



Town of Frederick  
Board of Trustees Agenda  
Frederick Town Hall  
Board Chambers  
401 Locust Street  
Tuesday, January 14, 2020

**6:30 P.M.**  
**Work Session**

**7:00 P.M.**  
**Regular Meeting**

**Call to Order – Roll Call:**

**Pledge of Allegiance:**

**Approval of Agenda:**

**Special Presentations:**

Rocky Mountain Christian Church Community Funding Request – Rick Hand

Frederick High School FBLA Update – Brian Enns

**Public Comment:** This portion of the Agenda is provided to allow members of the audience to provide comments to the Town Board. Please sign in and the Mayor will call you. If your comments or concerns require an action, that item(s) will need to be placed on a later Agenda. Please limit the time of your comments to three (3) minutes.

**Staff Reports:**

- A. Administrative Report – Bryan Ostler, Town Manager
- B. Town Clerk’s Report – Meghan Martinez, Town Clerk

**Consent Agenda:** Consent Agenda items are considered to be routine and will be enacted by one motion and vote. There will be no separate discussion of Consent Agenda Items unless a Board member so requests, in which case the item may be removed from the Consent Agenda and considered at the end of the Consent Agenda.

- C. December 10, 2019 Minutes – Meghan Martinez, Town Clerk
- D. List of Bills – Jason Leslie, Finance Director

**Built on What Matters.**

- E. Resolution 20-R-01 Accepting a Grant of Easement along Tipple Parkway – Jason Berg, Engineer
- F. Ordinance 1334 Amending Chapter 2, Article IX, Section 2-222 of the Frederick Municipal Code as it Relates to Composition of Commissions – Meghan Martinez, Town Clerk
- G. Resolution 20-R-02 Authorizing the Town Manager to Execute a Contract with concrete Works of Colorado for the Safe Routes to School (SRTS) Thunder Valley Trail Project – Kevin Ash, Engineering Director
- H. Resolution 20-R-03 Authorizing the Town Manager to Execute an Independent Consultant Agreement for Construction Management Services for the Safe Routes to School (SRTS) Project – Kevin Ash, Engineering Director
- I. Resolution 20-R-04 Authorizing the Mayor to Execute the Phase I Agreement with Northern Integrated Supply Project Water Activities Enterprise (NISPE) – Sarah Watson, Engineer
- J. Resolution 20-R-06 Appointing a Backup Prosecutor – Rick Samson, Town Attorney

**Action Agenda:**

- K. Request to Consider Implementation of a Fence Permit Process – Mike Theisen, Chief Building Official
  - 1. Ordinance 1327 Amending Chapter 18, Article 1 of the Frederick Municipal Code Regarding Building Code Regulations to Require Building Permits for Fences
  - 2. Resolution 20-R-05 Amending Fees for Municipal Services

**Mayor and Trustee Reports:**

**Executive Session:** For the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators under C.R.S. Section 24-6-402(4)(e)(1) regarding water and economic development

**Work Session:** General Discussion



POLICE DEPARTMENT

333 5<sup>TH</sup> STREET • P.O. BOX 639 • FREDERICK, CO 80530-0639

PHONE: (720) 382-5700 • FAX: (303) 833-3817

[WWW.FREDERICKCO.GOV](http://WWW.FREDERICKCO.GOV)

Date: January 8, 2020

Re: Security for Night to Shine event

To: Mayor Carey, Board of Trustees, and Town Manager, Bryan Ostler

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I have reviewed the funding request from the Rocky Mountain Christian Church. The Police Department is able to provide two police officers for security on February 7<sup>th</sup> 2020 for the Night to Shine event.

The cost for the two uniformed officers for working the special detail from 5:30 pm to 9:30 pm will be \$640.00

If you have any questions, please feel free to contact me.

Sincerely,

*Todd D. Norris*

Todd D. Norris  
Chief of Police

Built on What Matters.



401 Locust Street • P.O. Box 435 • Frederick, CO 80530-0435

Phone: (720) 382-5500 • Fax: (720) 382-5520

[www.frederickco.gov](http://www.frederickco.gov)

## Town of Frederick Community Grants Criteria and Guidelines

The Town of Frederick is pleased to sponsor community organizations and community-minded individuals offering programming for the benefit of the community.

The Town wishes to provide assistance for programs, events or projects that contribute to the positive image of Frederick and provide opportunities for informal education, community building and family entertainment. The entity must demonstrate a financial need and exhibit how the event connects to the Frederick Community.

