area	1	EA	\$1,160.00	\$1,160
Inlet Protection	18	EA	\$90.00	\$1,620
Erosion Control Total				\$2,780

F - Asphalt Pavement Signage & Striping	QUANTITY	UNIT	UNIT PRICE	TOTAL COST
Asphalt (1-1/2" section - Grade SX)	30,230	SY-IN	\$4.23	\$127,873
Asphalt Pavement Signage & Striping Total				\$127,873

Bond Items

B - Sanitary Sewer	QUANTITY	UNIT	UNIT PRICE	TOTAL COST
Connect to Existing Main	1	EA	\$2,700.00	\$2,700
8" SDR-35 PVC	9,727	LF	\$31.50	\$306,401
4' Dia. Manhole	39	EA	\$4,985.00	\$194,415
4" Service w/ wye, cap, bend	148	EA	\$1,220.00	\$180,560
4" Perforated Underdrain - Same Trench	280	LF	\$12.00	\$3,360
6" Solid Wall Underdrain - Same Trench	2,612	LF	\$14.00	\$36,568
6" Solid Wall Underdrain - Separate Trench	225	LF	\$32.50	\$7,313
4" Solid Wall Underdrain - Same Trench	7,092	LF	\$12.00	\$85,104
4" Solid Underdrain Service w/ wye, cap, bend	148	EA	\$1,220.00	\$180,560
4" Cleanout Assembly	26	EA	\$500.00	\$13,000
6" Cleanout Assembly	26	EA	\$600.00	\$15,600
6" SDR-35 PVC	986	LF	\$32.50	\$32,045
Sanitary Sewer Total				\$1,057,626

C- Water	QUANTITY	UNIT	UNIT PRICE	TOTAL COST
Connect to Existing Main	3	EA	\$2,500.00	\$7,500
Fire Hydrant Assembly	12	EA	\$4,210.00	\$50,520
8" Plug w/ Kick Block and Blowoff Assembly	7	EA	\$1,520.00	\$10,640
8" C-900 DR 14 PVC	5,974	LF	\$24.00	\$143,376
8" Gate Valve	34	EA	\$1,895.00	\$64,430
8" x 8" Tee Fitting	6	EA	\$630.00	\$3,780
8" Cross Fitting	2	EA	\$630.00	\$1,260
8" - 11 1/4° Bend w/ Kick Block	20	EA	\$530.00	\$10,600
8" - 45° Bend w/ Kick Block	2	EA	\$585.00	\$1,170
3/4" Water Service w/ Meter Pit	108	EA	\$1,930.00	\$208,440
8" Water Lowering	3	EA	\$3,000.00	\$9,000
8" - 22 1/2° Bend w/ Kick Block	7	EA	\$530.00	\$3,710
Restrained Joints	2,661	LF	\$6.10	\$16,232
2" Air Vac Assembly on 8" Water	4	EA	\$5,000.00	\$20,000
8" x 6" Reducer	12	EA	\$630.00	\$7,560
8" Steel Pipe Casing	70	LF	\$125.00	\$8,750
Polystyrene	80	SF	\$0.40	\$32
2" Irrigation Service and Meter Vault	3	EA	\$10,500.00	\$31,500
Water Total				\$598,500



Barefoot Lakes Filing No. 5
Exhibit B - Schedule of Improvements
Date: 6-04-2020



D - Storm Sewer	QUANTITY	UNIT	UNIT PRICE	TOTAL COST
15" RCP	28	LF	\$38.00	\$1,079
18" RCP	570	LF	\$47.00	\$26,790
24" RCP	534	LF	\$65.50	\$34,977
30" RCP	29	LF	\$83.50	\$2,422
36" RCP	1,210	LF	\$107.50	\$130,075
42" RCP	230	LF	\$144.00	\$33,120
4' Dia. Manhole	2	EA	\$3,300.00	\$6,600
5' Dia. Manhole	5	EA	\$4,115.00	\$20,575
6' Dia. Manhole	6	EA	\$6,480.00	\$38,880
7' Dia. Manhole	2	EA	\$8,500.00	\$17,000
5' Type 'R' Inlet	1	EA	\$4,750.00	\$4,750
10' Type 'R' Inlet	4	EA	\$5,390.00	\$21,560
15' Type 'R' Inlet	5	EA	\$6,890.00	\$34,450
20' Type 'R' Inlet	2	EA	\$8,390.00	\$16,780
15" Flared End Section	2	EA	\$1,225.00	\$2,450
Type 'M' Rip Rap (12")	42	CY	\$115.00	\$4,830
Connect to Existing Storm Sewer	1	EA	\$3,500.00	\$3,500
Storm Sewer Subtotal				\$399,838

E - Concrete	QUANTITY	UNIT	UNIT PRICE	TOTAL COST
4" Mountable Curb w/ 2' Gutter	10,517	LF	\$14.39	\$151,340
6' Concrete Crosspan	3	EA	\$5,295.00	\$15,885
Concrete Walk (6" Thickness)	75,485	SF	\$5.60	\$422,716
Subgrade Prep - Concrete Walk	75,485	SF	\$0.29	\$21,891
Handicap Ramp (Firestone Detached)	26	EA	\$1,350.00	\$35,100
Concrete Total				\$646,932

F - Asphalt Pavement Signage & Striping	QUANTITY	UNIT	UNIT PRICE	TOTAL COST
Subgrade Prep (12" section)	23,316	SY	\$2.70	\$62,953
Asphalt (3-1/2" section - Grade S)	70,536	SY-IN	\$4.08	\$287,787
Type III Barricade	190	LF	\$120.00	\$22,800
Signage - Stop Sign/Street Sign	9	EA	\$800.00	\$7,200
Signage - (W11-15)	4	EA	\$800.00	\$3,200
Signage - (W16-17)	4	EA	\$800.00	\$3,200
Pavement Marking - Cross Walk/Stop Bar	364	SF	\$18.00	\$6,552
Pavement Marking - 4" Wide	96	LF	\$6.00	\$576
Asphalt Pavement Signage & Striping Total				\$394,268

G - Street Lights	QUANTITY	UNIT	UNIT PRICE	TOTAL COST
Street Lights (fixture and pole)	11	EA	\$1,600.00	\$17,600
Street Lights Total				\$17,600

Total Cost \$3,245,417



Barefoot Lakes Filing No. 5
Exhibit B - Schedule of Improvements
Date: 6-04-2020



Totals - Filing 5 Phase 1 Letter of Credit

A - Erosion Control	\$2,780
F - Asphalt Pavement Signage & Striping	\$127,873

Totals - Filing 5 Phase 1 Bond

B - Sanitary Sewer	\$1,057,626
C - Water	\$598,500
D - Storm Sewer	\$399,838
E - Concrete	\$646,932
F - Asphalt Pavement Signage & Striping	\$394,268
G - Street Lights	\$17,600

ALL **Total All Public Improvements \$3,245,417**

Note: This estimate does not include earthwork or partial erosion control surety. These amounts have been bonded separately under an early grading permit process.



Filing 5 Phase 2

Letter of Credit Items

A - Erosion Control	QUANTITY	UNIT	UNIT PRICE	TOTAL COST
				\$0

Erosion Control Total \$0

F - Asphalt Pavement Signage & Striping	QUANTITY	UNIT	UNIT PRICE	TOTAL COST
Asphalt (1-1/2" section - Grade SX)	15,768	SY-IN	\$4.23	\$66,699

Asphalt Pavement Signage & Striping Total \$66,699

Bond Items

B - Sanitary Sewer	QUANTITY	UNIT	UNIT PRICE	TOTAL COST
Connect to Existing Main	3	EA	\$2,700.00	\$8,100
8" SDR-35 PVC	886	LF	\$31.50	\$27,909
4' Dia. Manhole	3	EA	\$4,985.00	\$14,955
4" Service w/ wye, cap, bend	34	EA	\$1,220.00	\$41,480
4" Perforated Underdrain - Same Trench	788	LF	\$12.00	\$9,456
4" Solid Wall Underdrain - Same Trench	98	LF	\$12.00	\$1,176
4" Solid Underdrain Service w/ wye, cap, bend	34	EA	\$1,220.00	\$41,480
4" Cleanout Assembly	3	EA	\$500.00	\$1,500

Sanitary Sewer Total \$146,056

C- Water	QUANTITY	UNIT	UNIT PRICE	TOTAL COST
Connect to Existing Main	5	EA	\$2,500.00	\$12,500
Fire Hydrant Assembly	5	EA	\$4,210.00	\$21,050
8" C-900 DR 14 PVC	2,587	LF	\$24.00	\$62,088
8" Gate Valve	6	EA	\$1,895.00	\$11,370
8" x 6" Reducer	5	EA	\$630.00	\$3,150
8" - 11 1/4° Bend w/ Kick Block	8	EA	\$530.00	\$4,240
8" - 22 1/2° Bend w/ Kick Block	3	EA	\$530.00	\$1,590
8" - 45° Bend w/ Kick Block	2	EA	\$585.00	\$1,170
3/4" Water Service w/ Meter Pit	76	EA	\$1,930.00	\$146,680
2" Air Vac Assembly on 8" Water	1	EA	\$5,000.00	\$5,000
Restrained Joints	942	LF	\$6.10	\$5,746
8" Water Lowering	1	EA	\$3,000.00	\$3,000
8" Plug w/ Kick Block and Blowoff Assembly	1	EA	\$1,520.00	\$1,520
8" x 8" Tee Fitting	2	EA	\$630.00	\$1,260
8" Steel Pipe Casing	50	LF	\$125.00	\$6,250

Water Total \$286,614



Barefoot Lakes Filing No. 5
Exhibit B - Schedule of Improvements
Date: 6-04-2020



D - Storm Sewer	QUANTITY	UNIT	UNIT PRICE	TOTAL COST
				\$0

Storm Sewer Subtotal \$0

E - Concrete	QUANTITY	UNIT	UNIT PRICE	TOTAL COST
4" Mountable Curb w/ 2' Gutter	5,414	LF	\$14.39	\$77,907
6' Concrete Crossspan	1	EA	\$5,295.00	\$5,295
Concrete Walk (6" Thickness)	16,300	SF	\$5.60	\$91,280
Subgrade Prep - Concrete Walk	16,300	SF	\$0.29	\$4,727
Handicap Ramp (Firestone Detached)	4	EA	\$1,350.00	\$5,400
			Concrete Total	\$184,609

F - Asphalt Pavement Signage & Striping	QUANTITY	UNIT	UNIT PRICE	TOTAL COST
Subgrade Prep (12" section)	12,917	SY	\$2.70	\$34,876
Asphalt (3-1/2" section - Grade S)	36,792	SY-IN	\$4.08	\$150,111
Signage - Stop Sign/Street Sign	5	EA	\$800.00	\$4,000
Pavement Marking - Cross Walk/Stop Bar	70	SF	\$18.00	\$1,260
			Asphalt Pavement Signage & Striping Total	\$190,247

G - Street Lights	QUANTITY	UNIT	UNIT PRICE	TOTAL COST
Street Lights (fixture and pole)	7	EA	\$1,600.00	\$11,200
			Street Lights Total	\$11,200

Total Cost \$885,425

Totals - Filing 5 Phase 2 Letter of Credit

A - Erosion Control	\$0
F - Asphalt Pavement Signage & Striping	\$66,699

Totals - Filing 5 Phase 2 Bond

B - Sanitary Sewer	\$146,056
C - Water	\$286,614
D - Storm Sewer	\$0
E - Concrete	\$184,609
F - Asphalt Pavement Signage & Striping	\$190,247
G - Street Lights	\$11,200

ALL **Total All Public Improvements \$885,425**

Note: This estimate does not include earthwork or partial erosion control surety. These amounts have been bonded separately under an early grading permit process.



LANDSCAPE SIA PLAN EXHIBIT

EXHIBIT B

1390 Lawrence Street
Suite 100
Denver, Colorado 80204
(303) 623-5186
Facsimile (303) 623-2260

Barefoot Lakes Filing No. 5
Exhibit B - Schedule of Improvements
Date: 6-04-2020



Landscape Phase 1

Letter of Credit Items

H - Landscape and Irrigation	QUANTITY	UNIT	UNIT PRICE	TOTAL COST
Landscape	98,568	SF	\$1.25	\$123,210
Native Landscape	283,599	SF	\$0.30	\$85,080
Irrigation	382,167	SF	\$0.60	\$229,300
Landscape and Irrigation Total				\$437,590

Bond Items

E - Concrete	QUANTITY	UNIT	PRICE	COST
5' Concrete Walk	3,200	SF	\$5.60	\$17,920
Concrete Total				\$17,920
Total Cost				\$437,590

Totals - Filing 5 Landscape Phase 1 Letter of Credit

H - Landscape and Irrigation \$437,590

Totals - Filing 5 Phase 1 Bond

E - Concrete \$17,920

ALL **Total All Public Improvements \$455,510**

Barefoot Lakes Filing No. 5
Exhibit B - Schedule of Improvements
Date: 6-04-2020



Landscape Phase 2

Letter of Credit Items

H - Landscape and Irrigation	QUANTITY	UNIT	UNIT PRICE	TOTAL COST
Landscape	5,250	SF	\$1.25	\$6,563
Native Landscape	298,515	SF	\$0.30	\$89,555
Irrigation	303,765	SF	\$0.60	\$182,259
Park Furnishings and Equipment	1	LS	\$35,000.00	\$35,000
Landscape and Irrigation Total				\$313,377

Bond Items

E - Concrete	QUANTITY	UNIT	PRICE	COST
5' Concrete Walk	4,100	SF	\$5.60	\$22,960
5' Crusher Fines Trail	4,735	SF	\$4.50	\$21,308
Concrete Total				\$44,268
Total Cost				\$357,645

Totals - Filing 5 Landscape Phase 2 Letter of Credit

H - Landscape and Irrigation \$313,377

Totals - Filing 5 Landscape Phase 2 Bond

E - Concrete \$44,268

ALL **Total All Public Improvements \$357,645**



Barefoot Lakes Ronald Reagan Boulevard Phase 3
Exhibit B - Schedule of Improvements
Date: 05-24-2022



Phase 3

Bond Items

A - Sanitary Sewer / Underdrains	QUANTITY	UNIT	UNIT PRICE	TOTAL COST
12" SDR-35 PVC	150	LF	\$150.00	\$22,500
12" Cap	1	EA	\$900.00	\$900
8" SDR-35 PVC	140	LF	\$130.00	\$18,200
4' Dia. Manhole	3	EA	\$6,160.00	\$18,480
Sanitary Sewer Total				\$60,080

B - Water	QUANTITY	UNIT	UNIT PRICE	TOTAL COST
Connect to Existing Main	3	EA	\$2,500.00	\$7,500
12" C-900 DR 14 PVC	3,100	LF	\$120.00	\$372,000
12" Cross Fitting	1	EA	\$1,710.00	\$1,710
12" x 12" Tee Fitting	1	EA	\$1,305.00	\$1,305
12" x 8" Tee Fitting	2	EA	\$1,305.00	\$2,610
12" x 8" Reducer	3	EA	\$1,305.00	\$3,915
12" Gate Valve	11	EA	\$4,430.00	\$48,730
12" Plug w/ Kick Block and Blowoff Assembly	1	EA	\$4,100.00	\$4,100
12" - 90° Bend w/ Kick Block	4	EA	\$1,340.00	\$5,360
12" - 45° Bend w/ Kick Block	2	EA	\$1,340.00	\$2,680
12" Water Lowering	1	EA	\$4,000.00	\$4,000
Fire Hydrant Assembly	2	EA	\$9,500.00	\$19,000
8" C-900 DR 14 PVC	310	LF	\$75.00	\$23,250
8" Gate Valve	4	EA	\$2,460.00	\$9,840
8" Plug	1	EA	\$620.00	\$620
8" Cap w/ Temp Blowoff	2	EA	\$3,520.00	\$7,040
8" - 45° Bend w/ Kick Block	2	EA	\$600.00	\$1,200
8" Water Lowering	1	EA	\$3,000.00	\$3,000
30" Steel Casing	183	LF	\$370.00	\$67,710
2" Air Vac Assembly on 8" Water	1	EA	\$5,000.00	\$5,000
Water Total				\$590,570

C - Storm Sewer	QUANTITY	UNIT	UNIT PRICE	TOTAL COST
18" RCP	252	LF	\$92.00	\$23,184
24" RCP	310	LF	\$120.00	\$37,200
42" RCP	435	LF	\$240.00	\$104,400
54" RCP	302	LF	\$430.00	\$129,860
120" x 120" Concrete Box Culvert	105	LF	\$3,000.00	\$315,000
5' Dia. Manhole	3	EA	\$5,160.00	\$15,480
8' Dia Manhole	1	EA	\$13,900.00	\$13,900
18" Flared End Section	4	EA	\$5,070.00	\$20,280



Barefoot Lakes Ronald Reagan Boulevard Phase 3

Exhibit B - Schedule of Improvements

Date: 05-24-2022



24" Flared End Section	3	EA	\$5,580.00	\$16,740
42" Flared End Section	4	EA	\$9,320.00	\$37,280
54" Flared End Section	2	EA	\$12,000.00	\$24,000
18" Plug	1	EA	\$1,000.00	\$1,000
24" Plug	1	EA	\$1,250.00	\$1,250
10' Type 'R' Inlet	2	EA	\$14,700.00	\$29,400
20' Type 'R' Inlet	1	EA	\$19,700.00	\$19,700
Headwall/Wingwall	2	EA	\$159,200.00	\$318,400

Storm Sewer Subtotal \$1,107,074

D - Concrete	QUANTITY	UNIT	UNIT PRICE	TOTAL COST
6" Vertical Curb w/ 2" Gutter	2,543	LF	\$14.39	\$36,594
Concrete Walk (6" Thickness)	26,759	SF	\$5.50	\$147,175
Subgrade Prep - Concrete Walk	26,759	SF	\$1.75	\$46,828
Handicap Ramp (Firestone Detached)	4	EA	\$2,000.00	\$8,000

Concrete Total \$238,597

E - Asphalt Pavement Signage & Striping	QUANTITY	UNIT	UNIT PRICE	TOTAL COST
Subgrade Prep (24" section)	17,608	SY	\$3.50	\$61,629
Asphalt (1-1/2" section - Grade SX)	15,892	SY	\$7.28	\$115,691
Asphalt (4-1/2" section - Grade S)	15,892	SY	\$21.83	\$346,915
Aggregate Base Course (9" section)	15,892	SY	\$11.70	\$185,933
Signage - Stop Sign/Street Sign	9	EA	\$800.00	\$7,200
Pavement Marking - 4" Wide	24,500	LF	\$1.00	\$24,500
Adjust Manhole	2	EA	\$650.00	\$1,300
Adjust Valve	13	EA	\$385.00	\$5,005

Asphalt Pavement Signage & Striping Total \$748,173

F - Street Lights	QUANTITY	UNIT	UNIT PRICE	TOTAL COST
Street Lights (Cobra head fixture and pole)	3	EA	\$2,500.00	\$7,500

Street Lights Total \$7,500

G - Earthwork	QUANTITY	UNIT	UNIT PRICE	TOTAL COST
Cut to Fill	11,900	CY	\$2.25	\$26,775
Estimated Cut	38,100	CY	\$2.25	\$85,725

Earthwork Total \$112,500

Total Cost \$2,864,494



Barefoot Lakes Ronald Reagan Boulevard Phase 3
Exhibit B - Schedule of Improvements
Date: 05-24-2022



Totals - Ronald Reagan Boulevard Phase 3 Bond

A - Sanitary Sewer	\$60,080
B - Water	\$590,570
C - Storm Sewer	\$1,107,074
D - Concrete	\$238,597
E - Asphalt Pavement Signage & Striping	\$748,173
F - Street Lights	\$7,500
G - Earthwork	\$112,500

ALL	Total All Public Improvements	\$2,864,494
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EXHIBIT C

IRREVOCABLE LETTER OF CREDIT REQUIRED FORM

[date of Letter of Credit - the date the credit is opened]

Town of Firestone, CO
151 Grant Avenue
P.O. Box 100
Firestone, CO 80520

Attn: Town Clerk:

We hereby issue our Irrevocable Letter of Credit Number in your favor for the account of _____, in an amount not to exceed _____ effective immediately and expiring at our counters on (except November 1 - March 1) or any extended expiration date as indicated below.

Funds under this Letter of Credit are available for payment by sight, by presentation of your sight draft(s) substantially in the form of Exhibit "A" accompanied by your written certificate substantially in the form of Exhibit "B".

Partial and multiple drawings are permitted.

This Letter of Credit will automatically be extended for a period of one (1) year from the present or any future expiration date unless we notify you in writing by certified mail ninety (90) days prior to any expiration date that we elect not to renew this Letter of Credit for any additional period.

We hereby engage with you that all drawings in conformity with terms and conditions of the Letter of Credit will be duly honored upon presentation to our counters on or before any expiration date as indicated above.

All bank charges, including any advising bank charges, are to be charged to (account party's name).

If a demand for payment by you hereunder does not, in any instance, conform to the terms and conditions of this Letter of Credit, the bank shall give the Town written notice, and send copy of this notice by FAX to the Town of Firestone (Attn: Town Clerk), within three business days of presentment of any nonconforming draft that the purported negotiation was not effective in accordance with the terms and conditions of the Letter of Credit, stating with particularity the reasons therefore. The bank will hold all documents at the bank for the Town, or send them to the Town, at the Town's option. Any such nonconforming demand may be corrected and resubmitted within three (3) business days of receipt of the bank's mailed notice of nonconformity. A resubmittal will be deemed to have been presented to the bank on the date of the original demand for payment.

We are a current member of (FDIC) (FSLIC).

This credit is subject to the Uniform Customs and Practice for Documentary Credits, 2007 revision, ICC publication number 600.

This Irrevocable Letter of Credit sets forth in full the terms of our undertaking and such undertaking shall not in any way be modified, amended or amplified by reference to any document or instrument referred to herein or in which the Irrevocable Letter of Credit relates and any such reference shall not be deemed to incorporate herein by reference any document or instrument.

Sincerely,

(Bank)

EXHIBIT A TO LETTER OF CREDIT
DRAFT FOR PAYMENT DRAWN UNDER

IRREVOCABLE LETTER OF CREDIT NO. _____

DATE: _____, 20__.

PAY TO: The account of the Town of Firestone, Colorado, Account

No. _____, at _____,

Colorado, THE SUM OF _____ DOLLARS

(\$ _____ . _____).

TOWN OF FIRESTONE, COLORADO

By: _____
Town Clerk

EXHIBIT B TO LETTER OF CREDIT

To: _____

CERTIFICATE FOR PAYMENT

The undersigned, a duly appointed officer of the Town of Firestone, Colorado (the "Town"), hereby certifies to _____ (the "Bank"), with reference to the Bank's Irrevocable Letter of Credit No. _____ (the "Letter of Credit"), issued by the Bank in favor of the Town, that:

- (1) The undersigned is the Town Clerk for the Town.
- (2) The Town is authorized to make a drawing under the Letter of Credit.
- (3) The amount which is due and payable from the Letter of Credit is \$_____, and the amount of the sight draft accompanying this certificate does not exceed such amount.

IN WITNESS WHEREOF, the undersigned has executed and delivered this certificate as of the _____ day of _____, 20____.

TOWN OF FIRESTONE, COLORADO

By: _____
Town Clerk

**JOINDER, RATIFICATION AND ADOPTION OF AMENDED
AND RESTATED SUBDIVISION AGREEMENT**

[Barefoot Lakes Filing No. 5]

THIS JOINDER, RATIFICATION AND ADOPTION OF AMENDED AND RESTATED SUBDIVISION AGREEMENT ("Agreement") is made and entered into this _____ day of _____, 20____, by and between the **TOWN OF FIRESTONE**, a Colorado municipal corporation, whose address is 9950 Park Avenue, Firestone, CO 80504 ("Town"), and **LENNAR COLORADO LLC**, whose address is _____ ("Lennar").

RECITALS

A. The Town and Barefoot LLC ("Barefoot") entered into that certain Subdivision Agreement, dated November 16th, 2020 (the "Original Agreement"), to set forth their respective rights and obligations with respect to the development of the Barefoot Lakes Filing No. 5 subdivision and the installation of certain public improvements required to serve the subdivision; and

B. The Parties to the Original Agreement entered into that certain Amended and Restated Subdivision Agreement, dated _____ (the "Amended and Restated Agreement"), providing for the removal of restrictions on the issuance of certificates of occupancy; and

C. Lennar is a successor to Barefoot on account of acquiring ownership to Lots _____ within Barefoot Lakes Filing No. 5 from Barefoot; and

D. Lennar, as owner of the real property within Barefoot Lakes Filing No. 5, desires to ratify, adopt and be a party to the Amended and Restated Agreement.

NOW, THEREFORE, in consideration of the promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound hereby, agree as follows:

1. ***Joinder of Lennar.*** Upon the execution and delivery of the Amended and Restated Agreement, Lennar shall be deemed automatically to have become a party to the Amended and Restated Agreement, shall have all the rights and obligations of a "Subdivider" under the Amended and Restated Agreement as if it were a signatory thereto as of the effective date of the Amended and Restated Agreement, and shall agree, and does hereby agree, to be bound by the terms and conditions set forth in the Amended and Restated Agreement to which Barefoot is a party, as if it were an original signatory thereto.

2. ***Ratification and Adoption.*** Lennar ratifies and adopts the Amended and Restated Agreement as though fully executed by Lennar, and hereby ratifies and assumes all of the rights and obligations of a successor to Subdivider under the Amended and Restated Agreement to which it is a party.

3. ***Entire Agreement.*** This Agreement including the Exhibits and Recitals, which are incorporated herein, set forth the entire agreement of the parties concerning the subject matter

hereof. There are no promises, terms, conditions, or obligations other than those contained herein that exist with respect to the annexation. This Agreement shall supersede all other provisions, communications, representations, or agreements, either verbal or written, between the parties with respect to the annexation and the economic incentives.

4. ***Governing Law and Venue.*** This Agreement is being executed and delivered and is intended to be performed in the State of Colorado, and the laws of Colorado shall govern the validity, construction, enforcement, and interpretation of this Agreement. Exclusive jurisdiction and venue for resolution of any dispute arising hereunder shall be in the District Court for Weld County, Colorado.

5. ***Binding Effect of Agreement.*** This Agreement shall inure to the benefit of and be binding upon the successors and the assigns of the respective parties. The parties' respective rights and obligations set forth in this Agreement shall constitute covenants that shall run with the land.

6. ***Title and Authority.*** Lennar warrants to the Town that it is the record owner for the property within the Barefoot Lakes Filing No. 5, as more particularly described in Exhibit A, and further warrants to have full power and authority to enter into this Agreement and to perform the terms and provisions of the Amended and Restated Agreement to which it is a party.

7. ***Headings.*** The headings, captions and arrangements used in this Amendment are for convenience only and shall not affect the interpretation of this Agreement.

8. ***Counterparts.*** This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one agreement, and any of the parties hereto may execute this Agreement by signing any such counterpart. Delivery of an executed counterpart of a signature page to this Agreement by telecopier or electronically by .pdf shall be effective as delivery of a manually executed counterpart of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

[Remainder of page left intentionally blank—Signature Pages to follow]

LENNAR COLORADO LLC

By: _____

STATE OF COLORADO)
)ss.
COUNTY OF _____)

The foregoing Annexation Agreement was signed and sworn to before me by _____
_____, as _____, of Lennar, a Colorado limited liability company, this ____ day of
_____, 20__.

Witness my hand and official seal.

(Notary Public Official Signature)

(Title of office)

(Commission Expiration)

[Remainder of page left intentionally blank—Signature Pages to follow]

**TOWN OF FIRESTONE, a Colorado municipal
corporation**

By: _____
Drew Alan Peterson, Mayor

ATTEST:

Jessica Koenig, CMC, Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 6.d

Consent Agenda

Meeting Date: June 8, 2022

Initiated By: Jessica Clanton

Dept: Finance

AGENDA TITLE

Resolution 22-75: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, ADOPTING THE TOWN OF FIRESTONE INVESTMENT POLICY

SUMMARY

It is the Finance Department's practice to review all policies every two years. The previous investment policy was reviewed in 2020. Jessica Clanton, Finance Director, reviewed the policy and did not note any necessary changes to this Investment Policy. Morgan Stanley, our Investment Management Advisors, also reviewed the policy and confirmed that no changes are necessary at this point. You will note formatting changes so that all policies have a cohesive look.

HISTORY AND PREVIOUS BOARD ACTION

At the Finance Committee meeting on June 1, the policy was presented to the committee and with a vote of 3 for and 0 against, it was recommended that it be taken to the Board. Please see the attached Memo of Recommendation from the Finance Committee. On January 23, 2020, the Board of Trustees approved the Investment Policy after recommendation by the Finance Committee.

RECOMMENDATION

Staff recommends approval of Resolution 22-75

ALTERNATIVES

ATTACHMENTS

1. FINALINVESTMENTPOLICY_2022 (clean)
2. Memo of Recommendation
3. REDLINEINVESTMENTPOLICY_2022
4. 22-75 Reso Financial Policies

FINANCIAL CONSIDERATIONS

TOWN OF FIRESTONE INVESTMENT POLICY

ADOPTED JUNE 2022

The Town of Firestone (Town) understands the need to adopt an investment policy to establish parameters and guidelines for the efficient management of the Town's funds and for the purchase and sale of investments. This policy applies to the investments of all funds of the Town. Except for funds held in trust or special funds that are otherwise specifically provided for, the Town will consolidate the balances from all funds to maximize investment earnings and meet the liquidity requirements of the Town subject to the primary objective of providing security of principal amounts. This policy supersedes any and all previous investment policies adopted by the Town. The Town has established the following fiscal policy related to investments.

OBJECTIVES

It is the policy of the Town to invest idle public funds in a manner to meet the daily cash flow demands of the Town with the primary objectives, in priority order, being:

- Liquidity sufficient to meet cash flow requirements as defined by allocation of assets
 - Preservation of Principal
 - Market rate of return commensurate with risk tolerance
-
- **LIQUIDITY** - The investment portfolio shall retain sufficient liquidity to meet all of the Town's operating requirements that may be reasonably anticipated during the annual budget cycle. Investments shall be managed in order to avoid, although not prohibit, the need to sell securities in order to meet anticipated cash flow needs. Since all possible cash demands cannot be anticipated, the investment portfolio should contain a significant quantity of securities with active secondary markets. As such, at least ten percent (10%) of the investment portfolio will be invested in overnight instruments, money market funds, Colorado local government pools, or in marketable securities which can be sold to raise cash with one business day's notice.
 - **PRESERVATION OF PRINCIPAL** - Preservation of principal is the next objective for the Town's investment portfolio. The portfolio should be managed in a manner that seeks to ensure stability of the overall investment portfolio by mitigating the following risks:
 - **CREDIT DEFAULT RISK** - The Town will minimize credit default risk, or loss due to the failure of the investment issuer or backer. By monitoring credit risk by restricting the minimum credit ratings on securities that may be purchased and through portfolio diversification, exposure to any one security type or issuer is minimized. As such, the Town shall place reliance upon Nationally Recognized Statistical Rating Organizations (NRSRO) in evaluating credit risk of obligations not issued by the U. S. government and Federal Instrumentality's (Agencies and Government Sponsored Enterprises).
 - **INTEREST RATE RISK** - The Town will minimize its interest rate risk, by employing an asset allocation strategy for portfolio management based on the Town's liquidity needs, structuring the portfolio to: first meet the cash requirements of the Town's ongoing operations, thereby mitigating the need to liquidate securities at a loss prior to maturity. The investment portfolio will be divided into three categories, Cash (overnight liquidity), Core Operating, and Reserves.
 - Cash is available to meet daily and unforeseen liquidity needs.
 - Core Operating is invested to meet budgeted cash demands throughout the fiscal year.

- Reserves are generally not scheduled to spend and may be invested longer term.
- **CONCENTRATION RISK** - The Town will minimize concentrated credit risk, by diversifying its investment portfolio so that the impact of potential losses from any one type of security or issuer will be minimized. Investments issued or explicitly guaranteed by the U.S. government and investments in mutual funds, external investment pools, and other pooled investments are excluded from this requirement.
 - Issuers not described in the preceding paragraph will be limited to 5% portfolio exposure per issuer, to include all security types, i.e. commercial paper, banker's acceptance and corporate debt.
- **RETURN ON INVESTMENT** - The investment portfolio shall be designed and managed with the objective of attaining a market rate of return throughout interest rate cycles, taking into account the investment risk constraints and liquidity needs described in A. Return on investment is of secondary importance compared to liquidity and preservation of principal. Portfolio investments are limited to relatively low risk securities. Portfolio return objective is a fair, albeit lower, return relative to the risk being assumed. The portfolio return shall be measured vs. a benchmark with characteristics commensurate with the investment policy and asset allocation of the portfolio based on the Town's cash flow requirements; examples include 2 year Constant Maturity Treasury Index, ICE BAML Government and Corporate Indexes and may be blended or modified as the portfolio grows and duration increases, as authorized by the Finance Director.

DELEGATION OF AUTHORITY

Authority to oversee and manage the Town's investment program is granted to the Town's Finance Director. Responsibility for the operation of the investment portfolio may be delegated to Finance Department staff and/or investment advisor, acting in accordance with established written procedures and internal controls for the operation of the investment program consistent with this investment policy. Procedures should include references to: safekeeping, delivery vs. payment, investment accounting, repurchase agreements, wire transfer agreements, and collateral/depository agreements. No person may engage in an investment transaction except as provided under the terms of this policy along with the procedures established by the Finance Director. The Finance Director will be responsible for all investment transactions undertaken and shall establish a system of controls to regulate the activities of any Finance Department staff or the investment advisor.

AUTHORIZED INVESTMENTS

The Town's authorized investments shall consist of the following:

- U.S. government obligations, U.S. government agency obligations and U.S. government instrumentality obligations that have an active, liquid market.
- Any U.S. dollar denominated corporate or bank debt issued by a corporation or bank which is organized and operated with the United States with net worth in excess of two hundred fifty million dollars; except that the notes evidencing the debt must mature within three years from the date of settlement. At the time of purchase, the debt must carry at least two credit ratings from any of the nationally recognized credit agencies and must be rated at least "AA- or Aa3" or the equivalent by any two NRSRO credit rating agencies. Concentration in this sector is limited to 30% of the book value of the Town's

investments at the time of purchase, with no more than 5% of the book value concentrated in any single obligor regardless of investment type.

- Commercial paper rated A-1, P-1, or their equivalent by any nationally recognized credit rating agencies. Total portfolio credit exposure shall not exceed 30% of the book value of the Town's investment portfolio with no greater than 5% total portfolio exposure to any single issuer at the time of purchase.
- Securitized Certificates of Deposit, including Yankee CDs, and bankers acceptances, the issuers of which are banks organized under U.S. laws or their parent companies, are rated A-1, P-1 or their equivalent by any NRSROs. Total credit exposure including Authorized Investments 2, 3, 4 and shall not exceed 50% of the Town's total portfolio value.
- Repurchase agreements and reverse repurchase agreements may be enacted with approved dealers with whom the Town has signed a master agreement governing such transactions, and must mature within 90 days. U.S. Treasury, agency, or instrumentality securities must collateralize any such transactions, the market value of which shall be at least 102%. Securities collateralizing such transactions shall be held by a tri-party custodian.
- Municipal bonds can include the general obligation or revenue bonds of any state of the United States, the District of Columbia, or any territorial possession of the United States or of any political subdivision, institution, department, agency, instrumentality, or authority of any such governmental entities. No security may be purchased pursuant to this paragraph unless, at the time of purchase, the security is rated in one of the three highest rating categories by any NRSRO(AA3/Aa- or better Colorado issuers, AA3/Aa- or non-Colorado issuers)Municipal bonds shall not exceed 25% of the total par value of the Town's investment portfolio.
- Guaranteed investment contracts of domestically-regulated insurance companies having a claims-paying ability rating AAA or its equivalent by any nationally recognized credit rating agencies.
- Money market mutual funds and local government investment pools as permitted by Colorado statute, provided that such funds are either registered with the SEC or rated AAA by any NRSRO.

INTEREST EARNINGS

Investment income will be allocated to the various funds based on the respective participation of capital in the overall investment portfolio, unless otherwise decided upon by the Finance Director.

INVESTMENT LIMITATIONS

The Town will adhere to the following investment limitations:

- **DIVERSIFICATION** - The Town's investments shall be diversified by:
 - Limit investments in securities from a specific issuer (excluding U.S. Treasury and Government Sponsored Entity (GSE) securities) to 5%.
 - Limit investment in securities to those with minimum credit ratings as follows:
 - AA3/AA- or equivalent corporate and GSE issues
 - A3/A- Colorado state and local government issues
 - To the extent possible, match maturities with cash flow requirements; assure liquidity when needed.
 - Limit portfolio sector concentration to:
 - Maximum 25% municipal securities, 5 year max maturity
 - Maximum 50% corporate issuers, 3 year max maturity
 - Maintain a portion of the Town's investment portfolio in readily available asset classes including local government investment pools (LGIPs), money market funds, overnight

repurchase agreements and marketable securities to ensure that appropriate liquidity is maintained to meet the Town's ongoing obligations.

- **MATURITY** - To the extent possible, the Town shall match its investments with anticipated cash flow needs. Unless matched to a specific cash flow, the Town will not invest in securities with maturities of more than five (5) years from the date of settlement.
- **SALE OF INVESTMENTS PRIOR TO MATURITY** - Investments may be sold prior to their maturity date if the investment official determines that it is in the best interest of the Town to do so. It is the Town's intent to purchase and hold securities until maturity; however, from time to time, it may become necessary to sell a security at a gain or loss in order to meet cash flow requirements or to take advantage of certain exchange advantages for the overall enhancement of the portfolio.
- **DERIVATIVES** - Securities which derive their value from an underlying asset, group of assets, reference rate, or index value are not permitted as an authorized investment under this policy unless allowed under C.R.S. § 24-75-601, et seq.

REPORTING OF INVESTMENTS

A report containing current investment activity and balances will be provided to the Town Board on a monthly basis unless another frequency (e.g., quarterly) is deemed satisfactory to the Town Board.

POLICY REVIEW

The Finance Director will review the Investment Policy annually in concert with the preparation of the Town's year-end financial statements to ensure that the Town is adhering to the framework outlined in this policy and to statutory requirements for permissible investments of public funds under C.R.S. § 24-75-601, et seq. Furthermore, the Finance Committee and Finance Director will be responsible for reviewing the Investment Policy every two years and will make recommendations for revisions to the policy as deemed appropriate. Adoption and modifications to this policy will require the approval of a simple majority vote by the entire Town Board.

ETHICS AND CONFLICTS OF INTEREST

Town officials and employees involved in the investment process shall refrain from personal business activity that conflicts with proper execution of the Town's investment program or that impairs their ability to make impartial investment decisions. Town officials and employees shall disclose, in accordance with state law, any substantial financial interest they have in financial institutions that conduct business with the Town. Town employees shall notify the Town Manager in writing of any such interest. Board members shall disclose any such interest in accordance with state law.

Drew Peterson, Mayor

Attest: Jessica Koenig, CMC, Town Clerk



MEMORANDUM OF RECOMMENDATION

TO: Board of Trustees

FROM: Finance Committee

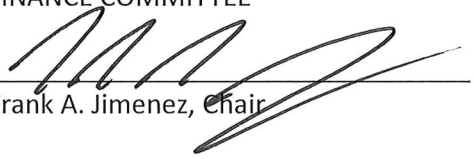
CC:

DATE: June 1, 2022

RE: Investment Policy

The proposed Investment Policy has been reviewed by the Finance Committee at the June 1, 2022 meeting. With a vote of 3 for and 0 against, the Finance Committee of the Town of Firestone recommends the approval of the Investment Policy.

FINANCE COMMITTEE


Frank A. Jimenez, Chair

ATTEST:


Jessica Koenig, Secretary

~~BOARD OF TRUSTEES ADOPTED POLICY~~
TOWN OF FIRESTONE INVESTMENT POLICY
ADOPTED JUNE 2022

SUBJECT: ~~Investment Policy~~

ISSUE DATE

January 23, 2020

EFFECTIVE DATE

January 23, 2020

INTENT

The Town of Firestone (Town) understands the need to adopt an investment policy to establish parameters and guidelines for the efficient management of the Town's funds and for the purchase and sale of investments. This policy applies to the investments of all funds of the Town. Except for funds held in trust or special funds that are otherwise specifically provided for, the Town will consolidate the balances from all funds to maximize investment earnings and meet the liquidity requirements of the Town subject to the primary objective of providing security of principal amounts. This policy supersedes any and all previous investment policies adopted by the Town.

POLICY

The Town has established the following fiscal policy related to investments.

~~Objectives~~OBJECTIVES

It is the policy of the Town to invest idle public funds in a manner to meet the daily cash flow demands of the Town with the primary objectives, in priority order, being:

- ~~a)~~ Liquidity sufficient to meet cash flow requirements as defined by allocation of assets
 - ~~b)~~ Preservation of Principal
 - ~~c)~~ Market rate of return commensurate with risk tolerance
- **~~Liquidity~~LIQUIDITY** - The investment portfolio shall retain sufficient liquidity to meet all of the Town's operating requirements that may be reasonably anticipated during the annual budget cycle. Investments shall be managed in order to avoid, although not prohibit, the need to sell securities in order to meet anticipated cash flow needs. Since all possible cash demands cannot be anticipated, the investment portfolio should contain a significant quantity of securities with active secondary markets. As such, at least ten percent (10%) of the investment portfolio will be invested in overnight instruments, money market funds, Colorado local government pools, or in marketable securities which can be sold to raise cash with one business day's notice.

- ~~PRESERVATION OF PRINCIPAL~~**PRESERVATION OF PRINCIPAL** - Preservation of principal is the next objective for the Town's investment portfolio. The portfolio should be managed in a manner that seeks to ensure stability of the overall investment portfolio by mitigating the following risks:

- **CREDIT DEFAULT RISK** - The Town will minimize credit default risk, or loss due to the failure of the investment issuer or backer. By monitoring credit risk by restricting the minimum credit ratings on securities that may be purchased and through portfolio diversification, exposure to any one security type or issuer is minimized. As such, the Town shall place reliance upon Nationally Recognized Statistical Rating Organizations (NRSRO) in evaluating credit risk of obligations not issued by the U. S. government and Federal Instrumentality's (Agencies and Government Sponsored Enterprises).
- **INTEREST RATE RISK** - The Town will minimize its interest rate risk, by employing an asset allocation strategy for portfolio management based on the Town's liquidity needs, structuring the portfolio to: first meet the cash requirements of the Town's ongoing operations, thereby mitigating the need to liquidate securities at a loss prior to maturity. The investment portfolio will be divided into three categories, Cash (overnight liquidity), Core Operating, and Reserves.

Cash is available to meet daily and unforeseen liquidity needs.

Core Operating is invested to meet budgeted cash demands throughout the fiscal year.

Reserves are generally not scheduled to spend and may be invested longer term.

- **CONCENTRATION RISK** - The Town will minimize concentrated credit risk, by diversifying its investment portfolio so that the impact of potential losses from any one type of security or issuer will be minimized. Investments issued or explicitly guaranteed by the U.S. government and investments in mutual funds, external investment pools, and other pooled investments are excluded from this requirement.

Issuers not described in the preceding paragraph will be limited to 5% portfolio exposure per issuer, to include all security types, i.e. commercial paper, banker's acceptance and corporate debt.

- ~~RETURN ON INVESTMENT~~**RETURN ON INVESTMENT** - The investment portfolio shall be designed and managed with the objective of attaining a market rate of return throughout interest rate cycles, taking into account the investment risk constraints and liquidity needs described in A. Return on investment is of secondary importance compared to liquidity and preservation of principal. Portfolio investments are limited to relatively low risk securities. Portfolio return objective is a fair, albeit lower, return relative to the risk being assumed. The portfolio return shall be measured vs. a benchmark with characteristics commensurate with the investment policy and asset allocation of the portfolio based on the Town's cash flow requirements; examples include 2 year Constant Maturity Treasury Index, ICE BAML Government and Corporate Indexes and may be blended or modified as the portfolio grows and duration increases, as authorized by the Finance Director.

~~DELEGATION OF AUTHORITY~~**DELEGATION OF AUTHORITY**

Authority to oversee and manage the Town's investment program is granted to the Town's Finance Director. Responsibility for the operation of the investment portfolio may be delegated to Finance Department staff and/or investment advisor, acting in accordance with established written procedures and

internal controls for the operation of the investment program consistent with this investment policy. Procedures should include references to: safekeeping, delivery vs. payment, investment accounting, repurchase agreements, wire transfer agreements, and collateral/depository agreements. No person may engage in an investment transaction except as provided under the terms of this policy along with the procedures established by the Finance Director. The Finance Director will be responsible for all investment transactions undertaken and shall establish a system of controls to regulate the activities of any Finance Department staff or the investment advisor.

Authorized Investments**AUTHORIZED INVESTMENTS**

The Town's authorized investments shall consist of the following:

- U.S. government obligations, U.S. government agency obligations and U.S. government instrumentality obligations that have an active, liquid market.
- Any U.S. dollar denominated corporate or bank debt issued by a corporation or bank which is organized and operated with the United States with net worth in excess of two hundred fifty million dollars; except that the notes evidencing the debt must mature within three years from the date of settlement. At the time of purchase, the debt must carry at least two credit ratings from any of the nationally recognized credit agencies and must be rated at least "AA- or Aa3" or the equivalent by any two NRSRO credit rating agencies. Concentration in this sector is limited to 30% of the book value of the Town's investments at the time of purchase, with no more than 5% of the book value concentrated in any single obligor regardless of investment type.
- Commercial paper rated A-1, P-1, or their equivalent by any nationally recognized credit rating agencies. Total portfolio credit exposure shall not exceed 30% of the book value of the Town's investment portfolio with no greater than 5% total portfolio exposure to any single issuer at the time of purchase.
- Securitized Certificates of Deposit, including Yankee CDs, and bankers acceptances, the issuers of which are banks organized under U.S. laws or their parent companies, are rated A-1, P-1 or their equivalent by any NRSROs. Total credit exposure including Authorized Investments 2, 3, 4 and shall not exceed 50% of the Town's total portfolio value.
- Repurchase agreements and reverse repurchase agreements may be enacted with approved dealers with whom the Town has signed a master agreement governing such transactions, and must mature within 90 days. U.S. Treasury, agency, or instrumentality securities must collateralize any such transactions, the market value of which shall be at least 102%. Securities collateralizing such transactions shall be held by a tri-party custodian.
- Municipal bonds can include the general obligation or revenue bonds of any state of the United States, the District of Columbia, or any territorial possession of the United States or of any political subdivision, institution, department, agency, instrumentality, or authority of any such governmental entities. No security may be purchased pursuant to this paragraph unless, at the time of purchase, the security is rated in one of the three highest rating categories by any NRSRO(A3/A-or better Colorado issuers, AA3/Aa- or non-Colorado issuers)Municipal bonds shall not exceed 25% of the total par value of the Town's investment portfolio.

- Guaranteed investment contracts of domestically-regulated insurance companies having a claims-paying ability rating AAA or its equivalent by any nationally recognized credit rating agencies.
- Money market mutual funds and local government investment pools as permitted by Colorado statute, provided that such funds are either registered with the SEC or rated AAA by any NRSRO.

INTEREST EARNINGS

Investment income will be allocated to the various funds based on the respective participation of capital in the overall investment portfolio, unless otherwise decided upon by the Finance Director.

INVESTMENT LIMITATIONS

The Town will adhere to the following investment limitations:

• **DDIVERSIFICATION** -

The Town's investments shall be diversified by:

- Limit investments in securities from a specific issuer (excluding U.S. Treasury and Government Sponsored Entity (GSE) securities) to 5%.
- Limit investment in securities to those with minimum credit ratings as follows:
 - AA3/AA- or equivalent corporate and GSE issues
 - A3/A- Colorado state and local government issues
- To the extent possible, match maturities with cash flow requirements; assure liquidity when needed.
- Limit portfolio sector concentration to:
 - Maximum 25% municipal securities, 5 year max maturity
 - Maximum 50% corporate issuers, 3 year max maturity
- Maintain a portion of the Town's investment portfolio in readily available asset classes including local government investment pools (LGIPs), money market funds, overnight repurchase agreements and marketable securities to ensure that appropriate liquidity is maintained to meet the Town's ongoing obligations.

• **MATURITY**

-

- To the extent possible, the Town shall match its investments with anticipated cash flow needs. Unless matched to a specific cash flow, the Town will not invest in securities with maturities of more than five (5) years from the date of settlement.

• **SALE OF INVESTMENTS PRIOR TO MATURITY** -

Investments may be sold prior to their maturity date if the investment official determines that it is in the best interest of the Town to do so. It is the Town's intent to purchase and hold securities until

maturity; however, from time to time, it may become necessary to sell a security at a gain or loss in order to meet cash flow requirements or to take advantage of certain exchange advantages for the overall enhancement of the portfolio.

●—~~DERIVATIVES~~—

Securities which derive their value from an underlying asset, group of assets, reference rate, or index value are not permitted as an authorized investment under this policy unless allowed under C.R.S. § 24-75-601, et seq.

REPORTING OF INVESTMENTS

A report containing current investment activity and balances will be provided to the Town Board on a monthly basis unless another frequency (e.g., quarterly) is deemed satisfactory to the Town Board.

~~Policy Review~~POLICY REVIEW

The Finance Director will review the Investment Policy annually in concert with the preparation of the Town's year-end financial statements to ensure that the Town is adhering to the framework outlined in this policy and to statutory requirements for permissible investments of public funds under C.R.S. § 24-75-601, et seq. Furthermore, the Finance Committee and Finance Director will be responsible for reviewing the Investment Policy every two years and will make recommendations for revisions to the policy as deemed appropriate. Adoption and modifications to this policy will require the approval of a simple majority vote by the entire Town Board.

ETHICS AND CONFLICTS OF INTEREST

Town officials and employees involved in the investment process shall refrain from personal business activity that conflicts with proper execution of the Town's investment program or that impairs their ability to make impartial investment decisions. Town officials and employees shall disclose, in accordance with state law, any substantial financial interest they have in financial institutions that conduct business with the Town. Town employees shall notify the Town Manager in writing of any such interest. Board members shall disclose any such interest in accordance with state law.

Drew Peterson, Mayor

Clerk

____ Attest: Jessica Koenig, CMC, Town

RESOLUTION NO. 22-75

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF
FIRESTONE, COLORADO, ADOPTING THE TOWN OF FIRESTONE
INVESTMENT POLICY**

WHEREAS, the Board of Trustees previously adopted an Investment Policy for the Town; and

WHEREAS, to ensure the efficient and effective use of the Town's resources, the Board of Trustees finds that it is in the Town's best interest to update the Policy; and

WHEREAS, the Board of Trustees has been presented with an updated Policy which was developed through the collaborative efforts of the Town Manager, Director of Finance and consultants; and

WHEREAS, the Board of Trustees finds that the proposed Policy will, in a fiscally responsible manner, enhance the Town's ability to efficiently and effectively employ its resources.

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

Section 1. The Board of Trustees hereby approves and adopts the Town of Firestone Investment Policy, in substantially the same form as the copy attached hereto and made a part of this resolution, which Policy shall be effective upon adoption of this resolution.

Section 2. All Investment Policies previously adopted by the Board of Trustees are hereby repealed in their entirety

INTRODUCED, READ, and ADOPTED this 8th day of June, 2022.

TOWN OF FIRESTONE, COLORADO

Drew Alan Peterson, Mayor

ATTEST:

Jessica Koenig, CMC, Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 7.a

Presentation

Meeting Date: June 8, 2022

Initiated By:

Dept: Finance

AGENDA TITLE

Audit Presentation

SUMMARY

HISTORY AND PREVIOUS BOARD ACTION

RECOMMENDATION

ALTERNATIVES

ATTACHMENTS

None

FINANCIAL CONSIDERATIONS

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 8.a

Land Development

Meeting Date: June 8, 2022

Initiated By: Marty Ostholthoff

Dept: Planning & Development

AGENDA TITLE

PUBLIC HEARING: Resolution 22-53: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN AMENDED AND RESTATED SERVICE PLAN FOR THE NEIGHBORS POINT METROPOLITAN DISTRICT

SUMMARY

The Town of Firestone has received a request to Amend and Restate the Service Plan for the Neighbors Point Metropolitan District. The Amended and Restated Service Plan proposes the following changes:

1. The Service Plan area is being reduced from 119 acres to 92 acres with the removal of the Sable Glen property from the Service Plan area.
2. Increase in debt limit from \$3,190,000 to \$14,000,000.
3. A one-time debt proceeds contribution to the Town of \$514,629 is eliminated and replaced with 3 mills (collected yearly) contribution to the Town.
4. A one-time contribution to the Town of \$250,000 to be used towards traffic calming within the Neighbors Point subdivision.
5. An increase from 6 mills to 10 mills for operations and maintenance.

Approval of the Amended and Restated Service Plan does not constitute the Town's approval of any future development or zoning of the subject property.

HISTORY AND PREVIOUS BOARD ACTION

The original Service Plan for the Neighbors Point Metropolitan District was approved on October 7, 2004. The First Amendment to the Service Plan for the Neighbors Point Metropolitan District was approved on February 27, 2013.

RECOMMENDATION

Staff recommends that the Board of Trustees approve draft Resolution 22-53, a resolution approving the Amended and Restated Service Plan for the Neighbors Point Metropolitan District.

ALTERNATIVES

n/a

ATTACHMENTS

1. Resolution 22-53
2. Amended and Restated Service Plan - Neighbors Point, 2022-05-02

FINANCIAL CONSIDERATIONS

n/a

RESOLUTION NO. 22-53

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN AMENDED AND RESTATED SERVICE PLAN FOR THE NEIGHBORS POINT METROPOLITAN DISTRICT

WHEREAS, in 2004, the Board of Trustees of the Town of Firestone (“Board”) received a request to review a service plan for a proposed Metropolitan District entitled the Neighbors Point Metropolitan District (the “District”); and

WHEREAS, on September 30, 2004 and on October 7, 2004, pursuant to statute, the Board conducted a public hearing to review the service plan (“Original Service Plan”) for the Neighbors Point Metropolitan District and approved said Original Service Plan; and

WHEREAS, after approval of the Original Service Plan, the District was organized pursuant to a court order and decree on December 2, 2004; and

WHEREAS, in 2013, the Board received a request to review and approve a First Amendment to the Service Plan for the Neighbors Point Metropolitan District; and

WHEREAS, following notice as required by law, the Board conducted a public hearing on the request on February 27, 2013, and approved the First Amendment to the Service Plan for the Neighbors Point Metropolitan District; and

WHEREAS, the Board has received a request to review and approve an Amended and Restated Service Plan for the Neighbors Point Metropolitan District (“Amended and Restated Service Plan”); and

WHEREAS, following notice as required by law, the Board conducted a public hearing on the request on June 8, 2022, and now desires to approve the Amended and Restated Service Plan; and

WHEREAS, the District anticipates issuing Debt (as defined in the Amended and Restated Service Plan) on or around July 11, 2022 (the “2022 Debt Issuance”); and

WHEREAS, in accordance with Section VI.D.2. of the Amended and Restated Service Plan and at least thirty (30) days in advance of the 2022 Debt Issuance, on May 27, 2022, the District submitted to the Board the financing plan and term sheet for the 2022 Debt Issuance (the “Financing Documents”); and

WHEREAS, the Board has completed its review of the Financing Documents and now desires to affirmatively state that the 2022 Debt Issuance is within the parameters set forth in the Amended and Restated Service Plan and does not constitute a material modification that would necessitate an amendment of the Amended and Restated Service Plan pursuant to Section 32-1-207, C.R.S.

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

Section 1. The Board of Trustees of the Town of Firestone finds that:

- (a) An Amended and Restated Service Plan for the Neighbors Point Metropolitan District was filed in the office of the Planning and Development Department of the Town of Firestone; and
- (b) Pursuant to statute, the Board of Trustees of the Town of Firestone has authority to review the Amended and Restated Service Plan with reference to need, service and economic feasibility; and
- (c) The Board of Trustees of the Town of Firestone has reviewed the Amended and Restated Service Plan, the evidence and related exhibits, and has determined that the same meets the municipal approval criteria under the Special District Act and, therefore, has determined to adopt a resolution of approval of the Amended and Restated Service Plan for the Neighbors Point Metropolitan District.

Section 2. Upon consideration of the Amended and Restated Service Plan for the District, and evidence presented at the public hearing on the Amended and Restated Service Plan, the Board of Trustees of the Town of Firestone does find, determine and declare, as required by C.R.S. § 32-1-203(2), as follows:

- (a) That there is sufficient existing and projected need for organized service in the area to be serviced by the District;
- (b) That the existing service in the area to be served by the District is inadequate for present and projected needs;
- (c) That the District is capable of providing economical and sufficient service to the area within its proposed boundaries; and
- (d) That the area to be included in the District has, or will have, the financial ability to discharge the proposed indebtedness on a reasonable basis.

Section 3. In accordance with C.R.S. § 32-1-204.5(1)(c), the Board of Trustees hereby approves the Amended and Restated Service Plan for the Neighbors Point Metropolitan District, as set forth in Exhibit A to this Resolution, subject to and contingent upon compliance with the following condition:

(a) The District shall not be authorized to issue Debt until the District has reimbursed the Town for all the charges and fees it has incurred with its attorneys and consultant relating to their review of this Amended and Restated Service Plan as approved herein.

If any of the above-stated conditions are not met, the Town may revoke its approval of the Amended and Restated Service Plan by subsequent resolution and pursue all legal and equitable remedies available to it for failure of compliance with such conditions of approval.

Section 4. In accordance with Section VI.D.2. of the Amended and Restated Service Plan, the Board of Trustees hereby finds and affirms that the Board has completed its review of the Financing Documents and now desires to affirmatively state that the 2022 Debt Issuance is within the parameters set forth in the Amended and Restated Service Plan and does not constitute a material modification that would necessitate an amendment of the Amended and Restated Service Plan pursuant to Section 32-1-207, C.R.S.

(a) By adoption of this Resolution, the Town hereby confirms that the District may proceed with the 2022 Debt Issuance without amending the Amended and Restated Service Plan.

INTRODUCED, READ AND ADOPTED this 8th day of June, 2022.

