



TOWN OF FIRESTONE
Board of Trustees Regular Meeting Agenda

February 14, 2024
6:30 PM

9900 Park Avenue, Firestone, CO 80504

Mayor Drew Peterson Mayor Pro Tem Frank A. Jimenez
Trustees: Don Conyac, Sean Doherty, Matt Holcomb, Doug Sharp and David Whelan

Board of Trustees Regular Meetings can be viewed live online at www.firestoneco.gov/Agendas

PRE-MEETING WORK SESSION 6:00 PM IN THE RICHARD E. HART TRAINING ROOM

THE AGENDA FOR THE PRE-MEETING WORK SESSION IS A DISCUSSION OF THE FOLLOWING REGULAR
MEETING AGENDA

REGULAR MEETING 6:30 PM IN THE MUNICIPAL COURT AND BOARD ROOM

1. **Call to Order & Roll Call**
2. **Pledge of Allegiance**
3. **Approval of Agenda**
4. **Public Comment** *(maximum time permitted for all Public Comment is 30 minutes)
5. **Consent Agenda**
 - a. January 24, 2024 Board of Trustee Meeting Minutes
 - b. **RESOLUTION 24-18**: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO APPROVING AN AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND RESOURCE CENTRAL FOR A LAWN REPLACEMENT PROGRAM
 - c. **RESOLUTION 24-19**: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO APPROVING AN AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND RESOURCE CENTRAL FOR A GARDEN IN THE BOX PROGRAM
6. **Discussion/Action**

* 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.

- a. **RESOLUTION 24-21:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO APPROVING A MASTER LICENSE AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND THE CITY OF THORNTON
- b. **RESOLUTION 24-22:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO AND THE CITY OF THORNTON COLORADO APPROVING AN INTERGOVERNMENTAL AGREEMENT FOR CARRIAGE OF WATER
- c. **RESOLUTION 24-23:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF FIRESTONE COLORADO AND THE CITY OF THORNTON COLORADO FOR AN EMERGENCY RAW WATER INTERCONNECTION
- d. **RESOLUTION 24-17:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING A CONSTRUCTION CONTRACT BETWEEN THE TOWN OF FIRESTONE AND DEFALCO CONSTRUCTION COMPANY PERTAINING TO THE HISTORIC FIRESTONE WATERLINE AND ROADWAY REPLACEMENT PHASE 2 PROJECT NO. 2
- e. **RESOLUTION 24-20:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO APPROVING AN ATHLETIC FIELDS AND FACILITIES USE AND FEE AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND THE CARBON VALLEY PARKS AND RECREATION DISTRICT

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

8. **Reports**

a. Staff

8.a.i. 2023 Unaudited 4th Quarter Financial Report

8.a.ii. Communications Report

iii January Financial Report

b. Mayor

* 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.

c. Trustees

9. 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.

**AGENDA INFORMATION
MEMORANDUM**

FIRESTONE BOARD OF TRUSTEES



AIM No.: 5.a

Consent Agenda

Meeting Date: February 14, 2024

Initiated By:

Department: Administration

AGENDA ITEM

January 24, 2024 Board of Trustee Meeting Minutes

RECOMMENDATION

SUMMARY

FINANCIAL CONSIDERATIONS

HISTORY AND PREVIOUS BOARD ACTION

ATTACHMENTS

1. January 24, 2024 Board of Trustees Meeting Minutes

TOWN OF FIRESTONE, COLORADO
Board of Trustees Regular Meeting
MINUTES
January 24, 2024

1. Call to Order & Roll Call

The Town of Firestone met for a Regular Meeting on January 24, 2024, 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; Paula Mehle, Director of FURA & Economic Development; Raelynn Ferrera, Assistant Town Manager; Katie Hansen, Director of Marketing & Communications; Jessica Clanton, Director of Finance; Todd Bjerkaas, Director of Planning & Development; Matt Thompson, Senior Planner; David Angelo, Chief of Police; Miriam Luna Gonzalez, Interim Town Clerk; AJ Krieger, Town Manager; & Eric DeBolt, IT Manager; & Pam Howard, Planning Manager.

2. Pledge of Allegiance

Mayor Peterson led the pledge of Allegiance

3. Approval of Agenda

Motion by Mayor Pro Tem Jimenez, **second** by Trustee Conyac, to amend the Agenda by moving resolution 24-15 as new item 4.

Roll Call Vote:

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

No: None

Abstain: None

Motion carried

Motion by Mayor Pro Tem Jimenez, **second** by Trustee Conyac, to Approve the amended Agenda

Roll Call Vote:

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

Trustee Sharp, Trustee Holcomb
No: None
Abstain: None
Motion carried

4. **RESOLUTION 24-15:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPOINTING MIRIAM LUNA GONZALEZ AS INTERIM TOWN CLERK

Roll Call Vote:

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

No: None

Abstain: None

Motion carried

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

There was no one who provided public comment.

6. **Consent Agenda**

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

Roll Call Vote:

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

No: None

Abstain: None

Motion carried

a. Approval of November 22, 2023 Revised Board of Trustees Regular Meeting Minutes

b. Approval of January 10, 2024 Board of Trustees Regular Meeting Minutes

c. Approval of January 17, 2024 Board of Trustees Special Meeting Minutes

d. **RESOLUTION 24-16:** A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING EQUIPMENT PURCHASES FOR THE TOWNS PUBLIC WORKS DEPARTMENT

e. **ORDINANCE 1041:** AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, AMENDING THE COMPENSATION FOR THE PRESIDING MUNICIPAL COURT JUDGE

7. Presentation

- a. Mayor's Award

8. Land Development

- a. **PUBLIC HEARING: Ordinance 1040:** AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, ZONING CERTAIN LAND, FULLY DESCRIBED HEREIN, FROM PUD RESIDENTIAL 1 (PUD R-1), PUD NEIGHBORHOOD CENTER (PUD NC), AND PUD RESIDENTIAL C (R-C) TO THE RESIDENTIAL A (R-A) ZONE DISTRICT AND NEIGHBORHOOD CENTER (NC) ZONE DISTRICT

Mayor Peterson opened the public hearing for Ordinance 24-1040 at 6:45 PM.

Matt Thompson, Senior Planner, presented to the Board of Trustees.

Susan Wade with Redland, Bobby Kline & David Goldberg with Miller United Real Estate, the applicants, presented to the Board of Trustees.

Chris Woody, a Firestone resident, provided public comment regarding traffic concerns and the rights of property owners.

Butch Walb, a Firestone resident, provided public comment regarding home price concerns and traffic.

Matt Thompson, Town of Firestone Senior Planner, Pam Howard, Town of Firestone Planning Manager, Susan Wade with Redland, Bobby Kline & David Goldberg with Miller United Real Estate, the applicants, responded to the board's questions regarding the proposed resolution.

Motion by Trustee Doherty, **second** by Trustee Whelan, to Approve **PUBLIC HEARING: Ordinance 1040:** AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, ZONING CERTAIN LAND, FULLY DESCRIBED HEREIN, FROM PUD RESIDENTIAL 1 (PUD R-1), PUD NEIGHBORHOOD CENTER (PUD NC), AND PUD RESIDENTIAL C (R-C) TO THE RESIDENTIAL A (R-A) ZONE DISTRICT AND NEIGHBORHOOD CENTER (NC) ZONE DISTRICT

Roll Call Vote:

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

No: None

Abstain: None

Motion carried

9. Discussion/Action

- a. Central Park Communication and Engagement Update

- b. Central Park - Q&A with Residents and PTROC Commissioners

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

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

11. Reports

- a. Staff

10.a.i. December Financial Report

- b. Mayor

Mayor Peterson reported on the request of board members for committees outside the Town of Firestone.

- c. Trustees

Trustee Conyac reported on the Barefoot Lakes Metro District Trail Access.

Trustee Sharp reported on PTROC meetings.

Trustee Whelan reported on the Carbon Valley Parks and Rec District (CVPRD) meeting, chat with trustees, and meeting location suggestions.

12. Adjournment

Motion by Mayor Pro Tem Jimenez, **second** by Trustee Whelan, to Approve Adjournment, All in Favor, **Motion carried.**

Introduced and Approved on the 14 day of February 2024.

TOWN OF FIRESTONE, COLORADO

Drew A. Peterson, Mayor

ATTEST

Miriam Luna Gonzalez, Interim Town Clerk

AGENDA INFORMATION MEMORANDUM

FIRESTONE BOARD OF TRUSTEES



AIM No.: 5.b

Consent Agenda

Meeting Date: February 14, 2024

Initiated By: Julie Pasillas

Department: Public Works

AGENDA ITEM

RESOLUTION 24-18: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO APPROVING AN AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND RESOURCE CENTRAL FOR A LAWN REPLACEMENT PROGRAM

RECOMMENDATION

Staff recommends approval of Resolution 24-18, authorizing the execution of the Lawn Replacement Program Agreement with Resource Central and authorizing staff to expend funds.

SUMMARY

This Agreement with Resource Central is for the 2024 Lawn Replacement Program. The program will provide a minimum of seven Firestone residential customers a lawn removal service discount to remove existing high-water-use landscapes and replace them with low-water alternatives. The goal is to make it easier and more affordable for Firestone residents to reduce their water consumption through permanent low-water landscape changes.

The agreement amount for this program is \$10,250.00, and includes:

- \$5,000.00 program fee for a non-refundable deposit that covers staffing and program administration, and
- \$5,250.00 for participant discounts, to be allocated at a maximum of \$750.00 per participant.

The program's initial phase provides a minimum of seven residential participants at a maximum of \$750.00 per participant. Once the initial funds are expended, Resource Central will award matching funds up to \$10,250.00 at no extra cost to the Town, allowing additional residential customers to participate in the program at a maximum of \$750.00 per participant until funds are expended.

FINANCIAL CONSIDERATIONS

Sufficient funds were budgeted in 2024 for the Public Works Department Water Resources Division water conservation program account.

HISTORY AND PREVIOUS BOARD ACTION

During the 2024 budget work sessions with the Board of Trustees, staff presented as part of the Public Works Department Water Resources Division budget.

ATTACHMENTS

1. Res 24-18 Resource Central Lawn Replacement Program
2. Firestone Lawn Replacement 2024

RESOLUTION NO. 24-18

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF
FIRESTONE, COLORADO APPROVING AN AGREEMENT BETWEEN
THE TOWN OF FIRESTONE AND RESOURCE CENTRAL FOR A LAWN
REPLACEMENT PROGRAM**

WHEREAS, Resource Central provides a Lawn Replacement Program (“Program”) for numerous municipalities which incentivizes citizens with an easy and affordable way to create and install low-water landscapes; and

WHEREAS, the Program is of great benefit to citizens interested in the concept of a low-water landscape but who lack the expertise, time, materials and resources to design and install a low-water landscape on their own; and

WHEREAS, such Program is of benefit to the Town of Firestone as it both enhances water conservation and the quality of landscape throughout the Town.

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

The Lawn Replacement Program Agreement between Resource Central and the Town of Firestone 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 14th day of February, 2024.

TOWN OF FIRESTONE, COLORADO

Drew Alan Peterson, Mayor

ATTEST:

Miriam Luna Gonzalez, Interim Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

LAWN REPLACEMENT PROGRAM AGREEMENT

THIS Lawn Replacement Program Agreement (“Agreement”) is made on _____ (“Effective Date”), by and between Resource Central and the Town of Firestone a Colorado statutory municipality (“Utility Partner”) (each individually a “Party,” or collectively “Parties”).

Recitals

1. WHEREAS many people are interested in the concept of a low-water landscape;
2. WHEREAS those interested in the concept of a low-water landscape are often overwhelmed by the plant selection and design of such a landscape and the process of completing a lawn replacement project;
3. WHEREAS those interested in the concept of a low-water landscape have limited time and money to invest in the process of planning and designing such a landscape and removing and disposing of lawn;
4. WHEREAS to incentivize its residents with an easy and affordable way to create and install low-water landscapes, Utility Partner wishes to engage Resource Central to organize and conduct the Lawn Replacement Program (“Program”) for the term specified in Section III in partnership with Utility Partner.

NOW THEREFORE, in consideration of the terms and conditions contained herein and other good and valuable consideration, the Parties agree as follows:

I. Program Obligations

A. Resource Central Obligations

1. Resource Central shall provide the services described in the Lawn Replacement Program Scope and Conditions of Work, attached hereto as Attachment A (“Services”).

B. Utility Partner Obligations

1. Marketing and Publicity. Utility Partner shall be responsible for publicizing the availability of the Program to its Customers in **at least** one round of marketing. Efforts to publicize the Program to its Customers may include, but are not limited to, advertising media such as Utility Partner’s bill insert(s), website, social media, newsletter, and direct mailing. **If only one round will take place, the marketing must be in the form of a water bill insert.**

Resource Central will develop a marketing toolkit containing promotional templates and individual advertisement components for Utility Partner to use. Resource Central will supply a recommended marketing calendar and template, which will list the recommended dates and media type(s) for the Utility Partner to disseminate marketing materials using the marketing toolkit. Either Resource Central or Utility Partner may create advertising content; however, Utility Partner must use the toolkit components (i.e., verbiage, logos, photographs) for Program advertisements and all

efforts must be approved by Resource Central prior to publishing. **All marketing toolkit contents are property of Resource Central and are to be used exclusively to advertise and promote its programming.**

If Resource Central determines a sufficient number of requests exist, despite all rounds of advertising having not been completed, Resource Central may waive the requirement that Utility Partner conduct an additional advertising round. Resource Central shall provide Utility Partner with notice of any such waiver in writing.

For the purposes of communication regarding program marketing and outreach, Resource Central requests the contact information of a designated marketing point of contact. The person(s) named below is designated Utility Partner's representative(s) for marketing efforts.

For Utility Partner:

Julie Pasillas
Director of Public Works
Town of Firestone
9950 Park Ave, Firestone, CO 80504
303-531-6258
jpasillas@firestoneco.gov

2. Complete and Submit Signed Agreement and Attachments. Utility Partner shall submit to Resource Central a signed copy of the Agreement no later than Friday, February 16, 2024.

II. Price, Payment Amount, and Billing Procedure

- A. Payment of Program Price. Utility Partner shall pay Resource Central the Total Program Price, pursuant to the Lawn Replacement Program Payment Schedule and Terms, attached hereto as Attachment B.

III. Term

- A. Term of Agreement. The Term of this Agreement commences on the Effective Date and terminates on December 31, 2024, or on the date the Agreement is earlier terminated, as provided herein.

IV. General Provisions

- A. Record-Keeping Requirements. Both Resource Central and Utility Partner shall maintain all records, documents, communications, and other material that pertain to this Agreement ("Records") for a period of three (3) years from the date of final payment under this Agreement, unless Resource Central or Utility Partner requests that the records be retained for a longer period. Resource Central and Utility Partner each shall provide access to such Records to the other during normal business hours for review and copying.
- B. No Delegation. Except as otherwise provided, the Parties' duties and obligations shall not be assigned, delegated, or subcontracted except with the express prior written consent of the other Party. All subcontractors shall be subject to the requirements of this Agreement.

- C. Indemnification. To the extent permitted by law, Utility Partner, on behalf of itself and its successors and assigns, agrees to indemnify, defend, and hold harmless the Resource Central, its officers, directors, and employees, contractors, and volunteers from and against losses, liabilities, expenses, and costs, including, without limitation, reasonable attorney's fees and costs, arising out of (i) the negligent performance under this Agreement by Utility Partner or any person employed by or acting on behalf of Utility Partner; or (ii) any injury to persons or property to the proportional extent caused by the negligent or intentional acts or omissions of Utility Partner, or any person employed by or acting on behalf of Utility Partner, during the performance of Services under this Agreement. Nothing herein shall be deemed a waiver of the rights, protections, immunities, and limitations granted Utility Partner in accordance with the Colorado Governmental Immunity Act C.R.S. 24-10-101 et seq. as same may be amended from time to time.

To the extent allowed by law, Resource Central, on behalf of itself and its successors and assigns, agrees to hold harmless and indemnify Utility Partner, its officers, directors, and employees, and contractors from and against losses, liabilities, expenses, and costs, including, without limitation, reasonable attorney's fees and costs, arising out of (i) the negligent performance of Services under this Agreement by Resource Central or any person employed by or acting on behalf of Resource Central; or (ii) any injury to persons or property to the proportional extent caused by the negligent or intentional acts or omissions of Resource Central, or any person employed by or acting on behalf of Resource Central, during the performance of Services under this Agreement.

- D. No Third-Party Rights. Except as otherwise provided, this Agreement shall inure to the benefit of, and be binding only upon, the Parties. No third-party beneficiary rights or benefits of any kind are expressly or impliedly provided herein.
- E. Designated Representatives. For the purpose of this Agreement, the persons named below are designated the representatives of the Parties. Unless otherwise provided in this Agreement, all notice required to be given by the Parties shall be given either by hand delivery or email, with confirmed receipt, or by registered or certified mail to the representative named below. The Parties may designate in writing a new or substitute representative:

Resource Central:

Neal Lurie
President
Resource Central
6400 Arapahoe Road, Suite B
Boulder, CO 80303
303-999-3820 x202
nlurie@resourcecentral.org

For Utility Partner:

Julie Pasillas
Director of Public Works
Town of Firestone
9950 Park Ave
Firestone, CO 80504
303-531-6258
jpasillas@firestoneco.gov

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- F. Default and Remedies. If either Party fails to comply with this Agreement, the other Party shall provide written notice specifying the breach, and the breaching Party shall be allowed thirty (30) days to cure, or such longer period as agreed to by the Parties in writing if the cure will require additional time. If the breaching Party fails to cure the

breach, timely under this Agreement, to the reasonable satisfaction of the non-breaching party, the non-breaching Party shall have all remedies available in law or in equity. The waiver of any breach of a term hereof shall not be construed as a waiver of any other term or the same term upon subsequent breach.

- G. Modifications. This Agreement is intended as the complete integration of understanding between the Parties. This Agreement may only be modified or amended upon written mutual agreement by the Parties provided that no modification may be made to the number of participants requested by Utility Partner, as specified in the Payment Schedule and Terms, and guaranteed to be provided by Resource Central.
- H. Severability. The terms of this Agreement are severable, and should any term or provision hereof be declared invalid or become inoperative for any reason, such invalidity or failure shall not affect the validity of any other term or provision hereof.
- I. Exhibits. All exhibits and attachments to this Agreement shall be deemed incorporated herein by reference.
- J. Independent Contractor. Resource Central shall perform the Services under this Agreement as an independent contractor. The Parties do not intend, nor shall it be construed that Resource Central or any Resource Central subcontractor or employee is an employee of Utility Partner for any purposes whatsoever.
- K. Employee Financial Interest. The Parties aver that to their knowledge, no employee of Utility Partner has any personal or beneficial interest whatsoever in the service or property described herein.
- L. Legal Authority – Signatory. Each Party represents and warrants that it possesses the legal authority to enter into this Agreement and that it has taken all actions required by its procedures, by-laws, and applicable laws to exercise that authority, and to lawfully authorize its undersigned signatory to execute this Agreement, or any part thereof, and to bind itself to its terms. If requested by the other Party, each Party shall provide the other with proof of its authority to enter into this Agreement within 15 days of receiving such request.
- M. Choice of Law. Colorado law shall be applied in the interpretation, execution, and enforcement of this Agreement. Any provision included or incorporated herein by reference that conflicts with Colorado law shall be null and void. Any provision incorporated herein by reference that purports to negate this provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Venue for a legal action relating to the interpretation, execution, or enforcement of this Agreement shall be in the District Court, Weld County, Colorado.
- N. Force Majeure. Neither Party shall be held liable or responsible to the other Party nor be deemed to have defaulted under or breached this Agreement for failure or delay in fulfilling or performing any term of this Agreement due to circumstances beyond its control (generally, a “Force Majeure Event”) including, but not limited to, national emergencies, unusually severe weather (including fire and flood), catastrophe, acts of God, insurrection, war, riot, epidemic, pandemic, quarantine restrictions, labor disturbances, or embargoes. The occurrence of any Force Majeure Event shall excuse either Party from performing or timely performing its obligations under this Agreement.

However, the occurrence of a Force Majeure Event shall not excuse the Utility Partner's obligation under this Agreement to pay the Non-Refundable Program Fee.

- O. Non-Disclosure of Confidential Material. Resource Central acknowledges that Utility Partner has made, or may make, available to Resource Central customer records, which contain personally identifiable information ("Confidential Material"). Except as essential to Resource Central's performance under this Agreement, Resource Central shall not: (a) make any disclosure of the Confidential Material to any third party; (b) duplicate or copy the Confidential Material; or (c) use the Confidential Material for any purposes outside the scope of Resource Central's performance under this Agreement. In the event Resource Central discloses Confidential Material to a third party, all personally identifiable information shall be redacted. Resource Central shall notify each person to whom any disclosure is made that such disclosure is made in confidence and that the Confidential Material shall be kept confidential.
- P. Intellectual Property Rights. All work product(s) created under this Agreement, by Resource Central, including software, drawings, videos, manuals, survey data and related reports, charts, photographs, designs, papers, documents and copies, abstracts and summaries thereof, whether printed material, original works of authorship, electronic documents and intellectual property produced, invented, reduced to practice, or created as a result of the work performed under this Agreement ("Creations") shall be the sole property of Resource Central and may not be used, sold, licensed or disposed of in any manner without prior written approval of Resource Central. To the maximum extent permitted by applicable law, all Creations shall be deemed works made for hire under the United States copyright laws, and all right, title, and interest in and to such work product shall vest automatically in Resource Central.
- Q. Termination. Either Party may terminate this Agreement for any reason by providing thirty (30) days written notice to the other Party (the "Termination Notice"). Utility Partner must compensate Resource Central for any work completed prior to and including the date of termination, as specified in the Termination Notice.

IN WITNESS WHEREOF, each Party has executed this Agreement or caused it to be executed on its behalf by its duly authorized representatives.

Resource Central

Utility Partner

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

ATTACHMENT A
LAWN REPLACEMENT PROGRAM
SCOPE AND CONDITIONS OF WORK

LAWN REPLACEMENT PROGRAM
SCOPE AND CONDITIONS OF WORK

- I. Program Objective. Resource Central's Lawn Replacement Program incentivizes Utility Partner's customers to remove high water-use landscapes and replace them with low-water alternatives including, but not limited to, waterwise perennial gardens. The objective of the Program is to make it easier and more affordable for Utility Partner's customers to reduce their water consumption through permanent low-water landscape change. Once established, a waterwise perennial garden will likely use 50%-60% less water than a traditional lawn and is likely to improve habitat and neighborhood aesthetics.
- II. Customer Service and Marketing. Resource Central shall manage all customer service issues related to the Program, including answering participant questions and addressing any concerns. Resource Central shall track each participant's progress through the Program from application to completion.

Resource Central may design and pay for the placement of advertisements in a local newspaper, write and disseminate press releases and public service announcements publicizing the Program, advertise the Program in its monthly electronic newsletter, and advertise the Program in conjunction with other Resource Central programs.

A marketing toolkit will be developed by Resource Central and will contain promotional templates and various advertisement components for the Utility Partner's use. Resource Central will supply a recommended marketing calendar and template, which will list the recommended dates and media type(s) for the Utility Partner to disseminate marketing materials using the marketing toolkit. **Marketing toolkit contents are proprietary and are to be used exclusively to promote Resource Central programs.**

- III. Educational Resources. Resource Central, at its discretion, may produce and provide various educational materials to Utility Partner and/or its customers to help them complete successful low-water landscape change projects. Utility Partner may also produce and disseminate educational materials. **Any materials created by Utility Partner containing Program information shall be made available to and approved by Resource Central before publication.**

- IV. Program Design and Implementation. Resource Central shall design and implement the Program. This includes creating and disseminating Program information and rules, providing customer service, verifying eligibility, distributing resources, and performing physical lawn removal as requested by participants.

- A. Eligible Property Types. The Program and associated incentives shall only be used at residential properties by legal owners or property managers. Commercial and public properties are not eligible, except by explicit written permission from the Utility Partner's Designated Representative.
- B. Program Application and Qualification Terms. To participate in the Program, each Utility Partner customer must volunteer to permanently remove at least 200 square feet of existing, watered, and maintained lawn and replace it with approved low-water landscaping. The lawn may be removed by any method except chemical removal. Each interested participant shall submit a complete and accurate Program application to Resource Central to verify that they meet the eligibility criteria and that their landscape change project will result in significant water savings. In the application, each participant shall self-certify that they are the legal owner or manager of the property at which the low-water landscape change project will occur and that they are a current customer of the Utility Partner in good standing. Each participant shall also provide the following: (1) their physical street address and water utility account number; (2) the estimated amount of lawn to be removed in square feet; and (3) a "before" photo which clearly shows the section of existing, watered, and maintained lawn to be removed. In addition, the participant shall provide their plan to adjust their irrigation system and/or watering schedule to reduce water consumption; and the types of materials and/or plants they will use to complete the project.

- C. Participant Benefits. The Utility Partner shall elect to offer any combination of Program Benefits in Attachment B section I.B to each approved participant. In their Program applications, participants shall select which available benefits to receive that best suit their project needs. Each participant shall receive no more than the Maximum Participant Benefit Amount as described in Attachment B section I.C.

1. Benefit I: Complimentary Waterwise Garden In A Box Kits.

- a) Included Materials. If the Utility Partner elects, each approved participant may receive no more than three (3) complimentary Garden In A Box kits directly from Resource Central. **The cumulative total square footage of each participant's complimentary Garden In A Box kits shall not exceed 300 square feet or three kits.** The quantity (square footage) of the complimentary Garden In A Box kit(s) shall not exceed the amount of lawn removed (e.g., if only 200 square feet of lawn is removed, only 200 square feet of complimentary Garden In A Box kits are available). Each garden kit shall include a variety of low-water starter plants in 4-inch pots; a plant-by-number design; and a planting and care manual. Participants with functional in-ground irrigation systems may also elect to receive a complimentary Rain Bird 1800-RETRO spray-to-drip irrigation retrofit kit.
- b) Garden Design and Procurement. As inventory permits, at least one (1) 100-square foot waterwise garden option for full sun and one (1) 100-square foot waterwise garden option for partial shade shall be made available to approved participants. If necessary, Resource Central shall select appropriate substitute plants. Resource Central shall secure and arrange procurement of all plants from local wholesale nurseries.
- c) Lawn Removal Verification. If the participant elects to remove the section of lawn on their own (i.e., they do not hire Resource Central's Lawn Removal Service), they must provide photographic evidence in their post-project form submission, which clearly shows that at least 75% of the lawn in the "before" photo project area has been successfully removed at least five (5) business days prior to picking up any complimentary Garden In A Box kits.
- d) Garden Distribution. All materials shall be picked up by approved participants at an existing nearby Garden In A Box distribution event, as determined by Resource Central. The garden distribution event for Utility Partner Program participants shall be conducted during the period from May 1, 2024, to June 30, 2024, with any carry-over gardens available for distribution in the months of August and September 2024. Resource Central shall provide at least one staff person and one or more volunteers to conduct the distribution event. Resource Central reserves the right to change distribution events in good faith and in coordination with Utility Partner in the event of a Force Majeure event. Resource Central staff and volunteers will comply with local, state, and federal health and safety guidelines to the greatest extent possible.

2. Benefit II: Optional Lawn Removal Service Discount.

- a) Discount. Each approved participant shall have the option to hire Resource Central to perform the Lawn Removal Service as described below. If the Utility Partner selects Benefit II, each approved participant may receive a discount of \$1.50 per square foot off the regular price of their Lawn Removal Service. The discount shall not exceed the Maximum Participant Benefit Amount minus any complimentary Garden In A Box kits.
- b) Appointment Scheduling and Staffing. All Lawn Removal Service appointments shall be scheduled based on location, staff availability, and applicant responsiveness and performed by Resource Central staff or reputable third-party contractors. Resource

Central shall provide enough staff or contractors and equipment necessary to perform the amount of lawn removal requested by Utility Partner, to the extent feasible.

- c) Lawn Removal Procedures. Resource Central shall have no obligation to conduct a lawn removal until the property owner or property manager has signed the Lawn Replacement Program Participant Contract (Attachment C). Resource Central shall not perform a residential lawn removal unless at least one person affiliated with the property (i.e., an owner, resident, or property manager), who is at least 18 years of age, is present on the premises at the start of the project. Lawn shall be cut to a depth of approximately 2.5 inches, or as deep as feasible depending on soil conditions, and hauled to an appropriate disposal facility. No additional services shall be offered. Property owners or managers shall be responsible for completing the low-water landscape project as described in their Program application within 30 days of the Lawn Removal Service.
 - d) Project Size Requirements and Participant Invoicing. Resource Central reserves the right to limit the maximum project size based on schedule availability. The minimum project size is 200 square feet. Utility Partner will be charged a minimum of \$300.00 per lawn removal (200 square feet times \$1.50 per square foot), regardless of final project size. Participants who wish to complete Lawn Removal Service projects in excess of their Maximum Participant Benefit Amount shall pay the outstanding balance at the standard rate of \$2.50 per square foot. Resource Central shall invoice participants for outstanding balances and may charge the participant a non-refundable deposit. The Utility Partner shall not be responsible for outstanding participant balances.
 - e) Utility Marking and Watering Restrictions. Utility line locating and marking shall be requested by Resource Central for each project as required by law. If Utility Partner watering restrictions are instituted, the Lawn Removal Service and any required operation of the irrigation system may take place outside of the property owner's permitted watering schedule. Utility Partner agrees not to enforce any watering restrictions against the Participant or Resource Central if this occurs. Project will be cancelled if utility line markers are removed or tampered with by participant.
 - f) Reasonable Effort. Resource Central shall make all reasonable efforts to complete the maximum amount of lawn removals requested. If (1) demand is higher than the contracted amount, (2) Resource Central staff is available, and (3) Utility Partner approves additional funds, additional lawn removal may be conducted.
- D. Application Review and Approved Low-Water Landscape Types. Resource Central shall review all applications on a first-come, first-served basis until the Number of Participants or Total Program Price, as described in Attachment B, has been reached. In order to be approved, each application must be complete and clearly demonstrate significant water savings through permanent low-water landscape change, as determined by Resource Central. Acceptable low-water landscape types include waterwise perennial gardens (preferred); vegetable gardens; small-to-medium size patios, decks and pathways made of impermeable material; Buffalograss (*Buchloë dactyloides*); other low-water grasses; clover; wildflower meadows; rock, stone, or gravel areas (not to exceed 50% of total project area); or any other combination thereof. At least 50% plant material at full maturity is required. Artificial turf is excluded from use as a replacement. Applications shall be rejected if they do not meet the Qualification Terms or if they do not clearly demonstrate significant water savings. Participants may be given the opportunity to amend their application at Resource Central's discretion.
- E. Consultation. Upon application approval, each participant shall be invited by email to a 15-30 minute phone consultation with a qualified Resource Central staff person. The purpose of this consultation shall be to provide additional personalized water-saving information including drip irrigation retrofitting

advice, proper soil amending and mulching, and other low-water landscaping techniques. The consultation shall also be used to answer participant questions, confirm participant benefits, and schedule Garden In A Box kit pickups and/or Lawn Removal Service appointments. Additional personalized project support may be provided to participants as deemed appropriate by Resource Central.