The Town is able to provide both direct financial support and some types of in-kind support (i.e. police, public works assistance, etc.) to which a monetary value is assigned. Grants are awarded by the Town Board of Trustees based on the applicant meeting the requirements of the application and on the merits of the project as described in the application.

The Town strongly encourages applicants to speak with the Town Clerk, who processes the applications for the Board, before completing and submitting applications. The Town Clerk is able to answer questions and help ensure the application is complete and appropriate for Board review.

Everyone receiving funds will be required to submit a follow-up report on the event/project and the use of funds. The report must be provided to the Town Board within 60 days following the completion date of the project, event, etc. Failure to submit a report could impact future grant awards from the Town.

# Town of Frederick community Grants

## Submission Guidelines

### **Who can apply?**

- Non-profit organizations registered with the Colorado Secretary of State as such.
- A qualified 501(c)(3) tax-exempt organization as recognized by the Internal Revenue Service.
- Taxing authorities may not apply; however, groups such as PTOs, booster clubs and athletic teams may apply under the umbrella of their respective schools.

### **What do I need to include in my application?**

- Complete Application including all required attachments.
- A copy of your organization's Certificate of Good Standing from the Secretary of State indicating your non-profit status.
- A copy of the IRS Determination Letter.
- A list of your organization's Board of Directors or other body of officers.

### **What restrictions are there?**

- Donated funds must be used in connection with the request and may not be utilized for administrative costs.
- Requests may not exceed \$500; however, organizations may request additional funding by demonstrating a financial need. If you are requesting funding exceeding \$500 please complete the additional funding form.

### **What do I need to include in my follow-up report?**

- Brief explanation of the event/program and its' impact and benefit to the Town of Frederick including a breakdown of the use of funds provided by the Town of Frederick.

### **How do I submit my materials?**

- Please provide a completed application with any additional page attachments either hard copy or email to [mmartinez@frederickco.gov](mailto:mmartinez@frederickco.gov)



**Amount Requested:** \$ 520.00

Number of Town of Frederick Residents and/or visitors that will participate and/or benefit from the program you are proposing: 200 (500+ in attendance)

In what way will this program enhance the Town of Frederick's positive image, provide opportunity for informal education, community building and/or family entertainment:  
Night to Shine creates public awareness for the need to support our Special Needs community and demonstrates our Towns care and commitment to helping create a lifetime memories for the event guests.  
Our Guests love the opportunity to talk and take photos with the officers.

Has your organization applied for a grant from the Town of Frederick before? YES  NO

How much did you receive? \$ 520.00

How was the grant money used:  
Police Security for the event.

Were there funds left over? If so how those funds utilized by your organization:  
No

Please provide a list of organizations you have already solicited (or will be soliciting):  
Safeway, Carbon Valley Florists, Georgia Boys Restaurant, Black Jack Pizza, Occidental Petroleum, Stapp Toyota, Towns of Firestone and Dacono, Transwest, Agilent Technologies, United Power, Riptide Carwash, King Soopers, Mishler Construction, Mountain Cowboy and Chick fil-A.

Please include the following attachments:

1. Board of Directors and Key Staff noting any paid staff.
2. Copy of the IRS Determination Letter indicating Tax-Exempt Status of the organization.

Name and Signature of Organization's Project Chairperson:

<u>Matt Cote</u>	<u>303-652-2211</u>
Name (Please Print)	Telephone Number
<u>M Cote</u>	<u>01/05/2020</u>
Signature	Date

## Program / Project Budget

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Program Name: Night to Shine

Total Project Budget (Please Itemize):  
(Personnel, Promotion, Supplies, Services, etc.)

Amount:

See attached budget

\$ \_\_\_\_\_  
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**Total Cost (A):**

\$ 14,399.00

Sources of Funding for the Program:  
(Gifts and Grants pledged or paid)

Corporations:

\$ 13,879.00

Foundations:

\$ \_\_\_\_\_

Individuals:

\$ \_\_\_\_\_

Government:

\$ \_\_\_\_\_

Other:

\$ \_\_\_\_\_

**Total Funds Available (B)**

\$ 13,879.00

**Balance Required (A minus B)**

\$ 520.00

**Amount Requested:**

\$ 520.00

# Request for Additional Funding

(complete only if requesting funds exceeding \$500.00)

Funds Requested: \$2000.00

Please explain why your organization has requested additional funding: RMCC is 100% responsible for funding the entire event and without the support of local businesses and municipalities this amazing event serving our community of people with special needs would not be possible.

