



BOARD OF TRUSTEES

REGULAR MEETING AGENDA

January 11, 2023
6:30 PM
9900 Park Avenue
Firestone, CO 80504

PRE-MEETING WORK SESSION 6:00 PM IN THE TRAINING ROOM

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

REGULAR MEETING 6:30 PM IN THE BOARD ROOM

1. **Call to Order & Roll Call**
2. **Pledge of Allegiance**
3. **Approval of Agenda**
4. **Appointment of Town Clerk**
 - a. **Resolution No. 23-03:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPOINTING KRISTI BASHOR AS TOWN CLERK
 - b. Oath of Office, Town Clerk Kristi Bashor
5. **Public Comment** *(maximum time permitted for all Public Comment is 30 minutes)
6. **Consent Agenda**
 - a. Approval of December 14, 2022 Board of Trustees Regular Meeting Minutes
 - b. **Resolution 23-02:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, ADOPTING THE THREE MILE PLAN FOR THE TOWN OF FIRESTONE, COLORADO
 - c. **Resolution 23-06:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, ESTABLISHING ANIMAL LICENSING FEES
 - d. **Resolution 23-04:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, DESIGNATING THE POSTING LOCATION FOR NOTICE OF MEETINGS OF THE BOARD OF TRUSTEES AND ALL OTHER LOCAL PUBLIC BODIES OF THE TOWN

* 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.

- e. **Resolution 23-05:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING THE PAYMENT OF THE TOWN'S 2023 EMPLOYEE BENEFITS INSURANCE PREMIUMS
- f. **Resolution 23-07:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING THE APPLICATION TO THE NORTHERN COLORADO WATER CONSERVANCY DISTRICT FOR CANCELLATION OF TEMPORARY USE PERMITS
- g. **Resolution 23-08:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN APPLICATION TO THE NORTHERN COLORADO WATER CONSERVANCY DISTRICT FOR AN ANNUALLY RENEWABLE PERPETUAL WATER CONTRACT FOR THE RIGHT TO USE COLORADO-BIG THOMPSON PROJECT WATER UNDER C.R.S. § 37-45-131
- h. **Resolution 23-09:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING THE NINETEENTH INTERIM AGREEMENT BETWEEN THE NORTHERN INTEGRATED SUPPLY PROJECT WATER ACTIVITY ENTERPRISE AND THE TOWN OF FIRESTONE COLORADO ACTING WITH AND ON BEHALF OF THE FIRESTONE WATER ACTIVITY ENTERPRISE FOR PARTICIPATION IN THE NORTHERN INTEGRATED SUPPLY PROJECT
- i. **Resolution 23-10:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, PRESCRIBING THE RATE FOR PAYMENT OF CASH-IN-LIEU OF WATER RIGHT DEDICATIONS TO THE TOWN OF FIRESTONE, COLORADO
- j. **Resolution 23-11:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, PRESCRIBING THE TOWN OF FIRESTONE'S WATER RATES, FEES, TOLLS AND CHARGES AND STORAGE AND INFRASTRUCTURE INVESTMENT FEES
- k. **Resolution 23-12:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING A PROFESSIONAL SERVICES CONTRACT MASTER SERVICES AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND LEONARD RICE CONSULTING WATER ENGINEERS, INC.

7. Proclamation

* 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.

8. Presentation

- a. Annual Municipal Court Operations Update

9. Land Development

10. Discussion/Action

- a. **Resolution No. 23-01:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING THE PROGRAMMATIC AGREEMENT BETWEEN WELD COUNTY THE TOWN OF FIRESTONE AND THE COLORADO STATE HISTORIC PRESERVATION OFFICER REGARDING THE WELD COUNTY COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
- b. **Resolution 23-13:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, ACTING BY AND THROUGH ITS WATER ACTIVITY ENTERPRISE, APPROVING THE AMENDMENT TO THE NATIVE WATER CREDIT PURCHASE AGREEMENT BETWEEN THE TOWN OF FIRESTONE THE BLACKBURN COMMUNITIES LLC
- c. **Resolution 23-14:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, ACTING BY AND THROUGH ITS TOWN OF FIRESTONE WATER ACTIVITY ENTERPRISE APPROVING THE FILING OF A WATER COURT APPLICATION FOR FIRESTONE RESERVOIR NO. 3
- d. Development Impact Fee Presentation

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

12. Reports

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

13. Executive Session

14. Adjournment

* Individuals that desire to address the Board of Trustees are requested to sign up at the table at the entrance to the meeting room. 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.

* 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.

* 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.

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 4.a

Appointment of Town Clerk

Meeting Date: January 11, 2023

Initiated By:

Dept: Administration

AGENDA TITLE

Resolution No. 23-03: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPOINTING KRISTI BASHOR AS TOWN CLERK

SUMMARY

In accordance with the Town of Firestone Municipal Code, the Board of Trustees is responsible for the appointment of a Town Clerk. To fill the vacancy in the Office of Town Clerk, the Town of Firestone's Human Resources Department conducted a nationwide search and evaluated the candidates. The finalists were interviewed by a staff panel which included the Assistant to the Town Manager and Town Manager, all of whom agreed that Kristi Bashor was the most qualified candidate and recommended her appointment.

HISTORY AND PREVIOUS BOARD ACTION

RECOMMENDATION

Approval of Resolution 23-03

ALTERNATIVES

ATTACHMENTS

1. 23-03 Appointment of Kristi Bashor as Town Clerk 01-11-2023

FINANCIAL CONSIDERATIONS

RESOLUTION NO. 23-03

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN
OF FIRESTONE, COLORADO, APPOINTING KRISTI BASHOR AS
TOWN CLERK**

WHEREAS, in accordance with the Town of Firestone Municipal Code, the Board of Trustees is responsible for the appointment of a Town Clerk; and

WHEREAS, to fill the vacancy in the Office of Town Clerk, the Town of Firestone's Human Resources Department conducted a nationwide search and evaluated the candidates. The finalists were interviewed by a staff panel which included the Assistant to the Town Manager and Town Manager all of whom agreed that Kristi Bashor was the most qualified candidate and recommend her appointment.

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

The Board of Trustees does hereby appoint Kristi Bashor to serve as Town Clerk.

INTRODUCED, READ AND ADOPTED this 11th day of January, 2023.

TOWN OF FIRESTONE, COLORADO

Drew Alan Peterson, Mayor

ATTEST:

NUNC PRO TUNC
January 3, 2023

Kristi Bashor, Town Clerk

APPROVED AS TO FROM:

William P. Hayashi, Town Attorney

Oath of Office
Kristi Bashor, Town Clerk

Mayor Peterson to recite:

I KRISTI BASHOR,

DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE
CONSTITUTION OF THE UNITED STATES,

THE CONSTITUTION OF THE STATE OF COLORADO,

AND THE ORDINANCES OF THE TOWN OF FIRESTONE,

AND WILL FAITHFULLY PERFORM THE DUTIES OF THE
TOWN CLERK'S OFFICE UPON WHICH I AM ABOUT TO
ENTER.

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 6.a

Consent Agenda

Meeting Date: January 11, 2023

Initiated By:

Dept: Town Clerk

AGENDA TITLE

Approval of December 14, 2022 Board of Trustees Regular Meeting Minutes

SUMMARY

HISTORY AND PREVIOUS BOARD ACTION

RECOMMENDATION

Staff recommends approval of December 14, 2022 Board of Trustees Regular Meeting Minutes

ALTERNATIVES

ATTACHMENTS

1. 12-14-2022 BoT Minutes

FINANCIAL CONSIDERATIONS

TOWN OF FIRESTONE, COLORADO
Board of Trustees Regular Meeting
MINUTES
December 14, 2022

1. Call to Order & Roll Call

The Town of Firestone met for a Regular Meeting on December 14, 2022, at the Police Department & Municipal Court building, 9900 Park Avenue, Firestone, Colorado. Mayor Peterson called the meeting to order at 6:30 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:** Matt Wiederspahn, Town Engineer; Nate Haasis, Senior Civil Engineer in Engineering; 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; Marty Ostholhoff, Planning Manager; David Angelo, Chief of Police; Eric DeBolt, Information Technology Manager in Administration; Miriam Luna Gonzalez, Deputy Town Clerk; AJ Krieger, Town Manager; & Keith Martin, Town Attorney.

2. Pledge of Allegiance

Mayor Peterson led the pledge of allegiance.

3. Approval of Agenda

Motion by Trustee Holcomb, **second** by Trustee Jimenez, to Amend the Agenda to move Agenda item E to the end of the Discussion and to move items G and H to the beginning of Land Development, All in Favor, **Motion carried.**

Motion by Trustee Holcomb, **second** by Trustee Jimenez, to Approve the Agenda as amended, All in Favor, **Motion carried.**

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

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

5. Consent Agenda

Motion by Trustee Whelan, **second** by Trustee Jimenez, to Amend the November 16, 2022 Special Meeting Minutes to reflect the correct spelling of Betty Heath and to Amend November 30, 2022, Special Meeting Minutes to reflect Trustee Holcomb's nay.

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

- a. Approval of November 16, 2022 Board of Trustees Special Meeting Minutes
- b. Approval of November 30, 2022 Board of Trustees Special Meeting Minutes
- c. **Resolution 22-130:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING A FINAL SUBDIVISION PLAT; AND ACCEPTING THE PROPERTY INTERESTS DEDICATED BY THE FINAL PLAT FOR CERTAIN REAL PROPERTY LOCATED WITHIN BAREFOOT LAKES FILING NO. 6; AUTHORIZING A SUBDIVISION DEVELOPMENT AGREEMENT PERTAINING TO THE BAREFOOT LAKES FILING NO. 6
- d. **Resolution 22-136,** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING CHANGE ORDER NO. 4 TO THE CONSTRUCTION CONTRACT BETWEEN THE TOWN OF FIRESTONE AND NORTHERN COLORADO CONSTRUCTORS FOR CONSTRUCTION WORK PERTAINING TO THE HISTORIC FIRESTONE WATERLINES REPLACEMENT PROJECT NO. 1
- e. **Resolution 22-133:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE COLORADO APPOINTING THE TOWN MANAGER AND THE MANAGER'S DESIGNEE TO ACT ON BEHALF OF THE TOWN FOR MATTERS CONCERNING DITCH COMPANIES FOR WHICH THE TOWN OF FIRESTONE IS A SHAREHOLDER

Motion by Trustee Conyac, **second** by Trustee Whelan, to Approve **Resolution 22-133:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE COLORADO APPOINTING THE TOWN MANAGER AND THE MANAGER'S DESIGNEE TO ACT ON BEHALF OF THE TOWN FOR MATTERS CONCERNING DITCH COMPANIES FOR WHICH THE TOWN OF FIRESTONE IS A SHAREHOLDER

Roll Call Vote:

Yes: Trustee Conyac, Trustee Whelan, Trustee Jimenez, Trustee Doherty, Trustee Sharp, Trustee Holcomb

No: None

Abstain: None

Motion carried.

- f. **Resolution 22-134:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING THE FIFTH AMENDMENT TO THE WATER CREDIT PURCHASE AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND MORTGAGE CONSULTANTS, LLC

- g. **Resolution 22-131**: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN AMENDMENT TO ANNEXATION AGREEMENT PERTAINING TO THE ADAM FARM ANNEXATION

Motion by Trustee Jimenez, **second** by Trustee Doherty, to Approve **Resolution 22-131**: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN AMENDMENT TO ANNEXATION AGREEMENT PERTAINING TO THE ADAM FARM ANNEXATION

Roll Call Vote:

Yes: Trustee Conyac, Trustee Whelan, Trustee Doherty, Trustee Sharp, Trustee Holcomb

No: Trustee Jimenez

Abstain: None

Motion carried

- h. **Resolution 22-132**: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING A MINOR SUBDIVISION PLAT; AND ACCEPTING THE PROPERTY INTERESTS DEDICATED BY THE MINOR PLAT FOR CERTAIN REAL PROPERTY LOCATED WITHIN THE TOWN OF FIRESTONE

Motion by Trustee Conyac, **second** by Trustee Doherty, to Approve **Resolution 22-132**: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING A MINOR SUBDIVISION PLAT; AND ACCEPTING THE PROPERTY INTERESTS DEDICATED BY THE MINOR PLAT FOR CERTAIN REAL PROPERTY LOCATED WITHIN THE TOWN OF FIRESTONE

Roll Call Vote:

Yes: Trustee Conyac, Trustee Whelan, Trustee Doherty, Trustee Sharp, Trustee Holcomb

No: Trustee Jimenez

Abstain: None

Motion carried.

6. **Presentation**

- a. Check to Santa's Cops

7. **Land Development**

- a. **PUBLIC HEARING: Ordinance 1022**: AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO AMENDING SECTIONS 16.4.1, 16.4.2, 16.5.4, 16.6.2, 16.6.4, 16.6.7, 16.7.7, AND 16.11.3, AND TABLE 4-1 OF CHAPTER 16.04 (FIRESTONE DEVELOPMENT CODE) OF TITLE 16 OF THE FIRESTONE MUNICIPAL CODE

Mayor Peterson opened the Public Hearing for Ordinance 1022 at

7:07 PM. Marty Ostholhoff, Planning Manager, presented to the Board

of Trustees.

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

Marty Ostholhoff, Planning Manager, responded to Board questions regarding the proposed amending

sections in the Town of Firestone Development Code.

Motion by Trustee Jimenez, **second** by Trustee Doherty, to Approve **PUBLIC HEARING: Ordinance 1022: AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO AMENDING SECTIONS 16.4.1, 16.4.2, 16.5.4, 16.6.2, 16.6.4, 16.6.7, 16.7.7, AND 16.11.3, AND TABLE 4-1 OF CHAPTER 16.04 (FIRESTONE DEVELOPMENT CODE) OF TITLE 16 OF THE FIRESTONE MUNICIPAL CODE**

Roll Call Vote:

Yes: Trustee Conyac, Trustee Whelan, Trustee Jimenez, Trustee Doherty, Trustee Sharp, Trustee Holcomb

No: None

Abstain: None

Motion carried.

8. Discussion/Action

- a. **Resolution 22-128:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, LEVYING GENERAL PROPERTY TAXES FOR THE 2022 TAX YEAR, TO HELP DEFRAY THE COSTS OF GOVERNMENT FOR THE TOWN OF FIRESTONE, COLORADO FOR THE 2023 FISCAL YEAR.

Motion by Trustee Conyac, **second** by Trustee Whelan, to Approve **Resolution 22-128:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, LEVYING GENERAL PROPERTY TAXES FOR THE 2022 TAX YEAR, TO HELP DEFRAY THE COSTS OF GOVERNMENT FOR THE TOWN OF FIRESTONE, COLORADO FOR THE 2023 FISCAL YEAR.

Roll Call Vote:

Yes: Trustee Conyac, Trustee Whelan, Trustee Jimenez, Trustee Doherty, Trustee Sharp, Trustee Holcomb

No: None

Abstain: None

Motion carried.

- b. **Resolution 22-129:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING A SUBRECIPIENT AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND WELD COUNTY FOR USE OF COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS FOR A HOUSING REHABILITATION PROGRAM

Motion by Trustee Whelan, **second** by Trustee Conyac, to Approve **Resolution 22-129:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING A SUBRECIPIENT AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND WELD COUNTY FOR USE OF COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS FOR A HOUSING REHABILITATION PROGRAM

Roll Call Vote:

Yes: Trustee Conyac, Trustee Whelan, Trustee Jimenez, Trustee Doherty, Trustee Sharp, Trustee Holcomb

No: None

Abstain: None

Motion carried.

- c. **Resolution 22-135**: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, ACTING BY AND THROUGH ITS WATER ACTIVITY ENTERPRISE, APPROVING THE SECOND AMENDMENT TO THE NATIVE WATER DEDICATION AGREEMENT AND ADDENDUM BETWEEN THE TOWN OF FIRESTONE AND CK H2O VENTURES LLC A COLORADO LIMITED LIABILITY COMPANY, MILLRACE RESOURCES LLC A COLORADO LIMITED LIABILITY COMPANY AND FRONTIER VENTURES LLC, A COLORADO LIMITED LIABILITY COMPANY

Motion by Trustee Doherty, **second** by Trustee Sharp, to Approve **Resolution 22-135**: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, ACTING BY AND THROUGH ITS WATER ACTIVITY ENTERPRISE, APPROVING THE SECOND AMENDMENT TO THE NATIVE WATER DEDICATION AGREEMENT AND ADDENDUM BETWEEN THE TOWN OF FIRESTONE AND CK H2O VENTURES LLC A COLORADO LIMITED LIABILITY COMPANY, MILLRACE RESOURCES LLC A COLORADO LIMITED LIABILITY COMPANY AND FRONTIER VENTURES LLC, A COLORADO LIMITED LIABILITY COMPANY

Roll Call Vote:

Yes: Trustee Conyac, Trustee Whelan, Trustee Jimenez, Trustee Doherty, Trustee Sharp, Trustee Holcomb

No: None

Abstain: None

Motion carried.

- d. **Resolution 22-137**: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING THE OPTION TERM AND EXECUTION OF THE TOWN OF FIRESTONE COLORADO WATER ENTERPRISE REVENUE BOND SERIES 2022

Motion by Trustee Jimenez, **second** by Trustee Conyac, to Amend **Resolution 22- 137**: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING THE OPTION TERM AND EXECUTION OF THE TOWN OF FIRESTONE COLORADO WATER ENTERPRISE REVENUE BOND SERIES 2022, to a 10-year term, All in Favor, **Motion carried.**

- e. Development Impact Fees

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

Students at Frederick High school, came to the Board of Trustees meeting to observe and take notes for their Government AP Class.

10. **Reports**

- a. Staff

10.a.i. October and November Monthly Financial Reports

b. Mayor

Mayor Peterson reported on similar product-type homes such as the ones presented tonight.

c. Trustees

Trustee Sean reported on affordable housing and product type homes. Trustee Sean also reported on CML legislative highlights that would directly impact Firestone.