- F. Participant Contract. Each approved participant shall sign a copy of the official Lawn Replacement Program Participant Contract (Attachment C) after completing the consultation. In the contract, the participant shall re-certify that they meet the following criteria: (1) the Participant is a current Utility Partner customer in good standing; (2) Participant volunteers to physically remove and replace at least 200 square feet of existing, watered, and maintained lawn by a method of their choice except by chemical removal; (3) Participant agrees to provide photographic evidence that clearly shows at least 75% of the lawn in the “before” photo project area has been successfully removed at least five business days prior to picking up any complimentary Garden In A Box kits (unless the participant contracts with Resource Central to perform the Lawn Removal Service); (4) Participant will plant and maintain any Garden In A Box kits that they receive as part of the Program for their full lifespan; (5) Participant will adjust their irrigation system and/or watering habits to properly account for the new low-water landscape; and (6) Participant will complete their landscaping project within 30 days of removing the lawn. The participant is considered officially accepted into the Program and may begin removing lawn only after signing the contract.
- G. Participant Follow Up. Resource Central shall exercise due diligence in placing reminder phone calls or emails to participants who applied to the Program but have not completed their project. Resource Central shall also remind participants of upcoming deadlines and appointments in a timely manner. Resource Central shall conduct a participant satisfaction survey of property owners who participated in the Program and shall share results in aggregate with Utility Partner in a final report by December 31, 2024.
- V. Demand Updates. During the course of the Program Term, Resource Central shall provide to Utility Partner demand updates about the Program at least every other week. Updates shall also be provided to Utility Partner within five (5) business days of any written request. Both regularly scheduled and requested updates shall include a summary of Resource Central’s progress in meeting its obligations under the Agreement including the number of total applicants, the number of projects scheduled, and the number of projects completed, as well as the total partner dollars spent to date.

ATTACHMENT B

LAWN REPLACEMENT PROGRAM
PAYMENT TERMS AND SCHEDULE

LAWN REPLACEMENT PROGRAM
PAYMENT TERMS AND SCHEDULE

I. Payment Terms

- A. Non-Refundable Program Fee. The Non-Refundable Program Fee offsets Resource Central's fixed costs of managing the Program. This includes paying staff to develop the Program and accompanying materials; soliciting, reviewing, and responding to applications; conducting phone consultations; and following up with participants. The Utility Partner shall pay Resource Central a one-time, non-refundable Program Fee of \$5,000.00.
- B. Available Participant Benefits. The Utility Partner elects to offer the following Participant Benefits as described in Attachment A section IV.C. Check box(es) below to indicate benefit selection.
- ☒ Benefit I: Complimentary low-water Garden In A Box kits, not to exceed 300 square feet or three kits per participant or the amount of lawn removed.
- ☒ Benefit II: Optional Lawn Removal Service Discount, minimum of 200 square feet paid at \$1.50 per square foot (\$300 minimum). Participant pays the remaining \$1.00 per square foot.
- C. Maximum Participant Benefit Amount. To incentivize lawn replacement and water conservation at private homes, the Utility Partner shall pay Resource Central up to \$750.00 per approved Program participant.
- D. Number of Participants. Utility Partner shall offer the Maximum Participant Benefit Amount to a minimum of seven (7) Utility Partner Participants.
- E. Total Program Price. Utility Partner shall pay the Total Program Price, which is equal to the Non-Refundable Program Fee (A) plus the sum of the Maximum Participant Benefit Amount (C) multiplied by the Number of Participants (D). The Total Program Price shall not exceed \$10,250.00.
- F. Water Plan Grant Matching Funds. Once the Total Program Price has been invoiced and assuming demand for the program exists in the Utility/Municipal Partner service area, Resource Central will award matching funds up to \$10,250.00. The Maximum Participant Benefit Amount must remain the same within a calendar year. Such matching funds must be used by December 31, 2026.

II. Payment Schedule, Invoicing and Deadlines

- A. Monthly Invoicing. Resource Central shall invoice Utility Partner monthly for all approved participants' complimentary Garden In A Box kits and any completed Lawn Removal Service.
1. Benefit I: Each Garden In A Box kit selected by participants will be invoiced at the retail cost (circa \$124.00-\$340.00). Additional gardens may be made available at Resource Central's discretion. Utility Partner's garden prices shall not exceed the public retail price.
 2. Benefit II: Lawn Removal Service discounts will be invoiced at \$1.50 per square foot of lawn removed, as measured by Resource Central staff, after the project has been completed. Minimum charge of \$300.00 per project, regardless of project size.
 3. Record Keeping: The name of the homeowner, address of the property, account number, benefit type(s), and amount of Participant Benefit received, total square footage of lawn

removed, and date of any Lawn Removal Service shall be provided with the monthly invoice upon request.

- B. Payment Schedule. Utility Partner shall pay the Non-Refundable Program Fee within thirty (30) days of signing the Agreement. Payment for approved Program participants' Garden In A Box kits and Lawn Removal Service discounts shall be due within thirty (30) days of the date the invoice is issued by Resource Central. For purposes of payment deadlines, a payment shall be deemed to have been made upon the date of its actual receipt by Resource Central. Such payment must be made by check or electronic payment (EFT) payable to Resource Central.

ATTACHMENT C
LAWN REPLACEMENT PROGRAM
PARTICIPANT CONTRACT

RESOURCE CENTRAL
LAWN REPLACEMENT PROGRAM
PARTICIPANT CONTRACT

The following are requirements for participating in Resource Central's Lawn Replacement Program. Failure to meet and maintain all of the requirements may result in your disqualification from the program. If you receive a Lawn Removal Service discount and/or complimentary Garden In A Box or irrigation retrofit kits as part of this program, you may be invoiced for the full retail price if you fail to maintain these requirements.

By initialing and signing this contract, you agree that:

I. Participant Acknowledgements

- A. You are a current _____ water customer in good standing and have provided an accurate utility account number with your application.
- B. You voluntarily agree to permanently remove the amount of existing grass lawn specified in your application. You attest that the area of lawn is watered and maintained on a regular basis throughout the growing season. You agree to remove the lawn without the use of chemicals.
- C. If you do not hire Resource Central's Lawn Removal Service, you must agree to email Resource Central a "during" photo which clearly shows at least 75% of the lawn in the project area has been successfully removed. The photo is due at least ten (10) business days before you pick up any complimentary Garden In A Box kits.
- D. You agree to finish replacing the space with any low-water features as described in your application, including any complimentary Garden In A Box kits which you receive. You agree to maintain any complimentary Garden In A Box kits for their full lifespan, about seven years, or the duration of home ownership, whichever comes first.
- E. You agree that you must replace at least 50% of the removed turf area with any of the following: waterwise perennial gardens (preferred); small-to-medium size patios and decks using permeable materials; Buffalograss (*Buchloë dactyloides*); other low-water grasses; clover; wildflower meadows; permeable rock, stone, or gravel areas or pathways; or any other combination thereof.
- F. You agree that you will not install artificial/synthetic turf, impermeable concrete (patios) or similar material, water features, invasive species, or new turf.
- G. You agree to properly adjust and maintain your irrigation system and/or watering schedule to account for the new low-water landscape features.
- H. If you hire Resource Central to perform the Lawn Removal Service, you understand that:
 - 1. The lawn will be cut to a depth of approximately 2.5 inches. In rare cases when soils are overly compacted and dry, it may not be feasible to remove the full 2.5 inches of material. No more than 3.5 inches of grass and soil will be removed.
 - 2. Resource Central can only guarantee removal of the amount of lawn specified in your Lawn Replacement Program Application. Requests to remove additional lawn may be denied for any reason.

3. Resource Central may briefly test the landscape irrigation system at the address below with your permission. The test may involve operating the landscape irrigation system through valves and/or the irrigation control clock.
4. It is nearly impossible to remove some types of grass and weeds due to extremely deep and extensive root systems. Resource Central cannot be held responsible for any plant re-growth in the project area.
5. You are required to mow your lawn within 3 days of your project as well as remove pet excrement and debris (tree branches, leaves, etc.) from the project area prior to Resource Central's arrival on site. Resource Central reserves the right to cancel your project or charge an additional \$500.00 if the project area is not cleared in advance. Your deposit will not be refunded if your project is canceled for failure to prepare the project area.

Participant Initials: _____

II. Water Records Release

The impacts of Resource Central's Lawn Replacement Program are being recorded and analyzed for effectiveness. This requires a longitudinal study of participant water usage histories gathered from the participant's water utility. The information is used in aggregate to show trends and impacts that result from the program and do not single out any individual participant's water usage history to third parties. Any information obtained relating to the individual participant will be kept anonymous and confidential by Resource Central.

By initialing below, I certify that I am or was the utility user at the address listed below. I understand that Section 24-72-204(3) (a) (IX) of the Colorado Revised Statutes prohibits the release of my name, address, telephone number and personal financial information as a past or present user of a public utility. I hereby consent and give permission to my water provider,

_____, to release my water usage and billing information to Resource Central. I further release and hold harmless my water provider as listed above from any claim, demand, action or right of action arising out of or related to the release of my name, address, and my water usage to Resource Central or which results from actions by my water provider or Resource Central relating to this program.

Participant Initials: _____

III. Lawn Removal Service Payment

If you hire Resource Central to perform the Lawn Removal Service, you must agree to the following payment terms:

- A. All Lawn Removal Service payments must be made by credit or debit card. The final project price will be agreed upon before any work begins.
- B. To secure your appointment, a 50% deposit is required, and this payment must be made by April 1, 2024. If you pay the deposit before this date, you are eligible for a refund, but this refund option is only available until April 1, 2024. After that date, the deposit becomes non-refundable.
- C. The standard cost for the Lawn Removal Service is \$2.50 per square foot. You may be eligible for a discount from your water utility or municipality, as determined by the discount finder/eligibility tool on the website. The minimum project size is 200 square feet, regardless of discount.

- D. Resource Central staff will remove the square footage finalized during the application process. Please note that you will be charged for the square footage you provide during your consultation. Any additional square footage beyond the estimated amount will not be removed, nor will any lawn be removed without your permission.

_____ I AGREE to hire Resource Central's Lawn Removal Service

_____ I DECLINE to hire Resource Central's Lawn Removal Service

IV. Liability Waiver

- A. You represent and warrant that you are the legal owner and/or manager of the property located at the address below. You acknowledge that it is your responsibility to comply with any and all municipal and/or homeowners' association landscaping codes, standards, and ordinances.
- B. You agree to accept full and exclusive responsibility for any additional costs related to participation in the program without recourse to Resource Central. You assume all risk and liability for your lawn replacement project.
- C. You acknowledge that removing a portion of lawn necessitates changing the scheduled irrigation program(s) on your control clock, if applicable. It is your responsibility to check the irrigation control clock and valves after the Lawn Removal Service to make sure they are turned on and programmed properly for the new landscape features. You are responsible for watering your landscape and monitoring the irrigation system and overall health of the landscape. Resource Central is not responsible for plants, trees, and shrubs that are damaged due to improper watering.
- D. You understand that the Affidavit of Lawful Presence as set forth in Title 24, Article 76.5 CRS is not required for this program as its purpose is not to provide assistance for personal or family needs, i.e., a "public benefit," but to incentivize residents to conserve water.
- E. You agree that all photos and video provided as part of your participation in the program or taken during the Lawn Removal Service will be owned by Resource Central and may be used in promotional material.
- F. You understand that Colorado Senate Bill 18-167 requires locating and marking all utility lines for any and all digging projects. If you hire Resource Central's Lawn Removal Service, a utility marking request will be submitted to Colorado 811 on your behalf. You agree to grant access to your property and project area for the purpose of utility locating and marking. You agree to leave marking flags and paint in place until your Lawn Removal Service is complete. If marking flags have been removed, your appointment may be canceled and your deposit will not be refunded. You must also inform Resource Central staff of any known privately owned buried utility, irrigation, or similar components. Resource Central cannot be held liable for damage to outbuildings, private utilities, irrigation, or similar underground infrastructure. If you do NOT hire Resource Central's Lawn Removal Service, it is your responsibility to submit a utility location request to Colorado 811.
- G. If your property is covenant controlled and/or part of a homeowners' association (HOA), you are responsible for seeking and obtaining proper approval for your landscape change project prior to starting any work. Resource Central is not responsible for fines, fees, or penalties imposed by HOAs or similar entities.
- H. You hereby release any claims against, and hold harmless, Resource Central and its officers, agents, employees, partners, and contractors against all liabilities, judgments, costs, and expenses arising out of, or related to (i) the testing of the landscape irrigation system and any system malfunction during or after the Lawn Removal Service; and (ii) physical damage to any landscape features, existing trees and plants,

and/or built structures except to the extent arising out the gross negligence or willful misconduct of Resource Central; and (iii) physical damage to any utility lines, including phone, television, and internet lines except to the extent arising out of gross negligence or willful misconduct of Resource Central.

Printed Name: _____

Physical Address: _____

Signature: _____ Date: _____

AGENDA INFORMATION MEMORANDUM

FIRESTONE BOARD OF TRUSTEES



AIM No.: 5.c

Consent Agenda

Meeting Date: February 14, 2024

Initiated By: Julie Pasillas

Department: Public Works

AGENDA ITEM

RESOLUTION 24-19: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO APPROVING AN AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND RESOURCE CENTRAL FOR A GARDEN IN THE BOX PROGRAM

RECOMMENDATION

Staff recommends approval of Resolution 24-19, authorizing the execution of the Garden in a Box Program Agreement with Resource Central and authorizing staff to expend funds.

SUMMARY

The Agreement with Resource Central for the 2024 Garden in a Box Program will offer Firestone residents a discounted price on pre-assembled planting kits with various low-water plants and helpful tips about water-wise gardening.

The program will allow 25 residents a discount to purchase a Garden in a Box from six pre-designed gardens, ranging from \$99 to \$320 per box, with various low-water plants. The Town's contribution to this program is \$1,925.00, which covers 25 Garden In A Box discounts of \$25.00 each, garden design costs, and program administration.

If all 25 boxes are purchased, additional boxes may be available, and the Town can purchase additional discounts for \$25.00 each while supplies last.

FINANCIAL CONSIDERATIONS

Sufficient funds were budgeted in 2024 for the Public Works Department Water Resources Division water conservation program account.

HISTORY AND PREVIOUS BOARD ACTION

During the 2024 budget work sessions with the Board of Trustees, staff presented as part of the Public Works Department Water Resources Division budget.

On April 26, 2023, the Board of Trustees approved both Resolution 23-49 for the 2023 Garden in a Box program and Resolution 23-50 for the 2023 Slow the Flow program.

ATTACHMENTS

1. Res 24-19 Resource Central Garden In A Box
2. Firestone Garden In A Box 2024

RESOLUTION NO. 24-19

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF
FIRESTONE, COLORADO APPROVING AN AGREEMENT BETWEEN
THE TOWN OF FIRESTONE AND RESOURCE CENTRAL FOR A
GARDEN IN THE BOX PROGRAM**

WHEREAS, Resource Central provides a Garden In A Box Program (“Program”) for numerous municipalities which provides citizens a variety of low water landscape plants at an affordable price; and

WHEREAS, such Program is of benefit to the Town of Firestone as it both enhances water conservation and the quality of landscape throughout the Town.

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

The Garden In A Box Program Agreement between Resource Central and the Town of Firestone 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 14th day of February, 2024.

TOWN OF FIRESTONE, COLORADO

Drew Alan Peterson, Mayor

ATTEST:

Miriam Luna Gonzalez, Interim Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

GARDEN IN A BOX PROGRAM AGREEMENT

THIS Garden In A Box Program Agreement (“Agreement”) is made on _____ (“Effective Date”), by and between Resource Central and the Town of Firestone a Colorado statutory municipality (“Utility Partner”) (each individually a “Party,” or collectively as “Parties”).

Recitals

1. WHEREAS many people are interested in the concept of a low-water landscape;
2. WHEREAS those interested in the concept of a low-water landscape are often overwhelmed by the plant selection and design of such a landscape;
3. WHEREAS those interested in the concept of a low-water landscape have limited time and money to invest in the process of planning and designing such a landscape; and
4. WHEREAS to provide its residents with an easy and affordable way to learn about and install low-water landscapes, Utility Partner wishes to engage Resource Central to organize and conduct the Garden In A Box Program (“Program”) for the term specified in Section III in partnership with Utility Partner.

NOW THEREFORE, in consideration of the terms and conditions contained herein and other good and valuable consideration, the Parties agree as follows:

I. Program Obligations

A. Resource Central Obligations

1. Resource Central shall provide the services described in the Garden In A Box Program Scope and Conditions of Work, attached hereto as Attachment A (“Services”).

B. Utility Partner Obligations

1. **Marketing and Publicity.** Utility Partner shall be responsible for publicizing the availability of the Program to its Customers in **at least** one round of marketing. Efforts to publicize the Program to its Customers may include, but are not limited to, advertising media such as Utility Partner’s bill inserts, website, social media, newsletter, and direct mailing. **If only one round will take place, the marketing must be in the form of a water bill insert.**

Resource Central will develop a marketing toolkit containing marketing and publicity media and individual advertisement components for Utility Partner to use. Resource Central will supply a recommended marketing calendar and template, which will list the recommended dates and media type(s) for the Utility Partner to disseminate marketing materials using the marketing toolkit. Advertising content may be created by either Resource Central or Utility Partner; however, Utility Partner must use the toolkit components (i.e., verbiage, logos, photographs)

for Program advertisements and all efforts must be approved by Resource Central prior to publishing. **All marketing toolkit contents are property of Resource Central and are to be used exclusively to advertise and promote its programming.**

If Resource Central determines a sufficient number of requests exist, despite all rounds of intended advertising having not been completed, Resource Central may waive the requirement that Utility Partner conduct an additional advertising round. Resource Central shall provide Utility Partner with notice of any such waiver.

For the purposes of communication regarding program marketing and outreach, Resource Central requests the contact information of a designated marketing point of contact. The person(s) named below is designated Utility Partner's representative(s) for marketing efforts.

For Utility Partner:

Julie Pasillas
Director of Public Works
Town of Firestone
9950 Park Ave, Firestone, CO 80504
303-531-6258
jpasillas@firestoneco.gov

2. Complete and Submit Signed Agreement and Attachments. Utility Partner shall submit to Resource Central a signed copy of the Agreement and the Attachments no later than Friday, February 16, 2024.

II. Price, Payment Amount, and Billing Procedure

- A. Payment of Program Price. Utility Partner shall pay Resource Central the Base Program Price, pursuant to the Garden In A Box Program Payment Schedule and Terms, attached hereto as Attachment B.

III. Term

- A. Term of Agreement. The Term of this Agreement commences on the Effective Date and terminates on December 31, 2024, or on the date the Agreement is earlier terminated, as provided herein.

IV. General Provisions

- A. Record-Keeping Requirements. Both Resource Central and Utility Partner shall maintain all records, documents, communications, and other material that pertain to this Agreement ("Records") for a period of three (3) years from the date of final payment under this Agreement, unless Resource Central or Utility Partner requests that the records be retained for a longer period. Resource Central and Utility Partner each shall provide access to such Records to the other during normal business hours for review and copying.
- B. No Delegation. Except as otherwise provided, the Parties' duties and obligations shall not be assigned, delegated, or subcontracted except with the express prior written

consent of the Utility Partner. All subcontractors shall be subject to the requirements of this Agreement.

- C. Indemnification. To the extent permitted by law, Utility Partner, on behalf of itself and its successors and assigns, agrees to indemnify, defend, and hold harmless Resource Central, its officers, directors, and employees, contractors, and volunteers from and against losses, liabilities, expenses, and costs, including, without limitation, reasonable attorney's fees and costs, arising out of (i) the negligent performance under this Agreement by Utility Partner or any person employed by or acting on behalf of Utility Partner; or (ii) any injury to persons or property to the proportional extent caused by the negligent or intentional acts or omissions of Utility Partner, or any person employed by or acting on behalf of Utility Partner, during the performance of Services under this Agreement. Nothing herein shall be deemed a waiver of the rights, protections, immunities, and limitations granted Utility Partner in accordance with the Colorado Governmental Immunity Act C.R.S. 24-10-101 et seq. as same may be amended from time to time.

To the extent allowed by law, Resource Central, on behalf of itself and its successors and assigns, agrees to hold harmless and indemnify Utility Partner, its officers, directors, and employees, and contractors from and against losses, liabilities, expenses, and costs, including, without limitation, reasonable attorney's fees and costs, arising out of (i) the negligent performance of Services under this Agreement by Resource Central or any person employed by or acting on behalf of Resource Central; or (ii) any injury to persons or property to the proportional extent caused by the negligent or intentional acts or omissions of Resource Central, or any person employed by or acting on behalf of Resource Central, during the performance of Services under this Agreement.

- D. No Third-Party Rights. Except as otherwise provided, this Agreement shall inure to the benefit of, and be binding only upon, the Parties. No third-party beneficiary rights or benefits of any kind are expressly or impliedly provided herein.
- E. Designated Representatives. For the purpose of this Agreement, the persons named below are designated the representatives of the Parties. Unless otherwise provided in this Agreement, all notice required to be given by the Parties shall be given either by hand delivery or email, with confirmed receipt, or by registered or certified mail to the representative named below. The Parties may designate in writing a new or substitute representative:

For Resource Central:

Neal Lurie
President
Resource Central
6400 Arapahoe Road, Suite B
Boulder, CO 80303
303-999-3820 x202
nlurie@resourcecentral.org

For Utility Partner:

Julie Pasillas
Director of Public Works
Town of Firestone
9950 Park Ave
Firestone, CO 80504
303-531-6258
jpasillas@firestoneco.gov

-
- F. Default and Remedies. If either Party fails to comply with this Agreement, the other Party shall provide written notice specifying the breach, and the breaching Party shall be

allowed thirty (30) days to cure, or such longer period as agreed to by the Parties in writing if the cure will require additional time. If the breaching Party fails to cure the breach, timely under this Agreement, to the reasonable satisfaction of the non-breaching party, the non-breaching Party shall have all remedies available in law or in equity. The waiver of any breach of a term hereof shall not be construed as a waiver of any other term or the same term upon subsequent breach.

- G. Modifications. This Agreement is intended as the complete integration of understanding between the Parties. Both Parties may make modifications to this Agreement as needed, provided that no modification may be made to the number of Garden In A Box kits requested by Utility Partner, as specified in the Payment Schedule and Terms, and guaranteed to be provided by Resource Central. Such modification shall not be effective until it is accepted in writing by a legally authorized representative of each Party.
- H. Severability. The terms of this Agreement are severable, and should any term or provision hereof be declared invalid or become inoperative for any reason, such invalidity or failure shall not affect the validity of any other term or provision hereof.
- I. Exhibits. All exhibits and attachments to this Agreement shall be deemed incorporated herein by reference.
- J. Independent Contractor. Resource Central shall perform the Services under this Agreement as an independent contractor. The Parties do not intend, nor shall it be construed that Resource Central or any Resource Central subcontractor, employee, or volunteer is an employee of Utility Partner for any purposes whatsoever.
- K. Employee Financial Interest. The Parties aver that to their knowledge, no employee of Utility Partner has any personal or beneficial interest whatsoever in the service or property described herein.
- L. Legal Authority – Signatory. Each Party represents and warrants that it possesses the legal authority to enter into this Agreement and that it has taken all actions required by its procedures, by-laws, and applicable laws to exercise that authority, and to lawfully authorize its undersigned signatory to execute this Agreement, or any part thereof, and to bind itself to its terms. If requested by the other Party, each Party shall provide the other with proof of its authority to enter into this Agreement within twenty (20) days of receiving such request.
- M. Choice of Law. Colorado law shall be applied in the interpretation, execution, and enforcement of this Agreement. Any provision included or incorporated herein by reference that conflicts with Colorado law shall be null and void. Any provision incorporated herein by reference that purports to negate this provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Venue for a legal action relating to the interpretation, execution, or enforcement of this Agreement shall be in the District Court, Weld County, Colorado.
- N. Force Majeure. Neither Party shall be held liable or responsible to the other Party nor be deemed to have defaulted under or breached this Agreement for failure or delay in fulfilling or performing any term of this Agreement due to circumstances beyond its control (generally, a “Force Majeure Event”) including, but not limited to, national emergencies, unusually severe weather (including fire and flood), catastrophe, acts of

God, insurrection, war, riot, epidemic, pandemic, quarantine restrictions, labor disturbances, or embargoes. The occurrence of any Force Majeure Event shall excuse Resource Central from performing its obligations under this Agreement.

O. Intellectual Property Rights. All work product(s) created under this Agreement, by Resource Central, including software, drawings, videos, manuals, survey data and related reports, charts, photographs, designs, papers, documents and copies, abstracts and summaries thereof, whether printed material, original works of authorship, electronic documents and intellectual property produced, invented, reduced to practice, or created as a result of the work performed under this Agreement (“Creations”) shall be the sole property of Resource Central and may not be used, sold, licensed or disposed of in any manner without prior written approval of Resource Central. To the maximum extent permitted by applicable law, all Creations shall be deemed works made for hire under the United States copyright laws, and all right, title, and interest in and to such work product shall vest automatically in Resource Central.

P. Termination. Either Party may terminate this Agreement for any reason by providing thirty (30) days written notice to the other Party (the “Termination Notice”). Utility Partner must compensate Resource Central for any work completed prior to and including the date of termination, as specified in the Termination Notice.

IN WITNESS WHEREOF, each Utility Partner has executed this Agreement or caused it to be executed on its behalf by its duly authorized representatives.

Resource Central

Utility Partner

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

ATTACHMENT A
GARDEN IN A BOX PROGRAM
SCOPE OF WORK

GARDEN IN A BOX PROGRAM
SCOPE OF WORK

I. Scope of Work

A. Design and Ordering of Gardens

1. Garden Design. Resource Central shall work with landscape designers to create at least six (6) waterwise/low-water garden designs, which shall be made available to Utility Partner residents. Once those designs have been completed, Resource Central shall work with local nurseries to secure plants. If necessary, Resource Central shall select appropriate substitute plants.

The gardens shall be assembled into kits, which shall include a design layout (including Resource Central's plant-by-number design), a variety of low-water plants, and helpful tips about waterwise gardening, including planting and maintenance instructions for all of the plants ("Garden In A Box").

2. Ordering. Utility Partner shall order, and Resource Central shall provide, a minimum of twenty-five (25) Garden In A Box discounts for the garden sale season. Twenty-five (25) Garden In A Box kits will be reserved for the March-June 2024 season. Any unused discounts during the spring sale will be carried forward into the July-September 2024 season. Subject to availability, Resource Central shall order additional garden discounts as specified by Utility Partner.

Resource Central shall have the number of Garden In A Box kits ordered by Utility Partner available for Utility Partner residents to order at the rate specified in section I.A.1 of the Payment Schedule and Terms.

B. Marketing, Advertising, Customer Service, and Sales

1. Marketing and Publicity. Utility Partner shall be responsible for marketing and publicizing the availability of the Program to its Customers in **at least** one round of marketing. Utility Partner may use any combination of the following media: bill inserts, website, social media, newsletter, and direct mailing. **If only one round will take place, the marketing must be in the form of a water bill insert.**

A marketing toolkit, developed by Resource Central, will contain promotional templates and individual advertisement components for the Utility Partner to use. Resource Central will supply a recommended marketing calendar and template, which will list the recommended dates and media type(s) for the Utility Partner to disseminate marketing materials using the marketing toolkit. Advertising content may be created by either Resource Central or Utility Partner; however, Utility Partner must use the aforementioned marketing toolkit components (i.e., verbiage, logos, photographs) for Program advertisements and all efforts must be approved by Resource Central prior to publishing. **All marketing toolkit contents are property of Resource Central and are to be used exclusively to advertise and promote its programming.**

If Resource Central determines a sufficient number of requests exist, despite all rounds of intended advertising having not been completed, Resource Central may waive the requirement that Utility Partner conduct an additional advertising round. Resource Central shall provide Utility Partner with notice of any such waiver in writing.

2. Garden Availability. Since Garden In A Box kits are also available to the public and demand can exceed inventory, Resource Central will hold back some inventory to allow for Utility Partner to market the program to its residents during the first three (3) weeks of the sale. Once all Garden In A Box inventory is released on the website, they are sold first come, first served.
3. Advertising of Program. Resource Central may design and pay for the placement of advertisements in a local newspaper or online (social media), and write and disseminate press releases and public service announcements publicizing the Program.
4. Customer Service. Resource Central shall handle all incoming phone calls and emails regarding the Program and respond to all questions.
5. Sales. Resource Central shall create and manage an online retail platform. Resource Central shall also process orders and take payment via check and credit card.

C. Distribution of Garden In A Box Kits

1. Garden In A Box Assembly. Resource Central shall organize and handle delivery of all plants, which shall be pre-packaged according to the designs developed by Resource Central.
2. Training of Utility Partner Staff. Resource Central shall train Utility Partner staff, if Utility Partner elects to provide staff to aid in the distribution.
3. Distribution. Resource Central shall conduct at least one (1) distribution within twenty (20) miles of the Utility Partner service area at a mutually agreed upon location(s). Before the distribution(s), Resource Central staff and volunteers shall prepare and organize all plants required for the distribution(s). Resource Central shall organize volunteers to help distribute Gardens In A Box at each requested distribution location. Resource Central shall provide at least one of its staff members and one volunteer to conduct the distribution(s). Resource Central staff and/or volunteer(s) shall confirm that participants have pre-ordered and pre-paid for their Garden In A Box. Resource Central staff and/or volunteer(s) shall then assist participants in retrieving their requested Garden In A Box kit(s). At that time, Resource Central staff and/or volunteer(s) shall give the participant the plant and care guides for their requested Garden In A Box kit(s).
4. Undistributed Garden Kits. If, after a distribution is completed, there remain undelivered Garden In A Box kits, Resource Central shall make the undelivered Garden In A Box kits available for pickup by the participant at 6400 Arapahoe, Boulder, CO, 80303. Resource Central shall make all reasonable efforts to sell any remaining plants individually. Regardless of Resource Central's ability to sell undistributed Garden In A Box kits or individual plants, Utility Partner is still obligated to pay the Base Program Price and any additional charges associated with Utility Partner's requested number of Garden In A Box kits, as specified in the Payment Schedule and Terms, attached hereto as Attachment B.
5. Time of Distributions. All distributions shall be conducted during the period from May 1, 2024, to September 30, 2024, with the primary months being May, June, August, and September.

D. Program Updates

1. Demand Updates. During peak garden sales season, Resource Central shall provide to Utility Partner updates about the Program at least every other week.

2. Updates Upon Request. Updates shall also be provided to Utility Partner within five (5) business days of any written request.
3. Contents of Updates. Both regularly scheduled and requested updates shall include a summary of Resource Central's progress in meeting its obligations under the Agreement. This includes the number of discounts used at the time of the update, and the percentage of the discounts requested by Utility Partner that this represents.

E. Post-Distribution Activities

1. Participant Satisfaction Surveys. After the Program Term has ended, Resource Central shall conduct a satisfaction survey of all participants purchasing Garden In A Box kits.
2. Annual Report. Resource Central shall also compile information about the Program. The survey results and the Program information shall be included in a final report detailing the Program results. Resource Central shall provide Utility Partner with this report by December 31, 2024.