If approved, the Town of Frederick would be a Gold Community sponsor and afforded the following:

- Recognition on our Night to Shine website
- Recognition on RMCC/Night to Shine social media outlets along with other event sponsors
- Two (2) Town of Frederick marketing pieces in the Guest gift bags
- Logo on slide show during the event
- Gold Sponsorship announced on stage
- Medium logo on event t-shirts
- Photobook of the event with digital link
- Unlimited photo opportunities of Frederick Police Officers and Guests!



## 2020 Night to Shine Budget

Hosted by: Rocky Mountain Christian Church

Event Date: Feb. 7, 2020

Budget Items	Cost	Notes
CATERING	\$1,000.00	
DECORATIONS	\$1,200.00	
DJ	\$350.00	
FLOWERS	\$1,350.00	
KARAOKE/GAMES/SENSORY	\$50.00	
LIMO	\$300.00	
MARKETING	\$100.00	
PHOTO/VIDEO	\$200.00	
PHOTO BOOTH	\$629.00	
POLICE PROTECTION	\$520.00	Requesting grant from Town of Frederick
EMT PERSONNEL & AMBULANCE	\$0.00	Grant by FFFPD
RED CARPET/PROM SHOP	\$350.00	
TAKE AWAY GIFTS	\$2,000.00	
TIARAS & CROWNS	\$800.00	
VOLUNTEER APPRECIATION	\$1,500.00	
BACKGROUND CHECKS	\$1,750.00	
PARKING	\$0.00	Provided by RMCC Volunteers
NAME TAGS/LANYARDS	\$400.00	
TSHIRTS	\$1,800.00	
PRODUCTION	\$0.00	Provided by RMCC Volunteers
MISC	\$100.00	
<b>TOTAL</b>	<b>\$14,399.00</b>	

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**THIS LICENSE JS  
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CERTIFICATE OF EXEMPTION FOR SALES AND USE TAX ONLY		
USE ACCOUNT NUMBER for all references	LIABILITY INFORMATION	ISSUE DATE
98-05751-0000	107 040 8661 N 0801841	JAN 27 1995
9447 NIWOT RD	LONGMONT CO	

ROCKY MTN CHRISTIAN  
CHURCH  
ROCKY MTN CHRISTIAN  
840942472  
9447 NH/OT RD  
LONGMONT CO 80503-8537



Department of Revenue

**A DETACH HERE. A**

Internal Revenue Service  
District Director

Department of the Treasury

Date: **JUL 15 1984**

Employer Identification Number.  
84-0942472  
Accounting Period Ending:  
December 31  
Form 990 Required:  Yes  No

Rocky Mountain Christian Church  
P.O. Box 743  
Longmont, CO 80501

Person to Contact:  
EO TECHNICAL ASSISTOR  
Contact Telephone Number.  
(214) 767-3526  
EO:7216:BLW

Dear Applicant:

Based on information supplied, and assuming your operations will be as stated in your application for recognition of exemption, we have determined you are exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code.

We have further determined that you are not a private foundation within the meaning of section 509(a) of the Code, because you are an organization described in section 170(b)(1)(A)(i) & 509(a)(1),

If your sources of support, or your purposes, character, or method of operation change, please let us know so we can consider the effect of the change on your exempt status and foundation status. Also, you should inform us of all changes in your name or address.

As of January 1, 1984, you are liable for taxes under the Federal Insurance Contributions Act (social security taxes) on remuneration of 1100 or more paid to each of your employees during a calendar year. You are not liable for the tax imposed under the Federal Unemployment Tax Act (F.U.T.A.).

Since you are not a private foundation, you are not subject to the excise taxes under Chapter 42 of the Code. However, you are not automatically exempt from other Federal excise taxes. If you have any questions about excise, employment, or other Federal taxes, please let us know.

Donors may deduct contributions to you provided in section 170 of the Code. Bequests, legacies, devises, transfers, or gifts to you or for your use are deductible for Federal estate and gift tax purposes if they meet the applicable provisions of sections 2055, 2106, and 2522 of the Code.

The box checked in the heading of this letter shows whether you must file Form 990, Return of Organization Exempt from Income Tax. If Yes is checked, you are required to file Form 990 only if your gross receipts each year are normally more than \$25,000. If a return is required, it must be filed by the 15th day of the fifth month after the end of your annual accounting period. The law imposes a penalty of \$10 a day, up to a maximum of \$5,000, when a return is filed late, unless there is reasonable cause for the delay.