TOWN OF FIRESTONE, COLORADO

Drew Alan Peterson, Mayor

ATTEST:

Jessica Koenig, Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

EXHIBIT A
Amended and Restated Service Plan
Neighbors Point Metropolitan District

**AMENDED AND RESTATED SERVICE PLAN
FOR
NEIGHBORS POINT METROPOLITAN DISTRICT**

TOWN OF FIRESTONE, COLORADO

Prepared
By



2154 E. Commons Ave, Suite 2000
Centennial, CO 80122

Approval Date:
May 11, 2022

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LIST OF EXHIBITS

- EXHIBIT A** Vicinity Map
- EXHIBIT B** Initial Boundary Map and Legal Description
- EXHIBIT C** Financial Plan
- EXHIBIT D** Capital Plan - List of Public Improvements
- EXHIBIT E** Disclosure Notice
- EXHIBIT F** Intergovernmental Agreement

I. INTRODUCTION

A. Purpose and Intent.

The District is an independent unit of local government, separate and distinct from the Town. The primary purpose of the District will be to finance the construction of the Public Improvements. The District will provide ongoing operation and maintenance services as specifically set forth in this Amended and Restated Service Plan and in the Amended and Restated Intergovernmental Agreement between the Town and the District.

This Amended and Restated Service Plan is intended to accommodate the phasing of the Project and the infrastructure needs of each phase. This Amended and Restated Service Plan, including all exhibits hereto, supersedes all prior service plans and service plan amendments.

B. Need for the District.

On October 6, 2004, the Town approved the Neighbors Point Metropolitan District Service Plan (the “Original Service Plan”). Following approval of the Original Service Plan, on December 2, 2004, the Weld County District Court granted an Order and Decree (subsequently amended on March 22, 2005) organizing the District. On February 27, 2013, the Town approved that certain First Amendment to Service Plan for Neighbors Point Metropolitan District (the “First Amendment”). The First Amendment, among other things, provided for a reduction in the size of the District that resulted from exclusion of certain property that was ultimately included into the adjacent NP125 Metropolitan District. This Amended and Restated Service Plan reflects the current District boundaries along with current infrastructure costs and an updated financing plan. There were not at the time of formation of the District nor are there currently other governmental entities, including the Town, located in the immediate vicinity of the District that consider it desirable, feasible or practical to undertake the planning, design, acquisition, construction, installation, relocation, redevelopment, and financing of the Public Improvements needed for the Project. The District is therefore necessary in order for the Public Improvements required for the Project to be provided in the most economic manner possible.

C. Objective of the Town Regarding the Service Plan.

The Town’s objective in approving the Service Plan for the District is to authorize the District to provide for the planning, design, acquisition, construction, installation, relocation and redevelopment of the Public Improvements from the proceeds of Debt to be issued by the District. All Debt is expected to be repaid by taxes imposed and collected at a mill levy no higher than the Maximum Debt Mill Levy, as the same may be increased as set forth in Section VI.C.1; by Fees as limited by Section V.A.20; and/or by Special Assessments as set forth in Section V.A.21.

This Amended and Restated Service Plan is intended to establish a limited purpose for the District and explicit financial constraints that are not to be violated under any circumstances. The primary purpose of the District is to provide the Public Improvements associated with development pursuant to the Approved Development Plan.

The District shall dissolve upon payment or defeasance of all Debt incurred or upon a court determination that adequate provision has been made for the payment of all Debt, except that if the District has ongoing operation and maintenance functions, the District shall not be required to dissolve. Additionally, if the Board of Directors of the District determines that the existence of the District is no longer necessary to accomplish the purposes set forth in this Amended and Restated Service Plan, the Board of Directors of the District shall promptly effectuate the dissolution of the District.

The District is authorized to finance the Public Improvements that can be funded from Debt which is to be repaid from Fees, Special Assessments or tax revenues collected from a mill levy which shall not exceed the Maximum Debt Mill Levy, as well as other legally available sources of revenue, and to maintain certain of the Public Improvements as set forth in this Amended and Restated Service Plan and the Amended and Restated Intergovernmental Agreement with the Town. It is the intent of this Amended and Restated Service Plan to assure to the extent possible that no property bear an economic burden that is greater than that associated with revenues from the Maximum Debt Mill Levy, the Maximum Operation and Maintenance Mill Levy, Fees, and Special Assessments, even under bankruptcy or other unusual situations. Generally, the costs of Public Improvements that cannot be funded within these parameters are not costs to be paid by the District.

D. Consultants.

This Amended and Restated Service Plan has been prepared by the following:

District Counsel
White Bear Ankele Tanaka & Waldron
2154 East Commons Avenue, Suite 2000
Centennial, CO 80122
bdickhoner@wbapc.com

District Engineer
Independent District Engineering Services
1626 Cole Boulevard, Suite 125
Lakewood, CO 80401
barrettmarrocco@idesllc.com

Underwriter
Piper Sandler & Co.
1200 17th Street, Suite 1250
Denver, CO 80202
zach.bishop@psc.com

II. DEFINITIONS

In this Amended and Restated Service Plan, the following terms shall have the meanings indicated below, unless the context hereof clearly requires otherwise:

Approved Development Plan: means a development plan, subdivision development agreement or other land use application process established by the Town for the Project as approved in its final form by the Town pursuant to the Town Code, as may be amended from time to time pursuant to the Town Code, that identifies, among other things, the Public Improvements necessary for facilitating development of property within the Service Area.

Board: means the board of directors of the District.

Capital Plan: means the Capital Plan described in Section V.B. which includes a list of the Public Improvements financed by the District and the cost of the Public Improvements.

C.R.S.: means the Colorado Revised Statutes, as the same may be amended from time to time.

Debt: means bonds, notes, debentures, certificates, capital leases or other multiple fiscal year obligations for the payment of which the District has promised to impose an ad valorem property tax mill levy.

Debt Proceeds Contribution: the District anticipates issuing general obligation bonds to pay for certain public infrastructure and has agreed to contribute Two-Hundred Fifty Thousand Dollars (\$250,000) of the net proceeds generated by this bond issuance to the Town for the purpose of the Town constructing certain traffic calming improvements on Town owned and maintained streets within the District.

District: means Neighbors Point Metropolitan District.

District Boundaries: means the property within the Initial Boundaries.

End User: means any owner, or tenant of any owner, of any taxable improvement within the District who is intended to become burdened by the imposition of ad valorem property taxes subject to the Maximum Debt Mill Levy. By way of illustration, a resident homeowner, renter, commercial property owner, or commercial tenant is an End User. A person or entity that constructs homes or commercial structures with the intention of selling to others is not an End User.

External Financial Advisor: means a consultant that: (i) advises Colorado governmental entities on matters relating to the issuance of securities by Colorado governmental entities, including matters such as the pricing, sales and marketing of such securities and the procuring of bond ratings, credit enhancement and insurance in respect of such securities; (ii) shall be an underwriter, investment banker, or individual listed as a public finance advisor in the Bond Buyer's Municipal Market Place; and (iii) is not an officer or employee of the District and has not been otherwise engaged to provide services in connection with the transaction related to the applicable Debt. If the District has engaged a municipal adviser that meets the foregoing criteria and has a fiduciary duty to the District, the municipal adviser may fill the role of the External Financial Advisor.

Fees: means any fee, rate, toll, penalty or charge imposed or received by the District for services, programs or facilities provided by the District, as described in Section V.A.20 below.

Financial Plan: means the Financial Plan described in Section VI and attached as **Exhibit C** which describes how the Public Improvements are expected to be financed and how the Debt is expected to be incurred.

Initial Boundaries: means the boundaries of the District's area described in the Initial Boundary Map and Legal Description, attached hereto as **Exhibit B**.

Intergovernmental Agreement or Amended and Restated Intergovernmental Agreement: means the amended and restated intergovernmental agreement between the District and the Town, a form of which is attached hereto as **Exhibit F**. The Intergovernmental Agreement may be amended from time to time by the District and the Town.

Maximum Debt Mill Levy: means the maximum mill levy the District is permitted to impose for payment of Debt as set forth in Section VI.C.1 below.

Maximum Debt Mill Levy Imposition Term: means the period of time, commencing upon the date when the District first issues any debt, in which the District's Debt mill levy may be imposed.

Maximum Operation and Maintenance Mill Levy: means the maximum mill levy the District is permitted to impose for payment of Operation and Maintenance Costs, as set forth in Section VI.C.2 below.

Mill Levy Adjustment: means, if, on or after October 6, 2004 there are changes in the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement, the Maximum Debt Mill Levy and the Maximum Operation and Maintenance Mill Levy may be increased or decreased to reflect such changes, such increases and decreases to be determined by the Board in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenues generated by the applicable mill levy, as adjusted for changes occurring on or after October 6, 2004, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation.

Operation and Maintenance Costs: means (1) planning and design costs of Public Improvements identified by the District as being payable from its operation and maintenance mill levy; (2) the costs of repair, replacement and depreciation of the Public Improvements; (3) the costs of any covenant enforcement and design review services, or other services, programs and facilities the District may provide; and (4) the costs of ongoing administrative, accounting and legal services to the District.

Project: means the development or property commonly referred to as Neighbors Point.

Public Improvements: means a part or all of the improvements authorized to be planned, designed, acquired, constructed, installed, relocated, redeveloped and financed by the District as generally described in the Special District Act and in accordance with the Approved Development Plan, except as specifically limited in Section V below, which improvements benefit the property within the Project, the District Boundaries and/or the Service Area, and which improvements will serve the future taxpayers and inhabitants of the property within the Project, the District Boundaries and/or the Service Area, as determined by the Board of the District.

Service Area: means the Initial Boundaries.

Service Plan or Amended and Restated Service Plan: means this Amended and Restated Service Plan for the District approved by Town Board.

Service Plan Amendment: means an amendment to the Service Plan approved by Town Board in accordance with the Town's ordinance and the applicable state law.

Special Assessment: means the levy of an assessment within the boundaries of a special improvement district pursuant to Section V.A.21 below.

Special District Act: means Title 32, Article 1 of the Colorado Revised Statutes, as amended from time to time.

State: means the State of Colorado.

Taxable Property: means real or personal property which is subject to ad valorem taxes imposed by the District.

Town: means the Town of Firestone, Colorado.

Town Board: means the Town Board of Trustees of the Town of Firestone, Colorado.

Town Code: means the Town Code of the Town of Firestone, Colorado.

Town O&M Mill Levy: means three (3) mills, to be imposed and collected by the District in accordance with Section VI.I. below for purposes of defraying the Town's ongoing operations and maintenance expenses associated with Public Improvements within or without the boundaries of the District and which directly benefit the taxpayers, property owners, and residents of the District.

Total Debt Limit: means Fourteen Million Dollars (\$14,000,000) which Total Debt Limit includes all Debt issued by the District for Public Improvements.

III. BOUNDARIES

A Vicinity Map depicting the Project is attached hereto as **Exhibit A**. The area of the Initial Boundaries includes approximately 191 acres, and the legal description and map of the Initial Boundaries are set forth in **Exhibit B**. It is anticipated that the District's boundaries may change from time to time as it undergoes inclusions and exclusions pursuant to Section 32-1-401, C.R.S., and Section 32-1-501, C.R.S., subject to the limitations set forth in Section V.A.12-13 below.

IV. PROPOSED LAND USE, PROJECTED POPULATION PROJECTIONS AND CURRENT ASSESSED VALUATION

The property within the Service Area consists of approximately 92.13 acres of land, fully developed. The population of the Service Area at build-out is estimated to be approximately 470 people. The current assessed valuation of the property within the Service Area is Four Million, Two Hundred Sixty-Seven Thousand, Three Hundred Seventy Dollars (\$4,267,370.00) for purposes of this Amended and Restated Service Plan, and the assessed value of the property within the Service Area at build-out is expected to be sufficient to reasonably discharge the Debt under the Financial Plan attached hereto as **Exhibit C**.

Approval of this Amended and Restated Service Plan by the Town does not imply approval of the development of a specific area within the Service Area, nor does it imply approval of the number of residential units or the total site/floor area of commercial or industrial buildings identified in this Amended and Restated Service Plan or any of the exhibits attached thereto, which approvals shall be as set forth in an Approved Development Plan.

Approval of this Amended and Restated Service Plan by the Town in no way releases or relieves the developer of the Project, or the developer, landowner or subdivider of any property within the Service Area, or any of their respective successors or assigns, of obligations to construct public improvements for the Project or of obligations to provide to the Town such financial guarantees as may be required by the Town to ensure the completion of the Public Improvements, or of any other obligations to the Town under the applicable Approved Development Plan, the Town Code or any applicable annexation agreement, subdivision agreement, or other agreements affecting the Project property or development thereof.

V. DESCRIPTION OF PROPOSED POWERS, IMPROVEMENTS AND SERVICES

A. Powers of the District and Service Plan Amendment.

The District has the power and authority to provide the Public Improvements and related operation and maintenance services as such power and authority are described in the Special District Act and other applicable statutes, common law, and the Constitution, subject to the limitations set forth herein, in the Approved Development Plan, and in the Intergovernmental Agreement.

1. **Operation and Maintenance Limitation.** The purpose of the District is to plan for, design, acquire, construct, install, relocate, redevelop and finance the Public Improvements. The District shall dedicate the Public Improvements to the Town or other appropriate jurisdiction in a manner consistent with the Approved Development Plan, the Intergovernmental Agreement, and other rules and regulations of the Town and applicable provisions of the Town Code. The District is authorized, but not obligated, to own, operate and maintain Public Improvements not otherwise required to be dedicated to the Town or other public entity, including, but not limited to street improvements (including roads, curbs, gutters, culverts, sidewalks, bridges, parking facilities, paving, lighting, grading, landscaping, and other street improvements), traffic and safety controls, retaining walls, park and recreation improvements and facilities, trails, open space, landscaping, drainage improvements (including detention and retention ponds, trickle channels, and other drainage facilities), irrigation system improvements (including wells, pumps, storage facilities, and distribution facilities), and all necessary equipment and appurtenances incident thereto. Notwithstanding the foregoing, all parks, trails and open space not otherwise dedicated to the Town and owned by the District shall be open to the general public free of charge. The District may provide covenant enforcement, design review services and other services to the residents, owners and taxpayers within the District pursuant to and in accordance with § 32-1-1004(8) C.R.S. The District may impose a mill levy, Special Assessments and/or Fees to pay for Operation and Maintenance Costs in accordance with this Amended and Restated Service Plan and the Intergovernmental Agreement.

2. Fire Protection Limitation. The District shall not be authorized to plan for, design, acquire, construct, install, relocate, redevelop, finance, operate or maintain fire protection facilities or services, unless such facilities and services are provided pursuant to an intergovernmental agreement with the Town and the Frederick-Firestone Fire Protection District. The authority to plan for, design, acquire, construct, install, relocate, redevelop or finance fire hydrants and related improvements installed as part of the water system shall not be limited by this provision.

3. Television Relay and Translation Limitation; Mosquito Control, and Other Limitations. Unless such facilities and services are provided pursuant to the Intergovernmental Agreement, the District shall not be authorized to plan for, design, acquire, construct, install, relocate, redevelop, finance, operate, maintain, or provide: (a) any television relay and translation facilities and services, other than for the installation of conduit as a part of a street construction project; (b) any mosquito control facilities and services; and (c) any solid waste disposal, collection and transportation facilities and services.

4. Limitation on Extraterritorial Service. The District shall be authorized to provide services or facilities outside the Initial Boundaries or to establish fees, rates, tolls, penalties or charges for any services or facilities only in accordance with an Approved Development Plan, the Intergovernmental Agreement, or other agreement to which the Town is a party or otherwise gives its written consent, as evidenced by resolution of the Town Board of Trustees.

5. Telecommunication Facilities. The District agrees that no telecommunication facilities shall be constructed except pursuant to the Intergovernmental Agreement and that no such facilities owned, operated or otherwise allowed by the District shall affect the ability of the Town to expand its public safety telecommunication facilities or impair existing telecommunication facilities.

6. Construction Standards Limitation. The District will ensure that the Public Improvements constructed by the District are designed and constructed in accordance with the standards and specifications of the Town and of other governmental entities having proper jurisdiction. The District will obtain the approval of civil engineering plans from the appropriate jurisdiction and will obtain applicable permits for construction and installation of Public Improvements prior to performing such work.

7. Zoning and Land Use Requirements. The District shall be subject to all of the Town's zoning, subdivision, building code and other land use requirements.

8. Growth Limitations. The Town shall not be limited in implementing Board or voter approved growth limitations, even though such actions may reduce or delay development within the District and the realization of District revenue.

9. Conveyance. The District agrees to convey to the Town, upon written notification from the Town and at no cost to the Town, any interest in real property owned by the District that is necessary, in the Town's sole discretion, for any Town capital improvement projects for transportation, utilities or drainage, so long as such conveyance does not interfere with

the District's ability to construct, operate and/or maintain Public Infrastructure, as the same may be limited by this Amended and Restated Service Plan.

10. Eminent Domain. The District shall not be authorized to exercise, nor shall it use the power of eminent domain, except as otherwise provided pursuant to an intergovernmental agreement with the Town.

11. Water Rights/Resources Limitation. The District shall not acquire, own, manage, adjudicate or develop potable water rights or resources except for the sole purpose of transferring such water rights to the Town or to another governmental entity at the direction of the Town. The District may be permitted to construct, finance, operate and maintain a non-potable water system for the development and may be permitted to own, manage, adjudicate and develop the non-potable water rights which will be used in such non-potable system, only if required or authorized by an intergovernmental agreement with the Town, separate and distinct from the Intergovernmental Agreement. Provided however that nothing herein shall prohibit the District from reimbursing the developer of the Project for the costs of raw water.

12. Inclusion Limitation. Without prior written notice to the Town, the District shall not include into its boundaries any property. No property will be included within the District at any time unless such property has been annexed into the Town's corporate limits.

13. Exclusion Limitation. The District may exclude from its boundaries any property within the District Boundaries. Any exclusion shall require the prior written notice to the Town. The District shall not exclude from its boundaries property upon which a Debt mill levy has been imposed for the purpose of the inclusion of such property into another district that has been or will be formed under the Special District Act, without the prior written consent of the Town, as evidenced by resolution of the Town Board of Trustees.

14. Overlap Limitation. The boundaries of the District shall not overlap with any other district if such overlap will cause the District's mill levy to exceed the Maximum Debt Mill Levy or the Maximum Operation and Maintenance Mill Levy.

15. Total Debt Issuance Limitation. The District shall not issue Debt in excess of the Total Debt Limit. The Total Debt Limit shall not be applicable to refunding or refinancing of Debt authorized to be issued pursuant to the Service Plan unless the principal amount of the refunding bonds exceed the principal amount originally issued, in which case the difference shall count against the Total Debt Limit. At no time during its existence shall the District have Debt outstanding in excess of the Total Debt Limit.

16. Debt Proceeds Contribution. The Town desires to construct certain traffic calming improvements on streets within the District. The streets within the District were previously constructed to the Town's standards by the developer and accepted by the Town. The Town owns and maintains all streets within the District. The Town has recently determined that traffic calming measures are needed within the community and the District has agreed to provide the Debt Proceeds Contribution to the Town for purposes of paying for such traffic calming improvements.

17. Sales and Use Tax. The District shall not exercise its Town sales and use tax exemption.

18. Monies from Other Governmental Sources. The District shall not apply for or accept Conservation Trust Funds, Great Outdoors Colorado Funds, or other funds available from or through governmental or non-profit entities that the Town is eligible to apply for, except pursuant to the Intergovernmental Agreement. This Section shall not apply to specific ownership taxes which shall be distributed to and be a revenue source for the District without any limitation.

19. Consolidation Limitation. The District shall not file a request with any Court to consolidate with another Title 32 district without the prior written consent of the Town, as evidenced by resolution of the Town Board of Trustees.

20. Subdistrict Limitation. The District shall not create any subdistrict pursuant to Section 32-1-1101, C.R.S. without the prior written consent of the Town, as evidenced by resolution of the Town Board of Trustees.

21. Fees. If authorized by the Intergovernmental Agreement, the District may impose and collect Fees for services, programs or facilities furnished by the District, and may from time to time increase or decrease such fees, and may use the revenue from such fees for the repayment of Debt, capital costs, or Operation and Maintenance Costs and for the payment of any indebtedness of the District.

22. Special Assessments. If authorized in the Intergovernmental Agreement, the District may establish one or more special improvement districts within its District Boundaries and may levy a Special Assessment with the special improvement district in order to finance all or part of the costs of any Public Improvements to be constructed or installed that the District is authorized to finance.

23. Revenue Bonds Limitation. Revenue Bonds are bonds payable in whole or in part from revenues other than the District's property and specific ownership taxes. At least thirty (30) days prior to issuing any revenue bonds, the District shall submit all relevant details of such issuance to the Town Board, which may elect to treat the issuance of the revenue bonds as a material modification of the Service Plan. If it is determined by the Town Board that the issuance of revenue bonds constitutes a material modification of the Service Plan, the District shall proceed to amend the Service Plan in accordance with Section 32-1-207, C.R.S. prior to issuing any revenue bonds. If it is determined by the Town Board that such issuance does not constitute a material modification of the Service Plan, the Town Board may issue a resolution to that effect, after receipt of which the District may proceed with such issuance without need for approval of a material modification of the Service Plan. The Town Board shall make its determination in writing to the District within twenty (20) days after submittal of the information by the District, unless the Town and District mutually agree to a different date. Failure of the Town to provide such determination that the issuance of revenue bonds is not a material modification of the Service Plan within twenty (20) days shall be deemed as a determination that such action is not a material modification that requires an amendment to the Service Plan.

24. Public Improvement Fee and Sales Tax Limitation. The District shall not impose, collect, receive, spend or pledge to any Debt any fee, assessment, tax or charge which is collected by a retailer in the District on the sale of goods or services by such retailer and which is measured by the sales price of such goods or services, except as provided pursuant to an agreement with the Town approved by the Town Board.

25. Bankruptcy Limitation. All of the limitations contained in this Amended and Restated Service Plan, including, but not limited to, those pertaining to the Maximum Debt Mill Levy, the Maximum Operation and Maintenance Mill Levy, and Fees have been established under the authority of the Town to approve a Service Plan pursuant to Section 32-1-204.5, C.R.S. It is expressly intended that such limitations.

a. Shall not be subject to set-aside for any reason or by any court of competent jurisdiction, absent a Service Plan Amendment; and

b. Are, together with all other requirements of Colorado law, included in the “political or governmental powers” reserved to the State under the U.S. Bankruptcy Code (11 U.S.C.) Section 903, and are also included in the “regulatory or electoral approval necessary under applicable bankruptcy law” as required for confirmation of a Chapter 9 Bankruptcy Plan under Bankruptcy Code Section 943(b)(6).

The filing of any bankruptcy petition by any District shall constitute, simultaneously with such filing, a material departure of the express terms of this Amended and Restated Service Plan, thus necessitating a material modification that must be submitted to the Town for its consideration as a Service Plan Amendment.

26. Reimbursement Agreement. If the District utilizes reimbursement agreements to obtain reimbursements from third-party developers or adjacent landowners for costs of improvements that benefit third-party landowners, such agreements shall be done in accordance with Town Code. If a reimbursement agreement exists or is entered into for an improvement financed by the District, any and all resulting reimbursements received for such improvement shall be deposited in the District’s debt service fund and used for the purpose of retiring the District’s debt.

27. Service Plan Amendment Requirement. This Amended and Restated Service Plan has been designed with sufficient flexibility to enable the District to provide required services and facilities under evolving circumstances without the need for numerous amendments. Actions of any District which violates the limitations set forth in V.A. above or in VII.C or VII.D shall be deemed to be material modifications to this Amended and Restated Service Plan and the Town shall be entitled to all remedies available under State and local law to enjoin such actions of the District.

B. Preliminary Engineering Survey.

The District has the authority to provide for the planning, design, acquisition, construction, installation, relocation, redevelopment, maintenance, and financing of the Public Improvements. A Capital Plan, including a list of the Public Improvements developed by the District and the cost

of the Public Improvements is attached hereto as **Exhibit D**. The District shall be authorized to construct Public Improvements that shall be more specifically defined in each applicable Approved Development Plan, the Intergovernmental Agreement, or other agreement to which the Town is a party or otherwise gives its written consent, as evidenced by resolution of the Town Board of Trustees. The estimated costs of the Public Improvements which may be planned for, designed, acquired, constructed, installed, relocated, redeveloped, maintained or financed was prepared based upon a preliminary engineering survey and estimates derived from the zoning on the property within the District and is approximately Thirteen Million One Hundred Sixty-Two Thousand Ninety Dollars and Ninety-Nine Cents (\$13,162,090.99).

All of the Public Improvements constructed by the District will be designed in such a way as to assure that the Public Improvements standards will be compatible with those of the Town and shall be in accordance with the requirements of the Approved Development Plan. All construction cost estimates are based on the assumption that construction conforms to applicable local, State or Federal requirements.

VI. FINANCIAL PROVISIONS

A. General.

The District is authorized to provide for the planning, design, acquisition, construction, installation, relocation and/or redevelopment of the Public Improvements from its revenues and by and through the proceeds of Debt to be issued by the District. The District may impose a mill levy on taxable property within its boundaries as a primary source of revenue for repayment of Debt and for Operations and Maintenance Costs. The District may also rely upon various other revenue sources authorized by law. At the District's discretion, these may include the power to assess Fees as provided in Section 32-1-1001(l), C.R.S., as amended from time to time and as limited by Section V.A.20 above, and the District may impose Special Assessments as provided in Section 32-1-1101.7, C.R.S. and in accordance with Section V.A.21, above.

The Financial Plan for the District, which is attached hereto as **Exhibit C**, reflects that the District will issue no more Debt than the District can reasonably expect to pay from revenues derived from the Maximum Debt Mill Levy, Fees, Special Assessments and other legally available revenues. The District may issue such Debt on a schedule and in such year or years as the District determines shall meet the needs of the Financial Plan referenced above and phased to serve development as it occurs.

B. Maximum Voted Interest Rate and Maximum Underwriting Discount.

The interest rate on any Debt is expected to be the market rate at the time the Debt is issued. In the event of a default, the proposed maximum interest rate on any Debt is not expected to exceed eighteen percent (18%). The proposed maximum underwriting discount will be four percent (4%). Debt, when issued, will comply with all relevant requirements of this Amended and Restated Service Plan, State law and Federal law as then applicable to the issuance of public securities.

C. Mill Levies.

1. The Maximum Debt Mill Levy, which shall be subject to a Mill Levy Adjustment, shall be the maximum mill levy the District is permitted to impose upon the taxable property within the District for payment of Debt, and shall be Fifty Mills (50) mills for so long as the total amount of aggregate Debt of the District exceeds fifty percent (50%) of the District's assessed valuation.

At such time as the total amount of aggregate Debt of the District is equal to or less than fifty percent (50%) of the District's assessed valuation, either on the date of issuance of any Debt or at any time thereafter, the mill levy to be imposed to repay such portion of Debt shall not be subject to the Maximum Debt Mill Levy and, as a result, the mill levy may be imposed at such a rate as is necessary to pay the Debt service on such Debt, without limitation of rate increase; provided, however, that after any conversion to an unlimited mill levy, the District shall not issue additional Debt that would cause the aggregate Debt to exceed 50% of the District's then assessed value. For the purposes of the foregoing, the Board may further provide that such Debt shall remain secured by such increased mill levy, notwithstanding any subsequent change in the District's Debt to assessed value ratio.

2. The Maximum Operation and Maintenance Mill Levy, which shall be subject to a Mill Levy Adjustment, shall be the maximum mill levy the District is permitted to impose upon the taxable property within the District for payment of Operation and Maintenance Costs, and shall be 60.000 mills until such time that the District issues Debt. After the District issues Debt, the Maximum Operation and Maintenance Mill Levy shall be 10.000 mills, subject to the Mill Levy Adjustment. The Maximum Operation and Maintenance Mill Levy shall apply to the District's ability to increase its mill levy as necessary for provision of operation and maintenance services to its taxpayers and service users until such time as End Users cast the majority of affirmative votes taken by the District's Board of Directors at a meeting authorizing an increase of such Maximum Operation and Maintenance Mill Levy, at which time the mill levy may be such amount as is necessary to pay the Operation and Maintenance Cost.

D. Debt Parameters.

1. All Debt issued by the District must be issued in compliance with the requirements of Section 32-1-1101, C.R.S. and all other requirements of State law. On or before the effective date of approval of an Approved Development Plan by the Town, the District shall not: (a) issue any Debt; (b) impose a mill levy for the payment of Debt by direct imposition or by transfer of funds from the operating fund to the Debt service funds; (c) impose and collect any Fees used for the purpose of repayment of Debt, or (d) levy any Special Assessments.

2. At least thirty (30) days prior to issuing any Debt, the District shall submit all relevant details of such issuance to the Town Board. If it is determined by the Town Board that the issuance of such Debt constitutes a material modification of the Service Plan, the District shall proceed to amend the Service Plan in accordance with Section 32-1-207, C.R.S. prior to issuing any Debt. If it is determined by the Town Board that such issuance does not constitute a material modification of the Service Plan, the Town Board may issue a resolution to that effect, after receipt of which the District may proceed with such issuance without need for approval of a material modification of the Service Plan. The Town Board shall make its determination in writing to the District within twenty (20) days after submittal of the information by the District, unless the

Town and District mutually agree to a different date. Failure of the Town to provide such determination that the issuance of Debt is not a material modification of the Service Plan within twenty (20) days shall be deemed as a determination that such action does is not a material modification that requires an amendment to the Service Plan.

3. The District shall not pledge any revenue or property of the Town as security for the indebtedness set forth in this Amended and Restated Service Plan. Approval of this Amended and Restated Service Plan shall not be construed as a guarantee by the Town of payment of any of the District's obligations, nor shall anything in the Service Plan be construed so as to create any responsibility or liability on the part of the Town in the event of default by the District in the payment of any such obligation.

4. The District shall not issue Debt in excess of the Total Debt Limit, which Total Debt Limit includes any Debt issued for Public Improvements; provided that the foregoing shall not include the principal amount of Debt which has been refinanced or refunded unless the principal amount of the refunding bonds exceeds the principal amount of the bonds to be refunded, in which case the difference shall count against the Total Debt Limit..

5. Any Debt issued by the District with a pledge or which results in a pledge that exceeds the Maximum Debt Mill Levy (subject to the Mill Levy Adjustment) shall be deemed a material modification of this Amended and Restated Service Plan pursuant to Section 32-1-207, C.R.S. and shall not be an authorized issuance of Debt unless and until such material modification has been approved by the Town as part of a Service Plan Amendment. The Town shall be entitled to all remedies available at law to enjoin such actions of the District, including the remedy of enjoining the issuance of additional authorized but unissued debt, until such material modification is remedied.

6. The Maximum Debt Mill Levy Imposition Term shall not exceed forty (40) years from the date upon which the District first issues any Debt. Upon expiration of the Maximum Debt Mill Levy Imposition Term, the District shall not impose a levy for repayment of any and all Debt (or use the proceeds of any mill levy for repayment of Debt) on any single property within its Service Area, unless a majority of the Board of Directors of the District are End Users and have voted in favor of a refunding of a part or all of the Debt and such refunding will result in a net present value savings as set forth in Section 11-56-101, C.R.S.; et seq. Any Debt, issued with a mill levy pledge or which results in a mill levy pledge, that exceeds the Maximum Debt Mill Levy Imposition term shall be deemed a material modification of this Amended and Restated Service Plan and shall not be an authorized issuance of Debt unless and until such material modification has been approved by the Town by a service plan amendment.

E. Debt Instrument Disclosure Requirement.

In the text of each Bond and any other instrument representing and constituting Debt, the District shall set forth a statement in substantially the following form:

By acceptance of this instrument, the owner of this Bond agrees and consents to all of the limitations in respect of the payment of the principal of and interest on this

Bond contained herein, in the resolution of the District authorizing the issuance of this Bond and in the Service Plan for creation of the District.

Similar language describing the limitations in respect of the payment of the principal of and interest on Debt set forth in this Amended and Restated Service Plan shall be included in any document used for the offering of the Debt for sale to persons, including, but not limited to, a developer of property within the boundaries of the District.

F. Privately Placed Debt Limitation.

Prior to the issuance of any privately placed Debt, the District shall obtain the certification of an External Financial Advisor substantially as follows:

We are [I am] an External Financial Advisor within the meaning of the District's Service Plan.

We [I] certify that (1) the net effective interest rate (calculated as defined in Section 32-1-103(12), C.R.S.) to be borne by [insert the designation of the Debt] does not exceed a reasonable current [tax- exempt] [taxable] interest rate, using criteria deemed appropriate by us [me] and based upon our [my] analysis of comparable high yield securities; and (2) the structure of [insert designation of the Debt], including maturities and early redemption provisions, is reasonable considering the financial circumstances of the District.

G. TABOR Compliance.

The District will comply with the provisions of TABOR. In the discretion of the Board, the District may set up other qualifying entities to manage, fund, construct and operate facilities, services, and programs. To the extent allowed by law, any entity created by the District will remain under the control of the District's Board, and any such entity shall be subject to and bound by all terms, conditions, and limitations of the Service Plan and the Intergovernmental Agreement.

H. District's Organizational Costs and Operation and Maintenance Costs.

The District's Organizational Costs, including the estimated, engineering services, legal services and administrative services, together with the estimated costs of the District's organization and initial operations, are eligible for reimbursement from Debt proceeds.

In addition to the capital costs of the Public Improvements, the District will require operating funds for Operation and Maintenance Costs including administration and to plan and cause the Public Improvements to be constructed and maintained, and for ongoing administrative, accounting and legal costs.

I. Town O&M Mill Levy.

Commensurate with the initial imposition of a debt service mill levy, the District hereby agrees that it shall impose the Town O&M Mill Levy. The District's obligation to impose and collect the revenues from the Town O&M Mill Levy shall begin when the District first imposes a

debt service mill levy and shall not be required to be imposed prior to such date. The District's imposition of a Town O&M Mill Levy shall be memorialized in the Intergovernmental Agreement required by Section X below. The revenues received from the Town O&M Mill Levy shall be remitted to the Town annually or in accordance with the specific timeframe referenced in the Intergovernmental Agreement. Revenues generated by the Town O&M Mill Levy and the District's obligation to remit said revenues to the Town on an annual basis, as required by this Service Plan and the Intergovernmental Agreement, shall not be included within or subject to the Total Debt Limit. The Town O&M Mill Levy shall be separate and apart from the Maximum Debt Mill Levy and the Maximum Operation and Maintenance Mill Levy.

VII. ANNUAL REPORT

A. General.

The District shall be responsible for submitting an annual report to the Town Clerk no later than April 30th of each year.

B. Reporting of Significant Events.

The annual report shall include information as to any of the following:

1. Boundary changes made or proposed to the District's boundary as of December 31 of the prior year.
2. Copies of the District's rules and regulations, if any, as of December 31 of the prior year.
3. A summary of any litigation which involves the Public Improvements as of December 31 of the prior year.
4. Status of the District's construction of the Public Improvements as of December 31 of the prior year.
5. A list of all facilities and improvements constructed by the District that have been dedicated to and accepted by the Town or other service provider providing service to the property in the District, as of December 31 of the prior year.
6. Notice of any uncured events of default by the District, which continue beyond a ninety (90) day period, under any Debt instrument.
7. Any inability of the District to pay its obligations as they come due, in accordance with the terms of such obligations, which continue beyond a ninety (90) day period.
8. Any alteration or revision of the proposed schedule of Debt issuance set forth in the Financial Plan.

VIII. DISSOLUTION

Upon an independent determination of the Town Board that the purposes for which the District was created have been accomplished, the District shall dissolve upon payment or defeasance of all Debt incurred or upon a court determination that adequate provision has been made for the payment of all Debt, except that if the District has ongoing operation and maintenance functions the District shall not be required to dissolve. Additionally, if the Board of Directors of the District determines that the existence of that District is no longer necessary to accomplish the purposes set forth in this Amended and Restated Service Plan, the Board of Directors of the District shall promptly effectuate the dissolution of that District.

IX. DISCLOSURE NOTICES

A. In order to notify future End Users who are purchasing residential lots or dwellings units in the Service Area that they will be paying, in addition to the property taxes owed to other taxing governmental entities, property taxes imposed by the District to pay Debt and Operations and Maintenance Costs, the District shall, prior to the issuance of Debt:

1. Prepare and submit to the Town Manager for his or her approval a written notice to purchasers of property within the District, in substantially the form attached hereto as **Exhibit E** (the "Disclosure Notice"). After approval of the Disclosure Notice by the Town Manager, the District shall record the Disclosure Notice in the Weld County Clerk and Recorder's Office against all property not already owned by an End User; and
2. Use reasonable efforts to assure that all builders of residential lots or dwellings units within the District provide the Disclosure Notice to each potential End User purchaser of a residential lot or dwelling unit in the Service Area before that purchaser enters into a written agreement for the purchase and sale of that residential lot or dwelling unit.

B. To ensure that potential residential buyers are educated about the District, the District will also use reasonable efforts and due diligence to provide the Disclosure Notice to the developer or home builders for prominent display at all sales offices, and by inspecting the sales offices within the District's boundaries on a quarterly basis to assure the information provided is accurate and prominently displayed.

C. Within six (6) months of the date of approval of this Amended and Restated Service Plan, the District will create a public website on which the District will timely post information related to upcoming meetings and elections, and will make available relevant District documents and information, including, but not limited to, the service plan, Board meeting minutes, annual budgets, audits, and annual reports.

D. The District will provide annual notice to all eligible electors of the District, in accordance with Section 32-1-809, C.R.S. In addition, the District shall record a District public disclosure document and a map of the District boundaries with the Clerk and Recorder of each County in which District property is located, in accordance with Section 32-1-104.8, C.R.S.

X. INTERGOVERNMENTAL AGREEMENT

The form of the Intergovernmental Agreement required by the Town Code, relating to the limitations imposed on the District's activities, is attached hereto as **Exhibit F**. The District shall approve the Intergovernmental Agreement at its first Board meeting after approval of this Amended and Restated Service Plan, and shall deliver the executed Intergovernmental Agreement to the Town. The Intergovernmental Agreement may be amended from time to time by the District and the Town, and may include written consents and agreements of the Town as required throughout this Amended and Restated Service Plan (e.g., amendments to address the District's imposition of Fees for services, programs or facilities furnished by the District pursuant to Section V.A.20 ("Fee Amendments")). Alternatively, such written consents of the Town may be obtained by the District without amending the Intergovernmental Agreement, and the Town and the District may execute additional written agreements concerning matters set forth in this Amended and Restated Service Plan. In the event that the District proposes any Fee Amendment to the Town, the Town Board shall make its determination as to such Fee Amendment in writing to the District within sixty (60) days after submittal of the Fee Amendment by the District, unless the Town and District mutually agree to a different date.

The District is also a party to the Cooperation Agreement among the Firestone Urban Renewal Authority and the Neighbors Point Metropolitan District –Northern Firestone Urban Renewal Plan (the "FURA Agreement").

No intergovernmental agreements other than the Intergovernmental Agreement, the FURA Agreement, and, if necessary, the District's intergovernmental agreements are anticipated. Except for such Intergovernmental Agreement with the Town, any intergovernmental agreement proposed regarding the subject matter of this Amended and Restated Service Plan shall be subject to review and approval by the Town prior to its execution by the District. Such Town review and approval shall be with reference to whether the intergovernmental agreement(s) are in compliance with this Amended and Restated Service Plan, the Intergovernmental Agreement, and the terms of the Approved Development Plan or other instrument related to the Public Improvements.

XI. NON-COMPLIANCE WITH SERVICE PLAN

In the event it is determined that the District has undertaken any act or omission which violates the Service Plan or constitutes a material departure from the Service Plan, the Town may pursue for such violation all remedies available at law or in equity, including without limitation affirmative injunctive relief to require the District to act in accordance with the provisions of this Amended and Restated Service Plan. To the extent permitted by law, the District hereby waives the provisions of Section 32-1-207(3)(b), C.R.S., and agree they will not rely on such provisions as a bar to the enforcement by the Town of any provisions of this Amended and Restated Service Plan.

XII. CONCLUSION

It is submitted that this Amended and Restated Service Plan for the District, as required by Section 32-1-203(2), C.R.S., establishes that:

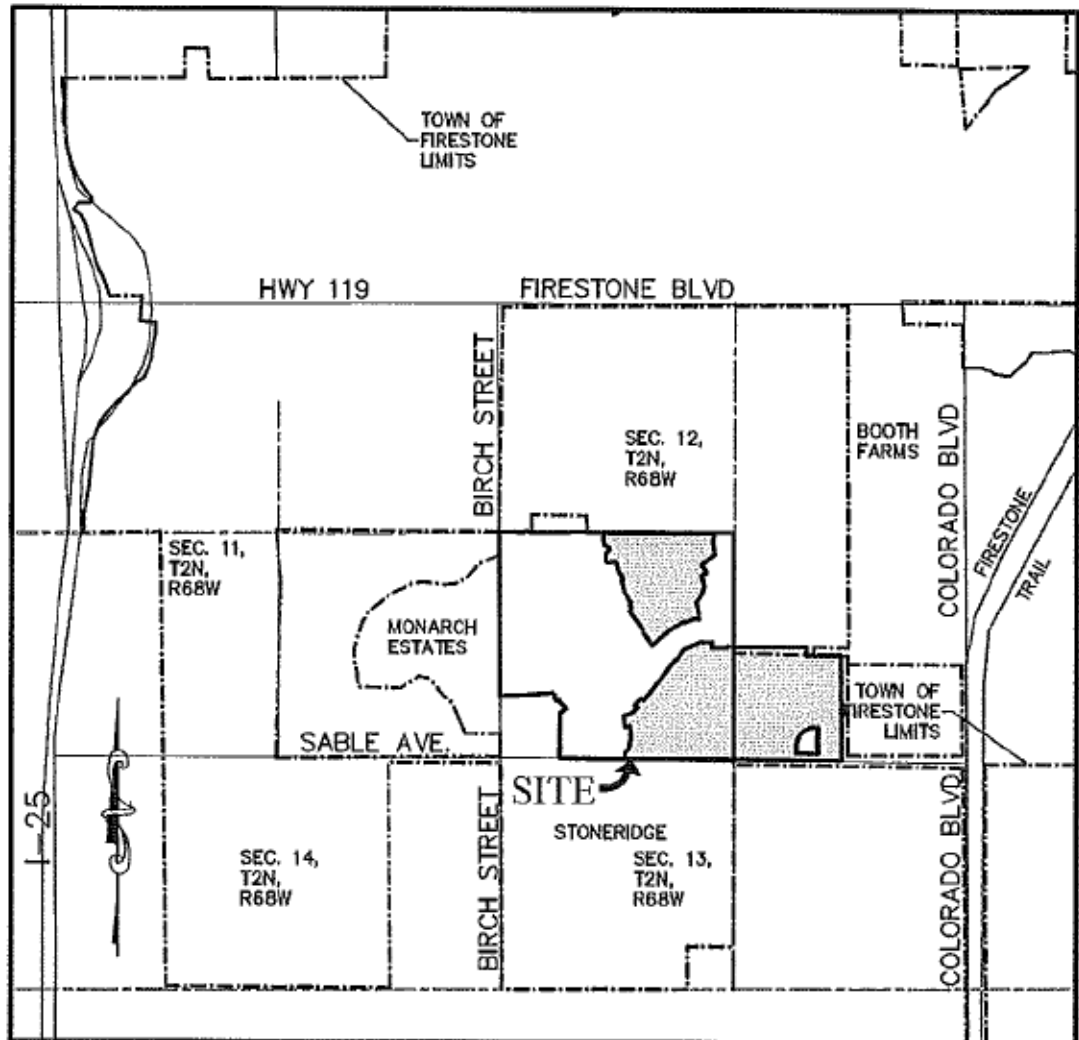
1. There is sufficient existing and projected need for organized service in the area to be serviced by the District;

2. The existing service in the area to be served by the District is inadequate for present and projected needs;

3. The District is capable of providing economical and sufficient service to the area within its proposed boundaries; and

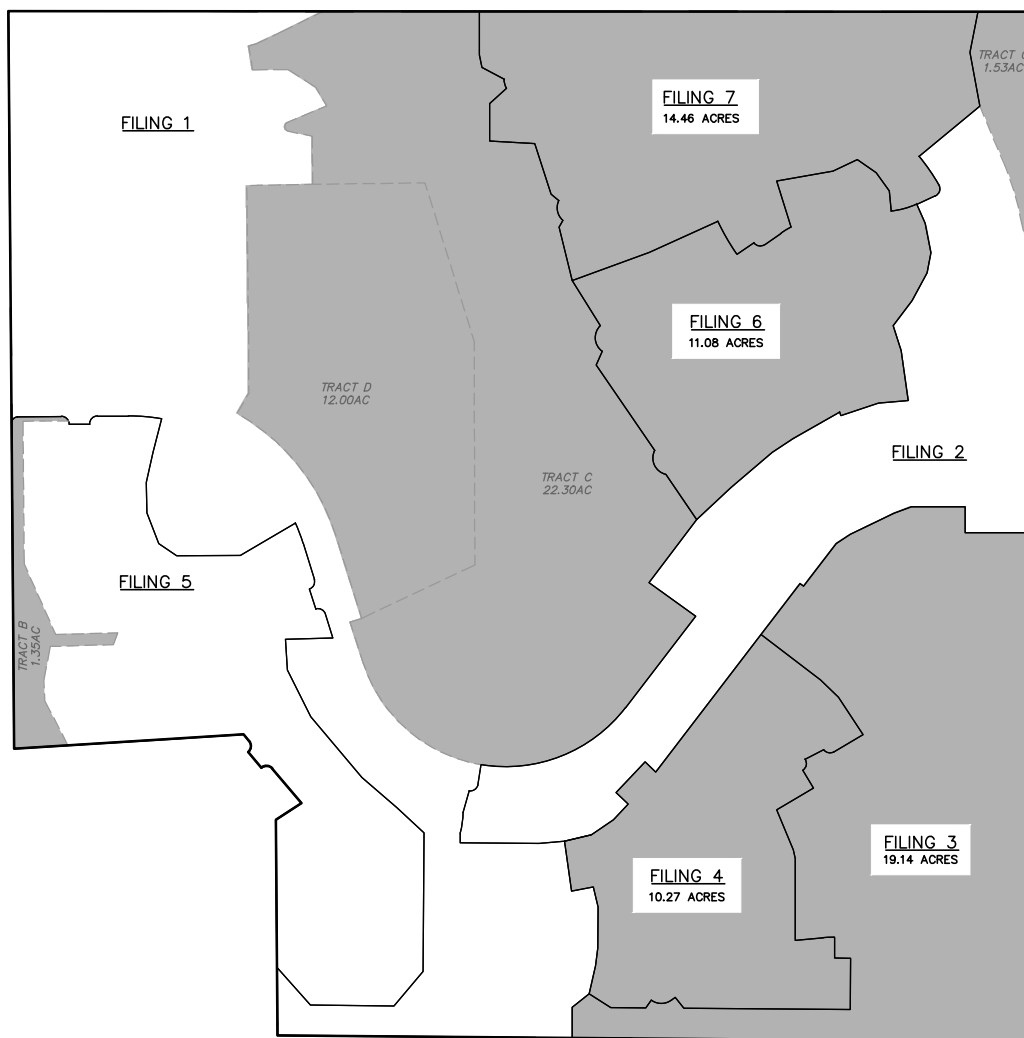
4. The area to be included in the District has, or will have, the financial ability to discharge the proposed indebtedness on a reasonable basis.

EXHIBIT A
Vicinity Map



VICINITY MAP
N.T.S.

EXHIBIT B
Initial Boundary Map and Legal Description



NEIGHBORS POINT
METROPOLITAN DISTRICT

BOUNDARY EXHIBIT

 AREAS WITHIN
DISTRICT BOUNDARY



SCALE
1" = 500'

EXHIBIT B

(LEGAL DESCRIPTION OF THE PROPERTY INCLUDED
IN THE NEIGHBORS POINT METROPOLITAN DISTRICT)

NEIGHBORS POINT FILING NO. 1 (TRACT D & C), FILING 2 (TRACT Q), FILING 6 & FILING 7

THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 2 NORTH, RANGE 68 WEST OF THE 6TH P.M., WELD COUNTY, COLORADO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 12 AND CONSIDERING THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 12 TO BEAR SOUTH 89°31'25" EAST;

THENCE NORTH 41°18'03" EAST, A DISTANCE OF 1437.87 FEET TO THE POINT OF BEGINNING;
THENCE NORTH 17°23'05" WEST, 225.76 FEET;
THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 557.00 FEET AND A CENTRAL ANGLE OF 42°44'36" AN ARC DISTANCE OF 415.53 FEET
(CHORD BEARS NORTH 38°45'23" WEST, 405.96 FEET);
THENCE NORTH 60°07'42" WEST, 20.00 FEET;
THENCE NORTH 29°52'18" EAST, 58.39 FEET;
THENCE NORTH 00°27'08" WEST, 544.64 FEET;
THENCE NORTH 89°32'52" EAST, 172.58 FEET;
THENCE NORTH 0°27'08" WEST, 126.29 FEET;
THENCE NORTH 79°11'57" WEST, 62.11 FEET;
THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 44.00 FEET AND A CENTRAL ANGLE OF 32°51'10", AN ARC DISTANCE OF 25.23 FEET
(CHORD BEARS NORTH 05°37'32" WEST, 24.89 FEET);
THENCE NORTH 67°56'52" EAST, 110.52 FEET;
THENCE NORTH 31°45'23" WEST, 57.42 FEET;
THENCE NORTH 57°02'07" WEST, 82.94 FEET;
THENCE SOUTH 89°32'52" WEST, 93.89 FEET;
THENCE NORTH 9°44'20" WEST, 63.93 FEET;
THENCE NORTH 77°25'42" EAST, 22.20 FEET;
THENCE NORTH 64°04'36" EAST, 67.60 FEET;
THENCE NORTH 64°43'19" EAST, 123.46 FEET;
THENCE SOUTH 89°58'03" EAST, 1852.66 FEET;
THENCE SOUTH 0°00'54" WEST, 704.07 FEET;
THENCE NORTH 12°55'45" WEST, 156.92 FEET;
THENCE NORTH 14°22'14" WEST, 77.41 FEET;
THENCE NORTH 18°35'50" WEST, 78.08 FEET;
THENCE NORTH 22°11'50" WEST, 79.39 FEET;

THENCE NORTH 20°52'34" WEST, 89.97 FEET;
THENCE SOUTH 50°23'30" WEST, 204.82 FEET;
THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 523.00 FEET AND A
CENTRAL ANGLE OF 9°56'52" AN ARC DISTANCE OF 90.80 FEET
(CHORD BEARS SOUTH 34°38'04" EAST, 90.69 FEET);
THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 20.00 FEET AND A
CENTRAL ANGLE OF 95°21'41" AN ARC DISTANCE OF 33.29 FEET
(CHORD BEARS SOUTH 18°01'13" WEST, 29.58 FEET);
THENCE SOUTH 65°42'03" EAST, 53.69 FEET;
THENCE SOUTH 24°17'57" EAST, 54.00 FEET;
THENCE SOUTH 11°00'03" EAST, 77.68 FEET;
THENCE SOUTH 11°04'44" WEST, 53.68 FEET;
THENCE SOUTH 27°59'05" WEST, 82.46 FEET;
THENCE SOUTH 37°05'43" WEST, 81.48 FEET;
THENCE SOUTH 17°20'40" EAST, 68.10 FEET;
THENCE SOUTH 08°11'24" WEST, 131.34 FEET;
THENCE SOUTH 85°30'59" WEST, 78.12 FEET;
THENCE SOUTH 71°24'51" WEST, 102.80 FEET;
THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 373.00 FEET AND A
CENTRAL ANGLE OF 1°30'42" AN ARC DISTANCE OF 9.84 FEET
(CHORD BEARS NORTH 19°20'30" WEST, 9.84 FEET);
THENCE SOUTH 60°10'57" WEST, 139.73 FEET;
THENCE SOUTH 56°25'46" WEST, 65.00 FEET;
THENCE SOUTH 49°40'55" WEST, 141.59 FEET;
THENCE SOUTH 46°57'17" WEST, 121.94 FEET;
THENCE SOUTH 37°09'28" WEST, 205.39 FEET;
THENCE SOUTH 54°08'02" EAST, 149.93 FEET;
THENCE SOUTH 37°25'39" WEST, 299.69 FEET;
THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 393.00 FEET AND A
CENTRAL ANGLE OF 120°48'45" AN ARC DISTANCE OF 828.67 FEET
(CHORD BEARS NORTH 82°09'59" WEST, 404.81 FEET);
THENCE NORTH 72°36'55" WEST, 30.00 FEET TO THE POINT OF BEGINNING,

CONTAINING 2,673,657 SQUARE FEET, OR 61.37 ACRES, MORE OR LESS

EXHIBIT B

(LEGAL DESCRIPTION OF THE PROPERTY INCLUDED
IN THE NEIGHBORS POINT METROPOLITAN DISTRICT)

NEIGHBORS POINT FILING NO. 3 & 4

THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 2 NORTH, RANGE 68 WEST OF THE 6TH P.M., WELD COUNTY, COLORADO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 12 AND CONSIDERING THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 12 TO BEAR SOUTH 89°31'25" EAST;

THENCE SOUTH 89°31'25" EAST, A DISTANCE OF 1496.63 FEET TO THE POINT OF BEGINNING;
THENCE SOUTH 89°31'25" EAST, 1,202.59 FEET;
THENCE NORTH 00°00'54" EAST, 1,325.92 FEET;
THENCE NORTH 89°59'06" WEST, 179.00 FEET;
THENCE NORTH 0°00'54" EAST, 67.49 FEET;
THENCE NORTH 89°59'08" WEST, 140.01 FEET;
THENCE SOUTH 69°33'17" WEST, 48.16 FEET;
THENCE SOUTH 64°17'20" WEST, 126.49 FEET;
THENCE SOUTH 56°51'16" WEST, 44.27 FEET;
THENCE SOUTH 37°25'39" WEST, 140.00 FEET;
THENCE NORTH 52°34'21" WEST, 11.72 FEET;
THENCE SOUTH 37°25'39" WEST, 617.84 FEET;
THENCE NORTH 46°35'15" WEST, 38.04 FEET;
THENCE SOUTH 43°24'45" WEST, 110.00 FEET;
THENCE SOUTH 46°35'15" EAST, 43.79 FEET;
THENCE SOUTH 43°24'45" WEST, 55.95 FEET;
THENCE SOUTH 55°54'17" WEST, 69.31 FEET;
THENCE SOUTH 76°23'49" WEST, 72.29 FEET;
THENCE SOUTH 8°14'53" EAST, 130.89 FEET;
THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 415.00 FEET AND A CENTRAL ANGLE OF 7°51'49", AN ARC DISTANCE OF 56.96 FEET
(CHORD BEARS NORTH 79°29'16" EAST, 56.91 FEET);
THENCE SOUTH 13°30'29" EAST, 54.01 FEET;
THENCE SOUTH 0°28'35" WEST, 106.46 FEET;
THENCE SOUTH 7°21'26" WEST, 46.14 FEET;
THENCE SOUTH 12°41'20" WEST, 75.28 FEET;
THENCE SOUTH 51°20'12" WEST, 55.94 FEET;
THENCE SOUTH 0°28'35" WEST, 80.00 FEET;

CONTAINING 1,280,888 SQUARE FEET, OR 29.41 ACRES, MORE OR LESS.