ATTACHMENT B
GARDEN IN A BOX PROGRAM
PAYMENT SCHEDULE AND TERMS

GARDEN IN A BOX PROGRAM
PAYMENT SCHEDULE AND TERMS

I. Payment Terms

A. Base Program Price

1. Price Charged to Utility Partner's Residents. Six (6) garden designs shall be made available for Utility Partner's residents to choose from. The six (6) options shall cost circa \$99-\$320 for water customers of Utility Partner as long as discounts remain available. Resource Central shall make all good faith efforts to keep the price charged to Utility Partner's residents below retail cost.
2. Price Charged to Utility Partner. To make the Garden In A Box Program available to Utility Partner in 2024, Utility Partner shall pay a base program price of \$1,925.00 ("Base Program Price").
3. Services Included in Base Program Price. The Base Program Price covers a portion of Resource Central's costs associated with managing and organizing the program as outlined in the Garden In A Box Scope of Work. In addition, the Base Program Price includes twenty-five (25) discounts of \$25 for each Garden In A Box kit that participants purchase during the sales season. Participants must be receiving their water service through Utility Partner to be eligible for discounts. The Base Program Price also includes one (1) distribution within twenty (20) miles of the Utility Partner service area at a mutually agreed-upon location.

B. A la Carte Prices

1. Additional Gardens and Distributions. Subject to availability in the spring season, Utility Partner may order more garden discounts than the twenty-five (25) discounts included in the Base Program Price and will only pay \$25 for each additional discount (no additional Base Program Price). A maximum of ten (10) additional Garden In A Box discounts can be purchased by the Utility Partner. **Any unused discounts in the spring will carry over to the late summer garden season; however, unused discounts in the late summer cannot be carried over, refunded, or transferred into the next calendar year.**

C. Liability for Cost of Unsold Gardens and Unclaimed Discounts

1. Costs Associated with Garden Order. Utility Partner shall not be liable for the costs associated with unsold Garden In A Box kits that are part of the order of twenty-five (25) discounts.
2. No Refund. Resource Central shall not provide a refund to Utility Partner for any unsold gardens or unclaimed discounts.

II. Payment Schedule and Invoicing

- A. Invoicing. Resource Central shall bill Utility Partner for all work completed pursuant to the Agreement. Payment shall be due within thirty (30) days of the date the invoice is issued by Resource Central. Said invoice shall be issued upon Utility Partner's submission to Resource Central of a signed version of the Agreement. Such payment must be made by check or electronic payment (EFT) payable to Resource Central.
- B. Payment Deadlines. For purposes of these payment deadlines, a payment shall be deemed to have been made upon the date of its actual receipt by Resource Central.

**AGENDA INFORMATION
MEMORANDUM**

FIRESTONE BOARD OF TRUSTEES



AIM No.: 6.a

Discussion/Action

Meeting Date: February 14, 2024

Initiated By: Matt Wiederspahn

Department: Engineering - Town

AGENDA ITEM

RESOLUTION 24-21: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO APPROVING A MASTER LICENSE AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND THE CITY OF THORNTON

RECOMMENDATION

Staff recommends that the Board approve Resolution 24-21, a resolution approving a Master License Agreement with the City of Thornton.

SUMMARY

The City of Thornton, as part of their Thornton Water Project, will be constructing a pipeline that will bring water purchased by Thornton in the 1980s through Larimer, Weld, and Adams counties to the city of Thornton. This will require the pipeline to cross Town-owned roads in the following four locations:

1. Grant Ave (WCR 18) at WCR 17
2. Pine Cone Ave (WCR 20) 1 mile west of WCR 19
3. Firestone Blvd (WCR 24) at WCR 17
4. Zinnia Ave (WCR 26) at WCR 17

As part of the discussion with the City of Thornton, three separate agreements have been negotiated with the City. These agreements include a Master License Agreement, a Carriage Water Intergovernmental Agreement (IGA), and an Emergency Interconnect IGA. A summary of each agreement is below:

Master License Agreement:

This agreement allows the City of Thornton to construct and maintain its facilities in the Town of Firestone right-of-way and set the terms and conditions for that. It includes provisions for the City to relocate its pipeline in the future should any future Town use of the right-of-way (i.e. road construction/expansion) conflict with their pipeline.

Carriage Water IGA:

This agreement reserves for a 10-year period the right for the Town to lease up to 5 cubic feet per second of excess water capacity in the Thornton pipeline. At this time the Town does not have any water rights that can utilize this lease, but provides the Town with that option if water rights are acquired.

Emergency Interconnect IGA:

This agreement allows for the Town to construct an emergency interconnect off the Thornton pipeline at Zinnia Ave (WCR 26) at WCR 17. This interconnect would provide the St. Vrain Water Treatment Plant a second emergency source of raw water if its current source is, for any reason, not available.

The City of Thornton has already begun construction of segments of this pipeline in Weld County and would look

to start construction in Firestone within the year. The City is waiting on approvals in Larimer County but expects the project to be completed at the earliest in 2027.

FINANCIAL CONSIDERATIONS

N/A

HISTORY AND PREVIOUS BOARD ACTION

N/A

ATTACHMENTS

1. 24-21 Master License Agreement Thornton
2. Thornton Master Water Pipeline License FINAL W EXHIBITS

RESOLUTION NO. 24-21

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF
FIRESTONE, COLORADO APPROVING A MASTER LICENSE
AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND THE CITY OF
THORNTON**

WHEREAS, the City of Thornton (“Thornton”) owns, operates and maintains a Water Utility System which includes facilities and fiber equipment which it desires to install, operate maintain, repair and replace within certain properties (“License Areas”) owned by the Town of Firestone (“Town”) subject to a Master License Agreement (“Agreement”); and

WHEREAS, in accordance with the Agreement Thornton’s use of the License Areas is subject to specific terms and conditions, including the requirement that all of Thornton’s work shall be in compliance with all applicable laws and regulations and consistent with the Town’s Design Standards and Construction Specifications and approved by the Town’s Engineer; and

WHEREAS, the Agreement also provides that should Thornton lease fiber equipment in the License Areas to a third party that such shall be subject to a revenue sharing agreement with the Town; and

WHEREAS, the Agreement further provides that any transfer of ownership by Thornton of fiber equipment is subject to approval by the Town which also has the Right of First Refusal; and

WHEREAS, Thornton further agrees to maintain the facilities and fiber network in good and safe working and if deemed necessary by the Town, Thornton shall relocate its facilities and fiber network at its cost and if any Town Facilities are damaged by Thornton’s activities Thornton shall repair such damage at its sole cost and expense; and

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

The Master License Agreement between the Town of Firestone and the City of Thornton 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 February 2024.

TOWN OF FIRESTONE, COLORADO

ATTEST:

Drew Alan Peterson, Mayor

Miriam Luna Gonzalez, Interim Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

MASTER LICENSE AGREEMENT

This **MASTER LICENSE AGREEMENT** (“Agreement”) dated as of the ____ day of _____, 2024 (the “Effective Date”), is between the Town of Firestone, a Colorado statutory municipality (the “Town” or “Owner”), and the City of Thornton, a home-rule municipality (“Licensee”). Town and Licensee may be referred to in the singular sense as a “Party” or in the collective sense as the “Parties.”

Recitals

A. Licensee owns, maintains, operates and controls a water utility system serving its customers.

B. For purposes of operating its water utility system, Licensee wishes to locate, place, install, operate, control and maintain certain Facilities (as defined below) in the License Area (as defined below) in the locations detailed in Exhibit A, in connection with the operation of Licensee’s water utility system.

AGREEMENT

Now, therefore, for good and valuable consideration, in the amount of Fifty Thousand Dollars (\$50,000) (“Consideration”), the receipt and sufficiency of which are hereby acknowledged, the Parties agree to the following covenants, terms, and conditions:

ARTICLE 1. LICENSE

1. Definitions. The following definitions shall apply generally to the provisions of this Agreement.

- 1.1 “**Town**” or “**Owner**” means the Town of Firestone, a Colorado statutory municipality.
- 1.2 “**Facilities**” means engineered hydraulic components of that portion of the Licensee’s water utility system constructed in the License Area for transportation of domestic water to Licensee’s water treatment facilities, consisting of an underground water transmission pipeline, fittings, control valves, valve boxes, communication and monitoring facilities solely related to the operation of the water transmission pipeline, and other related appurtenances, together with Fiber Equipment.
- 1.3 “**Fiber Equipment**” means excess underground fiber optic conduits, together with electronics equipment, transmission equipment, shelters, coaxial cables, mounts, generators, containment structures, hangers, pull boxes, pedestals, brackets, fiber optic cable and other accessories and component equipment, which are used to operate one or more neutral-host communication systems employed by Licensee or a third-party for the provision of telecommunication services unrelated to the operation of the Facilities at the time of said third-party use.
- 1.4 “**Installation Date**” shall mean the date that the first Facilities are installed by the Licensee pursuant to this Agreement.

- 1.5 **“Laws”** means any and all statutes, constitutions, ordinances, resolutions, regulations, judicial decisions, rules, tariffs, administrative orders, certificates, orders, or other requirements of the Town or other governmental agency having joint or several jurisdiction over the Parties to this Agreement.
- 1.6 **“License Area”** means Public Right-of-Way and any other real property, including parkland, open space, or trails, that is owned by the Town.
- 1.7 **“Public Right-of-Way”** means the space in, upon, above, along, across, and below the public streets, roads, highways, lanes, courts, ways, alleys, boulevards, sidewalks and bicycle lanes, including all public rights-of-way, utility easements and public service easements as the same now or may hereafter exist, and Town-owned properties, that are under the jurisdiction of the Town. This term shall not include Town parkland, open space, trails, state or federal rights of way, or any property owned by any person or entity other than the Town, except as provided by applicable Laws or pursuant to an agreement between the Town and any such person or entity.

2. Grant of License. Owner hereby grants to Licensee a revocable (pursuant to the terms of Article 3 herein), non-exclusive license (“License”) to use the License Area, subject to the terms and conditions of this Agreement.

3. No Estate Created or Conveyed. It is the express intent of the Parties that the License granted herein does not create or convey an estate, interest, or claim in or to the License Area, and that the Licensee’s location, construction, and use of Facilities or Fiber Equipment within the License Area does not create a license coupled with any property interest in or claim to the License Area.

4. No Franchise Granted or Conveyed. Nothing in this Agreement shall be deemed to grant a franchise or other right to utilize the License Area to construct or provide water utility services for the benefit of customers residing within the Town, construct a gas plant or gas system or provide gas utility services, construct an electric system, provide electric utility services, construct a cable system or provide cable or other video programming services, construct a wireless communications facility or provide wireless communications services, nor permit the Town to collect a franchise fee.

5. Obtaining Required Permits. If the installation, operation, maintenance or location of the Facilities or Fiber Equipment in the License Area shall require any permits, including but not limited to Right-of-way Permit, Stormwater Quality Permit, and Building Permit, Licensee shall, under applicable Town ordinances, apply for the appropriate permits and pay any standard and customary permit fees. As a condition of obtaining any permit that involves digging or other excavation in the License Area, Licensee shall physically identify the horizontal and vertical locations of any other existing underground utility or other facilities in the License Area in the proximity of the proposed work area and illustrate such locations on plan and profile drawings also illustrating the proposed Facilities and Fiber Equipment. Approval of such permits shall be timely and shall not be unreasonably withheld by Town.

6. Permitted Users. Licensee’s affiliates, employees, contractors, agents, and representatives (“Permitted Users”) may use the License, provided that all such uses shall be within the scope of this Agreement.

7. Scope of Use Agreement. Any and all rights expressly granted to Licensee under this Agreement, which shall be exercised at Licensee's sole cost and expense, shall be subject to the Town's lawful exercise of its police powers and the prior and continuing right of the Town under applicable Laws to use any and all parts of the License Area exclusively or concurrently with any other person or entity and shall be further subject to all deeds, easements, dedications, conditions, covenants, restrictions, leases, licenses, permits, franchises, encumbrances, and claims of title of record which may affect the License Area. Any work performed pursuant to the rights granted under this Agreement shall be subject to the reasonable prior review and approval of the Town and shall conform with applicable Laws.

ARTICLE 2. USE OF LICENSE AREA

1. Permitted Use. The License Area may be used by the Licensee for the sole and exclusive purpose of accessing, locating, constructing, installing, operating, maintaining, repairing, removing, and replacing the Facilities and Fiber Equipment. Thornton shall provide to Town at least seven (7) days advance notice of any routine repairs or maintenance of the Facilities and Fiber Equipment and notice within 48 hours after any emergency work on the Facilities.

1.1 No Interference. Licensee in the performance and exercise of its rights and obligations under this Agreement shall not interfere in any manner with the existence and operation of any and all public and private rights of way (except in the case where Licensee's rights are prior or superior to such private right of way), sanitary sewers, water mains, storm drains, gas mains, poles, aerial and underground electrical and telephone wires, cable television, and other communications, utility, or municipal property, without the express written approval of the owner or owners of the affected property or properties, except as permitted by applicable Laws or this Agreement.

2. Plan and Profile. Licensee shall provide Town with plans and profiles for the construction and installation of the Facilities in the License Area consistent with Town's Design Standards and Construction Specifications for Public Improvements at least thirty (30) days in advance of any proposed construction. The Town Engineer shall review and approve the plans and profiles in writing before Licensee begins the installation of such Facilities. The Town Engineer may require reasonable modifications to such plans and specifications prior to approval thereof or issuance of any appropriate permits. Any proposed changes to the approved plans and specifications shall be submitted to the Town for review and approval in writing prior to making such changes. Any required approvals pursuant to this paragraph will be timely provided, and will not be unreasonably withheld by Town. Town Engineer's review will be limited to whether the Facilities and Fiber Equipment are consistent with Town's Design Standards and Construction Specifications for Public Improvements as well as all applicable federal, State, and City technical specifications and requirements related to the construction, installation, operation, maintenance, and control of the Fiber Equipment. In addition:

2.1 Facilities and Fiber Equipment shall have a minimum ten feet (10') of horizontal clearance from Town's underground water facilities existing at the time of installation of the Facilities.

3. Compliance with Plan and Profile. The Facilities and Fiber Equipment shall be installed in accordance with the plans and specifications approved by the Town Engineer prior to beginning the installation of such Facilities and Fiber Equipment, and any appropriate permits issued by the Town that involve digging or other excavation in the License Area.

4. Compliance with Laws. All work approved by the Town shall be completed in compliance with all applicable Laws.

5. Restrictions on Use.

5.1 Except for the Facilities and Fiber Equipment specifically authorized by Owner, Licensee shall not place, build, erect, or add any structures, facilities, improvements or other items on, under, over or across the License Area.

5.2 Any changes, expansions or alterations in any way to the Facilities or Fiber Equipment shall require additional advance approval by Owner.

5.3 Licensee's use of the License Area shall be subject to all existing utility easements, if any, located on, under, or above the License Area.

5.4. Licensee acknowledges that the use hereunder is of the License Area in its present, as-is condition with all faults, whether patent or latent, and without warranties or covenants, express or implied. Licensee acknowledges that Owner shall have no obligation to repair, replace, or improve any portion of the License Area in order to make the License Area suitable for Licensee's intended uses.

5.5 Non-exclusive Use. Licensee acknowledges that this Agreement does not provide Licensee with exclusive use of the License Area and that Town shall have the right to permit other providers of utility services to install equipment or facilities in the License Area so long as such installed equipment or facilities do not interfere with or endanger Licensee's existing Facilities or Fiber Equipment or curtail or materially affect Licensee's full enjoyment of the rights granted pursuant to this License.

6. Utility Notification Center. Licensee is a tier 1 member of the Utility Notification Center and agrees that prior to undertaking any work pursuant to this Agreement Licensee shall comply with and adhere to local procedures, customs and practices relating to the one call locator service program established in C.R.S. Section 9-1.5-101, et seq., as such may be amended from time to time.

ARTICLE 3. TERM AND TERMINATION

1. The initial term of this Agreement shall commence on the Effective Date, and shall extend for a term of ten (10) years commencing on the Installation Date, unless terminated by either Party in accordance with the provisions herein ("Initial Term"). This Agreement will automatically renew for successive (10) year terms ("Renewal Term") upon the expiration of the Initial Term and any Renewal Term, unless earlier terminated as provided herein or a written notice of non-renewal is given by Licensee to Licensor at least thirty (30) calendar days prior to the expiration of the Term then in effect.

2. The Town may terminate this Agreement by delivering thirty (30) days advance written notice to Licensee if Licensee removes and does not replace the Facilities or Fiber Equipment, abandons its use or operation of the Facilities or Fiber Equipment, or otherwise abandons its use and enjoyment of the License Area pursuant to the rights granted herein.

3. Either Party may terminate this Agreement if the other Party defaults in the performance of any of its obligations hereunder and fails to cure such default within thirty (30) days following the giving of written notice by the other party ("Cure Period"), unless such Cure Period is extended by mutual agreement of the Parties.

4. In the event of termination, Licensee shall not be compensated by Town for the cost of removal of Licensee's Facilities from the License Area.

5. Removal Of Facilities and Fiber Equipment Upon Termination. Upon termination of this Agreement, the Parties agree that Licensee shall cut, clean, and remove all Licensee's Facilities and Fiber Equipment located in the License Area, unless such removal of Licensee's Facilities or Fiber Equipment is waived by the Town in its sole discretion, in which case Licensee shall cap and structurally fill any underground pipeline installed within the License Area.

ARTICLE 4. RESERVATION OF RIGHTS

1. Owner reserves all other rights in and to the License Area, including the Town's lawful exercise of its police powers and the prior and continuing right of the Town under applicable laws to use and occupy any and all parts of the License Area exclusively or concurrently with any other person or entity for any purposes whatsoever, including without limitation, other utilities and utility crossings, irrigation systems, landscaping, vehicular and pedestrian access, or any other surface or underground improvements; provided, however, that trees shall not be installed within 15 feet of the Facilities, and that any new underground utilities, facilities or other improvements are not installed or located within twenty-four inches above (vertically) and ten feet on either side of (horizontally) the centerline of the underground water pipeline.

2. Should the Facilities or Fiber Equipment, for any reason, impede, restrict or limit in any manner whatsoever Owner's use of the License Area other than as otherwise allowed herein, Licensee shall be responsible for any incremental cost incurred by the Town to bypass or to avoid disturbing the Facilities or Fiber Equipment when designing, constructing, installing, or modifying any future Town-owned improvements within the License Area.

3. Licensee's loss of use of the Facilities or Fiber Equipment arising out of or relating to the Owner's use of the License Area shall not entitle Licensee to any compensation for damages or loss from Owner, unless such loss is the result of negligence or willful misconduct of Town, its employees, agents, or contractors.

ARTICLE 5. LEASES OF FIBER EQUIPMENT

1. Licensee recognizes and acknowledges that use of the Fiber Equipment within the License Area will be used in accordance with the terms and conditions of this Agreement. Licensee may make excess capacity or provide fiber strands in the Fiber Equipment to other governmental entities including counties, cities, and including institutions of higher education, or political subdivisions, or to private parties (each an "Entity"), provided Licensee executes an agreement with said Entity prior to the Licensee making excess capacity available to or providing fiber strands in the Fiber Equipment to any Entity, whereby both Licensee and said Entity explicitly acknowledge, affirm and agree to the aforementioned terms and conditions in this Agreement, and further provided that Licensee provide a copy of said executed

agreement to the Town within fifteen (15) days of the execution date of said agreement. Furthermore, the Licensee making excess capacity or providing fiber strands in the Fiber Equipment to any Entity shall not relieve Licensee from any and all of its responsibilities and obligations assumed by this Agreement, or from complete and proper fulfillment of the terms and conditions of this Agreement, neither does it require that Town treat any Entity as a party to this Agreement or compensate Licensee for damages or loss, in any manner whatsoever, due by reason of Licensee making excess capacity or providing fiber strands in the Fiber Equipment to any Entity.

2. Revenue-Sharing. As of the date of this agreement Licensee has no plans to lease Fiber Equipment to an outside provider or other third party. Licensee plans to utilize the Facilities, including associated fiber optic equipment, for purposes related to the municipal water pipeline project described herein, and therefore no revenue is expected to be generated. Prior to Licensee leasing or otherwise allowing use of the Fiber Equipment by any third party in exchange for compensation, and/or any revenue being realized by the city as a result of third party use of the Fiber Equipment, Licensee shall enter in good faith an agreement providing for the sharing with the Town of, at minimum, 20% of any and all revenue, payments, receipts, charges, fees, or income of any kind accruing to Licensee from an Entity's lease or use of the Fiber Equipment, during the entire term of such Entity's lease or use of the Fiber Equipment.

3. Transfer of Ownership or Control.

3.1 In this Section, the following words have the meanings indicated:

3.1.1 "Proposed Transferee" means a proposed purchaser, transferee, assignee or person acquiring ownership or control of the Licensee's title or ownership of any Fiber Equipment located in the License Area.

3.2 Subject to Subsection 3.3, the Licensee shall not sell, transfer, assign, or dispose of, in whole or in part, either by forced or involuntary sale, or by ordinary sale, contract, consolidation or otherwise, the Licensee's right, title and interest of any kind or nature whatsoever with respect to the Fiber Equipment located in the License Area, without the prior consent of the Town, except that such consent shall not be required for sales, transfers, or disposals to any parent, subsidiary, affiliate or any person, firm or corporation that shall control, or be under common control, with the Licensee. The consent required by the Town shall not be unreasonably withheld or delayed, but may be conditioned upon the performance of those requirements necessary to ensure compliance with the specific obligations of this Agreement imposed upon the Licensee by Town. Licensee shall provide written notice to the Town of the details of any transaction described herein that requires Town consent at least 30 business days before the effective date of any such proposed transaction.

3.3 Licensee grants to the Town a right of first refusal to acquire all right, title and interest of any kind or nature whatsoever with respect to the Fiber Equipment located in the License Area. Except for those transactions that do not require Town consent as described in Subsection 9.2 above, Licensee will not sell, transfer, convey, assign or dispose of its title or ownership rights in the Fiber Equipment without first offering such interests to the Town for purchase at fair market value. The right of first refusal granted to the Town shall be honored by Licensee and exercised in the following manner:

- 3.3.1 If Licensee receives a bona fide offer to purchase or otherwise acquire title to its Fiber Equipment, or any part thereof, from a proposed transferee, any contract which may be entered into between the Licensee and such proposed transferee shall specifically provide that the transaction shall be subject to the right of first refusal set forth in this Agreement. No later than 60 business days after the Licensee receives an offer to purchase its Fiber Equipment from a proposed transferee, Licensee shall submit to the Town a term sheet, containing the same terms and conditions as the proposed transferee's offer, counter-offer or as stated in the purchase and sale contract with the proposed transferee, except if and to the extent that the Licensee may be prohibited by law to disclose any such information.
- 3.3.2 If the Town accepts such offer in writing no later than 30 business days after receipt of the Licensee's offer, then it shall close upon such interests within 180 calendar days after the date on which the Licensee received the Town's written acceptance.
- 3.3.3 If the Licensee does not receive the Town's written acceptance within the time required above, or the Town rejects the Licensee's offer, then the Licensee shall have the right to consummate the proposed sale and conveyance with the same proposed transferee and the Licensee has no further obligation to the Town with respect to the proposed transaction with the proposed transferee.
- 3.3.4 If the proposed sale and conveyance to the same proposed transferee is not consummated, the Town's right of first refusal shall not be deemed waived or cancelled, but shall remain in full force and effect.
- 3.3.5 The Town's right of first refusal set forth in this Subsection 3.3 remains in effect for as long as the Licensee owns the Fiber Equipment with respect to any subsequent proposed transactions.
- 3.4 In seeking the Town's consent to any change in ownership, Licensee shall indicate whether it has failed to comply with any provision of this Agreement at any point during the term of this Agreement.
- 3.5 The consent or approval of the Town to transfer by the Licensee does not constitute a waiver or release of the rights of the Town in or to its License Area or easements and any transfer shall by its own terms be expressly subject to the terms and conditions of this Agreement.

4. Abandonment of Equipment. Upon the expiration or termination of this Agreement, Licensee may decide, in its sole discretion, to leave the Fiber Equipment in place as is and transfer its ownership of the Fiber Equipment to Town. To do so, Licensee shall send written notice to the Town of its intent to transfer ownership of the Fiber Equipment within 30 calendar days of the date of expiration or termination, and then execute and deliver to the Town bills of sale and such other documents necessary to effectuate such transfer of ownership to the Town within 30 business days of the Town's receipt of written notice. Licensee must exercise the option provided herein, within six (6) calendar months of the date of termination or expiration of this Agreement. The Town shall notify Licensee when it has one (1) calendar month remaining before the 6-month timeframe for abandonment expires. The Town's failure to

notify Licensee shall not toll or otherwise affect the running of the 6-month time frame for abandonment. If the Licensee fails to affirmatively abandon its Fiber Equipment pursuant to this section within this 6-month timeframe, then Licensee will be deemed to have remised, released, quitclaimed, and sold to the Town all title and ownership in any Fiber Equipment remaining in the License Area, and the permanent abandonment in place and transfer of ownership of that Fiber Equipment shall automatically vest in the Town without necessity of an additional agreement or instruments of conveyance.

ARTICLE 6. MAINTENANCE; RELOCATION AND DISPLACEMENT; DAMAGE AND RESTORATION

1. Maintenance.

- 1.1 Licensee agrees to take such actions, at its sole expense, as are necessary to maintain the Facilities and Fiber Equipment in good and safe working condition at all times. Licensee further agrees to comply at all times with all applicable Laws in Licensee's use and occupancy of the License Area when performing any maintenance, repair, or monitoring activities.
- 1.2 In the exercise of its rights pursuant to this Agreement, Licensee shall avoid any damage or interference with any Town installations, structures, utilities, or improvements on, under, or adjacent to the License Area.

2. Relocation and Displacement of Facilities. Licensee understands and acknowledges that Town may require Licensee to relocate one or more of its Facilities, if Town reasonably determines that the relocation is needed for any of the following purposes: (a) if relocation is necessary for the construction, completion repair, relocation, or maintenance of a Town facility or Public Right-of-Way; (b) because the Facilities are interfering with or adversely affecting proper operation of street lights, traffic signals, governmental communications networks or other Town property uses in existence as of the date of this Agreement; or (c) if relocation is necessary to protect or preserve the public health or safety. In any such case, Town shall use its best efforts to avoid construction of Town facilities that may require relocation of the Facilities (but shall not be required to incur additional or unreasonable financial costs). In the event construction of Town facilities cannot be completed without relocation of the Facilities, Town shall use its best efforts (but shall not be required to incur additional or unreasonable financial costs) to afford Licensee a reasonably equivalent alternate location. If Licensee shall fail to relocate any Facilities as requested by the Town within one hundred and eighty (180) days after the above-referenced notice in accordance with the foregoing provision, Town shall be entitled to relocate the Facilities at the Licensee's sole cost and expense, without further notice to the Licensee. To the extent the Town has actual knowledge thereof, the Town will attempt promptly to inform Licensee of the displacement or removal of Facilities.

3. Relocation and Displacement of Fiber Equipment. Licensee understands and acknowledges that Town may require Licensee to relocate one or more of its Fiber Equipment installations. Licensee shall at Town's direction relocate such Fiber Equipment at Licensee's sole cost and expense not later than one hundred and eighty (180) days after receiving written notice that the Town reasonably determines that the relocation is needed for any of the following purposes: (a) if required for the construction, completion, repair, relocation, or maintenance of a Town facility or public right-of-way; (b) because the Fiber Equipment is interfering with or adversely affecting proper operation of street lights, traffic signals, governmental communications networks or other Town property; or (c) to protect or preserve the public health or safety. In any such case, Town shall use its best efforts (but shall not be required to incur financial costs) to afford Licensee a reasonably equivalent alternate location. If Licensee shall fail to

relocate any Fiber Equipment as requested by the Town within one hundred and twenty (120) days after the above-referenced notice in accordance with the foregoing provision, Town shall be entitled to relocate the Fiber Equipment at the Licensee's sole cost and expense, without further notice to Licensee. To the extent the Town has actual knowledge thereof, the Town will attempt promptly to inform Licensee of the displacement or removal of any pole on which any Fiber Equipment is located.

4. Damage and Restoration. If the Town's facilities in the License Area are damaged, or the License Area itself is damaged, by Licensee's use of the Facilities or Fiber Equipment or from the Facilities or Fiber Equipment themselves, or if removal or relocation of the Facilities or Fiber Equipment, where required or permitted, causes damage to any Town facilities in the License Area or to the License Area itself, Licensee shall repair such damage at its sole cost and expense within thirty (30) days after such damage occurs or fairly and reasonably compensate Town for such damages that are incurred by Town within thirty (30) days of presentment of an invoice by Town. The degree of repair work required to be performed by Licensee under this section may include without limitation restoration or replacement. If any damage to Town facilities in the License Area is deemed, in the Town's sole determination, to require emergency repair work or poses an imminent threat to life or property, Town shall undertake best efforts to contact Licensee as soon as is reasonably practical to notify Licensee of the need for conducting emergency repairs and request that Licensee perform such repairs, but Town may take immediate action to perform any and all necessary repairs for the continued safe operation of Town facilities in License Area, for the preservation or protection of the License Area, or for the protection of the public health, safety and welfare. If Town undertakes such emergency repairs, Licensee shall fairly and reasonably compensate Town for the costs of performing any work that are incurred by Town within thirty (30) days of presentment of an invoice to Licensee by Town.

ARTICLE 6. INSURANCE

1. Coverages. Licensee shall procure and maintain or self-insure, at its own cost, a policy or policies of insurance sufficient to insure against, claims, demands, and other obligations assumed by Licensee pursuant to this Agreement. All of Licensee's contractors shall be insured pursuant to their master service contracts with Licensee. Such coverages shall include:

- 1.1 Worker's Compensation insurance as required by law.
- 1.2 Commercial General Liability insurance with minimum combined single limits of \$2,000,000 per occurrence for bodily injury and property damage and \$5,000,000 general aggregate including premises and operations, personal and advertising injury, blanket contractual liability, and products, and completed operations. The policy shall contain a severability of interests provision, and shall include the Town and the Town's officers, employees and contractors as additional insureds to the extent of the liabilities assumed by Licensee herein.
- 1.3 Excess or Umbrella Liability insurance, on an occurrence basis, in excess of the Commercial General Liability insurance, with coverage as broad as such policy, with a limit of \$2,000,000.

2. Form. Such insurance shall be in addition to any other insurance requirements imposed by law. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage. Any insurance carried by the Town, its officers,

its employees or its contractors shall be excess and not contributory insurance to that provided by Licensee. Licensee shall be solely responsible for any deductible losses under any policy.

3. Certificate. Prior to initial construction, Licensee shall provide to Owner a certificate of insurance or self-insurance letter as evidence that the required coverages are in full force and effect. The certificate or letter shall identify this Agreement.

ARTICLE 7. NOTICES

Any notice required or permitted under this Agreement shall be in writing and shall be sufficient if personally delivered or mailed by certified mail, return receipt requested, addressed to the following: (i) if to the Town, Attn: Town Manager, Town of Firestone, P.O. Box 100, Firestone, CO 80520; and (ii) if to the Licensee, Attn. City Manager, 9500 Civic Center Drive, Thornton, CO 80229 with a copy to: Attn. City Attorney, 9500 Civic Center Drive, Thornton, CO 80229. Notices mailed in accordance with the provisions of this Paragraph shall be deemed to have been given upon mailing. Notices personally delivered shall have been deemed to have been given upon delivery. Either party may change its address by giving notice thereof to the other party in the manner provided in this Article 7.