11. Adjournment

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

Introduced and Approved the 11 of January, 2023.

TOWN OF FIRESTONE, COLORADO

ATTEST

Drew A. Peterson, Mayor

Miriam Luna Gonzalez, Deputy Town Clerk

AGENDA INFORMATION MEMORANDUM

FIRESTONE TOWN BOARD OF TRUSTEES



AIM#: 6.b

Consent Agenda

Meeting Date: January 11, 2023

Initiated By: Marty Ostholthoff

Dept: Planning & Development

AGENDA TITLE

Resolution 23-02: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, ADOPTING THE THREE MILE PLAN FOR THE TOWN OF FIRESTONE, COLORADO

SUMMARY

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

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

Therefore, a resolution formally designating the compilation of land use plans, procedures, and documents as the "Three Mile Plan" for the Town of Firestone is proposed.

HISTORY AND PREVIOUS BOARD ACTION

n/a

RECOMMENDATION

Staff recommends that the Board of Trustees approve draft Resolution 23-2, a resolution adopting the Three Mile Plan for the Town of Firestone.

ALTERNATIVES

n/a

ATTACHMENTS

1. Resolution 23-2

FINANCIAL CONSIDERATIONS

n/a

RESOLUTION NO. 23-02

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

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

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

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

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

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

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

Section 2. The Three Mile Plan is hereby adopted.

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

[SIGNATURES ON FOLLOWING PAGE]

INTRODUCED, READ AND ADOPTED this 11th day of January, 2023.

TOWN OF FIRESTONE, COLORADO

Drew Peterson, Mayor

ATTEST:

Miriam Luna Gonzales, Acting Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

EXHIBIT A
TOWN OF FIRESTONE THREE MILE AREA PLAN ELEMENTS

Documents as may be amended from time to time:

- Town of Firestone Municipal Code
- Town of Firestone 2013 Master Plan
- Historic Firestone Neighborhood Plan, March 2022
- Town of Firestone Development Code
- Sump Basin Master Drainage Plan
- South Weld I-25 Corridor Master Drainage Plan
- Town of Firestone Design Standards & Construction Specifications for Public Improvements, 2022 Edition
- Town of Firestone Parks Design Criteria Manual
- Town of Firestone Raw Water Irrigation System Master Plan
- Town of Firestone Potable Master Plan
- Ordinance 916 – Residential Development Impact Fees & Funds

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 6.c

Consent Agenda

Meeting Date: January 11, 2023

Initiated By: Paula Mehle

Dept: Economic Development

AGENDA TITLE

Resolution 23-06: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, ESTABLISHING ANIMAL LICENSING FEES

SUMMARY

In accordance with Ordinance 1014, approved by the Board of Trustees on June 8, 2022, the Animal Licensing Fee shall be set by resolution. The proposed fee of five dollars for each spayed female or neutered male and ten dollars for each animal that has not been spayed or neutered is consistent with what was in place prior to the adoption of Ordinance 1014. The fee is reasonable in that it covers the time to enter the animal license application information and the cost of each tag.

HISTORY AND PREVIOUS BOARD ACTION

Ordinance 1014, Section 6.02.030 Fees states that an animal owner shall pay an annual license fee established by resolution of the Board of Trustees. Resolution 2023-3 will set the animal license fee. The previous fee was set by Ordinance 571 adopted in 2007 by the Board of Trustees with a rate of five dollars for a spayed or neutered animal and ten dollars for an intact animal.

RECOMMENDATION

Staff recommends approval of Resolution 2023-06.

ALTERNATIVES

ATTACHMENTS

1. Reso 23-06 Animal License Fees

FINANCIAL CONSIDERATIONS

RESOLUTION NO. 23-06

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN
OF FIRESTONE, COLORADO, ESTABLISHING ANIMAL LICENSING
FEES**

WHEREAS, in accordance with Section 6.02.030 of the Firestone Municipal Code animal licensing fees are to be established by resolution of the Board of Trustees; and

WHEREAS, staff has reviewed the current animal licensing fees and determined that a fee of \$5.00 for spayed females and neutered males and \$10.00 for each animal not spayed or neutered is reasonably related to the Towns costs to fulfill its animal licensing duties.

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

The Board of Trustees does hereby establish a fee in the amount of \$5.00 for the licensing of spayed female and neutered male animals and a fee of \$10.00 for each animal not spayed or neutered.

INTRODUCED, READ AND ADOPTED this 11th day of January, 2023.

TOWN OF FIRESTONE, COLORADO

Drew Alan Peterson, Mayor

ATTEST:

Miriam Luna Gonzalez, Deputy Town Clerk

APPROVED AS TO FROM:

William P. Hayashi, Town Attorney

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 6.d

Consent Agenda

Meeting Date: January 11, 2023

Initiated By: Miriam Luna Gonzalez

Dept: Administration

AGENDA TITLE

Resolution 23-04: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, DESIGNATING THE POSTING LOCATION FOR NOTICE OF MEETINGS OF THE BOARD OF TRUSTEES AND ALL OTHER LOCAL PUBLIC BODIES OF THE TOWN

SUMMARY

C.R.S. § 24-6-402 (2)(c) requires that the Board of Trustees annually designate at the Board's first regular meeting of each calendar year the public place for posting of notice for the meetings of the Board of Trustees and other local public bodies of the Town. Notice of meetings of the Board of Trustees and other local bodies of the Town shall be posted at the Firestone Town Hall, 9950 Park Ave., Firestone, CO, 80504, in addition to the Town's website (www.firestoneco.gov).

HISTORY AND PREVIOUS BOARD ACTION

RECOMMENDATION

Approval of Resolution 23-04

ALTERNATIVES

ATTACHMENTS

1. 23-04 Designate Posting Location 01-11-2023

FINANCIAL CONSIDERATIONS

RESOLUTION NO. 23-04

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

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

WHEREAS, with the goal of having local governments transition from the posting of notices at a fixed physical location the legislature amended the Open Meetings Law (C.R.S. 24-6-401et seq.) to permit the posting of meetings of local public bodies upon a public website; and

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

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

1. Pursuant to C.R.S. § 24-6-402 (2)(c), notice of meetings of the Board of Trustees and other local bodies of the Town shall be posted at the Firestone Town Hall, 9950 Park Ave., Firestone, CO, 80504.

2. Pursuant to C.R.S. § 24-6-402 (2)(c) (III) notices of such meetings may also be published on the Town's website (www.firestoneco.gov) which serves all local public bodies of the Town.

INTRODUCED, READ AND ADOPTED this ___ day of _____, 2023.

TOWN OF FIRESTONE, COLORADO

Drew Alan Peterson, Mayor

ATTEST:

APPROVED AS TO FORM:

Kristi Bashor, Town Clerk

William P. Hayashi, Town Attorney

AGENDA INFORMATION MEMORANDUM

FIRESTONE TOWN BOARD OF TRUSTEES



AIM#: 6.e

Consent Agenda

Meeting Date: January 11, 2023

Initiated By: Jan Sloat

Dept: Human Resources

AGENDA TITLE

Resolution 23-05: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING THE PAYMENT OF THE TOWN'S 2023 EMPLOYEE BENEFITS INSURANCE PREMIUMS

SUMMARY

Resolution 23-05 requests the Board's authorization of the Town's 2023 Employee Benefits Insurance Premiums set forth below:

Cigna - Medical	\$1,398,286.00
Delta - Dental	108,190.00
VSP - Vision	18,117.00
Mutual of Omaha	104,944.00
(includes Group Life and AD&D, Short Term, Long Term Disability, and Voluntary Coverages paid by Employees)	
Pinnacol - Workers Compensation	102,982.00

HISTORY AND PREVIOUS BOARD ACTION

The Board of Trustees has approved and appropriated funds annually for Employee Benefits Insurance Premiums as part of the total compensation package for Town employees. The Board of Trustees last approved the Employee Benefits Insurance Premiums on January 12, 2022. Appropriations approved for this purpose were paid to insurance carriers monthly, effective January 1 - December 31, 2022.

RECOMMENDATION

Staff recommends approval of Resolution 23-05 for the appropriation of funds to pay for 2023 Employee Benefits Insurance Premiums.

ALTERNATIVES

ATTACHMENTS

1. 23-05 Town Employee Benefits Insurance Premiums Reso

FINANCIAL CONSIDERATIONS

Cigna - Medical	\$1,398,286.00
Delta - Dental	108,190.00
VSP - Vision	18,117.00
Mutual of Omaha -	104,944.00
(includes Group Life and AD&D, Short Term, Long Term Disability, and Voluntary Coverages paid by Employees)	
Pinnacol - Workers Compensation -	102,982.00

RESOLUTION NO. 23-05

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF
FIRESTONE, COLORADO, APPROVING THE PAYMENT OF THE
TOWN'S 2023 EMPLOYEE BENEFITS INSURANCE PREMIUMS**

WHEREAS, the Town of Firestone's 2023 budget adopted by the Board of Trustees appropriates funds for the Town's 2023 employee benefits insurance premiums; and

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

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

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

Cigna - Medical	\$1,398,286.00
Delta - Dental	108,190.00
VSP - Vision	18,117.00
Mutual of Omaha	104,944.00
(includes Group Life and AD&D, Short Term, Long Term Disability, Voluntary elections paid by Employees)	
Pinnacol - Workers Compensation	102,982.00

INTRODUCED, READ AND ADOPTED this __ day of _____, 2023.

TOWN OF FIRESTONE, COLORADO

Drew Alan Peterson, Mayor

ATTEST:

Kristi K. Bashor, CMC, Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

AGENDA INFORMATION MEMORANDUM

FIRESTONE TOWN BOARD OF TRUSTEES



AIM#: 6.f

Consent Agenda

Meeting Date: January 11, 2023

Initiated By: Julie Pasillas

Dept: Public Works

AGENDA TITLE

Resolution 23-07: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING THE APPLICATION TO THE NORTHERN COLORADO WATER CONSERVANCY DISTRICT FOR CANCELLATION OF TEMPORARY USE PERMITS

SUMMARY

Each year Northern Water requires the Town to cancel all temporary use permits for water transfers in the prior water year. By canceling the temporary use permits and completing the Section 131 Annual Renewable Water Contract, the water will be converted from temporary water rights to annually renewable perpetual water rights in the Colorado-Big Thompson ("C-BT") system. Currently, the Town has one temporary use permit for 4 acre-foot units, transferred by developers complying with water dedication requirements during 2022. This is an annual process, and all forms must be returned to Northern Water.

HISTORY AND PREVIOUS BOARD ACTION

This procedural matter is required for all temporary use permits for water shares accepted by the Town during the previous year. The Town had to complete this procedure in 2022, as 5 acre-foot units had been transferred in 2021.

RECOMMENDATION

Staff recommends the Board of Trustees approve Resolution No. 23-07 to apply for the beneficial use of 4 acre-foot units of C-BT water and authorize the Mayor to complete and sign the applications for cancellation of the temporary use permit..

ALTERNATIVES

None at this time.

ATTACHMENTS

1. Res No 23-07 NCWCD Cancellation Temp Use Permit
2. Firestone Cancellation of TU Permit

FINANCIAL CONSIDERATIONS

There is no cost to convert the temporary use permit for 4 acre-foot units to an annual renewable water contract. The Town pays annual water assessment fees to Northern Water for the use of the C-BT system.

RESOLUTION NO. 23-07

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

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

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

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

INTRODUCED, READ AND ADOPTED this 11th day of January, 2023.

TOWN OF FIRESTONE, COLORADO

Drew Alan Peterson, Mayor

ATTEST:

Kristi Bashor, Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

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

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

<u>Permit Dated</u>	<u>Acre-Feet</u>
February 10, 2022	<u>04</u>
Total Quantity to be Released	04

Dated at Firestone, Colorado this _____ day of _____, 2023.

TOWN OF FIRESTONE

ATTEST:

By_____

(SEAL)

ORDER ON APPLICATION

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

Dated the _____ day of _____, 2023.

NORTHERN COLORADO WATER
CONSERVANCY DISTRICT

ATTEST:

President

Secretary

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 6.g

Consent Agenda

Meeting Date: January 11, 2023

Initiated By: Julie Pasillas

Dept: Public Works

AGENDA TITLE

Resolution 23-08: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING AN APPLICATION TO THE NORTHERN COLORADO WATER CONSERVANCY DISTRICT FOR AN ANNUALLY RENEWABLE PERPETUAL WATER CONTRACT FOR THE RIGHT TO USE COLORADO-BIG THOMPSON PROJECT WATER UNDER C.R.S. § 37-45-131

SUMMARY

Each year, Northern Water requires the Town to cancel all temporary use permits for water transfers in the prior water year. By canceling the temporary use permits and completing the Section 131 Annual Renewable Water Contract, the water will be converted from temporary water rights to annually renewable perpetual water rights in the Colorado-Big Thompson ("C-BT") system. Currently, the Town has one temporary use permit for 4 acre-foot units, transferred by developers complying with water dedication requirements during 2022. This is an annual process, and all forms must be returned to Northern Water.

HISTORY AND PREVIOUS BOARD ACTION

This procedural matter is required for all temporary use permits for water shares accepted by the Town during the previous year. The Town had to complete this procedure in 2022, as 5 acre-foot units had been transferred in 2021.

RECOMMENDATION

Staff recommends the Board of Trustees approve the attached resolution to apply for the beneficial use of 4 acre-foot units of C-BT water and authorize the Mayor to complete and sign the annually renewable perpetual water contract.

ALTERNATIVES

None at this time.

ATTACHMENTS

1. Res No 23-08 NCWCD Annual Renewable Right to Use Water
2. Application for Town of Firestone - Section 131 Contract

FINANCIAL CONSIDERATIONS

There is no cost to convert the temporary use permit for 4 acre-foot units to an annual renewable water contract. The Town pays annual water assessment fees to Northern Water for the use of the C-BT system.

RESOLUTION NO. 23-08

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

WHEREAS, the Town of Firestone (“Town”) must, in accordance with state law, annually apply to the Northern Colorado Water Conservancy District for its beneficial use of 4 acre foot units of Colorado-Big Thompson Project Water; and

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

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

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

INTRODUCED, READ AND ADOPTED this 11th day of January, 2023.

TOWN OF FIRESTONE, COLORADO

Drew Alan Peterson, Mayor

ATTEST:

Kristi Bashor, Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

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

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

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

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

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

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

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

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

Signed this _____ day of _____, A.D., 2023.

TOWN OF FIRESTONE

By _____

ATTEST:

(SEAL)

ORDER ON APPLICATION

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

NORTHERN COLORADO WATER
CONSERVANCY DISTRICT

By _____
President

I hereby certify that the above Order was entered by the Directors of Northern Colorado Water Conservancy District on the _____ day of _____, A.D., 2023.

ATTEST: _____
Secretary

AGENDA INFORMATION MEMORANDUM

FIRESTONE TOWN BOARD OF TRUSTEES



AIM#: 6.h

Consent Agenda

Meeting Date: January 11, 2023

Initiated By: Julie Pasillas

Dept: Public Works

AGENDA TITLE

Resolution 23-09: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING THE NINETEENTH INTERIM AGREEMENT BETWEEN THE NORTHERN INTEGRATED SUPPLY PROJECT WATER ACTIVITY ENTERPRISE AND THE TOWN OF FIRESTONE COLORADO ACTING WITH AND ON BEHALF OF THE FIRESTONE WATER ACTIVITY ENTERPRISE FOR PARTICIPATION IN THE NORTHERN INTEGRATED SUPPLY PROJECT

SUMMARY

The Nineteenth Interim Agreement is to be executed by all NISP participants. The costs associated with the agreement will cover 4 phases explained below. The 2023 cost for the Town of Firestone's participation is \$751,270.00.

Phase 3A consists of a continuation of the permitting work. The work in 2023 will largely be remaining efforts in support of the final 404 permit and Record of Decision, potential minor modification of the 404 permit, mitigation development, and continuation of the Larimer County IGA process. Additionally, there will be work in support of the public information effort for NISP as well as overall Northern Water administration and legal support.

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

Phase 6 involves the following additional 2023 activities:

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

Phase 7 involves the following 2023 activities:

- Project financial planning
- Allotment contract development
- Legal defense of the Army Corps of Engineers 404 permit and the Larimer County 1041 Permit.
- Potential activities associated with the City of Fort Collins 1041 permit process.

HISTORY AND PREVIOUS BOARD ACTION

In January 2022, the Eighteenth Interim Agreement between the Northern Colorado Water Conservancy District and the Town of Firestone was approved by the Board of Trustees. Until the fiscal year 2009, the Town of Firestone participated

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

RECOMMENDATION

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

ALTERNATIVES

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

ATTACHMENTS

1. Res No 23-09 NISP Nineteenth Interim Participation Agreement
2. Firestone NISP 19th Interim Agreement

FINANCIAL CONSIDERATIONS

The Town has budgeted for NISP participation costs of \$751,270.00 for 2023, to be paid by the Water Fund.

RESOLUTION NO. 23-09

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

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

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

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

WHEREAS, it is necessary that the NISP Enterprise pursue years 7 through 19 of the Project (referred to as Phase 3A) and Phases 5, 6 and 7 of the Project at this time in order to be able to complete the Project on the time schedule desired by the participants; and

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

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

The Nineteenth Interim Agreement between the Northern Integrated Supply Project Water Activity Enterprise and the Town of Firestone acting with and on behalf of the Firestone Water Activity Enterprise for Participation in the Northern Integrated Supply Project is approved in substantially the same form as the copy attached hereto and made a part of this resolution and the Mayor is authorized to execute the Nineteenth Interim Agreement on behalf of the Town of Firestone acting with and on behalf of the Firestone Water Activity Enterprise.

INTRODUCED, READ AND ADOPTED this 11th day of January, 2023.