EXHIBIT B

(LEGAL DESCRIPTION OF THE PROPERTY INCLUDED
IN THE NEIGHBORS POINT METROPOLITAN DISTRICT)

NEIGHBORS POINT FILING NO. 5 (TRACT B)

THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 2 NORTH, RANGE 68 WEST OF THE 6TH P.M., WELD COUNTY, COLORADO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 12 AND CONSIDERING THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 12 TO BEAR SOUTH 89°31'25" EAST;

THENCE NORTH 03°24'37" EAST, A DISTANCE OF 742.26 FEET TO THE POINT OF BEGINNING;
THENCE NORTH 00°27'08" WEST, A DISTANCE OF 847.43 FEET;
THENCE ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 16.00 FEET AND A CENTRAL ANGLE OF 89°59'40", AN ARC DISTANCE OF 25.13 FEET
(CHORD BEARS NORTH 44°32'42" EAST, 22.63 FEET);
THENCE NORTH 89°32'32" EAST, A DISTANCE OF 114.00 FEET;
THENCE ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 20.00 FEET AND A CENTRAL ANGLE OF 60°00'00", AN ARC DISTANCE OF 20.94 FEET
(CHORD BEARS NORTH 60°27'28" WEST, 20.00 FEET);
THENCE SOUTH 89°32'32" WEST, 117.32 FEET;
THENCE SOUTH 0°27'08" EAST, 370.00 FEET;
THENCE SOUTH 23°51'27" EAST, 201.75 FEET;
THENCE NORTH 88°28'41" EAST, 162.06 FEET;
THENCE SOUTH 21°10'08" WEST, 32.52 FEET;
THENCE SOUTH 88°28'41" WEST, 164.43 FEET;
THENCE SOUTH 10°35'57" WEST, 91.74 FEET;
THENCE SOUTH 2°50'05" EAST, 53.58 FEET;
THENCE SOUTH 27°17'22" EAST, 131.19 FEET;
THENCE SOUTH 86°31'17" WEST, 139.85 FEET;

CONTAINING 58,933 SQUARE FEET, OR 1.35 ACRES, MORE OR LESS

EXHIBIT C
Financial Plan

**Neighbors Point Metropolitan District
Weld County, Colorado**

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**Tax-Exempt Loan, Series 2022**

| <u><b>Bond Assumptions</b></u>          | <u><b>Series 2022</b></u> |
|-----------------------------------------|---------------------------|
| Closing Date                            | 6/10/2022                 |
| Final Maturity                          | 6/10/242                  |
| Amortization Through                    | 12/1/2052                 |
| Discharge Date                          | 12/1/2062                 |
| <b>Sources of Funds</b>                 |                           |
| Par Amount                              | 5,650,000                 |
| Total                                   | 5,650,000                 |
| <b>Uses of Funds</b>                    |                           |
| Project Fund                            | <b>5,181,000</b>          |
| Reserve Fund                            | 189,000                   |
| Cost of Issuance                        | 280,000                   |
| Total                                   | 5,650,000                 |
| <b>Debt Features</b>                    |                           |
| Projected Coverage at Mill Levy Cap     | 1.16x                     |
| Tax Status                              | Tax-Exempt                |
| Rating                                  | Non-Rated                 |
| Tax-Exempt Rate                         | 4.000%                    |
| Assumed Post-Maturity Rate              | 4.500%                    |
| Annual Trustee Fee                      | \$4,000                   |
| <b>Biennial Reassessment</b>            |                           |
| Residential                             | 2.00%                     |
| <b><u>Tax Authority Assumptions</u></b> |                           |
| Metropolitan District Revenue           |                           |
| Debt Service Mills                      |                           |
| Service Plan Mill Levy Cap              | 50.000                    |
| Maximum Adjusted Cap                    | 50.000                    |
| Target Mill Levy                        | 43.000                    |
| Specific Ownership Tax                  | 6.00%                     |
| County Treasurer Fee                    | 1.50%                     |
| Operations                              |                           |
| Mill Levy                               | 7.000                     |

**Neighbors Point Metropolitan District  
Development Summary**

| Statutory Actual<br>Value (2022)        | Residential - Melody Development |                     |                            |                               |          |          |          | Total               |
|-----------------------------------------|----------------------------------|---------------------|----------------------------|-------------------------------|----------|----------|----------|---------------------|
|                                         | 2019 Home Sales                  | 2020 Home Sales     | 2021 Home Sales<br>to Date | Remaining Lots<br>(Early '22) | -        | -        | -        |                     |
|                                         | \$436,799                        | \$445,615           | \$504,415                  | \$566,852                     | -        | -        | -        |                     |
| 2018                                    | -                                | -                   | -                          | -                             | -        | -        | -        | -                   |
| 2019                                    | 24                               | -                   | -                          | -                             | -        | -        | -        | 24                  |
| 2020                                    | -                                | 70                  | -                          | -                             | -        | -        | -        | 70                  |
| 2021                                    | -                                | -                   | 89                         | -                             | -        | -        | -        | 89                  |
| 2022                                    | -                                | -                   | -                          | 4                             | -        | -        | -        | 4                   |
| 2023                                    | -                                | -                   | -                          | -                             | -        | -        | -        | -                   |
| 2024                                    | -                                | -                   | -                          | -                             | -        | -        | -        | -                   |
| 2025                                    | -                                | -                   | -                          | -                             | -        | -        | -        | -                   |
| 2026                                    | -                                | -                   | -                          | -                             | -        | -        | -        | -                   |
| 2027                                    | -                                | -                   | -                          | -                             | -        | -        | -        | -                   |
| 2028                                    | -                                | -                   | -                          | -                             | -        | -        | -        | -                   |
| 2029                                    | -                                | -                   | -                          | -                             | -        | -        | -        | -                   |
| 2030                                    | -                                | -                   | -                          | -                             | -        | -        | -        | -                   |
| 2031                                    | -                                | -                   | -                          | -                             | -        | -        | -        | -                   |
| 2032                                    | -                                | -                   | -                          | -                             | -        | -        | -        | -                   |
| 2033                                    | -                                | -                   | -                          | -                             | -        | -        | -        | -                   |
| 2034                                    | -                                | -                   | -                          | -                             | -        | -        | -        | -                   |
| 2035                                    | -                                | -                   | -                          | -                             | -        | -        | -        | -                   |
| 2036                                    | -                                | -                   | -                          | -                             | -        | -        | -        | -                   |
| 2037                                    | -                                | -                   | -                          | -                             | -        | -        | -        | -                   |
| 2038                                    | -                                | -                   | -                          | -                             | -        | -        | -        | -                   |
| 2039                                    | -                                | -                   | -                          | -                             | -        | -        | -        | -                   |
| 2040                                    | -                                | -                   | -                          | -                             | -        | -        | -        | -                   |
| 2041                                    | -                                | -                   | -                          | -                             | -        | -        | -        | -                   |
| 2042                                    | -                                | -                   | -                          | -                             | -        | -        | -        | -                   |
| 2043                                    | -                                | -                   | -                          | -                             | -        | -        | -        | -                   |
| 2044                                    | -                                | -                   | -                          | -                             | -        | -        | -        | -                   |
| 2045                                    | -                                | -                   | -                          | -                             | -        | -        | -        | -                   |
| 2046                                    | -                                | -                   | -                          | -                             | -        | -        | -        | -                   |
| 2047                                    | -                                | -                   | -                          | -                             | -        | -        | -        | -                   |
| 2048                                    | -                                | -                   | -                          | -                             | -        | -        | -        | -                   |
| 2049                                    | -                                | -                   | -                          | -                             | -        | -        | -        | -                   |
| 2050                                    | -                                | -                   | -                          | -                             | -        | -        | -        | -                   |
| 2051                                    | -                                | -                   | -                          | -                             | -        | -        | -        | -                   |
| <b>Total Units</b>                      | <b>24</b>                        | <b>70</b>           | <b>89</b>                  | <b>4</b>                      | <b>-</b> | <b>-</b> | <b>-</b> | <b>187</b>          |
| <b>Total Statutory<br/>Actual Value</b> | <b>\$10,483,176</b>              | <b>\$31,193,050</b> | <b>\$44,892,935</b>        | <b>\$2,267,408</b>            | <b>-</b> | <b>-</b> | <b>-</b> | <b>\$88,836,569</b> |

**Neighbors Point Metropolitan District  
Assessed Value**

|       | Vacant and Improved Land <sup>1</sup> |                                      | Residential - Melody Development |                          |                                      |                                      | Commercial / State Assessed          |                                      | Total                                |
|-------|---------------------------------------|--------------------------------------|----------------------------------|--------------------------|--------------------------------------|--------------------------------------|--------------------------------------|--------------------------------------|--------------------------------------|
|       | Cumulative Statutory<br>Actual Value  | Assessed Value in<br>Collection Year | Residential Units<br>Delivered   | Biennial<br>Reassessment | Cumulative Statutory<br>Actual Value | Assessed Value in<br>Collection Year | Cumulative Statutory<br>Actual Value | Assessed Value in<br>Collection Year | Assessed Value in<br>Collection Year |
|       |                                       | 2 Year Lag<br>29.00%                 |                                  | 2.00%                    |                                      | 2 Year Lag<br>7.15%                  |                                      | 2 Year Lag<br>29.00%                 | 2 Year Lag                           |
| 2018  | 2,411,172                             |                                      |                                  |                          | 287,413                              |                                      | 445,724                              |                                      |                                      |
| 2019  | 2,442,655                             |                                      | 24                               |                          | 15,198,042                           |                                      | 545,207                              |                                      |                                      |
| 2020  | 1,955,862                             | <b>699,240</b>                       | 70                               |                          | 48,953,007                           | <b>20,550</b>                        | 689,759                              | <b>129,260</b>                       | <b>849,050</b>                       |
| 2021  | 113,370                               | <b>708,370</b>                       | 89                               |                          | 86,569,161                           | <b>1,086,660</b>                     | 689,759                              | <b>158,110</b>                       | <b>1,953,140</b>                     |
| 2022  | (0)                                   | <b>567,200</b>                       | 4                                | 1,731,383                | 90,567,952                           | <b>3,500,140</b>                     | 689,759                              | <b>200,030</b>                       | <b>4,267,370</b>                     |
| 2023  | (0)                                   | 32,877                               | -                                | -                        | 90,567,952                           | 6,189,695                            | 689,759                              | 200,030                              | 6,422,602                            |
| 2024  | (0)                                   | (0)                                  | -                                | 1,811,359                | 92,379,311                           | 6,475,609                            | 689,759                              | 200,030                              | 6,675,639                            |
| 2025  | (0)                                   | (0)                                  | -                                | -                        | 92,379,311                           | 6,475,609                            | 689,759                              | 200,030                              | 6,675,639                            |
| 2026  | (0)                                   | (0)                                  | -                                | 1,847,586                | 94,226,897                           | 6,605,121                            | 689,759                              | 200,030                              | 6,805,151                            |
| 2027  | (0)                                   | (0)                                  | -                                | -                        | 94,226,897                           | 6,605,121                            | 689,759                              | 200,030                              | 6,805,151                            |
| 2028  | (0)                                   | (0)                                  | -                                | 1,884,538                | 96,111,435                           | 6,737,223                            | 689,759                              | 200,030                              | 6,937,253                            |
| 2029  | (0)                                   | (0)                                  | -                                | -                        | 96,111,435                           | 6,737,223                            | 689,759                              | 200,030                              | 6,937,253                            |
| 2030  | (0)                                   | (0)                                  | -                                | 1,922,229                | 98,033,664                           | 6,871,968                            | 689,759                              | 200,030                              | 7,071,998                            |
| 2031  | (0)                                   | (0)                                  | -                                | -                        | 98,033,664                           | 6,871,968                            | 689,759                              | 200,030                              | 7,071,998                            |
| 2032  | (0)                                   | (0)                                  | -                                | 1,960,673                | 99,994,337                           | 7,009,407                            | 689,759                              | 200,030                              | 7,209,437                            |
| 2033  | (0)                                   | (0)                                  | -                                | -                        | 99,994,337                           | 7,009,407                            | 689,759                              | 200,030                              | 7,209,437                            |
| 2034  | (0)                                   | (0)                                  | -                                | 1,999,887                | 101,994,224                          | 7,149,595                            | 689,759                              | 200,030                              | 7,349,625                            |
| 2035  | (0)                                   | (0)                                  | -                                | -                        | 101,994,224                          | 7,149,595                            | 689,759                              | 200,030                              | 7,349,625                            |
| 2036  | (0)                                   | (0)                                  | -                                | 2,039,884                | 104,034,109                          | 7,292,587                            | 689,759                              | 200,030                              | 7,492,617                            |
| 2037  | (0)                                   | (0)                                  | -                                | -                        | 104,034,109                          | 7,292,587                            | 689,759                              | 200,030                              | 7,492,617                            |
| 2038  | (0)                                   | (0)                                  | -                                | 2,080,682                | 106,114,791                          | 7,438,439                            | 689,759                              | 200,030                              | 7,638,469                            |
| 2039  | (0)                                   | (0)                                  | -                                | -                        | 106,114,791                          | 7,438,439                            | 689,759                              | 200,030                              | 7,638,469                            |
| 2040  | (0)                                   | (0)                                  | -                                | 2,122,296                | 108,237,087                          | 7,587,208                            | 689,759                              | 200,030                              | 7,787,238                            |
| 2041  | (0)                                   | (0)                                  | -                                | -                        | 108,237,087                          | 7,587,208                            | 689,759                              | 200,030                              | 7,787,238                            |
| 2042  | (0)                                   | (0)                                  | -                                | 2,164,742                | 110,401,828                          | 7,738,952                            | 689,759                              | 200,030                              | 7,938,982                            |
| 2043  | (0)                                   | (0)                                  | -                                | -                        | 110,401,828                          | 7,738,952                            | 689,759                              | 200,030                              | 7,938,982                            |
| 2044  | (0)                                   | (0)                                  | -                                | 2,208,037                | 112,609,865                          | 7,893,731                            | 689,759                              | 200,030                              | 8,093,761                            |
| 2045  | (0)                                   | (0)                                  | -                                | -                        | 112,609,865                          | 7,893,731                            | 689,759                              | 200,030                              | 8,093,761                            |
| 2046  | (0)                                   | (0)                                  | -                                | 2,252,197                | 114,862,062                          | 8,051,605                            | 689,759                              | 200,030                              | 8,251,635                            |
| 2047  | (0)                                   | (0)                                  | -                                | -                        | 114,862,062                          | 8,051,605                            | 689,759                              | 200,030                              | 8,251,635                            |
| 2048  | (0)                                   | (0)                                  | -                                | 2,297,241                | 117,159,303                          | 8,212,637                            | 689,759                              | 200,030                              | 8,412,667                            |
| 2049  | (0)                                   | (0)                                  | -                                | -                        | 117,159,303                          | 8,212,637                            | 689,759                              | 200,030                              | 8,412,667                            |
| 2050  | (0)                                   | (0)                                  | -                                | 2,343,186                | 119,502,490                          | 8,376,890                            | 689,759                              | 200,030                              | 8,576,920                            |
| 2051  | (0)                                   | (0)                                  | -                                | -                        | 119,502,490                          | 8,376,890                            | 689,759                              | 200,030                              | 8,576,920                            |
| 2052  | (0)                                   | (0)                                  | -                                | 2,390,050                | 121,892,539                          | 8,544,428                            | 689,759                              | 200,030                              | 8,744,458                            |
| Total |                                       |                                      | 187                              | 33,055,970               |                                      |                                      |                                      |                                      |                                      |

1. Vacant land value calculated in year prior to construction as 10% build-out market value

**Neighbors Point Metropolitan District  
Revenue - Melody Development**

|       | Total                                | District Mill Levy Revenue |                               |                             | Expense                 |                    | Total                                 |
|-------|--------------------------------------|----------------------------|-------------------------------|-----------------------------|-------------------------|--------------------|---------------------------------------|
|       | Assessed Value in<br>Collection Year | Debt Mill Levy             | Debt Mill Levy<br>Collections | Specific Ownership<br>Taxes | County Treasurer<br>Fee | Annual Trustee Fee | Revenue Available<br>for Debt Service |
|       |                                      | 43.000 Cap                 | 99.50%                        | 6.00%                       | 1.50%                   |                    |                                       |
| 2018  |                                      |                            |                               |                             |                         |                    |                                       |
| 2019  |                                      |                            |                               |                             |                         |                    |                                       |
| 2020  | 849,050                              |                            |                               |                             |                         |                    |                                       |
| 2021  | 1,953,140                            | 0.000                      | 0                             | 0                           | 0                       | 0                  | 0                                     |
| 2022  | 4,267,370                            | 35.000                     | 148,611                       | 8,917                       | (2,229)                 | (4,000)            | 151,299                               |
| 2023  | 6,422,602                            | 43.000                     | 274,791                       | 16,487                      | (4,122)                 | (4,000)            | 283,157                               |
| 2024  | 6,675,639                            | 43.000                     | 285,617                       | 17,137                      | (4,284)                 | (4,000)            | 294,470                               |
| 2025  | 6,675,639                            | 43.000                     | 285,617                       | 17,137                      | (4,284)                 | (4,000)            | 294,470                               |
| 2026  | 6,805,151                            | 43.000                     | 291,158                       | 17,470                      | (4,367)                 | (4,000)            | 300,261                               |
| 2027  | 6,805,151                            | 43.000                     | 291,158                       | 17,470                      | (4,367)                 | (4,000)            | 300,261                               |
| 2028  | 6,937,253                            | 43.000                     | 296,810                       | 17,809                      | (4,452)                 | (4,000)            | 306,167                               |
| 2029  | 6,937,253                            | 43.000                     | 296,810                       | 17,809                      | (4,452)                 | (4,000)            | 306,167                               |
| 2030  | 7,071,998                            | 43.000                     | 302,575                       | 18,155                      | (4,539)                 | (4,000)            | 312,191                               |
| 2031  | 7,071,998                            | 43.000                     | 302,575                       | 18,155                      | (4,539)                 | (4,000)            | 312,191                               |
| 2032  | 7,209,437                            | 43.000                     | 308,456                       | 18,507                      | (4,627)                 | (4,000)            | 318,336                               |
| 2033  | 7,209,437                            | 43.000                     | 308,456                       | 18,507                      | (4,627)                 | (4,000)            | 318,336                               |
| 2034  | 7,349,625                            | 43.000                     | 314,454                       | 18,867                      | (4,717)                 | (4,000)            | 324,604                               |
| 2035  | 7,349,625                            | 43.000                     | 314,454                       | 18,867                      | (4,717)                 | (4,000)            | 324,604                               |
| 2036  | 7,492,617                            | 43.000                     | 320,572                       | 19,234                      | (4,809)                 | (4,000)            | 330,997                               |
| 2037  | 7,492,617                            | 43.000                     | 320,572                       | 19,234                      | (4,809)                 | (4,000)            | 330,997                               |
| 2038  | 7,638,469                            | 43.000                     | 326,812                       | 19,609                      | (4,902)                 | (4,000)            | 337,518                               |
| 2039  | 7,638,469                            | 43.000                     | 326,812                       | 19,609                      | (4,902)                 | (4,000)            | 337,518                               |
| 2040  | 7,787,238                            | 43.000                     | 333,177                       | 19,991                      | (4,998)                 | (4,000)            | 344,170                               |
| 2041  | 7,787,238                            | 43.000                     | 333,177                       | 19,991                      | (4,998)                 | (4,000)            | 344,170                               |
| 2042  | 7,938,982                            | 43.000                     | 339,669                       | 20,380                      | (5,095)                 | (4,000)            | 350,954                               |
| 2043  | 7,938,982                            | 43.000                     | 339,669                       | 20,380                      | (5,095)                 | (4,000)            | 350,954                               |
| 2044  | 8,093,761                            | 43.000                     | 346,292                       | 20,777                      | (5,194)                 | (4,000)            | 357,875                               |
| 2045  | 8,093,761                            | 43.000                     | 346,292                       | 20,777                      | (5,194)                 | (4,000)            | 357,875                               |
| 2046  | 8,251,635                            | 43.000                     | 353,046                       | 21,183                      | (5,296)                 | (4,000)            | 364,933                               |
| 2047  | 8,251,635                            | 43.000                     | 353,046                       | 21,183                      | (5,296)                 | (4,000)            | 364,933                               |
| 2048  | 8,412,667                            | 43.000                     | 359,936                       | 21,596                      | (5,399)                 | (4,000)            | 372,133                               |
| 2049  | 8,412,667                            | 43.000                     | 359,936                       | 21,596                      | (5,399)                 | (4,000)            | 372,133                               |
| 2050  | 8,576,920                            | 43.000                     | 366,964                       | 22,018                      | (5,504)                 | (4,000)            | 379,477                               |
| 2051  | 8,576,920                            | 43.000                     | 366,964                       | 22,018                      | (5,504)                 | (4,000)            | 379,477                               |
| 2052  | 8,744,458                            | 43.000                     | 374,132                       | 22,448                      | (5,612)                 | (4,000)            | 386,968                               |
| Total |                                      |                            | 9,888,610                     | 593,317                     | (148,329)               | (124,000)          | 10,209,597                            |

**Neighbors Point Metropolitan District  
Debt Service**

|       | Total<br><br>Revenue Available<br>for Debt Service | Net Debt Service                                          | Surplus Fund   |                              |                  | Ratio Analysis           |                              |                                  |
|-------|----------------------------------------------------|-----------------------------------------------------------|----------------|------------------------------|------------------|--------------------------|------------------------------|----------------------------------|
|       |                                                    | Series 2022                                               | Annual Surplus | Cumulative<br>Balance<br>\$0 | Released Revenue | Debt Service<br>Coverage | Coverage at Mill<br>Levy Cap | Senior Debt to<br>Assessed Value |
|       |                                                    | Dated: 6/10/2022<br>Par: \$5,650,000<br>Proj: \$5,181,000 |                |                              |                  |                          |                              |                                  |
| 2022  | 151,299                                            | 147,350                                                   | 3,949          | 0                            | 3,949            | 103%                     | 133%                         | 287%                             |
| 2023  | 283,157                                            | 279,400                                                   | 3,757          | 0                            | 3,757            | 101%                     | 118%                         | 130%                             |
| 2024  | 294,470                                            | 292,200                                                   | 2,270          | 0                            | 2,270            | 101%                     | 117%                         | 85%                              |
| 2025  | 294,470                                            | 294,400                                                   | 70             | 0                            | 70               | 100%                     | 117%                         | 81%                              |
| 2026  | 300,261                                            | 296,400                                                   | 3,861          | 0                            | 3,861            | 101%                     | 118%                         | 80%                              |
| 2027  | 300,261                                            | 298,200                                                   | 2,061          | 0                            | 2,061            | 101%                     | 117%                         | 77%                              |
| 2028  | 306,167                                            | 304,800                                                   | 1,367          | 0                            | 1,367            | 100%                     | 117%                         | 76%                              |
| 2029  | 306,167                                            | 306,000                                                   | 167            | 0                            | 167              | 100%                     | 117%                         | 73%                              |
| 2030  | 312,191                                            | 312,000                                                   | 191            | 0                            | 191              | 100%                     | 117%                         | 71%                              |
| 2031  | 312,191                                            | 307,600                                                   | 4,591          | 0                            | 4,591            | 101%                     | 118%                         | 68%                              |
| 2032  | 318,336                                            | 313,200                                                   | 5,136          | 0                            | 5,136            | 102%                     | 118%                         | 67%                              |
| 2033  | 318,336                                            | 313,400                                                   | 4,936          | 0                            | 4,936            | 102%                     | 118%                         | 64%                              |
| 2034  | 324,604                                            | 323,400                                                   | 1,204          | 0                            | 1,204            | 100%                     | 117%                         | 62%                              |
| 2035  | 324,604                                            | 322,800                                                   | 1,804          | 0                            | 1,804            | 101%                     | 117%                         | 59%                              |
| 2036  | 330,997                                            | 327,000                                                   | 3,997          | 0                            | 3,997            | 101%                     | 118%                         | 56%                              |
| 2037  | 330,997                                            | 325,800                                                   | 5,197          | 0                            | 5,197            | 102%                     | 118%                         | 53%                              |
| 2038  | 337,518                                            | 334,400                                                   | 3,118          | 0                            | 3,118            | 101%                     | 118%                         | 51%                              |
| 2039  | 337,518                                            | 337,400                                                   | 118            | 0                            | 118              | 100%                     | 117%                         | 47%                              |
| 2040  | 344,170                                            | 340,000                                                   | 4,170          | 0                            | 4,170            | 101%                     | 118%                         | 45%                              |
| 2041  | 344,170                                            | 342,200                                                   | 1,970          | 0                            | 1,970            | 101%                     | 117%                         | 41%                              |
| 2042  | 350,954                                            | 347,063                                                   | 3,892          | 0                            | 3,892            | 101%                     | 118%                         | 39%                              |
| 2043  | 350,954                                            | 350,675                                                   | 279            | 0                            | 279              | 100%                     | 117%                         | 35%                              |
| 2044  | 357,875                                            | 356,000                                                   | 1,875          | 0                            | 1,875            | 101%                     | 117%                         | 32%                              |
| 2045  | 357,875                                            | 355,650                                                   | 2,225          | 0                            | 2,225            | 101%                     | 117%                         | 29%                              |
| 2046  | 364,933                                            | 364,850                                                   | 83             | 0                            | 83               | 100%                     | 116%                         | 26%                              |
| 2047  | 364,933                                            | 363,150                                                   | 1,783          | 0                            | 1,783            | 100%                     | 117%                         | 22%                              |
| 2048  | 372,133                                            | 371,000                                                   | 1,133          | 0                            | 1,133            | 100%                     | 117%                         | 18%                              |
| 2049  | 372,133                                            | 367,950                                                   | 4,183          | 0                            | 4,183            | 101%                     | 118%                         | 14%                              |
| 2050  | 379,477                                            | 379,450                                                   | 27             | 0                            | 27               | 100%                     | 116%                         | 11%                              |
| 2051  | 379,477                                            | 374,825                                                   | 4,652          | 0                            | 4,652            | 101%                     | 118%                         | 6%                               |
| 2052  | 386,968                                            | 385,750                                                   | 1,218          | 0                            | 1,218            | 100%                     | 117%                         | 0%                               |
| Total | 10,209,597                                         | 10,134,313                                                | 75,285         |                              | 75,285           |                          |                              |                                  |



**Neighbors Point Metropolitan District  
Revenue**

|       | Total                                | Operations Mill Levy Revenue |                              |                             | Expense                 | Total                               |
|-------|--------------------------------------|------------------------------|------------------------------|-----------------------------|-------------------------|-------------------------------------|
|       | Assessed Value in<br>Collection Year | O&M Mill Levy                | O&M Mill Levy<br>Collections | Specific Ownership<br>Taxes | County Treasurer<br>Fee | Revenue Available<br>for Operations |
|       |                                      | 7.000 Cap<br>7.000 Target    | 99.50%                       | 6.00%                       | 1.50%                   |                                     |
| 2018  |                                      |                              |                              |                             |                         |                                     |
| 2019  |                                      |                              |                              |                             |                         |                                     |
| 2020  |                                      |                              |                              |                             |                         |                                     |
| 2021  | 1,953,140                            | <b>45.000</b>                | 87,891                       | 5,247                       | (1,318)                 | 91,820                              |
| 2022  | 4,267,370                            | <b>10.000</b>                | 42,674                       | 2,548                       | (640)                   | 44,581                              |
| 2023  | 6,422,602                            | 7.000                        | 44,958                       | 2,684                       | (674)                   | 46,968                              |
| 2024  | 6,675,639                            | 7.000                        | 46,729                       | 2,790                       | (701)                   | 48,818                              |
| 2025  | 6,675,639                            | 7.000                        | 46,729                       | 2,790                       | (701)                   | 48,818                              |
| 2026  | 6,805,151                            | 7.000                        | 47,636                       | 2,844                       | (715)                   | 49,765                              |
| 2027  | 6,805,151                            | 7.000                        | 47,636                       | 2,844                       | (715)                   | 49,765                              |
| 2028  | 6,937,253                            | 7.000                        | 48,561                       | 2,899                       | (728)                   | 50,731                              |
| 2029  | 6,937,253                            | 7.000                        | 48,561                       | 2,899                       | (728)                   | 50,731                              |
| 2030  | 7,071,998                            | 7.000                        | 49,504                       | 2,955                       | (743)                   | 51,717                              |
| 2031  | 7,071,998                            | 7.000                        | 49,504                       | 2,955                       | (743)                   | 51,717                              |
| 2032  | 7,209,437                            | 7.000                        | 50,466                       | 3,013                       | (757)                   | 52,722                              |
| 2033  | 7,209,437                            | 7.000                        | 50,466                       | 3,013                       | (757)                   | 52,722                              |
| 2034  | 7,349,625                            | 7.000                        | 51,447                       | 3,071                       | (772)                   | 53,747                              |
| 2035  | 7,349,625                            | 7.000                        | 51,447                       | 3,071                       | (772)                   | 53,747                              |
| 2036  | 7,492,617                            | 7.000                        | 52,448                       | 3,131                       | (787)                   | 54,793                              |
| 2037  | 7,492,617                            | 7.000                        | 52,448                       | 3,131                       | (787)                   | 54,793                              |
| 2038  | 7,638,469                            | 7.000                        | 53,469                       | 3,192                       | (802)                   | 55,859                              |
| 2039  | 7,638,469                            | 7.000                        | 53,469                       | 3,192                       | (802)                   | 55,859                              |
| 2040  | 7,787,238                            | 7.000                        | 54,511                       | 3,254                       | (818)                   | 56,947                              |
| 2041  | 7,787,238                            | 7.000                        | 54,511                       | 3,254                       | (818)                   | 56,947                              |
| 2042  | 7,938,982                            | 7.000                        | 55,573                       | 3,318                       | (834)                   | 58,057                              |
| 2043  | 7,938,982                            | 7.000                        | 55,573                       | 3,318                       | (834)                   | 58,057                              |
| 2044  | 8,093,761                            | 7.000                        | 56,656                       | 3,382                       | (850)                   | 59,189                              |
| 2045  | 8,093,761                            | 7.000                        | 56,656                       | 3,382                       | (850)                   | 59,189                              |
| 2046  | 8,251,635                            | 7.000                        | 57,761                       | 3,448                       | (866)                   | 60,343                              |
| 2047  | 8,251,635                            | 7.000                        | 57,761                       | 3,448                       | (866)                   | 60,343                              |
| 2048  | 8,412,667                            | 7.000                        | 58,889                       | 3,516                       | (883)                   | 61,521                              |
| 2049  | 8,412,667                            | 7.000                        | 58,889                       | 3,516                       | (883)                   | 61,521                              |
| 2050  | 8,576,920                            | 7.000                        | 60,038                       | 3,584                       | (901)                   | 62,722                              |
| 2051  | 8,576,920                            | 7.000                        | 60,038                       | 3,584                       | (901)                   | 62,722                              |
| 2052  | 8,744,458                            | 7.000                        | 61,211                       | 3,654                       | (918)                   | 63,947                              |
| Total |                                      |                              | 1,724,114                    | 102,930                     | (25,862)                | 1,801,182                           |

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## SOURCES AND USES OF FUNDS

### NEIGHBORS POINT METROPOLITAN DISTRICT Weld County, Colorado

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TAX-EXEMPT LOAN, SERIES 2022 20-year Maturity, 30-year Amortization

Dated Date	06/10/2022
Delivery Date	06/10/2022

Sources:

Bond Proceeds:	
Par Amount	5,650,000.00
	5,650,000.00

Uses:

Project Fund Deposits:	
Project Fund	5,181,000.00
Other Fund Deposits:	
Debt Service Reserve Fund	189,000.00
Cost of Issuance:	
Cost of Issuance	250,000.00
Placement Agent	30,000.00
	280,000.00
	5,650,000.00

BOND SUMMARY STATISTICS

NEIGHBORS POINT METROPOLITAN DISTRICT Weld County, Colorado

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### TAX-EXEMPT LOAN, SERIES 2022 20-year Maturity, 30-year Amortization

|                                 |               |
|---------------------------------|---------------|
| Dated Date                      | 06/10/2022    |
| Delivery Date                   | 06/10/2022    |
| Last Maturity                   | 12/01/2052    |
| Arbitrage Yield                 | 4.052561%     |
| True Interest Cost (TIC)        | 4.052561%     |
| Net Interest Cost (NIC)         | 4.089040%     |
| All-In TIC                      | 4.443286%     |
| Average Coupon                  | 4.089040%     |
| Average Life (years)            | 20.228        |
| Duration of Issue (years)       | 13.432        |
| Par Amount                      | 5,650,000.00  |
| Bond Proceeds                   | 5,650,000.00  |
| Total Interest                  | 4,673,312.50  |
| Net Interest                    | 4,673,312.50  |
| Total Debt Service              | 10,323,312.50 |
| Maximum Annual Debt Service     | 574,750.00    |
| Average Annual Debt Service     | 338,746.92    |
| Underwriter's Fees (per \$1000) |               |
| Average Takedown                |               |
| Other Fee                       |               |
| Total Underwriter's Discount    |               |
| Bid Price                       | 100.000000    |

| <i>Bond Component</i> | <i>Par Value</i> | <i>Price</i> | <i>Average Coupon</i> | <i>Average Life</i> |
|-----------------------|------------------|--------------|-----------------------|---------------------|
| Loan due 2052         | 5,650,000.00     | 100.000      | 4.089%                | 20.228              |
|                       | 5,650,000.00     |              |                       | 20.228              |

|                            | <i>TIC</i>   | <i>All-In TIC</i> | <i>Arbitrage Yield</i> |
|----------------------------|--------------|-------------------|------------------------|
| Par Value                  | 5,650,000.00 | 5,650,000.00      | 5,650,000.00           |
| + Accrued Interest         |              |                   |                        |
| + Premium (Discount)       |              |                   |                        |
| - Underwriter's Discount   |              |                   |                        |
| - Cost of Issuance Expense |              | -280,000.00       |                        |
| - Other Amounts            |              |                   |                        |
| Target Value               | 5,650,000.00 | 5,370,000.00      | 5,650,000.00           |
| Target Date                | 06/10/2022   | 06/10/2022        | 06/10/2022             |
| Yield                      | 4.052561%    | 4.443286%         | 4.052561%              |

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## BOND PRICING

### NEIGHBORS POINT METROPOLITAN DISTRICT Weld County, Colorado

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TAX-EXEMPT LOAN, SERIES 2022 20-year Maturity, 30-year Amortization

<i>Bond Component</i>	<i>Maturity Date</i>	<i>Amount</i>	<i>Rate</i>	<i>Yield</i>	<i>Price</i>
Loan due 2052:					
	12/01/2022	40,000	4.000%	4.109%	100.000
	12/01/2023	55,000	4.000%	4.109%	100.000
	12/01/2024	70,000	4.000%	4.109%	100.000
	12/01/2025	75,000	4.000%	4.109%	100.000
	12/01/2026	80,000	4.000%	4.109%	100.000
	12/01/2027	85,000	4.000%	4.109%	100.000
	12/01/2028	95,000	4.000%	4.109%	100.000
	12/01/2029	100,000	4.000%	4.109%	100.000
	12/01/2030	110,000	4.000%	4.109%	100.000
	12/01/2031	110,000	4.000%	4.109%	100.000
	12/01/2032	120,000	4.000%	4.109%	100.000
	12/01/2033	125,000	4.000%	4.109%	100.000
	12/01/2034	140,000	4.000%	4.109%	100.000
	12/01/2035	145,000	4.000%	4.109%	100.000
	12/01/2036	155,000	4.000%	4.109%	100.000
	12/01/2037	160,000	4.000%	4.109%	100.000
	12/01/2038	175,000	4.000%	4.109%	100.000
	12/01/2039	185,000	4.000%	4.109%	100.000
	12/01/2040	195,000	4.000%	4.109%	100.000
	12/01/2041	205,000	4.000%	4.109%	100.000
	12/01/2042	210,000	4.000%	4.109%	100.000
	12/01/2043	215,000	4.000%	4.109%	100.000
	12/01/2044	230,000	4.000%	4.109%	100.000
	12/01/2045	240,000	4.000%	4.109%	100.000
	12/01/2046	260,000	4.000%	4.109%	100.000
	12/01/2047	270,000	4.000%	4.109%	100.000
	12/01/2048	290,000	4.000%	4.109%	100.000
	12/01/2049	300,000	4.000%	4.109%	100.000
	12/01/2050	325,000	4.000%	4.109%	100.000
	12/01/2051	335,000	4.000%	4.109%	100.000
	12/01/2052	550,000	4.000%	4.109%	100.000
		5,650,000			

Dated Date	06/10/2022	
Delivery Date	06/10/2022	
First Coupon	12/01/2022	
Par Amount	5,650,000.00	
Original Issue Discount		
Production	5,650,000.00	100.000000%
Underwriter's Discount		
Purchase Price	5,650,000.00	100.000000%
Accrued Interest		
Net Proceeds	5,650,000.00	

NET DEBT SERVICE

NEIGHBORS POINT METROPOLITAN DISTRICT Weld County, Colorado

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**TAX-EXEMPT LOAN, SERIES 2022**  
**20-year Maturity, 30-year Amortization**

| <i>Period<br/>Ending</i> | <i>Principal</i> | <i>Coupon</i> | <i>Interest</i> | <i>Total<br/>Debt Service</i> | <i>Debt Service<br/>Reserve Fund</i> | <i>Net<br/>Debt Service</i> |
|--------------------------|------------------|---------------|-----------------|-------------------------------|--------------------------------------|-----------------------------|
| 12/01/2022               | 40,000           | 4.000%        | 107,350.00      | 147,350.00                    |                                      | 147,350.00                  |
| 12/01/2023               | 55,000           | 4.000%        | 224,400.00      | 279,400.00                    |                                      | 279,400.00                  |
| 12/01/2024               | 70,000           | 4.000%        | 222,200.00      | 292,200.00                    |                                      | 292,200.00                  |
| 12/01/2025               | 75,000           | 4.000%        | 219,400.00      | 294,400.00                    |                                      | 294,400.00                  |
| 12/01/2026               | 80,000           | 4.000%        | 216,400.00      | 296,400.00                    |                                      | 296,400.00                  |
| 12/01/2027               | 85,000           | 4.000%        | 213,200.00      | 298,200.00                    |                                      | 298,200.00                  |
| 12/01/2028               | 95,000           | 4.000%        | 209,800.00      | 304,800.00                    |                                      | 304,800.00                  |
| 12/01/2029               | 100,000          | 4.000%        | 206,000.00      | 306,000.00                    |                                      | 306,000.00                  |
| 12/01/2030               | 110,000          | 4.000%        | 202,000.00      | 312,000.00                    |                                      | 312,000.00                  |
| 12/01/2031               | 110,000          | 4.000%        | 197,600.00      | 307,600.00                    |                                      | 307,600.00                  |
| 12/01/2032               | 120,000          | 4.000%        | 193,200.00      | 313,200.00                    |                                      | 313,200.00                  |
| 12/01/2033               | 125,000          | 4.000%        | 188,400.00      | 313,400.00                    |                                      | 313,400.00                  |
| 12/01/2034               | 140,000          | 4.000%        | 183,400.00      | 323,400.00                    |                                      | 323,400.00                  |
| 12/01/2035               | 145,000          | 4.000%        | 177,800.00      | 322,800.00                    |                                      | 322,800.00                  |
| 12/01/2036               | 155,000          | 4.000%        | 172,000.00      | 327,000.00                    |                                      | 327,000.00                  |
| 12/01/2037               | 160,000          | 4.000%        | 165,800.00      | 325,800.00                    |                                      | 325,800.00                  |
| 12/01/2038               | 175,000          | 4.000%        | 159,400.00      | 334,400.00                    |                                      | 334,400.00                  |
| 12/01/2039               | 185,000          | 4.000%        | 152,400.00      | 337,400.00                    |                                      | 337,400.00                  |
| 12/01/2040               | 195,000          | 4.000%        | 145,000.00      | 340,000.00                    |                                      | 340,000.00                  |
| 12/01/2041               | 205,000          | 4.000%        | 137,200.00      | 342,200.00                    |                                      | 342,200.00                  |
| 12/01/2042               | 210,000          | 4.000%        | 137,062.50      | 347,062.50                    |                                      | 347,062.50                  |
| 12/01/2043               | 215,000          | 4.000%        | 135,675.00      | 350,675.00                    |                                      | 350,675.00                  |
| 12/01/2044               | 230,000          | 4.000%        | 126,000.00      | 356,000.00                    |                                      | 356,000.00                  |
| 12/01/2045               | 240,000          | 4.000%        | 115,650.00      | 355,650.00                    |                                      | 355,650.00                  |
| 12/01/2046               | 260,000          | 4.000%        | 104,850.00      | 364,850.00                    |                                      | 364,850.00                  |
| 12/01/2047               | 270,000          | 4.000%        | 93,150.00       | 363,150.00                    |                                      | 363,150.00                  |
| 12/01/2048               | 290,000          | 4.000%        | 81,000.00       | 371,000.00                    |                                      | 371,000.00                  |
| 12/01/2049               | 300,000          | 4.000%        | 67,950.00       | 367,950.00                    |                                      | 367,950.00                  |
| 12/01/2050               | 325,000          | 4.000%        | 54,450.00       | 379,450.00                    |                                      | 379,450.00                  |
| 12/01/2051               | 335,000          | 4.000%        | 39,825.00       | 374,825.00                    |                                      | 374,825.00                  |
| 12/01/2052               | 550,000          | 4.000%        | 24,750.00       | 574,750.00                    | 189,000                              | 385,750.00                  |
|                          | 5,650,000        |               | 4,673,312.50    | 10,323,312.50                 | 189,000                              | 10,134,312.50               |

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## DETAILED BOND DEBT SERVICE

### NEIGHBORS POINT METROPOLITAN DISTRICT Weld County, Colorado

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TAX-EXEMPT LOAN, SERIES 2022 20-year Maturity, 30-year Amortization

Loan due 2052 (LOAN52)

<i>Period Ending</i>	<i>Principal</i>	<i>Coupon</i>	<i>Interest</i>	<i>Debt Service</i>	<i>Annual Debt Service</i>
12/01/2022	40,000	4.000%	107,350.00	147,350.00	147,350.00
06/01/2023			112,200.00	112,200.00	
12/01/2023	55,000	4.000%	112,200.00	167,200.00	279,400.00
06/01/2024			111,100.00	111,100.00	
12/01/2024	70,000	4.000%	111,100.00	181,100.00	292,200.00
06/01/2025			109,700.00	109,700.00	
12/01/2025	75,000	4.000%	109,700.00	184,700.00	294,400.00
06/01/2026			108,200.00	108,200.00	
12/01/2026	80,000	4.000%	108,200.00	188,200.00	296,400.00
06/01/2027			106,600.00	106,600.00	
12/01/2027	85,000	4.000%	106,600.00	191,600.00	298,200.00
06/01/2028			104,900.00	104,900.00	
12/01/2028	95,000	4.000%	104,900.00	199,900.00	304,800.00
06/01/2029			103,000.00	103,000.00	
12/01/2029	100,000	4.000%	103,000.00	203,000.00	306,000.00
06/01/2030			101,000.00	101,000.00	
12/01/2030	110,000	4.000%	101,000.00	211,000.00	312,000.00
06/01/2031			98,800.00	98,800.00	
12/01/2031	110,000	4.000%	98,800.00	208,800.00	307,600.00
06/01/2032			96,600.00	96,600.00	
12/01/2032	120,000	4.000%	96,600.00	216,600.00	313,200.00
06/01/2033			94,200.00	94,200.00	
12/01/2033	125,000	4.000%	94,200.00	219,200.00	313,400.00
06/01/2034			91,700.00	91,700.00	
12/01/2034	140,000	4.000%	91,700.00	231,700.00	323,400.00
06/01/2035			88,900.00	88,900.00	
12/01/2035	145,000	4.000%	88,900.00	233,900.00	322,800.00
06/01/2036			86,000.00	86,000.00	
12/01/2036	155,000	4.000%	86,000.00	241,000.00	327,000.00
06/01/2037			82,900.00	82,900.00	
12/01/2037	160,000	4.000%	82,900.00	242,900.00	325,800.00
06/01/2038			79,700.00	79,700.00	
12/01/2038	175,000	4.000%	79,700.00	254,700.00	334,400.00
06/01/2039			76,200.00	76,200.00	
12/01/2039	185,000	4.000%	76,200.00	261,200.00	337,400.00
06/01/2040			72,500.00	72,500.00	
12/01/2040	195,000	4.000%	72,500.00	267,500.00	340,000.00
06/01/2041			68,600.00	68,600.00	
12/01/2041	205,000	4.000%	68,600.00	273,600.00	342,200.00
06/01/2042			64,500.00	64,500.00	
12/01/2042	210,000	4.000%	72,562.50	282,562.50	347,062.50
06/01/2043			67,837.50	67,837.50	
12/01/2043	215,000	4.000%	67,837.50	282,837.50	350,675.00
06/01/2044			63,000.00	63,000.00	
12/01/2044	230,000	4.000%	63,000.00	293,000.00	356,000.00
06/01/2045			57,825.00	57,825.00	
12/01/2045	240,000	4.000%	57,825.00	297,825.00	355,650.00
06/01/2046			52,425.00	52,425.00	
12/01/2046	260,000	4.000%	52,425.00	312,425.00	364,850.00
06/01/2047			46,575.00	46,575.00	
12/01/2047	270,000	4.000%	46,575.00	316,575.00	363,150.00
06/01/2048			40,500.00	40,500.00	
12/01/2048	290,000	4.000%	40,500.00	330,500.00	371,000.00
06/01/2049			33,975.00	33,975.00	
12/01/2049	300,000	4.000%	33,975.00	333,975.00	367,950.00
06/01/2050			27,225.00	27,225.00	
12/01/2050	325,000	4.000%	27,225.00	352,225.00	379,450.00
06/01/2051			19,912.50	19,912.50	
12/01/2051	335,000	4.000%	19,912.50	354,912.50	374,825.00
06/01/2052			12,375.00	12,375.00	
12/01/2052	550,000	4.000%	12,375.00	562,375.00	574,750.00
	5,650,000		4,673,312.50	10,323,312.50	10,323,312.50

DETAILED BOND DEBT SERVICE

NEIGHBORS POINT METROPOLITAN DISTRICT
Weld County, Colorado

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**TAX-EXEMPT LOAN, SERIES 2022**  
**20-year Maturity, 30-year Amortization**

### **Bond Variable Rate Table**

| <i>Begin<br/>Date</i> | <i>End<br/>Date</i> | <i>Interest<br/>Rate</i> |
|-----------------------|---------------------|--------------------------|
| 06/10/2022            | 06/01/2042          | 4.000%                   |
| 06/01/2042            | 12/01/2052          | 4.500%                   |

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## BOND SOLUTION

### NEIGHBORS POINT METROPOLITAN DISTRICT Weld County, Colorado

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TAX-EXEMPT LOAN, SERIES 2022 20-year Maturity, 30-year Amortization

<i>Period Ending</i>	<i>Proposed Principal</i>	<i>Proposed Debt Service</i>	<i>CAPI & DSRF Adjustments</i>	<i>Total Adj Debt Service</i>	<i>Revenue Constraints</i>	<i>Unused Revenues</i>	<i>Debt Service Coverage</i>
12/01/2022	40,000	147,350		147,350	151,299	3,949	102.68%
12/01/2023	55,000	279,400		279,400	283,157	3,757	101.34%
12/01/2024	70,000	292,200		292,200	294,470	2,270	100.78%
12/01/2025	75,000	294,400		294,400	294,470	70	100.02%
12/01/2026	80,000	296,400		296,400	300,261	3,861	101.30%
12/01/2027	85,000	298,200		298,200	300,261	2,061	100.69%
12/01/2028	95,000	304,800		304,800	306,167	1,367	100.45%
12/01/2029	100,000	306,000		306,000	306,167	167	100.05%
12/01/2030	110,000	312,000		312,000	312,191	191	100.06%
12/01/2031	110,000	307,600		307,600	312,191	4,591	101.49%
12/01/2032	120,000	313,200		313,200	318,336	5,136	101.64%
12/01/2033	125,000	313,400		313,400	318,336	4,936	101.58%
12/01/2034	140,000	323,400		323,400	324,604	1,204	100.37%
12/01/2035	145,000	322,800		322,800	324,604	1,804	100.56%
12/01/2036	155,000	327,000		327,000	330,997	3,997	101.22%
12/01/2037	160,000	325,800		325,800	330,997	5,197	101.60%
12/01/2038	175,000	334,400		334,400	337,518	3,118	100.93%
12/01/2039	185,000	337,400		337,400	337,518	118	100.04%
12/01/2040	195,000	340,000		340,000	344,170	4,170	101.23%
12/01/2041	205,000	342,200		342,200	344,170	1,970	100.58%
12/01/2042	210,000	347,063		347,063	350,954	3,892	101.12%
12/01/2043	215,000	350,675		350,675	350,954	279	100.08%
12/01/2044	230,000	356,000		356,000	357,875	1,875	100.53%
12/01/2045	240,000	355,650		355,650	357,875	2,225	100.63%
12/01/2046	260,000	364,850		364,850	364,933	83	100.02%
12/01/2047	270,000	363,150		363,150	364,933	1,783	100.49%
12/01/2048	290,000	371,000		371,000	372,133	1,133	100.31%
12/01/2049	300,000	367,950		367,950	372,133	4,183	101.14%
12/01/2050	325,000	379,450		379,450	379,477	27	100.01%
12/01/2051	335,000	374,825		374,825	379,477	4,652	101.24%
12/01/2052	550,000	574,750	-189,000	385,750	386,968	1,218	100.32%
	5,650,000	10,323,313	-189,000	10,134,313	10,209,597	75,285	

EXHIBIT D
Capital Plan - List of Public Improvements

Neighbors Point Metropolitan District					
Approximate Development Construction Costs					
Improvement Categories	Item	Unit	Quantity	Unit Cost	Total Item Cost
Inspection/Town Fees					
	Total Town Fees	LS	1	\$ 33,500.00	\$ 33,500.00
				Subtotal	\$ 33,500.00
Construction Permits					
	Total Permit Fees	LS	1	\$ 12,000.00	\$ 12,000.00
				Subtotal	\$ 12,000.00
Engineering					
	As-Builts/Certs	LS	1	\$ 8,500.00	\$ 8,500.00
	Construction Support	LS	1	\$ 8,500.00	\$ 8,500.00
				Subtotal	\$ 17,000.00
Survey					
	Construction Survey	LS	1	\$ 240,000.00	\$ 240,000.00
	As-Builts/Certs	LS	1	\$ 15,000.00	\$ 15,000.00
				Subtotal	\$ 255,000.00
Geotechnical Engineering					
	Soil/Materials Testing	LS	1	\$ 115,000.00	\$ 115,000.00
	Pavement Design	LS	1	\$ 3,000.00	\$ 3,000.00
	Compliance Reports	LS	1	\$ 3,000.00	\$ 3,000.00
				Subtotal	\$ 121,000.00
Grading					
	Mobilization	LS	1	\$ 10,000.00	\$ 10,000.00
	Clear/Grub/Demo	LS	1	\$ 40,000.00	\$ 40,000.00
	Disposal	LS	1	\$ 12,500.00	\$ 12,500.00
	Cut to Fill Streets & Ponds Only	CY	84,552	\$ 2.50	\$ 211,380.00
	Fine Grade Ponds & Embankments	EST	1	\$ 10,500.00	\$ 10,500.00
	Find Grade PLD Open Space	EST	1	\$ 17,000.00	\$ 17,000.00
Sable Ave.	Ditch Final Shaping	LF	10,560	\$ 2.30	\$ 24,288.00
Sable Ave.	Drive Entry Restoration	EA	14	\$ 400.00	\$ 5,600.00
				Subtotal	\$ 331,268.00
Erosion Control					
	Silt Fence Perimeter	LF	17,250	\$ 1.50	\$ 25,875.00
	VTC Pads	EA	7	\$ 2,875.00	\$ 20,125.00
	Straw Bale Dikes	EA	50	\$ 2.30	\$ 115.00
	Inlet Protection	EST/LS	1	\$ 6,500.00	\$ 6,500.00
	Temp & Native Seeding	EST/AC	52	\$ 995.00	\$ 51,740.00
Sable Ave.	Seeding (Borrow)	AC	8	\$ 995.00	\$ 8,258.50
Sable Ave.	Straw Check Dams	EA	40	\$ 2.30	\$ 92.00
				Subtotal	\$ 112,705.50
Water System					
	Remove BO & Connect	EA	7	\$ 300.00	\$ 2,100.00
	8" C900 DR 18 PVC	LF	27,058	\$ 37.00	\$ 1,001,146.00
	8" Valve & Box	EA	104	\$ 1,800.00	\$ 187,200.00
	8" x 8" Tee	EA	36	\$ 810.00	\$ 29,160.00
	8" x 8" X-Tee	EA	11	\$ 790.00	\$ 8,690.00
	8" x 6" Swivel Tee	EA	36	\$ 740.00	\$ 26,640.00
	8" Bends Horz	EA	73	\$ 515.00	\$ 37,595.00
	8" Plug/Cap W/2" BO	EA	36	\$ 630.00	\$ 22,680.00
	FH Assembly	EA	49	\$ 4,880.00	\$ 239,120.00
	8" Vert Lowering	EA	35	\$ 4,325.00	\$ 151,375.00
	8" x 6" Reducer	EA	13	\$ 420.00	\$ 5,460.00
	6" Horizontal Bends	EA	11	\$ 365.00	\$ 4,015.00
	3/4" W Assm. SDL,corp,cs	EA	430	\$ 1,530.00	\$ 657,900.00
	3/4" K Copper WL	LF	17,600	\$ 8.00	\$ 140,800.00
	2" Landscaping Irrigation Service	EA	1	\$ 6,020.00	\$ 6,020.00

	1" Landscaping Irrigation Service	EA	3	\$ 3,250.00	\$ 9,750.00
	.75" Landscaping Irrigation Service	EA	4	\$ 2,860.00	\$ 11,440.00
				Subtotal	\$ 2,541,091.00
Storm Sewer					
	4' Manhole	EA	1	\$ 2,300.00	\$ 2,300.00
	6' Manhole	EA	16	\$ 2,900.00	\$ 46,400.00
	5' Manhole	EA	7	\$ 2,600.00	\$ 18,200.00
	Type "C" Inlet	EA	1	\$ 5,100.00	\$ 5,100.00
	Type "D" Inlet	EA	1	\$ 6,500.00	\$ 6,500.00
	Double Type "D" Inlet	EA	1	\$ 10,000.00	\$ 10,000.00
	5' Type "R" Inlet	EA	7	\$ 4,050.00	\$ 28,350.00
	10' Type "R" Inlet	EA	16	\$ 6,400.00	\$ 102,400.00
	15' Type "R" Inlet	EA	4	\$ 8,500.00	\$ 34,000.00
	20' Type "R" Inlet	EA	3	\$ 17,280.00	\$ 51,840.00
	18" RCP	LF	2,576	\$ 51.00	\$ 131,376.00
	24" RCP	LF	1,842	\$ 73.00	\$ 134,466.00
	30" RCP	LF	499	\$ 95.00	\$ 47,405.00
	36" RCP	LF	1,101	\$ 120.00	\$ 132,120.00
	42" RCP	LF	368	\$ 156.00	\$ 57,408.00
	48" RCP	LF	550	\$ 187.00	\$ 102,850.00
	54" RCP	LF	622	\$ 221.00	\$ 137,462.00
	34"x 53" HERCP CL3	LF	57	\$ 201.00	\$ 11,457.00
	18" FES	EA	13	\$ 1,270.00	\$ 16,510.00
	24" FES	EA	3	\$ 1,345.00	\$ 4,035.00
	30" FES	EA	1	\$ 2,180.00	\$ 2,180.00
	36" FES	EA	5	\$ 2,300.00	\$ 11,500.00
	54" FES	EA	2	\$ 2,935.00	\$ 5,870.00
	34" x 53" HERCP FES	EA	1	\$ 3,355.00	\$ 3,355.00
	Rip Rap Type "M"	SF	4,747	\$ 11.00	\$ 52,217.00
Sable Ave.	18" RCP Culverts	LF	420	\$ 86.00	\$ 36,120.00
Sable Ave.	Pipe Extensions	EST/LS	1	\$ 600.00	\$ 600.00
Sable Ave.	Rip Rap Type "M"	SF	2,100	\$ 11.00	\$ 23,100.00
	3" Trickle Pan (Fiber)	LF	1,890	\$ 35.00	\$ 66,150.00
				Subtotal	\$ 1,281,271.00
Streets					
	Mobilization Concrete and Paving	EST/LS	1	\$ 15,000.00	\$ 15,000.00
	Balance, Shape, & Prep	SY	98,147	\$ 3.30	\$ 323,885.10
	Sterilize SG	SY	98,147	\$ 0.15	\$ 14,722.05
	4" HBP on 7" ABC	SY	95,518	\$ 34.00	\$ 3,247,612.00
	4" HBP on 10" HBP	SY	2,629	\$ 37.00	\$ 97,273.00
	6-4" Curb Walk W/Prep & BF	LF	45,785	\$ 16.00	\$ 732,560.00
	HDCP Ramps	EA	149	\$ 2,145.00	\$ 319,605.00
	Curb Cuts Driveway Entry	EA	2	\$ 350.00	\$ 700.00
	6" Crossspan & Spdrl 54' Complete	SF	956	\$ 6.15	\$ 5,879.40
	30" V Curb & Gutter W/Prep & BF	LF	3,800	\$ 16.00	\$ 60,800.00
	Color Concrete Cross Walk	EA	3	\$ 1,980.00	\$ 5,940.00
	Manhole Adjust	EA	182	\$ 675.00	\$ 122,850.00
	WV Adjust	EA	154	\$ 300.00	\$ 46,200.00
	BO Adjust	EA	11	\$ 300.00	\$ 3,300.00
Sable Ave.	Street Balance	SY	19,800	\$ 1.30	\$ 25,740.00
Sable Ave.	Final Shape and Prep	SY	19,800	\$ 2.00	\$ 39,600.00
Sable Ave.	Sterilize SG	SY	19,800	\$ 0.15	\$ 2,970.00
Sable Ave.	5" HBP on 8" ABC	SY	19,800	\$ 35.00	\$ 693,000.00
				Subtotal	\$ 5,757,636.55
Detached Sidewalk					
	10' x 6" Set Walk W/ P&BF Trail	LF	3,878	\$ 47.00	\$ 182,266.00
	8' x 4' Det Walk Trail	LF	3,533	\$ 18.20	\$ 64,300.60

	4' x 4' Det Walk W/ Thickened Edge	LF	260	\$ 16.20	\$ 4,212.00
				Subtotal	\$ 250,778.60
Street Signs & Markings					
	Stop & Street Blades	EA	56	\$ 475.00	\$ 26,600.00
	Traffic Control Signs	EA	30	\$ 360.00	\$ 10,800.00
Birch St.	Street Markings	EST/LS	1	\$ 3,000.00	\$ 3,000.00
Sable Ave.	Sign and Strip	EST/LS	1	\$ 4,500.00	\$ 4,500.00
				Subtotal	\$ 44,900.00
Construction Traffic Control					
	Sign and Barricade Rental	EST/LS	1	\$ 9,000.00	\$ 9,000.00
	Traffic Control	EST/LS	1	\$ 4,500.00	\$ 4,500.00
				Subtotal	\$ 13,500.00
Barricades & Fence					
	Sign Rental	EST/LS	1	\$ 3,500.00	\$ 3,500.00
	Construction Barricade Rental	EST/LS	1	\$ 2,500.00	\$ 2,500.00
	Phase Barricades	EST/LS	1	\$ 1,750.00	\$ 1,750.00
				Subtotal	\$ 7,750.00
Construction Clean Up					
	Site labor and Equipment	EST/LS	1	\$ 10,000.00	\$ 10,000.00
				Subtotal	\$ 10,000.00
Street Lights					
	Cobra Head	EA	5	\$ 3,500.00	\$ 17,500.00
	RSL-350	EA	75	\$ 2,500.00	\$ 187,500.00
				Subtotal	\$ 205,000.00
Landscape and Irrigation					
	Irrigation Sod & Beds	SF	226,646	\$ 0.65	\$ 147,319.90
	Native Seed Irrigation	SF	727,175	\$ 0.50	\$ 363,587.50
	Blue Grass Seed	SF	222,616	\$ 0.15	\$ 33,392.40
	Native Seed Irrigation	AC	17	\$ 750.00	\$ 12,750.00
	Soil Prep	SF	226,646	\$ 0.08	\$ 18,131.68
	Ornamental Grasses 1 Gal	EA	92	\$ 9.00	\$ 828.00
	Streel Edger	SL	2,857	\$ 2.50	\$ 7,142.50
	Deciduous Trees 2'	EA	38	\$ 350.00	\$ 13,300.00
	Deciduous Trees 6'	EA	49	\$ 350.00	\$ 17,150.00
	Evergreen Shrubs 5 Gal	EA	65	\$ 35.00	\$ 2,275.00
	Deciduous Shrubs 5 Gal	EA	108	\$ 35.00	\$ 3,780.00
	Shredded Aspen Mulch	SF	4,030	\$ 0.35	\$ 1,410.50
				Subtotal	\$ 621,067.48
Structures and Equipment					
	Park Pavilion	EST/LS	1	\$ 10,000.00	\$ 10,000.00
	Playground Equipment	EST/LS	1	\$ 20,000.00	\$ 20,000.00
	Benches	EA	2	\$ 750.00	\$ 1,500.00
	Waste Receptacle	EA	2	\$ 450.00	\$ 900.00
				Subtotal	\$ 32,400.00
				Total All Improvement Categories	\$ 11,647,868.13
				Contingency (10%)	\$ 1,164,786.81
				Construction Management (3%)	\$ 349,436.04
				TOTAL ALL IMPROVEMENS WITH CONTINGENCY	\$ 13,162,090.99

Prepared by: Independent District Engineering Services (2022)

Notes: 1/ Unit cost are estimates based on recent similar jobs located in the Denver metropolitan area. Actual construction cost may vary.