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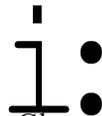
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. You are not required to file Federal income tax returns unless you are subject to the tax on unrelated business income under section 511 of the Code. If you are subject to this tax, you must file an income tax return on Form 990-T, Exempt Organization Business Income Tax Return. In this letter, we are not determining whether any of your present or proposed activities are unrelated trade or business as defined in section 513 of the Code,

You need an employer identification number even if you have no employees. If an employer identification number was not entered on your application, a number will be assigned to you and you will be advised of it. Please use that number on all returns you file and in all correspondence with the Internal Revenue Service,

Because this letter could help resolve any questions about your exempt status and foundation status, you should keep it in your permanent records,

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter,

  
Glenn Cagle  
District Director

'J

## Meghan Martinez

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**From:** rick.handco@gmail.com  
**Sent:** Wednesday, January 08, 2020 11:24 AM  
**To:** Meghan Martinez  
**Subject:** RE: Request for FPD support of Night to Shine event at Rocky Mountain Christian Church

Hi Meghan,

We would like to amend our Community Grant Application to reflect the rate increase to \$640.00 for the requested two (2) off-duty officers for our Night to Shine event on Feb.7<sup>th</sup>.

Thanks for the heads up and let me know if you need anything else!

**Rick Hand**

Rocky Mountain Christian Church-Frederick  
Medical & Security Coordinator  
720-939-1841

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**From:** Meghan Martinez  
**Sent:** Wednesday, January 8, 2020 10:38 AM  
**To:** 'rick.handco@gmail.com'  
**Subject:** RE: Request for FPD support of Night to Shine event at Rocky Mountain Christian Church

Hi Rick,

I just spoke with Chief Norris and it sounds like the rate has gone up for this year. It looks like your request will need to be in the amount of \$640.00 to cover the cost of 2 officers for your event. Do you want to amend the request or just send me an email requesting the change?

Thanks!

**Meghan C. Martinez, CMC** | Town Clerk  
Town of Frederick | 720-382-5581  
[mmartinez@frederickco.gov](mailto:mmartinez@frederickco.gov) | [www.frederickco.gov](http://www.frederickco.gov)



Built On What Matters



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# Town of Frederick Memorandum

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TO: Honorable Mayor and Board of Trustees

FROM: Bryan Ostler, Town Manager

DATE: January 14, 2020

CC: Town Staff  
Local Media

**SUBJECT: Departmental Report**

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Upcoming Board of Trustees Work Sessions – If there are topics that the Board would like staff to schedule for discussion, please let me know. The following topics are recommended for Board discussion (all meetings will be held in the Town Board Chambers unless otherwise indicated):

- 1/21/2020 – Work Session Meeting
  - 1/28/2020 – Regular Meeting
  - 2/4/2020 – Work Session Meeting (none planned)
  - 2/11/2020 – Regular Meeting
- 

## **Police Department**

- *VALE Board Appointment* – On December 16, 2019, Chief Judge Hartman appointed Chief Norris to his second term on the board of Victims and Witness Assistance and Law Enforcing (VALE). As a board member, Chief Norris will assist Victim and Witness Assistance with administrative and policy decisions as well as funding decisions for VALE grants. Chief Norris' appointment will last until December 2022.
- *Santa Cops* – The 2019 Santa Cops program was a huge success. The department provided gifts and a holiday meal for 89 children in 28 different families. On December 20, Santa himself visited the department to distribute gifts to the kids. A big “Thank You!” to all of our citizens and volunteers who helped make this event great. Appreciation also goes to department employees Amanda Purcell, Pat Cochran and Linda Glantz for all their hard work in organizing this wonderful event.
- *Evidence Audit* – In late December, a full and complete audit of the evidence room was conducted per department policy, required on an annual basis. We are happy to report a successful audit with all evidence and property accounted for.

## **Administration**

- *2020 Communication Planning* – Meetings have been conducted with each department to discuss communication topics for 2020. We will be focusing on achievements and dive into more behind the scenes stories about each department.
- *Built on What Matters Calendars* –2020 Built on What Matters Calendars were delivered to all businesses and residents in Frederick. Direct Door Hangers did an outstanding job this year, but if anyone was missed, they can come into Town Hall and get a calendar. The photographer's reception

**Built on What Matters.**

was held on December 6 at Mirror Image with twice the number of attendees compared to past years.