TOWN OF FIRESTONE, COLORADO

Drew Alan Peterson, Mayor

ATTEST:

Kristi Bashor, Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

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

This Agreement is made and entered into as of _____, 2022, by and between the Northern Integrated Supply Project Water Activity Enterprise, a government-owned business within the meaning of Article X, § 20(2)(d) of the Colorado Constitution, organized pursuant to C.R.S. §§ 37-45.1-101 et seq., owned by the Northern Colorado Water Conservancy District, and whose address is 220 Water Avenue, Berthoud, Colorado 80513 (the "NISP Enterprise"), and the Town of Firestone, a municipal corporation, acting with and on behalf of the Firestone Water Activity Enterprise, a government-owned business within the meaning of Article X, § 20(2)(d) of the Colorado Constitution, organized pursuant to C.R.S. § 37-45.1-101 et seq., and owned by the Town of Firestone, whose address is P.O. Box 100, Firestone, CO 80520-0100 ("Participant").

Recitals

- A. The NISP Enterprise is developing a water project (the "Project") for the purpose of developing a new reliable water supply for the beneficial use of the Participant and other entities.
- B. Overall Project costs will be divided among the entities that participate in the Project.
- C. The First, Second, and Fourth Phases of the Project, and years one through six of the Third Phase, have been completed.
- D. The Third Phase, Years 7 through 19 (hereinafter referred to as "Phase 3A"), will consist of further agency consultation, permitting with the U.S. Army Corps of Engineers and other agencies, compliance with the National Environmental Policy Act and other requirements for federal permitting, field work, and analysis for permitting, modeling, and other activities related to designing and permitting the Project.
- E. The Fifth Phase of the Project consists of the Glade Reservoir geotechnical investigation and embankment design advancement, Glade Reservoir Construction Manager/General Contractor (CM/GC) design involvement, Highway 287 relocation final design and CM/GC design involvement, and completion of the Galeton Dam preliminary design.
- F. The Sixth Phase involves continued NISP conveyance delivery refinement, South Platte Water Conservation Project negotiations, land and easement definition and purchase, and potential advancement of time-sensitive mitigation activities.
- G. The Seventh Phase involves the development of a NISP Allotment Contract, financial project planning, legal defense of the Project permits, and overall project administration.

- H. It is necessary that the NISP Enterprise pursue Phases 3A, 5, 6, and 7 of the Project at this time in order to be able to complete the Project on the time schedule desired by the participants.
- I. Pursuing this Phases 3A, 5, 6, and 7 of the Project on behalf of the participants will require continued funding from the participants.

Agreement

1. The Participant agrees to participate in Phases 3A, 5, 6, and 7 of the Project, under and pursuant to the terms and conditions of this Agreement. The Participant acknowledges that it shares a common interest in development of the Project and that privileged material may be shared with the Participant from time to time. A description of Phase 3A, Phase 5, Phase 6, and Phase 7 is included in Exhibit A. Participation in this Agreement in no way obligates the Participant to participate in subsequent phases of the Project or to continue involvement in the Project in any manner.
2. For the purposes of cost allocation in Phase 3A, Phase 5, Phase 6, and Phase 7, the cost is based upon the Participant's base requested capacity divided by the total requested base Project yield. The Participant's initial base requested capacity in the Project is 1,300 acre-feet of water yield. Attached hereto as Exhibit B is a table showing the currently anticipated permitted capacity in the Project and the pro rata share of the costs of the Project for 2023 for each Participant. Exhibit B also shows the projected budgets and projected pro rata shares of the costs of the Project for 2023 for each Participant. The costs covered by this Agreement shall be separate from costs covered by the NISP Phase I Agreement between the NISP Enterprise and the Participant. The Participant may request a reduction, but not an increase, in base requested capacity, which will be implemented by the NISP Enterprise so long as any increased costs of design, environmental studies, permitting or other matters are paid by the Participant pursuant to its pro-rata cost basis. If a reduction in the Participant's base requested capacity is made, the formula for allocation of costs among the participants shall be changed accordingly so that all participants bear a pro rata share of the Phase 3A, Phase 5, Phase 6, and Phase 7 costs of the Project after the change based on their final base requested capacities. For purposes of the environmental analysis for the Project, the Participant's permitted capacity in the Project is 1,300 acre-feet of water yield. In the event that the Participant's base requested capacity is increased or decreased, the Participant's permitted capacity shall be increased or decreased in the same percentage as the percentage increase or decrease of the base requested capacity.
3. The Participant agrees to provide to the NISP Enterprise funds for its pro rata share of the anticipated 2023 costs necessary for Phase 3A, Phase 5, Phase 6, and Phase 7 of the Project. The NISP Enterprise estimates that the Participant's pro rata share of the costs of the Project is \$751,270 for 2023. The Participant will pay the NISP Enterprise its pro rata share of these 2023 costs on or before January 30, 2023. The NISP Enterprise will invoice the Participant for this payment. These estimated costs will not be increased or exceeded without the prior written approval of the Participant. Participant funds that are

not expended during Phase 3A, Phase 5, Phase 6, and Phase 7 will be rebated back to each participant pro rata based on each participant's contribution of funds to the Project in Phase 3A, Phase 5, Phase 6, and Phase 7.

4. In the event that the Participant fails to make the payment set forth above at the specified time, the NISP Enterprise shall have the right to terminate this Agreement and cease all work on the Project for the benefit of the Participant. The NISP Enterprise shall give the Participant thirty (30) days' advance written notice of its intention to terminate this Agreement and cease work on the Project for the Participant's benefit under this paragraph. The Participant shall have until the end of said 30-day period in which to make all past due payments in full in order to cure its default hereunder. The Participant shall in any event be responsible for its pro rata share of the 2023 costs of Phase 3A, Phase 5, Phase 6, and Phase 7 of the Project actually incurred by the NISP Enterprise up to the date of termination of this Agreement.
5. The NISP Enterprise agrees to diligently pursue Phase 3A, Phase 5, Phase 6, and Phase 7 of the Project in good faith to the extent that funds therefor are provided by the Participant under this Agreement and by other participants under similar agreements. By entering into this Agreement and accepting payments from the Participant, the NISP Enterprise does not obligate itself to, nor does the NISP Enterprise warrant that it will, proceed with the Project beyond Phase 7 or that it will construct or operate the Project. At the end of the Sixth Phase, the NISP Enterprise will determine after consultation with the participants whether to proceed with the Project. The NISP Enterprise agrees that, if the participants provide all required funding, if the NISP Enterprise has the ability, and if the Project is feasible and practical, it will pursue the construction and operation of the Project if requested to do so by a sufficient number of participants to fully fund the Project. In the event that the NISP Enterprise decides not to proceed with the Project, it will so notify the Participant and this Agreement will immediately and automatically terminate upon the giving of such notice.
6. In the event of termination of the Project, the Participant shall not be entitled to any return of funds paid to the NISP Enterprise for the Project, unless payments by participants exceed the NISP Enterprise's costs as of the date the Project is terminated, in which case a pro rata refund will be made. In the event of such termination, the Participant shall be entitled to receive copies of any work products developed by the NISP Enterprise or its consultants on behalf of the Participant, and NISP Enterprise Board shall, in its sole discretion: (i) convey to the Participant, as a tenant in common with all other participants who have not been terminated under Paragraph 4 above, a pro rata interest in all real and personal property acquired by the NISP Enterprise for the Project with funds provided under this Agreement or similar agreements with other participants; or (ii) disburse to the Participants the proceeds of any sale of assets in proportion to each Participant's Cost Share.
7. The Participant shall have the right to assign this Agreement and the Participant's rights hereunder, with the written consent of the NISP Enterprise, which consent shall not be

unreasonably withheld, to any entity that is eligible to receive water deliverable through the Project and that is financially able to perform this Agreement.

8. In the event that this Agreement is terminated for any reason, the Participant shall not be entitled to any return of any funds paid to the NISP Enterprise for the Project except as provided in Paragraphs 3 and 6 above for those participants who have not been terminated under Paragraph 4 above, and the NISP Enterprise shall have no further obligations to the Participant.
9. Notwithstanding any other provision of this Agreement to the contrary, the Participant's maximum financial obligation under this Agreement shall be the payment of \$751,270 set forth in Paragraph 3 above. The Participant shall have the right to terminate this Agreement at any time. In the event of such termination, each of the parties hereto shall be immediately released from all obligations recited herein as if this Agreement had not been entered into.
10. In the event that additional costs must be incurred for Phase 3A, Phase 5, Phase 6, and Phase 7 in 2023, the parties may amend this Agreement in writing to provide for further payment by the Participant of the costs for 2023. However, the Participant is not obligated under this Agreement to pay any costs for Phase 3A, Phase 5, Phase 6, and Phase 7 beyond the costs stated in Paragraph 3 above.
11. This Agreement shall be interpreted under the laws of the State of Colorado. Venue for any disputes concerning this Agreement shall be in the Weld County, Colorado, District Court.
12. Nothing in this Agreement shall be construed to waive the protections and immunities afforded the NISP Enterprise and the Participant under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101 et seq., and any similar or successor statutes of the State of Colorado.
13. Except for the obligation to pay money, neither party shall be liable to the other party for any delay or inability to perform its obligations hereunder by reason of acts of God, acts of the public enemy, riot, civil commotion, insurrection, acts or failure to act of governmental authorities, war, pandemic, or any other cause or causes beyond the party's reasonable control.
14. This Agreement is the entire agreement between the NISP Enterprise and the Participant regarding participation in Phase 3A, Phase 5, Phase 6, and Phase 7 of the Project and shall be modified by the parties only by a duly executed written instrument approved by the Participant and the NISP Enterprise's Board of Directors.
15. This Agreement is subject to approval by the NISP Enterprise's Board of Directors and shall become binding on the NISP Enterprise only upon such approval.

THE TOWN OF FIRESTONE, A MUNICIPAL CORPORATION,
ACTING WITH AND ON BEHALF OF THE FIRESTONE WATER ACTIVITY
ENTERPRISE, a government-owned business within the meaning of Article X, §
20(2)(d) of the Colorado Constitution, organized pursuant to C.R.S. § 37-45.1-101 et seq.

By: _____

Name: _____

Title: _____

THE NORTHERN INTEGRATED SUPPLY PROJECT
WATER ACTIVITY ENTERPRISE

By: _____

Bradley D. Wind, P.E.
General Manager

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

Phase 3A consists of a continuation of the permitting work associated with NISP. The work in 2023 will largely be remaining efforts in support of the final 404 permit and Record of Decision, potential minor modification of the 404 permit, mitigation development, and continuation of the Larimer County IGA process. Additionally, there will be work in support of the public information effort for NISP as well as overall Northern Water administration and legal support.

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

Phase 6 involves the following additional 2023 activities:

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

Phase 7 involves the following 2023 activities:

- Project financial planning
- Allotment contract development
- Legal defense of the Army Corps of Engineers 404 permit, and the Larimer County 1041 Permit.
- Potential activities associated with the City of Fort Collins' 1041 permit process.

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

Northern Integrated Supply Project	Rev. 2.0	10/21/2022	
Year 2023 Preconstruction Budget			
<i>Interim Contract 19</i>			
Item	Updated Cost		
Glade Final Design Activities	\$ 10,000,000		
Glade CMGC Design Support	\$ 800,000		
HW 287 Design Activities	\$ 2,300,000		
NISP Delivery Refinement	\$ 2,700,000		
River Intake Predesign and Design	\$ 400,000		
Galeton Advancement	\$ 400,000		
Environment&Mitigation	\$ 4,300,000		
Financing Consultant/Bond Counsel	\$ 100,000		
WQ Sample Testing	\$ 200,000		
Northern Water Labor	\$ 1,800,000		
Northern Water Indirect	\$ 816,000		
Legal	\$ 500,000		
Communications	\$ 100,000		
ROW-Land Appraisal/Title/Survey	\$ 200,000		
Pipeline Easements	\$ 3,000,000		
SPWCP Negotiations	\$ 200,000		
Contingency/Other (10%)	\$ 2,800,000		
Total	\$ 30,616,000		
Approximate Carryover from 2022	\$ 7,500,000		
Total Requested of Participants for 2023	\$ 23,116,000		
	Project Yield	Percent of	2023
Participant	(Acre-ft)	Project	Budget
Central Weld Co. W.D.	3,500	8.75%	\$ 2,022,650
Dacono	1,250	3.13%	\$ 722,375
Firestone	1,300	3.25%	\$ 751,270
Frederick	2,600	6.50%	\$ 1,502,540
Eaton	1,300	3.25%	\$ 751,270
Erie	6,500	16.25%	\$ 3,756,350
Evans	1,200	3.00%	\$ 693,480
Fort Collins-Loveland. W.D.	3,400	8.50%	\$ 1,964,860
Fort Lupton	2,050	5.13%	\$ 1,184,695
Fort Morgan	3,600	9.00%	\$ 2,080,440
Lafayette	1,800	4.50%	\$ 1,040,220
Lefthand W.D.	4,900	12.25%	\$ 2,831,710
Morgan County Q.W.D.	1,300	3.25%	\$ 751,270
Severance	2,000	5.00%	\$ 1,155,800
Windsor	3,300	8.25%	\$ 1,907,070
Total	40,000	100.00%	\$ 23,116,000

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 6.i

Consent Agenda

Meeting Date: January 11, 2023

Initiated By: Julie Pasillas

Dept: Public Works

AGENDA TITLE

Resolution 23-10: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, PRESCRIBING THE RATE FOR PAYMENT OF CASH-IN-LIEU OF WATER RIGHT DEDICATIONS TO THE TOWN OF FIRESTONE, COLORADO

SUMMARY

The Town of Firestone accepts cash-in-lieu of the actual dedication of water for projects that require less than 1.8 acre-feet or 3 C-BT. The cash-in-lieu amount is a function of the current market value of CBT water and the Town's administrative costs. Approval of the attached resolution increases the cash-in-lieu of dedication amount to \$80,850.00 per C-BT unit.

HISTORY AND PREVIOUS BOARD ACTION

The current cash-in-lieu amount was set at \$71,500.00 per C-BT share with Resolution No. 22-42 approved by the Board on March 23, 2022.

RECOMMENDATION

Staff recommends the Board of Trustees approve Resolution No. 23-10, setting the new cash-in-lieu amount of dedication at 80,850.00.

ALTERNATIVES

The Board may choose not to approve Resolution 22-10 and provide staff with additional direction.

ATTACHMENTS

1. Res No. 23-10 Cash in Lieu Rate

FINANCIAL CONSIDERATIONS

None at this time.

RESOLUTION NO. 23-10

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE,
COLORADO, PRESCRIBING THE RATE FOR PAYMENT OF CASH-IN-LIEU OF
WATER RIGHT DEDICATIONS TO THE TOWN OF FIRESTONE, COLORADO**

WHEREAS, the Town of Firestone ("Town") operates a municipal water system and requires the dedication of water rights in conjunction with the annexation, subdivision and development of, and water service to, properties within the Town; and

WHEREAS, pursuant to Sections 1.08.050 and 13.08.010 of the Firestone Municipal Code, ("Code"), the Town allows, under prescribed circumstances, and in its sole and absolute discretion for the water rights dedication requirement to be met by payment of cash in lieu the dedication; and

WHEREAS, Sections 1.08.050 and 13.08.010 of the Code provide that the rate for payments of cash-in-lieu of water right dedications shall be as determined by the Board of Trustees by resolution and such rate shall be not less than one hundred and ten percent (110%) of the then current price of a Colorado Big Thompson ("CBT") unit, with an assumed annual yield of 0.6 acre-feet per CBT unit; and

WHEREAS, the Board of Trustees last established the cash-in-lieu of water rights dedication rate by Resolution 22-42 at \$71,500.00 per unit of CBT water with an assumed yield of 0.6 acre-feet per CBT unit; and

WHEREAS, the Board of Trustees in consideration of the increase in cost of a CBT unit since adoption of Resolution 22-42 desires to repeal Resolution 22-42 and establish a new cash-in-lieu of water rights dedication rate in accordance with the requirements of Sections 1.08.050 and 13.08.010 of the Code.

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

Section 1. Effective upon the adoption of this Resolution, the payment rate for cash-in-lieu of water rights dedications shall be \$80,850.00 per unit of Colorado Big Thompson ("CBT") water, with an assumed yield of 0.6 acre-feet per CBT unit.

Section 2. Upon adoption of this Resolution, Resolution 22-42 setting forth the payment rate for cash-in-lieu water rights dedications of CBT water shall be repealed in its entirety.

INTRODUCED, READ AND ADOPTED this 11th day of January, 2023.

TOWN OF FIRESTONE, COLORADO

Drew Alan Peterson, Mayor

ATTEST:

APPROVED AS TO FORM:

Kristi Bashor, Town Clerk

William P. Hayashi, Town Attorney

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 6.j

Consent Agenda

Meeting Date: January 11, 2023

Initiated By: Julie Pasillas

Dept: Public Works

AGENDA TITLE

Resolution 23-11: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, PRESCRIBING THE TOWN OF FIRESTONE'S WATER RATES, FEES, TOLLS AND CHARGES AND STORAGE AND INFRASTRUCTURE INVESTMENT FEES

SUMMARY

Town staff has prepared a resolution to increase the Construction Hydrant Meter Rental Deposit in Section 3 from \$4,200.00 to \$5,350.00. The deposit covers the cost of repair and replacement in the event that a hydrant meter is damaged, lost, or stolen. The resolution also updates the Meter Fees in Section 4. The Meter Fee covers the cost of the meter assemblies installed by the Town for new service connections. The deposit and fee changes are due to the updated repair, replacement, and supply costs from the Town's supplier. The new deposit rate and meter fee take effect on January 12, 2023. No other fee changes are being requested at this time, and all additional fees remain the same as set forth in Resolution No. 22-117, approved by the Board of Trustees at the meeting on October 26, 2022.