2/ Quantities were taken from "Neighbors Point Metropolitan District Public Improvements Estimate of Probable Construction Cost 5-12-04" and were not verified at this time.

EXHIBIT E
Disclosure Notice

EXHIBIT E

SPECIAL DISTRICT DISCLOSURE

ATTENTION HOMEBUYER: You are purchasing a home that is located within **Neighbors Point Metropolitan District** (the "District"). This District has the authority to issue bonds or other debt to pay for public improvements and the authority to levy taxes and fees on all properties within the District for debt repayment and ongoing operations and maintenance.

Name of District:	Neighbors Point Metropolitan District
Contact Information for District:	c/o White Bear Ankele Tanaka & Waldron 2154 E. Commons Avenue, Suite 2000 Centennial, CO 80122
District Website:	www.sdaco.com
District Boundaries:	See attached map. It is conceivable that additional boundary adjustments may be made to include or exclude property from the District. Any such boundary adjustment is subject to prior approval by the owners of the property and must be considered at a public hearing of the District's Board of Directors.
Purpose of the District:	The District was organized pursuant to C.R.S. § 32-1-101 et seq. The District was created to assist with the planning, design, acquisition, construction, installation, operation, maintenance, relocation, and financing of certain public improvements serving the Neighbors Point and Sable Glenn projects located in the Town of Firestone, Colorado (the "Town") and described further in the District's Service Plan. The District may dedicate certain public improvements to the Town or other appropriate jurisdiction. The operations and maintenance of public improvements dedicated to the Town or other appropriate jurisdiction shall rest with the Town or other appropriate jurisdiction as the case may be. Public improvements not dedicated to the Town or other appropriate jurisdiction may be owned, operated, and maintained by the District. The District has authority to impose property taxes and other fees, rates, tolls, penalties, or charges to fund the construction and operation and maintenance of improvements as set forth in the Service Plan. A copy of the District's Service Plan can be found on the District's website or by contacting the District at the District contact information above.

Owners Associations:	Certain services may be provided within the District by one or more property owner associations organized as Colorado non-profit organizations. If a property owners association is established, property owners will be subject to fees and assessments payable to the association which will be separate from and in addition to any fees or assessments payable to the District.
Authorized Types of District Taxes:	Debt Mill Levy, Operating Mill Levy, and Town O&M Mill Levy These mill levies result in taxes you will owe to the District and are described further below.
District's Total Debt Issuance Authorized per District's Service Plan:	\$14,000,000
District Improvements Financed by Debt:	The District intends to, or has already issued debt to pay for the following public improvements: streets, water, sewer, and landscaping.
Maximum Debt Mill Levy that may be levied annually on properties within the District to pay back debt:	Maximum Debt Mill Levy: 50 Mills This Mill Levy may fluctuate based on changes in assessment rates. At such time as the total amount of aggregate Debt of the District is equal to or less than fifty percent (50%) of the District's assessed valuation, either on the date of issuance of any Debt or at any time thereafter, the mill levy to be imposed to repay such portion of Debt shall not be subject to the Maximum Debt Mill Levy and, as a result, the mill levy may be imposed at such a rate as is necessary to pay the Debt service on such Debt, without limitation of rate increase; provided, however, that after any conversion to an unlimited mill levy, the District shall not issue additional Debt that would cause the aggregate Debt to exceed 50% of the District's then assessed value. For the purposes of the foregoing, the Board may further provide that such Debt shall remain secured by such increased mill levy, notwithstanding any subsequent change in the District's Debt to assessed value ratio.
Ongoing Operations and Maintenance Services of the District:	The District intends to impose an Operating Mill Levy to pay for ongoing administration, operating and maintenance obligations

Maximum Operating Mill Levy that may be levied annually on properties within the District to pay for the ongoing operations and maintenance described above.	Maximum Operating Mill Levy: 50 Mills until such time the District issues Debt. After the District issues debt, the Maximum Operation and Maintenance Mill Levy shall be 10 Mills, subject to the Mill Levy Adjustment. This Mill Levy may fluctuate based on changes to residential assessment rates. The Operating Mill Levy is distinct from the Debt Mill Levy taxes and cannot be used to repay Debt. The Maximum Operation and Maintenance Mill Levy shall apply to the District's ability to increase its mill levy as necessary for provision of operation and maintenance services to its taxpayers and service users until such time as End Users cast the majority of affirmative votes taken by the District's Board of Directors at a meeting authorizing an increase of such Maximum Operation and Maintenance Mill Levy, at which time the mill levy may be such amount as is necessary to pay the Operation and Maintenance Cost.
Maximum Town O&M Mill Levy that is required to be levied annually on properties within the District and transferred to the Town.	Maximum Town O&M Mill Levy: 3 mills
District Fees:	The District may impose and collect Fees for services, programs facilities furnished by the District, and may from time to time increase or decrease such fees, and may use the revenue from such fees for the repayment of Debt, capital costs, or Operation and Maintenance costs and for the payment of an indebtedness of the District.
Other Taxing Entities to which you will pay taxes to:	[List all taxing entities and current mill levies within the District Boundaries as identified by the Weld County Assessor, including mille levies and annual tax levied for prior fiscal year]
** This information is based upon the property taxes levied on property within the District imposed in 2022 for collection in 2023, and is intended only to provide approximations of the total overlapping mill levies within the District. The stated mill levies are subject to change and you should contact the Weld County Assessor's office to obtain the most accurate and up to date information.	

Sample Calculation of Taxes Owed for a Residential Property within the District:

Assumptions:

Average market value of home in District is \$500,000

Debt Mill Levy is 50 mills

Operating Mill Levy is 10 mills

Town O&M Mill Levy is 3 mills

Total Metropolitan District mill levies = 63 mills

Calculation of Metropolitan District Taxes:

$\$500,000 \times .0715 = \$35,750$ (Assessed Valuation)

$\$35,750 \times .063 \text{ mills} = \$2,252$ per year in taxes

Total Additional Mill Levies from Other Taxing Entities: _____ mills = \$ _____ annual taxes

TOTAL [YEAR] PROPERTY TAXES FOR A HOME COSTING \$ _____ = \$ _____

EXHIBIT F
Intergovernmental Agreement

**AMENDED AND RESTATED
INTERGOVERNMENTAL AGREEMENT BETWEEN
THE TOWN OF FIRESTONE, COLORADO AND THE
NEIGHBORS POINT METROPOLITAN DISTRICT**

This AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT (the “Agreement”) is made and entered into as of this ____ day of _____, 2022, by and between the TOWN OF FIRESTONE, a home rule municipal corporation of the State of Colorado (the “Town”), and the NEIGHBORS POINT METROPOLITAN DISTRICT, a quasi-municipal corporation and political subdivision of the State of Colorado (the “District”). The Town and the District are collectively referred to as the Parties.

WITNESSETH:

WHEREAS, C.R.S. § 29-1-203 authorizes the Parties to cooperate and contract with one another regarding functions, services and facilities each is authorized to provide; and

WHEREAS, the District was organized to provide those services and to exercise powers as are more specifically set forth in the District’s Amended and Restated Service Plan approved by the Town on May 11, 2022 (the “Service Plan”); and

WHEREAS, the Service Plan makes reference to and requires the execution of an intergovernmental agreement between the Town and the District; and

WHEREAS, the Town has approved the final plat for the Property; and

WHEREAS, the Parties have determined that any capitalized term not specifically defined in this Agreement shall have that meaning as set forth in the Service Plan; and

WHEREAS, the Parties have determined it to be in the best interests of their respective taxpayers, residents and property owners to enter into this Agreement to comply with the Service Plan and to address certain matters related to the organization, powers and authorities of the District.

NOW, THEREFORE, in consideration of the covenants and mutual agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. Operations and Maintenance. The District shall dedicate the Public Improvements to the Town or other appropriate jurisdiction or owners association in a manner consistent with the Approved Development Plan, the Service Plan, this Agreement, and other rules and regulations of the Town, and applicable provisions of the Town Code. The District is authorized, but not obligated, to own, operate and maintain Public Improvements not otherwise required to be dedicated to the Town or other public entity, including, but not limited to street improvements (including roads, curbs, gutters, culverts, sidewalks, bridges, parking facilities, paving, lighting, grading, landscaping, and other street improvements), traffic and safety controls, retaining walls, park and recreation improvements and facilities, trails, open space, landscaping, drainage improvements (including detention and retention ponds, trickle channels, and other drainage facilities), irrigation system improvements (including wells, pumps, storage facilities, and distribution facilities), and all necessary equipment and appurtenances incident thereto. Notwithstanding the foregoing, all parks,

trails and open space not otherwise dedicated to the Town and owned by the District shall be open to the general public free of charge. The District may provide covenant enforcement, design review services and other services to the residents, owners and taxpayers within the District pursuant to and in accordance with § 32-1-1004(8) C.R.S. The District may impose a mill levy, Special Assessments and/or Fees to pay for Operation and Maintenance Costs in accordance with the Service Plan.

2. Town O&M Mill Levy. Commensurate with the initial imposition of a debt service mill levy, the District hereby agrees that it shall impose the Town O&M Mill Levy. The District's obligation to impose and collect the revenues from the Town O&M Mill Levy shall begin when the District first imposes a debt service mill levy and shall not be required to be imposed prior to such date. Revenues generated by the Town O&M Mill Levy and the District's obligation to remit said revenues to the Town on an annual basis, as required by the Service Plan and this Agreement, shall not be included within or subject to the Total Debt Limit. The Town O&M Mill Levy shall be separate and apart from the Maximum Debt Mill Levy and the Maximum Operation and Maintenance Mill Levy.

3. Fire Protection. The District shall not be authorized to plan for, design, acquire, construct, install, relocate, redevelop, finance, operate or maintain fire protection facilities or services, unless specifically provided for pursuant to an intergovernmental agreement with the Town and the Firestone Fire Protection District. This provision shall not limit the District's authority to plan for, design, acquire, construct, install, relocate, redevelop or finance fire hydrants and related improvements installed as part of the water system.

4. Television Relay and Translation; Mosquito Control, and Other Limitations. The District shall not be authorized to plan for, design, acquire, construct, install, relocate, redevelop, finance, operate, maintain, or provide: (a) any television relay and translation facilities and services, other than for the installation of conduit as a part of a street construction project; (b) any mosquito control facilities and services; and (c) any solid waste disposal, collection and transportation facilities and services, unless specifically provided for in a separate agreement with the Town.

5. Construction Standards. The District will ensure that the Public Improvements constructed by the District are designed and constructed in accordance with the standards and specifications of the Town and of federal and state governmental entities having proper jurisdiction. The District will obtain the Town's approval of civil engineering plans and will obtain applicable permits for construction and installation of Public Improvements prior to performing such work.

6. Issuance of Privately Placed Debt. Prior to the issuance of any privately placed Debt, the District shall obtain the certification of an External Financial Advisor substantially as follows:

We are [I am] an External Financial Advisor within the meaning of the District's Service Plan.

We [I] certify that (1) the net effective interest rate (calculated as defined in Section 32-1-103(12), C.R.S.) to be borne by the District for the [insert the designation of the Debt] does not exceed a market [tax-exempt] [taxable] interest rate, using criteria deemed appropriate by us [me] and based upon our [my] analysis of comparable high yield securities; and (2) the structure of [insert designation of the

Debt], including maturities and early redemption provisions, is reasonable considering the financial circumstances of the District.

7. Inclusion and Exclusion. The District shall not include into its boundaries any property without providing prior written notice to the Town. No property will be included within the District at any time unless such property has been annexed into the Town's corporate limits. The District may exclude from its boundaries any property within the District Boundaries. Any exclusion shall require the prior written notice to the Town. The District shall not exclude from its boundaries property upon which a Debt mill levy has been imposed for the purpose of the inclusion of such property into another district that has been or will be formed under the Special District Act, without the prior written consent of the Town, as evidenced by resolution of the Town Board of Trustees.

8. Total Debt Issuance. The District shall not issue Debt in excess of \$14,000,000. The debt issuance limitation shall not be applicable to refunding or refinancing of Debt authorized to be issued pursuant to the Service Plan unless the principal amount of the refunding bonds exceed the principal amount originally issued, in which case the difference shall count against the Total Debt Limit.. At no time during its existence may the District have Debt outstanding in excess of the Total Debt Limit.

9. Debt Proceeds Contribution. Within thirty (30) days of closing on the issuance of its general obligation indebtedness, the District shall transfer to the Town the Debt Proceeds Contribution for the purpose of paying for certain traffic calming improvements on Town owned and maintained streets.

10. Monies from Other Governmental Sources. The District shall not apply for or accept Conservation Trust Funds, Great Outdoors Colorado Funds, or other funds available from or through governmental or non-profit entities that the Town is eligible to apply for, except as may be specifically provided for herein. This Section shall not apply to specific ownership taxes which shall be distributed to and constitute a revenue source for the District without any limitation.

11. Fees. The District may impose and collect Fees for services, programs or facilities furnished by the District, and may from time to time increase or decrease such fees, and may use the revenue from such fees for the repayment of Debt, capital costs, or Operation and Maintenance Costs and for the payment of any indebtedness of the District.

12. Consolidation; Dissolution. The District shall not file a request with any Court to consolidate with another Title 32 district without the prior written consent of the Town, as evidenced by resolution of the Town Board of Trustees. The District agrees that it shall take all action necessary to dissolve the District in accordance with the provisions of the Service Plan and applicable state statutes.

13. Service Plan Amendment Requirement. Any action of the District which violates the limitations set forth in Sections V.A.1-24 or VI.B-H of the Service Plan, or which constitutes a material modification under the Town Code, shall be deemed to be a material modification to the Service Plan and the Town shall be entitled to all remedies available under State and local law to enjoin any such action(s) of the District. The Town may also seek damages for breach of this Agreement arising from violations by the District of any provision of the Service Plan.

14. Applicable Laws. The District acknowledges that the property within its boundaries shall be subject to all ordinances, rules and regulations of the Town, including without limitation, ordinances, rules and regulations relating to zoning, subdividing, building and land use, and to all related Town land use policies, master plans and related plans.

15. Annual Report. The District shall submit an annual report (“Annual Report”) to the Town no later than April 30th of each year following the year in which the Order and Decree creating the District has been issued, containing the information set forth in Section VII of the Service Plan.

16. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when given by hand delivery, overnight delivery, mailed by certified or registered mail, postage prepaid, delivered electronically (if confirmed promptly telephonically) or dispatched by telegram or telecopy (if confirmed promptly telephonically), addressed to the following address or at such other address or addresses as any party hereto shall designate in writing to the other party hereto:

To Town: Town of Firestone
151 Grant Ave.
Firestone, Colorado 80102
Attention: Town Manager

To District: Neighbors Point Metropolitan District
c/o White Bear Ankele Tanaka & Waldron
2154 East Commons Avenue, Suite 2000
Centennial, CO 80122
bdickhoner@wbapc.com

All notices, demands, requests or other communications shall be effective upon such personal delivery or one (1) business day after being deposited with Federal Express or other nationally recognized overnight air courier service or three (3) business days after deposit in the United States mail. By giving the other party hereto at least ten (10) days written notice thereof in accordance with the provisions hereof, each of the Parties shall have the right from time to time to change its address.

17. Miscellaneous.

- a. Effective Date. This Agreement shall be in full force and effect and be legally binding upon final approval of the governing bodies of the Parties.
- b. Non-assignability. No party to this Agreement may assign any interest therein to any person without the consent of the other party hereto at that time, and the terms of this Agreement shall inure to the benefit of and be binding upon the respective representatives and successors of each party hereto.
- c. Amendments. This Agreement may be amended from time to time by written amendment, duly authorized and signed by representatives of the parties hereto.
- d. Severability. If any section, subsection, paragraph, clause, phrase, or other provision of this Agreement shall for any reason be held to be invalid or unenforceable, the

invalidity or unenforceability of such section, subsection, paragraph, clause, phase, or other provision shall not affect any of the remaining provisions of this Agreement.

- e. Execution of Documents. This Agreement may be executed in two (2) counterparts, either of which shall be regarded for all purposes as one original. .
- f. Waiver. No waiver by either party of any term or condition of this Agreement shall be deemed or construed as a waiver of any other term or condition, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach, whether of the same or of a different provision of this Agreement.
- g. Default/Remedies. In the event of a breach or default of this Agreement by any party, the non-defaulting party shall be entitled to exercise all remedies available at law or in equity, specifically including suits for specific performance and/or monetary damages. In the event of any proceeding to enforce the terms, covenants or conditions hereof, the prevailing party in such proceeding shall be entitled to obtain as part of its judgment or award its reasonable attorneys' fees.
- h. Governing Law and Venue. This Agreement shall be governed and construed under the laws of the State of Colorado. Venue for all actions brought hereunder shall be in the District Court in and for Weld County.
- i. Inurement. Each of the terms, covenants and conditions hereof shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.
- j. Paragraph Headings. Paragraph headings are inserted for convenience of reference only.
- k. No Third Party Beneficiaries. No person or entity who or which is not a party to this Agreement will have any right of action under this Agreement.
- l. Entirety. This Agreement merges and supersedes all prior negotiations, representations, and agreements between the parties hereto relating to the subject matter hereof and this Agreement, which agreement serves to supplement the Service Plan and, along with the Service Plan, constitutes the entire agreement between the Parties concerning the subject matter hereof. Any previous intergovernmental agreements between the Parties concerning the subject matter hereof are superseded by this Agreement.

IN WITNESS WHEREOF, this Agreement is executed by the Town and the District as of the date first above written.

TOWN OF FIRESTONE, COLORADO

Drew Peterson, Mayor

ATTEST:

Jessica Koenig, Town Clerk

ATTEST:

NEIGHBORS POINT METROPOLITAN DISTRICT

By: _____
President

ATTEST:

By: _____
Secretary

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 8.b

Land Development

Meeting Date: June 8, 2022

Initiated By: Todd Bjerkaas

Dept: Planning & Development

AGENDA TITLE

Resolution 22-71: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND MIG, INC FOR PRELIMINARY SERVICES FOR THE DEVELOPMENT OF THE TOWN OF FIRESTONE COMPREHENSIVE MASTER PLAN

SUMMARY

This resolution authorizes the Mayor to sign a contract with the consultant, MIG, Inc., to provide preliminary services in preparation of the Town of Firestone Comprehensive Master Plan. The scope of this initial agreement for preliminary services provides the following benefits:

- 1) Authorizes the consultant to commence, prepare and attend several Town and Carbon Valley events in June and July to engage community members and stakeholders.
- 2) Provides the ability to gather and organize this initial input in order to narrow and refine the scope and fee for the remainder of the Comprehensive Master Plan process specifically tailored to the focus topics and areas identified.
- 3) The scope of these preliminary services is not duplicative or extraneous; this work would be performed as a part of a full scope of work for Comprehensive Master Plan consultant services.

HISTORY AND PREVIOUS BOARD ACTION

The current Town of Firestone Master Plan was adopted in 2013.

RECOMMENDATION

Staff recommends that the Town Board approve Resolution 22-77 authorizing the Mayor to enter into a contract for preliminary consulting services for the Town of Firestone Comprehensive Master Plan.

ALTERNATIVES

ATTACHMENTS

1. Resolution 22-71 Firestone Comprehensive Plan Agreement
2. Comprehensive Plan Agreement for Professional Services

FINANCIAL CONSIDERATIONS

The agreement includes an amount not to exceed \$33,410.00. The 2022 Budget includes \$336,480.00 for Technical Services.

RESOLUTION NO. 22-71

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF
FIRESTONE, COLORADO, APPROVING AN AGREEMENT BETWEEN THE
TOWN OF FIRESTONE AND MIG, INC. FOR PRELIMINARY SERVICES FOR
THE DEVELOPMENT OF THE TOWN OF FIRESTONE
COMPREHENSIVE MASTER PLAN**

WHEREAS, the Town of Firestone (“Town”) desires to engage MIG, Inc. (“Contractor”) for the purpose of providing preliminary services in developing a Comprehensive Master Plan for the Town of Firestone; and

WHEREAS, the Town finds that Contractor has the expertise, qualifications, and experience necessary to perform the duties required.

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

The Agreement between the Town of Firestone and MIG, Inc., for Professional Services, is approved in substantially the same form as the copy attached hereto and made a part of this resolution. The Mayor is authorized to execute the Agreement on behalf of the Town.

INTRODUCED, READ AND ADOPTED this 8th day of June, 2022.

TOWN OF FIRESTONE, COLORADO

Drew Alan Peterson, 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 8th day of June, 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 **MIG, Inc.**, an independent contractor with a principal place of business at 518 17th Street, Suite 630, Denver, Colorado 80202 ("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: **PRELIMINARY SERVICES FOR THE TOWN OF FIRESTONE COMPREHENSIVE MASTER PLAN (A2022-9910)**

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 \$33,410. 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

Drew Alan Peterson, Mayor

ATTEST:

Jessica Koenig, Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

CONTRACTOR

By: _____

NO EMPLOYEE AFFIDAVIT

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

1. Check and complete one:

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

OR

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

2. Check one.

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

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

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

OR

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

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

Signature

Date

DEPARTMENT PROGRAM AFFIDAVIT

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

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

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

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

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

Signature

Date

STATE OF COLORADO)

) ss.

COUNTY OF _____)

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

My commission expires:

(SEAL)

Notary Public



518 17th Street,
Ste 630
Denver, CO 80202
P (303) 440-9200
www.migcom.com

CALIFORNIA
BERKELEY, FULLERTON,
KENWOOD, LOS ANGELES,
PASADENA, RIVERSIDE,
SACRAMENTO AND SAN DIEGO

COLORADO
DENVER

OREGON
PORTLAND

TEXAS
SAN ANTONIO

WASHINGTON
SEATTLE

June 1, 2022

Todd Bjerkaas, PLA | Director of Planning & Development
Town of Firestone
9950 Park Ave, Firestone, CO 80504
tbjerkaas@firestoneco.gov

Re: MIG Preliminary Services for Town of Firestone Comprehensive Plan

Dear Todd,

Per our conversation on Friday, May 27th, we have developed an initial scope and fee for services associated with kick-off and project chartering of the Firestone Comprehensive Plan. The purpose of contracting for the preliminary services prior to agreeing to the overall scope, fee and schedule is twofold. First, there are community outreach opportunities within the next 4-12 weeks that will be a tremendous boon to the project's overall engagement efforts. Second, it will be helpful to collect initial input from key stakeholders and the broader community prior to confirming the overall scope of work and level of effort for each plan element and scope tasks. Preliminary tasks for preliminary services are summarized below and include an estimated fee for MIG labor and any associated expenses.

Firestone Comprehensive Plan Preliminary Services	Estimated Fee
Task 1: Kick-Off Meeting – MIG will convene a meeting with key Town staff (and potentially key stakeholders and decision makers) to confirm the expectations and schedule for the preliminary services. Topics covered at the kick-off meeting will also include: identification of stakeholders for interviews and focus groups; confirmation of community events for outreach; and planning for an initial website and social media presence.	\$1,120
Task 2: Data Request, Transfer and Review – MIG will work closely with the Town and its partners to gather pertinent data (spreadsheets, GIS information, etc.), drawings (CAD work, PDFs, etc.), plans, and studies. MIG will set up a file transfer site and review all data transferred to identify gaps and establish a foundation of understanding for the overall Comprehensive Plan effort. Task 2 also includes coordination with and accommodation of data needs with MIG subconsultants Bohannon Huston and Economic and Planning Systems, Inc.	\$6,290
Task 3: Stakeholder Interviews and Focus Groups – MIG will work with Town staff to identify and confirm a list of key stakeholders for one-on-one interviews and/or focus groups to conduct during June and July of 2022. The key findings from these discussions will be used to inform revisions to the Community Engagement Plan and the overall Scope of Work and fee for the Comprehensive Plan. MIG will conduct up to a total of 12 interviews and focus groups combined.	\$6,770
Task 4: Community Engagement Plan – MIG will develop a draft and final Community Engagement Plan (CEP) for the overall Comprehensive Plan with a particular focus on the summer of 2022. The CEP will include identification of key stakeholders, levels of engagement, key methods and milestones for engaging various stakeholders, questions to guide those conversations, and an overall schedule.	\$2,840

Task 5: Outreach Toolkit – MIG will develop an outreach toolkit for the preliminary services period throughout the summer of 2022. This will include posters, sign-up forms, up to two flyers, and at least three different engagement activities for use by MIG and Town staff at events and other intercept opportunities throughout the first few months of the project.	\$6,900
Task 6: Initial Community Outreach – MIG will lead intercept events at up to four of the following community events, including the June 17 th , July 15 th , and August 19 th Food & Flicks Fridays events; 4 th at Firestone on July 4 th , and the August 5 th Bite Club Series Event. MIG will also provide web-ready materials for the project background to help Town staff populate the Town's website and social media channels.	\$6,430
Task 7: Project Management and Coordination – MIG will participate in bi-weekly coordination calls with select Town staff, coordinate on key aspects of the preliminary services via phone, video conference and email, and create monthly invoices. This initial Project Management and Coordination task is estimated for a duration of 12 weeks.	\$3,060
Subtotal	\$33,410

As we discussed, this initial preliminary scope of work and fee is intended to help us get a quick start to the effort and utilize stakeholder and community input to define the overall scope of work. We look forward to continuing our work with the Town of Firestone. Please feel free to contact me with questions or additional information needed to craft and finalize this initial contract.

Sincerely,



Jay Renkens, AICP
Principal | Director of Denver Area Operations

MIG, Inc.

AGENDA INFORMATION MEMORANDUM

FIRESTONE TOWN BOARD OF TRUSTEES



AIM#: 9.a

Discussion/Action

Meeting Date: June 8, 2022

Initiated By: Julie Pasillas

Dept: Public Works

AGENDA TITLE

Resolution 22-72: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING A CONSTRUCTION CONTRACT BETWEEN THE TOWN OF FIRESTONE AND A-1 CHIPSEAL COMPANY FOR CHIPSEAL SERVICES IN THE ST VRAIN RANCH AND RIDGE CREST SUBDIVISIONS

SUMMARY

In the interest of the Town's pavement preservation program, it has been determined that certain subdivisions warrant a chip seal application to help extend the life of the roadways. Failure to perform this treatment could cost the Town more in the future if the road conditions worsen prematurely. In April, staff prepared and advertised an RFP for this project. The work which the RFP consisted of is the chip sealing of St Vrain Ranch, Ridgecrest, Sagebrush, and Stoneridge subdivisions with the replacement of any and all of the Epoxy Pavement striping and Thermoplastics markings. The Town received two bids in total. As part of the bid review, staff evaluated the responses and alternatives requested in the RFP. Due to the amount bid for each subdivision and the adopted CIP budget for Pavement Maintenance, only two of the four subdivisions could be completed in 2022. St. Vrain Ranch and Ridgecrest combined pricing is within the budgeted amount for 2022. Sagebrush and Stone Ridge will be on this list for 2023. A-ONE Chipseal was selected as the winning bidder for this project; they were the low bidder as a result of a base price and selected alternates.

HISTORY AND PREVIOUS BOARD ACTION

During the 2022 budget work sessions with the Board of Trustees, staff presented this project as part of the CIP for pavement maintenance.

RECOMMENDATION

Staff recommends that the Board approve Resolution 22-72, a resolution approving the Construction Services Agreement between the Town of Firestone and A-ONE Chipseal Company for the chip sealing of the St Vrain Ranch and Ridgecrest subdivisions.

ALTERNATIVES

The Board may choose not to approve Resolution 22-72 and provide staff with additional direction.

ATTACHMENTS

1. Res No 22-72 CONSTRUCTION CONTRACT BETWEEN THE TOWN OF FIRESTONE AND A-ONE CHIPSEAL COMPANY
2. Construction Bid and Construction Contract-Chip seal program-Signed
3. StVrainRanch
4. Ridgecrest
5. Bid Tabulation-2022 Chip Seal Program

FINANCIAL CONSIDERATIONS

The agreement includes an amount not to exceed \$700,000.56. Sufficient funds have been budgeted and appropriated to the Capital Project Fund for Pavement Maintenance.

RESOLUTION NO. 22-72

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE,
COLORADO, APPROVING A CONSTRUCTION CONTRACT BETWEEN THE TOWN
OF FIRESTONE AND A-1 CHIPSEAL COMPANY FOR CHIPSEAL SERVICES IN
THE ST VRain RANCH AND RIDGE CREST SUBDIVISIONS**

WHEREAS, the Town of Firestone ("Town") is in need of chipseal services for the St. Vrain Ranch and Ridgecrest Subdivisions Project; and

WHEREAS, the Town issued an invitation for bids for the work and upon review of those submitted selected A-1 Chipseal Company as the lowest responsive and responsible bidder.

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

The Construction Contract between the Town of Firestone and A-1 Chipseal Company for the St. Vrain Ranch and Ridge Crest Subdivisions Project is approved in substantially the same form as the copy attached hereto and made a part of this resolution and the Mayor is authorized to execute the Contract on behalf of the Town.

INTRODUCED, READ AND ADOPTED this 8th day of June, 2022.

TOWN OF FIRESTONE, COLORADO

Drew Alan Peterson, Mayor

ATTEST:

Jessica Koenig, CMC, Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

CONSTRUCTION CONTRACT

THIS CONSTRUCTION CONTRACT (the "Construction Contract" or "Agreement") is made and entered into this 8th day of June, 2022 (the "Effective Date"), by and between the **TOWN OF FIRESTONE**, a Colorado municipal corporation with an address of 9950 Park Avenue, Firestone, Colorado 80504 (the "Town" or the "Owner"), and **A ONE CHIPSEAL COMPANY** an independent contractor with a principal place of business at 2505 E 74th Ave Denver, Colorado 80229 ("Contractor") (each a "Party" and collectively the "Parties").

WHEREAS, the Town requires services; and

WHEREAS, Contractor has been found by the Town as having the expertise and experience to perform the required services:

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

I. SCOPE OF WORK

A. Contractor shall complete all Work and perform all Services which are described or reasonably implied from the Scope of Work set forth in Exhibit A and the Contract Documents, attached hereto and incorporated herein by this reference and known as: **2022 Chipseal Program (\$2022-9229)**

A-ONE CHIPSEAL COMPANY

B. A change in the Scope of work shall not be effective unless authorized as a written amendment to this Agreement or change order in accordance with the Contract Documents. If Contractor proceeds without such written authorization, Contractor shall be deemed to have waived any claim for additional compensation, including a claim based on the theory of unjust enrichment, quantum 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.

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

II. Reserve

III. CONTRACT TIMES: COMMENCEMENT AND COMPLETION OF WORK

A. The Work shall be substantially completed within 90 days of the Effective Date of this contract, and shall continue until Contractor completes the Scope of Services to the satisfaction of the Town, or until terminated as provided herein.

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

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

IV. COMPENSATION

In consideration for the completion of the Work by Contractor, the Town shall pay Contractor, subject to all of the terms and conditions of the Contract Documents, an amount not to exceed **\$700,000.56** (the "Contract Price"). The Contract Price shall include all fees, costs and expenses incurred by Contractor, and no additional amounts shall be paid by the Town for such fees, costs and expenses.

V. PAYMENT PROCEDURES

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

VI. RESPONSIBILITY

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

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

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

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

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

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

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

VII. OWNERSHIP

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

VIII. INDEPENDENT CONTRACTOR

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

IX. INSURANCE

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

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

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

B. Such insurance shall be in addition to any other insurance requirements imposed by law. The coverages afforded under the policies shall not be canceled, terminated or materially changed without at least 30 days prior written notice to the Town. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage. Any insurance carried by the Town, its officers, its employees, or its contractors shall be excess and not contributory insurance to that provided by Contractor. Contractor shall be solely responsible for any deductible losses under any policy.

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

X. INDEMNIFICATION

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

XI. WORKERS WITHOUT AUTHORIZATION

A. Certification. By entering into this Construction Contract, Contractor hereby certifies that, at the time of this certification, it does not knowingly employ or contract with a worker without authorization, as that term is defined in C.R.S. § 8-17.5-101(9), as amended, who will perform work under this Construction

Contract and that Contractor will participate in either the E-Verify Program administered by the U.S. Department of Homeland Security and Social Security Administration or the Department Program administered by the Colorado Department of Labor and Employment to confirm the employment eligibility of all employees who are newly hired to perform work under this Construction Contract.

B. Prohibited Acts. Contractor shall not knowingly employ or contract with a worker without authorization, as that term is defined in C.R.S. § 8-17.5-101(9), as amended, to perform work under this Construction Contract, or enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with a worker without authorization, as that term is defined in C.R.S. § 8-17.5-101(9), as amended, to perform work under this Construction Contract.

C. Verification.

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

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

3. If Contractor obtains actual knowledge that a subcontractor performing work under this Construction Contract knowingly employs or contracts with a worker without authorization, as that term is defined in C.R.S. § 8-17.5-101(9), as amended, who is performing work under this Construction Contract, Contractor shall: notify the subcontractor and the Town within 3 days that Contractor has actual knowledge that the subcontractor is employing or contracting with a worker without authorization, as that term is defined in C.R.S. § 8-17.5-101(9), as amended, who is performing work under this Construction Contract; and terminate the subcontract with the subcontractor if within 3 days of receiving the notice required pursuant to subsection 3 hereof, the subcontractor does not stop employing or contracting with the worker without authorization who is performing work under this Construction Contract; except that Contractor shall not terminate the subcontract if during such 3 days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with a worker without authorization, as that term is defined in C.R.S. § 8-17.5-101(9), as amended, who is performing work under this Construction Contract.

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

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

XII. CONTRACT DOCUMENTS

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

A. Exhibit to this Construction Contract:

1. Exhibit A: Scope of Work.
2. Exhibit B: Unit-Price Bid Form.

B. Performance Bond and Labor & Material Payment Bond.

C. Notice of Award.

D. Notice to Proceed.

E. "Specifications" bearing the title: _____.

F. "Drawings" consisting of _____.

G. Addendum numbers:

1. Addendum #1: _____.
2. Addendum #2: _____.

H. The following which may be delivered or issued after the Effective Date of the Construction Contract and are attached hereto: All written amendments and other documents amending, modifying, or supplementing of the Contract Documents.

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

XIII. MISCELLANEOUS

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

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

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

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

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

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

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

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

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

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

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

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

TOWN OF FIRESTONE, COLORADO

Drew Peterson, Mayor

ATTEST:

Jessica Koenig CMC, Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

A-ONE Chipseal

By:

Daniel J. Gryzmala, President

STATE OF COLORADO)

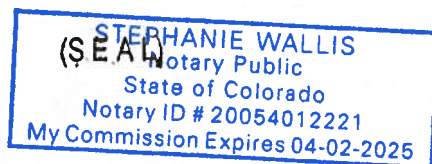
) ss.

COUNTY OF Colorado)



The foregoing instrument was subscribed, sworn to and acknowledged before me this 19 day of May, 2022, by Daniel J. Gryzmala as President of A-1 Chipseal Co.

My commission expires: 04-02-2025



Stephanie Wallis
Notary Public

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, Daniel J. Gryzmala, 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

Daniel J. Gryzmala, President

5/19/2022

Date

STATE OF COLORADO)

) ss.

COUNTY OF

Adams)

The foregoing instrument was subscribed, sworn to and acknowledged before me this 19 day of May, 2022, by Daniel J. Gryzmala as President of

My commission expires: 4-02-2025

(SEAL)

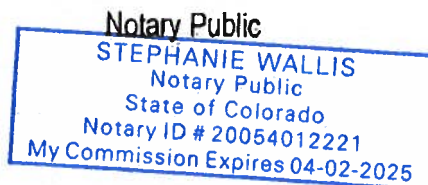


EXHIBIT A SCOPE OF WORK

Contractor's Duties

During the term of this Construction Contract, Contractor shall perform the following duties, as directed by the Town: **2022 Chipseal Program (S2022-9229)**

- Contractor shall Chip seal St Vrain Ranch and Ridgecrest subdivisions.
- The Town will do pothole patching and any cracksealing repairs as needed before the contractor starts.
- Contractor shall restripe roadways.
- Contractor shall reinstall all thermoplastic markings.
- Work to start no later than 6/20/2022 Substantial completion in 90 days full completion in 120.
- Contractor shall provide and maintain all traffic control devices and measures for the project as well as all resident notification.
- All Towns standards and specifications to be followed to include the procedures outlined in the Towns Street, Curb and gutter maintenance/Replacement SOP to ensure stormwater compliance including installation and maintenance of stormwater control measures.
<https://www.firestoneco.gov/DocumentCenter/View/6348/Section-500---Roadway--Asphalt-Design?bidId=>

UNIT-PRICE BID FORM
2022 Chip Seal Program (S2022-9229)

Item Description	Quantity	Unit of Measurement	Unit Price	Extended Cost
Chip Seal- St Vrain Ranch Subdivision	Sqy	Approx. 111,324	\$ 3.47	\$ 386,294.28
Epoxy Pavement Markings	Replace existing markings.	LS	\$ 8,665.00	\$ 8,665.00
Thermoplastic Pavement Markings	Replace existing markings.	LS	\$ 13,362.00	\$ 13,362.00
Traffic Control and Resident Notification		LS	\$ 5,000.00	\$ 5,000.00
Stormwater BMP Compliance		LS	\$ 2,000.00	\$ 2,000.00
			TOTAL	\$ 415,321.28
Unit Price for Crack Mitigation	Ton	50	\$ 5,495.00	\$ 274,750.00
Unit Price for Pot Hole Repair	Ton	25	\$ 1,500.00	\$ 37,500.00
Item Description	Quantity	Unit of Measurement	Unit Price	Extended Cost
Chip Seal- Ridgecrest Subdivision	Sqy	Approx. 70,024	\$ 3.47	\$ 242,983.28
Epoxy Pavement Markings	Replace existing markings.	LS	\$ 8,090.00	\$ 8,090.00
Thermoplastic Pavement Markings	Replace existing markings.	LS	\$ 15,275.00	\$ 15,275.00
Traffic Control and Resident Notification		LS	\$ 5,000.00	\$ 5,000.00
Stormwater BMP Compliance		LS	\$ 2,000.00	\$ 2,000.00
			TOTAL	\$ 273,348.28
Unit Price for Crack Mitigation	Ton	50	\$ 5,495.00	\$ 274,750.00
Unit Price for Pot Hole Repair	Ton	25	\$ 1,500.00	\$ 37,500.00

PERFORMANCE BOND

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONTRACTOR (*Name and Address*):

A-1 Chipseal Company
2505 E. 74th Avenue
Denver, CO 80229

SURETY (*Name, and
Address of Principal Place of
Business*):

Western Surety Company
151 N. Franklin Street
Chicago, IL 60606

OWNER (*Name and Address*):

Town of Firestone
151 Grant Avenue (P.O. Box 100)
Firestone, CO 80520

CONTRACT

Effective Date of Agreement: (Date the Agreement is Signed by Firestone) June 8th, 2022

Amount: Seven Hundred Thousand and 56/100---(\$700,000.56)

Description (*Name and Location*):

BOND 2022 Chipseal Program - (S2022-9229) Firestone, CO

Bond Number: 30159576

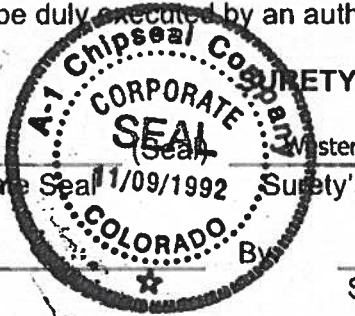
Date (*Not earlier than Effective Date of
Agreement*): June 8th, 2022

Amount: Seven Hundred Thousand and 56/100---(\$700,000.56)

Modifications to this Bond Form: None

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Performance Bond to be duly executed by an authorized officer, agent or representative.

CONTRACTOR AS PRINCIPAL



A-1 Chipseal Company

Western Surety Company

(Seal)

Contractor's Name and Corporate Seal

Surety's Name and Corporate Seal

By:

Signature

Signature (Attach Power of Attorney)

Daniel J Gryzmala
Print Name

Jody L. Anderson
Print Name

President
Title

Attorney-In-Fact
Title

Attest:

Signature

Attest:

Signature

Corporate Secretary
Title

Witness
Title

Note: Provide execution by additional parties, such as joint venturers, if necessary.

Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to Owner for the performance of the Contract, which is incorporated herein by reference.

1. If Contractor performs the Contract, Surety and Contractor have no obligation under this Bond, except to participate in conferences as provided in Paragraph 2.1.
2. If there is no Owner Default, Surety's obligation under this Bond shall arise after:
 - 2.1 Owner has notified Contractor and Surety, at the addresses described in Paragraph 9 below, that Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with Contractor and Surety to be held not later than 15 days after receipt of such notice to discuss methods of performing the Contract. If Owner, Contractor and Surety agree, Contractor shall be allowed a reasonable time to perform the Contract, but such an agreement shall not waive Owner's right, if any, subsequently to declare a Contractor Default; and
 - 2.2 Owner has declared a Contractor Default and formally terminated Contractor's right to complete the Contract. Such Contractor Default shall not be declared earlier than 20 days after Contractor and Surety have received notice as provided in Paragraph 2.1; and
 - 2.3 Owner has agreed to pay the Balance of the Contract Price to:
 1. Surety in accordance with the terms of the Contract; or
 2. Another contractor selected pursuant to Paragraph 3.3 to perform the Contract.

3. When Owner has satisfied the conditions of Paragraph 2, Surety shall promptly, and at Surety's expense, take one of the following actions:
 - 3.1 Arrange for Contractor, with consent of Owner, to perform and complete the Contract; or
 - 3.2 Undertake to perform and complete the Contract itself, through its agents or through independent contractors; or
 - 3.3 Obtain bids or negotiated proposals from qualified contractors acceptable to Owner for a contract for performance and completion of the Contract, arrange for a contract to be prepared for execution by Owner and contractor selected with Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Contract and pay to Owner the amount of damages as described in Paragraph 5 in excess of the Balance of the Contract Price incurred by Owner resulting from Contractor Default; or
 - 3.4 Waive its right to perform and complete, arrange for completion or obtain a new contractor, and with reasonable promptness under the circumstances:
 1. After investigation, determine the amount for which it may be liable to Owner and, as soon as practicable after the amount is determined, tender payment therefore to Owner; or
 2. Deny liability in whole or in part and notify Owner citing reasons therefore.
4. If Surety does not proceed as provided in Paragraph 3 with reasonable promptness, Surety shall be deemed to be in default on this Bond 15 days after receipt of an additional written notice from Owner to Surety demanding that Surety perform its obligations under this Bond, and Owner shall be entitled to enforce any remedy available to Owner. If Surety proceeds as provided in Paragraph 3.4, and Owner refuses the payment tendered or Surety has denied liability, in whole or in part, without further notice Owner shall be entitled to enforce any remedy available to Owner.
5. After Owner has terminated Contractor's right to complete the Contract, and if Surety elects to act under Paragraph 3.1, 3.2 or 3.3 above, then the responsibilities of Surety to Owner shall not be greater than those of Contractor under the Contract, and the responsibilities of Owner to Surety shall not be greater than those of Owner under the Contract. To the limit of the amount of this Bond, but subject to commitment by Owner of the Balance of the Contract Price to mitigation of costs and damages on the Contract, Surety is obligated without duplication for:
 - 5.1 The responsibilities of Contractor for correction of defective Work and completion of the Contract;
 - 5.2 Additional legal, design professional and delay costs resulting from Contractor's Default, and resulting from the actions of or failure to act of Surety under Paragraph 3; and
 - 5.3 Liquidated damages, or if no liquidated damages are specified in the Contract, actual damages caused by delayed performance or non-performance of Contractor.
6. Surety shall not be liable to Owner or others for obligations of Contractor that are unrelated to the Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than Owner or its heirs, executors, administrators or successors.
7. Surety hereby waives notice of any change, including changes of time, to Contract or to related

subcontracts, purchase orders and other obligations.

8. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the Work or part of the Work is located, and shall be instituted within two years after Contractor Default or within two years after Contractor ceased working or within two years after Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
9. Notice to Surety, Owner or Contractor shall be mailed or delivered to the address shown on the signature page.
10. When this Bond has been furnished to comply with a statutory requirement in the location where the Contract was to be performed, any provision in this Bond conflicting with said statutory requirement shall be deemed deleted herefrom and provisions conforming to such statutory requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

11. Definitions.

- 11.1 Balance of the Contract Price: The total amount payable by Owner to Contractor under the Contract after all proper adjustments have been made, including allowance to Contractor of any amounts received or to be received by Owner in settlement of insurance or other Claims for damages to which Contractor is entitled, reduced by all valid and proper payments made to or on behalf of Contractor under the Contract.
- 11.2 Contract: The agreement between Owner and Contractor identified on the signature page, including all Contract Documents and changes thereto.
- 11.3 Contractor Default: Failure of Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Contract.
- 11.4 Owner Default: Failure of Owner, which has neither been remedied nor waived, to pay Contractor as required by the Contract or to perform and complete or otherwise comply with the other terms thereof.

FOR INFORMATION ONLY – (Name, Address and Telephone)

Surety Agency or Broker:

Moody Insurance Agency, Inc., 8055 E. Tufts Avenue, #1000, Denver, CO 80237 - 303-824-6600

Owner's Representative (*Engineer or other party*):

PAYMENT BOND

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONTRACTOR (*Name and Address*):

A-1 Chipseal Company
2505 E. 74th Avenue
Denver, CO 80229

SURETY (*Name, and
Address of Principal Place
of Business*):

Western Surety Company
151 N. Franklin Street
Chicago, IL 60606

OWNER (*Name and Address*):

Town of Firestone
151 Grant Avenue (P.O. Box 100)
Firestone, Colorado 80520

CONTRACT

Effective Date of Agreement: Date the Agreement is signed by Firestone June 8th, 2022

Amount: Seven Hundred Thousand and 56/100—(\$700,000.56)

Description (*Name and Location*):

2022 Chipseal Program (S2022-9229) Firestone, CO

BOND

Bond Number: 30159576

Date (*Not earlier than Effective Date of
Agreement*): June 8th, 2022

Amount: Seven Hundred Thousand and 56/100---(\$700,000.56)

Modifications to this Bond Form: None

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Payment Bond to be duly executed by an authorized officer, agent or representative.

CONTRACTOR AS PRINCIPAL SURETY

A-1 Chipseal Company Contractor's Name and Corporate Seal By: <u>[Signature]</u> Signature <u>Daniel J. Gryzmala</u> Print Name <u>President</u> Title Attest: <u>[Signature]</u> Signature <u>Corporate Secretary</u> Title	Western Surety Company Surety's Name and Corporate Seal By: <u>[Signature]</u> Signature (Attach Power of Attorney) <u>Jody L. Anderson</u> Print Name <u>Attorney-In-Fact</u> Title Attest: <u>[Signature]</u> Signature <u>Witness</u> Title
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Note: Provide execution by additional parties, such as joint venturers, if necessary.

1. Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to Owner to pay for labor, materials and equipment furnished by Claimants for use in the performance of the Contract, which is incorporated herein by reference.
2. With respect to Owner, this obligation shall be null and void if Contractor:
 - 2.1 Promptly makes payment, directly or indirectly, for all sums due Claimants, and
 - 2.2 Defends, indemnifies and holds harmless Owner from all claims, demands, liens or suits alleging non-payment by Contractor by any person or entity who furnished labor, materials or equipment for use in the performance of the Contract, provided Owner has promptly notified Contractor and Surety (at the addresses described in Paragraph 12) of any claims, demands, liens or suits and tendered defense of such claims, demands, liens or suits to Contractor and Surety, and provided there is no Owner Default.
3. With respect to Claimants, this obligation shall be null and void if Contractor promptly makes payment, directly or indirectly, for all sums due.
4. Surety shall have no obligation to Claimants under this Bond until:
 - 4.1 Claimants who are employed by or have a direct contract with Contractor have given notice to Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.
 - 4.2 Claimants who do not have a direct contract with Contractor:

1. Have furnished written notice to Contractor and sent a copy, or notice thereof, to Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials or equipment were furnished or supplied, or for whom the labor was done or performed; and
 2. Have either received a rejection in whole or in part from Contractor, or not received within 30 days of furnishing the above notice any communication from Contractor by which Contractor had indicated the claim will be paid directly or indirectly; and
 3. Not having been paid within the above 30 days, have sent a written notice to Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to Contractor.
5. If a notice by a Claimant required by Paragraph 4 is provided by Owner to Contractor or to Surety, that is sufficient compliance.
 6. When a Claimant has satisfied the conditions of Paragraph 4, the Surety shall promptly and at Surety's expense take the following actions:
 - 6.1 Send an answer to that Claimant, with a copy to Owner, within 45 days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.
 - 6.2 Pay or arrange for payment of any undisputed amounts.
 7. Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by Surety.
 8. Amounts owed by Owner to Contractor under the Contract shall be used for the performance of the Contract and to satisfy claims, if any, under any performance bond. By Contractor furnishing and Owner accepting this Bond, they agree that all funds earned by Contractor in the performance of the Contract are dedicated to satisfy obligations of Contractor and Surety under this Bond, subject to Owner's priority to use the funds for the completion of the Work.
 9. Surety shall not be liable to Owner, Claimants or others for obligations of Contractor that are unrelated to the Contract. Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of or otherwise have obligations to Claimants under this Bond.
 10. Surety hereby waives notice of any change, including changes of time, to the Contract or to related subcontracts, purchase orders and other obligations.
 11. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the Work or part of the Work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Paragraph 4.1 or Paragraph 4.2.3, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

12. Notice to Surety, Owner or Contractor shall be mailed or delivered to the addresses shown on the signature page. Actual receipt of notice by Surety, Owner or Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.
13. When this Bond has been furnished to comply with a statutory requirement in the location where the Contract was to be performed, any provision in this Bond conflicting with said statutory requirement shall be deemed deleted herefrom and provisions conforming to such statutory requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory Bond and not as a common law bond.
14. Upon request of any person or entity appearing to be a potential beneficiary of this Bond, Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.
15. Definitions

- 15.1 Claimant: An individual or entity having a direct contract with Contractor, or with a first-tier subcontractor of Contractor, to furnish labor, materials or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Contract, architectural and engineering services required for performance of the Work of Contractor and Contractor's subcontractors and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.
- 15.2 Contract: The agreement between Owner and Contractor identified on the signature page, including all Contract Documents and changes thereto.
- 15.3 Owner Default: Failure of Owner, which has neither been remedied nor waived, to pay Contractor as required by the Contract, or to perform and complete or otherwise comply with the other terms thereof.

FOR INFORMATION ONLY – (Name, Address, and Telephone)

Surety Agency or Broker:

Moody Insurance Agency, Inc., 8055 E. Tufts Avenue, #1000, Denver, CO 80237 - 303-824-6600

Owner's Representative (Engineer or other):

Western Surety Company

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Jody L Anderson, Evan E Moody, Karen A Feggestad, Tina Marie Post, Bradley J Moody, Andrew J Waterbury, Elizabeth Ostblom, Individually

of Denver, CO, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 22nd day of December, 2021.



WESTERN SURETY COMPANY

Paul T. Bruflat, Vice President

State of South Dakota }
County of Minnehaha } ss

On this 22nd day of December, 2021, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires

March 2, 2026



M. Bent, Notary Public

CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 8th day of June, 2022.



WESTERN SURETY COMPANY

L. Nelson, Assistant Secretary

Authorizing By-Law

ADOPTED BY THE SHAREHOLDERS OF WESTERN SURETY COMPANY

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the shareholders of the Company.

Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, and Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

05/19/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Moody Insurance Agency, Inc. 8055 East Tufts Avenue Suite 1000 Denver CO 80237	CONTACT NAME: Moody Insurance Agency PHONE (A/C, No, Ext): (303) 824-6600 E-MAIL ADDRESS: certrequest@moodyins.com FAX (A/C, No): (303) 370-0118																					
INSURED A-1 Chipseal Company, DBA: Rocky Mountain Pavement, LLC 2505 E. 74th Ave Denver CO 80229	<table><tr><th colspan="2">INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr><tr><td>INSURER A:</td><td>Selective Insurance Co of America</td><td>12572</td></tr><tr><td>INSURER B:</td><td>Pinnacol Assurance</td><td>41190</td></tr><tr><td>INSURER C:</td><td>Evanston Insurance Company</td><td>35378</td></tr><tr><td>INSURER D:</td><td></td><td></td></tr><tr><td>INSURER E:</td><td></td><td></td></tr><tr><td>INSURER F:</td><td></td><td></td></tr></table>	INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A:	Selective Insurance Co of America	12572	INSURER B:	Pinnacol Assurance	41190	INSURER C:	Evanston Insurance Company	35378	INSURER D:			INSURER E:			INSURER F:		
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INSURER D:																						
INSURER E:																						
INSURER F:																						

COVERAGES**CERTIFICATE NUMBER:** 22/23 Master**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PROJECT ☐ LOC OTHER:	Y		S2501487	02/01/2022	02/01/2023	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COM/PIOP AGG \$ 2,000,000
A	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ HIRED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ NON-OWNED AUTOS ONLY	Y		S2501487	02/01/2022	02/01/2023	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	☒ UMBRELLA LIAB ☐ EXCESS LIAB DED ☒ RETENTION \$ 0			S2501487	02/01/2022	02/01/2023	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000
B	☒ WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	4055760	02/01/2022	02/01/2023	☒ PER STATUTE ☐ OTHER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000
C	Pollution Liability			CPLMOL105319	02/01/2021	02/01/2023	Each Occurrence Limit \$5,000,000 Aggregate Limit \$5,000,000 Deductible \$10,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Re: 2022 Chipseal S2022-9229- Various locations within Town Limits

CERTIFICATE HOLDER**CANCELLATION**Town of Firestone
9950 Park Avenue

Firestone

CO 80504

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Moody Insurance Agency

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AGENCY CUSTOMER ID: _____

LOC #: _____

ADDITIONAL REMARKS SCHEDULE

Page ____ of ____

AGENCY Moody Insurance Agency, Inc.		NAMED INSURED A-1 Chipseal Company, DBA: Rocky Mountain Pavement, LLC	
POLICY NUMBER			
CARRIER	NAIC CODE	EFFECTIVE DATE:	

ADDITIONAL REMARKS**THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,****FORM NUMBER:** 25 **FORM TITLE:** Certificate of Liability Insurance: Notes**CONTRACTUAL LIABILITY APPLIES PER POLICY TERMS AND CONDITIONS****Additional Named Insureds:**

A-1 Chipseal Company
DBA Rocky Mountain Pavement, LLC
Black Rock Material & Supply, LLC

Location Schedule:

2505 E. 74th Avenue, Denver, CO 80229
7231 Cole VW, Colorado Springs, CO 80915
7520 & 7560 Space Village Avenue, Colorado Springs, CO 80929
1100 Harlem, Pueblo CO 81001
10800 Highway 90, Arvada CO 80007

Inland Marine Policy:

Policy Number: S2501487
Policy Effective Dates: 2-1-2022 to 2-1-2023
Insurer: Selective Insurance Company of America
Total Combined Scheduled Contractor's Equipment Value: \$6,893,372
Scheduled Contractor's Equipment Deductible: \$10,000
Leased & Rented Equipment From Others Limit: \$1,000,000

General Liability Policy:

General Liability Deductible: \$2,000
CG 73 00 01/19 From Attached Includes:
Blanket Additional Insured status applies only to the extent provided in form CG 79 88 01/19.
Blanket Waiver of Subrogation applies only to the extent provided in from CG 73 00 01/19.
General Liability Policy is Primary and Non-Contributory only to the extent provided in form CG 79 88 01/19.

Auto Liability Policy:

Physical Damage Deductibles: Comprehensive: \$2,500, Collision: \$2,500
CA 78 09 / From Attached Includes:
Blanket Additional Insured status applies only to the extent provided in form CA 78 09 11/17.
Blanket Waiver of Subrogation applies only to the extent provided in from CA 78 09 11/17.

Umbrella Policy:

Umbrella Policy is on a follow(1) form basis for underlying insurance coverages: General Liability, Automobile Liability, and Employers Liability.
Additional insured status will follow when required by written contract, including Primary and Non-Contributory Status.

Worker's Compensation Policy:

359-B Form Attached Includes:
Blanket Waiver of Subrogation status applies when required by written contract.

****Please Note Hard Copies of Endorsement will not be sent out via mail. All Endorsements will only be sent electronically via email. Please send your email address to certrequest@moodyins.com for forms and future mailings****

NCCI #: WC000313B
Policy #: 4055760

A-1 Chipseal Company dba Rocky Mounta
Rocky Mountain Pavement LLC
2505 E 74th Ave
Denver, CO 80229

Moody Insurance Agency Inc
8055 E. Tufts Ave
Ste 1000
Denver, CO 80237
(303) 824-6600

ENDORSEMENT: Blanket Waiver of Subrogation

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

SCHEDULE

To any person or organization when agreed to under a written contract or agreement, as defined above and with the insured, which is in effect and executed prior to any loss.

Effective Date: February 1, 2022 Expires on: February 1, 2023
Pinnacol Assurance has issued this endorsement January 26, 2022

Contracting, Installation, Service and Repair General Liability Extended ElitePac® Endorsement

COMMERCIAL GENERAL LIABILITY
CG 79 88 01 19

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

1. BLANKET ADDITIONAL INSURED

a. Ongoing Operations

SECTION II — WHO IS AN INSURED is amended to include as an additional insured:

1. Any person or organization for whom you are performing operations when you and such person or organization have agreed in a written contract, written agreement or written permit that such person or organization be added as an additional insured on your commercial general liability policy; and
2. Any other person or organization, including any architects, engineers or surveyors not engaged by you, whom you are required to add as an additional insured under your policy in the contract or agreement in Paragraph 1. above;

Such person or organization is an additional insured only with respect to liability arising out of your ongoing operations performed under that contract, agreement, or permit when that contract, agreement, or permit requires the additional insured be added with respect to liability arising out of your ongoing operations.

If the written contract, written agreement, or written permit does not require that the additional insured be added with respect to liability arising out of your ongoing operations, then such person or organization is an additional insured only with respect to "bodily injury", "property damage" or "personal and advertising injury" caused in whole or in part by your ongoing operations performed under that contract, agreement, or permit.

b. Completed Operations

SECTION II — WHO IS AN INSURED is amended to include as an additional insured:

1. Any person or organization for whom you are performing or have performed operations when you and such person or organization have agreed in a written contract, written agreement or written permit that such person or organization be added as an additional insured on your commercial general liability policy; and
2. Any other person or organization, including any architects, engineers or surveyors not engaged by you, whom you are required to add as an additional insured under your policy in the contract or agreement in Paragraph 1. above;

Such person or organization is an additional insured only with respect to their liability arising out of "your work" performed under that contract, agreement, or permit and included in the "products-completed operations hazard" when that contract, agreement, or permit requires the additional insured be added with respect to liability arising out of "your work" performed under that contract, agreement, or permit and included in the "products-completed operations hazard".