- *Warm Toes Sock Drive* - The donation drive benefitting Weld County residents was a great success. Our community rallied to donate 502 pairs of socks, 56 pairs of gloves, 29 hats, 53 undergarments, 4 pairs of slippers, 3 scarfs, 5 t-shirts and 1 blanket.
- *Event Sponsorship* – New 2020 sponsor packets are available and out to businesses. A new 2020 special is available for \$2,020 until March 30. The special includes a booth at six big events.
- *Carbon Valley Volunteer Fair* – As of January 3, there are 13 nonprofits signed up to have a volunteer recruitment table at the fair. The event is on Saturday, January 18, from 10 am to 2 pm at Frederick High School. Nonprofits that are looking for volunteers can sign up online to have a table.
- *Social Media* –The most engaging posts for December were “Trexplantation” (new tail for T-rex wood carving) with 4.5K people reached and “rescheduled Trash and Recycling” with 1.2K engagements. The Town of Frederick Facebook page has 11,852 followers. The Frederick Police Department Facebook page has 969 followers. The Town’s Instagram account has 785 followers.
- *Recruiting & Hiring* – Public Works is in the process of hiring a full-time staff member to backfill one open position. We hope to bring someone on board by the end of January. The Police Department is in the process of hiring for several Police Officer positions and one Community Service Officer position. Finance is getting ready to post for a full-time Staff Accountant, and the Administration department has posted for a part-time Administrative Assistant.
- *Employee Wellness* – We are getting ready to kick off the Great Frederick Slim-Down on January 15. Employees who wish to participate will compete in a weight loss challenge for 12 weeks. We are hoping this challenge will be the beginning of a broader employee wellness program.
- *W-2 Tax Forms* – W-2 tax forms will be available electronically to all employees and Trustees on January 13. W-2’s can be accessed via the NatPay system, which is the same system used to access bi-weekly paystubs. Employees not wishing to access their W-2 forms electronically can pick up paper copies from the Human Resources office beginning on January 27.
- *Refuse Collection Contract* – Section 6.03 of the Waste Connections contract that was approved by the Board of Trustees during the December 10, 2019 Board meeting was revised to clarify the intent of the non-exclusive nature of the contract. It clarified that residents may choose to contract with other refuse collection companies; however, residents would still be responsible for the fee imposed by the Town. Per Town Attorney review, the revised language did not change the meaning of the contract and only clarified. The contract was executed and went into effect January 1, 2020.

### **Public Works**

- *Streets* – Street sweeping was performed around Esther Circle due to a resident’s request. Street sweeping was also completed in downtown Frederick, after the Parade of Lights. Sweeping continued on Tipple Pkwy, Colorado Blvd, Silver Birch, and Godding Hollow. Ice from the storm in the drainage areas of Pine Street, was cleaned up, allowing proper drainage. Grading of CR 16.5, CR 5, CR 14, and CR 17 was completed. Potholes were repaired at the intersection of Tipple Pkwy and Colorado Blvd and continuing on Colorado Blvd. Potholes were also repaired in the Wyndham Hill and Eagle Valley subdivisions. New thermoplastic and arrows were put down for school crosswalks. Two downed STOP signs were repaired at Carbide and Silver Birch, and Hwy 52 and Puritan Way. New street signs were installed in the downtown area.
- *Parks* – Crews continued to clean ice and snow off public trails, and off trails in the parks from the 11-26-19 storm. A final check of all Christmas lights was done prior to the festival in Crist Park. Cement pads were poured and the setting of carvings was completed along Ridgeway Blvd, Bella Rosa, Frederick Recreation Area, and in the Eagle Valley subdivision.
- *Water* – Water shutoffs were conducted for non-payments.
- *Buildings* – Crews moved desks from Town Hall to the Police Department and installed desks at Town Hall. New blinds were installed at Town Hall. Restrooms were repaired at the Police department. Crews repaired the white vinyl fence in their backlot that was blown down.
- *Open Space* – Open Space drainage was checked.