HISTORY AND PREVIOUS BOARD ACTION

The Board of Trustees has approved adjustments to the construction hydrant deposit and meter fee periodicity over the past years.

RECOMMENDATION

Staff recommends that the Board of Trustees approve Resolution 23-11, increasing only the Construction Hydrant Meter Rental Deposit and Meter Fee to cover the increase in cost from the Town's supplier.

ALTERNATIVES

The Board may choose not to approve Resolution 23-11 and provide Staff with additional direction.

ATTACHMENTS

1. Res No 23-11 A RESOLUTION PRESCRIBING WATER RATES FEES TOLLS AND CHARGES AND STORAGE AND INFRASTRUCTURE INVESTMENT FEES

FINANCIAL CONSIDERATIONS

None at this time.

RESOLUTION NO. 23-11

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, PRESCRIBING THE TOWN OF FIRESTONE'S WATER RATES, FEES, TOLLS AND CHARGES AND STORAGE AND INFRASTRUCTURE INVESTMENT FEES

WHEREAS, the Town of Firestone ("Town") for administrative efficiency by Resolution No. 22-117 consolidated its water rates, fees, tolls and charges and storage and infrastructure investment fees in one resolution; and

WHEREAS, the Town, which operates a municipal water facility and Central Weld County Water District ("CWCWD") are parties to various intergovernmental agreements concerning the provision of water service and facilities to the Town; and

WHEREAS, pursuant to such intergovernmental agreements, CWCWD from time to time increases its charges regarding its provision of water services to the Town; and

WHEREAS, effective November 1, 2022, CWCWD implemented increases in the amount of eighteen percent per annum for the water rates and charges and tap fees which it imposes upon the Town; and

WHEREAS, to ensure that the Town in a fiscally responsible manner can continue to meet its operational and capital needs for its water delivery systems the Town must increase in an amount equal to that imposed by CWCWD the water rates and charges and tap fees in the amounts set forth in Section 1, Section 2, and Section 3, (Water Usage Rate) in this resolution; and

WHEREAS, upon completion of the determination of the Towns water capital needs and operational costs and storage and delivery system development costs the Town established water rates, fees, tolls, and charges and storage and investment fees which were set forth in Resolution No. 22- 117, which was adopted by the Board of Trustees on October 26, 2022; and

WHEREAS , to ensure that all such rates, fees, tolls and charges and storage and investment fees remain reasonably related to the Town's costs staff has examined all those set forth in Resolution No. 22-117 and recommends but two amendments which is to increase the construction hydrant meter rental deposit set forth in Section 3 from \$4,200.00 to \$5,350.00 per meter and to adjust the Meter Fees set forth in Section 4.

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

Section 1. Water rates and charges. The following monthly rates and charges shall be imposed for water received from the Town of Firestone water system:

Meter Size	Residential Base Rate Charge	Non- Residential Base Rate Charge*	Water Included in Rate (Gallons)
5/8"	\$ 39.40	\$ 39.40	-0-
3/4"	\$ 60.41	\$ 60.41	-0-
1"	\$ 99.78	\$ 99.78	-0-
1-1/2"	\$ 196.92	\$ 196.92	-0-
2"	\$ 317.71	\$ 317.71	-0-
3"	\$ 593.40	\$ 593.40	-0-
6"	\$ 2,346.30	\$ 2,346.30	-0-

*Non-Residential accounts include Commercial, Industrial, Irrigation, Mobile Home Parks and Multi-Family

Water Charge Per 1,000 Gallons

Customer Type	Gallons	Rate
Commercial & Industrial	All usage	\$ 5.79
Irrigation Only	All usage	\$ 8.80
Mobile Home Parks	All usage	\$ 7.09
Multi-Family	All usage	\$ 5.78
Out –of-Town Rates	Base rates and gallon charges for any out-of-town service shall be two times the in-Town rates and charges.	

Water Charge Per 1,000 Gallons	
Gallons	Rate
Residential	
0-5,000	\$ 3.73
5,001-20,000	\$ 6.57
20,001-40,000	\$ 10.52
Above 40,000	\$ 13.14

Section 2. Connection, Capital Investment and Repair Fees. The following connection and capital investment and repair fees shall be imposed, except that the Town of Firestone shall not be required to pay such connection fees for irrigation sprinkler systems for any public parks, rights-of-way, open space, or medians, or any facility developed, owned or paid for by the Town.

Meter Size	Total
5/8"	\$ 14,800
3/4"	\$ 22,200
1"	\$ 37,000
1-1/2"	\$ 76,000
2"	\$ 122,400

Connection and capital investment and repair fees as well as any other fees for taps requiring a meter larger than 2" shall be determined by the Board of Trustees on an individual basis considering such factors as type of use, contemplated volume demand for water, effect on the entire water system in the Town, connection and capital investment fees imposed by CWCWD, and all other factors relevant to the application. All taps requiring a meter larger than 2" and all taps applied for where the service requested is outside of the Town limits shall be by contract with the Board of Trustees. Out-of-town taps of 2" or less shall be charged fees at two times the amount of in-Town fees.

Section 3. Construction Hydrant Meter Rental Terms. The following fees shall be imposed for hydrant meters supplied by the Town for construction water use. A Hydrant Connection Permit must be obtained from the Town Clerk prior to any water being used from any fire hydrant. Such permit shall be valid for a period not to exceed 6 months.

Deposit	\$ 5,350.00 per meter
Administration Fee	\$ 25.00 per permit
Meter Rental	\$ 4.00 per day
Late Charge	\$ 5.00 per day
Water Usage Rate	\$ 5.79 per 1,000 gallons

Section 4. Meter Fees. The following fees shall be imposed for Meter assemblies installed by the Town for new service connections; such fees for taps requiring a meter larger than 2" shall be as set by contract with the Board of Trustees:

<u>Meter Tap Size</u>	<u>Administrative Fee</u>	<u>Meter Cost</u>	<u>Total Meter Fee</u>
5/8"	\$ 25.00	\$ 640.74	\$ 665.74
3/4"	25.00	662.17	687.17
1"	25.00	873.15	898.15
1-1/2" Commercial	25.00	1,916.64	1,941.64
1-1/2" Irrigation	25.00	1,919.68	1,944.68
2" Commercial	25.00	2,179.20	2,204.20
2" Irrigation	25.00	2,197.56	2,222.56

Section 5. Native Water Dedication Agreement Storage and Infrastructure Fees. The following fees shall be established for Native Water Dedication Agreements.

Ditch	Storage Multiplier	Storage Fee, per acre-foot of credit	Infrastructure Fee, per acre-foot of credit	Total Storage and Infrastructure Investment Fee, per acre-foot of credit
Lower Boulder Preferred	1.45	\$16,100.00	\$1,400.00	\$17,500.00
Lower Boulder Common	2.00	\$22,200.00	\$1,400.00	\$23,600.00
Coal Ridge	1.45	\$16,100.00	\$1,400.00	\$17,500.00
Godding	1.45	\$16,100.00	\$1,400.00	\$17,500.00
Rural	1.45	\$16,100.00	\$1,400.00	\$17,500.00
Last Chance	1.45	\$16,100.00	\$1,400.00	\$17,500.00

Section 6. This Resolution shall take effect on January 12, 2023 and upon such date all prior resolutions addressing the Town's water rates, fees, tolls and charges and storage and infrastructure investment fees set forth herein shall be repealed in their entirety.

INTRODUCED, READ AND ADOPTED this 11th day of January, 2023.

TOWN OF FIRESTONE, COLORADO

Drew Alan Peterson, Mayor

ATTEST:

Kristi Bashor, Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 6.k

Consent Agenda

Meeting Date: January 11, 2023

Initiated By: Julie Pasillas

Dept: Public Works

AGENDA TITLE

Resolution 23-12: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING A PROFESSIONAL SERVICES CONTRACT MASTER SERVICES AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND LEONARD RICE CONSULTING WATER ENGINEERS, INC.

SUMMARY

This Agreement is to continue Leonard Rice Consulting Water Engineers, Inc (LRE Water) representation of the Town in 2023. LRE Water has been serving the Town as a Program Manager for water resources matters, reporting to Julie Pasillas, Director of Public Works, since 2017.

The Agreement covers general representation and ten specific Task budgets, as described in Schedule A. All the Tasks included in Schedule A of the Agreement will be completed in 2023.

HISTORY AND PREVIOUS BOARD ACTION

The Board of Trustees approved Agreements on June 14, 2017; December 18, 2017; December 12, 2018; December 11, 2019; December 9, 2020, and December 8, 2021, to retain LRE Water to serve the Town in a Program Management role. From February 2017 through May 2017, LRE Water worked under an Agreement signed by the Town Manager.

RECOMMENDATION

Staff recommends approval of Resolution 21-202, approving a Professional Services Contract Master Service Agreement with Leonard Rice Consulting Water Engineers, Inc.

ALTERNATIVES

The Board may choose not to approve Resolution 23-12 and provide Staff with additional direction.

ATTACHMENTS

1. Res 23-12 2023 Leonard Rice Services Agmt
2. 2023 Master Services Agreement Leonard Rice with Schedule A

FINANCIAL CONSIDERATIONS

This Agreement is for \$664,540.00, including \$180,000.00 for Program Management and \$484,540.00 for 10 Tasks that will be paid for by the Water Fund and are included in the 2023 budget.

RESOLUTION NO. 23-12

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE,
COLORADO, APPROVING A PROFESSIONAL SERVICES CONTRACT MASTER
SERVICES AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND LEONARD
RICE CONSULTING WATER ENGINEERS, INC.**

WHEREAS, Leonard Rice Consulting Water Engineers, Inc., (“LRE”), currently serves as consultants for the Town of Firestone (“Firestone”) and are involved in developing strategies and tactics, and manage and direct projects and initiatives related to: water rights and water supply, water delivery and water treatment projects, and work with other parties as needed; and evaluate and create other initiatives; and

WHEREAS, LRE has performed such services for Firestone since 2017, and given LRE’s skill, experience, expertise and qualifications, Firestone desires to continue its relationship with LRE.

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

The Professional Services Contract Master Services Agreement between the Town of Firestone and Leonard Rice Consulting Water Engineers, Inc., is approved in substantially the same form as the copy attached hereto and made a part of this resolution and the Mayor is authorized to sign the Agreement.

INTRODUCED, READ AND ADOPTED this 11th day of January, 2023.

TOWN OF FIRESTONE, COLORADO

Drew Alan Peterson, Mayor

ATTEST:

Kristi Bashor, Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney



PROFESSIONAL SERVICES CONTRACT MASTER SERVICE AGREEMENT

THIS AGREEMENT (“Agreement”), made this ____ day of January 2023, between the Town of Firestone, a statutory Colorado town, whose address is 9950 Park Avenue, Firestone, CO 80504, hereinafter referred to as “FIRESTONE,” and Leonard Rice Consulting Water Engineers, Inc. (d/b/a LRE Water), an independent contractor, whose address is 1221 Auraria Parkway, Denver, CO 80204, hereinafter referred to as “CONSULTANT,” provides as follows:

ARTICLE I SCOPE OF SERVICES

Section 1.1 Services: FIRESTONE retains CONSULTANT, and CONSULTANT agrees to perform the services as described in Schedule A, hereinafter referred to as the “Services”. Schedule A is hereby incorporated by reference and made a part of this Agreement. To the extent that this Agreement and Schedule A conflict, the provisions of this Agreement shall prevail. Additional goods or services beyond those set out in Schedule A, if requested, shall be provided only when authorized in writing by FIRESTONE.

- (a) In addition to the services described in Schedule A, FIRESTONE may prepare, with the assistance of CONSULTANT, work orders, containing, at a minimum, the following information: (1) the specific tasks and deliverables CONSULTANT must perform; (2) CONSULTANT's budget; (3) FIRESTONE's maximum payment obligation under the subject work order; (4) the completion date for the subject work order; and (5) CONSULTANT's schedule of fees to remain in effect until the identified completion date of the subject work order. Notwithstanding the foregoing, if a work order is a multi-year work order, CONSULTANT may revise its schedule of fees annually. After the work order has been finalized and agreed to by FIRESTONE and CONSULTANT, FIRESTONE may issue a notice to proceed obligating CONSULTANT to begin performance of the subject work order. CONSULTANT shall not commence work on any work order until it has received the applicable notice to proceed. Notice to proceed may be sent by email.

- (b) FIRESTONE reserves the right to amend any work order that has been issued under this Contract by altering, reducing, increasing, or eliminating specific tasks and deliverables. If FIRESTONE desires to amend a work order that has been issued, then FIRESTONE shall notify CONSULTANT of the contemplated change ("Notice of Change Order"). Upon receiving the Notice of Change Order CONSULTANT shall provide: (1) an estimate of the increase or decrease, if any, to CONSULTANT's budget due to the contemplated change and (2) the estimated change in the completion date of the subject work order, if any. FIRESTONE may instruct CONSULTANT in the Notice of Change Order to suspend work on any identified task or deliverable affected by a contemplated change, pending FIRESTONE's decision to proceed with the change. When instructed, CONSULTANT shall suspend work on any identified task or deliverable affected by a contemplated change. If it elects to make the change, FIRESTONE shall issue a change order amending the subject work order and providing CONSULTANT with a corresponding Notice to Proceed. CONSULTANT shall not commence work on any change order until it has received the applicable notice to proceed

Section 1.2 Contract Time: CONSULTANT shall commence work upon direction to proceed from FIRESTONE and complete the Services on or before December 31, 2023.

Section 1.3 Independent Contractor: CONSULTANT shall at all times control the means and manner by which CONSULTANT performs the work, subject to FIRESTONE's right to monitor, evaluate and improve such work. CONSULTANT shall at all times be and act as an independent contractor and not as an employee of FIRESTONE.

Section 1.4 Warranty of Consultant: CONSULTANT warrants that it is qualified to assume the responsibilities and render the services described herein and has all requisite corporate authority and professional licenses required by law. All professional services shall be performed timely in accordance with generally accepted professional practices and the level of competency presently maintained by other professionals providing the same general type of work as set forth in Schedule A.

ARTICLE II **CONTRACT PRICE**

Section 2.1 Contract Price: In consideration for the completion of the Project by CONSULTANT in accordance with the terms of this Agreement, FIRESTONE shall pay CONSULTANT (check and initial below as applicable):

☒ _____ As described in Schedule A.

☐ _____ As described in Schedule A, but in no event shall the total compensation to CONSULTANT under this Agreement exceed \$ _____.

☐ _____ A fixed sum of \$ _____.

☐ _____ Based upon a time, materials and expenses basis, pursuant to the rate schedule attached hereto as Schedule A, but in no event shall the total compensation to CONSULTANT under this Agreement exceed \$ _____.

☐ _____ On a unit-price basis, in an amount equal to the sum of the unit price set forth in Schedule A for each separately identified item of unit price work, times the quantity of that item, as estimated in Schedule A, but in no event shall the total compensation to CONSULTANT under this Agreement exceed \$ _____.

Section 2.2 Payment: FIRESTONE will make payment due to CONSULTANT for compensation for completed work within thirty (30) days after invoices submitted by CONSULTANT, which invoice(s) may not be submitted more frequently than monthly. Invoices shall indicate the basis upon which payment is requested, such as percentage of the Project completed, or actual time, materials and expenses. FIRESTONE shall submit invoice disputes, if any, to CONSULTANT within thirty (30) days for resolution by mutual consent.

Section 2.3 Expenses: FIRESTONE ☒ shall ☐ shall not reimburse CONSULTANT for actual cost of administrative expenses associated with this Agreement such as long distance telephone, facsimile transmissions, photocopies, reproduction of exhibits, travel expenses and laboratory fees for Task 3 are included in the budget in Schedule A.

Section 2.4 No Multi-Year Fiscal Obligation. Nothing herein shall constitute a multiple fiscal year obligation pursuant to Colorado Constitution Article X, Section 20. Notwithstanding any other provision of this Agreement, FIRESTONE's obligations under this Agreement are subject to annual appropriation by FIRESTONE's Board of Trustees. Any failure of FIRESTONE's Board of Trustees to annually appropriate adequate monies to finance FIRESTONE's obligations under this Agreement shall terminate this Agreement at such time as such then-existing appropriations are to be depleted. Notice shall be given promptly to CONSULTANT of any failure to appropriate such adequate monies.

Section 2.5 Appropriation: If this is a contract for the design or construction, or both the design and construction, of a public works project, FIRESTONE has appropriated funds equal to or in excess of the Contract Price.

ARTICLE III

ADMINISTRATION OF THIS AGREEMENT

Section 3.1 Project Performance: In consideration of the compensation provided for in this Agreement, CONSULTANT agrees to perform or supply the Project, in accordance with generally accepted standards and practices of the industry, and warrants all materials incorporated in the Project to be free from defect of material or workmanship and conform strictly to the specifications, drawings or samples specified or furnished. This Section 3.1 shall survive any inspection, delivery, acceptance or payment by FIRESTONE.

Section 3.2 Oversight: All of the work associated with the Project shall be performed under the direction of Brett Gracely and/or Gregg S. Ten Eyck; it is expressly understood and agreed that some of the work may have commenced prior to the formal execution of this Agreement, in which event such work is incorporated into the Project and is deemed to have been and is authorized by this Agreement.

Section 3.3 Ownership and Use of Documents: (check and initial all that apply)

☒ _____ (a) The following Sections 3.3(a)(1) and (2) are applicable to *design professionals* (architects, engineers, etc.):

(1) The documents prepared by CONSULTANT in connection with the Project and copies thereof furnished to other parties are for use solely with respect to the Project. Such documents are not to be used by any other contractor or subcontractor on other projects or for additions to this Project outside the scope of the work under this Agreement without the specific written consent of FIRESTONE and CONSULTANT. Other contractors and subcontractors are authorized to use and reproduce applicable portions of the documents prepared by CONSULTANT appropriate to and for use in the execution of their work under this Agreement. All copies made under this authorization shall bear the statutory copyright notice, if any, shown on the documents prepared by CONSULTANT.