If the written contract, written agreement, or written permit does not require that the additional insured be added with respect to liability arising out of "your work" performed under that contract, agreement, or permit and included in the "products-completed operations hazard", then such person or organization is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by "your work" performed under that contract, agreement, or permit and included in the "products-completed operations hazard".

- c. The coverages provided in Paragraphs a. and b. do not apply unless the written contract or written agreement has been signed by the Named Insured or written permit issued prior to the "bodily injury", "property damage" or "personal and advertising injury".

d. Exclusions

- (1) With respect to the insurance afforded to additional insureds under **a. Ongoing Operations** the following is added to **2. Exclusions** under **SECTION I — COVERAGE A — BODILY INJURY AND PROPERTY DAMAGE LIABILITY**:

This insurance does not apply to "bodily injury", "property damage", or "personal and advertising injury" occurring after:

- (a) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the site of the covered operations has been completed; or
- (b) That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.
- (2) With respect to the insurance afforded to these additional insureds under **a. Ongoing Operations** and **b. Completed Operations**, the following is added to **2. Exclusions** under **SECTION I — COVERAGE A — BODILY INJURY AND PROPERTY DAMAGE LIABILITY**:

This insurance does not apply to:

"Bodily injury", "property damage", or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

- (a) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
- (b) Supervisory, inspection, architectural or engineering activities.

e. Conditions

With respect to the insurance afforded to these additional insureds under **a. Ongoing Operations** and **b. Completed Operations** the following is added to Paragraph 4. **Other Insurance, a. Primary Insurance** under **SECTION IV — COMMERCIAL GENERAL LIABILITY CONDITIONS**:

This insurance is primary and will not contribute with any other insurance available to an additional insured under this coverage part provided that:

- (1) The additional insured is a Named Insured under such other insurance.
- (2) You have agreed in a written contract, written agreement or written permit to include that additional insured on your General Liability policy on a primary and/or non-contributory basis.

2. PROPERTY DAMAGE CARE, CUSTODY OR CONTROL

The following is added to **Exclusion j.** under **SECTION I — COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY**:

Paragraphs (4) and (5) do not apply for the limited purpose of providing the coverage and sub-limits of liability as set forth below.

We will pay those sums that the insured becomes legally obligated to pay as damages arising out of "property damage" to:

- (1) Personal property in the care, custody or control of the insured; and

- (2) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations.

The most we will pay under (1) and (2) above in any one "occurrence" or for all damages during any one policy period is a sub-limit of \$100,000.

These limits are included in and not in addition to the Limits of Insurance shown in the Declarations of the Commercial General Liability Policy.

Our right and duty to defend the insured against any "suit" for damages under (1) and (2) above ends when we have used up the applicable sub-limit of liability in the payment of judgments or settlements under it.

3. OTHER INSURANCE AMENDMENT — SUPPLEMENTAL COVERAGE FOR INSURED'S INVOLVEMENT IN A CONSOLIDATED (WRAP-UP) IN SURANCE PROGRAM OR SIMILAR PROJECT

The following is added to **SECTION IV — COMMERCIAL GENERAL LIABILITY CONDITIONS**, Paragraph 4. **Other Insurance b. Excess Insurance (1)(a)**:

- (v) That is covered by a consolidated (wrap-up) or similar insurance program provided by the prime contractor/project manager or owner of the construction project in which you are involved for your ongoing operations or operations included within the "products-completed operations hazard", unless such consolidated (wrap-up) or similar program is specifically excluded from coverage on this policy.

4. FELLOW EMPLOYEE EXTENSION

Under **SECTION II — WHO IS AN INSURED** Paragraphs 2.a. and 2.a. (1) are replaced by the following:

- a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture, or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. The Employers Liability exclusion (**SECTION I — COVERAGES; COVERAGE A, exclusion e.**) does not apply to this provision. However, none of these "employees" or "volunteer workers" are insureds for:

- (1) "Bodily injury" or "personal and advertising injury":

- (a) Arising out of his or her providing or failing to provide professional health care services.

5. CONTRACTUAL LIABILITY (RAILROADS)

Definition 9. Insured Contract is amended as follows:

Paragraph c. is deleted in its entirety and replaced with the following:

Any easement or license agreement;

Paragraph f.(1) is deleted in its entirety.

6. CONTRACTUAL LIABILITY AMENDMENT — (PERSONAL AND ADVERTISING INJURY)

If it is required in a written contract, written agreement or written permit with the insured that any contractual liability exclusion for Personal Injury be removed from the policy, then Exclusion e. **Contractual Liability** under **COVERAGE B PERSONAL AND ADVERTISING INJURY, 2. Exclusions** is deleted in its entirety and replaced with the following:

e. Contractual Liability

"Personal and advertising Injury" for which the insured has assumed liability in a contract or agreement arising out of an "advertisement". This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement"

7. WAIVER OF GOVERNMENTAL IMMUNITY

We will waive, both in the adjustment of claims and in the defense of "suits" against the insured, any governmental immunity of the insured, unless the insured requests in writing that we not do so.

Waiver of immunity as a defense will not subject us to liability for any portion of a claim or judgment in excess of the applicable limit of insurance.

8. DAMAGE TO PREMISES RENTED TO YOU

The Limit of Insurance for Damage To Premises Rented To You is increased to \$1,000,000.

ElitePac®

Commercial Automobile Extension

COMMERCIAL AUTO
CA 78 09 11 17

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Business Auto Coverage Form apply unless modified by the endorsement.

AMENDMENTS TO SECTION II - LIABILITY COVERAGE

- A. If this policy provides Auto Liability coverage for Owned Autos, the following extensions are applicable accordingly:

NEWLY ACQUIRED OR FORMED ORGANIZATIONS

The following is added to **SECTION II, A.1. - Who Is An Insured:**

Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no similar insurance available to that organization. However:

1. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
2. Coverage does not apply to "bodily injury" or "property damage" resulting from an "accident" that occurred before you acquired or formed the organization.

No person or organization is an "insured" with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

EXPENSES FOR BAIL BONDS AND LOSS OF EARNINGS

Paragraphs (2) and (4) of **SECTION II, A.2.a. - Supplementary Payments** are deleted in their entirety and replaced with the following:

- (2) Up to the Limit of Insurance shown on the ElitePac Schedule for the cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" covered under this policy. We do not have to furnish these bonds.
- (4) All reasonable expenses incurred by the "insured" at our request. This includes actual loss of earnings because of time off from work, which we will pay up to the Limit of Insurance shown on the ElitePac Schedule.

EMPLOYEE INDEMNIFICATION AND EMPLOYER'S LIABILITY AMENDMENT

The following is added to **SECTION II, B.4. - Exclusions:**

This exclusion does not apply to a "volunteer worker" who is not entitled to workers compensation, disability or unemployment compensation benefits.

FELLOW EMPLOYEE COVERAGE

The **Fellow Employee** Exclusion, **SECTION II, B.5. -** is deleted in its entirety.

CARE, CUSTODY OR CONTROL AMENDMENT

The following is added to **SECTION II, B.6. - Exclusions:**

This exclusion does not apply to property owned by anyone other than an "insured", subject to the following:

1. The most we will pay under this exception for any one "accident" is the Limit of Insurance stated in the ElitePac Schedule; and
2. A per "accident" deductible as stated in the ElitePac Schedule applies to this exception.

- B. If this policy provides Auto Liability coverage for Owned Autos or Non-Owned Autos, the following extension is applicable accordingly:

LIMITED LIABILITY COMPANIES

The following is added to **SECTION II, A.1. - Who Is An Insured:**

If you are a limited liability company, your members and managers are "insureds" while using a covered "auto" you don't own, hire or borrow during the course of their duties for you.

BLANKET ADDITIONAL INSURED - As Required By Contract

The following is added to **SECTION II, A.1. - Who Is An Insured:**

Any person or organization whom you have agreed in a written contract, written agreement or written permit that such person or organization be added as an additional "insured" on your policy. Such person or organization is an additional "insured" only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by your ownership, maintenance or use of a covered "auto". This coverage shall be primary and non-contributory with respect to the additional "insured". This provision only applies if:

1. It is required in the written contract, written agreement or written permit identified in this section;
2. It is permitted by law; and
3. The written contract or written agreement has been executed (executed means signed by a named insured) or written permit issued prior to the "bodily injury" or "property damage".

C. If this policy provides Auto Liability coverage for Non-Owned Autos, the following extension is applicable accordingly:

EMPLOYEES AS INSURED

If this policy provides Auto Liability coverage for Non-Owned Autos, the following is added to **SECTION II, A.1. - Who Is An Insured:**

Any "employee" of yours is an "insured" while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

An "employee" of yours is an "insured" while operating an "auto" hired or rented under a contract or agreement in that "employee's" name with your permission, while performing duties related to the conduct of your business.

AMENDMENTS TO SECTION III - PHYSICAL DAMAGE COVERAGE

If this policy provides Comprehensive, Specified Causes of Loss or Collision coverage, the following extensions are applicable for those "autos" for which Comprehensive, Specified Causes of Loss or Collision coverage is purchased:

TOWING AND LABOR

SECTION III, A.2. - Towing is deleted in its entirety and replaced with the following:

We will pay all reasonable towing and labor costs up to the maximum Limit of Insurance shown on the ElitePac Schedule per tow each time a covered "Private Passenger Auto", "Social Service Van or Bus" or "Light Truck" is disabled and up to the maximum Limit of Insurance per tow each time a covered "Medium Truck", "Heavy Truck" or "Extra Heavy Truck" is disabled.

For labor charges to be eligible for reimbursement the labor must be performed at the place of disablement.

This coverage extension does not apply to Emergency Services Organizations and Governmental Entities.

GLASS BREAKAGE DEDUCTIBLE

The following is added to **SECTION III, A.3. - Glass Breakage - Hitting A Bird Or Animal - Falling Objects or Missiles:**

If damaged glass is repaired rather than replaced, no deductible will apply for such repair. This extension does not apply to Emergency Services Organizations and Governmental Entities.

ADDITIONAL TRANSPORTATION EXPENSES SECTION III, A.4.a. - Transportation Expenses is deleted in its entirety and replaced with the following:

We will pay up to the maximum Limit of Insurance shown on the ElitePac Schedule for temporary transportation expenses that you incur because of any "loss" to a covered "auto", but only if the covered "auto" carries the coverages and meets the requirements described in 1. or 2. below:

1. We will pay temporary transportation expenses for total theft of a covered "auto". We will only pay for such expenses incurred during the period beginning 24 hours after the theft and ending, regardless of the policy's expiration, when the covered "auto" is returned to use or we pay for its "loss".
2. For "loss" other than total theft of a covered "auto" under Comprehensive or Specified Causes of Loss Coverage, or for any "loss" under Collision Coverage to a covered "auto", we will only pay for those temporary transportation expenses incurred during the policy period beginning 24 hours after the "loss" and ending, regardless of the policy's expiration, with the lesser of the number of days reasonably required to repair or replace the covered "auto" or 30 days.

Paragraph 2. of this extension does not apply while there are spare or reserve "autos" available to you for your operations.

This coverage extension does not apply to Emergency Services Organizations and Governmental Entities.

HIRED AUTO PHYSICAL DAMAGE COVERAGE

The following is added to **SECTION III, A.4. - Coverage Extensions:**

Physical Damage coverage is hereby extended to apply to Physical Damage "loss" to "autos" leased, hired, rented or borrowed without a driver. We will provide coverage equal to the broadest coverage available to any covered "auto" shown in the Declarations. But, the most we will pay for "loss" to each "auto" under this coverage extension is the lesser of:

1. The Limit of Insurance stated in the ElitePac Schedule; or
2. The actual cash value of the damaged or stolen property as of the time of the "loss"; or
3. The actual cost of repairing or replacing the damaged or stolen property with other property of like kind and quality. A part is of like kind and quality when it is of equal or better condition than the pre-accident part. We will use the original equipment from the manufacturer when:
 - (a) The operational safety of the vehicle might otherwise be impaired;
 - (b) Reasonable and diligent efforts to locate the appropriate rebuilt, aftermarket or used part have been unsuccessful; or
 - (c) A new original equipment part of like kind and quality is available and will result in the lowest overall repair cost.

For each leased, hired, rented or borrowed "auto" our obligation to pay "losses" will be reduced by a deductible equal to the highest deductible applicable to any owned "auto" for that coverage. No deductible will be applied to "losses" caused by fire or lightning.

SECTION IV, B.5. Other Insurance Condition, Paragraph 5.b. is deleted in its entirety and replaced by the following:

For Hired Auto Physical Damage Coverage, the following are deemed to be covered "autos" you own:

1. Any covered "auto" you lease, hire, rent, or borrow; and
2. Any covered "auto" hired or rented by your "employee" under a contract or agreement in that "employee's" name, with your permission, while performing duties related to the conduct of your business.

However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

This coverage extension does not apply to Emergency Services Organizations and Governmental Entities.

HIRED AUTO LOSS OF USE COVERAGE

The following is added to **SECTION III, A.4. - Coverage Extensions**:

We will pay expenses for which you are legally responsible to pay up to the Limit of Insurance shown on the ElitePac Schedule per "accident" for loss of use of a leased, hired, rented or borrowed "auto" if it results from an "accident".

This coverage extension does not apply to Emergency Services Organizations, Governmental Entities, and Schools.

AUTO LOAN/LEASE GAP COVERAGE (Not Applicable in New York)

The following is added to **SECTION III, A.4. - Coverage Extensions**:

In the event of a total "loss" to a covered "auto" we will pay any unpaid amount due on the lease or loan for a covered "auto", less:

1. The amount paid under the Physical Damage Coverage Section of the policy; and
2. Any:
 - a. Overdue lease/loan payments at the time of "loss";
 - b. Financial penalties imposed under a lease for excessive use, abnormal wear and tear, high mileage or similar charges;
 - c. Security deposits not refunded by the lessor or financial institution;
 - d. Costs for extended warranties, credit life, health, accident, or disability insurance purchased with the loan or lease; and
 - e. Carry-over balances from previous leases or loans.

You are responsible for the deductible applicable to the "loss" for the covered "auto".

PERSONAL EFFECTS

The following is added to **SECTION III, A.4. - Coverage Extensions**:

If this policy provides Comprehensive Coverage for a covered "auto" you own and that covered "auto" is stolen, we will pay up to the Limit of Insurance shown on the ElitePac Schedule, without application of a deductible, for lost personal effects that were in the covered "auto" at the time of theft. Personal effects do not include jewelry, tools, money, or securities. This coverage is excess over any other collectible insurance.

AIRBAG COVERAGE

The following is added to **SECTION III, B.3.a. - Exclusions**:

Mechanical breakdown does not include the accidental discharge of an airbag.

This coverage extension does not apply to Emergency Services Organizations and Governmental Entities.

EXPANDED AUDIO, VISUAL, AND DATA ELECTRONIC EQUIPMENT COVERAGE

SECTION III, B.4. - Exclusions

This exclusion does not apply to the following:

1. Global positioning systems;
2. "Telematic devices"; or
3. Electronic equipment that reproduces, receives or transmits visual or data signals and accessories used with such equipment, provided such equipment is:

- a. Permanently installed in or upon the covered "auto" at the time of the "loss";
- b. Removable from a housing unit that is permanently installed in the covered "auto" at the time of the "loss";
- c. Designed to be solely operated by use of power from the "auto's" electrical system; or
- d. Designed to be used solely in or upon the covered "auto".

For each covered "loss" to such equipment, a deductible of \$50 shall apply, unless the deductible otherwise applicable to such equipment is less than \$50, at which point the lower deductible, if any, will apply.

COMPREHENSIVE DEDUCTIBLE - LOCATION TRACKING DEVICE

The following is added to **SECTION III, D. - Deductible:**

Any Comprehensive Coverage Deductible shown in the Declarations will be reduced by 50% for any "loss" caused by theft if the covered "auto" is equipped with a location tracking device and that device was the sole method used to recover the "auto".

PHYSICAL DAMAGE LIMIT OF INSURANCE

SECTION III, C. - Limit Of Insurance is deleted in its entirety and replaced with the following:

The most we will pay for a "loss" in any one "accident" is the lesser of:

1. The actual cash value of the damaged or stolen property as of the time of the "loss"; or
2. The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality.

This coverage extension does not apply to Emergency Services Organizations and Governmental Entities.

AMENDMENTS TO SECTION IV - BUSINESS AUTO CONDITIONS

DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS

The following is added to **SECTION IV, A.2.a. - Duties In The Event Of Accident, Claim, Suit Or Loss:**

The notice requirements for reporting "accident" claim, "suit" or "loss" information to us, including provisions related to the subsequent investigation of such "accident", claim, "suit" or "loss" do not apply until the "accident", claim, "suit" or "loss" is known to:

1. You, if you are an individual;
2. A partner, if you are a partnership;

3. An executive officer or insurance manager, if you are a corporation;
4. Your members, managers or insurance manager, if you are a limited liability company;
5. Your elected or appointed officials, trustees, board members or your insurance manager, if you are an organization other than a partnership, joint venture or limited liability company.

But, this section does not amend the provisions relating to notification of police or protection or examination of the property that was subject to the "loss".

WAIVER OF SUBROGATION

SECTION IV, A.5. - Transfer Of Rights Of Recovery Against Others To Us is deleted in its entirety and replaced with the following:

We waive any right of recovery we may have against any person or organization because of payments we make for "bodily injury" or "property damage" resulting from the ownership, maintenance or use of a covered "auto" but only when you have assumed liability for such "bodily injury" or "property damage" in an "insured contract". In all other circumstances, if a person or organization to or for whom we make payment under this Coverage Form has rights to recover damages from another, those rights are transferred to us.

MULTIPLE DEDUCTIBLES

The following is added to **SECTION IV, A. - Loss Conditions:**

If a "loss" from one event involves two or more covered "autos" and coverage under Comprehensive or Specified Causes of Loss applies, only the highest applicable deductible will be applied.

CONCEALMENT, MISREPRESENTATION OR FRAUD

The following is added to **SECTION IV, B.2. - Concealment, Misrepresentation Or Fraud:**

If you should unintentionally fail to disclose any existing hazards in your representations to us prior to the inception date of the policy or during the policy period in connection with any newly discovered hazards, we will not deny coverage under this Coverage Form based upon such failure.

POLICY PERIOD, COVERAGE TERRITORY

SECTION IV, B.7. - Policy Period, Coverage Territory is deleted in its entirety and replaced with the following:

Under this Coverage Form, we cover "accidents" and "losses" occurring:

- a. During the policy period shown in the Declarations; and
- b. Within the "Coverage Territory".

We also cover "loss" to or "accidents" involving a covered "auto" while being transported between any of these places.

TWO OR MORE COVERAGE FORMS OR POLICIES ISSUED BY US - DEDUCTIBLES

The following is added to **SECTION IV, B.8. - Two Or More Coverage Forms Or Policies Issued By Us:**

If a "loss" covered under this Coverage Form also involves a "loss" to other property resulting from the same "accident" that is covered under this policy or another policy issued by us or any member company of ours, only the highest applicable deductible will be applied.

AMENDMENTS TO SECTION V - DEFINITIONS

BODILY INJURY INCLUDING MENTAL ANGUISH (Not Applicable in New York)

The definition of bodily injury is deleted in its entirety and replaced by the following:

"Bodily injury" means bodily injury, sickness, or disease sustained by a person, including death resulting from any of these. "Bodily injury" includes mental anguish resulting from bodily injury, sickness or disease sustained by a person.

ADDITIONS TO SECTION V - DEFINITIONS

COVERAGE TERRITORY

"Coverage Territory" means:

1. The United States of America (including its territories and possessions), Canada and Puerto Rico; and
2. Anywhere in the world, except for any country or jurisdiction that is subject to trade or other economic sanction or embargo by the United States of America, if a covered "auto" is leased, hired, rented, or borrowed without a driver for a period of 30 days or less, and the insured's responsibility to pay "damages" is determined in a "suit" on the merits in and under the substantive law of the United States of America (including its territories and possessions), Puerto Rico, or Canada, or in a settlement we agree to.

If we are prevented by law, or otherwise, from defending the "insured" in a "suit" brought in a location described in Paragraph 2. above, the insured will conduct a defense of that "suit". We will reimburse the "insured" for the reasonable and necessary expenses incurred for the defense of any such "suit" seeking damages to which this insurance applies, and that we would have paid had we been able to exercise our right and duty to defend.

EXTRA HEAVY TRUCK

"Extra Heavy Truck" means a truck with a gross vehicle weight rating of 45,001 pounds or more.

HEAVY TRUCK

"Heavy Truck" means a truck with a gross vehicle weight rating of 20,001 pounds to 45,000 pounds.

LIGHT TRUCK

"Light Truck" means a truck with a gross vehicle weight rating of 10,000 pounds or less.

MEDIUM TRUCK

"Medium Truck" means a truck with a gross vehicle weight rating of 10,001 pounds to 20,000 pounds.

PRIVATE PASSENGER AUTO

"Private Passenger Auto" means a four-wheel "auto" of the private passenger or station wagon type. A pickup, panel truck or van not used for business is included within the definition of a "private passenger auto".

SOCIAL SERVICE VAN OR BUS

"Social Service Van or Bus" means a van or bus used by a government entity, civic, charitable or social service organization to provide transportation to clients incidental to the social services sponsored by the organization, including special trips and outings.

TELEMATIC DEVICE

"Telematic Device" includes devices designed for the collection and dissemination of data for the purpose of monitoring vehicle and/or driver performance. This includes Global Positioning System technology, wireless safety communications and automatic driving assistance systems, all integrated with computers and mobile communications technology in automotive navigation systems.

VOLUNTEER WORKER

"Volunteer worker" means a person who performs business duties for you, for no financial or other compensation.

General Liability Extension Endorsement

COMMERCIAL GENERAL LIABILITY
CG 73 00 01 19

SUMMARY OF COVERAGES (including index)

This is a summary of the various additional coverages and coverage modifications provided by this endorsement. No coverage is provided by this summary. Refer to the actual endorsement (Pages 3-through-9) for changes affecting your insurance protection.

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ENDORSEMENT
General Liability Extension Endorsement

COMMERCIAL GENERAL LIABILITY
CG 73 00 01 19

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies the insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

The **SECTIONS** of the Commercial General Liability Coverage Form identified in this endorsement will be amended as shown below. However, if **(a) two or more Coverage Parts of this policy, or (b) two or more forms or endorsements within the same Coverage Part apply to a loss**, coverage provision(s) with the broadest language will apply, unless specifically stated otherwise within the particular amendment covering that loss.

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

COVERAGES - Amendments

SECTION I - COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY

EXCLUSIONS

Employer's Liability Amendment

(This provision is not applicable in the State of New York).

The following is added to Exclusion **e. Employer's Liability** under **COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions**:

This exclusion also does not apply to any "temporary worker".

Non-Owned Aircraft, Auto or Watercraft

A. Paragraph **(2)** of Exclusion **g. Aircraft, Auto Or Watercraft** under **COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions** is deleted in its entirety and replaced with the following:

(2) A watercraft you do not own that is:

- (a)** Less than 26 feet long and not being used to carry persons or property for a charge; or
- (b)** At least 26 feet, but less than 60 feet long, and not being used to carry persons or property for a charge. Any person is an insured who uses or is responsible for the use of such watercraft with your expressed or implied consent. However, if the insured has any other valid and collectible insurance for "bodily injury" or "property damage" that would be covered under this provision, or on any other basis, this coverage is then excess, and subject to Condition **4. Other Insurance, b. Excess Insurance** under **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS**.

B. The following is added to Exclusion **g. Aircraft, Auto Or Watercraft** under **COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions**:

This exclusion does not apply to:

- (6)** Any aircraft, not owned or operated by any insured, which is hired, chartered or loaned with a paid crew. However, if the insured has any other valid and collectible insurance for "bodily injury" or "property damage" that would be covered under this provision, or on any other basis, this coverage is then excess, and subject to Condition **4. Other Insurance, b. Excess Insurance** under **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS**.

Damage To Premises Rented to You

A. The last paragraph of Paragraph **2. Exclusions** under **COVERAGE A BODILY INJURY AND PROPERTY DAMAGE** is deleted in its entirety and replaced with the following:

Exclusions **c. through n.** do not apply to damage by fire, lightning or explosion to premises rented to you or temporarily occupied by you with the permission of the owner. A separate limit of insurance applies to this coverage as described in **SECTION III - LIMITS OF INSURANCE**.

B. Paragraph 6. under **SECTION III - LIMITS OF INSURANCE** is deleted in its entirety and replaced with the following:

6. Subject to Paragraph 5. above, the most we will pay under **COVERAGE A** for damages because of "property damage" to any one premises, while rented to you, or in the case of damage caused by fire, lightning or explosion, while rented to you or temporarily occupied by you with permission of the owner, for all such damage caused by fire, lightning or explosion proximately caused by the same event, whether such damage results from fire, lightning or explosion or any combination of the three, is the amount shown in the Declarations for the Damage To Premises Rented To You Limit.

C. Paragraph a. of Definition 9. "Insured contract" under **SECTION V - DEFINITIONS** is deleted in its entirety and replaced with the following:

a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning or explosion to premises while rented to you or temporarily occupied by you with the permission of the owner is not an "insured contract";

Electronic Data Liability

A. Exclusion p. **Access or Disclosure Of Confidential Or Personal Information And Data-related Liability** under **COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions** is deleted in its entirety and replaced by the following:

p. **Access or Disclosure Of Confidential Or Personal Information And Data-related Liability**

Damages arising out of:

- (1) Any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information or any other type of nonpublic information; or
- (2) The loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate "electronic data" that does not result from physical injury to tangible property.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of that which is described in Paragraph (1) or (2) above.

B. The following paragraph is added to **SECTION III - LIMITS OF INSURANCE**:

Subject to 5. above, the most we will pay under **COVERAGE A** for "property damage" because of all loss of "electronic data" arising out of any one "occurrence" is a sub-limit of \$100,000.

SECTION I - COVERAGE C MEDICAL PAYMENTS EXCLUSIONS

Any Insured Amendment

Exclusion a. **Any Insured** under **COVERAGE C MEDICAL PAYMENTS, 2. Exclusions** is deleted in its entirety and replaced with the following:

a. **Any Insured**

To any insured.

This exclusion does not apply to:

- (1) "Not-for-profit members";
- (2) "Golfing facility" members who are not paid a fee, salary, or other compensation; or
- (3) "Volunteer workers".

This exclusion exception does not apply if **COVERAGE C MEDICAL PAYMENTS** is excluded by another endorsement to this Coverage Part.

Product Amendment

Exclusion f. **Products-Completed Operations Hazard** under **COVERAGE C MEDICAL PAYMENTS, 2. Exclusions** is deleted in its entirety and replaced with the following:

f. **Products-Completed Operations Hazard**

Included within the "products-completed operations hazard".

This exclusion does not apply to "your products" sold for use or consumption on your premises, while such products are still on your premises.

This exclusion exception, does not apply if **COVERAGE C MEDICAL PAYMENTS** is excluded by another endorsement to this Coverage Part.

SECTION I - SUPPLEMENTARY PAYMENTS - COVERAGES A AND B

Expenses For Bail Bonds And Loss Of Earnings

A. Subparagraph 1.b. under **SUPPLEMENTARY PAYMENTS - COVERAGES A AND B** is deleted in its entirety and replaced with the following:

- b. Up to \$5,000 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

B. Subparagraph 1.d. under **SUPPLEMENTARY PAYMENTS - COVERAGES A AND B** is deleted in its entirety and replaced with the following:

- d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$1,000 a day because of time off from work.

SECTION II - WHO IS AN INSURED - Amendments

Not-for-Profit Organization Members

The following paragraph is added to **SECTION II - WHO IS AN INSURED**:

If you are an organization other than a partnership, joint venture, or a limited liability company, and you are a not-for-profit organization, the following are included as additional insureds:

1. Your officials;
2. Your trustees;
3. Your members;
4. Your board members;
5. Your commission members;
6. Your agency members;
7. Your insurance managers;
8. Your elective or appointed officers; and
9. Your "not-for-profit members".

However only with respect to their liability for your activities or activities they perform on your behalf.

Employees As Insureds Modified

- A. Subparagraph 2.a.(1)(a) under **SECTION II - WHO IS AN INSURED** does not apply to "bodily injury" to a "temporary worker" caused by a co-"employee" who is not a "temporary worker".
- B. Subparagraph 2.a.(2) under **SECTION II - WHO IS AN INSURED** does not apply to "property damage" to the property of a "temporary worker" or "volunteer worker" caused by a co-"employee" who is not a "temporary worker" or "volunteer worker".
- C. Subparagraph 2.a.(1)(d) under **SECTION II - WHO IS AN INSURED** does not apply to "bodily injury" caused by cardio-pulmonary resuscitation or first aid services administered by a co-"employee".

With respect to this provision only, Subparagraph (1) of Exclusion 2. e. **Employer's Liability** under **SECTION I - COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY** does not apply.

Newly Formed Or Acquired Organizations

- A. Subparagraph 3.a. under **SECTION II - WHO IS AN INSURED** is deleted in its entirety and replaced with the following:

- a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier. However, **COVERAGE A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization.

- B. The following paragraph is added to **SECTION II - WHO IS AN INSURED**, Paragraph 3:

If you are engaged in the business of construction of dwellings three stories or less in height, or other buildings three stories or less in height and less than 25,000 square feet in area, you will also be an insured with respect to "your work" only, for the period of time described above, for your liability arising out of the conduct of any partnership or joint venture of which you are or were a member, even if that partnership or joint venture is not shown as a Named Insured. However, this provision only applies if you maintain or maintained an interest of at least fifty percent in that partnership or joint venture for the period of that partnership or joint venture.

This provision does not apply to any partnership or joint venture that has been dissolved or otherwise ceased to function for more than thirty-six months.

With respect to the insurance provided by this provision, **Newly Formed or Acquired Organizations**, the following is added to **SECTION IV - COMMERCIAL GENERAL LIABILITY**, Paragraph 4. **Other Insurance**, Subparagraph b. **Excess Insurance**:

The insurance provided by this provision, **Newly Formed or Acquired Organizations**, is excess over any other insurance available to the insured, whether primary, excess, contingent or on any other basis.

(All other provisions of this section remain unchanged)

Blanket Additional Insureds - As Required By Contract

Subject to the **Primary and Non-Contributory** provision set forth in this endorsement, **SECTION II - WHO IS AN INSURED** is amended to include as an additional insured:

A. Owners, Lessees or Contractors/Architects, Engineers and Surveyors

1. Any person or organization for whom you are performing operations when you and such person or organization have agreed in a written contract, written agreement or written permit that such person or organization be added as an additional insured on your commercial general liability policy; and

2. Any other person or organization, including any architects, engineers or surveyors not engaged by you, whom you are required to add as an additional insured under your policy in the contract or agreement in Paragraph 1. above:

Such person or organization is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

- a. Your acts or omissions; or
- b. The acts of omissions of those acting on your behalf;

in the performance of your ongoing operations performed for the additional insured in Paragraph 1., above.

However, this insurance does not apply to:

"Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services by or for you, including:

- a. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; and
- b. Supervisory, inspection, architectural or engineering activities.

Professional services do not include services within construction means, methods, techniques, sequences and procedures employed by you in connection with your operations in your capacity as a construction contractor.

A person or organization's status as an additional insured under this endorsement ends when your operations for the person or organization described in Paragraph 1. above are completed.

B. Other Additional Insureds

Any of the following persons or organizations with whom you have agreed in a written contract, written agreement or written permit that such persons or organizations be added as an additional insured on your commercial general liability policy:

1. Lessors of Leased Equipment

Any person or organization from whom you lease equipment, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization.

With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.

2. Managers or Lessors of Premises

Any person or organization from whom you lease premises, but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you.

This insurance does not apply to any "occurrence" which takes place after you cease to be a tenant of that premises.

3. Mortgagees, Assignees or Receivers

Any person or organization with respect to their liability as mortgagee, assignee or receiver and arising out of the ownership, maintenance or use of your premises.

This insurance does not apply to any "occurrence" which takes place after the mortgage is satisfied, or the assignment or receivership ends.

4. Any Person or Organization Other Than A Joint Venture

Any person or organization (other than a joint venture of which you are a member), but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts of omissions of those acting on your behalf in the performance of your ongoing operations or in connection with property owned by you.

5. State or Governmental Agency or Political Subdivision - Permits or Authorizations

Any state or governmental agency or subdivision or political subdivision, but only with respect to:

- a. Operations performed by you or on your behalf for which the state or governmental agency or subdivision or political subdivision has issued a permit or authorization; or
- b. The following hazards for which the state or governmental agency or subdivision or political subdivision has issued a permit or authorization in connection with premises you own, rent or control and to which this insurance applies:

- (1) The existence, maintenance, repair, construction, erection or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away openings, sidewalk vaults, street banners or decorations and similar exposures;
- (2) The construction, erection or removal of elevators; or
- (3) The ownership, maintenance or use of any elevators covered by this insurance.

This insurance does not apply to:

- (a) "Bodily injury" or "property damage" arising out of operations performed for the federal government, state or municipality; or
- (b) "Bodily injury" or "property damage" included within the "products-completed operations hazard".

With respect to Paragraphs 2. through 4., this insurance does not apply to structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

The provisions of this coverage extension do not apply unless the written contract or written agreement has been signed by the Named Insured or written permit issued prior to the "bodily injury" or "property damage" or "personal and advertising injury".

Broad Form Vendors Coverage

Subject to the **Primary and Non-Contributory** provision set forth in this endorsement, **SECTION II - WHO IS AN INSURED** is amended to include as an additional insured any person or organization (referred to below as vendor) for whom you have agreed in a written contract or written agreement to provide coverage as an additional insured under your policy. Such person or organization is an additional insured only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business. However, the insurance afforded the vendor does not apply to:

- a. "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement; however this exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
- b. Any express warranty unauthorized by you;

- c. Any physical or chemical change in the product made intentionally by the vendor;
- d. Repackaging, unless unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
- e. Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business in connection with the sale of the product; or
- f. Products which, after distribution or sale by you, have been labeled or re-labeled or used as a container, part of ingredient of any other thing or substance by or for the vendor; however this insurance does not apply to any insured person or organization, from who you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

The provisions of this coverage extension do not apply unless the written contract or written agreement has been signed by the Named Insured prior to the "bodily injury" or "property damage".

Incidental Malpractice

Subparagraph 2.a.(1)(d) under **SECTION II - WHO IS AN INSURED** is deleted in its entirety and replaced with the following:

- (d) Arising out of his or her providing or failing to provide professional health care services.

This does not apply to nurses, emergency medical technicians or paramedics if you are not in the business or occupation of providing any such professional services.

This also does not apply to "bodily injury" caused by cardio-pulmonary resuscitation or first aid services administered by a co-"employee".

This provision does not apply if you are a Social Service or Senior Living risk.

SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS - Amendments

Knowledge Of Occurrence, Claim, Suit Or Loss

The following is added to Paragraph 2. **Duties in the Event of Occurrence, Offense, Claim or Suit** under **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS**:

The requirements under this paragraph do not apply until after the "occurrence" or offense is known to:

1. You, if you are an individual;
2. A partner, if you are a partnership;

3. An "executive officer" or insurance manager, if you are a corporation;
4. Your members, managers or insurance manager, if you are a limited liability company; or
5. Your elected or appointed officials, officers, members, trustees, board members, commission members, agency members, or your administrator or your insurance manager if you are an organization other than a partnership, joint venture, or limited liability company.

Primary and Non-Contributory Provision

The following is added to Paragraph 4. **Other Insurance, b. Excess Insurance** under **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS:**

This insurance is primary to and we will not seek contribution from any other insurance available to an additional insured under this policy provided that:

- (1) The additional insured is a Named Insured under such other insurance; and
- (2) You have agreed in a written contract, written agreement or written permit that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

Unintentional Failure To Disclose Hazards

The following is added to Paragraph 6. **Representations** under **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS:**

However, if you should unintentionally fail to disclose any existing hazards in your representations to us at the inception date of the policy, or during the policy period in connection with any additional hazards, we shall not deny coverage under this Coverage Part based upon such failure to disclose hazards.

Waiver Of Transfer Of Rights Of Recovery

The following is added to Paragraph 8. **Transfer of Rights Of Recovery Against Others To Us** under **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS:**

We will waive any right of recovery we may have against a person or organization because of payments we make for "bodily injury" or "property damage" arising out of your ongoing operations or "your work" done under a written contract or written agreement and included in the "products-completed operations hazard", if:

1. You have agreed to waive any right of recovery against that person or organization in a written contract or written agreement;
2. Such person or organization is an additional insured on your policy; or

3. You have assumed the liability of that person or organization in that same contract, and it is an "insured contract".

The section above only applies to that person or organization identified above, and only if the "bodily injury" or "property damage" occurs subsequent to the execution of the written contract or written agreement.

Liberalization

The following condition is added to **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS:**

If we revise this Coverage Part to provide more coverage without additional premium charge, subject to our filed company rules, your policy will automatically provide the additional coverage as of the day the revision is effective in your state.

Two or More Coverage Parts or Policies Issued By Us

(This provision is not Applicable in the state of New York or Wisconsin).

The following condition is added to **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS:**

It is our intention that the various coverage parts or policies issued to you by us, or any company affiliated with us, do not provide any duplication or overlap of coverage. We have exercised diligence to draft our coverage parts and policies to reflect this intention. However, if the facts and circumstances that will respond to any claim or "suit" give rise to actual or claimed duplication or overlap of coverage between the various coverage parts or policies issued to you by us or any company affiliated with us, the limit of insurance under all such coverage parts or policies combined shall not exceed the highest applicable limit under this coverage, or any one of the other coverage forms or policies.

This condition does not apply to any Excess or Umbrella policy issued by us specifically to apply as excess insurance over this coverage part or policy to which this coverage part is attached.

SECTION V - DEFINITIONS

Discrimination

(This provision does not apply in New York).

- A. The following is added to Definition 14. "Personal and advertising injury":

"Personal and advertising injury" also means "discrimination" that results in injury to the feelings or reputation of a natural person, however only if such "discrimination" or humiliation is:

1. Not done by or at the direction of:
 - a. The insured; or

b. Anyone considered an insured under **SECTION II - WHO IS AN INSURED;**

2. Not done intentionally to cause harm to another person.
3. Not directly or indirectly related to the employment, prospective employment or termination of employment of any person or persons by any insured.
4. Not arising out of any "advertisement" by the insured.

B. The following definition is added to SECTION V - DEFINITIONS:

"Discrimination" means:

- a. Any act or conduct that would be considered discrimination under any applicable federal, state, or local statute, ordinance or law;
- b. Any act or conduct that results in disparate treatment of, or has disparate impact on, a person, because of that person's race, religion, gender, sexual orientation, age, disability or physical impairment; or
- c. Any act or conduct characterized or interpreted as discrimination by a person based on that person's race, religion, gender, sexual orientation, age, disability or physical impairment.

It does not include acts or conduct characterized or interpreted as sexual intimidation or sexual harassment, or intimidation or harassment based on a person's gender.

Electronic Data

The following definition is added to **SECTION V - DEFINITIONS:**

"Electronic data" means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cell, data processing devices or any other media which are used with electronically controlled equipment. For the purpose of the Electronic Data Liability coverage provided by this endorsement, Definition 17, "Property damage" is deleted in its entirety and replaced by the following:

17. "Property damage" means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or

- b. Loss of, loss of use of, damage to, corruption of, inability to access, or inability to properly manipulate "electronic data", resulting from physical injury to tangible property. All such loss of "electronic data" shall be deemed to occur at the time of the "occurrence" that caused it.

For the purpose of the Electronic Data Liability coverage provided by this endorsement, "electronic data" is not tangible property.

Employee Amendment

Definition 5, "Employee" under **SECTION V - DEFINITIONS** is deleted in its entirety and replaced by the following:

5. "Employee" includes a "leased worker", or a "temporary worker". If you are a School, "Employee" also includes a student teacher.

Golfing Facility

The following definition is added to **SECTION V - DEFINITIONS:**

"Golfing facility" means a golf course, golf club, driving range, or miniature golf course.

Mental Anguish Amendment

(This provision does not apply in New York).

Definition 3, "Bodily injury" under **SECTION V - DEFINITIONS** is deleted in its entirety and replaced with the following:

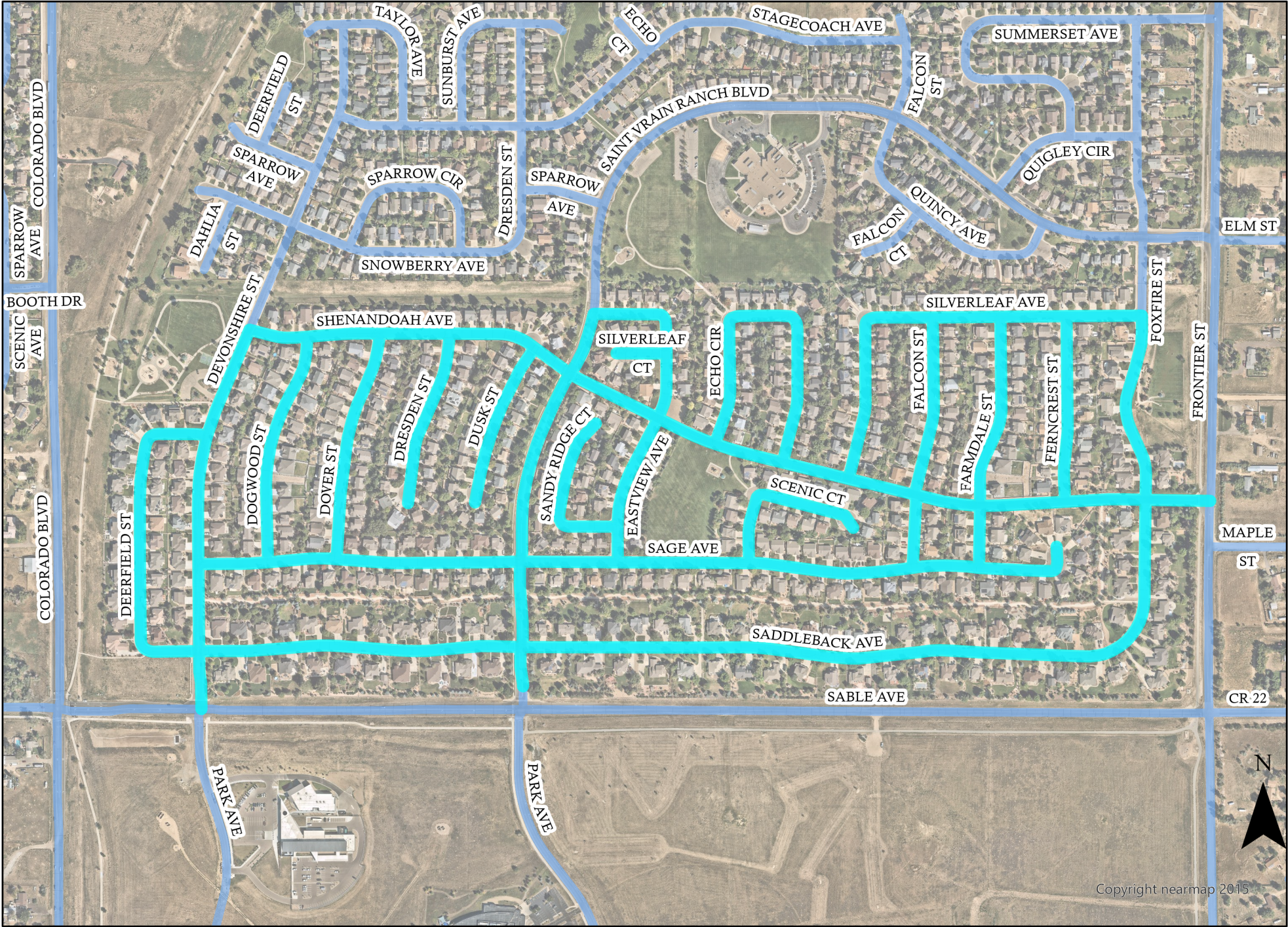
3. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time. This includes mental anguish resulting from any bodily injury, sickness or disease sustained by a person. (In New York, mental anguish has been determined to be "bodily injury").

Not-for-profit Member

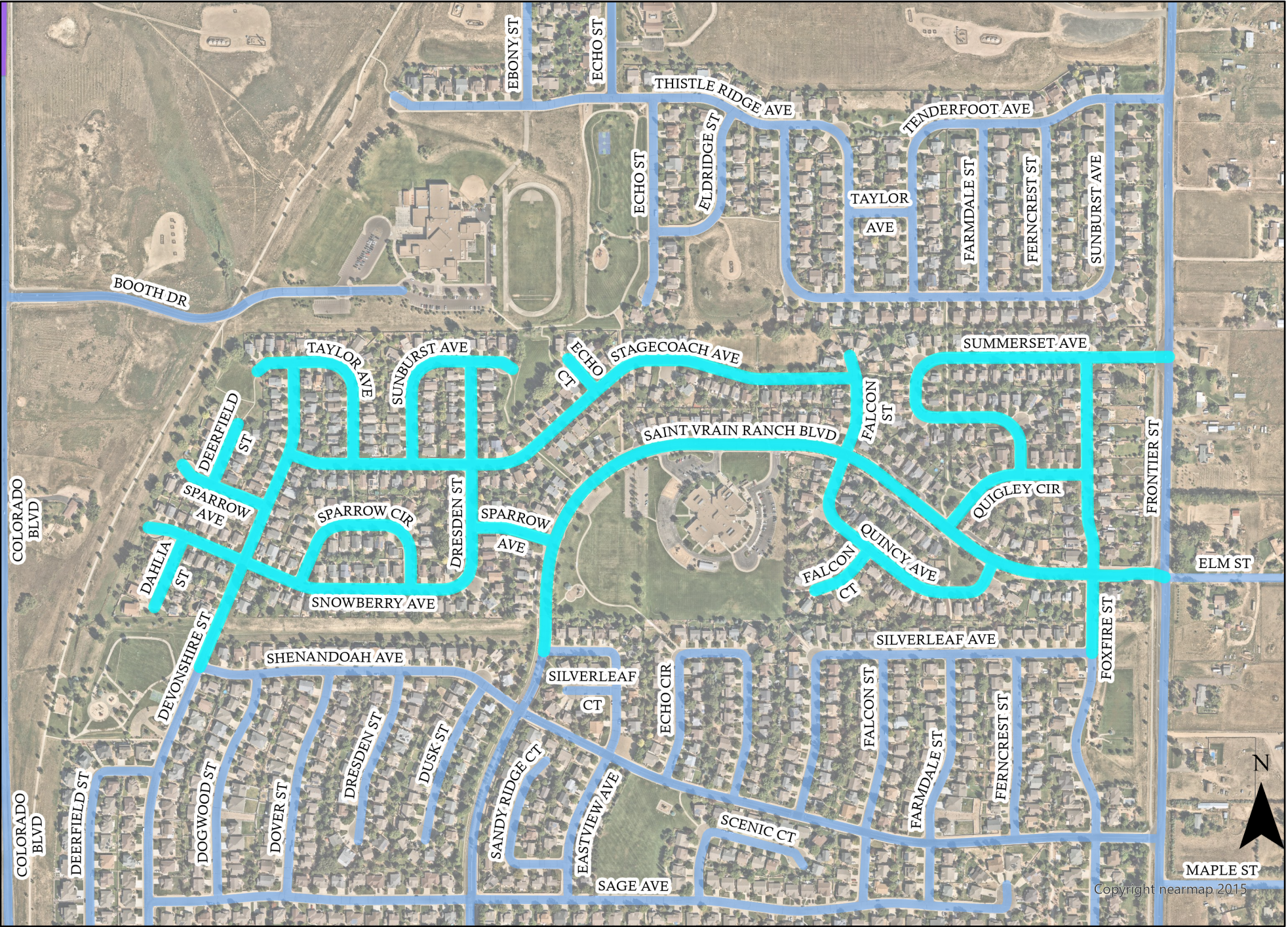
The following definition is added to **SECTION V - DEFINITIONS:**

"Not-for-profit member" means a person who is a member of a not-for-profit organization, including clubs and churches, who receives no financial or other compensation.

St. Vrain Ranch



Ridgecrest



EBONY ST
ECHO ST
THISTLE RIDGE AVE
TENDERFOOT AVE
TAYLOR AVE
FARMDALE ST
FERNCREST ST
SUNBURST AVE
BOOTH DR
TAYLOR AVE
SUNBURST AVE
ECHO CT
STAGECOACH AVE
SUMMERSET AVE
SAINT VRAIN RANCH BLVD
FALCON ST
QUIGLEY CIR
FRONTIER ST
ELM ST
SPARROW AVE
SPARROW CIR
DRESDEN ST
SPARROW AVE
DAHLIA ST
SNOWBERRY AVE
FALCON CT
QUINCY AVE
COLORADO BLVD
DEERFIELD ST
DEVONSHIRE ST
SHENANDOAH AVE
SILVERLEAF CT
ECHO CIR
SILVERLEAF AVE
FOXFIRE ST
MAPLE ST
DEERFIELD ST
DOGWOOD ST
DOVER ST
DRESDEN ST
DUSK ST
SANDY RIDGE CT
EASTVIEW AVE
SAGE AVE
SCENIC CT
FALCON ST
FARMDALE ST
FERNCREST ST

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Bid Tabulation Form
PROJECT: 2022 Chip Seal Program S2022-9229, Town of Firestone, Colorado

				Engineers Est.		A-One Chipseal		Vance Brothers				AVERAGE	
Item No.	Description	Unit of Measurement and Quantity		Estimated Unit Price	Estimated Bid Amount	Unit Price	Bid Amount			Unit Price	Bid Amount	Unit Price	Bid Amount
1	Chip Seal-St Vrain Ranch	Sq. Yds.	Approximately 111,324	N/A		\$ 3.47	\$ 386,294.28			\$ 3.61	\$ 401,879.64	\$ 3.54	\$ 394,086.96
2	Epoxy Pavement Markings	LS	Replace existing markings	N/A		\$ 8,665.00	\$ 8,665.00			\$ 14,500.00	\$ 14,500.00	\$ 11,582.50	\$ 11,582.50
3	Thermoplastic Pavement Markings	LS	Replace existing markings	N/A		\$ 13,362.00	\$ 13,362.00			\$ 15,525.00	\$ 15,525.00	\$ 14,443.50	\$ 14,443.50
4	Traffic Control and Residential Notifications	LS		N/A		\$ 5,000.00	\$ 5,000.00			\$ 13,000.00	\$ 13,000.00	\$ 9,000.00	\$ 9,000.00
5	Stormwater BMP Compliance	LS		N/A		\$ 2,000.00	\$ 2,000.00			\$ 2,500.00	\$ 2,500.00	\$ 2,250.00	\$ 2,250.00
Total							\$ 415,321.28				\$ 447,404.64		\$ 431,362.96
7	Unit Price for Crack Mitigation	Tons	50	N/A		\$ 5,495.00	\$ 274,750.00	VB Changed Qty	30	\$ 4,150.00	\$ 124,500.00	\$ 4,822.50	\$ 199,625.00
8	Unit Price for Pot Hole Repair	Tons	25	N/A		\$ 1,500.00	\$ 37,500.00	VB Changed Qty	87	\$ 290.00	\$ 25,230.00	\$ 895.00	\$ 31,365.00
Total Alternates							\$ 312,250.00	\$ 149,730.00					\$ 230,990.00
Total w/Alternates							\$ 727,571.28	\$ 597,134.64				\$ 662,352.96	

Bid Tabulation Form
PROJECT: 2022 Chip Seal Program S2022-9229, Town of Firestone, Colorado

				Engineers Est.		A-One Chipseal		Vance Brothers				AVERAGE	
Item No.	Description	Unit of Measurement and Quantity		Estimated Unit Price	Estimated Bid Amount	Unit Price	Bid Amount			Unit Price	Bid Amount	Unit Price	Bid Amount
Item No.	Description	Unit if Measurement and Quantity		Estimated Unit Price	Estimated Bid Amount	Unit Price	Bid Amount			Unit Price	Bid Amount	Unit	Bid Amount
1	Chip Seal-Ridgecrest	Sq. Yds.	Approximately 70,024	N/A		\$ 3.47	\$ 242,983.28			\$ 3.61	\$ 252,786.64	\$ 3.54	\$ 247,884.96
2	Epoxy Pavement Markings	LS	Replace existing markings	N/A		\$ 8,090.00	\$ 8,090.00			\$ 10,000.00	\$ 10,000.00	\$ 9,045.00	\$ 9,045.00
3	Thermoplastic Pavement Markings	LS	Replace existing markings	N/A		\$ 15,275.00	\$ 15,275.00			\$ 13,500.00	\$ 13,500.00	\$ 14,387.50	\$ 14,387.50
4	Traffic Control and Residential Notifications	LS		N/A		\$ 5,000.00	\$ 5,000.00			\$ 13,000.00	\$ 13,000.00	\$ 9,000.00	\$ 9,000.00
5	Stormwater BMP Compliance	LS		N/A		\$ 2,000.00	\$ 2,000.00			\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00
Total							\$ 273,348.28				\$ 291,286.64		\$ 282,317.46
7	Unit Price for Crack Mitigation	Tons	50	N/A		\$ 5,495.00	\$ 274,750.00	VB Changed Qty	20	\$ 4,150.00	\$ 83,000.00	\$ 4,822.50	\$ 178,875.00
8	Unit Price for Pot Hole Repair	Tons	25	N/A		\$ 1,500.00	\$ 37,500.00			\$ 290.00	\$ 7,250.00	\$ 895.00	\$ 22,375.00
Total Alternates						\$ 312,250.00		\$ 90,250.00					\$ 201,250.00
Total w/Alternates						\$ 585,598.28		\$ 381,536.64				\$ 483,567.46	

Bid Tabulation Form
PROJECT: 2022 Chip Seal Program S2022-9229, Town of Firestone, Colorado

				Engineers Est.		A-One Chipseal		Vance Brothers				AVERAGE	
Item No.	Description	Unit of Measurement and Quantity		Estimated Unit Price	Estimated Bid Amount	Unit Price	Bid Amount			Unit Price	Bid Amount	Unit Price	Bid Amount
Item No.	Description	Unit if Measurement and Quantity		Estimated Unit Price	Estimated Bid Amount	Unit Price	Bid Amount			Unit Price	Bid Amount	Unit	Bid Amount
1	Chip Seal-Sagebrush	Sq. Yds.	Approximately 50,063	N/A		\$ 3.47	\$ 173,718.61			\$ 3.61	\$ 180,727.43	\$ 3.54	\$ 177,223.02
2	Epoxy Pavement Markings	LS	Replace existing markings	N/A		\$ 1,260.00	\$ 1,260.00			\$ -	\$ -	\$ 630.00	\$ 630.00
3	Thermoplastic Pavement Markings	LS	Replace existing markings	N/A		\$ 13,170.00	\$ 13,170.00			\$ 3,250.00	\$ 3,250.00	\$ 8,210.00	\$ 8,210.00
4	Traffic Control and Residential Notifications	LS		N/A		\$ 5,000.00	\$ 5,000.00			\$ 13,000.00	\$ 13,000.00	\$ 9,000.00	\$ 9,000.00
5	Stormwater BMP Compliance	LS		N/A		\$ 2,000.00	\$ 2,000.00			\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00
Total							\$ 195,148.61				\$ 198,977.43		\$ 197,063.02
7	Unit Price for Crack Mitigation	Tons	50	N/A		\$ 5,495.00	\$ 274,750.00	VB Changed Qty	35	\$ 4,150.00	\$ 145,250.00	\$ 4,822.50	\$ 210,000.00
8	Unit Price for Pot Hole Repair	Tons	25	N/A		\$ 1,500.00	\$ 37,500.00			\$ 290.00	\$ 7,250.00	\$ 895.00	\$ 22,375.00
Total Alternates							\$ 312,250.00	\$ 152,500.00					\$ 232,375.00
Total w/Alternates							\$ 507,398.61	\$ 351,477.43				\$ 429,438.02	

Bid Tabulation Form
PROJECT: 2022 Chip Seal Program S2022-9229, Town of Firestone, Colorado

				Engineers Est.		A-One Chipseal		Vance Brothers				AVERAGE	
Item No.	Description	Unit of Measurement and Quantity		Estimated Unit Price	Estimated Bid Amount	Unit Price	Bid Amount			Unit Price	Bid Amount	Unit Price	Bid Amount
Item No.	Description	Unit if Measurement and Quantity		Estimated Unit Price	Estimated Bid Amount	Unit Price	Bid Amount			Unit Price	Bid Amount	Unit	Bid Amount
1	Chip Seal-Stone Ridge	Sq. Yds.	Approximately 70,400	N/A		\$ 3.47	\$ 244,288.00			\$ 3.61	\$ 254,144.00	\$ 3.54	\$ 249,216.00
2	Epoxy Pavement Markings	LS	Replace existing markings	N/A		\$ -	\$ -			\$ 1,800.00	\$ 1,800.00	\$ 900.00	\$ 900.00
3	Thermoplastic Pavement Markings	LS	Replace existing markings	N/A		\$ 3,060.00	\$ 3,060.00			\$ 14,800.00	\$ 14,800.00	\$ 8,930.00	\$ 8,930.00
4	Traffic Control and Residential Notifications	LS		N/A		\$ 5,000.00	\$ 5,000.00			\$ 13,000.00	\$ 13,000.00	\$ 9,000.00	\$ 9,000.00
5	Stormwater BMP Compliance	LS		N/A		\$ 2,000.00	\$ 2,000.00			\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00
Total							\$ 254,348.00			\$ 285,744.00		\$ 270,046.00	
7	Unit Price for Crack Mitigation	Tons	50	N/A		\$ 5,495.00	\$ 274,750.00			\$ 4,150.00	\$ 207,500.00	\$ 4,822.50	\$ 241,125.00
8	Unit Price for Pot Hole Repair	Tons	25	N/A		\$ 1,500.00	\$ 37,500.00	VB Changed Qty	59	\$ 290.00	\$ 17,110.00	\$ 895.00	\$ 27,305.00
Total Alternates							\$ 312,250.00	\$ 224,610.00					\$ 268,430.00
Total w/Alternates							\$ 566,598.00	\$ 510,354.00				\$ 538,476.00	

\$ 688,669.56
Selected bid price is for items selected 1 through 5 in St Vrain Ranch Blvd and Ridge Crest

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 9.b

Discussion/Action

Meeting Date: June 8, 2022

Initiated By: Julie Pasillas

Dept: Public Works

AGENDA TITLE

Resolution 22-73: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING CHANGE ORDER NO. 1 TO THE CONSTRUCTION CONTRACT BETWEEN THE TOWN OF FIRESTONE AND BRANNAN SAND AND GRAVEL COMPANY FOR THE MILL AND OVERLAY PAVING PROJECT FOR PORTIONS OF FIRESTONE AND COLORADO BOULEVARDS

SUMMARY

On March 23, 2022, the Board of Trustees approved a Construction Contract with Brannan Sand and Gravel Company for the mill and overlay of the intersection of Firestone Blvd from Cimarron St to Oak Meadows Blvd and Colorado Blvd from Oak Meadows Blvd to Cimarron St. After receiving the bids for the 2022 Chipseal Program staff would like to use some of the remaining pavement maintenance funds to expand the area of the mill and overlay by another 5,250 sq-yds to the east of the Oak Meadows Blvd stopping point on Firestone Blvd with Change Order No. 1. This area will receive the same treatment as the original area approved by the Board.