- *Storm Water* – Crews cleaned out drain pans and checked drainage throughout Town. A contractor was brought in to cut down trees behind Eagle subdivision and Frederick Recreation Area to allow proper drainage. Excess wood was hauled to public works.
- *Miscellaneous* – Crews responded to a snow event on 11-26-19, running two 12 hour shifts, plowing and sanding. Crews unloaded new light poles at the public works lot for the new skate park. At 5<sup>th</sup> and Main St, a light and a bench were removed and reset the pavers. Gauges were installed over motion detectors in the Colorado Blvd tunnel. Trash and items were removed from the rental house. The Christmas Tree drop-off was set up. PW was called out on 12-28-19 for snow and ice control.
- *Training* – Kent VanDyne, Rusty Ribble, Sarah Troy and John Ober attended a one-day supervisor class in Lafayette. Sean Murphy had driver CDL training. Training was conducted for the PW crew, demonstrating attaching cutting edges on the backhoe and loader.

### **Planning Department**

<b><i>Project Name (Date of Application)</i></b>	<b><i>Subdivision</i></b>	<b><i>General Location</i></b>	<b><i>Brief Description</i></b>
Bear Industrial Park, Replat 3, Block 1, Lot 7 – Intec Site Plan (02/19/18)	Bear Industrial Park	9251 Bruin Boulevard	Site plan for a 31,000 square foot facility.
Carriage Hills Marketplace Filing 1, Subdivision Amendment, Conditional Use, and Site Plan (10/07/19)	Carriage Hills Marketplace	6731 Highway 52, Generally, east of 7-11 and Napa on Frederick Way, north of Highway 52	Subdivision amendment, conditional use, and site plan for a Ziggi's Drive Through (624 square feet) and site plan for a 5,000 square foot commercial building.
Clearview Villages Zoning Amendment, Preliminary Development Plan, Final Development Plan, Preliminary Plat and Final Plat (11/18/19)	Clearview Villages	Generally, at the southwest corner of Silver Birch Boulevard and Godding Hollow Parkway	Zoning amendment, development plan and plat on approximately 102 acres.
Dreamers Ridge II Annexation (12/02/19)	Dreamers Ridge II Annexation	Generally, at the southwest corner of Aggregate Boulevard and Godding Hollow Parkway	Annexation and subdivision of approximately 36.5 acres with a zoning of Residential Estate.
Eagle Business Park Filing 4B, Lot 3 – Colorado West Equipment, Inc Conditional Use (10/07/19)	Eagle Business Park Filing 4B	4970 Eagle Place	Conditional use and site plan for a 16,019 square foot office/warehouse.
Eagle Business Park Filing 3, Lot 1B – Black Diamond Site Plan (10/21/19)	Eagle Business Park Filing 3	7400 Eagle Boulevard	Site plan for a 11,800 square foot office/warehouse.
HCT Annexation – McDonald Farms Zoning and Site Plan	HCT Annexation	7440 East I-25 Frontage Road	Zoning of approximately 136.3 acre property and documentation of the existing site.

<i>Project Name (Date of Application)</i>	<i>Subdivision</i>	<i>General Location</i>	<i>Brief Description</i>
Meadowlark Business Park Filing 3 Replat C, Block 1, Lot 1 - Universal Fleet RV & Auto Collision Site Plan (09/20/19)	Meadowlark Business Park	7521 Meadowlark Lane	Site plan for 14,020 square foot automotive and recreational vehicle repair facility.
Nelson Wells – Kerr McGee (07/15/19)	Lanson Farm	Generally, south of Tipple Parkway, ½ mile west of Silver Birch Boulevard	Special use permit for 24 new wells
Old Town Block 21, Lot 6 – 502 Walnut Street Site Plan	Old Town	Generally, the southeast corner of 5 <sup>th</sup> Street and Walnut Street	Site plan for an approximately 3,723 mortuary.
Old Town Block 24, Lot 15 – 206 5 <sup>th</sup> Street Site Plan	Old Town	Generally, the southeast corner of 5 <sup>th</sup> Street and Elm Street	Site plan for an approximately 4, 640 square foot mixed use building.
Prosperity Preliminary Plat (05/06/19)	Prosperity	South of Tipple Parkway/CR 16, ¼ mile east of Ridgeway Boulevard/CR 15	Preliminary plat for 207 single family residential lots.
Raspberry Hill Business Park Lots 4 & 5 Site Plans (10/21/19)	Raspberry Hill Business Park	Generally, north of Godding Hollow Parkway and west of Raspberry Way	Site plans for each lot consisting of 2 buildings approximately 20,250 square feet each.
Sonic Site Plan (07/05/16)	Halleck	North of Tipple Pkwy/West of Colorado Blvd	Site plan for a 2,478 square foot restaurant with a drive in and drive through.
Tops Business Park Lots 1, 2, and 5 Site Plan (05/16/18)	Tops Business Park	South of Hurt St/West of Colorado Blvd	Site plan for expansion of the existing storage facility.