(2) Notwithstanding the provisions of Section 3.3(a)(1) above, FIRESTONE may utilize any such documents generated in connection with the Project by CONSULTANT for other projects, provided that CONSULTANT is not held liable for future project applications other than the Project described pursuant to this Agreement.

Section 3.4 Insurance:

(a) CONSULTANT shall at its own expense procure a policy or policies of insurance sufficient to insure against all liability, claims, demands, and other obligations assumed by

CONSULTANT under this Agreement. Such insurance shall be in addition to the insurance requirements below or otherwise imposed by law.

(b) CONSULTANT shall at its own expense keep in full force and effect during the term of this Agreement and during the term of any extension or amendment of this Agreement, insurance as stated below:

(1) Commercial General Liability Insurance with minimum combined single limits of One Million Dollars and No Cents (\$1,000,000.00) for each occurrence and One Million Five Hundred Thousand Dollars and No Cents (\$1,500,000.00) aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, independent contractors, products, completed operations, explosion, collapse, and underground hazards.

(2) If professional services (architecture, engineering, design, etc.) are provided, Professional Liability Insurance with limits of One Million Dollars and No Cents (\$1,000,000.00) per claim and One Million Five Hundred Thousand Dollars and No Cents (\$1,500,000.00) aggregate. This policy shall remain in force for the period of design and construction and shall include a discovery period of three years, to commence upon substantial completion of the Project.

(3) Workers' Compensation Insurance to cover all obligations imposed by applicable laws for all of CONSULTANT's employees engaged in the performance of work under this Agreement, based on statutory limits prescribed by and in accordance with Colorado law. In the event any services are performed by a subcontractor, CONSULTANT shall require such subcontractor to provide workers' compensation insurance for its employees.

(4) Comprehensive Automotive Liability Insurance for the duration of this Agreement covering all owned, non-owned, and hired vehicles used in connection with the work performed by or on behalf of CONSULTANT under this Agreement in an amount not less than Five Hundred Thousand Dollars and No Cents (\$500,000.00) combined single limit per occurrence for bodily injury and property damage.

(c) The insurance policies required by Subsection 3.4(b)(1) shall name FIRESTONE and its employees as additional insureds and shall contain waiver of subrogation provision. No additional insured endorsement to a policy shall contain any exclusion for bodily injury or property damage arising from completed operations.

(d) The General Liability policy required under this Section shall provide that such insurance is primary coverage with respect to work contemplated under this Agreement by all insureds and additional insureds, and that any insurance carried by FIRESTONE, its officers, or its employees, or carried by or provided through any insurance pool of FIRESTONE, shall be

excess and not contributory insurance to that provided by CONSULTANT. CONSULTANT shall be solely responsible for any deductible losses under any policy required above. Any insurance policy required under this Agreement shall be written by a responsible company or companies authorized to do business under the laws of the State of Colorado, subject to the approval of FIRESTONE.

(e) Prior to commencement of work under this Agreement, CONSULTANT shall provide FIRESTONE with certificate(s) of insurance completed by CONSULTANT's insurer(s) as evidence that policies providing the required coverage, conditions, and minimum limits are in full force and effect. The certificate shall identify this Agreement and shall provide that the coverage afforded under the policies shall not be canceled until at least thirty (30) days' prior written notice has been given to FIRESTONE. The completed certificate(s) of insurance shall be sent to:

TOWN OF FIRESTONE
9950 Park Avenue
Firestone, CO 80504
Attn: Raelynn Ferrera

(f) CONSULTANT shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to this Section by reason of CONSULTANT's failure to procure or maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amount, duration or type. Failure on the part of CONSULTANT to procure or maintain policies providing the required coverage, conditions and minimum limits shall constitute a material breach of contract upon which FIRESTONE may immediately terminate this Agreement, or at its discretion FIRESTONE may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by FIRESTONE shall be repaid by CONSULTANT to FIRESTONE upon demand, or FIRESTONE may withhold the cost of the premiums from any monies due to CONSULTANT from FIRESTONE.

Section 3.5 Colorado Governmental Immunity Act: The parties hereto understand and agree that FIRESTONE is relying on, and does not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, Sections 24-10-101 *et seq.*, C.R.S., as may be amended, or those otherwise available to FIRESTONE, its officers, or its employees.

Section 3.6 Indemnification: CONSULTANT shall indemnify, defend, and hold harmless FIRESTONE and employees from and against claims, damages, losses and expenses, including but not limited to reasonable attorneys' fees which are incurred by Firestone, arising out of or resulting from this Agreement, but only to the extent that any such claim, damage, loss, or expense is caused, or alleged to have been caused, in whole or in part, by any negligent act or omission of CONSULTANT or anyone directly employed by CONSULTANT or anyone for whose acts CONSULTANT is legally liable. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity that would otherwise exist

as to any person described in this Section.

In any and all claims against FIRESTONE or any of its employees by any employee of CONSULTANT, any subcontractor of CONSULTANT, anyone directly employed by any of them or anyone for whose act CONSULTANT is legally liable, the indemnification obligation under this Section 3.6 shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for CONSULTANT or any subcontractor under worker's or workman's compensation actions, disability benefit acts, or other employee benefit acts.

Section 3.7 Subcontractor(s): CONSULTANT shall, as soon as practicable after the signing of this Agreement, notify FIRESTONE in writing for FIRESTONE's approval, of any subcontractors who may be involved in the Project and the general scope of work to be performed by each subcontractor. FIRESTONE may, in its reasonable discretion, reject any proposed subcontractor; in which case CONSULTANT shall either perform such component of the work itself, or secure a subcontractor acceptable to FIRESTONE.

Section 3.8 Termination of Agreement for Convenience: This Agreement may be terminated by either party without cause upon twenty-one (21) days written notice to the other party. In the event of termination, FIRESTONE will pay CONSULTANT for all services satisfactorily performed and for goods provided to date of termination. If payment is otherwise due in a fixed sum, FIRESTONE will pay CONSULTANT for the pro rata value of the completed portion of the Project. If, however, CONSULTANT has substantially or materially breached the standards or terms of this Agreement, FIRESTONE shall have any remedy or right to set off available at law and equity.

Section 3.9 Binding Effect: FIRESTONE and CONSULTANT each bind itself, its successors and assigns to the other party to this Agreement with respect to all rights and obligations under this Agreement. Neither FIRESTONE nor CONSULTANT shall assign or transfer its interest in, or obligation under, this Agreement without the written consent of the other.

Section 3.10 Compliance with Law: CONSULTANT agrees to perform the work in compliance with all applicable federal, state, county and Town laws, ordinances, rules and regulations, including, without limitations, any preference for Colorado labor as may be required pursuant to Article 17, of Title 8 of the Colorado Revised Statutes ("Keep Jobs in Colorado Act") as may be amended.

Section 3.11 Worker Without Authorization:

(a) CONSULTANT certifies, through signature of its authorized representative executing this Agreement, that it does not knowingly employ or contract with a worker without authorization who will perform work under the public contract for services and that the CONSULTANT will participate in the United States Government's E-Verify Program or the State of Colorado Department of Labor and Employment Program ("Department Program") in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under the public contract for services.

(b) CONSULTANT shall not:

- (1) Knowingly employ or contract with a worker without authorization to perform work under this Agreement; or
- (2) Enter into a contract with a subcontractor that fails to certify to the contractor that the subcontractor shall not knowingly employ or contract with a worker without authorization to perform work under the public contract for services.

CONSULTANT shall affirm as required by C.R.S. § 8-17.5-102 (c) (II), as may be amended, the employment eligibility of all employees who are newly hired for employment to perform work under the public contract for services through participation in either the E-Verify Program or the Department Program.

(c) CONSULTANT is prohibited from using the E-Verify Program or Department Program procedures to undertake pre-employment screening of job applicants while the public contract for services is being performed.

(d) If CONSULTANT obtains actual knowledge that a subcontractor performing work under the public contract for services knowingly employs or contracts with a worker without authorization, CONSULTANT shall be required to:

- (1) Notify the subcontractor and FIRESTONE within three days that the CONSULTANT has actual knowledge that the subcontractor is employing or contracting with a worker without authorization; and
- (2) Terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to sub-subparagraph (B)(2) the subcontractor does not stop employing or contracting with the worker without authorization; except that the CONSULTANT shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with a worker without authorization.

(e) CONSULTANT shall comply with all rules and regulations and any reasonable request by the State Department of Labor and Employment made in the course of the Department's performance of its lawful duties pursuant to C.R.S. 8-17.5-102 et. seq., as may be amended.

(f) If CONSULTANT violates any of the provisions set forth in this section, FIRESTONE may terminate the Agreement and CONSULTANT shall be liable for all actual and consequential damages incurred by FIRESTONE.

Section 3.12 Notice and Communications: Any notice to the parties required under this Agreement shall be in writing, delivered to the person designated below for the parties at the indicated address unless otherwise designated in writing. Only mailing by United States mail or

hand delivery shall be utilized for notice required to be given under this Agreement. Facsimile and e-mail addresses are provided for convenience only. However, copies of mailed or hand-delivered notices may be sent to the parties via e-mail or facsimile.

FIRESTONE:

TOWN OF FIRESTONE
9950 Park Avenue
Firestone, Colorado 80504
Attn: Julie Pasillas
Telephone: 303-531-6258
Facsimile:
E-mail:
jpasillas@firestoneco.gov

CONSULTANT:

Leonard Rice Consulting Water
Engineers, Inc.
1221 Auraria Parkway
Denver, CO 80204
Attn: Brett Gracely
Telephone: 303-455-9589
Facsimile: 303-455-0115
E-mail:
Brett.Gracely@LREWater.com
Gregg.TenEyck@LREWater.com

ARTICLE IV
RESPONSIBILITIES OF FIRESTONE

Section 4.1 Project Materials: FIRESTONE shall make available data related to the Service, including design specifications, drawings and other necessary information.

Section 4.2 Access to Property and Records: FIRESTONE shall provide CONSULTANT with access to its property as required and necessary to complete the contract. To the extent required by law, FIRESTONE and CONSULTANT agree to make this Agreement and any related records available for public disclosure pursuant to any open records law, including, without limitation, the Colorado Open Records Act, C.R.S. §§ 24-72-200.1, *et seq.* as may be amended. CONSULTANT agrees to hold FIRESTONE harmless from the disclosure of any records that FIRESTONE reasonably believes it is legally required to disclose.

Section 4.3 FIRESTONE's Representative: FIRESTONE shall designate, in writing, a representative who shall have authority to act for FIRESTONE with respect to the services to be rendered under this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define FIRESTONE's policies and decisions with respect to materials, equipment, elements and systems pertinent to CONSULTANT's services.

Section 4.4 Verbal Agreement or Conversation: No verbal agreement or conversation with any officer, agent or employee of FIRESTONE, either before, during or after the execution of this Agreement, shall affect or modify any of the terms or obligations herein contained, nor shall such verbal agreement or conversation entitle CONSULTANT to any additional payment whatsoever under the terms of this Agreement.

ARTICLE V

MISCELLANEOUS

Section 5.1 Colorado Law: This Agreement is to be governed by the laws of the State of Colorado. The venue for any litigation shall be in Weld County.

Section 5.2 Amendments; Change Orders: This Agreement may only be amended, supplemented or modified in a written document signed by both parties (a "Change Order").

(a) Any other provision of this Agreement notwithstanding, for purposes of this Section 6.2, and only for purposes of this Section 6.2, the term "FIRESTONE" shall have the following meaning with respect to the approval and execution of Change Orders.

(1) With respect to any Change Order that results in an increase in the Contract Price of an amount equal to five percent or less of the Contract Price, the department director who has responsibility over the Project may act as "FIRESTONE" with respect to the approval and execution of such Change Order up to and until such time as the total dollar amount of all Change Orders exceeds Ten Thousand Dollars (\$10,000.00), at which time such Change Order shall be subject to approval and execution pursuant to the provisions of Subsection (2) of this Section 6.2(a);

(2) With respect to any Change Order that results in an increase in the Contract Price of an amount greater than five percent (5%) but less than ten percent (10%) of the Contract Price, the FIRESTONE Town Manager may act as "FIRESTONE" with respect to the approval and execution of such Change Order up to and until such time as the total dollar amount of all Change Orders exceeds Fifty Thousand Dollars (\$50,000.00), at which time such Change Order shall be subject to approval and execution pursuant to the provisions of Subsection (3) of this Section 6.2(a);

(3) With respect to any Change Order that results in an increase in the Contract Price of an amount equal to or greater than ten percent (10%) of the Contract Price and further, with respect to any Change Order which results in any increase in the Contract Price when the total dollar amount of all Change Orders exceeds Fifty Thousand Dollars (\$50,000.00), the FIRESTONE Board of Trustees shall act as "FIRESTONE" with respect to the approval and execution of such Change Order.

(b) Nothing within Section 6.2(a) or any subsection thereof shall prevent the FIRESTONE Town Council from acting as "FIRESTONE" with respect to the approval and execution of any Change Order of any amount whatsoever; it is the intent of Section 6.2(a) and the subsections thereof only to authorize the department director who has responsibility for the Project and the FIRESTONE Town Manager, in the absence of FIRESTONE Board of Trustees approval and execution, to approve and execute certain Change Orders under the circumstances detailed above.

(c) Notwithstanding the foregoing, no change in the Contract Price requiring additional compensable services to be performed, which work causes the aggregate amount payable under this Agreement to exceed the amount appropriated for the original Agreement, shall be valid, unless FIRESTONE gives CONSULTANT written assurance that the lawful appropriations to cover the costs of the additional services have been made and the appropriations are available prior to the performance of the additional services, or unless such services are covered under a remedy-granting provision in this Agreement.

Section 5.3 Counterparts: This Agreement may be executed in two or more counterparts, using manual or facsimile signature, each of which shall be deemed an original and all of which together shall constitute one and the same document.

Section 5.4 No Third Party Benefit: This Agreement is between FIRESTONE and CONSULTANT and no other person or organization shall be entitled to enforce any of its provisions or have any right under this Agreement.

Section 5.5 Severability: If any term, covenant, or condition of this Agreement is deemed by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall be binding upon the parties.

Section 5.6 Entire Agreement: This Agreement constitutes the entire agreement between the parties and supersedes all other prior and contemporaneous agreements, representations, and understandings of the parties regarding the subject matter of this Agreement. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing by the parties. No representations or warranties whatever are made by any party to this Agreement except as specifically set forth in this Agreement or in any instrument delivered pursuant to this Agreement.

Section 5.7 Litigation: In that event that either party commences litigation against the other regarding this Agreement the prevailing party shall be entitled to reasonable attorney fees and costs of litigation.

Section 5.8 No Waiver: Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by either party shall not constitute a waiver of any of the other terms or obligations of this Agreement.

IN WITNESS WHEREOF, the parties hereto have signed and executed this Agreement the day first written above.

TOWN OF FIRESTONE

ATTEST:

By: _____
Name: Drew Alan Peterson
Title: Mayor

Kristi Bashor, Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

CONSULTANT:

By: 
Name: Cortney C. Brand
Title: President/CEO

SCHEDULE A

(Attached to and made a part of the Agreement between the Town of Firestone and Leonard Rice Consulting Water Engineers, Inc. dated _____ January 2023)

LRE Water Project Number 1527TWF02-22:

Program Management: Brett Gracely and Gregg Ten Eyck will work at the direction of Julie Pasillas as members of the Water Team to develop strategies and tactics and to manage and direct projects and initiatives related to water rights, water supply, water delivery and other water projects; to work with other parties as needed; and to evaluate and create other initiatives. The specific tasks Consultant shall perform, include but are not limited to:

Participate in weekly water team meetings.

Review and update as necessary strategies for delivery of C-BT, Windy Gap, NISP, Godding Ditch, Coal Ridge Ditch, Rural Ditch, Lower Boulder Ditch and other sources to Firestone.

Develop strategies for reuse of those water supplies that will be reusable to extinction (Windy Gap, NISP, certain native St. Vrain rights, for example).

Work with the water team to create or update and amend intergovernmental agreements as needed.

Respond to inquiries from other Firestone staff or consultants on water rights, water supply, and storage infrastructure projects.

Continue to evaluate opportunities for other water supplies such as additional NISP water, additional raw water storage facilities or additional senior water rights as they are presented to the Town or as the water team develops strategies.

Budget for 1527TWF02 is **\$180,000.00** to be billed in 12 installments of \$15,000.00 each.

LRE Water Project 1527TWF09 Task 1

Task 1 is for LRE to support Lawrence Custer Grasmick Jones & Donovan, LLP with **Case No. 19CW3236**.

Budget for 1527TWF09 Task 1 is **\$84,000.00**, to be billed at the hourly rates attached to this Agreement.

LRE Water Project 1527TWF09 Task 2

Task 2 is for LRE to support counsel and staff in developing a **Substitute Water Supply Plan (SWSP)** based on Case No. 19CW3236.

Budget for 1527TWF09 Task 2 is **\$10,080.00**, to be billed at the hourly rates attached to this Agreement.

LRE Water Project 1527TWF09 Task 3

Task 3 is for LRE to continue and to update the **water quality monitoring program**, including collection of water quality samples for laboratory analysis; and to report on laboratory results. Laboratory costs are included in the budget below.

Budget for 1527TWF09 Task 3, which covers both professional fees and laboratory fees, is **\$80,640.00**, to be billed in 12 equal installments of \$6,720.00 each.

LRE Water Project 1527TWF09 Task 4

Task 4 is for LRE to implement the **water rights and water supply accounting system** as needed to support the substitute water supply plan and to support negotiations related to the accounting systems with objectors in Case No. 19CW3236.

Budget for 1527TWF09 Task 4 is **\$40,320.00**, to be billed at the hourly rates attached to this Agreement.