ARTICLE 8. MISCELLANEOUS

1. Record Drawings. Within ninety (90) days of completion of the close-out phase of Licensee's work package for installation of the Facilities, Licensee shall provide Owner detailed digital record drawings of such Facilities for review and acceptance in conformance with the Town's Design Standards and Construction Specifications. Record Drawings shall show the location of the Facilities with a reference distance to an existing section monument. The plan view shall also show existing surface features and known utilities within ten (10) feet of the Facilities.

2. Monumentation and Marking. Licensee shall place and maintain permanent, above-grade monumentation and marking at all locations where the Facilities enter upon the boundaries of the License Area and at changes of direction as approved by the Town Engineer. Markers shall include phone numbers to call for line locates and 24-hour emergency repair. Licensee shall install tracer wire no more than 18" above and along the entire length of the Facilities.

3. Assignment. Licensee may not assign or transfer this Agreement or any of the rights or privileges therein granted, without the prior, express written consent of the Town, which consent shall not be unreasonably withheld, conditioned, or delayed; except that such consent shall not be required for assignments to any governmental entity. Such consent, if granted by the Town, shall be conditioned upon such assignee's assumption, in writing in a form acceptable to Town, of all of Licensee's obligations set forth herein.

4. Waiver Of Claims Against Town. Licensee hereby waives any and all claims which Licensee may or might hereafter have or acquire against Town for loss or damage to Licensee's Facilities or any loss or degradation of any utility services Licensee may provide arising from the use by Town, of the License Area for any purpose, except to the extent such claims are caused by the negligence or willful misconduct of the Town, its officers, its employees, or its subcontractors.

5. Limitation of Liability. To the extent permitted by law, the Town shall be liable only for the cost of repair to damaged Facilities arising from the negligence or willful misconduct of Town, its employees, agents, or contractors and shall in no event be liable for indirect or consequential damages.

The Town does not waive any of the protections, immunities or limitations afforded it by the Colorado Governmental Immunity Act (C.R.S. §§ 24-10-101 et. seq.) as same may be amended from time to time. Similarly, Licensee does not, by this Agreement, waive any of the protections, immunities or limitations afforded it by the Colorado Governmental Immunity Act (C.R.S. §§ 24-10-101 et. seq.) as same may be amended from time to time

6. Mechanics' Liens. Licensee shall not allow any mechanics or similar liens to be filed against the License Area arising from any work done by Licensee within the License area. Similarly, Town shall not allow any mechanics or similar liens to be filed against the License Area arising from any work done by Town within the License Area. If any mechanics' or other liens shall be created or filed against the License Area by reason of labor performed by, or materials furnished for, either party, the Party responsible for such labor or materials shall, within thirty (30) days thereafter, at such Party's own cost and expense, cause such lien or liens to be satisfied and discharged of record together with any Notices Of Intention To File Mechanic's Lien that may have been filed.

7. Attorney's Fees. If any action is brought in a court of law by either party to this Agreement concerning the enforcement, interpretation or construction of this Agreement, the prevailing party, either at trial or upon appeal, shall be entitled to reasonable attorney's fees as well as costs, including expert witness's fees, incurred in the prosecution or defense of such action.

8. Waiver. The failure of either party to exercise any of its rights under this Agreement shall not be a waiver of those rights. A party waives only those rights specified in writing and signed by the party waiving its rights.

9. Entire Agreement. This Agreement constitutes the entire agreement and understanding between the Parties hereto and supersedes any prior agreement or understanding relating to the subject matter of this Agreement. Any such prior agreement shall be deemed to be null and void and of no further effect.

10. Modification. This Agreement may not be amended except in writing by mutual agreement of the parties, nor may rights be waived except by an instrument in writing signed by the party charged with such waiver.

11. Paragraph Headings. Paragraph headings are inserted for convenience only and in no way limit or define the interpretation to be placed upon this Agreement.

12. Governing Law; Jurisdiction. This Agreement shall be governed and construed by and in accordance with the laws of the State of Colorado, without reference to its conflicts of law principles. If suit is brought by a party to this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of Colorado, County of Weld.

13. Severability of Provisions. If any one or more of the provisions of this Agreement shall be held by court of competent jurisdiction in a final judicial action to be void, voidable, or unenforceable, such provision(s) shall be deemed severable from the remaining provisions of this Agreement and shall not affect the legality, validity, or constitutionality of the remaining portions of this Agreement. Each Party hereby declares that it would have entered into this Agreement and each provision hereof regardless of whether any one or more provisions may be declared illegal, invalid, or unconstitutional.

14. Representations and Warranties. Each of the parties to this Agreement represents and warrants that it has the full right, power, legal capacity, and authority to enter into and perform the parties' respective obligations hereunder and that such obligations shall be binding upon such party without the requirement of the approval or consent of any other person or entity in connection herewith.

[Signatures and acknowledgments on following page]

The Parties have executed this **MASTER LICENSE AGREEMENT** to be effective on the Effective Date.

OWNER:

TOWN OF FIRESTONE

By: _____
Drew Alan Peterson, Mayor

ATTEST:

By: _____
Miriam Luna Gonzalez, Interim Town Clerk

APPROVED AS TO FORM:

By: _____
William P. Hayashi, Town Attorney

LICENSEE:

CITY OF THORNTON

By: _____
Jason Pierce, Thornton Water Project Director

ATTEST:

By: _____
Kristen N. Rosenbaum, City Clerk

APPROVED AS TO FORM:
Tami Yellico, City Attorney

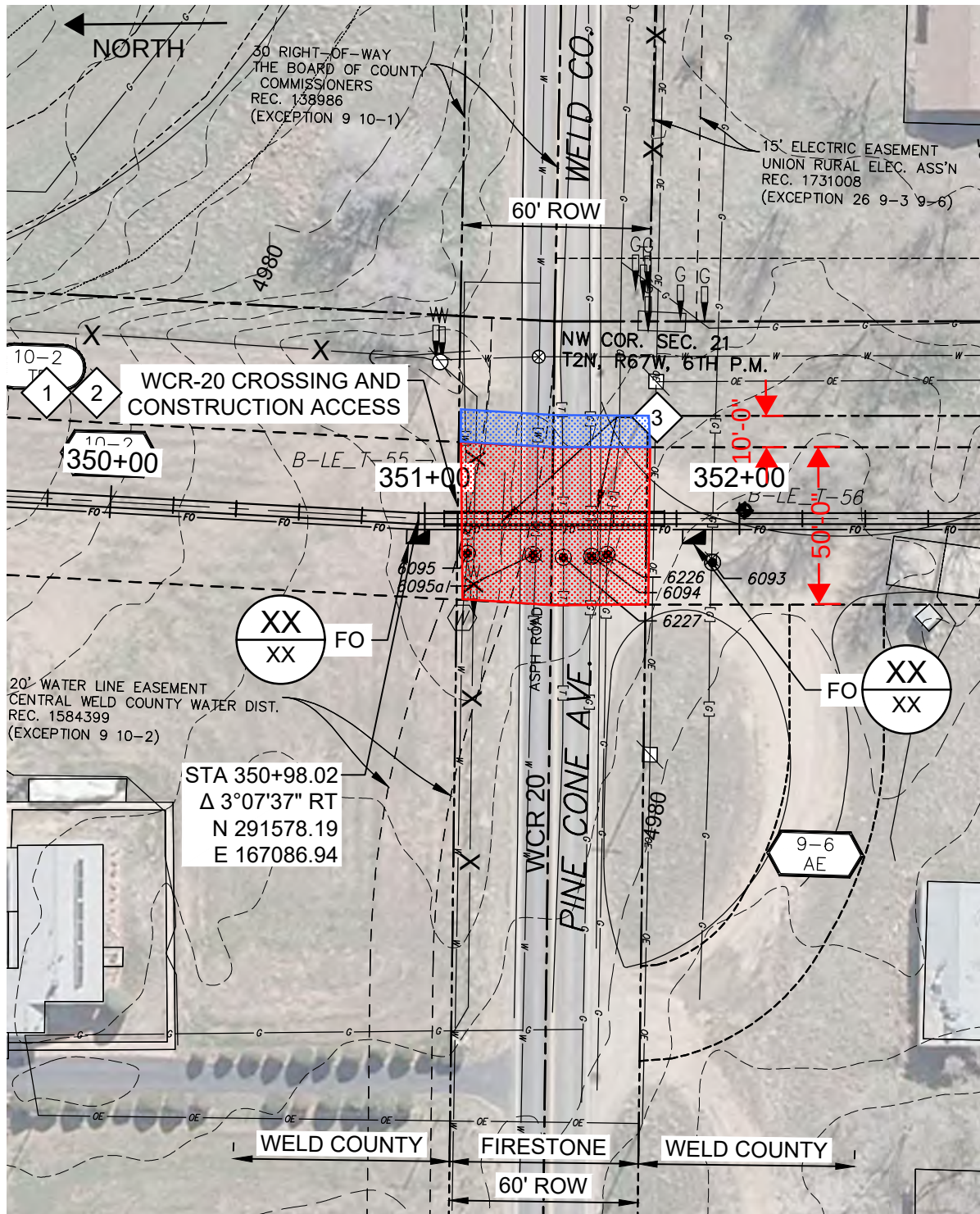
By: _____
Senior Assistant City Attorney - Water

EXHIBIT "A"

Crossing Depictions

FIRESTONE CROSSINGS

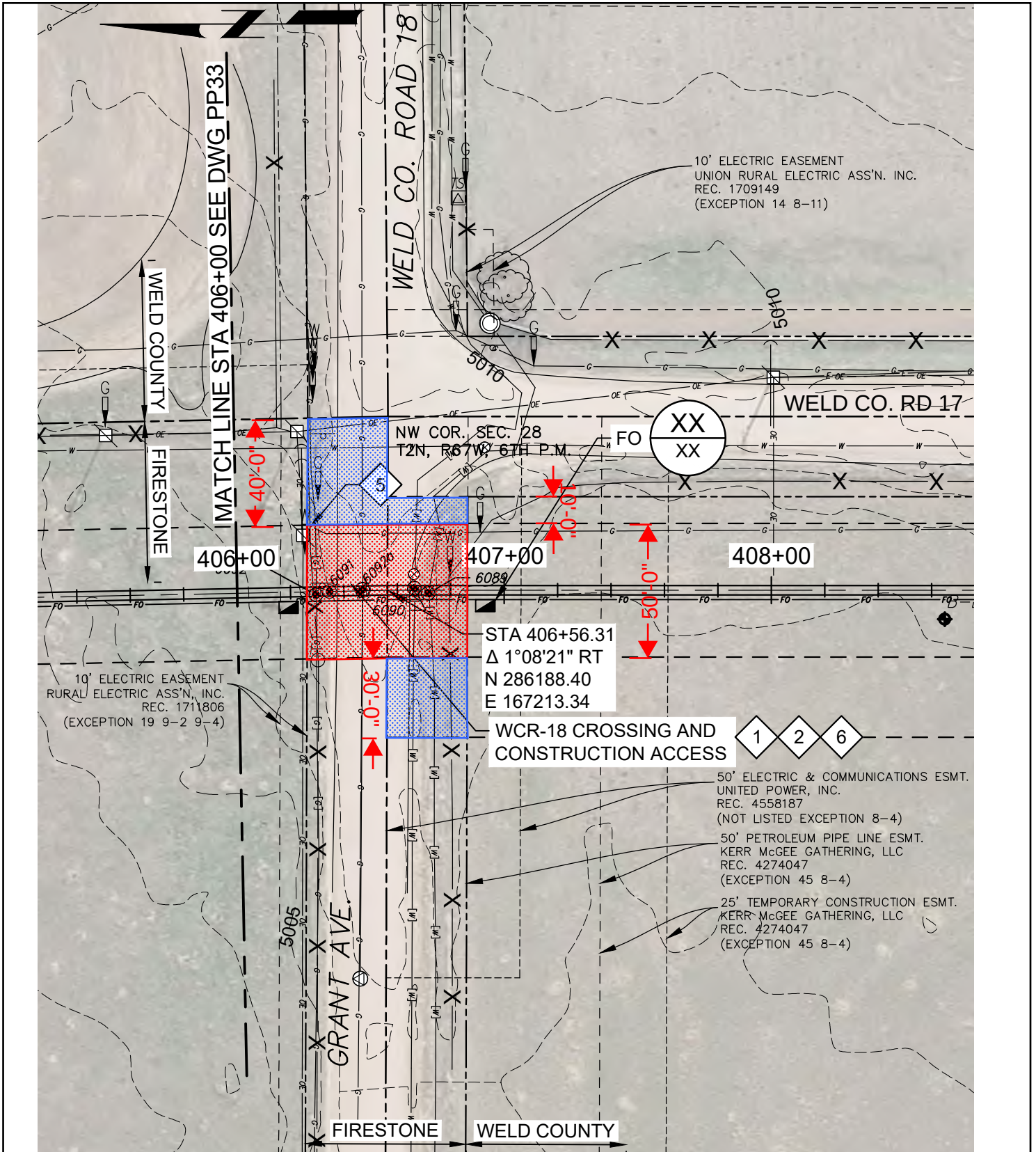
CR20



PERMANENT EASEMENT WIDTH = 50'
 PERMANENT EASEMENT AREA = 3000 sqft +/-
 TEMPORARY EASEMENT WIDTH = 10'
 TEMPORARY EASEMENT AREA = 600 sqft +/-
 *TOWN LIMITS END APPROXIMATELY 30' WEST
 OF THE SECTION LINE

FIRESTONE CROSSINGS

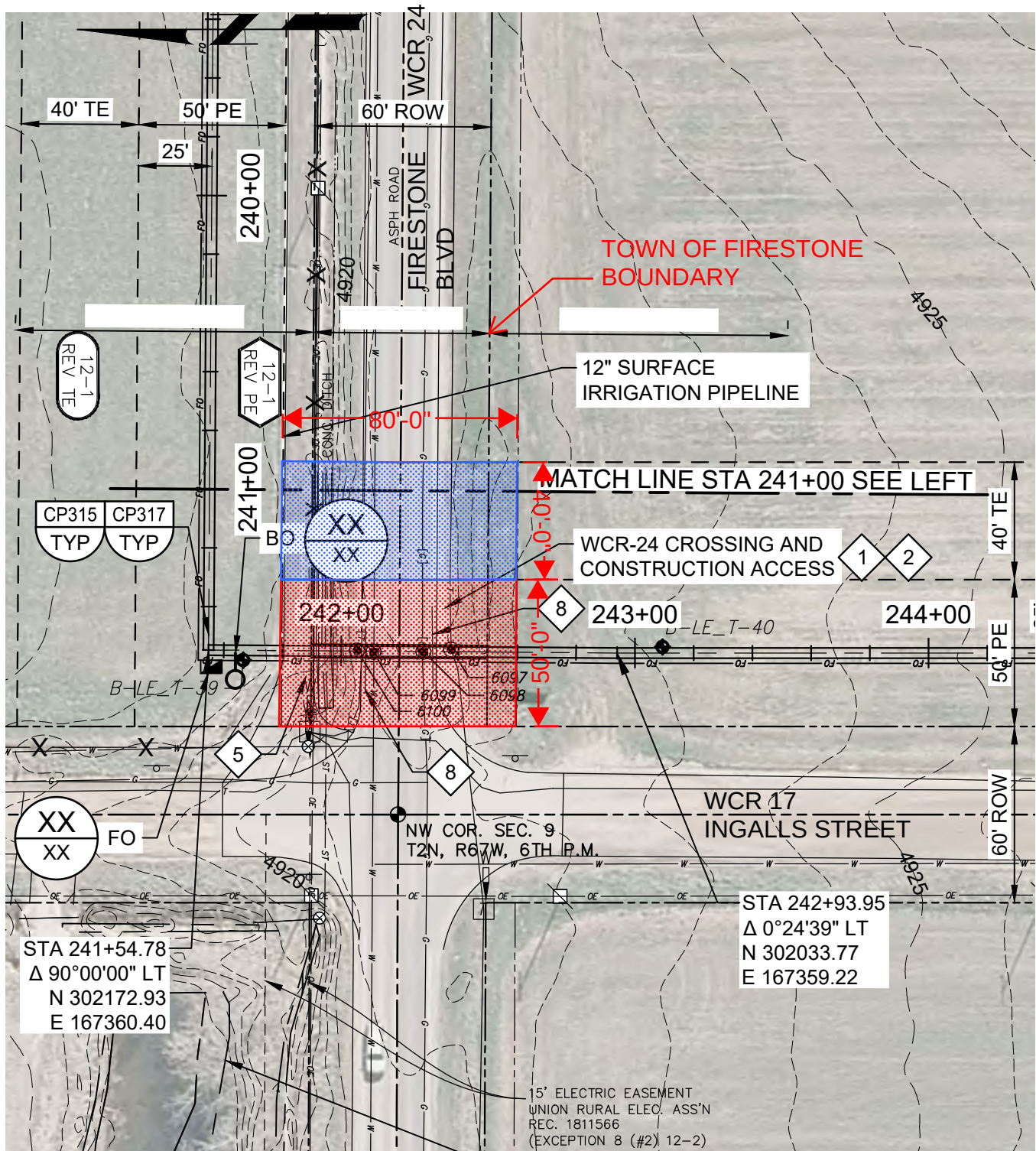
CR18



PERMANENT EASEMENT WIDTH = 50'
 PERMANENT EASEMENT AREA = 3000 sqft +/-
 TEMPORARY ASEMENT WIDTH = 40'
 TEMPORARY EASEMENT AREA = 2400 sqft +/-

FIRESTONE CROSSINGS

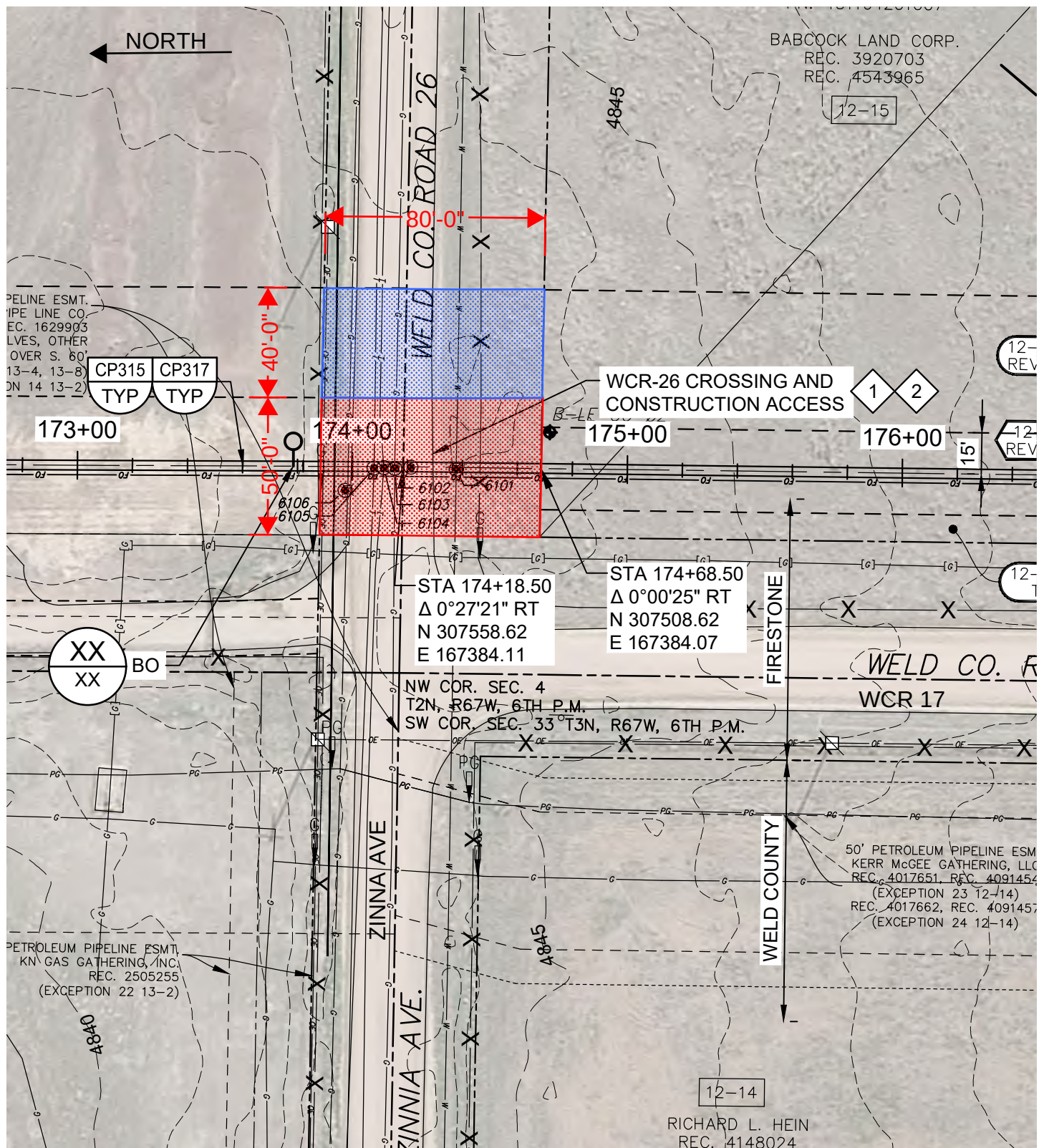
CR24



PERMANENT EASEMENT WIDTH = 50'
 PERMANENT EASEMENT AREA = 4000 sqft +/-
 TEMPORARY EASEMENT WIDTH = 40'
 TEMPORARY EASEMENT AREA = 3200 sqft +/-

FIRESTONE CROSSINGS

CR26



**AGENDA INFORMATION
MEMORANDUM**

FIRESTONE BOARD OF TRUSTEES



AIM No.: 6.b

Discussion/Action

Meeting Date: February 14, 2024

Initiated By: Matt Wiederspahn

Department: Engineering - Town

AGENDA ITEM

RESOLUTION 24-22: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO AND THE CITY OF THORNTON COLORADO APPROVING AN INTERGOVERNMENTAL AGREEMENT FOR CARRIAGE OF WATER

RECOMMENDATION

Staff recommends that the Board approve Resolution 24-22, a resolution approving an intergovernmental agreement regarding excess raw water carriage capacity with the City of Thornton.

SUMMARY

The City of Thornton, as part of their Thornton Water Project, will be constructing a pipeline that will bring water purchased by Thornton in the 1980s through Larimer, Weld, and Adams counties to the city of Thornton. This will require the pipeline to cross Town-owned roads in the following four locations:

1. Grant Ave (WCR 18) at WCR 17
2. Pine Cone Ave (WCR 20) 1 mile west of WCR 19
3. Firestone Blvd (WCR 24) at WCR 17
4. Zinnia Ave (WCR 26) at WCR 17

As part of the discussion with the City of Thornton, three separate agreements have been negotiated with the City. These agreements include a Master License Agreement, a Carriage Water Intergovernmental Agreement (IGA), and an Emergency Interconnect IGA. A summary of each agreement is below:

Master License Agreement:

This agreement allows the City of Thornton to construct and maintain its facilities in the Town of Firestone right-of-way and set the terms and conditions for that. It includes provisions for the City to relocate its pipeline in the future should any future Town use of the right-of-way (i.e. road construction/expansion) conflict with their pipeline.

Carriage Water IGA:

This agreement reserves for a 10-year period the right for the Town to lease up to 5 cubic feet per second of excess water capacity in the Thornton pipeline. At this time the Town does not have any water rights that can utilize this lease, but provides the Town with that option if water rights are acquired.

Emergency Interconnect IGA:

This agreement allows for the Town to construct an emergency interconnect off the Thornton pipeline at Zinnia Ave (WCR 26) at WCR 17. This interconnect would provide the St. Vrain Water Treatment Plant a second emergency source of raw water if its current source is, for any reason, not available.

The City of Thornton has already begun construction of segments of this pipeline in Weld County and would look to start construction in Firestone within the year. The City is waiting on approvals in Larimer County but expects the project to be completed at the earliest in 2027.

FINANCIAL CONSIDERATIONS

N/A

HISTORY AND PREVIOUS BOARD ACTION

N/A

ATTACHMENTS

1. 24-22 Thornton Water Project Carriage
2. Firestone IGA Carriage of Water FINAL W EXHIBITS

RESOLUTION NO. 22-24

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO AND THE CITY OF THORNTON COLORADO APPROVING AN INTERGOVERNMENTAL AGREEMENT FOR CARRIAGE OF WATER

WHEREAS, the City of Thornton (“Thornton”) is in the process of constructing and plans to operate and maintain the Thornton Water Project (“TWP”) consisting of a pipeline and appurtenances that will convey Thornton water from Northern Colorado through Weld County including the Town of Firestone (“Firestone”) and Adams County to Thornton; and

WHEREAS, Firestone desires to lease excess, as available capacity of the TWP for delivery of water to Firestone for use in its water supply system; and

WHEREAS, Thornton agrees to reserve a minimum of five cubic feet per second (“cfs”) of excess, as-available, carriage capacity for carriage of Firestone water in the TWP for Firestone to lease for an initial term of five years subject to a lease agreement entered into by Thornton and Firestone that substantially meets the terms and conditions set forth in the above referenced Intergovernmental Agreement; and

WHEREAS whether excess capacity is available is at the sole discretion of Thornton and Thornton agrees that for the initial five-year term that Firestone shall have first priority, as to other users of the TWP; and

WHEREAS, Firestone shall deliver water to the TWP at a point mutually agreed upon by the parties and Thornton shall deliver water to Firestone at the emergency interconnect established as set forth in the parties Intergovernmental Agreement for an Emergency Raw Water Connection; and

WHEREAS, Firestone shall pay Thornton a carriage charge for all water delivered to the Firestone delivery point in an amount as agreed upon in the parties lease agreement; and

WHEREAS, the billing amount shall be determined by a meter installed, calibrated and maintained by Thornton at the Firestone delivery point and Firestone shall pay Thornton within thirty calendar days of receipt of a bill.

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

The Intergovernmental Agreement between the City of Thornton and the Town of

Firestone for the Carriage of Water 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 Intergovernmental Agreement on behalf of the Town.

INTRODUCED, READ AND ADOPTED this 14th day of February, 2024.

TOWN OF FIRESTONE, COLORADO

Drew Alan Peterson, Mayor

ATTEST:

Miriam Luna Gonzalez, Interim Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

**INTERGOVERNMENTAL AGREEMENT
BETWEEN THE CITY OF THORNTON AND
THE TOWN OF FIRESTONE**

This Intergovernmental Agreement ("Agreement") is made and entered into this ____ day of _____, 2024, by and between the City of Thornton, a Colorado home rule municipal corporation ("Thornton") and the Town of Firestone, a statutory town of the County of Weld ("Firestone"). Thornton and Firestone are also hereinafter referred to as the "Parties" or separately as a "Party".

WITNESSETH:

WHEREAS, Thornton is in the process of constructing, and plans to operate and maintain, a water project known as the Thornton Water Project ("TWP"), consisting of a water pipeline and appurtenances for the purpose of conveying a Thornton-owned water supply from northern Colorado through Firestone and other parts of Adams County to Thornton; and

WHEREAS, Firestone desires to lease excess, as-available capacity of the TWP for delivery of water to the City of Firestone for subsequent use in Firestone's municipal water supply system; and

WHEREAS, Section 18(2)(a) of Article XIV of the Colorado Constitution, as well as Sections 29-1-201, et seq., and 29-20-105 of the Colorado Revised Statutes authorize and encourage governments to cooperate by contracting with one another for their mutual benefit.

NOW, THEREFORE, in consideration of the mutual covenants and promises herein, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. Carriage Contract/Term. For up to ten (10) years after the TWP is put into operation (the "Initial Term"), Thornton hereby agrees to reserve a minimum of five (5) cubic feet per second (cfs) of excess, as-available, carriage capacity for carriage of Firestone's water rights in the TWP (regardless of whether Firestone actually uses said excess capacity) for lease to Firestone pursuant to a separate lease agreement, and Firestone shall, at all times during the Initial Term, have the right to enter into a lease agreement with Thornton on terms that substantially match the terms set forth herein, where applicable, together with any other commercially reasonable terms that are commonly used in water pipeline capacity leases and which are mutually acceptable to the Parties ("Lease"). Such "excess capacity" available for lease by Firestone shall be defined as pipeline capacity available in excess of the pipeline capacity being used by Thornton. The Parties further affirmatively agree to use best efforts in good faith to negotiate and enter into such Lease. In the event Firestone and Thornton do not enter into a Lease during the Initial Term, the Initial Term of this Agreement may be renewed at Thornton's discretion upon written request by Firestone, however such renewal is dependent on availability of excess capacity at the time of request. Should the Parties,

however, enter into a Lease during the Initial Term, the duration of such Lease shall be automatically renewable for succeeding terms of five (5) years each on the same terms and conditions set forth in such Lease, unless Thornton gives Firestone written notice of non-renewal at least 30 days prior to expiration of the then-current term due to lack of availability of excess capacity at the time of renewal. Moreover, upon execution, the Lease shall replace and supersede this Agreement.

2. Determination of Priority. Whether excess pipeline capacity is available for Firestone shall be at the sole discretion of Thornton, however, Thornton agrees for the duration of the Initial Term that Firestone shall have the first priority, as between any other third-party users of the TWP, to use of any excess capacity above and beyond Thornton's needs. Thornton further agrees to notify Firestone within thirty (30) calendar days in the event that any third party makes a bona fide offer to lease such excess capacity during the Initial Term and Firestone shall have ninety (90) calendar days after such notification to negotiate to enter into a Lease with Thornton for such excess capacity before Thornton accepts or rejects a third party offer for lease of such excess capacity; provided, however, that Firestone's failure to exercise that option within such 90-day period shall not in any way abrogate or constitute a waiver of its right to enter into a Lease with Thornton at any time during the Initial Term. Regardless of any other leases Thornton may enter into during the Initial Term for excess capacity in the TWP, if at any time during the Initial Term Firestone elects to enter into a Lease with Thornton for such excess capacity, Firestone shall have the first priority as between any other third-party users to use of any excess capacity above and beyond Thornton's needs. After expiration of the Initial Term, in the event Firestone has not yet entered into a Lease with Thornton, priority to use available excess capacity as between multiple entities holding applicable valid leases shall be assigned in the order of the execution date of any fully executed lease agreement with each entity.
3. Nature of Agreement. This Agreement is intended as and shall be considered to be a contract right for carriage of water, and no property interest whatsoever in the TWP or any other portion of the Thornton water system, including but not limited to Thornton's water rights, is conveyed to Firestone by virtue of this Agreement.
4. Character of Delivered Water. The water delivered to Firestone from the TWP shall consist of water rights owned by Firestone. None of the water delivered to Firestone pursuant to this Agreement shall be attributed to Thornton's water rights.
5. Water Quality. Thornton must approve the source of water comprising Firestone's water rights before delivery into the TWP and approve all connection points/associated facilities to ensure no degradation of the quality of water in the TWP. Thornton's minimum water quality standards are shown in **Exhibit A**. Thornton's source water quality data shall be provided to Firestone upon request.
6. Water Pressure. Thornton makes no guarantee concerning the pressure of water delivered to Firestone. Firestone recognizes that significant pressure fluctuations might occur and agrees that it shall be responsible to the extent provided for by law for any

and all damage attributable to the pressure of water received from Thornton.