HISTORY AND PREVIOUS BOARD ACTION

On March 23, 2022, the Board of Trustees approved Resolution 22-44, a resolution approving a Construction Contract between the Town of Firestone and Brannan Sand and Gravel Company for the mill and overlay of the intersection of Firestone Blvd and Colorado Blvd.

RECOMMENDATION

Staff recommends that the Board approve Resolution 22-73, a resolution approving the Change Order No. 1 to the Construction Contract between the Town of Firestone and Brannan Sand and Gravel Company for the mill and overlay project.

ALTERNATIVES

The Board may choose not to approve Resolution 22-73 and provide staff with additional direction.

ATTACHMENTS

1. Res No 22-73 Change Order No. 1 with Brannan Sand and Gravel Company
2. Change Order No. 1 to Agreement for Services with Brannan Sand & Gravel
3. Firestone Blvd - Additional mill and overlay change order proposal

FINANCIAL CONSIDERATIONS

Change Order No. 1 to the Construction Contract includes an increase of \$104,750.00 to the total amount of the contract to now have a not to exceed the amount of \$774,758.23. Sufficient funds have been budgeted and appropriated from the Capital Project Fund.

RESOLUTION NO. 22-73

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF
FIRESTONE, COLORADO, APPROVING CHANGE ORDER NO. 1 TO
THE CONSTRUCTION CONTRACT BETWEEN THE TOWN OF
FIRESTONE AND BRANNAN SAND AND GRAVEL COMPANY FOR THE
MILL AND OVERLAY PAVING PROJECT FOR PORTIONS OF
FIRESTONE AND COLORADO BOULEVARDS**

WHEREAS, on March 23, 2022, the Town of Firestone (“Town”) and Brannan Sand and Gravel Company (“Contractor”) entered into a Construction Contract for mill and overlay work for both lanes of Firestone Blvd from Oak Meadows Blvd to Cimarron Street and for both lanes of Colorado Blvd from Cimarron Street to Oak Meadows Blvd; and

WHEREAS, prior to the commencement of work Town staff determined that an additional area of Firestone Blvd east of Oak Meadows Blvd was also in need of mill and overlay services; and

WHEREAS, as Contractor is on-site, staff finds that it would be beneficial in terms of efficiency and cost to have Contractor perform the additional mill and overlay work and thus recommends approval of Change Order No. 1.

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

Change Order No. 1 to the Construction Contract between the Town of Firestone and Brannan Sand and Gravel 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 Change Order No. 1 on behalf of the Town.

INTRODUCED, READ, AND ADOPTED this 8th day of June, 2022.

TOWN OF FIRESTONE, COLORADO

Drew Alan Peterson, Mayor

ATTEST:

Jessica Koenig, CMC Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

SECTION 00941 **CHANGE ORDER**

No. 1

Date of Issuance: _____

Effective Date: June 8, 2022

Project: Pavement Maintenance (S2022-9228)	Owner: Town of Firestone	Owner's Contract No.: S2022-9228
Contract: Mill and overlay of Firestone Blvd and Colorado Blvd	Date of Contract: March 23, 2022	
Contractor: Brannan Sand and Gravel Company	Engineer's Project No.: N/A	

The Contract Documents are modified as follows upon execution of this Change Order:

Description:

Mill and overlay an additional 5,250 Sq-yds on Firestone Blvd From Oak Meadows Blvd to approximately 700 Ft East.

See attached

Attachments (list documents supporting change):

Mill and overlay of an additional 5,250 Sq-yds on Firestone Blvd From Oak Meadows Blvd to approximately 700 ft east

Graphic Exhibit

CHANGE IN CONTRACT PRICE:

CHANGE IN CONTRACT TIMES:

Original Contract Price:

\$670,008.23

[Increase] [Decrease] from previously approved Change Orders No. 0 to No. 0:

\$0.00

Contract Price prior to this Change Order:

\$670,008.23

[Increase] of this Change Order:

\$104,750.00

Contract Price incorporating this Change Order:

\$774,758.23

Original Contract Times:

Working days

☐

Calendar days

Substantial completion (days or date): 120 days

Ready for final payment (days or date): Upon completion

[Increase] [Decrease] from previously approved Change Orders No. 0 to No. 0:

Substantial completion (days): 0

Ready for final payment (days): 0

Contract Times prior to this Change Order:

Substantial completion (days or date): 120 days

Ready for final payment (days or date): Upon completion

[Increase] [Decrease] of this Change Order:

Substantial completion (days or date): +0 days

Ready for final payment (days or date): +0 days

Contract Times with all approved Change Orders:

Substantial completion (days or date): 120 days

Ready for final payment (days or date): Upon completion

RECOMMENDED:

ACCEPTED:

ACCEPTED:

By: _____
Public Works (Authorized Signature)

By: _____
Owner (Authorized Signature)

By: _____
Contractor (Authorized Signature)

Date: _____

Date: _____

Date: _____



Town of Firestone

May 23, 2022

David Minor
9950 Park Avenue
Firestone, CO 80504
Project: Firestone Boulevard and Colorado Boulevard
Mill and Overlay
Contract# S2022-9228

Subject: Firestone Boulevard – Eastern Limits Extension

Mr. Minor:

Below is a breakdown of the requested additional compensation for extending the mill and overlay limits on Firestone Boulevard:

Biditem	Description	Change Order Quantity	Units	Unit Price	Extension
1	Surface Milling - 2-inch thick	5,250	SY	\$ 2.40	\$ 12,600.00
2	Overlay - "S" (3/4" Nominal) 2-inch thickness	600	TON	\$ 76.68	\$ 46,008.00
3	Epoxy Pavement Striping	3,050	LF	\$ 1.14	\$ 3,477.00
4	Thermoplastic Pavement Markings	1	LS	\$ 8,250.00	\$ 8,250.00
5	Traffic Control	1	LS	\$ 25,750.00	\$ 25,750.00
8	Subbase Repair	50	TON	\$ 173.30	\$ 8,665.00
					\$ 104,750.00

The attached drawing shows the additional mill and overlay limits used in preparing this proposal.

Please let me know if you need any additional information.

Sincerely,

Phillip Miller
Project Manager

Firestone Blvd and CO Blvd M&O

Legend

- Additional M&O Limits
- CO Blvd
- Firestone Blvd

Charter Academy

Twilight Ave

Domino's Pizza

O'Reilly Auto Parts

Dollar General

Chase Bank

Sherwin-Williams Paint Store

Firestone Meadows Ap

Firestone Blvd

Firestone Blvd

McDonald's

Walgreens

Baskin-Robbins

Grease Monkey

AutoZone Auto Parts

King Soopers

Cimarron Apartments

Google Earth

13

1000 ft



**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 9.c

Discussion/Action

Meeting Date: June 8, 2022

Initiated By: Raelynn Ferrera

Dept: Administration

AGENDA TITLE

Resolution 22-74: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING A MASTER LICENSE AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND HIGHLINE COLORADO LLC REGARDING THE INSTALLATION OF FIBER OPTIC NETWORK EQUIPMENT IN TOWN- RIGHTS OF WAY

SUMMARY

The Town and its consultant completed negotiations with Highline Colorado, LLC to enter into a non-exclusive master license agreement for fiber networks.

The Agreement includes requirements for placement of equipment in rights-of-way, permit requirements, and an Infrastructure and Permit Fee of two percent (2%).

HISTORY AND PREVIOUS BOARD ACTION

In 2018, the Board of Trustees identified broadband as a community need by seeking to overturn the restrictions SB-152 places on local government. In April 2018, Firestone voters approved local authority for broadband services.

In 2019, the Board of Trustees directed staff and our Broadband Consultant to evaluate the Broadband needs of Firestone residents and businesses. During 2020-2021, the Town and its consultant began to work on the Broadband Initiative.

February 26, 2020: The Board approved the Professional Services Agreement With Vantage Point Solutions, Inc to conduct a Broadband Feasibility Study

June 10, 2020: Fred Diehl Consulting and Vantage Point Solutions presented the Board of Trustees with a status update on the Town of Firestone's Broadband Assessment and Feasibility Study. The update included an overview of the project, the study's initial findings, residential needs assessment, stakeholder engagement, and the survey results.

August 12, 2020: Vantage Point Solutions presented to the Board of Trustees the Broadband Study Final Report and Recommendations, including identification of broadband issues in Firestone, solutions, and recommendations for the next steps.

The Board of Trustees directed staff to move forward with the recommendation in the final report to issue an RFI for a Public-Private Partnership for a Last-Mile FTTP network.

October 21, 2020 (Work Session): Broadband Discussion with Brad Moline. President and CEO, ALLO Communications.

December 9, 2020: The Board of Trustees directed staff to provide a letter affirming the Town's continued interest in moving forward with ALLO as part of the Broadband Initiative.

July 28, 2021: Fred Diehl, the Town's Broadband consultant, updated the Board of Trustees on ongoing negotiations with Allo and Comcast and provided information on the upcoming milestone with each provider.

May 18, 2021(Work Session): Broadband Discussion with Highline Colorado LLC.

RECOMMENDATION

Approval of Resolution authorizing execution of said Agreement

ALTERNATIVES

ATTACHMENTS

1. ITC Fiber Optic Network MLA Reso
2. Master License Agreement Highline Colorado, LLC

FINANCIAL CONSIDERATIONS

RESOLUTION NO. 22-74

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING A MASTER LICENSE AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND HIGHLINE COLORADO LLC REGARDING THE INSTALLATION OF FIBER OPTIC NETWORK EQUIPMENT IN TOWN- RIGHTS OF WAY

WHEREAS, Highline Colorado LLC (“Highline”) is authorized to operate as a telecommunications provider by the Colorado Public Utilities Commission; and

WHEREAS, Highline has submitted plans to install a fiber optic network, which includes fiber optic lines and related equipment, in various locations within the Town’s Rights of Way; and

WHEREAS, the Town and Highline wish to define the terms of the use of Town right-of-way for the purposes of installation and operation of a fiber optic utility (the “Master License Agreement”); and

WHEREAS, the Master License Agreement requires Highline to obtain a supplemental site license from the Town for each public right-of-way segment in which Highline desires to locate, construct, operate, control and maintain its fiber optic network equipment before commencing construction of such network equipment at that particular right-of-way location (the “Supplemental Site License”); and

WHEREAS, Highline and the Town wish to define the terms of Highline’s license to construct, install and operate its fiber optic network equipment; and

WHEREAS, the attached Master License Agreement and Supplemental Site License Agreement clearly define the rights and responsibilities of the parties in relation to Highline’s construction and use of its own fiber optic network equipment.

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

Section 1. The Master License Agreement between the Town of Firestone and Highline Colorado LLC, in a form substantially similar to the form attached hereto as Exhibit A, is hereby approved.

Section 2. The Supplemental Site License Agreement between the Town of Firestone and Highline Colorado LLC, in a form substantially similar to the form attached hereto as Exhibit C, is hereby approved.

Section 3. The Mayor is authorized to sign the Master License Agreement on behalf of the Town.

Section 4. The Town Manager is hereby authorized to execute the Supplemental Site License Agreement on behalf of the Town, to the extent consistent with the Town Manager's spending authority.

Section 5. The Town Manager, or his designee, is authorized to hereafter amend the terms and conditions of the Supplemental Site License Agreement in conjunction with future planned fiber optic network equipment installations in Town-controlled right-of-way by Highline Colorado LLC.

INTRODUCED, READ AND ADOPTED this __ day of _____, 2022.

TOWN OF FIRESTONE, COLORADO

Drew Alan Peterson, Mayor

ATTEST:

Jessica Koenig, CMC, Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

NON-EXCLUSIVE MASTER LICENSE AGREEMENT FOR FIBER NETWORKS

THIS MASTER RIGHT-OF-WAY USE AGREEMENT ("Use Agreement") is dated as of the 1st day of June, 2022 (the "Effective Date"), and entered into by and between the **TOWN OF FIRESTONE**, a Colorado municipal corporation with an address of 9950 Park Avenue, Firestone, Colorado 80504 (the "Town"), and **HIGHLINE COLORADO, LLC**, and its affiliated companies, located at 1791 O. G. Skinner Drive, West Point, Georgia 31833 ("ITC" or the "Company").

RECITALS

A. The Town is the owner of property interests in the Public Right-of-Way, and desires to protect and preserve the Public Right-of-Way. The Town further maintains police power authority to regulate access to and use of the Public Right-of-Way in a manner that protects the public health, safety and welfare, consistent with Applicable Law.

B. Company owns, maintains, operates and controls, in accordance with regulations promulgated by the Federal Communications Commission ("F.C.C."), a fiber-based telecommunications Network or Networks serving the Company's customers.

C. For purpose of operating the network, the Company desires the Town's permission to locate, place, attach, install, operate, control, maintain, and repair Equipment in the Public Right-of-Way (as these terms are defined in § I below) in the locations detailed in Supplemental Sites Licenses as shown on **Exhibit B**. The form of each Supplemental Site License is attached as **Exhibit C**.

D. The Town desires to grant to Company a non-exclusive license ("License") for the above-stated purpose, upon the terms and conditions contained below, and in accordance with Applicable Law.

AGREEMENT

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree to the following covenants, terms, and conditions:

I. DEFINITIONS.

The following definitions shall apply generally to the provisions of this Use Agreement.

"Applicable Law" means all statutes, constitutions, ordinances, resolutions, regulations, judicial decisions, rules, tariffs, administrative orders, certificates, orders, or other requirements of the Town or other governmental agency having joint or several jurisdiction over the parties to this Agreement.

"Claims" means (1) losses, liabilities, and expenses of any sort, including attorneys' fees; (2) fines and penalties; (3) environmental costs, including, but not limited to, investigation, removal, remedial, and restoration costs, and consultant and other fees and expenses; and (4) all other costs or expenses.

"Effective Date" means the date that this Agreement is fully executed by both parties.

"Equipment" means electronics equipment, transmission equipment, shelters, coaxial cables, mounts, generators, containment structures, hangers, pull boxes, conduit, pedestals, brackets, fiber optic cable and other accessories and component equipment.

"Hazardous Substance" means any substance, chemical or waste that is identified as hazardous or toxic in any applicable federal, state or local law or regulation, including but not limited to petroleum products and asbestos.

"Installation Date" shall mean the date that the first Equipment is installed by the Company pursuant to this License Agreement.

"Network" or collectively "Networks" means one or more of the neutral-host, communication or telecommunication systems operated by the Company to serve its customers in the Town.

"Public Right-of-Way" or "Right of Way" means the space in, upon, above, along, adjacent to, across, and below the public streets, roads, highways, lanes, courts, ways, alleys, boulevards, sidewalks and bicycle lanes, including all utility easements and public service easements as the same now or may hereafter exist, that are under the jurisdiction of the Town. This term shall not include Town parkland, open space, trails, state or federal rights of way, or any property owned by any person or entity other than the Town, except as provided by applicable Laws or pursuant to an agreement between the Town and any such person or entity.

"Services" means the telecommunications services provided through the network by the Company to its customers. Services also includes the lease of a Network, or any portion thereof, to another person or entity, or the provision of capacity or bandwidth on the System to another person or entity, provided that Company at all times retains exclusive control over the System and remains responsible for locating, servicing, repairing, relocating or removing its System pursuant to the terms of this Agreement. From time-to-time, the Company may enter into sales contracts with its customers to sell them additional services unrelated to its use of Equipment in the Public Right-of Way, for example: engineering design, network consulting, or for the sale of hardware. Revenues from these additional engineering services and hardware are not considered to be "Services" for purposes of this Agreement.

"Town" means the Town of Firestone, a Colorado statutory municipality.

II. TERM

A. This License Agreement shall be effective as of the Effective Date and shall extend for a term of ten (10) years commencing on the Installation Date unless it is earlier terminated by either party in accordance with the provisions herein. Provided, however, that if the Company's Network is not operational and providing Services to customers within the Town within two (2) years of the Effective Date of this License Agreement, this License Agreement may be terminated by the Town, in its sole discretion, upon thirty (30) days written notice. This Agreement may be extended for an additional agreed-upon period of time upon the mutual execution by the Parties of a written amendment.

III. SCOPE OF AGREEMENT

A. All rights expressly granted to the Company under this Agreement, which shall be exercised at the Company's sole cost and expense, shall be subject to the Town's lawful exercise of its police powers and the prior and continuing right of the Town under Applicable Laws to use all parts of the Public Right-of-Way exclusively or concurrently with any other person or entity and shall be further subject to all deeds, easements, dedications, conditions, covenants, restrictions, leases, licenses, permits, franchises, encumbrances, and claims of title of record which may affect the Public Right-of-Way. Nothing in this Agreement shall be deemed to grant convey, create, or vest in the Company a real property interest in land, including any fee, leasehold interest, or easement. Any work performed pursuant to the rights granted under this Agreement shall be subject to the reasonable prior review and approval of the Town and shall conform with Applicable Laws and regulations. Nothing in this Agreement shall be deemed to grant a franchise, nor permit the Town to collect a franchise fee. This Agreement does not grant a franchise or other right to utilize the Public Right-of-Way to construct a cable system, provide cable or other video programming services, construct a wireless communications facility, or provide wireless communications services. Notwithstanding the foregoing, nothing herein shall limit the ability of the Company to provide fixed wireless internet service or sell services to entities that construct wireless communications facilities or provide wireless services, provided that such entities shall also be required to obtain authorization from the Town for the access to the Right-of-Way for their equipment or facilities.

B. Applicability of Town Site Planning Process. Nothing in this Agreement shall waive or modify the Company's obligation to comply with the Town's regular site plan process, in the placement of the Company's Equipment.

C. No Interference. The Company in the performance and exercise of its rights and obligations under this Agreement shall not interfere in any manner with the current or future existence and operation of all public and private Rights of Way (except in the case where the Company's rights are prior or superior to such private right of way), sanitary sewers, water mains, storm drains, gas mains, poles, aerial and underground electrical and telephone wires, cable television, and other communications, utility, or municipal property, without the express written approval of the owner or owners of the affected property or properties, except as permitted by applicable Laws or this Agreement.

D. Compliance with Laws. The Company shall comply with all Applicable Laws in the exercise and performance of its rights and obligations under this Agreement.

E. Utility Notification Center. Prior to undertaking any work pursuant to this Agreement, the Company shall take all actions necessary to become a tier 1 member of the Utility Notification Center of Colorado, and comply with and adhere to local procedures, customs and practices relating to the one call locator service program established in C.R.S. Section 9-1.5-101, et seq., as such may be amended from time to time.

IV. CONSTRUCTION

A. The Company intends to install its Network and Equipment at the locations set forth on the plan and profile approved by the Town and submitted as a request for supplemental site license. The Company shall be required to obtain a supplemental site license for each Equipment location by submitting prior to beginning construction all information required by **Exhibit A which is attached hereto and made a part of this Agreement.** The Town will authorize the Company to commence construction with the grant of a supplemental site license and the provision of all necessary permits. Approved supplemental site licenses will be set forth in **Exhibit B which is attached hereto and**

made a part of this Agreement. The Company shall comply with all applicable federal, State, and Town technical specifications and requirements and all applicable State and local codes related to the construction, installation, operation, maintenance, and control of the Company's Equipment installed in the Public Rights-of-Way

B. Obtaining Required Permits. If the attachment, installation, operation, maintenance, or location of the Equipment in the Public Right-of-Way shall require any permits, the Company shall, if required under Applicable Law, apply for the appropriate permits and pay the permit fees required herein. The Town shall respond to the Company's requests for permits in the ordinary course of its business and shall otherwise cooperate with the Company in facilitating the deployment of the network in the Public Right-of-Way in a reasonable and timely manner. As a condition of obtaining any permit that involves digging or other excavation in the Public Right-of-Way, the Company shall physically identify the locations of any other existing underground utility or other facilities in the Public Right-of-Way in the proximity of the proposed work area and illustrate such locations on plan and profile drawings also illustrating the proposed Equipment in accordance with **Exhibit A**. Such drawings shall be provided to the Town with each request for a supplemental site license. For each supplemental site license, Company shall submit construction drawings prepared by an engineer licensed in the state of Colorado for review no less than thirty (30) days prior to beginning construction. Construction shall not begin until written confirmation of grant of a supplemental site license by the Town and the acquisition of all necessary permits.

C. Permit Fees. The Company has requested, and the Town has agreed, to allow the Company to pay permit fees over time as a bulk fee during the entire Term of this Agreement, as opposed to payment of individual permit fees as various sections of the Network are deployed. As consideration for the Company agreeing to construct its Network to provide fiber connectivity and to offer Services within the Town limits the Town has agreed to payment of a bulk permit/infrastructure fee to be remitted over time as described herein. The parties further acknowledge that any violation of the provisions of this Agreement related to fees shall be considered a material breach.

I. The Company shall pay to the Town, on a calendar quarterly basis with payments due twenty (20) days after the end of each quarter, an "Infrastructure and Permit Fee" equal to two percent (2%) of the amounts billed by the Company for Internet Service to all of its customer accounts within the Town during the preceding quarter. The obligation to pay this Fee accrues as the amounts for Internet Service are billed and is not dependent in any respect upon whether the Company's customers remit similar amounts that may be surcharged by the Company on customer invoices.

II. The Infrastructure and Permit Fee shall be in lieu of any license fee for use of the Right-of-Way, inspection fees, and permitting fees generally charged by the Town to entities deploying facilities in the Right-of-Way. This subsection (C) does not exempt the Company from the requirement to obtain and pay permit fees for any work performed on the Network within the Public Right of Way after initial construction and deployment and is effective after 1 year of the date the Town accepts the work performed on the initial construction.

III. Upon thirty (30) days of a written request from the Town, the Company shall provide the Town with documentation supporting the amounts paid as part of the Infrastructure and Permit Fee. Any underpayments shall accrue interest at the rate of eight percent (8%) per annum until paid in full. If any Infrastructure and Permit Fee financial review determines that the Fee has been

underpaid by more than two percent (2%), the Company shall be obligated to reimburse the Town for all costs reasonably incurred in conducting such review.

IV. The parties understand and agree that the total amount of the Infrastructure and Permit Fee to be paid during the Term of this Agreement is unknown, and dependent upon the amount of customer billings made by the Company during the Term. As such, the total paid may result in less or more than full cost recovery to the Town. Both parties specifically waive any rights they may have under Applicable Law to seek either additional fee payments or reimbursements, except as provided in subsection III above.

D. Blasting. Company shall not do or permit to be done any blasting above, underneath, or near the Right-of-Way without first having received written permission from the Town. Any blasting shall be done in the presence of a representative of Town and in accordance with directions such representative may give for the protection or safety of facilities in the area.

E. Location of Licensed Facilities. All Facilities shall be placed a minimum of: (i) ten (10) feet, measured horizontally, from existing and known planned storm sewer, sanitary sewer, and potable and non-potable water lines; and (ii) eighteen (18) inches, measured vertically, above or below, existing and known planned storm sewer, sanitary sewer, and potable and non-potable water lines and wherever possible at perpendicular crossings

V. RELOCATION AND REMOVAL OF EQUIPMENT

A. Relocation and Displacement of Equipment. The Company understands and acknowledges that Town may require the Company to relocate one or more of its Equipment installations. The Company shall at Town's direction relocate such Equipment at the Company's sole cost and expense not later than one hundred and twenty (120) days after receiving written notice that the Town reasonably determines that the relocation is needed for any of the following purposes: (a) if required for the construction, completion, repair, relocation, or maintenance of a public facility or Public Right-of-Way; (b) because the Company's Equipment is interfering with or adversely affecting proper operation of street lights, traffic signals, governmental communications networks or other Town property; or (c) to protect or preserve the public health or safety. In any such case, Town shall use its best efforts (but shall not be required to incur financial costs) to afford the Company a reasonably equivalent alternate location. If the Company shall fail to relocate any Equipment as requested by the Town within one hundred and twenty (120) days after the above-referenced notice in accordance with this subsection, Town shall be entitled to relocate the Equipment at the Company's sole cost and expense, without further notice to the Company. To the extent the Town has actual knowledge thereof, the Town shall attempt promptly to inform the Company of the displacement or removal of any pole on which any Equipment is located.

B. Abandonment. If Company terminates the use of Equipment for a period of six (6) or more consecutive months, the Company shall deemed abandoned and shall be removed by the Company at its expense. In the event Company is unable or refuses to remove such Equipment the Town may authorize removal and Company shall be responsible for all costs incurred for such removal.

C. Damage and Restoration. Unless otherwise provided by Town rules, regulations, and ordinances, whenever the removal or relocation of Equipment is required or permitted under this Agreement,

and such removal or relocation causes the Public Right-of-Way to be damaged, or whenever Company, in connection with any of its operations, causes damage to the Public Right of Way or any other Town property, the Company, at its sole cost and expense, and within thirty (30) days after such damage occurs, repair the damage and return the Public Right-of-Way in which the Equipment is located to a safe and satisfactory condition in accordance with Applicable Law. If the damage is determined by the Town to be impacting the public health and safety, the Town may perform or cause to be performed such reasonable and necessary repairs on behalf of the Company and to charge the Company for the proposed costs to be incurred or the actual costs incurred by the Town. If the Company does not repair the damage as described herein, then the Town shall have the option, upon fifteen (15) days' prior written notice to the Company, to perform or cause to be performed such reasonable and necessary work on behalf of the Company and to charge the Company for the proposed costs to be incurred or the actual costs incurred by the Town. Upon the receipt of a demand for payment by the Town, the Company shall promptly reimburse the Town for such costs within thirty (30) days. In the case of fire, disaster or other emergency impacting the public health and safety as solely determined by the Town, the Town . to the extent feasible as a result of any emergency, shall provide reasonable notice to the Company to remove or disconnect the Company's Equipment located in the Public Right of Way or on any property of the Town. If the situation safely permits, the Town shall provide the Company with the opportunity to perform such action within twenty-four (24) hours unless, in the Town's reasonable discretion, the imminent threat to public health safety or welfare makes such notice impractical.

D. Removal of Equipment. Upon sixty (60) days' written notice by the Town pursuant to the termination of this Agreement, the Company shall promptly, safely and carefully remove the Equipment and Network in the Public Right-of-Way. If the Company fails to complete this removal work on or before the sixty (60) days subsequent to the issuance of notice pursuant to this subsection, then the Town, upon written notice to the Company, shall have the right, at the Town's sole election, but not the obligation, to perform the removal work and charge the Company for the actual costs and expenses, including, without limitation, reasonable administrative costs. The Company shall pay to the Town actual costs and expenses incurred by the Town in performing any removal work and any storage of the Company's property after removal within sixty (60) days after the date of a written demand for this payment from the Town. After the Town receives the reimbursement payment from the Company for the removal work performed by the Town, the Town shall promptly return to the Company the property belonging to the Company and removed by the Town pursuant to this Section at no liability to the Town. If the Town does not receive reimbursement payment from the Company as set forth above, or if Town does not elect to remove such items at the Town's cost after the Company's failure to so remove, any items of the Company's property remaining on or about the Public-Right-of-Way may, at the Town's option, be deemed abandoned and the Town may dispose of such property in any manner permitted by Law. Alternatively, the Town may elect to take title to abandoned property, provided that the Company shall, at no cost to Town, submit to the Town any documents satisfactory to the Town transferring to the Town the ownership of such property. The provisions of this subsection shall survive the termination of this Agreement. Unless removed by the Town as set forth herein, the Company may remove its Equipment from the Public-Right-of-Way at any time at its discretion, provided that any such removal is in compliance with applicable zoning and permitting requirements.

VI. OTHER UTILITIES

A. The Company agrees and understands that if the Town has permitted or allowed natural gas gathering, storage, transmission, distribution, or related facilities in the Right-of-Way, the Company has been fully advised by the Town that such natural gas facilities may now transport and may continue to transport

natural gas at significant pressures. The Company shall advise all of its employees, agents, contractors, and other persons who enter upon the Right-of-Way- the existence and nature of such natural gas facilities and the potential danger and risk involved.

B. The Company agrees and understands that any natural gas facilities, if located in the Right-of-Way, may be subject to cathodic protection by rectifier and related anode beds, and that the Town shall not be liable for stray current or interfering signals induced in the licensed facility as a result of the operating of the cathodic protection system.

C. The Company agrees and understands that if the Town has permitted and allowed to be constructed electric transmission, distribution, or related facilities in the Right-of-Way, the Company has been fully advised by the Town that such electric facilities may now transmit and may continue to transmit electric current at significant voltages, and that the conductors on electric lines may not be insulated. The Company shall advise all of its employees, agents, contractors, and other persons who enter upon the Right-of-Way of the existence and nature of such electric facilities and the potential danger and risk involved.

VII. HAZARDOUS SUBSTANCES

A. The Company agrees that the Company, its contractors, subcontractors and agents, shall not use, generate, store, produce, transport or dispose any Hazardous Substance on, under, about or within the area of the Public Right-of-Way in which it is located in violation of any Applicable Laws. Except to the extent of the negligence or intentional misconduct of the Town, the Company shall pay, indemnify, defend and hold the Town harmless against and to the extent of any loss or liability incurred by reason of any Hazardous Substance produced, disposed of, or used by the Company pursuant to this Agreement. The Company shall ensure that any on-site or off-site storage, treatment, transportation, disposal or other handling of any Hazardous Substance will be performed by persons who are properly trained, authorized, licensed and otherwise permitted to perform such services. The Parties recognize that the Company is only using a portion of the Public Right-of-Way and that the Company shall not be responsible for any environmental condition or issue except to the extent resulting from the Company's, its agents' or contractors' specific activities and responsibilities under this Agreement.

VIII. INDEMNIFICATION AND WAIVER

A. The Company shall indemnify, defend, protect, and hold harmless the Town, its elected officials, officers, employees, agents, and contractors from and against all Claims, demands, losses, damages, liabilities, fines, charges, penalties, administrative and judicial proceedings and orders, judgments, and all costs and expenses incurred in connection therewith, including reasonable attorney's fees and costs of defense (collectively, the "Losses") directly or proximately resulting from the Company's activities undertaken pursuant to this Agreement .

B. Waiver of Claims. The Company waives all Claims, demands, causes of action, and rights it may assert against the Town on account of any loss, damage, or injury to any Equipment or any loss or degradation of the Services as a result of any event or occurrence which is beyond the reasonable control of the Town.

C. Limitation of Town's Liability. To the extent permitted by law, the Town shall be liable only for the cost of repair to damaged Equipment arising from the gross negligence or willful misconduct of Town,

its employees, agents, or contractors and shall in no event be liable for indirect or consequential damages. The Town does not waive any of the protections, immunities or limitations afforded it by the Colorado Governmental Immunity Act (C.R.S. §§ 24-10-101 et. seq.) as same may be amended from time to time.

D. Limitation of Company's Liability. In no event shall the Company be liable to the Town for indirect or consequential damages.

E. Notice. The Town shall give the Company timely written notice of the making of any Claim or of the commencement of any action, suit or other proceeding in connection with any Claim. In the event such Claim arises, the Town shall tender the defense thereof to the Company and the Company shall consult and cooperate with the Town Attorney's Office while conducting its defense. The Town and any indemnified party shall cooperate fully therein with the Company's legal representative and shall be consulted on any settlements of Claims prior to the execution of any settlement agreements.

F. Separate Representation. If separate representation to fully protect the interests of both parties is or becomes necessary, such as a conflict of interest between the Indemnified Party and the counsel selected by the Company to represent the Town, the Company shall pay for all reasonable expenses incurred by the Town as a result of such separate representation; provided, however, in the event separate representation becomes necessary, the Town shall select its own counsel and any other experts or consultants, subject to the Company's prior approval, which shall not be unreasonably withheld. The Town's expenses hereunder 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 Town Attorney or his/her assistants or any employees of the Town or its agents but shall not include outside attorneys' fees for services that are unnecessarily duplicative of services provided the Town by the Company.

IX. INSURANCE.

A. Required Coverages. The Company shall, and shall require its subcontractors to maintain substantially the same coverage with substantially the same limits as required of Company, obtain and maintain at its own cost and expense at all times during the term of this Agreement (a) Commercial General Liability insurance protecting the Company in an amount of Five Million Dollars (\$5,000,000) per occurrence (combined single limit), for bodily injury and property damage, and Five Million Dollars (\$5,000,000) general aggregate including personal and advertising injury liability and products-completed operations; (b) Commercial Automobile Liability covering all owned, hired, and non-owned autos in an amount of Five Million Dollars (\$5,000,000) combined single limit each accident for bodily injury and property damage; (c) Statutory workers' compensation and employer's liability insurance in an amount of One Million Dollars (\$1,000,000) each accident/disease/policy limit. All required insurance policies shall include the Town, its Board members, officers, and employees as additional insureds as their interest may appear under this Agreement for any covered liability arising out of the Company's performance of work under this Agreement. Coverage shall be in an occurrence form and in accordance with the limits and provisions specified herein. Claims-made policies are not acceptable. Upon receipt of notice from its insurer(s) the Company shall use commercially reasonable efforts to provide the Town with thirty (30) days' advance written notice of cancellation. Notwithstanding the foregoing, upon sixty (60) days' prior notice to and review by the Company, the Town may increase the aforementioned limits of insurance at any time in its reasonable discretion.

B. Filing of Certificates and Endorsements. Prior to the commencement of any work pursuant to this Agreement, the Company shall file with the Town the required original certificate(s) of insurance with blanket additional insured endorsements, which shall state the following:

- I. The policy number; name of insurance company; name and address of the agent or authorized representative; name and address of insured; project name; policy expiration date; and specific coverage amounts;
- II. That the Company's insurance policies are primary as respects any other valid or collectible insurance that the Town may possess, including any self-insured retentions the Town may have; and any other insurance the Town does possess shall be considered excess insurance only and shall not be required to contribute with this insurance; and
- III. That the Company's insurance policies waive any right of recovery the insurance company may have against the Town.

The certificate(s) of insurance shall be mailed to the Town at the address specified in § 9 below and shall be updated annually within thirty (30) days of the anniversary of the Effective Date of this Agreement.

C. Insurer Criteria. Any insurance provider of the Company shall be admitted and authorized to do business in the State of Colorado and shall carry a minimum rating assigned by A.M. *Best & Company's Key Rating Guide* of "A-" Overall and a Financial Size Category of "VII". Insurance policies and certificates issued by non-admitted insurance companies are not acceptable.

D. Severability of Interest. "Severability of interest" or "separation of insureds" clauses shall be made a part of the Commercial General Liability and Commercial Automobile Liability policies.

X. NOTICES.

A. All notices which shall or may be given pursuant to this Agreement shall be in writing and delivered (a) through the United States mail, by first class mail, postage prepaid; or (b) by facsimile or email transmission, if a hard copy of the same is followed by delivery through the U. S. mail or by overnight delivery service as just described, addressed as follows:

If to the Town: **Town of Firestone**

Attn: Town Manager
9950 Park Ave
Firestone, CO 80504

If to Company: **Highline Colorado, LLC**

Attn: President
9 Cedarwood Drive Unit 4
Bedford, NH 03101

With Copy to:

Attn: COO
60 Beckwith Drive
Colorado City, CO 81019

B. Date of Notices; Changing Notice Address. Notices shall be deemed given upon receipt in the case of personal delivery, three (3) days after deposit in the United States mail, or the next business day in the case of facsimile, email, or overnight delivery. Either party may from time to time designate any other address for this purpose by written notice to the other party delivered in the manner set forth above.

C. Emergency Contact. The Company shall be available to the employees of any Town department having jurisdiction over the Company's activities twenty-four (24) hours a day, seven (7) days a week, regarding problems or complaints resulting from the attachment, installation, operation, maintenance, or removal of the Equipment. The 24-hour emergency contact of the Company can be reached at: 888-212-5400.

The Company shall provide to the Town a new 24-hour telephone number pursuant to this Section 10 prior to changing telephone numbers.

XI. TERMINATION.

This Agreement may be terminated by either party upon forty five (45) days' prior written notice to the other party upon a default of any material covenant or term hereof by the other party, which default is not cured to the reasonable satisfaction of the non-defaulting party within forty-five (45) days of receipt of written notice of default. Except as expressly provided herein, the rights granted under this Agreement are irrevocable during the term.

XII. ASSIGNMENT/TRANSFER OF OWNERSHIP OR CONTROL.

In this Section, the following words have the meanings indicated:

"Control" means actual working control in whatever manner exercised. "Control" includes, but may not necessarily require, majority stock ownership.

"Proposed Transferee" means a proposed purchaser, transferee, lessee, assignee or person acquiring ownership or control of this Agreement or of the Company.

A. The Company shall not sell, transfer, lease, assign, sublet or dispose of, in whole or in part, either by forced or involuntary sale, or by ordinary sale, contract, consolidation or otherwise, this Agreement or any of the rights or privileges therein granted, without the prior consent of the Town, except that such consent shall not be required for sales, transfers, leases, assignments, subleases or disposals to any parent, subsidiary, affiliate or any person, firm or corporation that shall Control, or be under common Control, with the Company. The consent required by the Town shall not be unreasonably withheld or delayed, but may be conditioned upon the performance of those requirements necessary to ensure compliance with the specific obligations of this Agreement imposed upon the Company by Town. The Company shall provide no less than thirty (30) days written notice to the Town of the details of any transaction described herein that requires Town consent. Notwithstanding anything to the contrary in this Section, no Town consent is required for transfers to non-affiliates that are currently operating in the Town and are in full compliance of all obligations to the Town. The Company shall provide no less than thirty (30) days written notice to the Town of a

transaction covered in this Section to a non-affiliate that it believes is compliant with its obligations to the Town.

B. The requirements of this subsection shall not, except as set forth below, apply to any surviving successor entity or newly created successor entity in the event of a merger, reorganization or consolidation involving the Company. The Town reserves the right to be reimbursed for its reasonable costs relating to a transfer of ownership. Company shall not change its name under which it does business with the public without providing at least thirty (30) days prior notice to the Town. This Section shall apply to a change in control of the Company if the successor entity meets any of the following criteria, with a rebuttable presumption that a transfer of Control has occurred upon the acquisition or accumulation by any person or group of persons of fifty-one percent (51%) or more of the voting shares of the Company:

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; or
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; or
3. Has pending any material legal claim, lawsuit, or administrative proceeding arising out of or involving a network and/or equipment similar to that contemplated by this Agreement, except that any such Claims, suits or proceedings relating to insurance Claims, theft of service, or employment matters need not be disclosed; or
4. Is financially insolvent; or
5. Does not have the financial and technical capability to enable it to maintain and operate the network and equipment for the remaining term of this Agreement.

C. If the Proposed Transferee meets any of these criteria, the Town's consent must be obtained to the transfer of this Agreement or any of the rights provided hereunder. The consent required shall not be unreasonably withheld or delayed, but may be conditioned upon the performance of those requirements necessary to ensure compliance with the specific obligations of this Agreement imposed upon the Company by the Town.

D. In seeking the Town's consent to any change in ownership or Control, the Company shall indicate whether it has failed to comply with any provision of this Agreement at any point during the term of this Agreement.

E. The consent or approval of the Town to transfer by the Company does not constitute a waiver or release of the rights of the Town in or to its Public Right-of-Way or easements and any transfer shall by its own terms be expressly subject to the terms and conditions of this Agreement.

F. Any sale, transfer or assignment of this Agreement will bind the successor in interest to the terms of this Agreement.

G. Notwithstanding anything contained in this Agreement, the Company may pledge the assets of the Network and Equipment for the purpose of financing provided that such pledge of assets shall not impair the Company or mitigate the Company's responsibility and capability to meet all its obligations under the provisions of this Agreement.

XIII. MISCELLANEOUS PROVISIONS.

The provisions that follow shall apply generally to the obligations of the parties under this Agreement.

A. A copy of the applicable supplemental site license shall be on the Right-of-Way site and available during construction of any licensed facility.

B. Non-exclusive Use. The Company understands that this Agreement does not provide the Company with exclusive use of the Public Right-of-Way and that Town shall have the right to permit other providers of communications services to install equipment or devices in the Public Right-of-Way.

C. Waiver of Breach. The waiver by either party of any breach or violation of any provision of this Agreement shall not be deemed to be a waiver or a continuing waiver of any subsequent breach or violation of the same or any other provision of this Agreement.

D. Severability of Provisions. If any one or more of the provisions of this Agreement shall be held by court of competent jurisdiction in a final judicial action to be void, voidable, or unenforceable, such provision(s) shall be deemed severable from the remaining provisions of this Agreement and shall not affect the legality, validity, or constitutionality of the remaining portions of this Agreement. Each party hereby declares that it would have entered into this Agreement and each provision hereof regardless of whether any one or more provisions may be declared illegal, invalid, or unconstitutional.

E. Federal and State Authorizations. The Company has obtained all government licenses, permits and authorizations by the Federal Communications Commission which are required in order to provide the Services.

F. Governing Law; Jurisdiction. This Agreement shall be governed and construed by and in accordance with the laws of the State of Colorado, without reference to its conflicts of law principles. If suit is brought by a party to this Agreement, the parties agree that trial of such action shall be vested exclusively in the state courts of Colorado, County of Weld, or only to the extent that provisions of federal law apply to the dispute, in the United States District Court for the District of Colorado.

G. Attorneys' Fees. Should any dispute arising out of this Agreement lead to litigation, the prevailing party shall be entitled to recover its costs of suit, including (without limitation) reasonable attorneys' fees.

H. Consent Criteria. In any case, where the approval or consent of one party hereto is required, requested or otherwise to be given under this Agreement, such party shall not unreasonably delay, condition, or withhold its approval or consent.

I. Representations and Warranties. Each of the parties to this Agreement represents and warrants that it has the full right, power, legal capacity, and authority to enter into and perform the parties'

respective obligations hereunder and that such obligations shall be binding upon such party without the requirement of the approval or consent of any other person or entity in connection herewith.

J. Amendment of Agreement. This Agreement may not be amended except pursuant to a written instrument signed by both parties.

K. Force Majeure. With respect to any provisions of this Agreement, the violation or non-compliance of any term of this Agreement which could result in the imposition of a financial penalty, damages, forfeiture or other sanction upon a party, such violation or non-compliance shall be excused where such violation or non-compliance is the result of acts of God, war, civil disturbance, pandemic, epidemic, strike or other labor unrest, or other events, the occurrence of which was not reasonably foreseeable by such party and is beyond such party's reasonable control.

L. Entire Agreement. This Agreement contains the entire understanding between the parties with respect to the subject matter herein. There are no representations, agreements, or understandings (whether oral or written) between or among the parties relating to the subject matter of this Agreement which are not fully expressed herein. Any prior oral or written agreements or licenses between the parties concerning use of the Public Right-of-Way is superseded by this Agreement.

In witness whereof, and in order to bind themselves legally to the terms and conditions of this Agreement, the duly authorized representatives of the parties have executed this Agreement as of the Effective Date.

SIGNATURE PAGE FOLLOWS.

TOWN OF FIRESTONE, COLORADO

Drew Alan Peterson, Mayor

ATTEST:

Jessica Koenig, Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

HIGHLINE COLORADO, LLC

By:  6/1/2022
876311CF52B54B8...

Deborah Rand, CEO

EXHIBIT A

COMPANY SHALL PROVIDE THE FOLLOWING AS IS APPLICABLE TO BE CONSIDERED BY THE TOWN IN WHETHER TO GRANT THE SUPPLEMENTAL (CABINET) SITE LICENSE:

1. Plan and profile drawings, engineering design, and specifications for installation of the Facility, including the equipment shelters, cables, conduit, pull boxes, pedestals, fiber runs, point of demarcation, electrical distribution panel, electric meter, electrical conduit and cabling, and all other associated equipment. Where applicable, the design documents shall include specifications on design and A.D.A. compliance.
 - a. The plot plan shall show existing sidewalk size, existing utilities, existing trees, traffic control signs and equipment, and other existing improvements.
2. The number, size, type, and proximity to the facilities of all communications conduit(s) and cables to be installed.
3. Description of the utility services required to support the facilities to be installed.
4. A typewritten legal description with (1) the Section, Township and Range, and County being affected, and if it is part of a subdivision, it shall be stated also; (2) the Point of Beginning to an established land corner or to a subdivision plat that is tied to an established land corner, with curves showing radius, delta, arc length and angle to radius point if curve is non-tangent, and area to be included in square feet; and (3) the legal description SIGNED and SEALED by a surveyor registered in the State of Colorado.
5. Completed Right-of-way Permit Application

ALL SUPPLEMENTAL (CABINET) SITE LICENSE MATERIALS SHALL BE LABELED WITH THE APPLICABLE SUPPLEMENTAL (CABINET) SITE ID NUMBER

THE TOWN WILL RETAIN ALL DOCUMENTATION FOR GRANTED SUPPLEMENTAL (CABINET) SITE LICENSES

EXHIBIT B

SUPPLEMENTAL (CABINET) SITE LICENSES

THE FOLLOWING SUPPLEMENTAL SITE LICENSES HAVE BEEN GRANTED BY THE TOWN:

SUPPLEMENTAL (CABINET) SITE ID NO.	DATE GRANTED	APPROVED BY:



EXHIBIT C
FORM OF SUPPLEMENTAL (CABINET) SITE LICENSE

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 9.d

Discussion/Action

Meeting Date: June 8, 2022

Initiated By: Paula Mehle

Dept: Economic Development

AGENDA TITLE

ORDINANCE 1011: AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO ENACTING CHAPTER 8.05 "ADMINISTRATIVE CITATIONS" OF TITLE 8 OF THE FIRESTONE MUNICIPAL CODE

SUMMARY

The proposed Chapter 8.05, Administrative Citations, is a new alternative method of enforcement for certain violations of the Firestone Municipal Code, reducing the burden on law enforcement and the judicial system while reducing the time and expense for the person issued the citation to resolve a matter. This ordinance will establish the imposition of fines and a citation protest process as an alternative to a citation to municipal court.

The administrative citation process may be used for requirements, rules, and regulations of Title 5 " Business Taxes, Licenses and Regulations", Title 6 "Animals", Title 8 currently named "Health and Safety", proposed Chapter 10.12 "Abandoned Vehicles", Chapter 12.32 "Parks and Recreation Facilities", Chapter 13.13 "Stormwater Quality", and Title 16 "Firestone Development Code" of the Firestone Municipal Code.

HISTORY AND PREVIOUS BOARD ACTION

The Town's previous enforcement options were limited to voluntary compliance or citation to court.

RECOMMENDATION

Staff recommends approval of Ordinance 1011.

ALTERNATIVES

ATTACHMENTS

1. Ordinance 1011

FINANCIAL CONSIDERATIONS

ORDINANCE NO. 1011

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, ENACTING CHAPTER 8.05 “ADMINISTRATIVE CITATIONS” OF TITLE 8 OF THE FIRESTONE MUNICIPAL CODE

WHEREAS, the Board of Trustees of the Town of Firestone (“Town”) finds that the establishment of an administrative citation framework providing for the imposition of fines and citation protest process is an alternative method of enforcement for certain violations of the Firestone Municipal Code, which reduces the burden upon law enforcement and the judicial system while also reducing the time and expense for the person issued a citation to resolve the matter; and

WHEREAS, the Town further finds that enacting an administrative citation framework will increase the effectiveness of the Firestone Municipal Code

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

CHAPTER 8.05 - ADMINISTRATIVE CITATIONS

Sec. 8.05.010. Definitions.

For the purposes of this chapter, the following terms shall have the following meanings, except where the context clearly requires a different meaning:

Administrative hearing officer (“hearing officer”) means a person appointed by the town manager to hear appeals of administrative citations.

Enforcement official means any person authorized by the town manager to enforce the provisions of this chapter.

Manager shall mean the town manager or the manager's authorized designee.

Responsible party shall mean a person who has or is alleged to have violated a specific provision of the Code, or any such rule, order, or regulation as are adopted through a rulemaking process or as provided by ordinance by the town.

Sec. 8.05.020. Authority.

- (a) An enforcement official may issue an administrative citation to any responsible party for violating the following applicable ordinances, rules, orders or regulations of the town:
 - (1) the requirements, rules and regulations set forth in title 5 of the Code;
 - (2) the requirements, rules and regulations set forth in title 6 of the Code;

- (3) the requirements, rules and regulations set forth in title 8 of the Code;
 - (4) the requirements, rules and regulations set forth in chapter 10.12 of the Code;
 - (5) the requirements, rules and regulations set forth in chapter 12.32 of the Code;
 - (6) stormwater quality regulations, requirements, and prohibitions set forth in chapter 13.13 of the Code;
 - (7) the requirements, rules and regulations set forth in title 16 of the Code.
- (b) Notwithstanding any other provision of the Code, responsible parties cited under the provisions of this chapter shall have only the protest rights granted herein.
 - (c) A civil penalty assessed by means of an administrative citation issued by the enforcement official may be collected by any means allowed by law.
 - (d) Enforcement actions are intended to be cumulative in nature. The town may pursue one or more civil, criminal, and administrative action(s), fee(s), fine(s), sentence(s), penalty(ies), judgment(s), and remedy(ies) and may do so simultaneously or in succession.
 - (e) Each day a violation exists or continues shall constitute a separate and distinct violation for which a separate citation may be issued. However, if the responsible party protests, no additional citation shall be issued for the same violation until after the protest has been heard and the responsible party has not complied with an order of the hearing officer within ten (10) days of its issuance or such other time as the hearing officer has specified.

Sec. 8.05.030. Procedures.

- (a) The enforcement official shall attempt to issue the administrative citation to the responsible party at the site of any violation or at the responsible party's business or personal address.
- (b) The enforcement official shall attempt to obtain the signature of the person receiving the administrative citation on the citation. If that person refuses or fails to sign the administrative citation, the failure or refusal to sign shall not affect the validity of the citation and subsequent proceedings.
- (c) If the enforcement official is unable to issue the administrative citation to the responsible party, the administrative citation shall be sent via first class mail to the responsible party at the last known address.
- (d) Notice shall be deemed served on the date of receipt by the responsible party, if personally served, or upon the fifth day after mailing of the administrative citation.

Sec. 8.05.040. Contents of notice.

- (a) The administrative citation shall state the date and location of the violation and the approximate time the violation occurred. When applicable, the administrative citation may identify the property in violation by address or legal description.
- (b) The administrative citation shall refer to the specified code section, ordinance, rule, order or regulation allegedly violated and describe the violation(s).
- (c) The administrative citation shall state the amount of penalty imposed for the violation(s).
- (d) The administrative citation shall explain how the penalty shall be paid, the time period by which it shall be paid, and the consequences of failure to pay the penalty.
- (e) The administrative citation shall briefly state the process for protesting the administrative citation.
- (f) The administrative citation shall contain the signature of the enforcement official and the signature of the responsible party if it can be obtained.

Sec. 8.05.050. Protest of administrative citation.

- (a) A person served with an administrative citation may file a notice of protest within ten calendar days from the date of service of the notice. Compliance with this time limit shall be a jurisdictional prerequisite to any protest brought under this chapter, and failure to comply shall bar any such protest.
- (b) The notice of protest shall be made in writing and filed with the municipal court, and contain the following information:
 - (1) The reason the protestant believes the administrative citation is, incorrect or without merit.
 - (2) The type of dispute involved and the time during which it occurred.
 - (3) The name, address, email address and telephone number of the protestant.
 - (4) If the protestant is to be represented by legal counsel, the name, address, and telephone number of such person.
 - (5) The signature of the protestant, or legal representative.
- (c) As soon as practicable after receiving the written notice of protest, the municipal court shall notify the hearing officer who shall schedule a date, time and location for the hearing.
- (d) Written notice of the date, time and location of the hearing shall be personally served upon or sent by first class mail to the responsible party at least ten calendar days prior to the date of the hearing.

Sec. 8.05.060. Administrative hearing officers.

The manager shall appoint one or more individuals to serve as hearing officer(s). Any person designated to serve as a hearing officer is subject to disqualification for bias, prejudice, interest, or for any other reason for which a judge may be disqualified in a court of law.

Sec. 8.05.070. Procedures at administrative citation protest hearings.

- (a) Administrative citation protest hearings are intended to be informal in nature. Formal rules of evidence and discovery do not apply. The procedure and format of the administrative citation protest hearing shall follow the procedures as set forth herein.
- (b) The parties to an administrative citation protest hearing shall be the responsible party and the manager. Parties may be represented by legal counsel. Parties may present documentary evidence and call and question witnesses.
- (c) The hearing officer, at the request of any party to the hearing, may subpoena witnesses, documents and other evidence where the attendance of the witness or the admission of evidence is deemed necessary to decide the issues at the hearing. All costs related to the subpoena, including witness fees and mileage fees at the rates provided by state statute, shall be borne by the party requesting the subpoena.
- (d) The hearing officer shall have the power to call and question witnesses, to review and consider the relevancy of documentary or other tangible evidence, to rule on evidentiary questions and witness qualifications, and to generally conduct the hearing in conformance with the procedures and requirements set forth herein.
- (e) The town bears the burden of proof at an administrative citation protest hearing to establish the existence of a violation.
- (f) The standard of proof to be used by the hearing officer in deciding the issues at an administrative citation protest hearing is by a preponderance of the evidence.
- (g) Each party shall have the opportunity to cross-examine witnesses and present evidence in support of its case.
- (h) The order of proceedings shall be as follows:
 - (1) Docket call by hearing officer.
 - (2) Opening statement by the town and by the protestant, unless waived by either party.
 - (3) Presentation of evidence by the town, allowing cross-examination by the protestant.
 - (4) Presentation of evidence by protestant with cross-examination by the town.
 - (5) Rebuttal and sur-rebuttal evidence, if any.
 - (6) Closing argument by the town, followed by closing argument by the protestant.

The hearing officer may allow rebuttal argument by the town. The hearing officer may require argument to be oral or in writing or both.

Sec. 8.05.080. Duties of hearing officer.

- (a) The hearing officer shall determine whether protests of administrative citations are valid. In doing so the hearing officer shall determine whether the administrative citation under protest was issued in compliance with the requirements of the Code. In each case, the hearing officer shall be charged with performing all functions relating to the final determination and order, and entertaining protests made in writing. The hearing officer shall perform those duties and functions necessary and incidental to determining the matter, including the issuing of subpoenas, hearing and considering all testimony, examining all documents, ruling on evidentiary questions, and generally conducting the hearing as a quasi-judicial proceeding.
- (b) Upon receipt of a protest, the hearing officer shall assign the time and place for hearing the case, unless, if requested by the protestant and in the sole discretion of the hearing officer, it is submitted on written brief and supporting material. The hearing officer shall notify the parties of the time and place of the hearing. In the discretion of the hearing officer, parties to the hearing may be required to file a pre-hearing statement before the case is set for hearing. The pre-hearing statement may include: the issues raised by the protest; agreed and disputed facts; copies of exhibits not previously included in the record; names of witnesses with a brief statement summarizing their testimony; an estimate of the time necessary to present a party's evidence and other matters as requested by the hearing officer.
- (c) All hearings or, when a protest is submitted for determination based on written argument and or recorded documentation shall be conducted solely by the hearing officer assigned the matter.
- (d) All testimony in proceedings before the hearing officer shall be given under oath.
- (e) The conduct of hearings and the admission of evidence shall generally be in accordance as set forth herein without regard to whether such conform to common law or statutory rules of procedure or evidence or other technical rules. The hearing officer may utilize his or her experience, technical competence, and specialized knowledge in the evaluation of evidence presented.
- (f) Copies, photographs, and photocopies may be admitted into evidence.
- (g) Witnesses intended to give opinion testimony as experts must be qualified as such, and their qualifications should be submitted in advance to the hearing officer.
- (h) Hearings shall be recorded by electronic means and transcripts of such recordings shall be made at the expense of the party requesting the transcript.

- (i) Whenever it appears that a protest is not filed within the time required by this chapter, or where the protestant lacks jurisdiction or standing, the matter may be dismissed on the motion of any party or the hearing officer.
- (j) Mailings, notices, computations of time, time limitations, service and filings shall conform to the requirements of the particular, rule, regulation, law or ordinance involved.
- (k) A decision of the hearing officer shall be known as an administrative citation enforcement order, and shall become final upon mailing to the responsible party. The order shall:
 - (1) uphold the administrative citation and all penalties as to any violation proved by the town; or
 - (2) dismiss the administrative citation and all penalties as to any violation not proved by the town; and as applicable,
 - (3) require payment of any outstanding assessed penalties and costs by a specified date.

For protests of citations for violations that the enforcement official has determined would cause immediate peril to life or property, or is of a nature that requires immediate compliance, the hearing officer shall determine the validity of all outstanding citations for said violation as of the date of the hearing.

- (l) As part of the administrative citation enforcement order, the hearing officer may, in whole or in part:
 - (1) reduce the penalties assessed by the administrative citation, but only where the responsible party has provided clear and convincing evidence of both complete compliance prior to the hearing and also justifiable neglect for a failure to comply earlier, provided however that claims of insufficient financial resources shall not constitute justifiable neglect;
 - (2) conditionally reduce the penalties assessed by the administrative citation where the order imposes conditions and deadlines to correct violations upheld and order the stay of the issuance of additional administrative citations for those same violations upon full compliance with the conditions and deadlines imposed in the administrative enforcement order; or
 - (2) waive the penalties assessed by the administrative citation, but only where the responsible party has provided clear and convincing evidence of complete compliance prior to the date of the service of the administrative citation.
- (m) In the event that the hearing officer does not dismiss the administrative citation, the hearing officer shall assess reasonable administrative costs of not less than \$100.00, but not to exceed \$300.00.