LRE Water Project 1527TWF09 Task 5

Task 5 is for LRE to review and evaluate water rights offered to the Town for use in **water dedication agreements** and to assist counsel in developing agreements.

Budget for 1527TWF09 Task 5 is **\$39,200.00**, to be billed at the hourly rates attached to this Agreement.

LRE Water Project 1527TWF09 Task 6

Task 6 is for LRE to assist Lawrence Custer Grasmick Jones & Donovan LLP in **development of a water court filing(s)** in 2023.

Budget for 1527TWF09 Task 6 is **\$56,000.00**, to be billed at the hourly rates attached to this Agreement.

LRE Water Project 1527TWF09 Task 7

Task 7 is for LRE to conduct preliminary engineering analysis of the historical use of the **Last**

Chance Ditch to develop a strategy and plan to change water rights from irrigation to new uses, including municipal uses.

Budget for 1527TWF09 Task 7 is **\$56,000.00**, to be billed at the hourly rates attached to this Agreement.

LRE Water Project 1527TWF09 Task 8

Task 8 is for LRE to conduct preliminary engineering analysis of **Godding Ditch** shares to develop a strategy and plan to change water rights from irrigation to new uses, including municipal uses.

Budget for 1527TWF09 Task 8 is **\$56,000.00**, to be billed at the hourly rates attached to this Agreement.

LRE Water Project 1527TWF09 Task 9

Task 9 is for LRE to conduct preliminary engineering analysis of historical use of **New Coal Ridge ditch** shares to develop a strategy and plan to change water rights from irrigation use to new uses, including municipal uses.

Budget for 1527TWF09 Task 9 is **\$56,000.00**, to be billed at the hourly rates attached to this Agreement.

LRE Water Project 1527TWF09 Task 10

Task 10 is for LRE to assist the Town with **St. Vrain Water Authority matters**, including development of Intergovernmental Agreements and attendance at selected Board meetings.

Budget for 1527TWF09 Task 10 is **\$6,300.00**, to be billed in 12 equal installments of \$525.00 each.

Summary

Projects	LRE Water 2023 Budget
General Services	\$ 180,000.00
Task 1: Support Lawrence Custer Grasmick Jones & Donovan, LLP change of water rights Case No. 19CW3236.	\$ 84,000.00
Task 2: Substitute water supply plan support.	\$ 10,080.00
Task 3: Water quality sample collection.	\$ 80,640.00
Task 4: Implement the water rights and water supply accounting system as per decree in 19CW3236 and for SWSP.	\$ 40,320.00
Task 5: Assist with the review and analysis, and negotiations or other efforts related to native water dedication agreements.	\$ 39,200.00
Task 6: Assist Lawrence Custer Grasmick Jones & Donovan LLP in development of a water court filing(s) in 2023.	\$ 56,000.00
Task 7: Preliminary engineering for Last Chance Ditch change of water rights.	\$ 56,000.00
Task 8: Preliminary engineering for Godding Ditch change of water rights.	\$ 56,000.00
Task 9: Conduct preliminary engineering analysis of historical use of New Coal Ridge ditch shares to develop a strategy and plan to change water rights from irrigation use to new uses, including municipal uses.	\$ 56,000.00
Task 10: Assist the Town with matters related to Firestone's membership in the St Vrain Water Authority.	\$ 6,300.00
Total	\$ 664,540.00

LRE WATER 2023 RATE SCHEDULE
Effective December 26, 2022
Hourly Rate

Student Intern.....	\$70 - \$100
Data Processor/Admin Support.....	\$80 - \$140
Technician/IT Support	\$100 - \$150
Staff I Engineer/Hydrologist/Geologist/Scientist	\$110 - \$145
Staff II Engineer/Hydrologist/Geologist/Scientist.....	\$120 - \$165
Staff III Engineer/Hydrologist/Geologist/Scientist.....	\$135 - \$180
Project Engineer/Hydrologist/Geologist/Scientist.....	\$160 - \$190
Senior Project Engineer/Hydrologist/Geologist/Scientist.....	\$170 - \$205
Project Manager	\$180 - \$225
Senior Project Manager.....	\$190 - \$275
Principal, Senior Advisor.....	\$200 - \$275

Expenses such as laboratory analysis, obtaining aerial photos, or other special services incurred directly in connection with the project are billed at cost plus 5 percent (5%) to cover handling and administration. Reimbursable expenses billed at cost include airfare, automobile rental, and other travel or per diem costs including mileage billed at the current IRS rate (rounded up to the nearest \$0.05). Subconsultants to LRE are billed at cost plus 10 percent (10%).

December, 2022

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 8.a

Presentation

Meeting Date: January 11, 2023

Initiated By:

Dept: Administration

AGENDA TITLE

Annual Municipal Court Operations Update

SUMMARY

HISTORY AND PREVIOUS BOARD ACTION

RECOMMENDATION

ALTERNATIVES

ATTACHMENTS

None

FINANCIAL CONSIDERATIONS

AGENDA INFORMATION MEMORANDUM

FIRESTONE TOWN BOARD OF TRUSTEES



AIM#: 10.a

Discussion/Action

Meeting Date: January 11, 2023

Initiated By: Paula Mehle

Dept: Economic Development

AGENDA TITLE

Resolution No. 23-01: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING THE PROGRAMMATIC AGREEMENT BETWEEN WELD COUNTY THE TOWN OF FIRESTONE AND THE COLORADO STATE HISTORIC PRESERVATION OFFICER REGARDING THE WELD COUNTY COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

SUMMARY

This agreement will allow the Colorado State Historic Preservation Officer to ensure that the CDBG Minor Rehabilitation Program will be administered in compliance with the Act and its Regulations.

In association with the use of Community Development Block Grant (CDBG) funds administered by the U. S. Department of Housing and Urban Development, there are conditions when implementing certain HUD programs such as home rehabilitation. These conditions include but are not limited to conducting environmental and historical reviews of properties to be involved in a rehabilitation program.

The proposed programmatic agreement between the Town of Firestone as the sub-recipient of CDBG funds, Weld County as the recipient of CDBG funds, and the Colorado State Historic Preservation Officers (SHPO) stipulates what work may be done in the Town of Firestone's home rehabilitation program without additional reviews by not only SHPO but Indian tribes or the Advisory Council on Historic Preservation (ACHP).

Weld County consulted with these agencies and held a comment period to accept any comments in regard to the home rehabilitation program in the Town of Firestone. No comments were provided, and no further action is required outside of the programmatic agreement stipulations.

HISTORY AND PREVIOUS BOARD ACTION

There are no known previous home rehabilitation program efforts in the Town of Firestone.

RECOMMENDATION

Staff recommends approval of Resolution No. 23-01.

ALTERNATIVES

ATTACHMENTS

1. Resolution 23-01
2. Programmatic Agreement

FINANCIAL CONSIDERATIONS

RESOLUTION NO. 23-01

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE,
COLORADO, APPROVING THE PROGRAMMATIC AGREEMENT BETWEEN
WELD COUNTY THE TOWN OF FIRESTONE AND THE COLORADO STATE
HISTORIC PRESERVATION OFFICER REGARDING THE WELD COUNTY
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

WHEREAS, Weld County as a recipient and the Town of Firestone as a sub-recipient of Weld County Housing and Urban Development (“HUD”) Community Development Block Grant (“CDBG”) funds are subject to the requirements of Section 106 of the National Historic Preservation Act of 1966, (“Act”) as amended and the regulations pursuant to 36C.F.R. 800.14 implementing the Act, which includes protections for federally recognized tribes; and

WHEREAS, Weld County and the Town of Firestone have determined that the Parties CDBG Minor Rehabilitation Program may affect Historic Properties subject to the Act and its Regulations; and

WHEREAS Weld County and the Town of Firestone have consulted with the Federal Advisory Council on Historic Preservation and agreed to enter into a Programmatic Agreement with the Colorado State Historic Preservation Officer to ensure that the CDBG Minor Rehabilitation Program will be administered in compliance with the Act and its Regulations.

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

The Programmatic Agreement by and between the County of Weld, Colorado the Town of Firestone, Colorado and the Colorado State Historic Preservation Officer Regarding the Administration of U.S. Department of Housing & Urban Development Programs is approved in substantially the same form as the copy attached hereto and made a part of this Resolution and the Mayor is authorized to execute the Agreement on behalf of the Town.

INTRODUCED, READ AND ADOPTED this __ day of _____, 2023.

TOWN OF FIRESTONE, COLORADO

Drew Alan Peterson, Mayor

ATTEST:

APPROVED AS TO FORM:

Kristi K. Bashor, Town Clerk

William P. Hayashi, Town Attorney



WELD COUNTY COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

PROGRAMMATIC AGREEMENT

By and Between:

WELD COUNTY, COLORADO

THE

TOWN OF FIRESTONE, COLORADO

AND THE

COLORADO STATE HISTORIC PRESERVATION OFFICER

**Regarding the Administration of
U.S. Department of Housing & Urban Development Programs**

January 2023

Programmatic Agreement by and Between
The County of Weld, Colorado
the
The Town of Firestone, Colorado
and
The Colorado State Historic Preservation Officer
Regarding the Administration of
U.S. Department of Housing & Urban Development Programs

This Programmatic Agreement ("Agreement") is made this ___ day of ___, 2023, by and among the County of Weld, Colorado ("County"), the Town of Firestone, Colorado ("Town"), and the Colorado State Historic Preservation Officer ("SHPO").

WHEREAS, the U.S Department of Housing and Urban Development ("HUD") provides formula grant funding to cities and counties in Colorado and to the State of Colorado; and

WHEREAS, the County is an Entitlement Community and receives funding from the HUD's programs and the Town is a sub-recipient; and

WHEREAS, due to its acceptance of federal environmental review responsibility, in accordance with Section 104(g) of the Housing and Community Development Act of 1974 [(42 U.S.C. 5304(g)], the County has assumed federal agency responsibility for compliance with Section 106 of the National Historic Preservation Act of 1966, as amended [(54 U.S.C. 100101 et seq.) (Section 106)]; and

WHEREAS, the County now, or in the future, administers HUD grant programs which include but are not limited to, the following program ("HUD Programs"):

Community Development Block Grant ("CDBG")

WHEREAS, the County and the Town has determined implementation of the HUD Programs

may include housing activities such as minor rehabilitation (multiple undertakings), energy efficiency retrofits, weatherization, emergency home repairs, demolition and new construction, which may have an effect on properties included in or eligible for inclusion in the National Register of Historic Places (“Historic Properties”); and

WHEREAS, the County has determined that certain activities funded by the HUD Programs have limited potential to affect Historic Properties and have consulted with the SHPO and the Advisory Council on Historic Preservation (ACHP) pursuant to 36 C.F.R. 800.14 of the regulations implementing Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470f); and

WHEREAS, the County and acknowledges the importance of compliance with 36 C.F.R. Part 800 regarding mandatory consulting and has implemented policies and procedures regarding such consultation with the SHPO; and

WHEREAS, pursuant to 36 C.F.R. 800.14(b) the County notified the ACHP of its intentions to enter into a programmatic agreement and submit this Agreement for review and consultation. The ACHP responded on December 9, 2022 that they did not believe their participation in the Section 106 process for this Programmatic Agreement was needed; and

WHEREAS, pursuant to 36 C.F.R. 800.14(b) on November 23, 2022, the County consulted with the appropriate Tribal contacts regarding this Agreement. A thirty (30) day comment period was given for any comments regarding the Agreement. The County received no comments. The County shall consult with Indian Tribes that attach traditional religious and cultural significance to historic properties that may be affected by the County and the Town undertakings. The County recognizes the unique legal and political relationship the United States Government has with federally recognized Indian Tribes, including government-to-government relationships, and consultation responsibilities as set forth in 36 C.F.R. Part 800, et al.

NOW, THEREFORE, the County, the Town, and the SHPO agree that HUD Programs shall be administered in accordance with the following stipulations to satisfy the Section 106 responsibilities of the County, Town, and HUD.

STIPULATIONS

EXEMPTED AND NON-EXEMPTED ACTIVITIES

A. Exempted Activities Not Requiring Review

The following proposed undertakings have limited potential to affect historic properties and may be approved by the County and/or HUD without further consultation with the SHPO, Indian Tribes, or the ACHP.

For purposes of this agreement, the term "in-kind replacement" is defined as installation of a new element that duplicates the material, dimensions, configuration and detailing of the original element. The duplication may take into account technical advances in materials and design while maintaining or exceeding the durability, appearance, and function of the original elements, while also meeting required energy conservation standards and/or in accordance with mandated health and safety requirements (i.e. lead hazard mitigation or building code egress requirements).

1. General

- a. Projects on buildings less than fifty (50) years old;
- b. Projects on buildings fifty years or older but that have been determined by the SHPO within the past five years (as of the date listed above) as not eligible for the National Register of Historic Places;
- c. Projects not affecting the exterior of a building or site work located in listed or determined National Register-eligible historic districts will follow consultation stipulated in 36 CFR 800.
- d. Refinancing; or
- e. Leasing without rehabilitation or construction.

2. Site Work (In the event of discovery of historic or prehistoric archaeological resources during ground disturbing activities, work should stop immediately and shall not recommence until consultation with the SHPO is completed)

- a. Installation or in-kind repair of retaining walls, driveways, curbs and gutters, and parking areas. However, repair of existing rock retaining walls is not an exempt undertaking.
- b. Installation or in-kind repair/replacement of brick or stone sidewalks and alleys.
- c. In-kind repair/replacement of site improvements, including but not limited to, fences, retaining walls, landscaping and steps not attached to any building.
- d. Installation, repair or replacement of gas, sanitary and storm sewer, water, electrical, cable or underground utilities within previously developed land

and public right-of-way.

- e. Installation, repair or replacement of park and playground equipment, excluding buildings.
- f. Installation of temporary construction-related structures such as scaffolding, screening, fences, protective walkways or dust hazard containment enclosures.
- g. Installation or repair of streets, curb, gutter, and sidewalks within public right-of-way.
- h. Shallow ground disturbance of previously disturbed soil to a depth of twelve (12) inches or less, over one (1) acre or less (i.e. landscaping).
- i. Removal and disposal of superficial on-site abandoned debris and personal property less than fifty (50) years old.
- j. Site clean-up including trimming trees or other plantings and planting native grasses, shrubs, bushes, and trees, provided such activity does not change the characteristic size or shape of the tree(s) or planting(s), and replacement of dead trees or other plantings with in-kind species.
- k. Projects involving underground utilities installed by plow on, or immediately parallel to, the previously disturbed road or highway right-of-way where the cable, pipe or line will:
 - i. Be on or within five (5) feet of the edge of the right-of-way;
 - ii. Be in cultivated land, or in open areas where no tree clearing is needed; and
 - iii. Not affect wetlands, rock outcroppings or human constructions such as stone walls.
- l. Placement of transformers, utility pedestals, or water meters immediately adjacent to installed utility lines.
- m. Decommissioning, plugging and infilling abandoned wells, shafts, and basements when the backfilling does not remove or destroy supporting walls or character defining elements. The feature should be filled but not obliterated. Structural characteristics such as well houses and support walls should be preserved.
- n. Temporary installation of water, sewer or gas lines on the surface of the ground.
- o. Construction of new ancillary facilities adjacent or appurtenant to existing above-ground facilities constructed for replacement of water wells.
- p. Repair or reconstruction of above-ground water storage facilities not involving modification in height or new ground disturbance for the installation of footings or foundation pads.

- q. Test Holes and Wells - soil borings and associated tests or drilling exploratory test wells that do not require a temporary or permanent new access road to a site and would not occur on previously undisturbed soils.
- r. In-kind repair or replacement of hardscaping such as paving, driveways, parking lots, walkways, planters, trellises, irrigation systems, and lighting following the existing or historic configuration and with in-kind material.
- s. In-kind repair or replacement of fencing and other freestanding exterior walls not 50-years old or older.
- t. Resurfacing of recreational facilities (e.g. tennis courts, basketball courts or street hockey arenas).
- u. Upgrading existing telecommunications towers where no height increases are proposed and where the same or substantially equivalent support structure will be utilized at the existing tower location.
- v. Repair or replacement of existing wires, anchors, cross-arms and other miscellaneous hardware on existing overhead lines, and of existing poles when conducted at or immediately adjacent to the old pole locations.
- w. Relocation of existing overhead lines or cables resulting from highway reconstruction or improvement adjacent to the new highway easement.
- x. Repair or replacement of subsurface water, sewer, natural gas, electric or telecommunications lines within previously road right-of-way or utility corridors. However, this does not include water and sewer lines over 50-years old.
- y. Modifications to existing water, sewer, natural gas distribution, electric or telecommunication facilities where no new above-ground structures are involved and the area where such modifications will occur has been substantially disturbed. However, this does not include water and sewer lines over 50-years old.
- z. Repair of existing mechanical or electrical systems if no alterations of character defining features are required in the work plan and the work follows existing pathways. Installation of mechanical equipment which does not affect the exterior of the building or the required installation on new duct work through the interior. Plumbing work limited to upgrading or in-kind replacement. In the case of new plumbing, work shall be situated within existing stud and joist cavities.

3. Exterior Rehabilitation

- a. Installation of exterior storm windows and storm doors, provided they conform to the shape and size of the historic windows and doors, and the meeting rails of storm windows coincide with that of the existing sash.
- b. Removal of exterior paint by non-destructive means, provided the removal

method on buildings and components is consistent with the provisions of the HUD Office of Healthy Homes and Lead Hazard Control (see 24 CFR Part 35) and the Environmental Protection Agency (EPA) Lead- Based Paint Renovation, Repair and Painting Program- RRP (40 CFR Part 745).