7. Delivery Points. Firestone shall deliver its water rights for carriage to the TWP at a point mutually acceptable to the parties. Thornton shall deliver water via the TWP to Firestone at the location of the emergency interconnect, generally located at the intersection of Weld County Road 26 and Weld County Road 17. The amounts and rates of flow of water which Firestone shall be entitled to deliver into the TWP pursuant to this Agreement shall be limited to those specified in the separate lease agreement entered into by the Parties.
8. Infrastructure Improvement Costs. Thornton must approve all connection points and associated facilities that connect to the pipeline to ensure no impact to the system hydraulics and operations. All costs for Firestone connections to the TWP Pipeline, including associated facilities, shall be paid by Firestone.
9. Ownership and maintenance. Thornton shall own, operate and maintain the TWP.
10. Start of Deliveries of Delivered Water. The parties agree to consult and cooperate in arranging jointly the time and date of first water delivery through the TWP so as to avoid interference with other operations in their respective utility systems.
11. Firestone shall be responsible for obtaining any and all necessary permits or other permissions to deliver their water rights via the TWP.
12. Carriage Charge. To account for the costs Thornton will incur in operating, maintaining, and replacing the TWP as needed for delivery of water to Firestone, and for the benefits Firestone will receive by using the TWP for delivery of water, Firestone will pay a Carriage Charge to Thornton for all water delivered to the Firestone delivery point. Such Carriage Charge shall be determined at the time the separate lease agreement is entered into by the Parties.
 - a. Firestone shall pay any costs that are solely attributed to their operations, for example, if Firestone wants to operate at a time that Thornton is not operating the pipeline, and there is a demand or “ratchet” power charge, Firestone would pay all of that charge. Minimum flows may apply, depending on the situation.
 - b. Thornton may increase the water delivery rate once per year to account for inflation or other operational and maintenance cost impacts. The initial rate will be based on a baseline Consumer Price Index for the Denver region defined upon the initial date of water delivery to Firestone.
13. Metering and Billing. A meter will be installed by Thornton at the Firestone delivery point. The meter shall be read by Thornton on no less than a monthly basis. Billing for Carriage Charges shall be submitted to Firestone promptly after reading the meter, and Firestone shall pay Thornton for Carriage Charges within thirty (30) calendar days of receipt. If the meter shall fail to register for any period, the Parties shall agree as to the amount of water furnished during such period and Thornton shall render a bill therefore. If no agreement can be reached, the billing shall be

based on historical usage data.

14. Meter inspection and calibration. Thornton shall, at regular periodic intervals and at its cost, test and calibrate the meter at the Firestone delivery point. Thornton shall provide Firestone with the results of such testing and calibration at Firestone's request. Firestone may, at its cost, independently test the meter. Firestone shall notify Thornton within fourteen (14) calendar days in advance of the date and time that Firestone's tests will be conducted. Firestone and Thornton shall, when mutually agreed by the parties, make periodic inspections of the facilities at the delivery point to ensure that the facilities are being used in compliance with this Agreement.
15. Delivery/Interruptions or Restrictions. Firestone's use of the TWP for carriage of water is subordinate to Thornton's use of the TWP to provide water service to Thornton's water system customers. If the delivery of water to Thornton is interrupted or reduced as a result of circumstances beyond Thornton's control, such as water line breaks, pump station failures, or similar occurrences, then delivery of water to Firestone pursuant to this Agreement will be interrupted or reduced so long as, and to the extent that, the delivery interruptions or reductions to Thornton continue in effect. If water deliveries to Firestone are interrupted or reduced as a result of circumstances beyond Thornton's control, such as water line breaks, pump station failures, or similar occurrences within the TWP, Thornton will immediately notify Firestone of such interruptions or reductions and shall use its best efforts to correct the problems and restore service to Firestone as soon as reasonably possible.
16. Force Majeure. Thornton shall not be liable to Firestone for any damages resulting from a Force Majeure event that prevents construction or operation of the TWP or the delivery points. Thornton shall not be considered to be in noncompliance or breach in respect of any obligation hereunder to the extent such failure of performance shall be due to a Force Majeure event. "Force Majeure" means any event beyond the reasonable control of a Party, and not attributable to its neglect, which results in the failure of some performance under this Agreement. Force Majeure events may include, but are not limited to, the following: failure of equipment or facilities due to drought, flood, earthquake, storm, fire, lightning, epidemic, war, acts of terrorism, riot, civil disturbance, sabotage, strike or labor difficulty, accident or curtailment of supply or equipment, casualty to equipment or other unavailability of equipment, inability to obtain and maintain rights-of-way, permits, licenses and other required authorization from any federal, state or local agency or person for any of the facilities or equipment necessary to provide or receive the services hereunder, and restraint, order or decree by a court or public authority.
17. No Operating Obligation. Nothing herein shall be deemed or construed as creating any obligation on Thornton to operate its facilities in any particular manner, so long as Thornton complies with the express terms of this Agreement.
18. Entire Agreement. This Agreement constitutes the entire agreement of the parties

with respect to the subject matter hereof, and shall not be altered, amended, or extended, except by an instrument executed in writing by both parties.

19. Term. The Term of this Agreement shall be for ten (10) years, renewable upon request by Firestone pursuant to paragraph 1.
20. Notices. Any notices required under this agreement shall be provided in writing and addressed as follows:

If to Firestone:
Town of Firestone Attn: Town Manager
9950 Park Avenue
Firestone, CO 80504

If to Thornton:
City of Thornton. Attn: City Manager
9500 Civic Center Drive
Thornton, CO 80229

21. No Third-Party Beneficiaries. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement, shall be strictly reserved to Thornton and Firestone, and nothing contained in this Agreement shall give or allow any such claim to right of action by any other third person on this Agreement. It is the expressed intention of Thornton and Firestone that any person other than Thornton and Firestone receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.
22. Effect of Invalidity. If any portion of this Agreement is held invalid or unenforceable for any reason by a court of competent jurisdiction as to any Party, the Parties will attempt in good faith to reach agreement on substitute provisions that would allow the arrangement to continue.
23. Waiver. No party shall waive its rights hereunder by failing to exercise its rights; any such failure shall not affect the right of such party to exercise at some future time the rights not previously exercised.
24. Enforcement. The Parties agree that this Agreement may be enforced in law or in equity for specific performance, injunctive, or other appropriate relief, including damages, as may be available according to the laws of the State of Colorado. It is specifically understood that, by executing this Agreement, each Party commits itself to perform pursuant to the terms hereof, and that any breach hereof resulting in any recoverable damages shall not thereby cause the termination of any obligations created by this Agreement unless such termination is requested by the Party not in breach of this agreement.
25. Governmental Immunity. The Parties understand and agree that the Parties and

their respective officers, and employees, are relying on, and do not waive or intend to waive, by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. §24-10- 101 et.seq., as it is from time to time amended.

26. Successors and Assigns. Firestone may assign this agreement to the St. Vrain Water Authority but shall notify Thornton in writing at least thirty (30) calendar days before doing so. Otherwise, this Agreement and the rights and obligations created hereby shall be binding upon and inure to the benefit of the Parties hereto and their respective assigns, so long as Thornton owns and operates the TWP. With the exception of the St. Vrain Water Authority, no assignment by either party of its rights under this Agreement shall be binding on the other unless the other party shall have assented to such assignment in writing.
27. Modification. This Agreement shall be modified by writing only, which written modification must be with the same formality as employed in the execution of this Agreement.
28. Effective Date. This Agreement shall be effective on the last date it is signed by the Parties.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives effective as of the date and year written above.

CITY OF THORNTON, COLORADO

TOWN OF FIRESTONE

By: _____
Jason Pierce, Thornton Water Project Director

By: _____
Drew Alan Peterson, Mayor

ATTEST:

ATTEST:

Kristen N. Rosenbaum, City Clerk

Miriam Luna Gonzalez, Interim Town Clerk

APPROVED AS TO FORM
Tami Yellico, City Attorney

APPROVED AS TO FORM
Hayashi & Macsalka, LLC, Town Attorney

Senior Assistant City Attorney - Water

William Hayashi, Town Attorney

EXHIBIT A

Parameter	Parameter Type	Unit	EPA SMCL	EPA MCL	Thornton Acceptable Water Quality	Firestone Acceptable Raw Water Range
Temperature	Physical Properties	°C	-	-	<20	4-25
pH	Physical Properties	s.u.	6.5-8.5	-	7.1 - 8.8	6.0-8.0
Turbidity	Physical Properties	NTU	-	-	<20	0-40
Total Suspended Solids (TSS)	Physical Properties	mg/L	-	-	<20	-
Total Dissolved Solids (TDS)	Physical Properties	mg/L	500	-	<200	0-1,100
Conductivity	Physical Properties	µS/cm	-	-	<350	-
Total Organic Carbon (TOC)	Aggregate Organics	mg/L	-	-	<4	0.0-4.0
Dissolved Organic Carbon (DOC)	Aggregate Organics	mg/L	-	-	<4	0.0-4.0
Alkalinity	Inorganics	mg/L as CaCO3	-	-	20 - 100	0-350
Bicarbonate	Inorganics	mg/L as CaCO3	-	-	-	0-350
Carbonate	Inorganics	mg/L as CaCO3	-	-	-	-
Chloride	Inorganics	mg/L	250	-	<50	-
Sulfate	Inorganics	mg/L	250	-	<100	0-400
Bromide	Inorganics	mg/L	-	-	<0.25	0.0-1.2
Cyanide, Total	Inorganics	mg/L	-	0.2	ND	-
Fluoride	Inorganics	mg/L	2	4.0	<0.5	0.0-1.5
Sulfide	Inorganics	mg/L	-	-	-	-
Hardness	Inorganics	mg/L	-	-	<150	0-600
Sodium Adsorption Ratio	Inorganics	s.u.	-	-	-	-
Ammonia	Nutrients	mg/L as N	-	-	ND	-
Nitrite	Nutrients	mg/L as N	-	1.0	ND	-
Nitrate	Nutrients	mg/L as N	-	10	<0.75	-
Orthophosphate	Nutrients	mg/L as P	-	-	<0.04	0.00-0.04
Total Phosphorus	Nutrients	mg/L as P	-	-	<0.04	0.00-0.04
Aluminum	Metals, Dissolved	mg/L	0.05-0.2	-	<0.2	0.0-1.5
Antimony	Metals, Dissolved	mg/L	-	0.006	ND	-
Arsenic	Metals, Dissolved	mg/L	-	0.01	ND	-
Barium	Metals, Dissolved	mg/L	-	2.0	<0.05	0.0-0.2
Beryllium	Metals, Dissolved	mg/L	-	0.004	ND	-
Boron	Metals, Dissolved	mg/L	-	-	-	-
Cadmium	Metals, Dissolved	mg/L	-	0.005	ND	-
Calcium	Metals, Dissolved	mg/L as CaCO3	-	-	<20	0-110
Chromium	Metals, Dissolved	mg/L	-	0.1	ND	-
Copper	Metals, Dissolved	mg/L	1.0	1.3	ND	-
Iron	Metals, Dissolved	mg/L	0.3	-	<0.25	0.0-1.0
Lead	Metals, Dissolved	mg/L	-	0.015	ND	-
Magnesium	Metals, Dissolved	mg/L	-	-	<10	-
Nickel	Metals, Dissolved	mg/L	-	-	ND	-
Potassium	Metals, Dissolved	mg/L	-	-	<5	-
Selenium	Metals, Dissolved	mg/L	-	0.05	ND	-
Silica	Metals, Dissolved	mg/L	-	-	-	-
Silver	Metals, Dissolved	mg/L	0.1	-	ND	-
Sodium	Metals, Dissolved	mg/L	-	-	<10	-
Strontium	Metals, Dissolved	mg/L	-	-	ND	0.0-2.0
Thallium	Metals, Dissolved	mg/L	-	0.002	ND	-
Uranium	Metals, Dissolved	mg/L	-	0.03	ND	-
Zinc	Metals, Dissolved	mg/L	5.0	-	ND	-
Aluminum	Metals, Total	mg/L	-	-	<0.2	0.0-0.5
Iron	Metals, Total	mg/L	-	-	<0.25	0.0-3.0
Manganese	Metals, Total	mg/L	0.05	-	<0.1	0.00-0.2
Mercury	Metals, Total	mg/L	-	0.002	ND	-
Molybdenum	Metals, Total	mg/L	-	-	ND	-
E. coli	Microbiological	CFU per 100mL	-	-	<50	-
Total coliform	Microbiological	CFU per 100mL	-	-	<50	-
Heterotrophic Bacteria	Microbiological	CFU/mL	-	500	-	-
Geosmin	T&O	µg/L	-	-	ND	0 – 0.04
Methylisoborneol (MIB)	T&O	µg/L	-	-	ND	0 – 0.04
Uranium Activity	Radionuclides	pCi/L	-	-	<5	0-20
Gross Alpha	Radionuclides	pCi/L	-	15	<5	0-20
Radium 226+228	Radionuclides	pCi/L	-	5	<1	0.0-1.0
Vinyl chloride	VOCs	µg/L	-	2.0	ND	-
Benzene	VOCs	µg/L	-	5.0	ND	-
Carbon tetrachloride	VOCs	µg/L	-	5.0	ND	-
1,2-Dichloroethane	VOCs	µg/L	-	5.0	ND	-
1,1-Dichloroethylene	VOCs	µg/L	-	7.0	ND	-
1,1,1-Trichloroethane	VOCs	µg/L	-	200	ND	-
cis-1,2 Dichloroethylene	VOCs	µg/L	-	70	ND	-
trans-1,2 Dichloroethylene	VOCs	µg/L	-	100	ND	-
1,2-Dichloropropane	VOCs	µg/L	-	5.0	ND	-
Ethylbenzene	VOCs	µg/L	-	70	ND	-
Chlorobenzene	VOCs	µg/L	-	100	ND	-

Parameter	Parameter Type	Unit	EPA SMCL	EPA MCL	Thornton Acceptable Water Quality	Firestone Acceptable Raw Water Range
o-Dichlorobenzene	VOCs	µg/L	-	60	ND	-
o-Dichlorobenzene	VOCs	µg/L	-	75	ND	-
Styrene	VOCs	µg/L	-	100	ND	-
Tetrachloroethylene	VOCs	µg/L	-	5.0	ND	-
Toluene	VOCs	µg/L	-	1000	ND	-
Xylenes (total)	VOCs	mg/L	-	10	ND	-
Dichloromethane (methylene chloride)	VOCs	µg/L	-	5.0	ND	-
1,2,4-Trichlorobenzene	VOCs	µg/L	-	70	ND	-
1,1,2-Trichloroethane	VOCs	µg/L	-	5.0	ND	-
2,4-D	Herbicides	µg/L	-	70	ND	-
Alachlor	Herbicides	µg/L	-	2.0	ND	-
Atrazine	Herbicides	µg/L	-	3.0	ND	-
Dalapon	Herbicides	µg/L	-	20	ND	-
DBCP	Herbicides	µg/L	-	0.2	ND	-
Dinoseb	Herbicides	µg/L	-	7.0	ND	-
Diquat	Herbicides	µg/L	-	20	ND	-
Endothall	Herbicides	µg/L	-	100	ND	-
Glyphosate	Herbicides	µg/L	-	70	ND	-
Pentachlorophenol	Herbicides	µg/L	-	1.0	ND	-
Picloram	Herbicides	µg/L	-	500	ND	-
Silvex	Herbicides	µg/L	-	50	ND	-
Aldicarb	Pesticides	µg/L	-	-	ND	-
Aldicarb sulfone	Pesticides	µg/L	-	-	ND	-
Aldicarb sulfoxide	Pesticides	µg/L	-	-	ND	-
Carbaryl	Pesticides	µg/L	-	-	ND	-
3-Hydroxycarbofuran	Pesticides	µg/L	-	-	ND	-
Carbofuran	Pesticides	µg/L	-	40	ND	-
Methomyl	Pesticides	µg/L	-	-	ND	-
Oxamyl	Pesticides	µg/L	-	200	ND	-
Bromate	DBPs	µg/L	-	10	ND	-
Chlorite	DBPs	mg/L	-	1	ND	-
Haloacetic acids	DBPs	µg/L	-	60	ND	-
Total Trihalomethanes	DBPs	µg/L	-	80	ND	-
PFOA	PFAS	ng/L	-	4	<0.5	-
PFOS	PFAS	ng/L	-	4	<0.5	-
PFBS	PFAS	ng/L	-	1	<0.5	-
PFNA	PFAS	ng/L	-	1	<0.5	-
PFHxS	PFAS	ng/L	-	1	<0.5	-
GenX	PFAS	ng/L	-	1	<0.5	-
PFAS (class)	PFAS	ng/L	-	-	ND	-

AGENDA INFORMATION MEMORANDUM

FIRESTONE BOARD OF TRUSTEES



AIM No.: 6.c

Discussion/Action

Meeting Date: February 14, 2024

Initiated By: Matt Wiederspahn

Department: Engineering - Town

AGENDA ITEM

RESOLUTION 24-23: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF FIRESTONE COLORADO AND THE CITY OF THORNTON COLORADO FOR AN EMERGENCY RAW WATER INTERCONNECTION

RECOMMENDATION

Staff recommends that the Board approve Resolution 24-23, a resolution approving an Intergovernmental Agreement with the City of Thornton for an emergency raw water interconnection.

SUMMARY

The City of Thornton, as part of their Thornton Water Project, will be constructing a pipeline that will bring water purchased by Thornton in the 1980s through Larimer, Weld, and Adams counties to the city of Thornton. This will require the pipeline to cross Town-owned roads in the following four locations:

1. Grant Ave (WCR 18) at WCR 17
2. Pine Cone Ave (WCR 20) 1 mile west of WCR 19
3. Firestone Blvd (WCR 24) at WCR 17
4. Zinnia Ave (WCR 26) at WCR 17

As part of the discussion with the City of Thornton, three separate agreements have been negotiated with the City. These agreements include a Master License Agreement, a Carriage Water Intergovernmental Agreement (IGA), and an Emergency Interconnect IGA. A summary of each agreement is below:

Master License Agreement:

This agreement allows the City of Thornton to construct and maintain its facilities in the Town of Firestone right-of-way and set the terms and conditions for that. It includes provisions for the City to relocate its pipeline in the future should any future Town use of the right-of-way (i.e. road construction/expansion) conflict with their pipeline.

Carriage Water IGA:

This agreement reserves for a 10-year period the right for the Town to lease up to 5 cubic feet per second of excess water capacity in the Thornton pipeline. At this time the Town does not have any water rights that can utilize this lease, but provides the Town with that option if water rights are acquired.

Emergency Interconnect IGA:

This agreement allows for the Town to construct an emergency interconnect off the Thornton pipeline at Zinnia Ave (WCR 26) at WCR 17. This interconnect would provide the St. Vrain Water Treatment Plant a second emergency source of raw water if its current source is, for any reason, not available.

The City of Thornton has already begun construction of segments of this pipeline in Weld County and would look

to start construction in Firestone within the year. The City is waiting on approvals in Larimer County but expects the project to be completed at the earliest in 2027.

FINANCIAL CONSIDERATIONS

N/A

HISTORY AND PREVIOUS BOARD ACTION

N/A

ATTACHMENTS

1. 24-23 IGA Thornton Water Interconnect
2. Emergency Interconnect IGA Firestone FINAL W EXHIBITS

RESOLUTION NO. 24-23

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF
FIRESTONE, COLORADO APPROVING AN INTERGOVERNMENTAL
AGREEMENT BETWEEN THE TOWN OF FIRESTONE COLORADO AND
THE CITY OF THORNTON COLORADO FOR AN EMERGENCY RAW
WATER INTERCONNECTION**

WHEREAS, the City of Thornton (“Thornton”) plans to install, construct, operate and maintain a domestic water transmission system (“Thornton Water Project”) referenced herein as (“the Pipeline”); and

WHEREAS, the Town of Firestone’s (“Town”) water supply system receives water from various sources; and

WHEREAS, emergencies such as a main break, other infrastructure failure, natural disaster, or electrical or mechanical failures may occur where in the interest of the public health, safety and welfare it would be beneficial if the Town’s water utility system was connected to the Pipeline; and

WHEREAS, Thornton shall construct an Interconnect as part of the Pipeline which shall be activated upon the request of the Town and used in accordance with a Standard Operating Procedure established by the parties; and

WHEREAS, the Town shall be billed for water used through the Interconnect at Thornton’s then current rates; and

WHEREAS, the Intergovernmental Agreement specially provides that upon its approval by each entities governing body authority is granted to each entities manager and the designee of the Town’s manager to execute all documents necessary for the installation, construction, operation and maintenance of the Interconnect.

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

The Intergovernmental Agreement between the Town of Firestone Colorado and the City of Thornton Colorado for an Emergency Raw Water Interconnection is approved in substantially the same form as the copy attached to this resolution and the Mayor is authorized to execute the Intergovernmental Agreement on behalf of the Town.

INTRODUCED, READ AND ADOPTED this 14 day of February, 2024.

TOWN OF FIRESTONE, COLORADO

ATTEST:

Drew Alan Peterson, Mayor

Miriam Luna Gonzalez, Interim Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF FIRESTONE,
COLORADO AND THE CITY OF THORNTON, COLORADO FOR AN EMERGENCY
RAW WATER INTERCONNECTION

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement"), is made and entered into effective the _____ day of _____, 2024 by and between Town of Firestone, a Colorado statutory municipality ("Firestone") and the City of Thornton, a Colorado home rule municipality ("Thornton"), collectively (the "Parties").

WITNESSETH:

WHEREAS, Section 18(2)(a) of Article XIV of the Colorado Constitution and Sections 29-1-201, *et seq.*, and 29-20-105 of the Colorado Revised Statutes authorize and encourage governments to cooperate by contracting with one another for their mutual benefit; and

WHEREAS, Thornton plans to install, construct, operate and maintain a domestic water transmission system, generally referred to as the Thornton Water Project and appurtenances thereto ("the Pipeline"); and

WHEREAS, Firestone owns and operates a water system which is supplied water from various sources; and

WHEREAS, emergency water supply situations may occur during which the best interests of the health, safety and welfare of Firestone would be served if Firestone's system were connected to the Pipeline in a manner that Thornton could assist Firestone during such an emergency.

NOW, THEREFORE, in consideration of the foregoing and the terms, covenants, conditions and provisions hereinafter set forth and other good and valuable consideration, the receipt and adequacy of which are hereby confessed and acknowledged, the Parties hereto agree as follows:

AGREEMENT

1. Purpose. The purpose of this Agreement is to set forth the terms and conditions to allow for the installation, construction, operation and maintenance of an emergency raw water interconnection between the Pipeline and Firestone's water system. All conditions contained herein are in addition to applicable state statutes, and are not intended to supersede such requirements, except as specifically provided in this Agreement. All exhibits attached hereto are incorporated herein by this reference and are an integral part hereof.

2. Interconnect construction. Thornton shall construct and install a twelve (12) inch "T" and valve ("Interconnect") as part of the construction and installation of the Pipeline, in the form and manner as shown on Exhibit A, attached hereto and incorporated herein by reference, and shall install the Interconnect at the location shown on Exhibit B, attached hereto and incorporated herein by reference.
3. Firestone connection to Interconnect. Firestone, at Firestone's expense, shall have the right to connect its raw water system to the Interconnect. Firestone's connection to the Interconnect shall include facilities necessary to accurately measure the flow of water through the Interconnect to Firestone's raw water system, both on an instantaneous basis and on a totalizing basis, and to prevent backflow from Firestone's raw water system through the Interconnect to the Pipeline. Thornton shall review and approve the design of the facilities connecting the Interconnect to Firestone's raw water system. Thornton's approval shall not be unreasonably withheld.
4. Ownership of facilities. Thornton shall own and be responsible for all Interconnect facilities up to and including the facilities shown on Exhibit A. Firestone shall own and be responsible for the connection to all facilities downstream of the facilities shown on Exhibit A.
5. Use of Interconnect. The Interconnect shall be used in the event of an emergency if Thornton is capable of, as defined below, providing raw water at the time of the request to activate the Interconnect. For purposes of this Agreement, an emergency is a main break, other infrastructure failure, a catastrophe, a natural disaster, or any electrical or mechanical power failure or other occurrence beyond the Town's control, which causes partial or total inability of Firestone's raw water system to provide adequate water for fire protection and/or domestic water service. A shortage of untreated water available to Firestone's water system or pursuant to its water rights due to drought or other hydrologic conditions shall not be deemed an emergency.
6. Capable of providing raw water.
 - a. Thornton shall not be deemed capable of providing raw water for events that affect the structure, integrity or operation of the Pipeline or the source of water available to Thornton beyond its reasonable control, including but not limited to: 1) acts of God (such as, but not limited to, fires, explosions, earthquakes, drought, and floods); 2) acts of war (whether declared or not), hostilities, invasion, act of foreign enemies, terrorism or civil disorder; 3) any legal prohibition to operating the Pipeline or delivery of Thornton's source water; 4) contamination of the source water such that Thornton would not take such source water into its municipal supply; 5) loss of electrical power; 6) accident, breakage, or equipment failure causing the Pipeline to be inoperable; or 7) other unforeseeable circumstance beyond the control of Thornton and which Thornton cannot avoid even by using its best efforts.

- b. Thornton shall not be deemed capable of providing raw water in situations where Thornton, in its sole discretion, needs one hundred percent (100%) of either the Pipeline capacity or Thornton's source water or both, for delivery of or use of its source water for its own municipal uses. If the Interconnect has been activated and Thornton does not have the Pipeline capacity or its source water available in excess of what is required to meet its own water needs, Thornton may cease deliveries and deactivate the Interconnect upon twelve (12) hours written notice to Firestone.
 - c. If Firestone has requested Thornton to activate the Interconnect and Thornton is not capable of providing raw water as provided in paragraph 5.a. or 5.b. above, Thornton shall notify Firestone of the nature and expected duration of such event and shall thereafter keep Firestone informed of the status of Thornton's capability of providing raw water. Thornton shall use all reasonable means to overcome the effects of such event and to provide raw water as soon as reasonably practicable.
- 7. Activation of Interconnect. In the event of an emergency, as defined in paragraph 5, Firestone shall request Thornton to activate the Interconnect to deliver raw water into Firestone's system. The request for activation shall be made by calling the phone number provided by Thornton in the SOP, as defined in paragraph 8. If an emergency exists, and Thornton is capable of providing raw water, Thornton shall activate the Interconnect as promptly as is reasonably possible and shall take an opening read of the meter. Unless otherwise provided in the SOP, activation of the Interconnect shall be done by employees of Thornton. Prior to Thornton opening the Interconnect, Firestone shall be notified of the reading and offered the opportunity to verify the reading by accompanying Thornton personnel for another reading, to take place within 24 hours of the such request for verification
- 8. Operation of Interconnect. Firestone and Thornton shall develop a Firestone Emergency Raw Water Interconnect Standard Operating Procedure (SOP) for operation of the Interconnect. Among other matters, the SOP will address that minimum flows may be required depending on the situation. The Interconnect shall not be operated without a mutually agreed-upon SOP executed by Thornton's Executive Director for Infrastructure (or equivalent) and Firestone's Public Works Director (or equivalent). The Parties agree to act in good faith to develop an SOP that satisfies the intent and purposes of this Agreement.
- 9. Deactivation of Interconnect. Firestone shall make all reasonable efforts to resolve the emergency situation and curtail deliveries from the Interconnect as soon as possible. So long as Thornton is capable of providing raw water, Firestone shall have the right to use the Interconnect for the duration of the emergency event giving rise to the request or other reasonable time period as necessary to allow it to resolve the emergency situation. Firestone will notify Thornton of its intent to stop delivery of

water through the Interconnect as soon as is reasonably possible after such intent is known by Firestone. When deliveries have ceased, Thornton will close the Interconnect valve, take a closing read of the meter, and remove the meter. Firestone shall be notified of the closing read within 24 hours of its deactivation and shall be offered the opportunity to verify the reading by accompanying Thornton personnel for another reading to take place within 24 hours of such request for verification. Unless otherwise provided in the SOP, deactivation of the Interconnect and removal of the meter shall be done by employees of Thornton.

10. Billing. Billing for water delivered to Firestone through the Interconnect will be at the then-current rate Thornton charges for delivery of non-potable water to non-potable customers. However, additional operation and maintenance costs will be charged if Thornton must start up and operate the Pipeline to make emergency Interconnect deliveries to Firestone to the extent that Pipeline is not otherwise delivering water and Thornton is capable of delivering water. Thornton shall bill Firestone within sixty (60) days following delivery, and payment shall be due within thirty (30) days of the billing date.
11. Water pressure. Thornton makes no guarantee of pressure of water available through the Interconnect, and Firestone understands and acknowledges that significant pressure fluctuations may occur.
12. Water quality. Thornton makes no guarantee as to the quality of the water available through the Interconnect, and Firestone understands and acknowledges that significant quality fluctuations may occur. Firestone further understands and acknowledges that the water delivered through the Interconnect may be of significantly different quality than Firestone's other raw water sources and accepts all responsibility for the quality of water provided to its customers.
13. Liability for use of Interconnect. It is expressly understood that in the event the Interconnect is activated and to the fullest extent permitted by law, Firestone agrees to indemnify and hold harmless Thornton, its officers, agents and employees against any and all liability, loss, damage, demands, actions, causes of action or expenses of whatever nature (including court costs and attorney's fees) which may result from any injuries or damage received by any person, firm, corporation or other entity, which arise out of or are caused by or are caused by the delivery of raw water through the Interconnect, or in connection with Thornton's furnishing of emergency water service to Firestone under this Agreement, except for such liability, loss, damage, demands, actions, causes of action or expenses which are attributable to negligent acts or omissions or willful misconduct of Thornton, its employees, agents or contractors.
14. Term. This Agreement shall be effective for a ten-year term beginning on the date of execution hereof. Upon expiration of the ten-year period, this Agreement shall be automatically renewed for additional ten-year periods until terminated by Firestone. Firestone may terminate this Agreement at any time by providing sixty (60) days prior

written notice of termination of the Agreement. Thornton may only terminate the Agreement as provided in paragraph 15.