### **Finance Department**

- *2019 Audit* – The preliminary fieldwork for the 2019 Audit is scheduled to begin shortly with on-site visit scheduled the week of April 13, 2020.

### **Engineering Department**

- *Building Permits* – Through December 2019, 279 single family building permits, 12 multi-family building permits and 14 commercial building permits have been issued. Comparatively, through December 2018, 199 single family building permits, 14 multi-family building permits and 8 commercial building permits were issued. 2019 produced a record number of single family building permits.
- *I-25/SH52 Accel Lane Project (HSIP Grant)* – A construction contract agreement with Duran Excavating was approved by the Board at the April 9, 2019 meeting. Construction is complete and final payment is scheduled to be issued in January 2020.
- *Thunder Valley K-8 Multiuse Trail Project (SRTS Grant)* – The Town received concurrence to advertise from CDOT and the advertisement was issued. The Town and CDOT have accepted a bid from Concrete Works of Colorado. A contract for construction and construction management will come before the Board at the January 14<sup>th</sup> meeting. Construction is scheduled to begin in January and take approximately four months to complete.

- *Stormwater Master Plan* – The initial cost estimate for the Stormwater Master Plan update came in at \$834,000. Five municipalities are impacted by the drainage basins identified in the preliminary scope. Based on the area impacted by the drainage basins, Frederick and Dacono are the most impacted and responsible for \$457,200 and \$309,100 respectively. The \$457,000 amount far exceeded the \$200,000 budgeted in 2019. Engineering reached out to DOLA who has funding to help with stormwater master plans. Frederick and Dacono jointly submitted the grant application in December 2019. The application was reviewed and selected to advance to the presentation stage scheduled for March 17-18 in Golden.
- *Transportation Master Plan* – A contract has been approved to Felsburg, Holt and Ullevig (FHU) to develop a Town of Frederick Transportation Master Plan. They have met with staff and conducted internal status meetings. An Advisory Committee made up of residents, business owners and staff members has been formed and will have its initial meeting in January.
- *Water Sales* – Recent discussions with Northern Water indicated that small blocks of CBT Unit sales have escalated above the \$60,000 range. On Jan 2, the Town received a request to purchase a 40-unit block with an asking price of \$70,000/unit. The trend continues to rise.
- *Traffic Counting* – To identify the volume of truck traffic on Tipple Avenue, staff has installed traffic counters. The initial placement is on the west leg of the Tipple/Ridgeway intersection. These counters continue to be moved to different locations as weather allows.

### **Golf Course**

- *Holiday Promotions* – There were several holiday promotions including: Black Friday sale, Cyber Monday promotion, holiday golf specials and a Facebook drawing. There was an increase of eight percent in revenue in 2019 compared to 2018 sales for these promotions.
- *Holiday Parties* – There were eight holiday parties booked at the Back 9 at Bella Rosa Restaurant during the holiday season. The parties were a success and we are working to book these for the 2020 season.
- *Green repairs* – Modern Golf has been selected as the contractor to perform the green repairs on holes #1, #2 and #9. Work will begin when the weather allows. If the weather cooperates, work will be performed over the winter and re-sodding will take place in early Spring.



# TOWN OF FREDERICK

# MEMORANDUM

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TO: Honorable Mayor Tony Carey and Board of Trustees

FROM: Meghan Martinez, Town Clerk

DATE: January 10, 2020

**SUBJECT: Town Clerk's Report**

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- *Liquor Licensing*
  - Reviewing the following applications:
    - Pinocchios Renewal
  - Approved the following applications:
    - The Frederick Store
    - Mirror Image Brewing (Echo Brewing Company)
- *Municipal and Land Use Code Updates*
  - The Land Use Code has been updated and new print versions have been issued to staff.
  - The Municipal Code has also been updated and new print versions are available for staff use.
- *April 7, 2020 Regular Municipal Election*
  - Petition Packets are available at the front desk for individuals interested in running for public office. Packets are due to Town Hall no later than 5:00 P.M. on January 27, 2020.
  - New legislation will cause some additional voter education this year. A new law will allow 17 year olds to vote in the 2020 Primary Election conducted by the county if that individual will be 18 by the November Presidential Election. The primary election will be held on March 3, 2020 which is right before ballots are transmitted for the Municipal Election. Municipal Election law is very clear that only individuals 18 and older may vote so there may be some confusion for residents. We are working with Communications staff on how best to communicate this to residents.
  - Election Judges have been appointed and training will be conducted in March.