Sec. 8.05.090. Failure to obey subpoena.

It shall be unlawful for any person to refuse to obey a subpoena issued by a hearing officer. Failure to obey a subpoena constitutes contempt and may be criminally prosecuted and result in penalties imposed under section 1.16.010 of the Code.

Sec. 8.05.100. Failure to attend administrative citation protest.

Any responsible party who fails to appear at the hearing is deemed to waive the right to a hearing and the adjudication of the issues related to the hearing, provided that proper notice of the hearing has been provided.

Sec. 8.05.110. Failure to comply with administrative enforcement order.

It shall be unlawful for a responsible party to an administrative citation enforcement hearing, who has been served with a copy of the final administrative citation enforcement order, to fail to comply with the order. Failure to comply with a final administrative citation enforcement order may be criminally prosecuted and have penalties imposed under section 1.16.010 of the Code.

Sec. 8.05.120. Penalties assessed.

(a) The administrative penalty for violation of the Code, ordinances, rules, orders and regulations shall be established by the town manager, but shall not exceed the following amounts regardless of the number of violations per citation:

- (1) First administrative citation: \$150.00.
- (2) Second administrative citation: \$500.00.
- (3) Third or subsequent administrative citation(s): \$999.00.

(b) Payment of the penalty shall not excuse the failure to correct the violations, nor shall it bar further enforcement action by the town.

(c) All penalties assessed shall be payable to the town.

Sec. 8.05.130. Failure to pay penalties.

(a) The failure of any responsible party to pay the civil penalties assessed by an administrative citation within the time specified on the citation or administrative citation enforcement order, if an administrative hearing was held, shall result in the imposition of a late fee of \$25.00 and interest at a rate of ten percent per annum.

(b) In the event of failure to pay all penalties assessed within thirty (30) days of assessment, the manager may refer the matter for collection by whatever means are available to the town.

(c) Any action or other process provided by law may be employed by the town to recover or collect any amounts, including late fees, interest, and administrative costs, owing under this chapter.

- (d) Failure to pay outstanding civil penalties that are not pending protest and are owed to the town as a result of one (1) or more administrative citations may be grounds for suspension or revocation of any license issued by the town until fully paid.

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. 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 ____th day of _____, 2022.

TOWN OF FIRESTONE, COLORADO

Drew Peterson, 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#: 9.e

Discussion/Action

Meeting Date: June 8, 2022

Initiated By: Paula Mehle

Dept: Economic Development

AGENDA TITLE

ORDINANCE 1012: AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, REPEALING, RE-ENACTING AND RENAMING TITLE 8 OF THE FIRESTONE MUNICIPAL CODE TO "NUISANCES AND ENVIRONMENT"; AND REPEALING IN ITS ENTIRETY SECTION 12.28.140 "SNOW REMOVAL" AND SUBSECTION 12.32.060(V) CONCERNING FIREWORKS

SUMMARY

Title 8 Health and Safety of the Firestone Municipal Code has not been significantly amended since 2005 and has had various minor amendments. Many sections are outdated and not sufficiently aligned with best practices or the Town's administrative procedures.

Ordinance 1012 provides updated language and regulations associated with smoking restrictions, nuisances and procedures, as well as such codes related to blowing dust, littering, manure, as well as burning of waste and ditches. It includes relocating and updating specific nuisances from other sections of the Municipal Code, including snow removal, noise, abandoned, junk and inoperable vehicles, graffiti, and fireworks. It also addresses items not previously in the municipal code such as hobby vehicles, offensive locations, and offensive trade or business. Section 2.52.050 "Community Service Officer" is being repealed as part of Ordinance 1012.

HISTORY AND PREVIOUS BOARD ACTION

On May 11, 2022, the Board of Trustees approved Ordinance 1009 that repealed and reenacted in its entirety Title 9 Public Peace Morals and Welfare, which included the repeal of code sections related to fireworks, excessive sounds, amplified sounds, as well as junked and abandoned vehicles that would be best addressed within the proposed Title 8 "Nuisances and Environment" code. The Board of Trustees also approved Ordinance 1010 that enacted Section 8.06.055 "Use of air compression brakes prohibited", which is proposed as Section 8.03.265 of Ordinance 1012.

RECOMMENDATION

Staff recommends approval of Ordinance 1012.

ALTERNATIVES

ATTACHMENTS

1. Ordinance 1012

FINANCIAL CONSIDERATIONS

ORDINANCE NO. 1012

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, REPEALING, RE-ENACTING AND RENAMING TITLE 8 OF THE FIRESTONE MUNICIPAL CODE TO “NUISANCES AND ENVIRONMENT”; AND REPEALING IN ITS ENTIRETY SECTION 12.28.140 “SNOW REMOVAL” AND SUBSECTION 12.32.060 (V) CONCERNING FIREWORKS

WHEREAS, the Board of Trustees of the Town of Firestone (“Town”) has determined that the Town’s current regulations regarding nuisances set forth in Title 8 of the Firestone Municipal Code, as well as regulations concerning snow removal and fireworks, are outdated and not sufficiently aligned with best practices or the Town’s current administrative procedures; and

WHEREAS, the Town desires to repeal and reenact Title 8 of the Firestone Municipal Code to address these existing deficiencies, and the Town finds that repealing and re-enacting will increase the effectiveness of the Firestone Municipal Code with regard to those regulations and underlying goals.

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

Section 1. Section 2.52.050, “Community Services Officer,” of the Firestone Municipal Code is hereby repealed in its entirety.

Section 2. Title 8, “Health and Safety,” of the Firestone Municipal Code is hereby repealed in its entirety and re-enacted as a new Title 8, entitled “Nuisances and Environment,” to read as follows:

TITLE 8 - NUISANCES AND ENVIRONMENT

CHAPTER 8.01 - NOISE

Sec. 8.01.010. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Amplified outdoor music means the use of musical instruments or sound equipment to produce or amplify sound that is not fully enclosed by permanent, solid walls, and a roof.

Community services officer means any person empowered by the Town of Firestone to enforce the provisions of this chapter, including peace officers, as defined in C.R.S. §§ 18-3-201(2) and 30-15-105, or personnel of the Firestone Police Department.

Domestic power equipment means any power equipment rated five horsepower or less used for home or building repair or grounds maintenance, including but not limited to lawn mowers, garden tools, snow blowers and chain saws.

Muffler means an apparatus consisting of a series of chambers or baffle plates designated for the purpose of transmitting gases while reducing sound emanating from such apparatus.

Neighborhood services officer means any employee of the town designated or authorized by the town manager or by the town manager's authorized representative to enforce the provisions of this chapter.

Sound equipment means a loudspeaker, public address system, amplification system, or other sound producing device.

Unreasonable noise shall mean any sound of such level, intensity or duration as may or tends to be injurious to human health or welfare, or that unreasonably interferes with the enjoyment of life or property, or causes damage to any property, but excludes all aspects of the employer-employee relationship; concerning health and safety hazards within the confines of a place of employment.

Vehicle means any machine propelled by power other than human power, designed to travel along the ground by use of wheels, treads, runners or slides to transport persons or property or pull machinery and includes, without limitation, automobile, airplane, truck, trailer, motorcycle, motor scooter, tractor, buggy and wagon.

Sec. 8.01.020. Noise prohibited.

- (a) It is unlawful for any person to make, cause to be made, or to permit any unreasonable noise upon any premises or within any vehicle owned, possessed or operated or controlled by such person.
- (b) Neighborhood or community services officers, may, in the determination of whether a noise is unreasonable, consider factors that include, but, are not limited to:
 - (1) The time of day;
 - (2) The size of any gathering of persons creating or contributing to the noise;
 - (3) The presence or absence of noise amplification equipment; and
 - (4) Any other factors tending to show the magnitude and/or disruptive effect of the noise.
- (c) With regard to vehicles, the determination of unreasonable noise, in addition to the previously stated factors shall include, but not be limited to:

- (1) The continuous or repeated sounding of any horn, alarm or signal device of a vehicle, except where an actual emergency or danger exists. For the purposes of this subsection, "continuous" shall mean continuing for an unnecessary or unreasonable period of time.
- (2) The operation of any vehicle in a manner which causes unreasonable noise as a result of unnecessary rapid acceleration, deceleration, revving the engine or tire squeal.

Sec. 8.01.030. Exceptions.

The prohibitions set forth in subsection 8.01.020(a) shall not apply to sound from:

- (1) Any bell or chime from any building clock, school or church;
- (2) Any siren, whistle, or bell lawfully used by emergency vehicles or any other alarm system used in case of fire, collision, civil defense, police activity or other imminent danger; provided however, that burglar alarms not terminated within 20 minutes after being activated shall not be excepted;
- (3) Aircraft which are operated in accordance with federal laws or regulations;
- (4) Town authorized or sponsored events including, but not limited to, parades and fireworks displays;
- (5) Any domestic power equipment, except as provided within this sub-section, operated upon any residential, commercial, industrial or public place between 7:00 a.m. and 7:00 p.m.
- (6) Any lawful construction, maintenance, or repair activities in residentially zoned areas between 7:00 a.m. and 7:00 p.m.
- (7) Activities directly connected with the abatement of an emergency.
- (8) Noise from public; street, sidewalk, curb and gutter projects, utility work, education projects, environmental remediation, nuisance abatement and redevelopment projects.
- (9) Noise from snow blowers, snow throwers and snow plows when operated with a muffler for the purpose of snow removal.
- (10) Noise from golf course maintenance equipment.
- (11) Noise from authorized public school, parks and recreation district activities between the hours of 6:00 am. to 11:00 pm.
- (12) Noise from railroad operation.

Sec. 8.01.030. Exhaust, mufflers.

No person shall discharge the exhaust of any steam engine, internal combustion engine, air compressor equipment, motorboat, or other power device which is not equipped with a properly maintained exhaust system with a muffler or a spark arrestor. It is unlawful for any person to operate a muffler or exhaust using a cutout, bypass or other similar device.

Sec. 8.01.040. Use of sirens and red lights restricted.

It is unlawful for any person to carry or use upon any vehicle other than police, fire department or emergency vehicles, any gong, siren, whistle or red light similar to that used on police, fire department or emergency vehicles.

CHAPTER 8.02 - SMOKING RESTRICTIONS

Sec. 8.02.010. Legislative intent.

The Board of Trustees hereby finds and determines that it is in the best interest of the people of the town to protect nonsmokers from involuntary exposure to environmental tobacco smoke in most indoor areas open to the public, public meetings, food service establishments, and places of employment. The Board of Trustees further finds and determines that a balance should be struck between the health concerns of nonconsumers of tobacco products and the need to minimize unwarranted governmental intrusion into, and regulation of, private spheres of conduct and choice with respect to the use or nonuse of tobacco products in certain designated public areas and in private places. Therefore, the Board of Trustees hereby declares that the purpose of this article is to preserve and improve the health, comfort, and environment of the people of this town by limiting exposure to tobacco smoke.

Sec. 8.02.020. Definitions.

As used in this chapter, unless the context otherwise requires:

Auditorium means the part of a public building where an audience gathers to attend a performance, and includes any corridors, hallways, or lobbies adjacent thereto.

Bar means any indoor area that is operated and licensed under Article 3 of Title 44, C.R.S., as amended, primarily for the sale and service of alcohol beverages for on-premises consumption and where the service of food is secondary to the consumption of such beverages.

Employee means any person who:

- (1) Performs any type of work for benefit of another in consideration of direct or indirect wages or profit; or
- (2) Provides uncompensated work or services to a business or nonprofit entity.

Employee includes every person described above, regardless of whether such person is referred to as an employee, contractor, independent contractor, or volunteer or by any other designation or title.

Employer means any person, partnership, association, corporation, or nonprofit entity that employs one or more persons. "Employer" includes, without limitation, the judicial branches of state government; any county, city and county, city, or town, or instrumentality thereof, or any other political subdivision of the state, special district, authority, commission, or agency; or any other separate corporate instrumentality or unit of state or local government.

Entryway means the 25-foot radius outside of the front or main doorway leading into a building or facility that is not exempted under section 8.02.040.

Environmental tobacco smoke, ETS, or secondhand smoke means the complex mixture formed from the escaping smoke of a burning tobacco product or the escaping vapor or aerosol of an electronic smoking device, also known as "side stream smoke", and smoke, vapor, or aerosol exhaled by the smoker.

Food service establishment means any indoor area or portion thereof in which the principal business is the sale of food for on-premises consumption. The term includes, without limitation, restaurants, cafeterias, coffee shops, diners, sandwich shops, and short-order cafes.

Indoor area means any enclosed area or portion thereof. The opening of windows or doors, or the temporary removal of wall panels, does not convert an indoor area into an outdoor area.

Place of employment means any indoor area or portion thereof under the control of an employer in which employees of the employer perform services for, or on behalf of, the employer.

Playground means that area within a park owned or operated by the Town of Firestone containing equipment or facilities designed for children's play.

Public building means any building owned or operated by:

- (a) The state, including the legislative, executive, and judicial branches of state government;
- (b) Any county, city and county, city, or town, or instrumentality thereof, or any other political subdivision of the state, a special district, an authority, a commission, or an agency; or
- (c) Any other separate corporate instrumentality or unit of state or local government.

Public meeting means any meeting of a quorum of any local public body open to the public and Part 4 of Article 6 of Title 24, C.R.S.

Smoke-free work area means an indoor area in a place of employment where smoking is prohibited under this chapter.

Smoking means the burning of a lighted cigarette, cigar, pipe, or any other matter or substance that contains tobacco, marijuana, or the active use of an electronic smoking device.

Tobacco means cigarettes, cigars, cheroots, stogies, and periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff and snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobacco; shorts, refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or for smoking in a cigarette, pipe, or otherwise, or both for chewing and smoking. "Tobacco" also includes cloves and any other plant matter or product that is packaged for smoking. "Tobacco" includes tobacco prepared, treated, or modified in such a manner that it may be ingested through the use of an electronic smoking device.

Tobacco business means a sole proprietorship, corporation, partnership, or other enterprise engaged primarily in the sale, manufacture, or promotion of tobacco, tobacco products, or smoking devices or accessories, either at wholesale or retail, and in which the sale, manufacture, or promotion of other products is merely incidental.

Work area means an area in a place of employment where one or more employees are routinely assigned and perform services for or on behalf of their employer.

Electronic smoking device means any electronic oral device such as one composed of a heating element, battery, and/or electronic circuit which provides a vapor of nicotine, vapor of a solution including nicotine, or aerosol of a solution including nicotine, or any other substance for inhalation. This term shall include every variation and type of such devices whether they are manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pen, an electronic pipe, or an electronic hookah or any other product name or descriptor. The term "electronic smoking device" does not include any device specifically approved by the United States Food and Drug Administration for use in reducing, treating or eliminating nicotine or tobacco dependence, or for any other medical purposes, when such a device is being marketed and sold solely for such approved purpose.

Sec. 8.02.030. General smoking restrictions.

- (a) Except as provided in section 8.02.040 and in order to reduce the levels of exposure to environmental tobacco and marijuana smoke, smoking shall not be permitted and no person shall smoke in any indoor area, including, but not limited to:
 - (1) Public meeting places;
 - (2) Elevators;
 - (3) Government-owned or operated means of mass transportation, including, but not limited to, buses, vans, and trains;

- (4) Taxicabs and limousines;
- (5) Grocery stores;
- (6) Gymnasiums;
- (7) Jury waiting and deliberation rooms;
- (8) Courtrooms;
- (9) Child day care facilities;
- (10) Health care facilities including hospitals, health care clinics, doctor's offices, and other health care related facilities;
- (11)
 - (a) Any place of employment that is not exempted.
 - (b) In the case of employers who own facilities otherwise exempted from this subsection, each such employer shall provide a smoke- free work area for each employee requesting not to have to breathe environmental tobacco smoke. Every employee shall have a right to work in an area free of environmental tobacco smoke.
- (12) Food service establishments;
- (13) Bars;
- (14) Indoor sports arenas;
- (15) Restrooms, lobbies, hallways, and other common areas in public and private buildings, condominiums, and other multiple-unit residential facilities;
- (16) Restrooms, lobbies, hallways, and other common areas in hotels and motels, and in at least 75 percent of the sleeping quarters within a hotel or motel that are rented to guests;
- (17) Bowling alleys;
- (18) Billiard or pool halls;
- (19) The common areas of retirement facilities, publicly owned housing facilities, and nursing homes, not including any resident's private residential quarters;
- (20) Public buildings;
- (21) Auditoria;

- (22) Theaters;
 - (23) Museums;
 - (24) Libraries;
 - (25) Public and nonpublic schools;
 - (26) Other educational and vocational institutions;
 - (27) Assisted living facilities, including nursing facilities as defined in C.R.S. § 25.5-4-103 and assisted living residences as defined in C.R.S. § 25-27-102; and
 - (28) The entryways of all buildings and facilities listed in paragraphs (1) to (27) of this subsection.
- (b) Except as provided in section 8.02.040, and in order to reduce the levels of exposure to environmental tobacco and marijuana smoke, smoking shall not be permitted and no one shall smoke in any of the following areas:
- (1) All Town of Firestone owned or controlled parks, open space, indoor or outdoor pools and associated spectator areas, indoor or outdoor sport or athletic fields and associated spectator areas, indoor or outdoor water parks and associated spectator areas, not including smoking areas designated and posted by the town manager or such person's designee, pursuant to subsection (2) below;
 - (2) On Town of Firestone owned or controlled property that is within 25 feet of Town of Firestone owned or controlled trail, biking path, or walking path.
 - (3) Any event for which any town street, right-of-way, park, or parking lot, in nonresidential zone districts that are closed by the town in order to accommodate special events, not including smoking areas designated and posted by the town manager or such person's designee, in their discretion.
- (c) A cigar-tobacco bar shall prohibit entry by any person under twenty-one (21) years of age and shall display signage in at least one (1) conspicuous place and at least four (4) inches by six (6) inches in size stating: "Smoking allowed. Persons under twenty-one (21) years of age may not enter."
- (d) A retail tobacco business shall prohibit entry by any person under twenty-one (21) years of age and shall display signage in at least one (1) conspicuous place and at least four (4) inches by six (6) inches in size stating either:
- (1) "Smoking allowed. Persons under twenty-one (21) years of age may not enter."; or

- (2) In the case of a retail tobacco business that desires to allow the use of electronic smoking devices but no other forms of smoking on the premises, "Vaping allowed. Persons under twenty-one (21) years of age may not enter.
- (e) Violations of this section shall be an administrative violation subject to the provisions of chapter 8.05 of the Firestone Municipal Code.

Sec. 8.02.040. Exceptions to smoking restrictions.

The restrictions set forth in section 8.02.030 shall not apply to:

- (1) Private homes, private residences, and private automobiles; except if any such home, residence, or vehicle is being used for child care or day care or if a private vehicle is being used for the public transportation of children or as part of health care or day care transportation;
- (2) Limousines under private hire;
- (3) A hotel or motel room rented to one or more guests if the total percentage of such hotel or motel rooms in such hotel or motel does not exceed 25 percent;
- (4) Any retail tobacco business, except that the requirements of section 8.02.030(d) apply to a retail tobacco business;
- (5) A cigar-tobacco bar, except that the requirements of section 8.02.030(c) apply to a cigar-tobacco bar;
- (6) The outdoor area of any business that is more than 25 feet from the entryway of such business or any other structure; or
- (7) A place of employment that is not open to the public and that is under the control of an employer that employs three or fewer employees.

Sec. 8.02.050. Optional prohibitions.

- (a) The owner or manager of any place not specifically listed in section 8.02.030, including a place otherwise exempted under section 8.02.040, may post signs prohibiting smoking or providing smoking and nonsmoking areas. Such posting shall have the effect of including such place, or the designated nonsmoking portion thereof, in the places where smoking is prohibited or restricted pursuant to this chapter.
- (b) If the owner or manager of any place not specifically listed in section 8.02.030, including a place otherwise exempted under section 8.02.040, is an employer and receives a request from an employee to create a smoke-free work area as contemplated by subsection 8.02.030(a)(11)(b), the owner or manager shall post a sign or signs in the smoke-free work area as provided in subsection (1) of this section.

Sec. 8.02.060. Scope.

This chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by any other applicable law.

CHAPTER 8.03 - NUISANCES

ARTICLE I - GENERAL PROVISIONS

Sec. 8.03.010. Purpose.

The Board of Trustees declares that the determination and abatement of local nuisances for the protection of the public's health, safety and welfare is a matter of local concern and therefore subject to the valid exercise of the town's police powers.

Sec. 8.03.020. Definitions.

As used within this chapter the following words and terms shall have the following meaning except where otherwise specified:

Abandoned vehicle means:

- (1) Any vehicle left unattended on private property for a period of 48 hours or longer without the consent of the owner, occupant or tenant of such property or such person's agent; or
- (2) Any vehicle left unattended on public property, including any portion of a street or highway right-of-way, within the limits of the town for a period of 24 hours or longer, unless the owner or driver has conspicuously affixed thereto a dated notice, or otherwise notified the police department of such person's intention to remove such vehicle, or the vehicle is parked in a public street within 50 feet of the property of the owner. Notwithstanding such notification of intent to return and remove the vehicle, if the vehicle has been left unattended for longer than 48 hours, it shall be presumed to be abandoned; or
- (3) Any vehicle standing or parked upon any portion of a public street or Town property, or upon private property, that has been determined by the police department to be inoperable, lost, stolen or unclaimed.

Agent means and includes any person acting on behalf of or in place of the owner.

Building means any dwelling, office building, store, warehouse, or structure of any kind, whether or not the building is permanently affixed to the ground upon which it is located, and any trailer, semitrailer, mobile home, or any other vehicle designed or used for occupancy by persons for any purpose.

Community services officer means personnel of the Firestone Police Department, including peace officers, as defined in C.R.S. §§ 18-3-201(2) and 30-15-105, who are empowered by the Town of Firestone to enforce the provisions of this chapter.

Developed property means land that has been substantially improved, with structures, landscaping and/or hardscape on areas zoned for residential and nonresidential uses, except areas zoned and used for agricultural purposes.

Engine compression brake device means any device which, when activated, impedes or retards a motor vehicle's forward motion through compression of air in the engine's cylinder to provide braking power, which device is also known as a "brake retarder."

Graffiti means the defacing of public or private property by means of painting, drawing, writing, etching or carving with paint, spray paint, ink, knife or any similar method.

Hobby vehicle means the repairing, reconditioning, or rebuilding of vehicles which is done for personal enjoyment or entertainment only, with no profits, compensation, or reimbursement of any kind involved.

Inoperable vehicle means any vehicle that does not display current, valid license plates; lacks any part necessary for legal operation on a public street; or lacks glazing, lights or indicators, body sheet metal or paint on any part of the vehicle.

Junk means trash, waste, rubbish and other discarded things and salvage materials, including, without limitation, scrap copper, brass, iron, steel or other metals, tires, wheels, household appliances, furniture, rope, rags, batteries, glass, rubber debris, plastic debris, construction debris, remnants of wood, plumbing fixtures, port-o-potties, paint, concrete, cinderblock, bricks, asphalt or any discarded, dismantled, wrecked or scrapped motor vehicle or other machinery or parts thereof, and any other manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition.

Junk vehicle means any self-propelled vehicle designed for highway travel under its own power which is not capable of such travel in its existing mechanical condition; or any dismantled, partially dismantled, discarded, wrecked, demolished, or partially demolished vehicle; or any inoperable vehicle.

Landlord means the owner, lessor or sublessor of the dwelling unit or the property of which it is a part and, in addition, means any person designated as a representative of the landlord.

Litter means and includes any and all rubbish, waste material, refuse, garbage, trash, debris, excrement, urine, offal composed of animal matter or vegetable matter or both, or any noxious or offensive matter whatsoever, including but not limited to, any discarded dead animal, fishing line, bait, chemical, chemical compound, petroleum product or compound, automobile part or accessory, tire, wheel, junk, paper, cardboard, can, lid, bottle, cap, carton, wrapper, box, wooden object, plastic object, clothing, cloth, metal object, rubber object, leather object, hide, feathers, grass clippings, leaves, cut weeds, branches cut from trees or bushes, brick, cinderblock, building material, paint, concrete, soil, sand, gravel, stone, glass, asphalt, ashes, cigarette, cigar, food or food product, solvent, dye, beverage, and liquid except water.

Liquid- or gas-fueled appliance means any equipment or device that burns liquid or gaseous fuel that can be shut off by means of a switch or other mechanical means and that is designed or intended for use outdoors to produce heat for pleasure, religious, ceremonial, cooking, warmth, or similar purposes. This includes, but is not limited to, a liquid- or gas-fueled camp stove, fire pit, or grill.

Neighborhood services officer means any person empowered by the Town of Firestone to enforce the provisions of this chapter, including any employee of the town designated or authorized by the town manager or by the town manager's authorized representative.

Nuisance means:

- (1) The conducting or maintaining of any business, occupation, activity, building, land, or premises prohibited by state statute or by this Code;
- (2) The continuous or repeated conducting or maintaining of any business, occupation, operation, activity, building, land or premises is in violation of state statute or this Code;
- (3) Any building, structure or land open to or used by the general public, the continuous use or condition of which presents a substantial danger or hazard to the health, safety or welfare of the community;
- (4) Any unlawful pollution or contamination of any surface or subsurface waters in this town, or of the air, or of any water, substance or material intended for human consumption;
- (5) A thing, act, failure to act, occupation, activity, condition or use of any building, land, substance or property which shall otherwise constitute or be known or declared a nuisance by virtue of common law, state statutes or the ordinances of the town;
- (6) Any activity, operation or condition which, after being ordered abated, corrected or discontinued by a lawful order of any department or officer of the town, continues to be conducted or continues to exist in violation of any statute or this Code or in violation of any regulation of the town, the county, or the state;
- (7) Any activity, operation, condition, building, structure, place, premises or thing which is injurious to the health or safety of the citizens of the town, or which is offensive to the senses so as to interfere with the comfortable enjoyment of life or property;
- (8) Any nuisance defined or declared as such by state statute or this Code;
- (9) Any dilapidated building of whatever kind which is unused by the owner, or uninhabited because of deterioration or decay, which condition constitutes a fire

hazard, or subjects adjoining property to danger or damage by storm, soil erosion, or rodent infestation, or which becomes a place frequented by trespassers and transients seeking a temporary hideout or shelter;

- (10) Any building or structure, or any portion of the building or structure, which is unsafe or unfit for use or occupancy, because it has been constructed, exists, is used, or is maintained in violation of any applicable building or structural requirements or restrictions under the building codes as adopted by the town; or
- (11) Any building or structure which is in a condition that is unsanitary, is a fire, life or safety hazard, or is likely to cause sickness or disease because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, or lack of sufficient fire-resistive construction, fire protection systems and connections, electrical systems and connections, fuel connections or mechanical or plumbing systems and connections.

Occupant means and includes any person who occupies the whole or a part of a building, premises, or land, whether alone or with others.

Owner means and includes:

- (1) any person, co-partnership, association, corporation, or fiduciary owning or holding a legal or equitable title or any interest in any real property, including the holder of a certificate of purchase or certificate of redemption, except a future or reversionary interest and except the interest of a public trustee, lien holder, mortgagee or beneficiary of a deed of trust; or
- (2) the owner of record.

Owner of record means the person having recorded title to the property at any given point in time at which the record is provided by the appropriate county clerk and recorder's office.

Person means and includes any individual, partnership, corporation or association; and the agent, servant or employee of any individual, partnership, corporation or association.

Responsible party means and includes:

- (1) Any person who creates, makes or causes any nuisance to exist;
- (2) Any person who operates or conducts any nuisance;
- (3) Any person who encourages or permits any nuisance to exist;
- (4) Any person who maintains or fails to prevent, discontinue or abate the nuisance;
- (5) Any person in charge of a property where any nuisance exists or is found.

Open fire or open burning has the meaning set forth in the International Fire Code, as adopted by the Town and as may be amended from time to time. Any fire that is not a recreational fire shall be deemed to be an open fire.

Person in charge of a property means any person in actual or constructive possession or control of a property, including, but not limited to, an owner, occupant, agent or property manager of a property under such person's control, and any bank or financial institution in actual or constructive possession or which possesses any sort of lien or interest in the property.

Portable outdoor fireplace means a portable, outdoor solid-fuel-burning fireplace that may be constructed of steel, concrete, clay, or other noncombustible material. A portable outdoor fireplace may be open in design or may be equipped with a small hearth opening and a short chimney or chimney opening in the top. This type of fireplace is sometimes known as a chiminea.

Public place means any place commonly or usually open to the general public or to which members of the general public may resort, or is accessible to members of the general public. By way of illustration, such public places include, but are not limited to, public ways, streets, buildings, sidewalks, alleys, parking lots, shopping centers, shopping center malls, and places of business usually open to the general public.

Recreational fire means an outdoor fire where the fuel being burned is not contained in an incinerator and that has a total fuel area of three feet (914 mm) or less in diameter and two feet (610 mm) or less in height for pleasure, religious, ceremonial, cooking, warmth, or similar purposes. For purposes of this article, a recreational fire includes, but is not limited to, a fire in a charcoal barbeque grill, a barbeque pit, a fire pit, or a fixed, permanent outdoor fireplace, a fire in a barrel or drum, a fire in a portable outdoor fireplace, or a fire in a tiki torch, or in a similar device, object, or piece of equipment. It also includes any fire created as a result of the use of liquid- or gas-fueled appliance.

Shrub means a woody perennial plant, smaller than a tree, usually having permanent stems branching from or near the ground.

Trash means combustible refuse, including but not limited to paper, cartons, boxes, barrels, wood (except stacked firewood and stacked construction materials), tree branches, yard trimmings, dead plant material, wood or upholstered furniture or bedding, or similar substance or material; noncombustible refuse, including but not limited to metals, tin or aluminum cans, metal furniture, dirt, rock, pieces of concrete, glass, crockery or other minerals or mineral wastes; and street rubbish, including but not limited to street sweepings, dirt, leaves, catch bag dirt and contents of a litter receptacle. "Trash" does not include earth and waste from building construction during the period in which a valid building permit issued by the town is active.

Turf grass means any of a variety or combination of varieties of perennial grasses, such as Kentucky bluegrass or rye, historically used for residential lawns and typically maintained at a height not exceeding eight inches.

Undeveloped property means property that is not "developed property" as defined herein or property that has been overlot graded, but not improved.

Vehicle means a machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners, or slides to transport persons or property or pull non-self-propelled vehicles or machinery, and includes, without limitation, automobile, airplane, boat, truck, trailer, motorcycle, motor scooter, moped, tractor, buggy, and wagon.

Weed means any undesirable plant or part thereof which has been designated and listed as a "noxious weed" on either the Federal and Colorado Noxious Weed Lists, and shall include, without limitation, common ragweed, fireweed, milkweed, mustard, Russian thistle, sandburs and other similar plants and vegetation.

Yard waste means leaves, grass clippings, brush, tree prunings and other vegetative waste matter, such as garden plants, weeds, and crop residue.

Sec. 8.03.030. Nuisances prohibited.

- (a) It shall be a violation of this chapter for any person to:
 - (1) Do any act constituting a nuisance; or
 - (2) Create, operate, maintain, or conduct any nuisance; or
 - (3) Knowingly fail to act where such failure causes or continues a nuisance; or
 - (4) Permit or encourage any activity or condition constituting a nuisance; or
 - (5) Permit, encourage, aid or abet in the creation or maintenance of a nuisance; or
 - (6) Interfere with or prevent or attempt to interfere with or prevent the abatement of any nuisance by an officer, employee or agent of the town pursuant to the provisions of this article.
- (b) The prohibitions of this section shall apply only to a responsible party.
- (c) Any violation of any injunction or order issued by the municipal court in an action to abate a nuisance may be punished as a contempt of court or by a fine as specified in section 1.16.010 of this Code. Unless the violation by its nature cannot be corrected, each day's (24 hours) failure to comply with an injunction or order to abate shall constitute a separate violation, for which an additional penalty may be imposed.

Sec. 8.03.040. Inspection of property.

- (a) *Authorized inspector.* The town manager shall have the power and authority to appoint and authorize any police officer, building inspector, or neighborhood or community services officer of the town to inspect and examine any public or private property in the town for the purpose of ascertaining the nature and existence of any nuisance.

- (b) *Right of entry generally.* Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever an authorized inspector has reasonable cause to believe that there exists in any building or upon any premises any condition which constitutes a nuisance hereunder, such inspector may enter such building or premises at all reasonable times to inspect the same or to perform any lawful duty. If such building or premises is unoccupied, the inspector shall first make reasonable effort to locate the owner or occupant or other person or persons having charge or control of the building or premises. Upon locating the owner or occupants, the inspector shall present proper credentials and request entry. If entry is refused, the inspector shall give the owner or occupant, or, if the owner or occupant cannot be located after a reasonable effort, leave at the building or premises a written notice of intention to inspect not sooner than 24 hours after the time specified in the notice. The notice given to the owner or occupant or left on the premises shall state that the property owner or occupant has the right to refuse entry and that in the event such entry is refused, inspection may be made only upon issuance of a search warrant by the municipal judge or by a judge of any other court having jurisdiction.
- (c) *Search warrants.* After the expiration of the 24-hour period from the giving or leaving of such notice, the authorized inspector may appear before the municipal court and, upon showing of probable cause by written affidavit, shall obtain a search warrant entitling the inspector to enter the building or upon the premises. Upon presentation of the search warrant and proper credentials, or possession of the same in the case of an unoccupied building or premises, the authorized inspector may enter into the building or upon the premises using such reasonable force as may be necessary to gain entry.
- (d) *Probable cause.* The person applying for such warrant shall not be required to demonstrate specific knowledge of the condition of the particular structure or premises at issue in order to obtain a search warrant, but must show some objective facts, or circumstances, which are reasonably trustworthy, that would cause an ordinary prudent person to act. It is unlawful for any owner or occupant of the building or premises to deny entry to any authorized inspector or to resist reasonable force used by an authorized inspector acting pursuant to this section.
- (e) *Emergencies.*
 - (1) Whenever an emergency situation or exigent circumstances exists in relation to the enforcement of any of the provisions of this article, an authorized inspector, upon a presentation of proper credentials or identification in the case of an occupied building or premises, may enter into any building or upon any premises.
 - (2) In an emergency situation or exigent circumstance, an authorized inspector may use such reasonable force as may be necessary to gain entry into the building or upon the premises.
 - (3) For purposes of this subsection, the term "emergency situation" or "exigent circumstance" includes any situation that would cause a reasonable person to believe that prompt action is necessary: (i) to respond to an imminent danger of

loss of, or serious injury or damage to, life, limb or property; or (ii) to prevent imminent destruction of evidence.

- (f) *Search warrants issued upon showing of probable cause.* The municipal judge shall have power to issue search warrants upon a showing of probable cause as set forth in this section.

Sec. 8.03.050. Notice of nuisance.

- (a) Except as otherwise specified within this chapter, upon the discovery of any nuisance on public or private property within the Town, the Town shall notify any and all responsible parties to remove and abate the thing or things herein described as a nuisance within the time specified in the notice.
- (b) *Service of notice.* The Town may serve written notice to abate upon the responsible party(ies) described in the notice by one (1) of the following methods:
 - (1) Personally delivering a copy of the notice to such person;
 - (2) Leaving a copy of the notice at such person's residence, with any individual whose age is 18 years or older and who is a member of such person's family or who is cohabitant;
 - (3) Leaving a copy of the notice at such person's usual workplace, with such person's supervisor, secretary, human resources representative or any individual who is the owner of the business or employee of the business authorized to accept service for such person;
 - (4) Delivering a copy of the notice to a person authorized by appointment or by law to receive service of process;
 - (5) Mailing a copy of the notice by certified mail, to such person's last known address; or
 - (6) If personal service or service by mail cannot be effectuated, notice shall be given by posting the notice in a conspicuous place at the premises, if possible, or if not possible, by posting such notice at the Firestone Town Hall and by mailing a second copy of the notice by regular mail to such person's last known address. When the owner of an abandoned vehicle cannot be located by a reasonable search, notice shall be given by attaching the notice to the vehicle.

Personal service shall be deemed complete upon the date of personal delivery or three (3) business days after the date of mailing as required herein.

- (c) Any written notice issued pursuant to Subsection (b) above shall include:

- (1) A description of the nuisance;

- (2) A date by which the nuisance must be abated;
 - (3) A statement informing the responsible party that, if the nuisance is not abated within the time specified, the nuisance may be abated by the Town and/or the Town may proceed with civil or criminal proceedings in Municipal Court for violating the provisions of this Chapter;
 - (4) A statement that, if the Town abates the nuisance, the Town is entitled to recover the actual cost of abatement;
 - (5) A statement that, if the cost of abatement is not paid, a lien may be placed upon any property on which the abatement was performed. Failure to substantially comply with this notice shall not invalidate the proceedings.
- (d) Service of the notice and demand shall be a prerequisite to the commencement of civil proceedings by the town, except for situations involving emergency abatement. The fact that the person or entity against whom legal action is initiated does not actually receive such notice shall not preclude such litigation, provided the town has acted in good faith and in a manner reasonably calculated to give notice to the owner, occupant, person having control or agent thereof.

Sec. 8.03.060. Abatement of nuisance; procedure.

The Town may abate a public nuisance by any of the following procedures:

- (a) *Summary abatement.* Where, in the opinion of the town manager, chief of police, neighborhood or community services officer, or such person's designee, a nuisance exists and constitutes an immediate and serious danger to the public health, safety or welfare or, in the case of any nuisance in or upon any public street or public property, such may be summarily abated without notice of any kind.
- (b) *Abatement after notice.* If, after written notice has been given, the responsible party refuses or fails to abate the nuisance in the time specified in the notice, the Town may enter upon such property for the purposes of abating the nuisance in the case of any nuisance in or upon any public street or public property.
- (c) *Abatement by civil action.* If, after written notice has been given, the responsible party refuses or fails to voluntarily abate the nuisance within the time specified in the notice, and if the Town elects not to summarily abate the nuisance, the town may initiate a civil action in the municipal court to have the nuisance declared as such by the court and for an order enjoining the nuisance or authorizing its restraint, removal, termination of abatement by the responsible party, or a neighborhood or community services officer or any authorized town employee, or any person under contract with the town to perform such service. A civil action shall be brought in accordance with the procedures set forth in section 8.03.070.
- (d) *Abatement by criminal action.* If, after written notice has been given, the responsible party refuses or fails to voluntarily abate the nuisance within the time specified in the notice, and

if the Town elects not to file a civil suit to abate the nuisance, the town may initiate a criminal action in municipal court to require compliance with the provisions of this chapter in accordance with the municipal court rules of procedure.

Sec. 8.03.070. Civil action to abate.

- (a) *Commencement of action.* The civil action to declare and abate a nuisance is commenced by the filing of a complaint in the municipal court, which shall be verified or supported by affidavit.
- (b) *Summons.* The summons shall be issued in accordance with the municipal court rules of procedure.
- (c) *Notice of appearance.* A notice of appearance shall be served with the summons and complaint. The appearance date shall be not less than 14 days from the date of service of the summons.
- (d) *Process.* The summons and verified complaint shall be served in accordance with the municipal court rules of procedure.
- (e) *Trial.* Trial shall be to the court, and the municipal court rules of procedure shall apply. The trial shall be held upon the appearance date, unless the court grants a continuance for good cause shown. In any action filed, the Town shall have the burden of showing, by a preponderance of the evidence, that a nuisance occurred on/or within the property identified in the complaint.
- (f) *Filing of response.* The party-defendant named in the complaint shall file a response on or before the appearance date set forth in the notice of appearance.
- (g) *Failure to file response and appear.* Upon the date and at the time set for appearance and trial, if the party-defendant has filed no response and fails to appear and if the town shows that proper service was made on the party-defendant at least 14 days prior to the appearance date, the court may grant such orders as are requested by the town; except that, the court shall order that enforcement by the town be stayed for ten days and that a copy of the court's order be mailed to the respondent's last known address. Failure to appear on any other date set for trial shall be grounds for entering a default and judgment thereon against a non-appearing party. For good cause shown, and prior to enforcement, the court may set aside an entry of default and the judgment entered thereon.
- (h) *Intervention.* Any person holding any legal or equitable interest in the parcel who has not been named as a party-defendant may intervene as a party-defendant. No other person may intervene.
- (i) *Appeal.* The judgment of the Municipal Court may be appealed to the district court.
- (j) *Indispensable parties.* The defendants to an action commenced under this chapter, and the person liable for and subject to the remedies may include any owner, owner of record, all tenants and occupants of the subject property, all managers and agents for any person

claiming an ownership or leasehold interest in such property, any responsible party, and anyone necessary to carry into effect the court's orders. None of these parties shall be deemed necessary or indispensable parties.

Sec. 8.03.080. Abatement orders.

- (a) *Issuance and effect of temporary and permanent abatement orders.* The issuance of temporary or permanent abatement orders under this chapter shall be governed by the municipal court rules of procedure, pertaining to temporary restraining orders, preliminary injunctions and permanent injunctions, except to the extent of any inconsistency with the provisions of this chapter, in which event the provisions of this chapter shall prevail. Temporary abatement orders provided for in this chapter shall go into effect immediately when served upon the property or party against whom they are directed. Permanent abatement orders shall go into effect as determined by the court. No bond or other security shall be required of the town upon the issuance of any temporary abatement order.
- (b) *Form and scope of abatement orders.* Every abatement order under this chapter shall set forth the reasons for its issuance; shall be reasonably specific in its terms; shall describe in reasonable detail the acts and conditions authorized, required or prohibited; and shall be binding upon the subject property, the parties to the action, their attorneys, agents and employees, and any other person named as a defendant in the nuisance action and served with a copy of the order.
- (c) *Substance of abatement orders.* Temporary or permanent abatement orders entered under this chapter shall be narrowly tailored so as to address the particular kinds of separate violations that form the basis of the alleged nuisance. Such orders may include:
 - (1) Orders requiring any defendant to take steps to abate the nuisance;
 - (2) Orders authorizing town personnel to take reasonable steps to abate the nuisance activity and prevent it from recurring, considering the nature and extent of the separate violations;
 - (3) Orders prohibiting certain named individuals from entering the property;
 - (4) Orders reasonably necessary to access, maintain or safeguard the property; and/or
 - (5) Orders reasonably necessary for the purposes of abating the nuisance or preventing the nuisance from occurring or recurring; provided, however, that no such order shall require the seizure of, the forfeiture of title to, or the appointment of a special receiver to protect, possess, maintain or operate any property.
- (d) *Temporary abatement orders.*
 - (1) The purpose of a temporary abatement order shall be to temporarily abate an alleged nuisance pending the outcome of the matter's judicial proceeding. A

temporary abatement order may be issued by the court, even if the effect of such order is to change, rather than preserve, the status quo.

- (2) At any hearing on a motion for a temporary abatement order, the town shall have the burden of proving that there are reasonable grounds to believe that a nuisance occurred in or on the subject property and, in the case of a temporary order granted without notice to the defendant, that such order is reasonably necessary to avoid immediate, irreparable loss, damage or injury.
- (e) *Permanent abatement orders.* Where the existence of a nuisance is established in a civil action under this article, the court shall enter a permanent abatement order requiring the defendant to abate the nuisance and take specific steps to prevent the same and other nuisances from occurring or recurring on the property.
- (f) *Motion to vacate or modify temporary abatement orders.*
 - (1) *General.* At any time a temporary abatement order is in effect, any defendant or any person holding any legal or equitable interest in any property governed by such an order may file a motion to vacate or modify said order. Any motion filed under this subsection shall state specifically the factual and legal grounds upon which it is based, and only those grounds may be considered at the hearing. The court shall vacate the order if it finds by a preponderance of the evidence that there are no reasonable grounds to believe that a nuisance was committed in or on the property. The court may modify the order if it finds by a preponderance of the evidence that such modification will not be detrimental to the public interest and is appropriate, considering the nature and extent of the violations.
 - (2) *Consolidation of hearing with other proceedings.* If all parties so stipulate, the court may order the trial on the merits to be advanced and tried with the hearing on these motions.
- (g) *Noncompliance to court issued order.* It shall be unlawful for any person to fail to comply or refuse to abide by any of the terms and conditions of a temporary or permanent order issued by the court. Unless the violation by its nature cannot be corrected, each day's failure to comply with an injunction or order to abate shall constitute a separate violation for which an additional penalty may be imposed.
- (h) *Contempt of court.* Any violation of any injunction or order issued by the Municipal Court in an action to abate a public nuisance may be punished as a contempt of court.

Sec. 8.03.090. Remedies.

- (a) The town and any defendant to an action under this chapter may, upon the court's approval, voluntarily stipulate to orders and remedies, temporary or permanent, that are different from those provided in this chapter.

- (b) In any case in which the town prevails in a civil action initiated pursuant to section 8.03.060(c), the town may recover its costs and expenses of declaring and abating the nuisance, including reasonable attorney fees and costs of litigation, such costs may be assessed against the defendant and become a lien against the subject property pursuant to the procedure set forth in this chapter.
- (c) The remedies set forth herein are cumulative. The initiation of any action or the imposition of any penalty hereunder shall not preclude the town from instituting any other proceeding to require compliance with the provisions of this chapter and with any administrative orders and determinations made hereunder. No provision herein shall be construed to limit or abrogate the right of any person to bring a private action to abate a private nuisance.

Sec. 8.03.100. Interference prohibited.

It is unlawful for any person to interfere with or prevent, or attempt to interfere with or prevent, the abatement of any nuisance by any employee or agent of the town acting pursuant to the provisions of this chapter.

Sec. 8.03.110. Assessment and collection of costs of abatement.

- (a) In the event the town chooses to abate a nuisance under section 8.03.060, the responsible party, the owner, or the occupant of the property shall be liable for all actual costs and expenses incurred by the town in abating such nuisance.
- (b) The costs of abatement may be recovered by:
 - (1) A claim for restitution, in the event the town chooses to abate a nuisance under section 8.03.060(d);
 - (2) The institution of a civil action for damages, in the event the town chooses to abate a nuisance under section 8.03.060(c); or
 - (3) If the costs of abatement have not been otherwise collected, the town may prepare a statement enumerating the actual costs of abatement incurred by the town, and file a first and prior lien upon the property relating back to the date upon which the abatement was performed. Penalty and interest shall be assessed at a rate equivalent to that which is assessed by state law upon delinquent general property taxes. Such lien shall have priority over all other liens except general taxes and shall, upon the town's certification and filing with the county, be collected and paid to the town by the county treasurer in the same manner as delinquent general property taxes.
 - a. A copy of the statement shall be mailed, by registered or certified mail, or personally delivered to the owner of the property.
 - b. The owner shall have 30 days from the date of mailing or delivery of the same to pay the assessment.

- c. The owner may request, in writing, a hearing before the town manager to object to or contest the amount of the assessment.
- d. The written request must be made within 30 days from the date of certified mailing or delivery of the same.
- e. The town clerk shall then schedule the matter for hearing before the town manager. The owner shall be given written notice at least two (2) weeks prior to the date, time and place of any hearing scheduled before the town manager.
- f. The decision of the town manager shall be final and provided in writing to the property owner within seven days of the hearing.

ARTICLE II - SPECIFIC NUISANCES

Sec. 8.03.200. Snow removal.

- (a) *Snow or ice requirements and restrictions.*
 - (1) It shall be unlawful and constitute a nuisance for any person to allow snow or ice to remain on any sidewalk open to the public and abutting or adjoining the property controlled, owned or occupied by such person after 24 hours of the last measurable snowfall or snowdrift.
 - (2) It shall be unlawful and constitute a nuisance for any person, without the permission of the public works director or such person's designee, to throw, deposit, or scatter or cause to be thrown, deposited or scattered upon any public place, other than the curb line, snow or ice removed from any property.
- (b) *Notice of violation.* Any neighborhood or community services officer is authorized and directed to give notice to any owner, owner's agent, occupant or lessee of property being kept or maintained in violation of the provisions of this article. Such notice may be personally served upon such person or, if not personally served, may be posted upon the property or deposited in the United States mail, addressed to the occupant and owner of record at the address on the assessment roll of the county assessor or at such other, more recent, address as may be available to the town, or with respect to notice to occupants, at the address of the property so occupied. If service or mailing of the notice is to any party other than the owner, or if the property is posted, a copy of the notice shall be mailed via United States mail to the owner of record.
 - (1) The notice shall state that, if the offending snow or ice is not removed from such property as prescribed by this article on or before one day from the date of such notice, the removal may be done by the town and all costs of abatement, including the cost of inspection and all other incidental costs in connection therewith, including administrative costs, will be charged against the property, in addition to any other penalty and costs or orders that may be imposed.

- (c) *Removal authority; assessment lien on property.* If the offending property has not been brought into compliance with this article within three days from the date of the notice, the abatement may be done by the town, either by town personnel or by private contractors. In the event of such abatement by the town, the cost, including inspection, all other incidental costs in connection therewith, including administrative costs shall be assessed against the offending property.

Sec. 8.03.205. Blowing dust.

- (a) It is unlawful and deemed a nuisance for a person to maintain any lot or lots or vacant land within the Town so as to allow the blowing of dust, soil or sand from such property to the detriment of the health, safety and general welfare of the inhabitants of the Town or to cause damage to the real or personal property of any person or of the Town.
- (b) It is unlawful and deemed a nuisance for the owner or occupant of any lot or lots or vacant land within the Town to maintain lots or vacant land in such a manner that permits dust or blowing soil or blowing sand to be deposited on other property, or to be deposited upon or within any public street, public highway or public way.
- (c) *Control of dust.* It is unlawful and a nuisance for any person to own, possess or control any cleared area, construction site, parking lot, vacant lot or other site use by vehicular traffic or construction equipment, or own, possess or control any open pit, storage or stockpile area, without implementing preventative fugitive dust control measures, which may include, but are not limited to, the following:
 - (1) Wetting down the dust producing area;
 - (2) Landscaping;
 - (3) Covering, shielding or enclosing;
 - (4) Paving on a temporary or permanent basis;
 - (5) Treating through the use of palliative and chemical stabilization in conformance with state guidelines.

Sec. 8.03.210. Grass and weeds.

- (a) *Developed property.* It is unlawful, and shall constitute a nuisance for any person who is an owner, owner's agent, occupant, or lessee of any developed property to permit or maintain on any such property, any accumulation, collection, presence or growth of any of the following:
 - (1) Noxious weeds; or
 - (2) Turf grass or weeds over eight inches in height.

This Subsection does not apply to natural grasses in open space and passive common areas; landscape or decorative grasses; flower or vegetable gardens, cultivated or tended shrubbery, xeriscape plants and materials; or agricultural crops on land zoned for agriculture, including, but not limited to, hay or grass grown for feed, fodder or forage.

- (b) *Undeveloped property.* It is unlawful, and shall constitute a nuisance for any person who is an owner, owner's agent, occupant, or lessee of any undeveloped property to permit or maintain on any such property, any accumulation, collection, presence or growth of weeds. Undeveloped property shall be allowed to grow native and other acceptable vegetation to their naturally occurring heights, as this practice is essential for accepted erosion control practices, wildlife habitat and natural suppression of weeds. This Subsection does not apply to agricultural crops on land zoned for agriculture, including, but not limited to, hay or grass grown for feed, fodder or forage.
- (c) Weeds shall be controlled by cutting, spraying or other lawful and suitable methods of weed control.
- (d) The Board of Trustees may, by resolution, exempt certain areas in the Town, whether publicly or privately owned, from the prohibitions contained in this Section, if the Town Board of Trustees determines that such areas are: natural open space, passive common areas, conservation areas, erosion control areas, agricultural zoned property or irrigation or drainage ditch rights-of-way.

Sec. 8.03.215. Overgrown, diseased and prohibited vegetation.

- (a) *Overgrown trees, grasses and shrubs.* No person shall allow:
 - (1) Any branch of any tree, shrub or other vegetation to overhang streets or alleys in such a manner that the branches interfere with the safe and unobstructed movement of vehicles on any street or alley; or
 - (2) Any branch of any tree, shrub or other vegetation to overhang the first eight (8) feet of space above any public sidewalk; or
 - (3) Any landscaping, grasses, or plant material installed within site distance triangles to grow in such a manner as to interfere with or impede a motorist's view of approaching traffic, traffic signs and traffic signals; or
 - (4) Any branch of any tree, shrub or other vegetation to overhang public rights-of-way in such a manner as to visually obstruct a motorist's view of traffic signs and traffic signals.
- (b) *Diseased trees and shrubs.* Trees, shrubs and other vegetation which are dead, broken, diseased, infested by insects, or impede the passage of pedestrians or vehicles or obstruct sight-lines of any public street or highway or any official traffic control device so as to endanger the well-being of other trees, shrubs or vegetation or constitute a potential threat or hazard to people or property within the Town are hereby declared a nuisance.

- (c) The neighborhood or community services officer shall give written notice to the owner or occupant of any property abutting Town rights-of-way or other public property of any condition deemed unsafe caused by trees and other vegetation overhanging or projecting from such abutting property and onto or over such right-of-way or other public property with such unsafe condition. In case the owner or occupant of such property fails to follow the requirements of such notice, then it shall be the duty of the Town to correct any such unsafe condition immediately upon the expiration of the notice periods specified in the notice of abatement.
- (d) It is unlawful and deemed a nuisance for any person, firm or corporation to cut, trim, spray, remove, treat or plant any tree, vine, shrub, hedge or other woody plants upon access-controlled arterials or other public parks and greenbelts within the town, unless authorized by the town.
- (e) It is unlawful and deemed a nuisance for any person to injure, damage or destroy any tree, shrub, vine, hedge or other vegetation in or upon public rights-of-way or other public property within the town, unless authorized by the town.

Sec. 8.03.220. Abandoned, junk and inoperable vehicles.

- (a) It is unlawful and constitutes a nuisance for any person to:
 - (1) Abandon a vehicle; or
 - (2) Leave any junk or inoperable vehicle upon any public property; or
 - (3) For the owner of any vehicle or any person who is in charge, control or possession of property, to permit or allow any abandoned, junked, or inoperable vehicle to remain on such property for a time period in excess of 48 hours, except that this subsection shall not apply to:
 - a. A vehicle or parts of a vehicle in a completely enclosed structure; or
 - b. A vehicle on the premises of a commercial enterprise operated in a lawful place and manner when necessary to the operation of such business provided that such vehicle or parts are stored in accordance with the Firestone Development Code; or
 - c. A vehicle in a storage place or depository maintained for vehicles impounded by or for the town; or
 - d. Trailers.

Sec. 8.03.225. Hobby vehicles.

- (a) It shall be unlawful for any person to repair, restore, recondition or perform maintenance on a hobby vehicle, except as follows:

- (1) Hobby vehicles must be kept in either a completely enclosed garage or in a side or back yard behind a solid fence of at least six feet in height so that the hobby vehicle is not visible from any adjacent property line or public right-of-way.
- (b) Minor repair or maintenance of vehicles, which includes, but is not limited to, changing of oil, spark plugs, tires and replacing of fluids is permitted, so long as such work is completed within three consecutive days and such work shall not be performed on any public property or right-of-way.

Sec. 8.03.230. Littering public or private property.

(a) *Streets and roads.*

- (1) It is unlawful and a nuisance for any person involved in the operation of a vehicle to track, scatter or deposit or cause to be tracked, scattered or deposited, any sand, gravel, rocks, mud, dirt, dust or any other such object upon any public thoroughfare or right-of-way.
- (2) It is unlawful and a nuisance for any person to operate a vehicle containing sand, gravel, rocks, mud, dirt, or any other such object unless such load is covered or otherwise prevented from dropping, leaking, blowing, or otherwise escaping from the vehicle upon any public thoroughfare or right-of-way.
- (3) The provisions of this subsection shall not apply where such vehicles are used in authorized snow removal activities or where sand or gravel is used for the purpose of securing traction in inclement weather.

(b) *Litter prohibited.*

- (1) It is unlawful and constitutes a nuisance for any person to throw or deposit, or cause or permit to be thrown or deposited upon any street, alley, sidewalk or public property or place in the town, any garbage, trash, litter or junk, or hazardous material as defined by 40 C.F.R. Part 261, or other offensive matter, except in public receptacles or authorized private receptacles.
- (2) It is unlawful and deemed a nuisance for any person to obstruct, litter or damage any street, avenue, alley, sidewalk, highway, public right-of-way, public grounds, park, recreation facility or public property in the town.

Sec. 8.03.235. Unclean stable or stall; manure fertilizer offensive in odor.

- (a) Any animal or fowl enclosure in which any animal or fowl shall be kept, or in any other place within the Town in which manure or liquid discharges of such animals or fowls shall accumulate, and which is maintained in an unsanitary condition, allowing an offensive odor to escape therefrom, providing an insect or rodent attractant, or endangering the health of such animals, shall be deemed a nuisance.

- (b) It is unlawful and constitutes a nuisance for any person to use manure or other organic material on premises for fertilizing purposes if such creates unsanitary conditions or odors upon any adjoining or surrounding property offensive to a reasonable person for a period of 14 or more consecutive days.
- (c) Whenever manure or any other organic material shall accumulate and affect the health of the public, it may be forbidden and designated a nuisance under the provisions of this Chapter.

Sec. 8.03.240. Offensive locations.