- c. Application of exterior paint and caulking other than on previously unpainted masonry.
- d. All lead-based paint abatement or mitigation not involving the removal or alteration of exterior features and/or windows.
- e. Repair or partial in-kind replacement (or adding of matching, in-kind elements for safety/code requirements) of existing porch elements such as columns, flooring, floor joists, ceilings, railings, balusters and balustrades, and lattice.
- f. Maintenance, repair, strengthening, and in-kind replacement to code of roofing shingles, roof cladding and sheeting, gutters, downspouts and soffits with no change in roof pitch or configuration.
- g. Weatherizing of historic doors and windows, including caulking, insulation and weather stripping of existing frames, and installation of clear glass in historic sashes.
- h. Placement and installation of exterior HVAC mechanical units, vents, and exterior electrical and plumbing modifications not on the front elevation of the building.
- i. Installation, replacement or repair of basement bulkhead doors.
- j. Installation of additional decorative or security lights, or other security fixtures (e.g. sensors, alarms) as long as the installation does not damage historic material.
- k. Securing or mothballing a property by boarding over window and door openings, making temporary roof repairs and/or ventilating the building.¹
- l. Testing for removal of any hazardous materials, such as lead paint and asbestos, provided it does not involve the removal or destruction of character-defining features.
- m. Construction of temporary wooden ramps to one entrance of a given structure. The ramps shall not be attached to the selected building; and the ramps shall not damage the existing material.
- n. Installation of wheelchair ramps on secondary elevations meeting code as long as the ramps can be easily removed and are not permanently affixed to the building. Stairs and railings may not be removed to construct a ramp.

¹ See the National Park Service publication "*Preservation Brief 31: Mothballing Historic Buildings*" by Sharon C. Park, AIA, September 1993, ISSN: 0885-7016.

- o. Installation of accessibility tools such as railings and grab bars as long as they can be easily removed and are not permanently affixed to the building.
- p. Strengthening of foundations and the addition of foundation bolts, provided the visible new work is in-kind.
- q. Power washing of exterior features if performed at no more than 600 psi with mild detergent. Refer to national Park Service (NPS) "Preservation Brief #6: Dangers of Abrasive Cleaning to Historic Buildings".
- r. Installation of ridge vents or louver type soffit vents, provided existing styles, dimensions, materials, colors and sheens are maintained.
- s. Fascia/soffit repair or replacements when the new fascia/soffit will be of the same dimensions, configuration, design and material as the original.
- t. In-kind repair or reconstruction of concrete/masonry walls, parapets, fireplaces, chimneys or cornices including comparable brick and mortar that matches the color, strength, content, rake and joint width. Bracing and reinforcing of chimneys and fireplaces, provided the bracing and reinforcing are either concealed from exterior view or removable in the future.
- u. In-kind repair or partial in-kind replacement of porches, cornices, exterior siding, doors, balustrades, stairs, or other trim when the repair and replacement is done to closely match existing material and design.
- v. In-kind repair or historic door and window hardware.
- w. Installation of wood storm windows and doors that match the dimensions and arrangement of the lines of the primary sashes and/or doors.
- x. Installation of security devices such as dead bolts, door locks, window latches and door peepholes.
- y. Repair of existing, deteriorated materials with sound material of like species, grade, dimension, composition, and finish in a manner which duplicates the existing design of the deteriorated feature.
- z. Repainting painted surfaces with chemically compatible paint in the historic colors.

4. Interior Rehabilitation

- a. Installation, replacement, upgrade or repair of plumbing (including non-historic bath and kitchen fixtures, cabinetry and appliances), HVAC systems and units, electrical and fire protection systems, provided no structural alterations are involved.
- b. Repair or partial in-kind replacement of historical interior surface treatment such as floors, walls, ceilings, plaster and woodwork. If covering historic features, such as wood floors, carpet and other flooring shall be installed in a reversible manner (i.e. tacking or with an underlayment so historic floors

shall not be irreversibly damaged).

- c. Blown in installation in ceilings, walls, and attic spaces, or interior insulation of basement or crawlspace areas.
- d. Restroom/bathroom improvements for accessibility, including doorways, provided the work is contained within the existing restroom/bathroom walls.
- e. Installation or repair of concrete basement floor in an existing basement.
- f. Structural repairs to sustain the existing structure that does not alter the existing building configuration.
- g. Lead, asbestos, or other hazardous material abatement, remediation or mitigation that does not involve removal or alteration of interior historic features.
- h. Widening of existing interior doorways for accessibility.
- i. Correcting structural deficiencies in basements, crawl spaces, and beneath porches and decks.
- j. Interior lead-based paint abatement when it is limited to washing, scraping and repainting, wallpapering and chemical stripping of lead-painted surfaces. The installation of new window jambs or jamb liners, installation of metal panning in window wells and the replacement of non-significant flat stock trim. Exterior lead-based paint abatement which includes scraping and repainting of exterior wood and masonry surfaces.
- k. Installation of grab bars and other minor interior modifications for disabled accessibility.
- l. l. Replacement of in-kind insulation systems, provided that decorative interior plaster, woodwork, or exterior siding is not altered. Installation of insulation in the attic, basement, crawl space, under floor, in walls, and around pipes and ducts in such cases where the installation can be accomplished without permanent visual changes to the character defining features of the exterior or interior. Refer to NPS "Preservation Bulletin #3: Conserving Energy in Historic Buildings".
- m. Repairing, replacing, retaining, preserving, protecting or maintaining the in-kind materials or features of historic interior floors, walls, ceilings, stairs, plaster and wallboard; floor refinishing and the replacement of non-historic flooring materials.
- n. Repairing and retaining non-significant interior historic trim including moldings, doors, baseboards, chair rails, wainscoting, paneling, cornice trim, fireplace mantels, stair balusters, newel posts, window and door casings and other decorative features or replacement of non-significant flat stock trim.
- o. Repair, replacement and installation of the following systems, provided such work does not affect the exterior of the building or require the installation of

new ducts throughout the interior: electrical work, plumbing pipes and fixtures; HVAC system improvements; installation of fire and smoke detectors; fire suppression (i.e. security alarm systems, ventilation systems, furnaces and water heaters); and bathroom improvements where work is contained within the existing building.

5. Loan Making and Servicing Activities

- a. The legal transfer of ownership between private parties through acquisition, sale, transfer, and/or assumption of an existing property where no physical improvements or change in use is proposed or is reasonably foreseeable.
- b. Technical assistance or predevelopment grants provided the services will not result in an adverse effect on a property listed in, or eligible for, listing to the National Register of Historic Places. These grants are typically used for planning, feasibility studies, engineering studies, environmental reviews, managing and other service types of assistance. These programs involve no construction or real property acquisition.
- c. Intermediary relending programs to intermediary lenders.
- d. Loans or grants not involving any construction. These types of activities include loans and grants for equipment, working capital, debt restructure, emergency vehicles, motor vehicles and/or servicing activities.
- e. Project management activities relating to invitations for bids and contract awards.
- f. Project management of construction activities.
- g. Additional financial assistance that does not alter the purpose, operation, location or design of an approved project.

B. Non-Exempted Activities Requiring Review

All activities not identified in STIPULATIONS – Section A of this Agreement must be reviewed in accordance with 36 CFR Part 800.

C. Resolution of Adverse Effects

Unless an undertaking is exempted as set forth in Section A of this Agreement, the Town shall consult with the SHPO to evaluate alternatives or modifications to the undertaking that could avoid, minimize or mitigate adverse effects on historic properties pursuant to 36 C.F.R. 800.6(a). The Town shall also consult Indian Tribes that attach traditional religions and cultural significance to historic properties that may be affected by the undertakings.

D. Annual Report

By January 31st of each year under this Agreement, the County will file a report on projects completed in the previous year to the SHPO which will include project addresses, year built, nature of the work, and referencing the appropriate exempted activity as detailed in

DISCOVERIES AND UNFORESEEN EVENTS

If, during the implementation of the programs, a previously unidentified property that may be eligible for inclusion in the National Register is encountered, or a known National Register historic property may be affected in an unanticipated manner, the County will assume responsibilities pursuant to 36 C.F.R. Part 800 .13(b).

AMENDMENTS

Any party may request to amend this Agreement, whereupon the County will consult with the other interested parties in accordance with 36 C.F.R. Part 800.14(b) to consider an amendment. Amendments will only be considered if made in writing and must be approved in writing by all parties to this Agreement to go into effect.

TERMINATION

Any party to this Agreement may terminate its participation by providing thirty (30) days written notice to all other parties. In the event of termination, the terminating party will comply with 36 C.F.R. Part 800.3 through 800.7 with respect to individual undertakings covered by this Agreement. This Agreement will be binding on all parties upon the date of its signatures and shall be in force for a term of five (5) years thereafter, unless the parties agree to extend it in accordance to the AMENDMENTS section above.

NOTIFICATION

Notification or other communication between parties to this Agreement should be made in care of the addresses provided in Exhibit A.

EXECUTION AND IMPLEMENTATION

This Agreement evidences the County and the SHPO have satisfied their responsibilities under Section 106 for undertakings funded by the HUD programs. This Agreement may be executed in counterpart.

Signed:

COLORADO STATE HISTORIC PRESERVATION OFFICE

By: _____

Date: _____

Printed Name and Title:

COUNTY OF WELD, COLORADO

By: _____

Date: _____

Scott James, Chair, Weld County Commissioners

Approved as to form:

By: _____

Bruce Baker, County Attorney

Date: _____

Attest:

By: _____

Esther Gesick, Weld County Clerk to the Board

Date: _____

TOWN OF FIRESTONE, COLORADO

By: _____

Drew Peterson, Mayor

Date: _____

Approved as to form:

By: _____

William P. Hayashi, Town Attorney

Date: _____

Attest:

By: _____

Kristi K. Bashor, Town Clerk

Date: _____

AGENDA INFORMATION MEMORANDUM

FIRESTONE TOWN BOARD OF TRUSTEES



AIM#: 10.b

Discussion/Action

Meeting Date: January 11, 2023

Initiated By: Julie Pasillas

Dept: Public Works

AGENDA TITLE

Resolution 23-13: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, ACTING BY AND THROUGH ITS WATER ACTIVITY ENTERPRISE, APPROVING THE AMENDMENT TO THE NATIVE WATER CREDIT PURCHASE AGREEMENT BETWEEN THE TOWN OF FIRESTONE THE BLACKBURN COMMUNITIES LLC

SUMMARY

The proposed Amendment extends the Native Water Credit Purchase closing date to March 2, 2023. The extension corresponds with the new closing date on the land; a performance obligation of the Native Water Credit Purchase Agreement.

HISTORY AND PREVIOUS BOARD ACTION

On September 28, 2022, the Board approved Resolution 22-100, a resolution approving the execution of the Native Water Credit Purchase Agreement between the Town of Firestone and Blackburn Communities, LLC, to purchase 84 Native Water Credits from the Town to satisfy the water dedication requirement for development in the Town of Firestone.

RECOMMENDATION

Staff recommends approval of Resolution 23-13, a resolution approving the Amendment to the Native Water Credit Purchase Agreement between the Town of Firestone and Blackburn Communities, LLC.

ALTERNATIVES

The Board may choose not to approve Resolution 23-13 and provide staff with additional direction.

ATTACHMENTS

1. Res 23-13 Amendment to Native Water Credit Purchase Agreement
2. Amendment to Native Water Credit Agreement
3. Agreement Water Activity Enterprise Blackburn Communities, LLC. Native Water Credit Purchase 09-28-2022

FINANCIAL CONSIDERATIONS

Blackburn Communities, LLC has paid the Native Water Credit Purchase amount to the Town in accordance with obligations under the Purchase Agreement. If the Board chooses not to approve the resolution approving additional time, the Town will be required to refund the amount paid per Recital 5 of the agreement.

RESOLUTION NO. 23-13

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF
FIRESTONE, COLORADO, ACTING BY AND THROUGH ITS WATER
ACTIVITY ENTERPRISE, APPROVING THE AMENDMENT TO THE NATIVE
WATER CREDIT PURCHASE AGREEMENT BETWEEN THE TOWN OF
FIRESTONE AND BLACKBURN COMMUNITIES LLC**

WHEREAS, upon adoption of Resolution No. 22-100 the Town of Firestone (“Firestone”) approved a Native Water Credit Purchase Agreement (“Purchase Agreement”) with Blackburn Communities LLD (“Buyer”) which allows Buyer to purchase Native Water Credits from Firestone in satisfaction of Buyer’s raw water dedication requirements set forth in the Firestone Municipal Code; and

WHEREAS, the Purchase Agreement sets certain deadlines for certain actions to be taken in the process of dedicating the Native Water Credit’s to Firestone; and

WHEREAS, Buyer was scheduled to close on the Property (as defined in the Purchase Agreement) on or before December 26, 2022; and

WHEREAS, the Purchase Agreement provides that if Buyer had not completed the purchase of the Property by December 26, 2022, Firestone could buy back the water credits by remitting the Purchase Price to Buyer; and

WHEREAS, the Parties wish to amend the Purchase Agreement to extend the deadline for Buyer to close on the Property to March 2, 2023 .

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

The Amendment to the Native Water Credit Purchase Agreement between the Town of Firestone, acting by and through its Water Activity Enterprise, and Blackburn Communities, LLC , is approved in substantially the same form as the copy attached hereto and made a part of this resolution, and the Mayor is authorized to execute the Amendment to the Native Water Credit Purchase Agreement on behalf of the Town of Firestone.

INTRODUCED, READ, AND ADOPTED this 11th day of January, 2023.

TOWN OF FIRESTONE, COLORADO

Drew Alan Peterson, Mayor

ATTEST:

Kristi Bashor, Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

**AMENDMENT
TO NATIVE WATER CREDIT PURCHASE AGREEMENT**

THIS AMENDMENT TO NATIVE WATER CREDIT PURCHASE AGREEMENT (“Amendment”) is entered into by and between the Town of Firestone acting by and through its Water Activity Enterprise (“Firestone”) and Blackburn Communities, LLC whose address is 310 Enterprise Dr., Oxford, MS 38655 (“Buyer”). Firestone and Buyer may be referred to collectively herein as the “Parties”. In this regard, the Parties hereby agree as follows:

WITNESSETH

Firestone and Buyer entered into a Native Water Credit Purchase Agreement (“collectively the “Purchase Agreement”) dated September 28, 2022 which allows Buyer to purchase Native Water Credits from Firestone in satisfaction of Buyer’s raw water dedication requirements to the Firestone Municipal Code; and

WHEREAS, the Purchase Agreement sets certain deadlines for certain actions to be taken in the process of dedicating the Native Water Credit’s to Firestone; and

WHEREAS, Buyer was scheduled to close on the Property (as defined in the Purchase Agreement) on or before December 26, 2022; and

WHEREAS, the Purchase Agreement provides that if Buyer had not completed the purchase of the Property by December 26, 2022, Firestone could buy back the water credits by remitting the Purchase Price to Buyer; and

WHEREAS, the Parties wish to amend the Purchase Agreement as described herein to extend the deadline for Buyer to close on the purchase of the Property.

NOW, THEREFORE, for and in consideration of the mutual promises set forth, and other good and valuable consideration, which is hereby acknowledged and receipted for, Firestone and Buyer agree as follows:

1. The recitals above are hereby incorporated as if fully restated herein.
2. Buyer has paid the Native Water Credit Purchase amount, in accordance with its obligations under the Purchase Agreement.
3. The Parties agree to extend the deadline for Buyer to close on the Purchase of the Property up to and including March 2, 2023.
4. Except as modified by this Amendment, the terms of the Purchase Agreement remain in full force and effect, including the notice provisions described in Paragraph 5 of the Purchase Agreement, subject to the amended date of March 2, 2023.
5. In the event of any inconsistencies between the terms and provisions of this Amendment and those set forth in the Purchase Agreement, the terms and conditions of this

Amendment shall control in all instances. Capitalized terms not otherwise defined in this Amendment shall have the meaning attributed to those terms in the Purchase Agreement. Except as set forth in this Amendment, the Purchase Agreement is ratified and acknowledged by the parties to be in full force and effect. This Amendment may be executed counterparts, each of which shall be deemed an original, all of which together shall constitute one and the same instrument. Executed copies of this Amendment may be delivered by email or facsimile and the parties hereto agree to accept and be bound by electronic or facsimile signatures hereto.

TOWN OF FIRESTONE

By: _____
Name: _____
Title: _____

BLACKBURN COMMUNITIES, LLC

By: David Blackburn
David Blackburn (Dec 27, 2022 16:04 MST)
Name: David B. Blackburn
Title: Manager

Amendment to Native Water Credit Agreement

Final Audit Report

2022-12-27

Created:	2022-12-27
By:	Andrew Ritter (aritter@blackburngroup.net)
Status:	Signed
Transaction ID:	CBJCHBCAABAARGt1DAvduuPWSZifkXsMf5odSbcNKFfh

"Amendment to Native Water Credit Agreement" History



Document created by Andrew Ritter (aritter@blackburngroup.net)

2022-12-27 - 8:35:57 PM GMT- IP address: 50.86.137.2



Document emailed to David Blackburn (dblackburn@blackburngroup.net) for signature

2022-12-27 - 8:36:14 PM GMT



Email viewed by David Blackburn (dblackburn@blackburngroup.net)

2022-12-27 - 11:04:25 PM GMT- IP address: 174.198.136.12



Document e-signed by David Blackburn (dblackburn@blackburngroup.net)

Signature Date: 2022-12-27 - 11:04:53 PM GMT - Time Source: server- IP address: 174.198.136.12



Agreement completed.