15. Termination. If either Party fails to comply with a material term of this Agreement, the non-defaulting Party may provide notice of the alleged performance failure to the other Party and the Parties shall within thirty (30) days meet and confer in good faith in an effort to agree on a resolution of the breach. If the Parties are unable to resolve the dispute despite such good faith efforts, then either Party may, at its option, commence mediation. The mediation shall occur at a location that is within fifty miles of Thornton, unless the Parties agree to a different location, and the cost shall be split equally between the Parties. If the Parties are not able to resolve the dispute within sixty (60) days of the commencement of mediation, in addition to other remedies available at law, then either Party may provide ninety (90) days written notice to terminate this Agreement.
16. Use of Thornton water. All water furnished pursuant to this Agreement is on a leasehold basis for the use of Firestone and its customers for all the various purposes for which Thornton has been decreed the right to appropriate water. Water delivered to Firestone through the Interconnect for use by Firestone and its customers is for primary use only and does not include any right to make a succession of uses of such water. Upon completion of the primary use by Firestone or its customers all dominion and control over the water delivered through the Interconnect reverts completely to Thornton. Except as otherwise provided, all property rights to the water to be furnished by Thornton hereunder are reserved by Thornton, provided, however, that nothing herein shall be deemed or construed as creating an obligation on Thornton to separate said water from any material added to it in use by Firestone or its customers or as creating any obligation on Thornton regarding the treatment of any wastewater generated by the use of water delivered to Firestone through the Interconnect. It is mutually agreed that there is no obligation on Firestone to create any particular volume of return flow from water delivered pursuant to this agreement. Firestone will cooperate with Thornton to provide any water accounting information required by the State Engineer's Office from use of the Interconnect.
17. Thornton's water rights. It is specifically acknowledged by Firestone that the water to be delivered in the Pipeline is associated with Thornton's Northern Project Decree on Remand Case No. 87CW332. Thornton's water is not decreed for use in or by Firestone, and any use by Firestone is subject to administration, including curtailment, by the State Engineer's Office.
18. Acknowledgements. It is expressly understood that Thornton and Firestone cannot be legally bound by the representations of any of its officers or agents or their designees except in accordance with Thornton City Charter and Thornton City Code, Firestone Municipal Code, and the laws of the State of Colorado. Nothing contained in this Agreement shall constitute or be interpreted as a repeal of existing codes or ordinances, or as a waiver or abrogation of each other's legislative, governmental, or police powers to promote and protect the health, safety and general welfare of their

respective city and Firestone or its inhabitants; nor shall this Agreement prohibit the enactment by Thornton or Firestone within their respective jurisdictions of any fee, ordinance, resolution, rule or regulation which is of uniform and general application.

19. Notice. All notices required under this Agreement shall be in writing, except for notices regarding activation of the Interconnect provided in paragraph 7 above, and shall be hand-delivered or sent by registered or certified mail, return receipt requested, postage prepaid, to the addresses of the Parties herein set forth. All notices so given shall be considered effective on the date of delivery or seventy-two (72) hours after deposit in the United States mail with the proper address as set forth below. Either party by notice so given may change the address to which further notices shall be sent.

Notice to Town: Town of Firestone
 9950 Park Avenue
 Firestone, CO 80504

with copy to: Town Attorney
 1650 38th St., Ste. 103W
 Boulder, CO 80301

Notice to Thornton: City of Thornton
 9500 Civic Center Drive
 Thornton, CO 80229

with a copy to: City Attorney
 City of Thornton
 9500 Civic Center Drive
 Thornton, CO 80229

Notwithstanding the foregoing, either Party may provide electronic mail ("e-mail") notice on the condition that the other Party acknowledges receipt of the e-mail and does not object to the delivery of notice by e-mail.

20. Assignment. Thornton shall have the right to assign or transfer all or any of its interests, rights, or obligations under this Agreement related to the Pipeline to any person or entity, directly or indirectly, controlling, controlled by, or under common control with Thornton without the consent of Firestone. The terms "controlling," "controlled by," or "under common control with," shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an entity whether through the ownership of voting securities or otherwise. Thornton shall also have the right to assign or transfer all or any of its interests, rights, or obligations under this Agreement related to the Pipeline to any other person or entity having the legal authority and financial ability to perform the obligations being assigned to such person or entity after at least thirty (30) days prior written notice to

Firestone and obtaining Firestone's consent, which shall not be unreasonably withheld. Upon such notice and written assumption of the obligations of Thornton by an assignee, the assignor shall be relieved of any further obligations or liability with respect to the performance of any of the duties or obligations of Thornton which have been assigned or transferred arising after the date such duties and obligations are assumed by the assignee.

21. Authority to execute documents. This Agreement must be mutually approved by Thornton's City Council and Firestone's Town Council. Thornton City Council's approval of this Agreement will authorize the Thornton City Manager to execute other documents as needed as long as the documents are consistent with the terms of this Agreement. Firestone's Town Council's approval of this Agreement will authorize the Firestone Town Manager or his or her designee to execute all documents necessary to allow the installation, construction, operation and maintenance of the Interconnect in Firestone, including, but not limited to all easements, permits and licenses, as long as the documents are consistent with the terms of this Agreement.
22. Title and authority. The persons signing this Agreement on behalf of Thornton and Firestone represent and warrant that he or she has full power and authority to enter into this Agreement on behalf of Thornton or Firestone, respectively. Firestone and Thornton understand that each is relying on such representations and warranties in entering into this Agreement.
23. Colorado Governmental Immunity Act. The Parties hereto understand and agree that they are relying on, and do not waive or intend to waive, by any provision of this Agreement, any rights, protections, or privileges provided by the Colorado Governmental Immunity Act, C.R.S. 24-10-101 et seq., as it is from time to time amended, or otherwise available to the Parties, their officers, or employees.
24. Entire agreement - amendments. This Agreement represents the entire agreement of the Parties with respect to the installation and operation of the Interconnect. There are no promises, terms, conditions, or obligations other than those contained herein, which shall supersede all previous communications, representations or agreements, either verbal or written, between the Parties hereto. This Agreement may be amended only by written agreement between Thornton and Firestone.
25. Severability. If any part, term, or provision of any portion of this Agreement is held by a court of competent jurisdiction to be illegal, unenforceable, declared void or in conflict with any law of the State of Colorado by final court action, meaning that no appeal can be made or the time to appeal has expired, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid, and the Parties shall cooperate to cure any such defect. If such defect has affected the ability of Thornton to install, construct or maintain the Interconnect in Firestone after cure, the Parties agree to take

such reasonable steps as are necessary to allow installation, construction, maintenance and operation of the Interconnect.

26. Effective date. This Agreement shall be effective and binding upon both Parties as of the date first set forth above.
27. Further assurances. The Parties agree to execute such additional documents and take such additional action as may be necessary to effectuate the intent of this Agreement.
28. No duress. The Parties agree that this Agreement is freely and voluntarily executed by them after an opportunity for each party to obtain legal advice.
29. Execution and counterparts. This Agreement may be executed and filed in any number of counterparts, all of which when taken together shall constitute the entire agreement of the Parties. Signature pages may be removed from any counterpart and attached to another counterpart to constitute a single document.
30. Governing law. This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado. Should any party institute legal suit or action for enforcement of any right or obligation contained herein, it is agreed that exclusive venue of such suit or action shall be in Weld County, Colorado.
31. Third party beneficiaries. This Agreement is made by and between the Parties and, to the extent permitted, successors or assigns and solely for their benefit. No third parties shall be entitled to enforce the duties or enjoy the rights created herein.
32. Captions. The captions to this Agreement are inserted only for the purpose of convenient reference and in no way define, limit or prescribe the scope or intent of this Agreement or any part thereof.
33. Approvals. Whenever approval or acceptance of Firestone is necessary pursuant to any provisions of this Agreement, Firestone shall act in a timely manner in responding to such request for approval or acceptance and shall not unreasonably withhold such approval or acceptance.

IN WITNESS WHEREOF, this Agreement has been executed by the Parties, intending to be legally bound hereby as of the date first set forth above.

Exhibits to Agreement

- A – Interconnect Detail
- B – Map for Location of Interconnect

[Signature pages follow]

TOWN OF FIRESTONE, COLORADO,
a Colorado statutory municipality

ATTEST:

Drew Alan Peterson, Mayor

Miriam Luna Gonzalez, Interim Town Clerk

APPROVED AS TO FORM:

William Hayashi, Town Attorney

STATE OF COLORADO)
) ss.
COUNTY OF WELD)

The foregoing instrument was acknowledged before me this ____ day of _____ 2024, by, Mayor, Town of Firestone.

WITNESS my hand and official seal.

My commission expires: _____

NOTARY PUBLIC

CITY OF THORNTON, COLORADO,
a Colorado home rule municipality

Kevin S. Woods, City Manager

ATTEST:

Kristen N. Rosenbaum, City Clerk

APPROVED AS TO FORM:
Tami Yellico, City Attorney

Senior Assistant City Attorney - Water

STATE OF COLORADO)
)ss.
COUNTY OF ADAMS)

Subscribed and acknowledged before me this ____ day of _____, 2024,
by Kevin S. Woods, City Manager, City of Thornton, a Colorado home rule municipality.

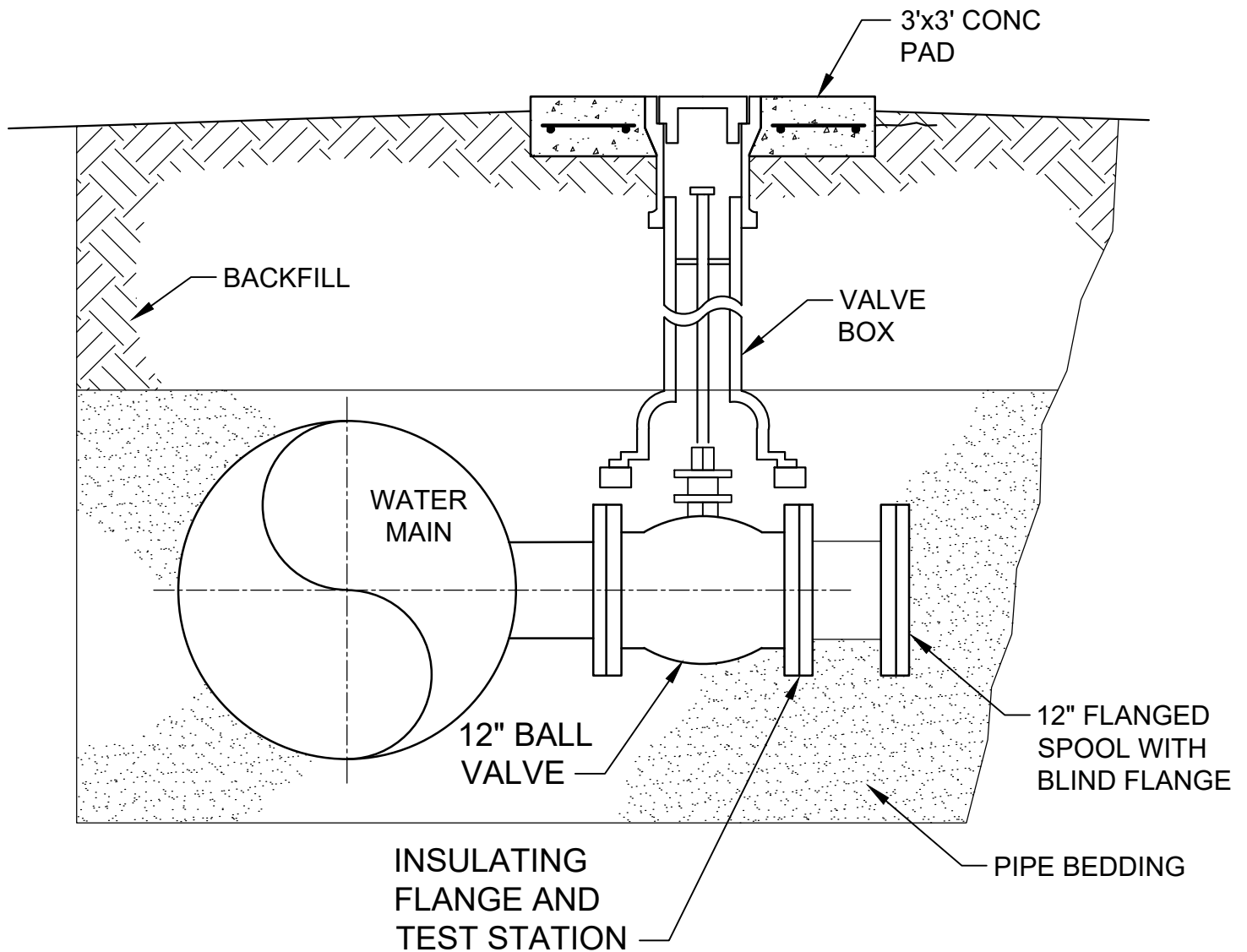
WITNESS my hand and official seal.

My commission expires: _____

Notary Public

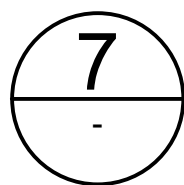
Exhibit A to INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF
FIRESTONE, COLORADO AND THE CITY OF THORNTON, COLORADO FOR AN
EMERGENCY RAW WATER INTERCONNECTION

EXHIBIT A



OPERATING PRESSURES:

- MAX PRESS: 324-PSI
- MIN PRESS: 252-PSI



VALVED OUTLET

SCALE: NTS
FILE: NA

Exhibit B to INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF
FIRESTONE, COLORADO AND THE CITY OF THORNTON, COLORADO FOR AN
EMERGENCY RAW WATER INTERCONNECTION

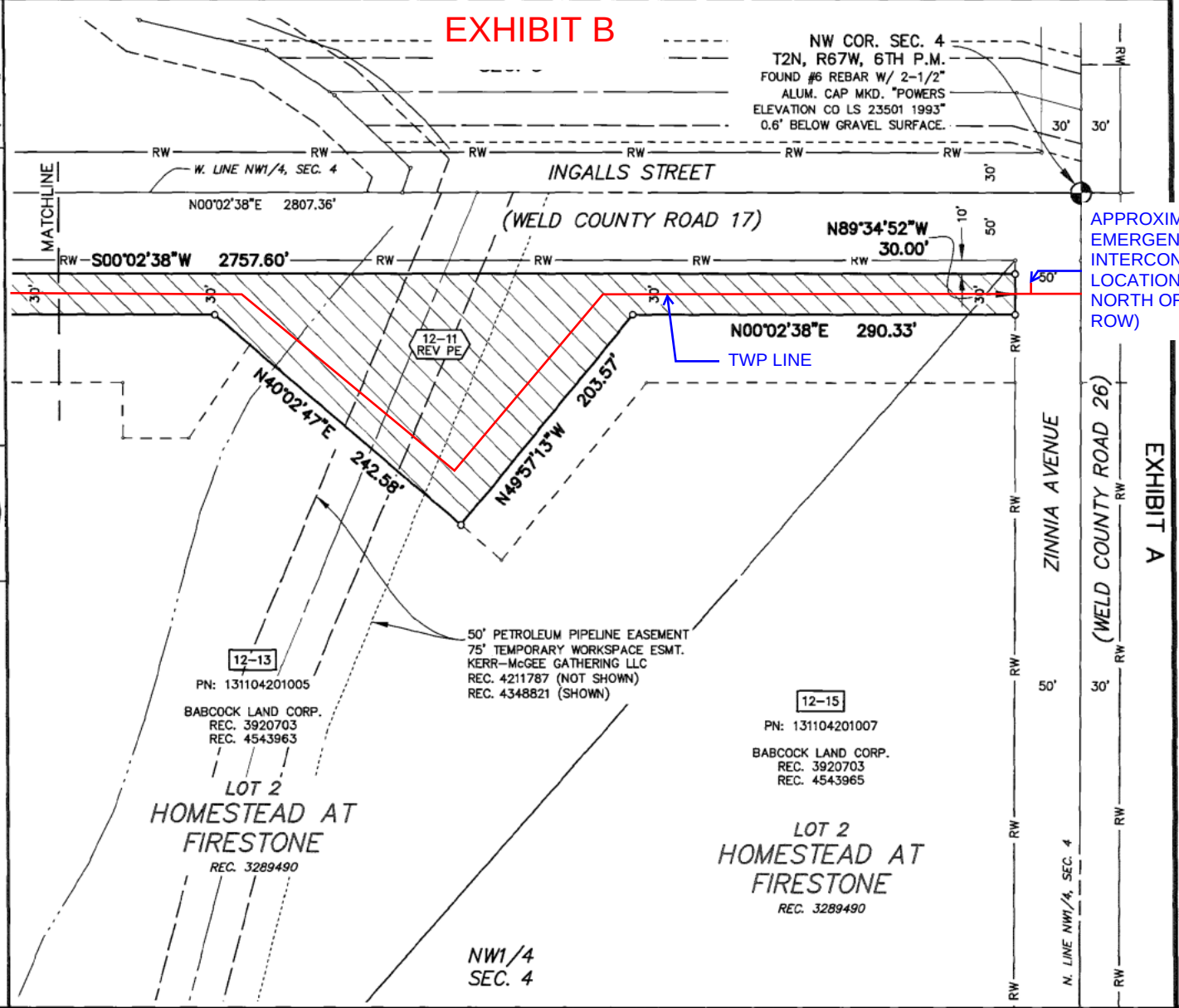
Scale: 1"=100'
Date: 06/10/20
Dwg: 13200-EF
Sheet 5 of 5

NOTE: THIS EXHIBIT MAP IS INTENDED ONLY AS AN AID TO FOLLOW THE ATTACHED LEGAL DESCRIPTION AND DOES NOT REPRESENT A LAND SURVEY PLAT ACCORDING TO COLORADO STATUTES.





EXHIBIT B



APPROXIMATE EMERGENCY INTERCONNECT LOCATION (10' NORTH OF ROW)

EXHIBIT A

**AGENDA INFORMATION
MEMORANDUM**

FIRESTONE BOARD OF TRUSTEES



AIM No.: 6.d

Discussion/Action

Meeting Date: February 14, 2024

Initiated By: Nate Haasis

Department: Engineering - Town

AGENDA ITEM

RESOLUTION 24-17: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING A CONSTRUCTION CONTRACT BETWEEN THE TOWN OF FIRESTONE AND DEFALCO CONSTRUCTION COMPANY PERTAINING TO THE HISTORIC FIRESTONE WATERLINE AND ROADWAY REPLACEMENT PHASE 2 PROJECT NO. 2

RECOMMENDATION

Staff recommends that the Board approve Resolution 24-17, a resolution approving the construction contract between the Town of Firestone and Defalco Construction Co. for construction of Phase 2 Project 2 - Historic Waterline and Roadway Replacement Project.

SUMMARY

The proposed construction contract with Defalco Construction Co. (Defalco) is to complete the 2024 Historic Waterline and Roadway Replacement project. The agreement includes Base Bid #1 and Alternate #1 for a total not to exceed \$1,834,572.88, with a 10% contingency.

- Base Bid #1: waterline installation and surface improvements on:
 - 4th Street between McClure Avenue and Berwick Avenue
 - 1st Street between McClure Avenue and Venice Avenue.
- Add Alternate #1: 2nd and 3rd Street Surface Improvements between Grant Avenue and Wooster Avenue.

The request for a quote is the direct result of a +/- 30-week lead time on water meter setters necessary for completion of the project. As a result of the long lead time, it is in the Town's best interest to execute a construction contract quickly to ensure delivery of the water meter setters before the potential impact of winter weather on the project. Any delay in ordering water meter setters will place an undue burden on the residents of Historic Firestone, as any delay could push the paving schedule for roadways after delivery of water meter setters. This delay could push paving past the closure of asphalt plants in Winter 2024, thus delaying the project through Winter and placing an undue burden on the residents of Historic Firestone.

Town staff worked with our design engineer, Ditesco LLC, to review Defalco's quote against unit prices for similar projects throughout the Northern Colorado region and noted the increases are not outside what the current construction market is experiencing. Additionally, Defalco's direct costs increased 6.91% from their 2023 bid. Those direct costs were compared to and were under the Engineering News Record (ENR) Construction Cost Index (CCI) for the Denver Metro Area for December 2023, which showed a CCI increase of 7.8% from the previous year. Staff compared Defalco's quote against bids received in 2023 for the Historic Firestone Waterline and Roadway Replacement Projects:

	2024	2023	
	\$/LF of Waterline	\$/LF of Waterline	% Increase from Defalco 2024
2024 Quote Defalco	\$ 797.64	-	
American West		\$ 1,027.92	29%
Brannan		\$ 909.00	14%
Fiore		\$ 999.02	25%
Iron Woman		\$ 1,123.78	41%
Redline		\$ 1,169.99	47%
SMH West		\$ 802.83	1.0%

*Note that Defalco's 2024 quote would be the low bidder even compared to 2023 bids.

FINANCIAL CONSIDERATIONS

The Board approved the 2024 Budget and Capital Improvement Program (CIP), which included \$1,325,000.00 for Historic Firestone Roadway Replacement and \$1,175,000.00 for Historic Firestone Waterline Replacements for a total of \$2,500,000.00. The entire project budget is within the Board approved 2024 budget.

HISTORY AND PREVIOUS BOARD ACTION

In February 2023, Defalco Construction Co. (Defalco) was awarded the contract for the 2023 Historic Firestone Waterline and Roadway Replacement Project through a competitive Request For Bids (RFB) process. Defalco ultimately delivered the project on time and under budget.

The Board approved the 2024 Budget and Capital Improvement Program (CIP), which included projects for Historic Firestone Waterline and Roadway Replacements.

ATTACHMENTS

1. Contract_W2023_9557
2. Reso 24-17_Defalco Construction Co (Historic Firestone Waterline and Roadway Replacement Phase 2 Project No 2)

CONSTRUCTION CONTRACT

THIS CONSTRUCTION CONTRACT (the "Construction Contract" or "Agreement") is made and entered into this ____ day of _____, 2024 (the "Effective Date"), by and between the **TOWN OF FIRESTONE**, a Colorado municipal corporation with an address of 9950 Park Avenue, Firestone, Colorado 80504 (the "Town" or the "Owner"), and **Defalco Construction Co.** an independent contractor with a principal place of business at PO Box 8020, Longmont, Colorado 80502 ("Contractor") (each a "Party" and collectively the "Parties").

WHEREAS, the Town requires services; and

WHEREAS, the Town has found the Contractor to have the expertise and experience to perform the required services.

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

I. SCOPE OF WORK

- A. The Contractor shall complete all Work and perform all Services described or reasonably implied from the Scope of Work set forth in Exhibit A and the Contract Documents, attached hereto and incorporated herein by this reference and known as: **Phase 2 - Project #2 Historic Firestone Waterline Replacement (W2023-9557)**
- B. A change in the Scope of Work shall not be effective unless authorized as a modification to this Agreement or change order in accordance with the Contract Documents. If the Contractor proceeds without such written authorization, the Contractor shall be deemed to have waived any claim for additional compensation, including a claim based on the theory of unjust enrichment, quantum merit or implied contract. Except as expressly provided herein, no agent, employee, or representative of the Town is authorized to modify any term of this Agreement, either directly or implied by a course of action.
- C. Within ten days of the Effective Contract Date, the Contractor shall provide the performance bond, labor & material payment bond, and certificate of insurance required by the Contract Documents.

II. DESIGN PROFESSIONAL

This Project has been designed by: Ditesco LLC,

who is hereinafter called DESIGN PROFESSIONAL and who is to act as FIRESTONE's representative, assume all duties and responsibilities, and have the rights and authority assigned to DESIGN PROFESSIONAL in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

III. CONTRACT TIMES; COMMENCEMENT AND COMPLETION OF WORK

- A. The Work shall be substantially completed within 100 calendar days of the Effective Date of this Agreement. It shall continue until the Contractor completes the Scope of Services to the Town's satisfaction, or until terminated as provided herein.
- B. Either Party may terminate this Agreement upon 30 days advance written notice. The Town shall pay the Contractor for all Work previously authorized and satisfactorily completed prior to the date of termination. If, however, the Contractor has substantially or materially breached this Agreement, the Town shall have any remedy or right of set-off available at law and equity.
- C. Should a delay in completion constitute a compensable inconvenience to the Town and its residents, the liquidated damages established in this Section shall be enforced. Such damages are not a penalty, and the parties recognize the delays, expenses, and difficulties involved in proving the actual loss suffered by the Town if the Work is not completed on time. Accordingly, instead of requiring such proof the Parties agree that as liquidated damages for each day that all or a portion of the Work is delayed beyond the deadlines set forth in Section III hereof, plus any extensions thereof allowed, the Contractor shall be assessed the amount of two hundred fifty dollars (\$250) each day until the Work is complete.

IV. COMPENSATION

In consideration for the completion of the Work by Contractor, the Town shall pay Contractor, subject to all of the terms and conditions of the Contract Documents, an amount not to exceed **\$1,834,572.88** (the "Contract Price"). The Contract Price shall include all fees, costs, and expenses incurred by the Contractor, and no additional amounts shall be paid by the Town for such fees, costs, and expenses.

V. PAYMENT PROCEDURES

- A. The Contractor may submit Applications for Payment for completed Work per the UNIT-PRICE BID FORM or the LUMP-SUM BID FORM. The Contractor may submit periodic invoices, which the Town shall pay within 30 days of receipt.
- B. The Town may retain up to five percent (5%) of the calculated value of completed work from each application of payment up until the Construction Contract is completed satisfactorily and finally accepted by the Town.
- C. Upon issuing a final acceptance of the Work for the Project, the Town shall pay to Contractor the remainder of the funds or monies previously withheld as retainage.

VI. RESPONSIBILITY

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

- B. The Work performed by Contractor shall be in accordance with generally accepted practices and the level of competency presently maintained by other practicing contractors in the same or similar type of Work in the applicable community.
- C. The Work performed by the Contractor hereunder shall be done in compliance with applicable laws, ordinances, rules and regulations, including the Keep Jobs in Colorado Act, C.R.S. 8-17-101, et seq. (the "Act") and the rules adopted by the Division of Labor of the Colorado Department of Labor and Employment implementing the Act (the "Rules").
- D. The Town's review, approval or acceptance of, or payment for any completed Work shall not be construed to operate as a waiver of any rights under this Construction Contract or of any cause of action arising out of the performance of this Construction Contract.
- E. The Contractor hereby warrants to the Town that all materials and equipment used in the Work, and made a part of the Work, or placed permanently in the Work, shall be new unless otherwise specified in the Contract Documents. The Contractor further warrants that all equipment and materials shall be of good quality, conform to the requirements of the Contract Documents and will be free from defects. All Work, materials, or equipment not conforming to the Contract Documents shall be considered defective.
- F. The Contractor shall warrant and guarantee all materials and equipment furnished under the Construction Contract and all Work performed for one year after the date of Substantial Completion. Under this warranty, Contractor agrees to repair or replace, at its own expense, any Work that is found to be defective. The expiration of the warranty period shall in no way limit the Town's legal or equitable remedies, or the period in which such remedies may be asserted, for Work negligently or defectively performed.

VII. OWNERSHIP

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

VIII. INDEPENDENT CONTRACTOR

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

IX. INSURANCE

- A. Contractor agrees to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands, and other obligations assumed by Contractor pursuant to this Construction Contract. At a minimum, Contractor shall procure and maintain, and shall cause any subcontractor to procure and maintain, the insurance coverages listed below, with forms and insurers acceptable to the Town.
 - 1. Worker's Compensation insurance as required by law.
 - 2. Commercial General Liability insurance with minimum combined single limits of \$1,000,000 each occurrence and \$2,000,000 general aggregate. The policy shall be applicable to all premises and operations, and shall include coverage for bodily injury, broad form property damage, personal injury (including coverage for contractual and employee acts), blanket contractual, products, and completed operations. The policy shall contain a severability of interests provision, and shall include the Town and the Town's officers, employees, and contractors as additional insureds. No additional insured endorsement shall contain any exclusion for bodily injury or property damage arising from completed operations.
- B. Such insurance shall be in addition to any other insurance requirements imposed by law. The coverages afforded under the policies shall not be canceled, terminated or materially changed without at least 30 days prior written notice to the Town. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage. Any insurance carried by the Town, its officers, its employees, or its contractors shall be excess and not contributory insurance to that provided by the Contractor. The Contractor shall be solely responsible for any deductible losses under any policy.
- C. Contractor shall provide to the Town a certificate of insurance as evidence that the required policies are in full force and effect. The certificate shall identify this Construction Contract.

X. INDEMNIFICATION

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

XI. CONTRACT DOCUMENTS

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

- A. Exhibit to this Construction Contract:
 - 1. Exhibit A: Scope of Work Summary.
 - 2. Exhibit B: Minimum Qualifications Form.
 - 3. Exhibit C: Subcontractor Listing Form.
- B. Performance Bond and Labor & Material Payment Bond.
- C. Notice of Award.
- D. Notice to Proceed.
- E. EJCDC General Conditions of the Construction Contract.
- F. EJCDC Supplementary Conditions of the Construction Contract.
- G. "Specifications" dated December 2023 bearing the title: Phase 2 - Project #2 Historic Waterline Replacement
- H. "Drawings" consisting of 32 Sheets, dated, January, 2024, and titled: Town of Firestone Colorado, Project #2 Historic Waterline Replacement.
- I. Addendum numbers:
 - 1. Addendum #1: January 30, 2024
 - 2. Addendum #2: _____
- J. The following may be delivered or issued after the Effective Date of the Construction Contract and are attached hereto: All written amendments and other documents amending, modifying, or supplementing of the Contract Documents.

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

XII. CHANGE ORDERS

- A. A Change Order is a written instrument issued after execution of the Agreement signed by Town and Contractor, stating their Agreement, as applicable, upon all of the following:
 - 1. The scope of the change in the Work;
 - 2. The amount of the adjustment to the Contract Price; and
 - 3. The extent of the adjustment to the Contract Times(s).
- B. All changes in the Work authorized by applicable Change Order shall be performed under the applicable conditions of the Contract Documents. Town and Contractor shall negotiate in good faith and as expeditiously as possible the appropriate adjustment such changes.

XIII. MISCELLANEOUS

- A. Governing Law and Venue. This Construction Contract shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Weld County, Colorado.
- B. No Waiver. Delays in enforcement or the waiver of any one or more defaults or breaches of this Construction Contract by the Town shall not constitute a waiver of any of the other terms or obligation of this Construction Contract.
- C. Integration. This Construction Contract and any attached exhibits constitutes the entire Agreement between the Parties, superseding all prior oral or written communications.
- D. Third Parties. There are no intended third-party beneficiaries to this Construction Contract.
- E. Notice. Any notice under this Construction Contract shall be in writing, and shall be deemed sufficient when personally presented or sent pre-paid, first class U.S. Mail to the Party at the address set forth on the first page of this Agreement.
- F. Severability. If any provision of this Construction Contract is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.
- G. Modification. This Construction Contract may only be modified upon written Agreement of the Parties.
- H. Assignment. Neither this Construction Contract nor any of the rights or obligations of the Parties shall be assigned by either Party without the written consent of the other.
- I. Governmental Immunity. The Town and its officers, attorneys and employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended, or otherwise available to the Town and its officers, attorneys or employees.
- J. Rights and Remedies. The rights and remedies of the Town under this Construction Contract are in addition to any other rights and remedies provided by law. The expiration of this Construction Contract shall in no way limit the Town's legal or equitable remedies, or the period in which such remedies may be asserted, for Work negligently or defectively performed.
- K. Subject to Annual Appropriation. Nothing herein shall constitute a multiple fiscal year obligation pursuant to Article X, § 20 of the Colorado Constitution. Any financial obligation of the Town is subject to annual appropriation by its Board of Trustees. Any failure of a Board of Trustees to annually appropriate adequate monies to finance the Town's obligations under this Agreement shall terminate the Agreement upon expenditure of the appropriated funds. IN WITNESS WHEREOF, the Parties have executed this Construction Contract as of the Effective Date.

TOWN OF FIRESTONE, COLORADO

Drew Peterson, Mayor

ATTEST:

Kristi K Bashor, CMC, Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

CONTRACTOR

By: _____

STATE OF COLORADO)

) ss.

COUNTY OF _____)

The foregoing instrument was subscribed, sworn to and acknowledged before me this ____ day of _____, 2024 by _____ as _____ of _____.