- (a) *Geological hazard areas.* It is unlawful and constitutes a nuisance for any person to aggravate any geologic hazard area of the town by means of disturbing vulnerable rock slopes or unstable soil slopes. For purposes of this section, “geologic hazard area” means a geologic phenomenon which is so unstable that any use of such area may result in landslides, rock falls, mudflow or creep.
- (b) *Polluted water.* A swimming pool, pond or other body of water which is abandoned, unattended, unfiltered, or not otherwise maintained, resulting in the water becoming polluted, or any standing or flowing water from a septic tank, cesspool, or sewer service line within the Town shall constitute a public nuisance. For purposes of this subsection the term “polluted water” means water contained in a swimming pool, pond, or other body of water, which contains one or more of the following: bacterial growth, including algae; remains of insects; remains of deceased animals; reptiles; rubbish; feces; refuse; debris; papers; and any other foreign matter or material which because of its nature or location constitutes an unhealthy or unsafe condition.
- (c) *Water supply ditch.* It is unlawful and constitutes a nuisance for any person to own or operate a water supply ditch where the condition of the ditch is such that it creates a health, sanitation or safety hazard upon any property within the town.
- (d) *Open wells, cisterns or excavations.* It is declared that excavations exceeding five (5) feet in depth, cisterns and wells or an excavation used for storage of water within the Town are public nuisances unless the same are adequately covered with a locked lid, or other covering weighing at least sixty (60) pounds or are securely fenced with a solid fence to a height of at least five (5) feet; and it is unlawful for any person to permit such nuisance to remain on premises owned or occupied by such person.
- (e) *Property and buildings.* It is unlawful and constitutes a nuisance for any person to own, lease, occupy, manage or possess any property upon which any of the following conditions exist:
 - (1) The premises are so defective, unsightly, or in such condition or disrepair that they impair the value of the surrounding property. Manifestation of this condition shall include, but not be limited to, the keeping on, or disposing of on, or the scattering over the premises of any of the following:
 - a. Junk, garbage or trash, as defined in this title;

- b. Stagnant water or an excavation of five feet or more in depth; or
- (2) The premises are abandoned, boarded up, partially destroyed, or left in a state of partial construction or destruction; or
- (3) Structures on the premises have dry rot, warping, or termite infestation; or
- (4) The premises have broken windows or unsecured entrances which may cause hazardous conditions and/or invite trespassers and other unlawful acts; or
- (5) The landscaping on the premises has not been maintained such that the majority of plant material has been adequately irrigated and maintained in a living and healthy condition. **Sec. 8.03.245. Offensive trade or business.**

Whenever the pursuit of any trade, business or manufacture or maintenance of any substance or condition of things results in a condition detrimental to the health, safety or general welfare of the inhabitants of the Town, such pursuit shall be deemed a nuisance and shall be abated. By way of illustration, but not limitation, the pursuit of the following trades or businesses within the Town shall constitute unlawful nuisances:

- (1) *Storage operations.* All places at which the owner or occupant keeps, stores or permits to be kept or stored any building materials, construction materials, liquids, debris, paper, trash, waste material or litter upon any property in such a manner as to cause a fire hazard to a building, improvement, or other property, or other detriment to the health, safety or general welfare of the inhabitants of the Town, or in such a manner that the stored materials may be blown or deposited upon any other public or private property, unless such materials are covered and secured so as to prevent such materials from being scattered about or otherwise dispersed by wind, water or other natural causes.
- (2) *Construction sites.* All places at which construction or excavation operations occur and from which trucks or other vehicles emerge from the site and carry onto or deposit in any street or other public place any mud, dirt, sticky substance or other litter which causes a hazard to automobile traffic or which otherwise causes a detriment to the health, safety or welfare of the inhabitants of the Town.

Sec. 8.03.250. Graffiti.

- (a) Any graffiti vandalism, which is visible from any public facility, street, trail or park, is declared to be a public nuisance.
- (b) Graffiti vandalism shall not constitute a "public nuisance" and no charges or liens for the costs of abatement or summons and complaint or civil action shall be imposed or commenced by the town against a responsible party, if, subject to the availability of appropriated funds, such person:

- (1) Within 15 calendar days of the date of the graffiti vandalism abatement notice from the town, or in the absence of receipt of such notice upon written request for removal to the town, such person executes a release, waiver and consent form authorizing the town to enter upon the property and remove the graffiti vandalism; or
- (2) If upon inspection, the town determines that removal of the graffiti vandalism would require specialized equipment or pose a substantial risk of injury or harm to town personnel performing such work, the removal of the graffiti vandalism shall remain the obligation of the responsible party.

Sec. 8.03.255. Burning of trash, litter and rubbish; yard waste.

It is unlawful and shall constitute a nuisance for any person to build, maintain, attend or use an open fire, a portable outdoor fireplace, or recreational fire, or to conduct open burning, in the town, including public and private lands, for purposes of removing and disposing of trash, junk, rubbish, litter, or yard waste.

Sec. 8.03.260. Burning of irrigation ditches; crop fields.

- (a) It is unlawful and shall constitute a nuisance for any person to build, maintain, attend or use an open fire, or to conduct open burning of irrigation ditches or crop fields in the town without having first obtained a burn permit issued by the Frederick-Firestone Fire Protection District, or in a manner contrary to the terms, conditions and restrictions set forth in such permit and any fire restrictions or fire ban issued by the Frederick-Firestone Fire Protection District or Weld County to be in effect within or upon any area within the town. A copy of said permit shall be provided to the Town prior to the commencement of burning.
- (b) Any person engaging in such burning shall comply with any applicable state laws and regulations relating to the building, maintaining or attending to an open fire or acts related to, or that may create, open burning, including but not limited to any requirement to obtain an open burning permit from the Colorado Department of Public Health and Environment, as well as any and all terms, restrictions, and conditions contained in the burn permit issued by the Frederick-Firestone Fire Protection District.

Sec. 8.03.265. Use of air compression brakes prohibited.

- (a) It is unlawful and shall constitute a nuisance for the operator of a motor vehicle equipped with an engine compression brake device to use such device while operating the vehicle within the town.

CHAPTER 8.04 - FIREWORKS

Sec. 8.04.010. Definitions.

Fireworks means any composition or device for the purpose of producing a visible or an audible effect for entertainment purposes by combustion, deflagration or detonation that meets the

definition of 1.4G fireworks or 1.3G fireworks as set forth in the International Fire Code as adopted by the town and as may be from time to time amended.

Sec. 8.04.020. Prohibition.

The possession, manufacture, storage, sale, handling and use of fireworks are prohibited, except as may be permitted by: (a) the International Fire Code as adopted by the town and as may be from time to time amended; or (b) the Firestone Development Code, as amended.

Section 3. Section 12.28.140, "Snow removal," of the Firestone Municipal Code is hereby repealed in its entirety.

Section 4. Subsection 12.32.060(V) is hereby amended to read as follows:

V. Ignite any fireworks in any parks or recreation facilities or building ~~unless such person has first obtained a permit for the supervised display of fireworks in accordance with Section 9.16.070 of this Code~~ except as permitted by Chapter 8.04 of this Code.

Section 5. If any article, section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision 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 6. Violations of this ordinance in addition to the penalties set forth herein may be punishable in accordance with Section 1.16.010 of the Town of Firestone, Municipal Code.

Section 7. 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 ___th day of _____, 20__.

TOWN OF FIRESTONE, COLORADO

Drew Peterson, 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#: 9.f

Discussion/Action

Meeting Date: June 8, 2022

Initiated By: Paula Mehle

Dept: Economic Development

AGENDA TITLE

ORDINANCE 1013: AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, ADOPTING CHAPTER 10.12, ENTITLED "ABANDONED VEHICLES" OF THE FIRESTONE MUNICIPAL CODE

SUMMARY

A new Chapter 10.12 is proposed as it has been determined that the Town's current regulations are inadequate to address the abatement and removal of abandoned and inoperative vehicles within Firestone. The new chapter will promote public health, safety, and general welfare.

The proposed ordinance provides the authority to impound a believed abandoned vehicle from public property, addresses the notification of the owner of the vehicle, and provides the owner with an opportunity for a hearing if the owner questions if there was probable cause to tow their vehicle. The code also requires the police department to be notified when an abandoned vehicle is towed from a property and addresses the appraisal and sale of a towed vehicle.

HISTORY AND PREVIOUS BOARD ACTION

RECOMMENDATION

Staff recommends approval of Ordinance 1013.

ALTERNATIVES

ATTACHMENTS

1. Ordinance 1013

FINANCIAL CONSIDERATIONS

ORDINANCE NO. 1013

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, ADOPTING CHAPTER 10.12, ENTITLED “ABANDONED VEHICLES” OF THE FIRESTONE MUNICIPAL CODE

WHEREAS, the Board of Trustees of the Town of Firestone (“Town”) has determined that the Town’s current regulations are inadequate to properly address the abatement and removal of abandoned or inoperative vehicles within the Town; and

WHEREAS, the Town finds that enacting a new Chapter 10.12 of the Firestone Municipal Code regarding the abatement and removal of abandoned or inoperative vehicles within the Town promotes the public health, safety, and general welfare.

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

Section 1. Title 10, Vehicles and Traffic, of the Firestone Municipal Code is hereby amended by the addition of a new Chapter 10.12, entitled “Abandoned Vehicles,” to read as follows:

CHAPTER 10.12 - ABANDONED VEHICLES

Sec. 10.12.010. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned vehicle means:

- (1) Any vehicle left unattended on private property for a period of 48 hours or longer without the consent of the owner, occupant or tenant of such property or such person's agent;
- (2) Any vehicle left unattended on public property, including any portion of a street or highway right-of-way, within the limits of the town for a period of 24 hours or longer, which is not removed within forty-eight (48) hours from the date of service of the notice specified in section 8.03.050(b);
- (3) Any "junk vehicle" as defined in section 8.03.020; or
- (4) Any vehicle stored in an impound lot at the request of its owner or the owner's agent or the police department and not removed from the impound lot according to the agreement with the owner or agent or within 72 hours of the time the police department notifies the owner or agent that the vehicle is available for release upon payment of any applicable charges or fees. If the police department

requested the storage, the provisions of this article governing public tows apply as of the time of abandonment, and the police department shall be deemed the responsible law enforcement agency. Otherwise, the private tow provisions of this chapter apply as of the time of abandonment.

Appraisal means a bona fide estimate of reasonable market value made by any vehicle dealer licensed in this state or by any employee of the state patrol, the county sheriff's department or the police department whose appointment for such purpose has been reported by the head of the appointing agency to the executive director of the department of revenue of the state.

Community services officer means any person empowered by the Town of Firestone to enforce the provisions of this chapter, including peace officers, as defined in C.R.S. §§ 18-3-201(2) and 30-15-105.

Department means the state department of revenue acting directly or through its duly authorized officers and agents.

Disabled vehicle means any vehicle which is stopped or parked, either attended or unattended, upon a street, highway or right-of-way generally open to the use of the public and which is, due to any mechanical failure or any inoperability because of a collision, a fire or any other such damage, temporarily inoperable under its own power.

Impound lot means a parcel of real property that is owned or leased by the town or an operator at which motor vehicles are stored under appropriate protection.

Neighborhood services officer means any employee of the Town designated or authorized by the town manager or such person's authorized representative to enforce the provisions of this chapter.

Operator means a person or firm licensed by the public utilities commission of the state as a towing carrier.

Private property means any real property that is not public property.

Private tow means any tow of an abandoned vehicle not requested by the police department.

Public tow means any tow of an abandoned vehicle requested by the police department.

Vehicle means any machine propelled by power other than human power, designed to travel along the ground by use of wheels, treads, runners or slides to transport persons or property or pull machinery and includes, without limitation, automobile, airplane, truck, trailer, motorcycle, motor scooter, tractor, buggy and wagon.

Sec. 10.12.020. Abandonment; authority to impound; public tow.

Any police or neighborhood or community services officer who finds a vehicle which such officer has probable cause to believe has been abandoned on public property may, without further notice or delay, require such vehicle to be removed or cause the same to be removed and placed

in storage in any impound lot designated or maintained by the town or to any other place under any of the circumstances hereinafter described:

- (1) The driver of the vehicle is taken into custody by the police department and it is necessary to tow the vehicle to a storage lot to secure it and its contents.
- (2) Removal of the vehicle is necessary in the interest of public health or safety because of fire, flood, snow, storm or other natural or manmade disaster or emergency.
- (3) There is probable cause to believe the vehicle is stolen.
- (4) The vehicle is parked in a designated no parking or tow-away zone.
- (5) The vehicle is illegally parked in a designated handicapped parking space or zone.
- (6) There is probable cause to believe the vehicle has been vandalized or its parts stolen.
- (7) The engine number, vehicle identification number or manufacturer's serial number has been altered, changed or obliterated.
- (8) The vehicle is parked, stopped or standing in a manner which creates an obstruction or hazard or potential obstruction or hazard to any lawful function or use of any public street or other public or private property.
- (9) The vehicle is blocking access to fire hydrants, fire standpipe outlets or fire sprinklers.
- (10) The vehicle is parked, stopped or standing in designated safety zones or safety lanes.
- (11) The vehicle is parked in a designated fire lane.

Sec. 10.12.030. Report; notice; public tow.

- (a) Upon having an abandoned vehicle towed, the police department shall ascertain, if possible, whether or not the vehicle has been reported stolen, and, if so reported, the police department shall recover and secure the vehicle, notify its owner and terminate the abandonment proceedings under this article. The police department shall have the right to recover from the owner its reasonable costs to recover and secure the vehicle.
- (b) As soon as possible, but in no event later than ten working days after having an abandoned vehicle towed, the police department shall report the same to the department by first class or certified mail, personal delivery or internet communication, which report shall be on a form prescribed and supplied by the department. The report shall contain the following information:

- (1) The fact of possession, including the date possession was taken, the location of storage of the abandoned vehicle and the location from which it was towed, the business address, telephone number and the name and signature of a representative from the police department;
 - (2) If applicable, the identity of the operator possessing the abandoned vehicle, together with such person's business address and telephone number and the carrier number assigned by the public utilities commission; and
 - (3) A description of the abandoned vehicle, including the make, model, color, and year of such vehicle; the license number, issuing state, and the expiration date of the license plate; the vehicle identification number; and a list of the names and addresses of any known owners.
- (c) The police department, upon receiving the department's report as required by state statute, shall determine, from all available information and after reasonable inquiry, whether or not the abandoned vehicle has been reported stolen, and, if so reported, shall recover and secure the vehicle and notify its owner and terminate the abandonment proceedings under this article. The police department shall have the right to recover from the owner its reasonable costs to recover and secure the vehicle.
- (d) As required by state statute, the police department, within ten working days of the receipt of the department's report, shall notify by certified mail or personal service, the owner of record, if ascertained, and any lien holder, if ascertained, of the fact of such report and the claim, if any, and shall send or serve a copy of such notice to the operator. The notice shall contain information that the identified motor vehicle has been reported abandoned to the department, the location of the vehicle, and the location from which it was towed, and that, unless claimed within 30 calendar days from the date the notice was sent or served as determined from the postmark on the notice, the vehicle is subject to sale.
- (e) Such notice shall also inform the owner of record of such person's opportunity to request a hearing concerning the legality of the towing of the abandoned vehicle, pursuant to this chapter, and the fact that the owner must contact the police department to request, in writing, a hearing within ten days of the postmarked date or date of service of the sending of the notice required by subsection (d) of this section.

Sec. 10.12.040. Hearing.

- (a) Any hearing requested under this chapter shall be conducted before the municipal judge or a hearing officer appointed by the municipal judge, within 72 hours (excluding Saturdays, Sundays and town holidays) of receipt of a written demand for such hearing, unless the person requesting the hearing waives the right to a speedy hearing. The sole issue before the municipal judge or hearing officer shall be whether there was probable cause to impound the vehicle. In this section the term "probable cause to impound" means a state of facts to allow a person of ordinary care and prudence to believe that there was a sufficient breach of municipal, state or federal laws, rules or regulations to grant legal authority for the removal of the vehicle.

- (b) The hearing shall be conducted in an informal manner and shall not be governed by the formal rules of evidence. The person demanding the hearing shall have the burden of establishing that such person has the right to possession of the vehicle. The police department shall have the burden of establishing that there was probable cause to impound the vehicle. The municipal judge or hearing officer shall only determine that either there was probable cause to impound the vehicle, or there was not probable cause to impound the vehicle. The decision of the municipal judge or hearing officer shall be a final judgment.
- (c) Upon a finding of no probable cause, towing and storage fees shall be paid by the town in accordance with arrangements made between the town and the operator. If the possessor of the vehicle fails to claim the vehicle from the operator within 24 hours of a finding of no probable cause, excluding hours when the operator is not open for business, the possessor shall assume liability for all subsequent storage charges. It shall be the responsibility of the police department to notify the operator in writing of a finding of no probable cause within one working day after such finding is made.
- (d) Failure of the owner of the vehicle:
 - (1) To request a hearing in writing to the police department within ten days of the postmarked date of service of the notice; or
 - (2) To attend a scheduled post-seizure hearing,shall be deemed a waiver of the right to such hearing.

Sec. 10.12.050. Abandonment; private tow.

- (a) Any owner, tenant, lessee or such person's authorized agent may have an abandoned vehicle removed from such person's property by having it towed and impounded by an operator.
- (b) Any operator in possession of any abandoned vehicle from a private tow shall immediately notify the police department as to the operator's name and the location of the impound lot where the vehicle is located and a description of the abandoned vehicle, including make, model, color and year of such vehicle; the license number, issuing state and expiration date of the license plate; and the vehicle identification number. Upon such notification, the police department shall ascertain, if possible, whether or not the vehicle has been reported stolen and, if so reported, shall recover and secure the vehicle and notify its owner and terminate the abandonment proceedings under this article. The police department shall have the right to recover from the owner its reasonable costs to recover and secure the vehicle.

Sec. 10.12.060. Appraisal and sale of impounded vehicles.

- (a) Public tow abandoned vehicles or vehicles abandoned in an impound lot subsequent to a public tow shall be appraised and sold by the police department or its designated representative at a public or private sale held not less than 30 nor more than 90 days after

the date of issuance of the notice required by section 10.12.030.

- (b) If the appraised value of an abandoned vehicle sold pursuant to this section is \$200.00 or less, the sale shall be made only for the purpose of junking, scrapping or dismantling such vehicle, and the purchaser thereof shall not, under any circumstances, be entitled to a state certificate of title. The police department shall cause to be executed and delivered a bill of sale, together with a copy of the required state report to the person purchasing such vehicle. The bill of sale shall state that the purchaser acquires no right to a certificate of title for such vehicle. The police department shall promptly submit a report of sale, with a copy of the bill of sale, to the department and shall deliver a copy of such report of sale to the purchaser of the vehicle.
- (c) If the appraised value of an abandoned vehicle sold pursuant to this section is more than \$200.00, the sale may be made for any intended use by the purchaser thereof. The police department shall cause to be executed and delivered a bill of sale, together with a copy of the required state report and application for a state certificate of title signed by a legally authorized representative of the police department.

Sec. 10.12.070. Proceeds of sale.

- (a) If the sale of any vehicle and its attached accessories or equipment under the provisions of this chapter realizes a monetary amount less than or equal to the sum of all charges of the operator who has perfected a lien pursuant to state statute, then the operator shall have a valid claim against the owner of record for the full amount of such charges, less the amount received upon the sale of such vehicle
- (b) If the sale of any vehicle and its attached accessories or equipment under the provisions of this chapter realizes a monetary amount greater than the sum of all charges of the operator who has perfected a lien pursuant to state statute, then the proceeds of the sale shall be distributed as provided by state statute unless the town has entered into a towing agreement with an operator which provides for a specified contractual distribution.

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 ____th day of _____, 2022.

TOWN OF FIRESTONE, COLORADO

Drew Peterson, 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#: 9.g

Discussion/Action

Meeting Date: June 8, 2022

Initiated By: Paula Mehle

Dept: Economic Development

AGENDA TITLE

ORDINANCE 1014: AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, REPEALING AND RE-ENACTING IN ITS ENTIRETY TITLE 6 "ANIMALS" OF THE FIRESTONE MUNICIPAL CODE

SUMMARY

Title 6 Animals of the Firestone Municipal Code has not been significantly amended since 1988 and has had some minor amendments over the years. Many sections are outdated and not sufficiently aligned with best practices or the Town's administrative procedures.

Ordinance 1014 provides updated language and regulations associated with animals including licensing, disease control/animal bites, care and treatment, control, vicious animals, restrictions and prohibitions, and impoundment. Proposed new sections to Title 6 address reporting and quarantine of animals that bite a person, owner liability, scattering of trash by an owned animal, hearing and permitting process related to vicious animals, restricting exotic, wild, dangerous animals, guard dog requirements, and the authorization for officers to inspect if they have a reasonable cause of a violation of Title 6.

Repealing current Title 6 will remove the repetitive, and somewhat conflicting, regulations on the number of animals permitted in a household, keeping of backyard chickens, keeping of potbellied pigs, and associated permits that are addressed in Title 16, Firestone Development Code.

HISTORY AND PREVIOUS BOARD ACTION

RECOMMENDATION

Staff recommends approval of Ordinance 1014.

ALTERNATIVES

ATTACHMENTS

1. Ordinance 1014

FINANCIAL CONSIDERATIONS

ORDINANCE NO. 1014

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, REPEALING AND RE-ENACTING IN ITS ENTIRETY TITLE 6 “ANIMALS” OF THE FIRESTONE MUNICIPAL CODE

WHEREAS, the Board of Trustees of the Town of Firestone (“Town”) has determined that the Town’s current regulations regarding animals set forth in Title 6 of the Firestone Municipal Code are outdated and not sufficiently aligned with best practices or the Town’s current administrative procedures; and

WHEREAS, the Town desires to repeal and reenact Title 6 of the Firestone Municipal Code to address these existing deficiencies, and the Town finds that repealing and re-enacting will increase the effectiveness of the Firestone Municipal Code with regard to those regulations and underlying goals.

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

Section 1. Title 6, “Animals,” of the Firestone Municipal Code is hereby repealed in its entirety and re-enacted to read as follows:

TITLE 6. ANIMALS

CHAPTER 6.01. DEFINITIONS

Sec. 6.01.010. Definitions.

The following words, terms and phrases, when used in this title shall, unless otherwise specified, mean as follows:

Abandon means the leaving of an animal without adequate provisions for the animal's proper care by its owner.

Animal means any of the kingdom (Animalia) of living beings typically differing from plants in capacity for spontaneous movement and rapid motor response to stimulation; consistent therewith, any one of the lower animals distinguished from man.

Animal owner or *owner* means any person who owns, keeps, harbors, possesses, or otherwise has custody or control of any animal in the town, whether such person is a resident or nonresident of the town.

Animal owner's authorized agent means any person who acts for or in the place of the animal owner by authority from the animal owner.

Animal shelter means any premise designated by the town for the purpose of boarding the caring for any animal impounded under the provisions of this chapter or any other ordinance of the town or law of the state.

Cat means any domesticated animal of the species felis domestica.

Community services officer means any person empowered by the Town of Firestone to enforce the provisions of this chapter, including peace officers, as defined in C.R.S. §§ 18-3-201(2) and 30-15-105, personnel of the Firestone Police Department, or any employee of the town designated or authorized by the town manager or by the town manager's authorized representative.

Dog means any domesticated animal of the species canis familiaris, or other species of the family canidae.

Guard dog means a dog disciplined, through special training, to protect persons and/or property by attacking or threatening to attack any person found within the area authorized to be patrolled by the dog.

Harbor means the activity of the occupant of any premises on which an animal is kept or to which an animal customarily returns for food and care which contributes to the animal's habit or tendency to stay at or return to said premises for care and sustenance.

Humane trap means box type live traps which do not cause bodily harm to the animal intended to be captured or any other animal or person coming in contact with such trap.

Leash means a substantial chain, cord, rope or similar device sufficient to hold an animal in restraint, and which is not more than six feet in length.

Livestock means cattle, swine, sheep, goats and such horses, mules, asses, and other animals associated with or used in the farm or ranch production of food, fiber or agricultural products.

Mistreat means every act or omission which causes or unreasonably permits the continuation of unnecessary or unjustifiable pain or suffering.

Neglect means failure to provide food, water or protection from the elements, opportunity for exercise, or other customary care, usual and proper for an animal's health and well-being and includes, but is not limited to, leaving an animal unattended in a vehicle without adequate ventilation and water, or leaving an animal tethered in such a manner that it becomes entangled and endangers itself or is unable to reach necessary water or shelter.

Rabies inoculation means the inoculation of an animal with a rabies vaccine approved by the Colorado Department of Health and administered by a Colorado licensed veterinarian.

Running at large means any animal, unless specifically excepted by this chapter, not under the direct and competent control of the owner or the owner's authorized agent by means of a leash,

except an animal on or within the owner's motor vehicle provided when such vehicle is parked the animal shall be within the enclosed portion of said motor vehicle or tethered so as to restrain the animal within the confines of the motor vehicle.

Stray animal means any animal, with or without a registration rabies inoculation tag, found unattended, running at large or unattached anywhere within the town.

Town clerk shall mean the town clerk or the town clerk's authorized designee.

Town manager shall mean the town manager or the manager's authorized designee.

Veterinarian means a person currently licensed by the State of Colorado to practice veterinary medicine.

Vicious animal means any animal that is the cause of unprovoked bites, snaps at or attacks humans or other animals on public or private property or without provocation approaches any person on public or private property in a terrorizing manner or in an apparent attitude of attack; provided, however, that an animal shall not be deemed a vicious animal by reason of having bitten or attacked by the following:

- (1) Any person engaged in the unlawful entry into or upon the animal owner's property where such animal is kept;
- (2) Any person engaged in the unlawful entry into or upon the animal owner's automobile or other vehicle wherein such animal is confined, or which is parked on the street immediately adjacent to the owner's property;
- (3) Any person engaged in attacking or molesting another person;
- (4) Any person engaged in attempting to stop an altercation between such animal and another animal; and
- (5) Any person who deliberately and wantonly provokes such animal to bite or to attack such person, another person, or another animal.

Secs. 6.01.020 – 6.01.200 Reserved.

CHAPTER 6.02 - LICENSES.

Sec. 6.02.010. Required.

- (a) The owner of any dog or cat over the age of six months shall obtain an annual license for such animal from the town clerk within 30 days after the owner establishes a domicile in the town, takes possession of the animal, or the animal attains the age of six months, whichever occurs last.

- (b) The owner of any dog or cat licensed pursuant to this chapter shall securely attach the license to the animal's collar to be worn by the animal at all times.

Sec. 6.02.020. Prerequisite to issuance.

- (a) Upon application for a license, the applicant shall exhibit to the town clerk a certificate from a veterinarian that the animal has been inoculated as required by section 6.03.010.
- (b) Certificate of vaccination: The veterinarian administering the vaccination shall execute and furnish to the animal owner as evidence thereof a certificate of vaccination, upon a form issued by the veterinarian. The certificate shall contain the following:
 - (1) The animal owner's name, address and telephone number;
 - (2) The breed, sex, color and name of the inoculated animal;
 - (3) The date of inoculation;
 - (4) The type of vaccine used;
 - (5) Where applicable, the tag number of the rabies vaccination issued; and
 - (6) The signature of the veterinarian issuing the certificate.
- (c) If any animal bites any person within a ten-day period preceding the date on which such animal is to be vaccinated, the owner of such animal shall report such fact to the veterinarian and no rabies vaccine shall be administered until after a ten-day observation period.

Sec. 6.02.030. Fees.

An animal owner shall pay an annual license fee established by resolution of the Board of Trustees. Such fee shall be reduced for any animal owner who presents written proof from a veterinarian that such animal has been spayed or neutered.

Sec. 6.02.040. Records.

The town clerk shall keep a record of all town certificates and licenses issued pursuant to this chapter.

Sec. 6.02.050. Harboring unvaccinated and nonregistered animals.

It shall be unlawful for any person to keep, harbor or possess any animal not vaccinated and licensed as required by this title.

CHAPTER 6.03 - ANIMAL DISEASE CONTROL

Sec. 6.03.010. Vaccination required.

- (a) It shall be unlawful for any person to own a dog or cat over six months of age unless such animal is currently vaccinated against rabies.
- (b) Every owner of a dog or cat shall keep and exhibit upon the lawful request of a community services officer, a certificate of vaccination evidencing the most current vaccination for each such animal.
- (c) Rabies vaccinations shall be kept current in accordance with the guidelines set forth in the Compendium of Animal Rabies Control as promulgated by the National Association of State Public Health Veterinarians.

Sec. 6.03.020. Reporting animal bites.

- (a) Whenever any animal has bitten any person, it shall be the duty of the owner of such animal or of any person, having knowledge of such bite to immediately report such fact to a community services officer or the police department, stating, if known, the location of such animal.
- (b) Whenever any animal is affected by rabies, or suspected of having rabies, or has been bitten by or suspected of having been in contact with an animal known or suspected to be affected by rabies, the owner of such animal or any person having knowledge of such matter shall immediately report such fact to a community services officer or to the police department stating, if known, the location of such animal.
- (c) Every physician or medical practitioner shall, within 12 hours upon treatment of any person bitten by an animal within the town, report to a community services officer or to the police department the name, age, and address of the person so bitten and treated, with the permission of said person. It shall be the duty of every physician or medical practitioner to request such permission.
- (d) It shall be the duty of every veterinarian who diagnoses rabies in any animal to immediately report such fact to a community services officer or to the police department.

Sec. 6.03.030. Confinement; quarantine.

- (a) If any animal is suspected of having rabies or if any animal has bitten a person and such animal has not had a current vaccination, such animal shall be confined for a period of at least ten days from the date of the bite at the animal shelter or at a veterinary facility of the owner's choice, at the expense of the owner of the animal. During the ten-day observation period, no rabies vaccine shall be administered to the animal.
- (b) No animal held for observation on suspicion of rabies shall be released until the observation period is over, except as follows:

- (1) If the owner shows proof of current rabies vaccination, the animal may be released into rabies confinement at the owner's residence, at the discretion of the community services officer; or
 - (2) If the victim of the bite and the owner request that the rabies confinement be at the owner's residence and the victim agrees in writing to release and hold harmless the town, animal shelter and veterinary facility for releasing the animal to the owner, the animal may be released into rabies confinement at the owner's residence, at the discretion of the community services officer.
- (c) For the purposes of this section, the term "rabies confinement at owner's residence" shall mean that the animal is kept inside a secure building where no contact with animals, the animal owner's family, or persons outside the owner's family can occur for a ten-day period. During such period of confinement, the animal must not be let out to relieve itself without being on a leash and handled by a person capable of physically restraining the animal. If such animal is otherwise found outside the owner's residence during the confinement period, it shall be taken and confined at the animal shelter or at a veterinary facility of the owner's choice, at the expense of the owner, for the remainder of the confinement period.
- (d) If any animal has been bitten by another animal suspected to have rabies, the owner of such animal exposed to rabies shall report such fact to a community services officer. The community services officer shall have the power, in the officer's discretion, to have the animal suspected of having rabies or of being exposed to rabies removed from the owner's residence to a veterinary facility and placed under observation for a period of up to six months at the expense of the owner, provided that the owner may elect to have such animal destroyed in lieu thereof.
- (e) Notwithstanding the above, if a standard incubation period has not been established by the state department of health for the particular species of animal which was bitten, it shall be summarily destroyed. If the animal has been in contact with another animal or human, a necropsy shall be performed by a certified laboratory to determine rabies contamination.

Sec. 6.03.040. Destruction of rabies infected animals.

If rabies has been detected in any animal, such animal shall be summarily destroyed.

CHAPTER 6.04 - CARE AND TREATMENT OF ANIMALS

Sec.6.04.010. Cruel treatment prohibited.

- (a) It shall be unlawful for any person to knowingly or recklessly engage in any of the following acts, or any combination thereof:
- (1) Fail to provide an animal under one's care and/or control with sufficient food, water or proper shelter;

- (2) Fail to provide veterinary care when needed to prevent suffering, injury or death of an animal;
 - (3) To needlessly mutilate or injure an animal;
 - (4) To needlessly, repeatedly beat, kill or attempt to kill an animal;
 - (5) To mistreat, cruelly treat, torment, overload, overwork or otherwise abuse an animal to the extent that the animal is in imminent danger of injury, sickness or death;
 - (6) To abandon an animal or neglect such animal to the extent that the animal is in imminent danger of injury, sickness or death;
 - (7) To crop a dog's ears, dock its tail or neuter an animal, (this provision shall not apply to actions of a veterinarian);
 - (8) To confine an animal in such a way that the animal is exposed to extreme temperature or weather conditions;
 - (9) To restrain, restrict or otherwise control an animal by use or means of a chain, tether, or rope affixed to a stationary object when the animal owner or responsible party is not present on the property for longer than is necessary for such person to complete a temporary task; or
 - (10) To restrain, restrict, or otherwise control an animal by use or means of a chain, tether or rope affixed to a stationary object outdoors for longer than 5 hours in a 24-hour period or in such a manner that endangers the animal's health, safety, or well-being.
- (b) It shall be unlawful for any person to antagonize, agitate, interfere, beat, kick, strike, torture, torment, mutilate, injure, disable or kill any dog used by the town's police department when such dog is being used in the performance of the functions or duties of such department.

Sec. 6.04.020. Impoundment.

Any community services or police officer may impound an animal if such officer reasonably believes that a violation of any of the acts prohibited in section 6.04.010 exists and that impoundment is necessary for the health, safety or welfare of such animal. Such impoundment and subsequent hearing shall be in accordance with the procedure set forth in chapter 6.08 of this title.

Sec. 6.04.030. Poisoning prohibited; exceptions.

It shall be unlawful for any person to intentionally poison any animal, with the exception of rats, mice, insects or other wild animals, including but not limited to skunks, squirrels, raccoons, bats and prairie dogs. The poisoning of rats, mice, insects or wild animals must conform to the

conditions, requirements and procedures of all applicable state and federal laws, rules and regulations.

Sec. 6.04.040. Promotion of animals fights and keeping places therefor.

It shall be unlawful for any person to cause, instigate or encourage any animal to fight or to enter into combat in any manner; and it shall be unlawful for any person to maintain any place where animals are permitted or encouraged to fight for exhibition, wager or sport.

Sec. 6.04.050. Death of animals.

It shall be unlawful for the owner of any animal which dies to dump or abandon such animal on any public or private property. All animals which die shall be humanely disposed of within 24 hours of their death. All dogs, cats or other "large animals" must be disposed of by burial on private property with the permission of the person who owns or is in control of the property or transported to an animal shelter or veterinarian facility for proper disposal.

Sec. 6.04.060. Vehicular accident; animals.

Any operator of a motor vehicle whose vehicle strikes a domesticated animal shall immediately report any injury or death of such animal to the police department.

Sec. 6.04.070. Care of animals.

It shall be unlawful for any animal owner, or any owner, manager or employee of a pet shop, kennel, animal hospital or shelter to fail to maintain the facilities in a sanitary condition, provide proper heating and ventilation, provide space appropriate to the size, width and species of animal, provide adequate nutrition, provide adequate veterinary care for all animals in their care, or to fail to take reasonable care to release for sale, trade or adoption only those animals which are free of disease or injuries.

Sec. 6.04.080. Ownership of animal.

Ownership of any animal shall not be a recognized affirmative defense for a violation of any section of this chapter.

CHAPTER 6.05 - CONTROL OF ANIMALS

Sec. 6.05.010. Strict liability of animal owner.

For the purpose of prosecution for violation of any section of this chapter, it shall not be necessary to prove notice or knowledge on the part of the animal owner that such animal was violating any of the sections of this chapter at the time and place charged, it being the purpose and intent of this section to impose strict liability upon the animal owner for the actions, conduct and condition of such animal.

Sec. 6.05.020. Running at large prohibited; exceptions; fences.

- (a) It shall be unlawful for any animal owner to permit an animal to run at large within the town except on the premises of the owner or on the premises of the person having charge of the animal. Dogs under the control of a public law enforcement agency or dogs in areas designated and posted by the town permitting dogs to be at large (dog parks) are exempt from this prohibition.
- (b) Fences used for the enclosure of animals shall be securely constructed and kept in good repair.

Sec. 6.05.030. Animal disturbance of peace and quiet prohibited.

It shall be unlawful for any animal owner to permit such animal to make unreasonable noise or disturb the peace and quiet of any person by barking, whining, howling, yowling, squawking or making any other noise in an excessive, continuous or untimely fashion. For purposes of this section, unreasonable noise shall mean any sound of such level and duration as to be, or tend to be, injurious to human health or welfare, or which would unreasonably interfere with the enjoyment of life or property.

Sec. 6.05.040. Confinement during estrus required; exception.

Any unspayed female animal in the stage of estrus (heat) shall be securely confined during such period within a house, building or other secure enclosure which is so constructed as to prevent other animals of the same species from gaining access to the confined animal. Any owner who does not adequately so to confine the animal during the stage of estrus, or whose animal during estrus creates a nuisance, shall be ordered by a community services officer to remove the animal to a boarding kennel, to a veterinary facility or to an animal shelter. All expenses incurred as a result of such confinement shall be paid by the animal owner. It shall be unlawful for any person to fail to comply with a community services officer's removal order and the animal shall be impounded at the owner's expense. This section shall not apply when animals are intentionally brought together within an enclosed area of the owner's premises, or any enclosed area of the owner's authorized agent's premises, for purposes of breeding.

Sec. 6.05.050. Removal of animal excrement.

- (a) It shall be unlawful for any owner to fail to prevent such animal from defecating or voiding excrement on the property of another person, common areas, or upon any street, right-of-way, park, open space or any other public place or property; provided, however, that it is a specific defense to a charge of violating this section that the owner or person having charge of the animal immediately removed or cleaned up such defecation or excrement and disposed of it in a receptacle ordinarily used for garbage or in an otherwise lawful and sanitary manner.
- (b) It shall be unlawful for an animal owner to fail to periodically remove excrement deposited by such animal on property owned or exclusively occupied by such owner so as to prevent the creation of offensive odors which interfere or unreasonably disrupt any other person's lawful use or enjoyment of one's home or property.

Sec. 6.05.060. Animals scattering trash.

It shall be unlawful for any owner to fail to prevent such animal from scavenging, scattering, tearing at or rummaging through trash, garbage or rubbish, whether such is in a receptacle or not, or from scattering or littering such trash, garbage or rubbish on or around any public or private property; provided, however, that it is a specific defense to a charge of violating this section that the owner immediately removed or cleaned up the trash, garbage or rubbish and disposed of it securely in a receptacle ordinarily used for trash, garbage or rubbish or in an otherwise lawful and sanitary manner.

Sec. 6.05.070. Picketing on public or private property or causing damage.

It shall be unlawful for any person to picket, tether or otherwise restrain or control any animal in or upon the streets or other public places of the town, or upon the private property of other persons, for longer than is necessary for the animal owner or responsible party to complete a temporary task that requires the animal to be left unattended, or in such a manner as to endanger the animal's life or well-being or to cause damage to any property.

CHAPTER 6.06 - VICIOUS ANIMALS

Sec. 6.06.010. Vicious animals prohibited.

- (a) It shall be unlawful for any person to own, possess, keep, harbor, or have control or custody of any vicious animal.
- (b) It is an affirmative defense to the charge of vicious animal that the person or animal that was bitten, clawed or approached by the vicious animal was:
 - (1) Other than in self-defense or defense of its young, attacking the animal or engaging in conduct reasonably calculated to provoke the animal to attack or bite;
 - (2) Unlawfully engaging in entry into or upon a fenced or enclosed portion of the premises upon which the animal was lawfully kept or upon a portion of the premises where the animal was lawfully restrained by leash or lead;
 - (3) Unlawfully engaging in entry into or in or upon a vehicle in which the animal as confined;
 - (4) Attempting to assault another person;
 - (5) Attempting to stop a fight between the animal and any other animal;
 - (6) Attempting to aid the animal when it was injured; or
 - (7) Attempting to capture the animal in the absence of the owner or keeper, with the exception of a peace officer, firefighter or community services officer in the performance of such person's duty.
- (c) For the purposes of this section, a person is lawfully upon the premises of an owner or keeper when such person is on the premises in the performance of any duty imposed by

law or by the express or implied invitation of the owner of such premises or the owner's agent.

Sec. 6.06.020. Exemption.

Employees or agents of the town or any local, state or federal governmental entity, using animals within the course of their duties or employment shall be exempt from the provisions of this chapter.

Sec. 6.06.030. Impoundment.

Any animal which has caused injury to any person or animal or which has unprovokedly attacked any person or animal may be seized and impounded as provided for in chapter 6.08 of this title. If, after making every reasonable attempt to seize such animal, including the solicitation of assistance from the animal's owner, if such owner is immediately ascertainable and available, the community services or police officer determines that the animal cannot be seized without exposing the officer or other persons to danger of personal injury from the animal, and the animal presents a present danger to any person, property, or other animal, it shall be lawful for the officer to destroy the animal without notice to the animal owner.

Sec. 6.06.040. Hearing.

- (a) Any animal impounded pursuant to this chapter may be held for a hearing before the municipal court to determine the disposition of such animal. The town shall notify, when ascertainable, the owner of the animal in writing of the date, time, place and purpose of the hearing at least five days before said hearing. The court shall conduct such hearing at the earliest date available to the court. If, on the date of the hearing, the duly notified owner does not appear, the court may proceed with the hearing. The hearing may take place regardless of any pending municipal charge pertaining to the animal.
- (b) At the hearing the formal rules of evidence shall not apply and any statement made by any person at such hearing shall not be used as evidence at any municipal trial. The court shall be guided by the basic notions of fairness in the conduct of such hearing and allow the parties to present evidence, witnesses and have the right of cross-examination.
- (c) The court shall consider as applicable, the following:
 - (1) Any evidence presented at any trial involving the animal;
 - (2) The conduct of the animal during the incident charged;
 - (3) Any evidence of dangerous or violent behavior by the animal or threats thereof;
 - (4) Any prior violations by the owner of the animal of this chapter or the laws of the town, or laws of any state or political subdivision thereof;

- (5) Any prior violations by any other owner of the animal, involving the same animal, of any violation of this chapter or the laws of the town, or any laws of the state or political subdivision thereof;
 - (6) Any conditions existing on the property where the animal has been or will be kept which would affect the likelihood of any danger to any person, animal or property;
 - (7) Any evidence of any ameliorative action taken by the owner of the animal which would affect the likelihood of any danger to any person, animal or property; and
 - (8) Any other evidence relevant to the issues as determined by the court.
- (d) If, at the hearing, the town establishes by a preponderance of the evidence that there is a reasonable likelihood of future injury to persons, property or animals, the court shall order the animal to remain impounded at the owner's expense until final disposition of any pending municipal charges. The owner shall bear all costs of impounding the animal regardless of the results of any municipal charges.
 - (e) If the court determines that it is not appropriate to order the animal impounded, the court may order the animal returned to the owner and to be kept under such circumstances as will ensure the safety of persons, property or other animals.

Sec. 6.06.050. Vicious animal conviction permit required.

- (a) Upon conviction or entry of plea of guilty or no contest to a charge of vicious animal and in addition to any terms and conditions imposed by the municipal court judge, the owner shall be subject to the terms and conditions of a vicious animal permit issued by town clerk or such person's designee. The owner may keep the animal within the town only upon the owner's compliance with the conditions set forth in the permit, which include the following:
 - (1) The owner shall, at the owner's expense, have the animal spayed or neutered and shall provide proof to the town clerk from a licensed veterinarian that the sterilization has been performed.
 - (2) The owner shall, at the owner's expense, have a microchip, conforming to the town's standards implanted into the animal and provide such information to community services. The town clerk shall maintain records containing the registration number and name of the animal and name and address of the owner. The owner shall be responsible for immediately notifying community services of any change in address.
 - (3) At all times when the animal is at the property of the owner, the owner shall keep the animal confined. When outdoors, the animal shall be confined in a securely enclosed and locked structure, except when leashed and muzzled. Such structure shall have minimum dimensions of five feet by ten feet per animal housed, secure nonwooden sides of at least six feet in height and a secure top attached to the

sides. All structures must be locked with a key or combination lock when the animal is within the structure. Such structure shall have a secure and safe bottom or floor attached to the sides of the structure or the sides of the structure shall be embedded in the ground no less than two feet below grade. All structures erected to house such animal must comply with all zoning and building regulations. All such structures must be adequately lighted and ventilated, kept in a clean and sanitary condition and provide shelter for the animal. No animal may be kept on a porch, patio or in any part of a house or structure that would allow the animal to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the animal from exiting the structure. The secure structure requirement of this section may be waived upon the owner demonstrating to the satisfaction of the town clerk that because of homeowner covenants or property owner lease requirements, or the lack of a yard, the owner is unable to construct a conforming structure. The animal must however, be leashed and muzzled whenever outdoors upon the owner's property.

- (4) The owner shall present the town clerk proof that the owner has procured and maintained, at all times during the term of the permit, liability insurance in a minimum amount of \$100,000.00 covering any damage or injury caused by the animal.
- (5) At all times when the animal is off the property of the owner, the animal shall be muzzled and either placed within a secure temporary enclosure, or secured by a leash of no longer than four feet in length securely fastened to a collar. Extension leashes are not permitted and leashes may not be attached to inanimate objects. The collar must be reflective, made of durable, weather-resistant materials, and consist of red stripes alternately spaced with yellow stripes each being of a width of not less than 1 inch and not more than 2 inches and set diagonal to the rim of the collar.
- (6) The owner shall post, at each entrance to the owner's property where the animal is kept, a conspicuous, reflective, lettered and clearly legible weather-resistant sign of at least eight by ten inches, which shall contain the words "BEWARE, VICIOUS ANIMAL" in lettering at least two inches in height.
- (7) The owner shall not sell, convey or transfer the animal to any person without first notifying the town clerk of the name, address and telephone number of the transferee. If the transferee resides within the town, then such person shall then be deemed the owner and subject to all requirements of this section.
- (8) The owner shall immediately notify the police department or the town clerk in the event that the animal is at-large, stolen, has acted in a vicious manner, or has died.
- (9) The owner may temporarily transport the animal through the town. During travel the animal shall be muzzled and confined either within a secure temporary

enclosure or by a leash no longer than four feet in length. Extension leashes are not permitted and leashes may not be attached to inanimate objects.

- (10) If the owner has no other animal offense convictions within two years of the issuance of the permit, the owner may petition the town clerk seeking the termination or modification of the permit requirements. In consideration of the request, the town clerk must be permitted to inspect the animal and observe it in its habitat. Any decision regarding termination or modification of the permit is within the sole discretion of the town clerk. An owner may request termination or modification of the permit on an annual basis after the initial two-year period and the town clerk may in its sole discretion modify or terminate the permit as it deems appropriate.
- (b) It shall be unlawful for any owner to fail to comply with the requirements set forth in this section.

Sec. 6.06.060. Euthanization.

Upon a conviction of vicious animal, the municipal court, in addition to the penalties set forth in this chapter may order that the animal be humanely euthanized.

Sec. 6.06.070. Authority for immediate destruction.

Nothing in this chapter shall be construed to prevent the immediate destruction of any vicious animal when deemed necessary in the interest of public safety by the community services officer or other law enforcement person, as provided by law.

CHAPTER 6.07 - RESTRICTIONS AND PROHIBITIONS

Sec. 6.07.010. Livestock prohibited.

It shall be unlawful for any person to own, keep, maintain, possess, harbor or care for, or permit any livestock or fowl, which includes but is not limited to, horses, mules, donkeys, burros, cattle, sheep, goats, roosters, geese, ducks, pigeons, peafowl, turkeys or swine on any property within the town except as expressly permitted by the town's zoning regulations.

Sec. 6.07.020. Exotic, wild, dangerous or unusual animals prohibited.

- (a) Except as permitted by state or federal law, rule or regulation, it shall be unlawful for any person to own, possess, keep, maintain, harbor, transport or sell within the town any living wild or dangerous animal; provided, however, that the following entities or persons shall be exempt from this section:
 - (1) Any circus, rodeo or livestock show permitted by the town's zoning regulations;
 - (2) Any entity or person as authorized by the State of Colorado Parks and Wildlife Commission's regulations and applicable state statutes; and

- (3) Any entity or person acting within the course of its duties, which lawfully has possession of and displays any wild or dangerous animal prohibited by this section without charge for educational purposes.
- (b) The term wild or dangerous animal, for the purposes of this section, shall mean and include any and all species of the following:
 - (1) Bears;
 - (2) Any species of feline, including exotic cat/domesticated cat crossbreeds, other than ordinary domesticated house cats;
 - (3) Skunks;
 - (4) Poisonous or venomous amphibians or reptiles;
 - (5) Raccoons, porcupines, badgers or other similar species, except ferrets or minks, unless authorized under a state wildlife rehabilitation license;
 - (6) Deer;
 - (7) Any wolf, coyote or fox;
 - (8) Any species of nonhuman primate, but excluding animals imported under authority of state or federal law; and
 - (9) Wild geese or ducks, except as permitted under a state wildlife rehabilitation license.
- (c) *Wildlife*. In accordance with state statute, all wildlife, except as permitted by the state is deemed to be the property of the state, and right, title, interest, acquisition, transfer, sale, importation, exportation, release, donation, possession, hunting, taking, relocation and removal is permitted only as provided by state or federal statute, rule or regulation (C.R.S. 33-1-101).
 - (1) Trapping, capture, relocation, removal, transport, taking or control of wild animals, including but not limited to skunks, squirrels, raccoons, bats and prairie dogs, is permitted provided that such wildlife is trapped, released, removed, relocated, exterminated or disposed of in accordance with the applicable state laws, rules and regulations and any state division of wildlife or department of agriculture permitting process.
 - (2) It shall be the responsibility of the property owner to dispose of any dead wildlife upon the owner's property in accordance with the applicable state laws, rules and regulations.

Sec. 6.07.030. Use of animals as inducement prohibited.

No person shall give away any animal as a prize for or as an inducement to enter any contest, game or other competition or as inducement to enter a place of amusement, for the purpose of attracting trade.

Sec. 6.07.040. Guard dog requirements.

It shall be unlawful to place or maintain guard dogs in any area for the protection of persons or property unless the following conditions are met:

- (1) The dogs shall be confined to an enclosed area adequate to ensure they will not escape;
- (2) The dogs shall be under the absolute control of a handler at all times;
- (3) Such building or enclosure shall have adequate safeguards against accidental entry by children and against accidental and unintentional entry by any person;
- (4) Warning signs shall be conspicuously posted at all access points to the property indicating the presence of guard dogs and such signs shall plainly show a telephone number where a person responsible for controlling such dogs can be reached at all times;
- (5) Prior to the posting of guard dogs on any property, the person or persons responsible for the posting shall inform community services in writing of their intention to post such dogs, the number of dogs to be posted, the location where such dog or dogs will be posted, the hours of posting and the approximate length of time such dog or dogs will be patrolling the property; and
- (6) In the event that a community services officer determines that the presence of the guard dogs or the circumstances of their presence constitutes a present danger to any person, property or animal, the community services officer shall issue a cease-and-desist order to be served upon the person notifying community services under subsection (5) of this section. Service shall be in person or by certified mail, return receipt requested, to the person responsible for the dogs as set forth in subsection (5) of this section.

CHAPTER 6.08 - IMPOUNDMENT

Sec. 6.08.010. Authorization for capture and impoundment.

Community services and police officers are hereby authorized to take or capture animals deemed by them to be included in the categories listed below and impound them at an animal shelter or other appropriate location where the animals will be confined in a humane manner. Such officers may utilize a tranquilizer dart if necessary in order to capture an animal which appears to be vicious or destroy such animal if necessary to avoid a physical threat to human beings.

- (1) Animals at large, vicious animals, animals creating a disturbance, maltreated animals and nuisance animals;
- (2) Livestock, wild or exotic animals kept in violation of this title;
- (3) Animals which were being transported by a person involved in a vehicular accident when such person becomes unable to care for or maintain control over the animal as a result of the accident and there is no responsible person present to take possession of the animal; and
- (4) Animals which will be or have been left uncared for as a result of the death, injury, arrest, detention or other incapacitation of the owner or keeper.

Sec. 6.08.020. Notice of impoundment.

If, by tags or other identification attached to the animal or any other information given to the animal shelter, the owner of an impounded animal can be identified, a community services officer shall, immediately upon impoundment, notify the owner of such impoundment by telephone, electronic mail, U.S. mail or written notice posted conspicuously upon the owner's last known residence.

Sec. 6.08.030. Minimum time for impoundment of unclaimed animals.

- (a) Unclaimed animals shall be kept at an animal shelter or other appropriate location for not less than five days unless euthanasia prior to that time is deemed necessary or appropriate by the veterinarian advising the animal shelter personnel.
- (b) A pet animal without identification, including but not limited to a microchip or collar, may be held for only three days if the animal shelter determines that the shelter has no additional resources for such pet animal or determines that such pet animal is dangerous.
- (c) For purposes of this section, the term "days" shall mean days during which the animal shelter is open to the public.

Sec. 6.08.040. Reclamation of certain animals restricted or prohibited.

The following restrictions or prohibitions shall apply to the reclamation of the following impounded animals:

- (1) Animals which are or appear to be vicious may not be reclaimed unless and until a judgment of dismissal is entered by the municipal court on the vicious animal charge or, upon a conviction or entry of a plea of guilty or no contest, the court orders the animal released.
- (2) If an animal was impounded on the basis of a violation of section 6.04.010 of this title, except for vicious, wild or exotic animals, then the notice shall include a statement, in writing, that the animal will be disposed of if the owner or keeper does not request a hearing with the town manager or such person's designee

within five days of the date of the notice. If a hearing is requested, the town manager or such person's designee shall schedule it to occur within five business days and shall give notice of same to the person requesting the hearing. If, at the conclusion of the hearing, the town manager determines that the animal was being kept in violation of any provision of this chapter, except for a vicious, wild or exotic animal, the town manager may order the animal disposed of in the manner provided in section 6.08.060 and not returned to its owner or keeper. Alternatively, if the town manager determines that, due to changed circumstances, the animal's health and the public health, safety and welfare will not be endangered thereby, the town manager may order the animal returned to its owner upon payment of impoundment, boarding or veterinary fees and any other expenses incurred by the town or the animal shelter in connection with the impoundment of the animal and its subsequent care. If the town manager determines that the animal was wrongfully impounded, the town manager shall order the animal returned without payment of such fees or expenses. If no hearing is requested, the town manager may order the animal disposed of in the manner provided in section 6.08.060.

- (3) Wild or exotic animals kept in violation of this chapter shall not be released to the owner or any other person; provided, however, that such animal may be released to the appropriate authorities.

Sec. 6.08.050. Impound fees.

- (a) An owner or keeper reclaiming an impounded animal shall pay all impound and daily boarding fees, established by the animal shelter, plus all actual and necessary veterinary costs incurred on behalf of the animal. No owner or keeper may reclaim an impounded animal until he or she has paid all impoundment and boarding fees and veterinary costs.
- (b) It is unlawful for an owner of any impounded animal to fail to pay all fees and charges incurred as a result of the impoundment. Failure to reclaim an animal prior to a determination that the animal has become the property of the town or its designated animal shelter shall not relieve the owner of the impounded animal of the responsibility to pay all impound fees and costs incurred prior to said determination. Payment of said fees and costs shall be due within 15 days of receipt of a written notice for fees and costs due. Notice shall be delivered in the same manner as a notice of impound as set forth in this chapter.
- (c) An owner reclaiming an impounded dog or cat must present satisfactory proof of vaccination for rabies to the animal shelter prior to reclaiming the dog or cat. If proof of vaccination cannot be provided, the animal shelter shall release the impounded dog or cat to the owner or keeper with the requirement that satisfactory proof of vaccination and license shall be furnished by the owner or keeper within 48 hours after release.

Sec. 6.08.060. Adoption or disposal of unclaimed animals.

Any animal not reclaimed by its owner within the period of time set forth in section 6.08.030 of this chapter shall become the property of the town or the animal shelter and may be placed for adoption in a suitable home or humanely euthanized.

CHAPTER 6.09 - INSPECTION/ENFORCEMENT

Sec. 6.09.010. Inspections.

- (a) Whenever it is necessary to make an inspection to enforce any of the provisions of this title or other applicable law, or to perform any duty imposed herein or other applicable laws, or whenever a community services or police officer has reasonable cause to believe that there exists in any building, structure, enclosure, or premises any violation of this title, such officer is hereby authorized to enter such location to inspect the same and perform any duty imposed upon such officer by this title or other applicable law; providing that:
 - (1) If such building, structure, enclosure, or premises is occupied, a community services or police officer shall first present proper credentials to the occupant and request entry explaining reasons therefor;
 - (2) If entry is refused, the community services or police officer shall give the owner or occupant a 24-hour written notice of intention to inspect. If said owner or occupant cannot be located after reasonable effort, the 24-hour written notice of intention to inspect shall be posted in a conspicuous place upon the property. Said notice given to the owner or occupant or posted on the premises shall state that the property owner has the right to refuse entry and that in the event such entry is refused, inspection may be made upon issuance of a search warrant by a municipal judge of the town or by a judge of any other court having jurisdiction;
 - (3) After expiration of said 24-hour period from the giving of such notice, the officer may appear before the municipal court of the town or any other court having jurisdiction and upon a showing of a probable cause shall obtain a search warrant entitling such officer to enter said location. Upon presentation of said search warrant and proper credentials, or possession of same in the case of an unoccupied location, the officer may enter into said location using such reasonable force as may be necessary to gain entry therein.
- (b) Notwithstanding the foregoing, if a community services or police officer has reasonable cause to believe that the keeping, possessing or maintaining of any animal is so hazardous, unsafe or dangerous as to require immediate inspection to safeguard the animal or the public health or safety, the officer shall have the right immediately to enter and inspect such property and may use any reasonable means required to effect such entry and make such inspection, whether such property is occupied or unoccupied and whether or not permission to inspect has been obtained. If the property is occupied, the officer shall first present proper credentials to the owner or occupant and demand entry explaining his/her reasons therefor and the purpose of the inspection.

- (c) It shall be unlawful for any person to fail or refuse, after proper demand has been made as provided in subsection (b) above, to permit a community services or police officer to make any inspection provided for therein.

Sec. 6.09.020. Interference with community services officers prohibited.

No person shall knowingly interfere with, impede or obstruct any community services officer who is attempting to discharge or is in the course of discharging an official duty, nor shall any person fail to obey the lawful order of a community services officer.

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 __th day of _____, 2022.

TOWN OF FIRESTONE, COLORADO

Drew Peterson, 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#: 9.h

Discussion/Action

Meeting Date: June 8, 2022

Initiated By:

Dept: Town Clerk

AGENDA TITLE

Cancellation of the June 22, 2022 Regular Board of Trustees Meeting

SUMMARY

HISTORY AND PREVIOUS BOARD ACTION

RECOMMENDATION

ALTERNATIVES

ATTACHMENTS

None

FINANCIAL CONSIDERATIONS

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 9.i

Discussion/Action

Meeting Date: June 8, 2022

Initiated By:

Dept: Town Clerk

AGENDA TITLE

Cancellation of the June 15, 2022 Board of Trustees Work Session

SUMMARY

HISTORY AND PREVIOUS BOARD ACTION

RECOMMENDATION

ALTERNATIVES

ATTACHMENTS

None

FINANCIAL CONSIDERATIONS

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 9.i

Discussion/Action

Meeting Date: June 8, 2022

Initiated By:

Dept: Town Clerk

AGENDA TITLE

Rules of Order Training

SUMMARY

HISTORY AND PREVIOUS BOARD ACTION

RECOMMENDATION

ALTERNATIVES

ATTACHMENTS

None

FINANCIAL CONSIDERATIONS

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 9.k

Discussion/Action

Meeting Date: June 8, 2022

Initiated By:

Dept: Town Clerk

AGENDA TITLE

Future Procedure for Board & Commission Appointments

SUMMARY

HISTORY AND PREVIOUS BOARD ACTION

RECOMMENDATION

ALTERNATIVES

ATTACHMENTS

None

FINANCIAL CONSIDERATIONS