2022-12-27 - 11:04:53 PM GMT



Adobe Acrobat Sign

NATIVE WATER CREDIT PURCHASE AGREEMENT

This Native Water Credit Purchase Agreement ("Agreement"), made and entered into this 28 day of September, 2022 ("Effective Date"), by and between the Town of Firestone acting by and through its Water Activity Enterprise ("Firestone") and Blackburn Communities, LLC whose address is 310 Enterprise Dr., Oxford, MS 38655 ("Buyer");

RECITALS

WHEREAS, the Firestone Municipal Code ("Code") requires land developers to agree to dedicate a certain amount of "water rights" and/or "shares" before annexing new land into Firestone; and

WHEREAS, pursuant to the Code, a land developer must actually dedicate "water rights" and/or "shares" in payment of water connection charges and before recording a subdivision plat and/or receiving a building permit; and

WHEREAS, Buyer is a land use applicant who has agreed to dedicate "water rights" and/or "shares" to Firestone pursuant to an Annexation Agreement dated December 10, 1998 ("Annexation Agreement"), and must actually dedicate those "water rights" and/or "shares" prior to recording a final subdivision plat or receiving a building permit; and

WHEREAS, on or before December 26, 2022, Buyer expects to become the owner of certain lands within the Town of Firestone, as more fully described and depicted on Exhibit 1 (the "Property"), which Buyer is seeking to develop; and

WHEREAS, Buyer has need for additional "water rights" and/or "shares" to fulfill Buyer's water dedication requirements for the planned development on the Property; and

WHEREAS, Firestone owns certain water rights, which it has offered to Buyer in the form of Native Water Credits to assist Buyer in achieving Buyer's water dedication requirements pursuant to the Code; and

WHEREAS, Buyer is interested in purchasing the Native Water Credits from Firestone as set forth in this Agreement; and

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing Recitals and the mutual agreement, and promises set forth herein, the receipt and sufficiency of which are hereby acknowledged by both Parties, the Parties agree as follows:

I. Recitals. The foregoing Recitals are incorporated herein as if fully set forth.

2. Native Water Credits. A "Native Water Credit" shall be equivalent to one acre-foot of water as needed for Buyer's water dedication requirements pursuant to the code. The Native Water Credits are derived from water rights which are currently owned by Firestone. The Native Water Credits shall be used solely for Buyer's water dedication requirements as described herein and shall not survive termination of this Agreement by either party.

3. Purchase Price. Buyer agreed to pay the Purchase Price for 84 Native Water Credits purchased, for a total Purchase Price of \$3,700,000.00. The Purchase Price is due and payable within sixty-three (63) days of the Effective Date of this Agreement.

4. Dedication. The Native Water Credits purchased by Buyer herein shall be deemed automatically dedicated to Firestone, at the execution of this Agreement, to fulfill the water dedication requirement necessary for Buyer to obtain a final plat for the Property.

5. Buy Back of Native Water Credits. Buyer, and/or its successors and assigns, are currently under contract for the purchase of the Property and Buyer expects to close on the Property on or before December 26, 2022. Firestone and Buyer hereby acknowledge and agree that in the event Buyer, its successors or assigns, do not close on the Property on or before December 26, 2022, Firestone shall buy back the Native Water Credits being the subject of this Agreement for the entirety of the Purchase Price provided herein. In this regard, if Buyer does not close on the Property on or before December 26, 2022, Buyer shall notify Firestone of the same within seven (7) days of such occurrence. Firestone shall have thirty (30) days from the receipt of said notice to buy back the Native Water Credits from Buyer by refunding the Purchase Price to Buyer or grant an agreed upon extension by both parties that would coincide with new closing date on the property. If buy back of the Native Water Credits from the Buyer by refunding the Purchase Price to Buyer is successful, at which time this Agreement shall be terminated in its entirety.

6. No Assignment. This Agreement, and dedication of Native Water Credits provided herein shall not be assigned by Buyer without written approval from Firestone. The Native Water Credits described herein are non-transferable and may only be assigned due to a sale or conveyance of the Property by Buyer or otherwise upon written approval by Firestone. If unforeseen circumstances occur that result in Buyer needing less than all of the Native Water Credits acquired by this Agreement for the final plat of the Property, Buyer hereby agrees that the Native Water Credits shall automatically void upon recordation of a final plat for the Property. If any Native Water Credits are voided due to recordation of final plat of the Property, Firestone shall remit the equivalent of the Purchase Price for each Native Water Credit voided to Buyer.

7. No Third Party Beneficiary Status. Nothing in this Agreement shall be construed as assigning all or any portion of any agreement in which Firestone is a party nor any of the benefits derived therefrom.

8. Entire Agreement. This Agreement represents the complete agreement between the Parties and no oral modification shall be recognized. Any amendment or additions shall be made in writing signed by both parties.

9. Severability. If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

10. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, administrators, successors and assigns.

11. Jurisdiction and Venue. This Agreement shall be governed and its terms construed under the laws of the State of Colorado and venue shall be in the County of Weld.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date and year first above written.

TOWN OF FIRESTONE, acting
by and through its Water Activity
Enterprise

By:

Frank A. Jimenez
Print:

Mayor Pro Tem
Title:

BLACKBURN COMMUNITIES, LLC

By:

David B. Blackburn
Print:

Manager
Title:

AGENDA INFORMATION MEMORANDUM

FIRESTONE TOWN BOARD OF TRUSTEES



AIM#: 10.c

Discussion/Action

Meeting Date: January 11, 2023

Initiated By: Julie Pasillas

Dept: Public Works

AGENDA TITLE

Resolution 23-14: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, ACTING BY AND THROUGH ITS TOWN OF FIRESTONE WATER ACTIVITY ENTERPRISE APPROVING THE FILING OF A WATER COURT APPLICATION FOR FIRESTONE RESERVOIR NO. 3

SUMMARY

The resolution directs counsel and staff to file an application in Water Court to appropriate a water right for storage in Firestone Reservoir No. 3. The Town will also seek a decree confirming the water right for Firestone Reservoir No. 3 by filing an application with the Division One Water Court.

HISTORY AND PREVIOUS BOARD ACTION

The Board approved Resolution 22-98, approving the Purchase and Sale Agreement with L.G. Everist Inc. for the purchase of Firestone Pit, known as Firestone Reservoir #3, and 3 1/6 shares of the Last Chance Ditch Company.

RECOMMENDATION

Staff recommends that the Board approve Resolution 23-14, a resolution directing Counsel and Staff to file an application in Water Court for Firestone Reservoir No. 3 and shares of Last Chance Ditch Company.

ALTERNATIVES

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

ATTACHMENTS

1. Res 23-14 Approving Firestone Res 3 Application
2. Firestone Res 3 Application

FINANCIAL CONSIDERATIONS

The Water Fund will fund the cost associated with filing the Water Rights Application in Water Court. In 2023, \$200,000.00 was budgeted for the anticipated cost.

RESOLUTION NO. 23-14

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, ACTING BY AND THROUGH ITS TOWN OF FIRESTONE WATER ACTIVITY ENTERPRISE APPROVING THE FILING OF A WATER COURT APPLICATION FOR FIRESTONE RESERVOIR NO. 3

WHEREAS, Pursuant to Resolution No. 22-98, dated and adopted August 10th, 2022, Firestone entered into a Purchase and Sale Agreement with L.G. Eversit Incorporated (“LGE”) for the purchase of a certain parcel of land located in Section 32, Township 3 North, Range 67 West, 6th P.M., Weld County, Colorado (“Property”) as well as certain shares of stock in the Last Chance Ditch Company represented by Stock Certificate Nos. 80, 81 and 83 historically used on the Property; and

WHEREAS, Pursuant to the Purchase and Sale Agreement, LGE will develop a lined water storage reservoir on the Property known as the Firestone Pit, also known as Firestone Reservoir No. 3; and

WHEREAS, the Board of Trustees finds it in the best interest of the Town of Firestone and its citizens to appropriate a water right for the storage of water in the Firestone Reservoir No. 3 and seek a decree confirming the water right for Firestone Reservoir No. 3 by filing an application with the Division One Water Court in substantially the same form as shown on the Application attached hereto and incorporated herein; and

WHEREAS, Firestone desires to appropriate water rights for appropriative rights of substitution and exchange on St. Vrain Creek to move water between its infrastructure projects; and

WHEREAS, prosecution of the aforementioned Application is consistent with the powers and authority of the Town of Firestone and the furtherance of the public interest.

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

1. The above Recitals and Findings of the Board of Trustees are hereby incorporated into this Resolution.
2. The Board of Trustees authorizes the filing of a Division One Water Court Application for Firestone Reservoir No. 3 and appropriative rights of substitution and exchange in substantially the same form as the copy attached hereto and made part of this Resolution.
3. The Town Manager and other officers, employees and agents of the Town are further authorized to do all things necessary and desirable on behalf of the Town to file the application and prosecute the same to completion.

4. All actions taken by the Town Manager, employees and agents of the Town in furtherance of the objectives set forth herein prior to the date of this resolution are hereby ratified and endorsed by the Board of Trustees.

PASSED AND ADOPTED this 11th day of January, 2023.

TOWN OF FIRESTONE, COLORADO

Drew Alan Peterson, Mayor

ATTEST:

APPROVED AS TO FORM:

Kristi Bashor, Town Clerk

William P. Hayashi, Town Attorney

DISTRICT COURT, WATER DIVISION 1, WELD COUNTY, COLORADO 901 9 th Ave. P. O. Box 2038 Greeley, CO 80632	▲ COURT USE ONLY ▲
CONCERNING THE APPLICATION FOR WATER RIGHTS OF: TOWN OF FIRESTONE IN BOULDER AND WELD COUNTYIES.	
Bradley C. Grasmick, #35055 Wesley S. Knoll, #48747 David L. Strait, #52659 Lawrence Custer Grasmick Jones & Donovan, LLP 5245 Ronald Reagan Blvd., Suite 1 Johnstown, CO 80534 Telephone: (970) 622-8181 Email: brad@lcwaterlaw.com ; wes@lcwaterlaw.com ; dstrait@lcwaterlaw.com	Case No. 23CW_____
APPLICATION FOR CONDITIONAL WATER STORAGE RIGHT AND APPROPRIATIVE RIGHT OF EXCHANGE	

1. Name, mailing address and telephone number of Applicant. The Town of Firestone, 9950 Park Ave, CO 80504, (303) 833-3291.

CLAIM FOR CONDITIONAL WATER STORAGE RIGHT

2. Name of Reservoir: Firestone Reservoir No. 3.
 - 2.1. Location of structure: Firestone Reservoir No. 3 is located in Section 32, Township 3 North, Range 67 West, 6th P.M., Weld County, Colorado.
 - 2.2. Sources: Water tributary to the South Platte River from Boulder Creek, Idaho Creek, St. Vrain Creek and all drainages intercepted by the Rural Ditch and Last Chance Ditch, including Godding Hollow and Mayfield Hollow.

2.3. Points of Diversion:

2.3.1. The Last Chance Ditch Diversion Structure which diverts water from St. Vrain Creek in the SE ¼ of the NW ¼ Section 3, Township 2 North, Range 68, West of the 6th P.M., Weld County, Colorado.

2.3.2. The Rural Ditch Diversion which diverts water from Boulder Creek in the NE¼ of Section 20, Township 2 North, Range 68 West, 6th P.M., Weld County, Colorado.

2.3.3. Firestone Reservoir No. 3 Pump Station: to be located on the South Bank of the St. Vrain Creek in the NW ¼ of Section 32 Township 3 North, Range 67 West, 6th P.M., Weld County, Colorado.

3. Appropriation Date: The date of filing of this Application.

4. How Appropriation was Initiated: By the formation of intent to appropriate executing a purchase agreement for the water storage facility, and resolution by the Board of Trustees.

5. Amount Claimed: The following values are preliminary and are subject to modification upwards or downwards as the Applicant obtains additional information:

5.1. An initial fill of 7,264 acre-feet, conditional.

5.2. One annual refill up to 7,264 acre-feet, conditional.

5.3. The Last Chance Ditch Diversion: 50 cfs, conditional.

5.4. The Rural Ditch Diversion: 50 cfs, conditional.

6. Proposed Uses: Recreation and piscatorial uses within the storage cells; all beneficial uses of the municipal water system of Firestone as it currently exists or exists in the future, including, but not limited to, municipal, domestic, irrigation, commercial, industrial, recreation and wildlife, augmentation, recharge, replacement, exchange and storage for these purpose. Applicant claims the right to totally consume the consumable portion of the water, either by first use, successive use, or disposition. The water right may be used as source of substitution and replacement supply in the plans for augmentation, for replacing well depletions and return flows. The water right may be leased to others for use.

APPROPRIATIVE RIGHTS OF EXCHANGE

7. Description of exchange: Applicant seeks the adjudication of an appropriative right of exchange from the outflow of the St. Vrain Wastewater Treatment Plant to the Last Chance Ditch Diversion and the Rural Ditch Diversion.

- 7.1. Exchange from point: The outflow of the St. Vrain Wastewater Treatment Plant located in the SW ¼ of the NE ¼ of Section 31, Township 2 North, Range 67 West of the 6th P.M.
- 7.2. Exchange to points:
- 7.2.1. The Last Chance Ditch Diversion from the St. Vrain Creek in the SE ¼ of the NW ¼ Section 3, Township 2 North, Range 68, West of the 6th P.M., Weld County, Colorado.
- 7.2.2. The Rural Ditch Diversion from Boulder Creek in the NE¼ of Section 20, Township 2 North, Range 68 West, 6th P.M., Weld County, Colorado.
- 7.3. Sources of substitute supply: Fully consumable effluent available to the Town of Firestone, augmentation credits in excess of Firestone's replacement obligation, the Firestone Reservoir No. 3 storage water right claimed in this Application.
- 7.4. Amounts Claimed:
- 7.4.1. 50 cfs, conditional, for water exchanged through the Last Chance Ditch Diversion
- 7.4.2. 50 cfs, conditional, for water exchanged through the Rural Ditch Diversion.
8. Appropriation Date: The date of filing of this Application.
9. How Appropriation was Initiated: By the formation of intent to appropriate executing a purchase agreement for the water storage facility, and resolution by the Board of Trustees.
10. Proposed Uses: Water diverted by this exchange shall be used for all municipal uses including recharge and storage with the right to make successive use of the water to extinction, or disposition for all beneficial uses of the municipal water system of Firestone as it currently exists or exists in the future, including, but not limited to, municipal, domestic, irrigation, commercial, industrial, recreation, fish and wildlife, augmentation, replacement, exchange and storage for these purposes. Storage of the exchanged water shall be in any reservoir which can take delivery from the Rural and Last Chance Ditch systems, including Firestone Reservoir Nos. 1, 2 and 3.

APPROPRIATIVE RIGHT OF SUBSTITUTION

11. Description of the Substitution. At times Firestone's water storage right for Firestone Reservoir No. 3 is not in priority and there is water naturally flowing in the Last Chance Ditch which is not otherwise being delivered to a structure on the Last Chance Ditch, Firestone intends to divert such water in substitution for water that is legally and physically

available to Firestone in St. Vrain Creek where the Last Chance Ditch drains to St. Vrain Creek.

- 11.1. Diversion Point. The inlet to Firestone Reservoir No. 3 located in Sec. 32, Township 3 North, Range 67 West of the 6th P.M.
- 11.2. Sources of substitute supply: Fully consumable effluent available to the Town of Firestone in St. Vrain Creek, augmentation credits in excess of Firestone's replacement obligation in St. Vrain Creek.
- 11.3. Amount Claimed: 50 cfs, conditional at the inlet to Firestone Reservoir No. 3
12. Appropriation Date: The date of filing of this Application.
13. How Appropriation was Initiated: By the formation of intent to appropriate executing a purchase agreement for the water storage facility, and resolution by the Board of Trustees.
14. Proposed Uses: Water diverted by this substitution shall be used for all municipal uses including recharge and storage with the right to make successive use of the water to extinction, or disposition for all beneficial uses of the municipal water system of Firestone as it currently exists or exists in the future, including, but not limited to, municipal, domestic, irrigation, commercial, industrial, recreation, fish and wildlife, augmentation, replacement, exchange and storage for these purposes.
15. Names and addresses of owners of land on which structures are located:
 - 15.1. L.G. Everist, Inc., 7321 E 88th Ave., Suite 200, Henderson, CO 80640.
 - 15.2. Rural Ditch Company, 735 Bowen, Longmont, CO 80501.
 - 15.3. Last Chance Ditch Company, P.O. Box 119 Longmont, CO 80502-0119
 - 15.4. Acord St. Vrain Valley Ranch, LLC 7541 County Road 26 3/4, Longmont, CO 80504

DATED _____.

LAWRENCE CUSTER GRASMICK JONES & DONOVAN, LLP

Bradley C. Grasmick, #35055
Wesley S. Knoll, #48747
David L. Strait, #52659
Attorneys for Applicant

Pursuant to Rule 121, a printed or printable copy of the document bearing the original, electronic, or scanned signature is on file at the law offices of Lawrence Custer Grasmick Jones & Donovan, LLP

VERIFICATION

I declare under penalty of perjury under the law of Colorado that the foregoing is true and correct.

Executed on this _____ day of _____, 2022, at _____.
(date) (month) (year) (city or other location, and state or country)

Printed Name

Signature

The person signing this Verification is: __ Applicant, __ Engineer, __ Other _____.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on _____, a true and correct copy of the foregoing ____ was duly delivered to all parties of record via Colorado Courts E-Filing:

Pursuant to Rule 121, a printed or printable copy of the document bearing the original, electronic, or scanned signature is on file at the law offices of Lawrence Custer Grasmick Jones & Donovan, LLP

**AGENDA INFORMATION
MEMORANDUM**

**FIRESTONE
TOWN BOARD OF TRUSTEES**



AIM#: 10.d

Discussion/Action

Meeting Date: January 11, 2023

Initiated By: Raelynn Ferrera

Dept: Administration

AGENDA TITLE

Development Impact Fee Presentation

SUMMARY

Items that will be covered:

- Legal and Methodology
- Impact Fee Methodologies
- Development Projections
- Municipal Facilities
- Parks and Recreation
- Transportation

HISTORY AND PREVIOUS BOARD ACTION

RECOMMENDATION

ALTERNATIVES

ATTACHMENTS

None

FINANCIAL CONSIDERATIONS