My commission expires:

(S E A L)

Notary Public

EXHIBIT A

SCOPE OF WORK

The base bid utility work is comprised of traditional “open cut” methodology to install roughly 2,010 LF of 8” C900 PVC DR18 waterline. Work includes replacement of existing service lines, meter pits, hydrant installation/replacement; installation of fittings, valves, and other pipeline appurtenances as more specifically defined herein.

The base bid surface improvements are comprised of asphalt mill and overlay, full depth asphalt removal and replacement, curb and gutter replacement, sidewalk replacement, grading modifications as well as modifications to existing landscaping and plantings, as impacted by utility installations. The Contractor shall furnish all materials, equipment, supplies, and appurtenances; provide all construction equipment and tools; and perform all necessary labor and supervision.

Add alternates include additional surface restoration for the areas shown on the contract drawings including 2nd and 3rd Street between Wooster Avenue and Grant Avenue.

Contractor's Duties

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

- Contract Drawings January, 2024
- Project Manual Dated December, 2023
- Town of Firestone Construction Standards for Public Improvements 2022 Edition

Contractor shall meet or exceed all requirements outlined within the documents listed above.

UNIT-PRICE BID FORM-BASE BID

Project #1 Historic Firestone Waterline Replacement

Base Bid #1 – 4th Street, Florence Court, and 1st Street Waterline Installation and Surface Improvements

Item Description	Quantity	Unit of Measurement	Unit Price	Extended Cost
Mobilization	1	LS	\$ 58,562. ⁰⁰	\$ 58,562. ⁰⁰
Traffic Control	1	LS	\$ 38,925. ⁰⁰	\$ 38,925. ⁰⁰
Erosion Control Management	1	LS	\$ 24,315. ⁰⁰	\$ 24,315. ⁰⁰
8-inch Waterline Installation	2300	LF	\$ 248. ⁴⁰	\$ 571,320. ⁰⁰
Service Line Replacement	31	EA	\$ 2594. ⁵⁴	\$ 80,430. ⁷⁴
Meter Pit Replacement	22	EA	\$ 3955. ⁸²	\$ 87,028. ⁰⁴
Asphalt Milling (2")	11800	SY	\$ 5. ⁹²	\$ 69,856. ⁰⁰
Excavation	2050	CY	\$ 27. ¹⁷	\$ 55,698. ⁵⁰
Concrete Sidewalk Removal	1350	LF	\$ 19. ⁶⁵	\$ 26,527. ⁵⁰
Concrete Ramp Removal	170	SY	\$ 31. ⁷⁵	\$ 5,397. ⁵⁰
Concrete Cross Pan Removal	85	SY	\$ 31. ⁷⁵	\$ 2,698. ⁷⁵
Re-conditioning	6700	SY	\$ 4. ⁴²	\$ 29,614. ⁰⁰
Aggregate Base Course	3000	TON	\$ 36. ¹²	\$ 108,360. ⁰⁰
Concrete Sidewalk Placement	1400	LF	\$ 65. ⁰⁴	\$ 91,056. ⁰⁰
Reinforced Concrete Sidewalk Placement	80	LF	\$ 80. ⁹²	\$ 6,473. ⁶⁰
ADA Ramp Placement	170	SY	\$ 306. ³⁰	\$ 52,071. ⁰⁰
Concrete Cross Pan Placement	85	SY	\$ 128. ⁰³	\$ 10,882. ⁵⁵
Asphalt Patching S-75 64-22	850	SY	\$ 52. ⁸¹	\$ 44,888. ⁵⁰
HMA Grading S-75 64-22 (Bottom Lift)	7400	SY	\$ 12. ⁰⁹	\$ 89,466. ⁰⁰
HMA Grading SX-75 64-22 (Top lift)	11800	SY	\$ 12. ⁵⁸	\$ 148,444. ⁰⁰
Pavement Markings	1	LS	\$ 18,315. ⁰⁰	\$ 18,315. ⁰⁰
			TOTAL	\$ 1,620,329. ⁶⁸

1

UNIT-PRICE BID FORM- ALTERNATE 1**Add Alternate #1-- 2nd Street and 3rd Street Surface Improvements**

Item Description	Quantity	Unit of Measurement	Unit Price	Extended Cost
Asphalt Milling (2")	2650	SY	\$ <u>6²⁴</u>	\$ <u>16,536⁰⁰</u>
Excavation	750	CY	\$ <u>27⁴¹</u>	\$ <u>20,557⁵⁰</u>
Sidewalk Removal	300	LF	\$ <u>19⁷⁶</u>	\$ <u>5,928⁰⁰</u>
Concrete Ramp Removal	40	SY	\$ <u>35⁷⁹</u>	\$ <u>1,431⁶⁰</u>
Concrete Cross Pan Removal	30	SY	\$ <u>38³³</u>	\$ <u>1,149⁹⁰</u>
Re-conditioning	2650	SY	\$ <u>7⁰⁴</u>	\$ <u>18,656⁰⁰</u>
Aggregate Base Course	1075	TON	\$ <u>36¹²</u>	\$ <u>38,829⁰⁰</u>
Concrete Sidewalk Placement	240	LF	\$ <u>65⁰⁴</u>	\$ <u>15,609⁶⁰</u>
Reinforced Concrete Sidewalk Placement	60	LF	\$ <u>80⁹²</u>	\$ <u>4,855²⁰</u>
ADA Ramp Placement	40	SY	\$ <u>306³⁰</u>	\$ <u>12,252⁰⁰</u>
Concrete Cross Pan Placement	30	SY	\$ <u>128⁰³</u>	\$ <u>3,840⁹⁰</u>
HMA Grading S-75 64-22 (Bottom Lift)	2650	SY	\$ <u>13²⁵</u>	\$ <u>35,112⁵⁰</u>
HMA Grading SX-75 64-22 (Top lift)	2650	SY	\$ <u>14⁹⁰</u>	\$ <u>39,485⁰⁰</u>
			TOTAL	\$ <u>214,243²⁰</u>

TOTAL CONSTRUCTION COST: BASE 1 +A1	\$ <u>1,834,572⁸⁸</u>
--	----------------------------------

All quantities listed in the bid tabs are approximate and subject to field verification.

Please note any exceptions you take to this bid, e.g., minimum quantity requirements:

BIDDER'S INFORMATION:

Company Name: DEFALCO CONSTRUCTION Co.

Mailing Address: PO BOX 820

Telephone Number: 303-651-1100 Email: BIDS@DEFALCOCONSTRUCTION.COM

The bidder hereby acknowledges receipt of Addendum Nos. 1, __, __, __, __, __, to these specifications. (Insert number of each addendum received.)

Name and Title of Authorized Company Representative:

ANTHONY DEFALCO PRESIDENT
Name (Please print) Title

Tony Defalco
Signature

Dated this 7TH day of FEBRUARY, 2024.

EXHIBIT B

MINIMUM QUALIFICATIONS CERTIFICATION FORM

Project Name:

Project #2 Phase 2 Historic Firestone Waterline Replacement

Bid Number:

W2023-9555

CONTRACTOR SHALL CONFIRM:

Contractor has identifiable waterline experience, completing a minimum of three (3) projects of similar scope and scale, completed within the last five (5) years.

Contractor has \$2,000,000.00 single project bonding capacity and \$10,000,000.00 aggregate bonding capacity.

Contractor has submitted letter from Surety confirming bonding capacities.

Contractor certifies 20% of the Work will be self-performed by Contractor.

YES

NO



EXHIBIT C

Subcontractor Listing

<u>Project Name:</u>	<u>Project Number:</u>
Project #2 Phase 2 Historic Firestone Waterline Replacement	W2023-9557

The following information submitted provides the name, business address, and portion of the Work for each subcontractor that will be used for a portion of the Work. Input N/A if work will be self-performed by submitting bidder.

<u>Subcontractor Name</u>	<u>Business Address</u>	<u>Description of Work</u>
DEFALCO		Waterline
DEFALCO		Earthwork
NORTH STAR CONCRETE	1220 S. GARFIELD AVE LOVELAND, CO. 80537	Concrete
ASPHALT SPECIALTIES CO.	345 W. 42 ND AVE. DENVER, CO. 80216	Asphalt Paving/milling
AZIMUTH SURVEYING	P.O. Box 528 BROOMFIELD, CO. 80038	Surveying

Signed by:

Anthony Defalco
ANTHONY DEFALCO

(Name)

PRESIDENT

(Title)

Date:

2/2/2024

RESOLUTION NO. 24-17

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, APPROVING A CONSTRUCTION CONTRACT BETWEEN THE TOWN OF FIRESTONE AND DEFALCO CONSTRUCTION COMPANY PERTAINING TO THE HISTORIC FIRESTONE WATERLINES REPLACEMENT PHASE 2 PROJECT NO. 2

WHEREAS, the Town of Firestone (“Town”) is in need of professional construction services for the Historic Firestone Waterlines Replacement Phase 2 Project No. 2 (the “Project”); and

WHEREAS, staff requests that the contract be approved as a sole source provider because of the lead time required for the water meter setters it is in the Town’s best interest to expedite approval of the Construction Contract to ensure that the required paving can be completed this fall and that the residents of Historic Firestone are not unduly burdened by delaying completion of the project until Spring 2025, which would be the completion date if a sole source provider is not approved; and

WHEREAS, the Town finds that Defalco has the expertise, qualifications, and experience to perform the work and duties required for the Project, and desires to retain Defalco which finished Phase 2 of the Project No. 1 on time and on budget and staff worked with the Project’s Design Consultant Ditesco LLC who determined that Defalco’s quote is in line for similar projects throughout the Northern Colorado region.

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

Section 1. The Construction Contract between the Town of Firestone and Defalco Construction Company is approved in substantially the same form as the copy attached hereto and made a part of this resolution, and the Mayor is authorized to execute the Construction Contract on behalf of the Town.

Section 2. The Town Manager or such person’s designee is authorized to approve, sign, execute and deliver any and all change orders on behalf of the Town as may be necessary to complete the Project or for the Town to perform under the Contract up to and until such time as the total dollar amount of all such change orders equals or exceeds \$185,000, at which time any such change order shall be subject to approval by the Board

PASSED AND ADOPTED this ____ day of _____, 2024.

Drew Alan Peterson, Mayor

ATTEST:

Miriam Luna Gonzalez, Interim Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

**AGENDA INFORMATION
MEMORANDUM**

FIRESTONE BOARD OF TRUSTEES



AIM No.: 6.e

Discussion/Action

Meeting Date: February 14, 2024

Initiated By: Raelynn Ferrera

Department: Administration

AGENDA ITEM

RESOLUTION 24-20: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO APPROVING AN ATHLETIC FIELDS AND FACILITIES USE AND FEE AGREEMENT BETWEEN THE TOWN OF FIRESTONE AND THE CARBON VALLEY PARKS AND RECREATION DISTRICT

RECOMMENDATION

Town staff recommends approval of the agreement.

SUMMARY

This agreement is for the use of Town-Owned Fields and Facilities by the Carbon Valley Parks and Recreation District (CVPRD).

As the Town and CVPRD work to finalize the IGA, this agreement outlines the allocation of field use, maintenance standards, and the fees associated with using Town-owned fields and facilities.

FINANCIAL CONSIDERATIONS

HISTORY AND PREVIOUS BOARD ACTION

ATTACHMENTS

1. 24-20 Carbon Valley Parks and Rec Town Fields and Facilities
2. ToF Field Agreement (CVPRD Signed 10.13.23) (004)

RESOLUTION NO. 24-20

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF
FIRESTONE, COLORADO APPROVING AN ATHLETIC FIELDS AND
FACILITIES USE AND FEE AGREEMENT BETWEEN THE TOWN OF
FIRESTONE AND THE CARBON VALLEY PARKS AND RECREATION
DISTRICT**

WHEREAS, the Town of Firestone (“Town”) and the Carbon Valley Parks and Recreation District (“District”) desire to set forth the terms, conditions and fees for the District’s use of the Town’s Athletic Fields and Facilities.

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

The Agreement between the Town of Firestone and the Carbon Valley Parks and Recreation District for the District’s use of the Town’s Athletic Fields and Facilities and the fees associated with such use 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 14 day of February, 2024.

TOWN OF FIRESTONE, COLORADO

Drew Alan Peterson, Mayor

ATTEST:

Miriam Luna Gonzalez, Interim Town Clerk

APPROVED AS TO FORM:

William P. Hayashi, Town Attorney

TOWN OF FIRESTONE ATHLETIC FIELDS AND FACILITIES USE AND FEE AGREEMENT

THIS AGREEMENT FOR USE OF AND FEES FOR THE TOWN OF FIRESTONE'S ATHLETIC FIELDS AND FACILITIES (the "Agreement") is made and entered into this 14th day of February, 2024 (the "Effective Date"), by and between the TOWN OF FIRESTONE, a Colorado municipal corporation with an address of 9950 Park Avenue, Firestone, Colorado 80504 (the "Town"), and CARBON VALLEY PARKS AND RECREATION DISTRICT, a Colorado statutory Special District with a principal place of business at Colorado ("District ") and provides services as follows

I. PURPOSE

- A. This Agreement is to set forth the terms and conditions of the parties use of Town-owned fields and facilities until the parties enter into an Intergovernmental Agreement replacing the one entered into by the parties in 2015, which expired on December 31, 2019.
- B. This Agreement will encourage and promote recreational programs and facilitate the responsible use of Town-owned fields and facilities, outline the procedures and provide priorities for the use of Town-owned fields and facilities.

II. TERM AND TERMINATION

- A. This Agreement shall commence on the Effective Date and expire twelve months after the original signing date unless renewed or terminated as provided herein.
- B. The Parties may as agreed upon in writing renew the Agreement for a designated term and conditions. Either Party may terminate this Agreement with or without cause upon 30 days of written notice to the other party.

III. SCOPE OF AGREEMENT

- A. This Agreement shall set forth the Parties' duties concerning the use, management, maintenance, and operation of Town-owned fields and facilities listed in Exhibit A, Town-Owned Fields and Facilities, which is incorporated herein. The Town shall maintain Town-Owned Fields and Facilities Maintenance Standards.

IV. ALLOCATION OF FIELD USE

- A. Specified uses for each field and facility is set forth in Exhibit A, Town-Owned Fields, and Facilities
- B. The Town shall be responsible for the scheduling and use of the fields and facilities and shall have first priority with the District having second priority and Third Party users having the third priority. The District shall prior to each calendar year provide the Town its site-use and date requests for local youth programs and tournaments and the Town shall strive to schedule such requests for the District. The District shall also provide the Town with monthly updates that include information on the District's current and planned usage requests. The Town shall use its best efforts to advise and update the District of the Towns planned uses for each calendar year by the preceding October.
- C. The Town shall have the authority to deny the use of facilities for such activities that are judged inappropriate to the designated uses and purposes.

V. OPERATION AND RENTAL FEES

- A. Fees for the use of the facilities shall be set forth as incorporated in Fees Exhibit B, which includes fees for Practice, Games, Tournaments, and Adult Leagues by location.

VI. JOINT USE FOR TOWN-OWNED PROPERTIES

- A. Any concessions operated at District events shall obtain permits required by the Town and any other required sales tax or applicable licenses or permits from any jurisdictional government entity.
- B. The District may, during its use at no cost to the Town, arrange and be responsible for the placement, operation, maintenance, upkeep, and removal of port-a-lets at Town-owned field or facility facilities.. The District shall coordinate with the Town, and the port-a-lets shall be placed in locations designated by the Town.
- i. Weather-dependent Town restroom facilities may be available between May 1 and October 1.
- C. The District shall provide a site supervisor for all District Uses at no cost to the Town.
- i. The site supervisor and or volunteer shall be an employee or contractor of the District.
- ii. The site supervisor shall be responsible for locking/unlocking Fields or Facilities, trash pick-up, and general maintenance after each use.
- iii. The site supervisor and other District employees or contractors shall be easily identifiable during District functions conducted on Town-owned Fields or Facilities.
- iv. The District shall be solely responsible for the hiring, supervision, and evaluation of the site supervisor(s)
- v. No employment relationship, express or implied, shall exist between the Town and such persons.

VII. MAINTENANCE STANDARDS

- A. The Town shall provide for general maintenance of its Fields and Facilities, including mowing, watering, fertilization, grading of infield as needed and weeding.
- B. Field Maintenance Dates *Weather Permitting
- a. FALL -Grass Fields Closed for Maintenance beginning the week of Thanksgiving
- b. SPRING- Open for Play first week of March *weather pending*
- C. The Town will maintain grass at heights the Town deems appropriate for the Fields use and condition.
- D. The District will protect all turf by adhering to the following field guidelines:
- a. Where the grass is sparse or the field is worn badly or the ground is saturated play will be limited or prohibited.
- b. NO SNOW REMOVAL WILL BE PERMITTED
- c. There shall be no play on frost-covered fields; the games shall be delayed until fifteen minutes after the frost has melted.
- d. Games shall be scheduled after 9:30 am before April 15th and after October 14th to minimize frost delays.
- e. In case of unusable conditions, athletic fields will be closed.
- f. Whenever weather conditions exist that will damage any field all games will be postponed.

VIII. INSURANCE

- A. District agrees to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands, and other obligations assumed by the District pursuant to this Agreement. At a minimum, the District shall procure and maintain. It shall cause any

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

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

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

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

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

IX. INDEMNIFICATION

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

X. MISCELLANEOUS

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

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

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

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

-
- E. Notice. Any notice under this Agreement shall be in writing and shall be deemed sufficient when directly presented or sent pre-paid, first class U.S. Mail to the Party at the address set forth on the first page of this Agreement.
- F. Severability. If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.
- G. Modification. This Agreement may only be modified upon written Agreement of the Parties.
- H. Assignment. Neither this Agreement nor any of the rights or obligations of the Parties shall be assigned by either Party without the written consent of the other.
- I. Governmental Immunity. The Town and the District its officers, attorneys and employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq., as amended, or otherwise available to the Town and its officers, attorneys or employees.
- J. Rights and Remedies. The rights and remedies of the Town under this Agreement are in addition to any other rights and remedies provided by law. The expiration of this Agreement shall in no way limit the Town's legal or equitable remedies, or the period in which such remedies may be asserted, for work negligently or defectively performed.
- K. Subject to Annual Appropriation. Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the Town not performed during the current fiscal year is subject to annual appropriation, by the Board of Trustees shall extend only to monies currently appropriated, and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.
- L. Force Majeure. No Party shall be in breach of this Agreement if such Party's failure to perform any of the duties under this Agreement is due to Force Majeure, which shall be defined as the inability to undertake or perform any of the duties under this Agreement due to acts of God, floods, storms, fires, sabotage, terrorist attack, strikes, riots, war, labor disputes, forces of nature, the authority and orders of government or pandemics.
- M. Representative Authority. Each person signing this Agreement represents and warrants that he or she is duly authorized and has the legal capacity to execute the Agreement.

In Witness Whereof, the Parties have executed this Agreement as of the Effective Date.

TOWN OF FIRESTONE, COLORADO

Drew Alan Peterson, Mayor

ATTEST:

APPROVED AS TO FORM:

Miriam Luna Gonzalez, Interim Town Clerk

William P. Hayashi, Town Attorney

**CARBON VALLEY PARKS AND RECREATION
DISTRICT**

By:

Dean Rummel

State of Colorado

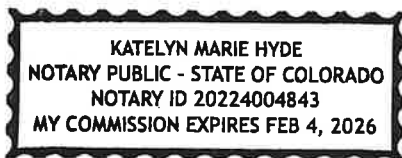
)
) ss.
)

County of WELD

The foregoing instrument was subscribed, sworn to, and acknowledged before me this 13 day of OCTOBER, 2023 by DEAN RUMMEL as EXECUTIVE DIRECTOR of CARBON VALLEY PARKS & RECREATION.

My commission expires:

(Seal)



Katelyn Marie Hyde
Notary Public

EXHIBIT A

TOWN-OWNED FIELDS AND FACILITIES

Firestone Sports Complex 6850 Tilbury Avenue	Pavilion Playset Restroom Open Turf	Site Amenities 3 Diamond Field Baseball Field Lights Batting Cage
Harney Park 10245 Devonshire Street	Pavilion (3) Playset Restroom Open Turf	Site Amenities Basketball Court Volleyball Court
Hart Park 467 Jackson Avenue	Pavilion (2) Restroom Open Turf 1 Diamond Field	Site Amenities Volleyball Court Basketball Court Disc Golf baskets
Jacob H Firestone Park 36 Grant Avenue	Pavilion Open Turf	Site Amenities
Miners Park 170 Grant Avenue	Pavilion Open Turf Horseshoe Pits	Site Amenities
Mountain Shadows Park 11267 Carbondale Street	Pavilion Playset Portable Toilet Enclosure Open Turf	Site Amenities Multi-Purpose Field Pump Track Bicycle playground Disc Golf baskets
Neighbors Point Park 10140 Neighbors Parkway	Pavilion (3) Playset Restroom Multi Purpose Synthetic Field	Site Amenities Putting green Workout stations
Onorato Park 125 Granville Ave.	Pavilion Playset Restroom Open Turf	Site Amenities Basketball Court Tennis Court

Patterson Park 6572 Shenandoah Avenue	Pavilion Playset Open Turf Multi-purpose field	Site Amenities Volleyball Court
Peninsula Park 4783 Lakeside Drive	Pavilion (4) Playset Restrooms Open Turf	Site Amenities Workout stations
Prairie Ridge Park 6440 St. Vrain Ranch Blvd	Pavilion Playset Portable Toilet Enclosure Multi-purpose field	Site Amenities
Sagebrush Park 10645 Echo Street	Pavilion (2) Playset Portable Toilet Enclosure Open Turf	Site Amenities Basketball Court
Settlers Park 11445 Ebony Street	Pavilion (2) Playset (2) Portable Toilet Enclosure Multi-purpose field	Site Amenities 1 Diamond field Basketball Court Tennis Court Pickleball courts
Stoneridge Park 5104 Ruby Avenue	Pavilion Playset Multi-purpose field Basketball Court	Site Amenities

EXHIBIT B
2023-2024 FEES

2023-2024					
Use	Site Category	Amenities Type	Resident Fee Per Hour	Non-Resident Fee per hour	Per Day
CVPRD Youth Activities	Neighborhood Park	All	\$ -	\$ -	\$ -
CVPRD Adult Activities	Neighborhood Park	All	\$ 10.00	\$ 15.00	\$ 200.00
Youth Tournament	Neighborhood Park				
		Open Turf	\$ 20.00	\$ 25.00	\$ 150.00
		Basketball Court	\$ 15.00	\$ 20.00	\$ 120.00
		Volleyball Court	\$ 15.00	\$ 20.00	\$ 120.00
		Tennis Court	\$ 15.00	\$ 20.00	\$ 120.00
		Multi-Purpose Field	\$ 20.00	\$ 25.00	\$ 150.00
		Pump Track	\$ 30.00	\$ 35.00	\$ 210.00
		Bicycle playground	\$ 20.00	\$ 25.00	\$ 150.00
		Disc Golf Baskets	\$ 10.00	\$ 15.00	\$ 90.00
Adult Tournament	Neighborhood Park				
		Open Turf	\$ 20.00	\$ 25.00	\$ 150.00
		Basketball Court	\$ 15.00	\$ 20.00	\$ 120.00
		Volleyball Court	\$ 15.00	\$ 20.00	\$ 120.00
		Tennis Court	\$ 15.00	\$ 20.00	\$ 120.00
		Multi-Purpose Field	\$ 25.00	\$ 30.00	\$ 180.00
		Pump Track	\$ 35.00	\$ 40.00	\$ 240.00
		Bicycle playground	-	-	-
		Disc Golf baskets	\$ 10.00	\$ 15.00	\$ 90.00
CVPRD Youth Activities	Firestone Sports Complex				
		3 Fields/ w bases	\$ -	\$ -	\$ -
		Temp Fence	\$ -	\$ -	\$ -
		Field Lights	\$ 30.00	\$ 30.00	\$ 180.00
		Batting Cage	\$ -	\$ -	\$ -
CVPRD Adult Activities	Firestone Sports Complex				
		3 Fields/w bases	\$ -	\$ -	\$ -
		Temp Fence	\$ -	\$ -	\$ -
		Field Lights	\$ 30.00	\$ 30.00	\$ 180.00
		Batting Cage	\$ -	\$ -	\$ -
Youth Tournament	Firestone Sports Complex				
		3 Fields/ w bases	\$ 30.00	\$ 35.00	\$ 200.00
		Temp Fence	\$ 10.00	\$ 15.00	\$ 120.00
		Field Lights	\$ 30.00	\$ 30.00	\$ 180.00
		Batting Cage	\$ -	\$ -	\$ -
Adult Tournament	Firestone Sports Complex				
		3 Fields/w bases	\$ 50.00	\$ 55.00	\$ 200.00
		Temp Fence	\$ 15.00	\$ 20.00	\$ 120.00
		Field Lights	\$ 30.00	\$ 30.00	\$ 180.00
		Batting Cage	\$ -	\$ -	\$ -



TOWN OF FIRESTONE QUARTERLY FINANCIAL UPDATE

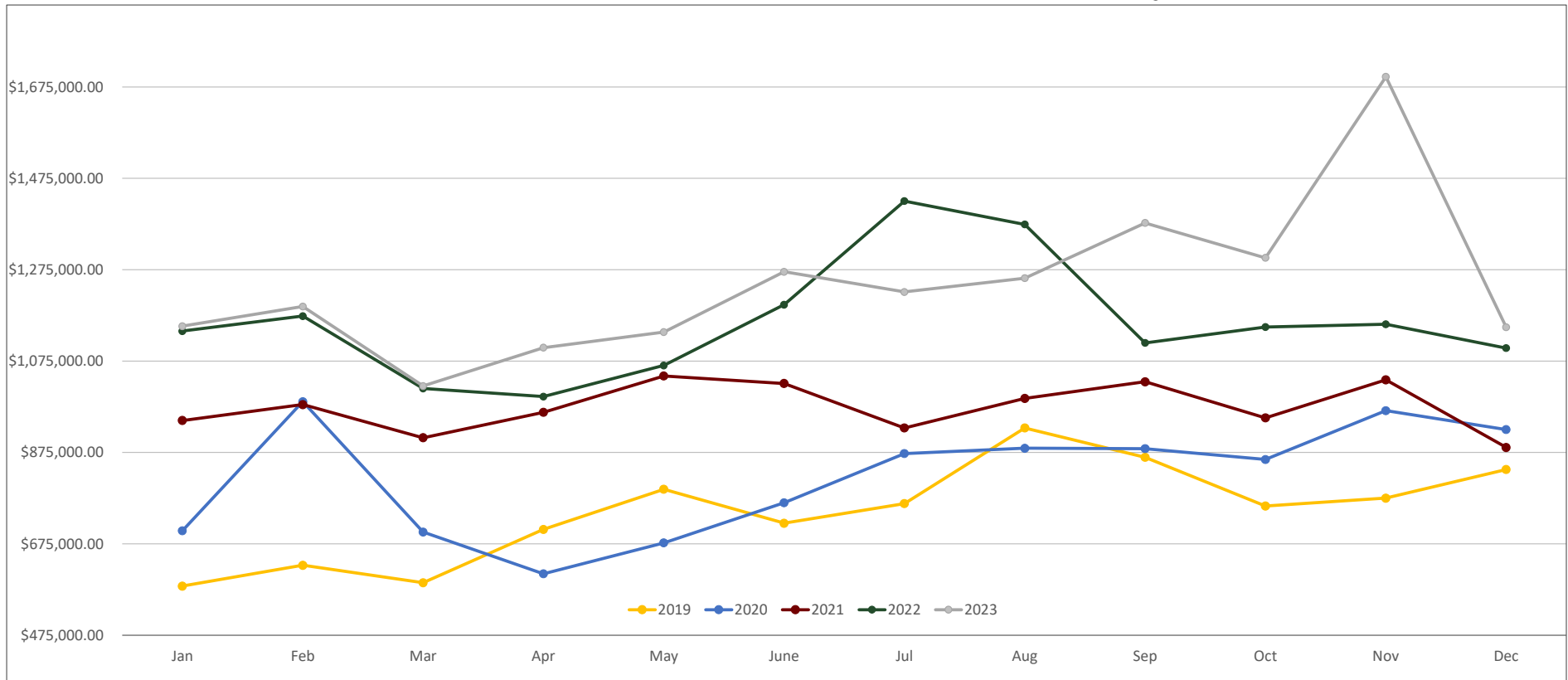
December 31, 2023 (Unaudited)

Jessica Clanton, Director of Finance



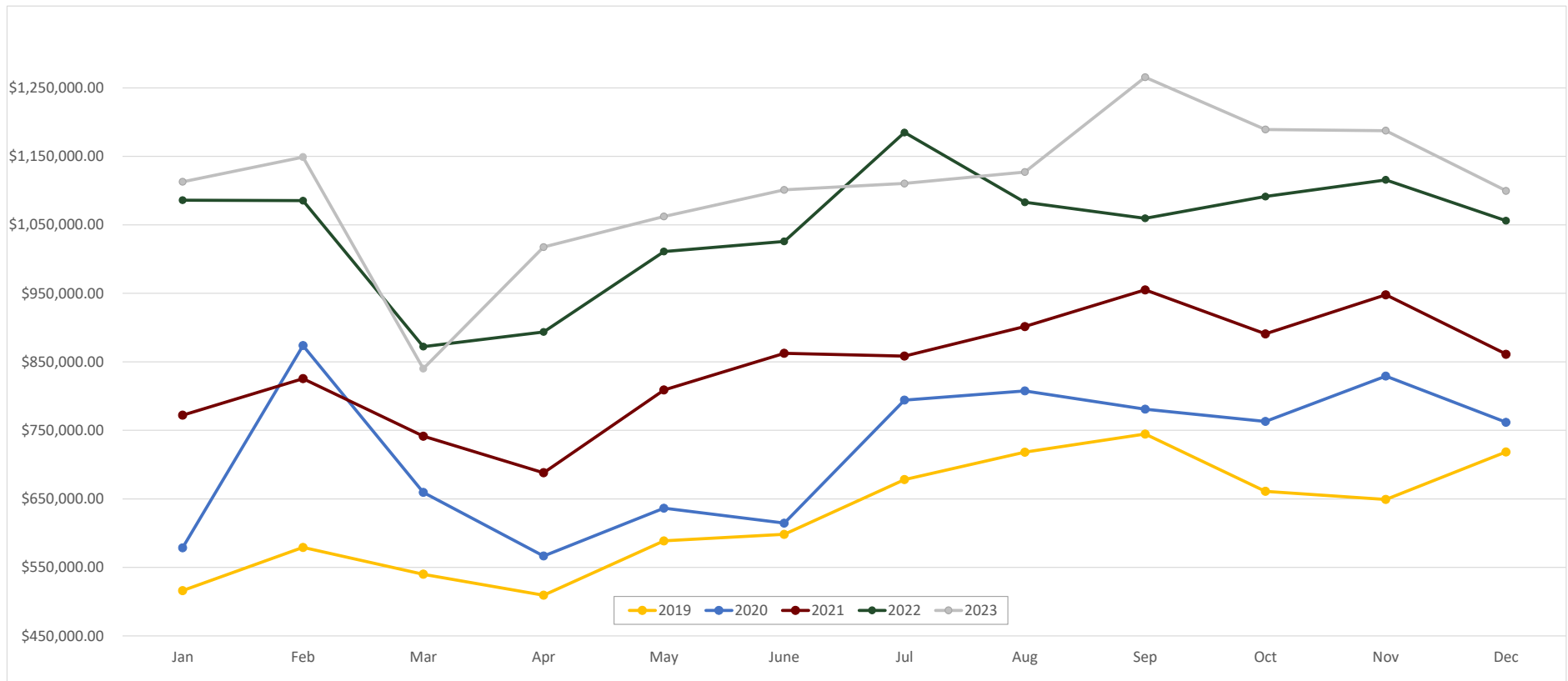
SALES & USE TAX

- Year to date collections \$14,886,514
- Increase of \$974,387 or 7% when compared to the prior year



SALES TAX

- Year to date collections \$13,262,561
- Increase of \$697,940 or 5.6% when compared to the prior year



GENERAL FUND REVENUE

	2023 Adopted Budget	Actual as of December 31, 2023	Over/(Under) Projected	Collection Rate	Prior Year Actual as of December 31, 2022	Over/(Under) Prior Year	Percent Difference
Revenues							
Taxes							
Property Taxes	\$ 1,714,697	\$ 1,706,598	\$ (8,099)	99.53%	\$ 1,612,146	\$ 94,452	5.86%
Sales Taxes	8,475,218	7,052,043	(1,423,175)	83.21%	6,726,320	325,723	4.84%
Use Tax	2,080,154	1,246,818	(833,336)	59.94%	1,347,441	(100,623)	-7.47%
Other Tax	223,609	224,066	457	100.20%	238,660	(14,594)	-6.11%
Total Taxes*	12,493,678	10,229,525	(2,264,153)	81.88%	9,924,567	304,958	3.07%
Intergovernmental Revenues	1,611,255	1,840,165	228,910	114.21%	1,584,468	255,697	16.14%
Licenses and Permits	1,996,803	1,923,675	(73,128)	96.34%	1,142,047	781,628	68.44%
Fines and Forfeitures	110,214	218,403	108,189	198.16%	130,189	88,214	67.76%
Charges for Services & Fees	1,682,402	1,208,739	(473,663)	71.85%	1,263,057	(54,318)	-4.30%
Other Revenues	137,000	832,242	695,242	607.48%	264,165	568,077	215.05%
Total Revenues	18,031,352	16,252,749	(1,778,603)	90.14%	14,308,493	1,944,256	13.59%
Transfers In	3,133,800	-	(3,133,800)	0.00%	189,120	(189,120)	-100.00%
Total Revenue	\$ 21,165,152	\$ 16,252,749	\$ (4,912,403)	76.79%	\$ 14,497,613	\$ 1,755,136	12.11%

*Due to normal collection cycles, the tax revenues presented in the above statement represent amounts collected as of two months prior and not of that of the period being reported.



GENERAL FUND EXPENDITURES

	2023 Adopted Budget	Actual as of December 31, 2023	Over/(Under) Adopted Budget	Spending Rate	Prior Year Actual as of December 31, 2022	Over/(Under) Prior Year	Percent Difference
Legislative	\$ 142,098	\$ 112,379	\$ (29,719)	79.09%	\$ 147,580	\$ (35,201)	-23.85%
Town Manager	1,873,205	1,642,730	(230,475)	87.70%	1,405,742	236,988	16.86%
Town Clerk	263,226	215,734	(47,492)	81.96%	205,364	10,370	5.05%
Marketing and Communications	580,573	496,284	(84,289)	85.48%	439,141	57,143	13.01%
Human Resources	571,650	451,803	(119,847)	79.03%	510,219	(58,416)	-11.45%
Finance	1,947,142	1,650,388	(296,754)	84.76%	1,649,966	422	0.03%
Technology	1,247,482	1,060,958	(186,524)	85.05%	888,573	172,385	19.40%
Planning & Development	1,267,670	971,585	(296,085)	76.64%	1,186,254	(214,669)	-18.10%
Police	6,233,396	5,589,247	(644,149)	89.67%	4,716,669	872,578	18.50%
Public Works	4,891,778	4,280,319	(611,459)	87.50%	4,524,094	(243,775)	-5.39%
Engineering	363,875	260,564	(103,311)	71.61%	252,527	8,037	3.18%
Economic Development	80,410	51,792	(28,618)	64.41%	282,196	(230,404)	-81.65%
Total Expenditures	<u>\$ 19,462,505</u>	<u>\$ 16,783,783</u>	<u>\$ (2,678,722)</u>	<u>86.24%</u>	<u>\$ 16,208,325</u>	<u>\$ 575,458</u>	<u>3.55%</u>



CAPITAL PROJECTS FUND

	2023 Adopted Budget	Actual as of December 31, 2023	Over/(Under) Budget	Collection/ Spending Rates	Prior Year Actual as of December 31, 2022	Current Year Over/(Under) Prior Year	Percent Difference
Revenues							
Sales Taxes - 1%	\$ 2,869,571	\$ 2,377,517	\$ (492,054)	82.85%	\$ 2,241,007	\$ 136,510	6.09%
Sales Taxes - .6%	2,090,122	1,802,636	(287,486)	86.25%	1,690,825	111,811	6.61%
Use Tax	624,046	378,999	(245,047)	60.73%	-	378,999	N/A
Impact Fee Revenue	5,766,042	1,729,506	(4,036,536)	29.99%	1,305,071	424,435	32.52%
Cash in Lieu	6,638,093	1,813,554	(4,824,539)	27.32%	351	1,813,203	516582.05%
Miscellaneous Revenues							
Grant Revenue	-	-	-	N/A	231,047	(231,047)	-100.00%
Intergovernmental Revenue	18,300	-	-		250,000		
Investment Earnings	90,000	391,083	301,083	434.54%	187,774	203,309	108.27%
Total Revenues	18,096,174	8,493,295	(9,584,579)	46.93%	5,906,075	2,587,220	43.81%
Expenditures							
Capital Improvement Expenditures	6,216,373	5,715,129	(501,244)	91.94%	2,625,384	3,089,745	117.69%
Total Expenditures	6,216,373	5,715,129	(501,244)	91.94%	2,625,384	3,089,745	117.69%
Total Revenues Over/(Under) Expenditures	11,879,801	2,778,166	(9,101,635)	23.39%	3,280,691	(502,525)	-15.32%
Other Financing Sources/Uses	(5,447,119)	(2,299,550)	3,147,569	N/A	(2,184,066)	(115,484)	N/A
Revenues Over/(Under) Expenditures	\$ 6,432,682	\$ 478,616	\$ (5,954,066)	7.44%	\$ 1,096,625	\$ (618,009)	-56.36%

*Due to normal collection cycles, the tax revenues presented in the above statement represent amounts collected as of two months prior and not of that of the period being reported.



WATER FUND

	2023 Adopted Budget	Actual as of December 31, 2023	Over/(Under) Budget	Collection/ Spending Rates	Prior Year Actual as of December 31, 2022	Current Year Over/(Under) Prior Year	Percent Difference
Revenues							
Charges for Services							
Operating Revenue	\$ 10,442,002	\$ 7,521,759	\$ (2,920,243)	72.03%	\$ 7,309,236	\$ 212,523	2.91%
Impact Fee Revenue	829,311	277,230	(552,081)	33.43%	154,509	122,721	79.43%
Native Water Dedication & Credit Fees	18,000,000	24,760,000	6,760,000	137.56%	10,382,500	14,377,500	138.48%
Miscellaneous Revenues							
Investment Earnings	110,000	865,988	755,988	787.26%	287,602	578,386	201.11%
Total Water Fund Revenues	29,381,313	33,424,977	4,043,664	113.76%	18,133,847	15,291,130	84.32%
Expenditures							
Operating Expenditures	7,729,422	5,840,495	(1,888,927)	75.56%	5,285,676	554,819	10.50%
Capital Improvement Expenditures	36,249,623	26,289,057	(9,960,566)	72.52%	14,715,759	11,573,298	78.65%
Total Expenditures	43,979,045	32,129,552	(11,849,493)	148.08%	20,001,435	12,128,117	60.64%
Other Financing Uses	2,889,120	21,416,950	18,527,830	741.30%	1,812,653	19,604,297	1081.53%
Total Water Fund Expenditures	46,868,165	53,546,502	6,678,337	114.25%	21,814,088	31,732,414	145.47%
Revenues Over/(Under) Expenditures	\$ (17,486,852)	\$ (20,121,525)	\$ (2,634,673)	N/A	\$ (3,680,241)	\$ (16,441,284)	N/A

STORMWATER FUND

	<u>2023 Adopted Budget</u>	<u>Actual as of December 31, 2023</u>	<u>Over/(Under) Budget</u>	<u>Collection/ Spending Rates</u>	<u>Prior Year Actual as of December 31, 2022</u>	<u>Current Year Over/(Under) Prior Year</u>	<u>Percent Difference</u>
Revenues							
Charges for Services							
Stormwater Charges	\$ 695,586	\$ 721,879	\$ 26,293	103.78%	\$ 687,183	\$ 34,696	5.05%
Impact Fee Revenue	574,999	191,929	(383,070)	33.38%	107,172	84,757	79.09%
Miscellaneous Revenues							
Investment Earnings	20,000	57,587	37,587	287.94%	29,354	28,233	96.18%
Total Revenues	1,290,585	971,395	(319,190)	75.27%	823,709	147,686	17.93%
Expenditures							
Stormwater Collection	932,781	715,830	(216,951)	76.74%	709,339	6,491	0.92%
Capital Improvement Expenditures	426,015	69,927	(356,088)	16.41%	221,683	(151,756)	-68.46%
Total Expenditures	1,358,796	785,757	(573,039)	57.83%	931,022	(145,265)	-15.60%
Revenues Over/(Under) Expenditures	\$ (68,211)	\$ 185,638	\$ 253,849	N/A	\$ (107,313)	\$ 292,951	N/A

CAPITAL IMPROVEMENT PROJECTS

Project Description	2023 Adopted Budget	YTD Expenditures	Amount Remaining	2024 Estimate	2025 Estimate	2026 Estimate	2027 Estimate	5-Year Total	Funding Source
CAPITAL PROJECTS FUND									
Historic Firestone Street Replacement	\$ 1,111,512	\$ 1,080,878	\$ 30,634	\$ 810,000	\$ 820,000	\$ 830,000	\$ 840,000	\$ 4,411,512	1% Sales Tax
Pavement Maintenance	2,000,000	1,884,656	115,344	1,500,000	1,500,000	1,500,000	1,500,000	8,000,000	ARPA/1% Sales Tax
Dust Control	100,000	47,635	52,365	100,000	100,000	100,000	100,000	500,000	1% Sales Tax
Street and Crosswalk Striping	25,000	24,071	929	30,000	35,000	40,000	45,000	175,000	1% Sales Tax
Street Signs Program	25,000	-	25,000	30,000	35,000	40,000	45,000	175,000	1% Sales Tax
PW Administration Offices Building	740,496	302,665	437,831	-	-	-	-	740,496	.6% Sales Tax
Traffic Signal Upgrade	110,000	65,447	44,553	125,000	130,000	140,000	150,000	655,000	1% Sales Tax
Neighbor's Point Traffic Calming	250,000	28,199	221,801	-	-	-	-	250,000	Metro District
WC Road 26 Bridge	150,000	10,500	139,500	1,000,000	-	-	-	1,150,000	1% Sales Tax
Mountain Shadows Park	570,000	558,421	11,579	-	-	-	-	570,000	Park Impact Fees
New Traffic Signals	745,003	770,626	(25,623)	-	-	-	-	745,003	Street Impact Fees
Dog Park Relocation	149,362	138,948	10,414	-	-	-	-	149,362	1% Sales Tax
Events Storage Building	70,000	-	70,000	-	-	-	-	70,000	.6% Sales Tax
BoT Interface	170,000	45,436	124,564	-	-	-	-	170,000	.6% Sales Tax
Firestone BLVD Mill & Overlay	-	757,647	(757,647)	-	-	-	-	-	Working Reserve
Total	\$ 6,216,373	\$ 5,715,130	\$ 501,243	\$ 3,595,000	\$ 2,620,000	\$ 2,650,000	\$ 2,680,000	\$ 17,761,373	
CONSERVATION TRUST FUND									
Sports Complex Improvements	\$ 150,000	\$ 100,701	\$ 49,299	\$ 650,000	\$ -	\$ -	\$ -	\$ 800,000	CTF
Settlers Park Improvements	25,000	-	25,000	-	-	-	-	25,000	CTF
Firestone Trail Improvements	75,595	66,965	8,630	-	-	-	-	75,595	CTF
Total	\$ 250,595	\$ 167,666	\$ 82,929	\$ 650,000	\$ -	\$ -	\$ -	\$ 900,595	
BIGHORN FIRESTONE URBAN RENEWAL AUTHORITY									
WC Rd 20 Coal Ridge Ditch Crossing	\$ 1,000,000	\$ 163,892	\$ 836,108	\$ -	\$ -	\$ -	\$ -	\$ 1,000,000	Property Tax Increment
Total	\$ 1,000,000	\$ 163,892	\$ 836,108	\$ -	\$ -	\$ -	\$ -	\$ 1,000,000	



CAPITAL IMPROVEMENT PROJECTS

Project Description	2023 Adopted Budget	YTD Expenditures	Amount Remaining	2024 Estimate	2025 Estimate	2026 Estimate	2027 Estimate	5-Year Total	Funding Source
WATER FUND									
Water Rights	\$ -	\$ 2,435,056	\$ (2,435,056)	\$ -	\$ -	\$ -	\$ -	\$ -	WF
Gould Well Field	417,969	153,731	264,238	-	-	-	-	417,969	2020 Water Ent. Bond
Mtn Shadows Park Conversion	512,913	61,996	450,917	-	-	-	-	512,913	WF
NISP Participation	787,020	751,270	35,750	800,000	3,759,000	3,759,000	3,759,000	12,864,020	WF
Firestone Reservoir No. 1 Plumbing	933,009	484,926	448,083	-	-	-	-	933,009	2020 Water Ent. Bond
Historic Firestone Water Line	1,015,121	1,036,410	(21,289)	710,000	720,000	730,000	740,000	3,915,121	WF
St. Vrain Water Treatment Plant	6,465,866	392,880	6,072,986	-	-	-	-	6,465,866	2020 Water Ent. Bond
St. Vrain WTP Blend Pipeline - Phase 1	1,612,244	364,064	1,248,180	455,000	450,000	3,647,500	3,647,500	9,812,244	2020 Water Ent. Bond
Gould Property Clean Up	15,000	7,303	7,697	-	-	-	-	15,000	WF
St Vrain WTP Injection Well	1,128,504	477,986	650,518	-	-	-	-	1,128,504	2020 Water Ent. Bond
SCADA Upgrade	45,522	23,316	22,206	-	-	-	-	45,522	WF
Firestone Reservoir #2	50,000	-	50,000	-	3,288,140	7,740,800	-	11,078,940	Raw Water Impact Fees
Non-Potable Irrigation System Infr.	200,000	-	200,000	2,242,000	-	-	-	2,442,000	Raw Water Impact Fees
Water Master Plan	125,000	-	125,000	-	-	-	-	125,000	WF
Historic Firestone Water Design	213,599	120,901	92,698	-	-	-	-	213,599	WF
Alluvial Well Field #2	410,636	1,520	409,116	420,000	6,090,000	-	-	6,920,636	WF/Water Ent. Bond
Water Rate Study	120,000	60,454	59,546	-	-	-	-	120,000	WF
Coal Ridge Ditch Lateral Supply Pipeline	803,500	10,550	792,950	5,043,500	-	-	-	5,847,000	WF/2020Water Ent. Bond
NISP Transfer Pipeline	152,000	-	152,000	122,000	336,250	-	3,792,000	4,402,250	WF
Firestone Reservoir #3	19,900,000	19,901,756	(1,756)	-	-	-	-	19,900,000	Water Enterprise Bond
CWCWD Flow Control/Meter	263,000	4,940	258,060	3,063,950	-	-	-	3,326,950	Water Enterprise Bond
St. Vrain WTP Expansion	634,500	-	634,500	634,500	5,075,333	5,075,333	5,075,334	16,495,000	WF/Water Ent. Bond
Goddard Ditch Conversion	102,820	-	102,820	564,580	-	-	-	667,400	WF
Tier 2 Water Supply	341,400	-	341,400	681,900	-	-	-	1,023,300	Raw Water Impact Fees
Total	\$ 36,249,623	\$ 26,289,058	\$ 9,960,565	\$ 14,737,430	\$ 19,718,723	\$ 20,952,633	\$ 17,013,834	\$ 108,672,243	
STORMWATER FUND									
Stormwater Fee Study	60,000	-	60,000	-	-	-	-	60,000	SWF
Drainage Master Plan	161,015	69,927	91,088	-	-	-	-	161,015	Impact Fees
Stormwater Ditch Maintenance	50,000	-	50,000	50,000	50,000	50,000	50,000	250,000	SWF
Colo BLVD Drainage Crossing	155,000	-	155,000	-	-	-	-	155,000	SWF
Total	\$ 426,015	\$ 69,927	\$ 356,088	\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000	\$ 626,015	
TOWN-WIDE TOTAL	\$ 44,142,606	\$ 32,405,672	\$ 11,736,934	\$ 19,032,430	\$ 22,388,723	\$ 23,652,633	\$ 19,743,834	\$ 128,960,226	



Payroll Board Report JANUARY-2024

Company Total

Gross Earnings	Hours/Units	Amount	% of Co	Voluntary Deductions	Amount	Employee Taxes	Amount
Regular	13,248.50	580,216.91	100.00%	TAX LEVY - MED % 1	343.08	Federal W/H	67,694.34
Overtime	143.75	8,412.41	100.00%	Accident Insurance	1,479.52	Medicare	11,871.91
2023 Personal Day	43.00	1,461.08	100.00%	Critical Illness + Spouse	560.10	Social Security	1,476.29
Call Out	7.00	227.16	100.00%	Critical Illness Employee Only	989.95	Colorado State W/H	29,437.00
Comp Time Used	106.89	3,154.84	100.00%	Equipment	581.66		110,479.54
Contract Paid Time Off	29.50	2,048.30	100.00%	FPPA - 457 Amount	1,500.00		
Extended Illness Bank	3.02	145.96	100.00%	FPPA - 457 Percentage	695.94	Employer Taxes	Amount % of Co
Extended Paid Leave	24.00	826.60	100.00%	FPPA - Police Pension	29,391.05	Employer Medicare	11,871.91 100.00%
FTO Pay	8.00	358.04	100.00%	FPPA ROTH 457	450.00	Employer Social Security	1,476.29 100.00%
Holiday Time Off	2,581.47	111,180.18	100.00%	FSA Dependent Care Amount	4,031.63	CO SUI	1,685.27 100.00%
Holiday Time Off 10	153.00	6,965.03	100.00%	Flexible Spend Account Medical	4,111.63		15,033.47 100.00%
Holiday Worked	233.00	16,839.42	100.00%	Health Savings Account	19,712.78		
PD Grants/Contracts 1.5	8.00	674.28	100.00%	Hospital Insurance Employee On	1,438.90	Employer Match	Amount % of Co
PTO STD	4.98	240.68	100.00%	Limited Purpose Flexible Spend	48.34	ER PERA MATCH - Match	86,146.77 100.00%
Paid Admin Leave	80.00	4,843.83	100.00%	Medical HSA Choice	7,775.62	FPPA Employer Contribution - M	23,879.89 100.00%
Paid Time Off	2,379.42	111,221.93	100.00%	Medical OAP	8,532.50	Mission Square 457 pretax ERD	2,914.03 100.00%
Paid Time Off Payout	55.84	1,375.34	100.00%	Mission Square - 401a Amount	150.00		112,940.69 100.00%
Police Security Events	12.75	956.25	100.00%	Mission Square - 457b %	241.15		
Standby	4.00	148.14	100.00%	Mission Square - 457b Amount	150.00	Memo Deductions	Amount
Time Off in Lieu	4.50	152.78	100.00%	Mission Square - Roth IRA %	241.15	Basic Life AD&D - ER Paid	2,272.69
Unpaid Leave	107.72	-	-	Norton LifeLock Essential	260.78	Dental Employer Contribution	9,919.09
Workers Comp Leave	15.20	447.79	100.00%	Norton LifeLock Premier	434.78	HSA Employer Contribution	4,400.00
CELL PHONE STIPEN	-	325.00	100.00%	PERA	51,803.83	Long Term Disability ER Paid	2,025.15
Mayor/Trustee	-	2,150.00	100.00%	PERA - 401K Roth Amount	500.00	Medical Base ER Contribution	43,044.68
Retro Pay	-	7,813.15	100.00%	PERA - 401K Amount	540.00	Medical HSA Choice ER Contrib	56,110.73
	19,253.54	862,185.10	100.00%	PERA - 401K Percentage	935.11	Medical OAP Employer Contrib	48,352.08
				PERA - 457 AMOUNT	980.00	Mission Square 401a ERD	1,600.00
				PERA - 457 PERCENTAGE	1,806.86	Pension Death and Disability	8,505.21
				PERA - 457 ROTH AMOUNT	300.00	Short Term Disability ER Paid	2,615.89
				PERA - 457 ROTH PERCENTAG	338.34	Vision Employer Contribution	1,823.42
				PERA Life Insurance	108.50		180,668.94
				Voluntary Life and AD&D Child	65.60		
				Voluntary Life and AD&D Employ	1,442.70	Net Pay	609,489.82
				Voluntary Life and AD&D Spouse	274.24		
					142,215.74		

Name	Total Paid
Total 4 RIVERS EQUIPMENT, LLC:	127.67
Total ACCESS/ADAMS DATA MANAGEMENT, LLC:	507.05
Total Adams Unlimited Construction LLC:	42,053.51
Total ADAMSON POLICE PRODUCTS:	795.44
Total AIRGAS INC:	88.33
Total ALAN PLUMMER AND ASSOCIATES, INC:	1,296.97
Total AMAZON CAPITAL SERVICES:	2,378.09
Total AMERICAN CONSERVATION & BILLING SOLUTION:	200.00
Total AMERICAN WATER WORKS ASSOCIATION:	412.00
Total APPLIED COATINGS TECH., INC:	906.00
Total ArchiveSocial, Inc:	4,188.00
Total Arrakeen Resource LTD CO:	4,347.50
Total AUDIO VISUAL INNOVATIONS INC:	8,845.88
Total AUSMUS LAW FIRM, P.C.:	1,200.00
Total B K TIRE, INC:	2,185.16
Total BAREFOOT RESIDENTIAL LLC:	145.29
Total BEACON COMMUNICATIONS LLC:	340.00
Total BINFORD SUPPLY LLC:	562.55
Total Black Hills Energy:	5,144.28
Total BOBCAT OF THE ROCKIES:	9,801.45
Total BOHANNAN HUSTON INC:	44,922.24
Total Brahma Roofing and Construction:	51,886.57
Total BRANNAN SAND & GRAVEL CO llc:	4,609.17
Total BUCKEY INTERNATIONAL INC:	97.69
Total BUTLER SNOW LLP:	1,170.00
Total C & C Metals Inc:	21,142.50
Total CARBON VALLEY RECREATION DISTRICT:	147.00
Total CELEGANS LABS INC:	9,167.28
Total CENTENNIAL CONTROLS INC:	1,060.00
Total CENTRAL WELD COUNTY WATER DISTRICT:	33.12
Total CENTURY LINK:	582.71
Total CHASE PAYMENTNET:	73,658.83
Total CHECK-IT CODE CONSULTING LLC:	7,273.92
Total CHICAGO TITLE (TUFTS):	28.92
Total CINTAS FIRST AID & SAFETY:	313.18
Total CIRSA:	9,777.30
Total CITY OF GREELEY:	250.00
Total CIVIC PLUS, INC:	15,514.22
Total CMCA - SET REMIT ADDRESS:	1,350.00

Name	Total Paid
Total CMS ENVIRONMENTAL SOLUTIONS LLC:	205.00
Total Coblaco Services Inc:	39,119.88
Total Collective Flooring LLC:	16,461.34
Total Colorado Analytical Laboratory:	2,315.00
Total COLORADO ASSOCIATION OF CHEIFS OF POLICE:	1,722.00
Total COLORADO CIVIL GROUP INC.:	37,992.60
Total DAIGLE LAW GROUP LLC:	4,165.00
Total DANA KEPNER COMPANY INC.:	11,384.64
Total DataShield Corporation:	90.00
Total DBC IRRIGATION SUPPLY:	304.49
Total DEFALCO CONSTRUCTION:	4,424.72
Total DELTA DENTAL OF COLORADO, INC:	9,986.41
Total ELEVATED CLOUD SERVICES LLC:	19,485.75
Total Elite Cranes LLC:	2,921.40
Total EMPLOYEE REIMBURSEMENTS & PER DIEMS:	164.76
Total EMPLOYERS COUNCIL SERVICES, INC:	156.00
Total ENTERPRISE FLEET MGMT CUSTOMER BILLINGS:	107,181.61
Total FIRST CALL ELECTRIC & FIRE:	480.00
Total FIT FOR YOU LLC:	140.00
Total FRED DIEHL CONSULTING:	300.00
Total FREDERICK - FIRESTONE FIRE PROTECTION:	37,535.25
Total FRONT RANGE COMPLIANCE SERVICE, LLC:	356.50
Total FRONTIER BUSINESS PRODUCTS:	335.10
Total FRONTIER COMPUTER CORP.:	44,994.25
Total FUZION FIELD SERVICES LLC:	5,528.40
Total GRAINGER:	982.51
Total GREEN GIRL RECYCLING SERVICES:	183.00
Total GREEN MILL SPORTSMAN'S CLUB, INC:	150.00
Total H2I Group Inc:	1,980.50
Total HARDLINE EQUIPMENT LLC:	369.66
Total HAYASHI & MACSALKA, LLC:	10,637.50
Total IMSA - ROCKY MTN SECTION:	680.00
Total INTELLICHOICE INC:	1,024.85
Total INTERNATIONAL ASSOC FOR PROPERTY & EVIDE:	65.00
Total INTERNATIONAL ASSOC OF CHIEFS OF POLICE:	380.00
Total INTERSTATE BATTERY OF THE ROCKIES:	148.95
Total JAIME BROWER PSYCHOLOGICAL SERVICES:	150.00
Total JONES, STEPHEN:	1,100.00
Total KG CLEAN INC:	5,500.28

Name	Total Paid
Total KIMBALL MIDWEST:	987.57
Total KINSCO, LLC:	338.99
Total LAWRENCE CUSTER GRASMICK JONES & DONOVAN:	45,658.83
Total LENNAR COLORADO:	246.04
Total LEONARD RICE ENGINEERS, INC:	15,000.00
Total LEXIPOL LLC:	996.00
Total LEXISNEXIS RISK SOLUTIONS:	805.00
Total LITTLE THOMPSON WATER DISTRICT:	152.79
Total LONGMONT HUMANE SOCIETY:	1,225.00
Total LYONS GADDIS:	5,974.98
Total MAC EQUIPMENT INC LONGMONT:	13.70
Total MAIN STREET MAT COMPANY, INC:	679.82
Total Manhard Consulting Ltd:	6,600.00
Total Meurer Research:	1,101.25
Total MIKE MAROONE FORD LONGMONT:	395.22
Total MINES AND ASSOCIATES INC:	6,411.00
Total MISC VENDOR:	1,825.54
Total MOORE IACOFANO GOLTSMAN, INC:	24,840.41
Total MORGAN STANLEY SMITH BARNEY LLC:	5,938.70
Total MTECH MECHANICAL TECHNOLOGIES GROUP:	17,018.00
Total Municipal Treatment Equipment LLC:	14,438.48
Total NEW IPT INC:	37,991.95
Total NORTHERN COLORADO CONSTRUCTORS, INC:	50.00
Total NORTHERN COLORADO WATER CONSERVANCY DIST:	887,250.00
Total O.J. WATSON COMPANY, INC.:	368.70
Total ODP BUSINESS SOLUTIONS LLC:	562.62
Total O'REILLY AUTO PARTS:	887.62
Total ORKIN PEST CONTROL, INC:	482.96
Total PLACER LABS, INC:	8,872.50
Total PLUMBER'S PARADISE:	5,890.50
Total PRAIRIE MOUNTAIN PUBLISHING:	60.00
Total PUREWATER DYNAMICS, INC:	834.26
Total QUADIENT LEASING USA INC:	1,000.00
Total RAPTOR MATERIALS LLC:	12,279.31
Total RESTITUTION / COURT REFUNDS:	2,550.00
Total RIPTIDE CAR & PET WASH:	634.25
Total ROCKY MOUNTAIN RESERVE LLC:	488.00
Total RURAL DITCH COMPANY:	137.50
Total SAFETY AND CONSTRUCTION SUPPLY INC:	851.01

Name	Total Paid
Total ST VRain SANITATION DISTRICT:	4,018.65
Total ST VRain WATER AUTHORITY:	38,908.62
Total STANTEC CONSULTING SERVICES INC:	7,275.50
Total Sturgeon Electric Company:	3,750.00
Total SUMMIT DATA PROTECTION LLC:	20,385.00
Total SUN VALLEY ELECTRIC INC:	264,706.36
Total Tanco Engineering Inc:	107,633.51
Total TIMBER LINE ELECTRIC & CONTROL CORP:	4,005.00
Total TIMBERLAN, INC:	22,200.00
Total TIMECLOCK PLUS LLC:	2,289.60
Total Toilet Rebates:	75.00
Total TRAFFIC SIGNAL CONTROLS, INC:	160.00
Total Treetop Products, Inc.:	3,535.81
Total TRIDENT SECURITY SYSTEMS INC:	360.00
Total UMB BANK, NA:	400.00
Total UME CUSTOM EMBROIDERY:	203.58
Total UNITED POWER-BRIGHTON:	19,016.26
Total UNIVERSITY AUTO PARTS, INC:	2,116.25
Total UTILITY NOTIFICATION CENTER OF COLORADO:	296.70
Total UTILITY REFUNDS -1:	5,003.93
Total VALLI INFORMATION SYSTEMS:	5,433.33
Total VANCE BROTHERS INC:	1,850.00
Total Verizon Connect NWF INC:	226.85
Total VIA MOBILITY SERVICES:	4,800.00
Total VISION SERVICE PLAN - VSP:	1,902.37
Total WAGNER EQUIPMENT CO.:	1,378.00
Total WAGNER WELDING SUPPLY CO.:	8.68
Total WELD COUNTY CHIEFS OF POLICE ASSOCIATION:	650.00
Total WELD COUNTY DEPT OF PUBLIC HEALTH & ADMI:	4,477.00
Total WELD COUNTY INFORMATION TECHNOLOGY:	320.60
Total WELD COUNTY SHERIFFS OFFICE:	75.65
Total Wesspur Tree & Equipment Inc:	501.60
Total WESTWATER RESEARCH, LLC:	10,000.00
Total WICKHAM TRACTOR CO, Inc:	793.06
Total Wigen Water Technologies:	171,325.96
Total XPRESS BILL PAY / XPRESS SOLUTIONS:	3,204.55
Grand Totals:	2,524,738.09

Name	Total Paid
MISC VENDOR	
Total ION DEVELOPER LLC:	662.52
Total Meraki Installers LLC:	1,163.02
Grand Totals:	1,825.54