**Built on What Matters.**



**TOWN OF FREDERICK BOARD OF TRUSTEES**  
**REGULAR BOARD MEETING MINUTES**  
**FREDERICK TOWN HALL, 401 LOCUST STREET**  
**DECEMBER 10, 2019**

**Call to Order:** At 7:00 p.m. Mayor Carey called the meeting to order and requested roll call.

**Roll Call:** Present were Mayor Carey, Mayor Pro Tem Brown and Trustees O'Neal, Figurilli, Crites and March. present were Town Attorney Rick Samson, Acting Town Manager Kirstyn Jovanovich and Town Clerk Meghan Martinez.

**Pledge of Allegiance:** Mayor Carey invited everyone to join in the Pledge of Allegiance.

**Approval of Agenda:** Town Clerk Martinez asked that the Board consider an updated Item M.

At 7:01 Mayor Carey recessed the meeting of the Board of Trustees to open the Liquor Licensing Authority Meeting.

At 7:15 Mayor Carey reconvened the meeting of the Board of Trustees.

**Public Comment:**

Cody Childers, Dean Rummel, and Kevin Grimsted with the Carbon Valley Park and Recreation District gave an update on the District.

**Staff Reports:**

**Administrative Report:** Town Manager Bryan Ostler provided a written report.

**Town Clerk's Report:** Town Clerk Meghan Martinez provided a written report.

**Town Attorney's Report:** Town Attorney Rick Samson provided a written report.

**Consent Agenda:**

Item M was removed from the consent agenda.

Motion by Mayor Pro Tem Brown and seconded Trustee Crites to approve the consent agenda which consisted of the following items:

- November 12, 2019 Minutes
- November 19, 2019 Minutes
- List of Bills
- Resolution 19-R-102 Authorizing the Mayor to Execute the 16<sup>th</sup> Interim Agreement with the Northern Integrated Supply Project Water Activities Enterprise
- Resolution 19-R-103 Establishing Online Posting of Notices of Meetings
- Resolution 19-R-104 Re-Affirming the Longmont Daily Times Call as the Official Newspaper for Legal Publications for the Town of Frederick
- Ordinance 1328 Amending Chapter 3, Article 1, Section 3-3 of the Frederick Municipal Code, Regarding Maintenance of Works of Art

**Built on What Matters.**

- Resolution 19-R-105 Certifying Various Liens to the Weld County Treasurers Office for Inclusions in the Appropriate Tax Bill
- Ordinance 1329 Revising Chapter 10 General Offense, Article IX Offenses – Government Operations, Section 10-172 Entitled Obstructing a Peace Officer, Firefighter, Emergency Medical Services Provider, Rescue Specialist, or Volunteer and Section 10-176 Entitled False Reporting to Authorities of the Municipal Code of the Town of Frederick and Setting Forth Details in Relation Thereto

Upon roll call vote, motion passed unanimously.

Item M Ordinance 1330 Amending Chapter 2, Article X, Section 2-242 of the Frederick Municipal Code as it Relates to the Composition of Commissions: Motion by Mayor Pro Tem Brown and seconded by Trustee March to approve the amended Ordinance 1330. Upon roll call vote, motion passed unanimously.

**Action Agenda:**

Resolution 19-R-106 Summarizing Expenditures and Revenues for Each Fund and Adopting a Budget for the Calendar Year 2020: Finance Director Jason Leslie presented the 2020 budget. Motion by Mayor Pro Tem brown and seconded by Trustee Crites to approve Resolution 19-R-106. Upon roll call vote, motion passed unanimously.

Resolution 19-R-107 Levying General Property Taxes for the Year 2019, to Help Defray the Cost of Government for the Town of Frederick, Colorado for the 2020 Budget Year: Finance Director Jason Leslie presented the proposed mill levy. Motion by Mayor Pro Tem Brown and seconded by Trustee Crites to approve Resolution 19-R-107. Upon roll call vote, motion passed unanimously.

Resolution 19-R-108 Amending Fees for Municipal Services: Finance Director Jason Leslie presented the proposed updates to the fee schedule. Motion by Mayor Pro Tem Brown and seconded by Trustee March to approve Resolution 19-R-108. Upon roll call vote, motion passed unanimously.

Public Safety Impact Fees: Finance Director Jason Leslie presented the proposed impact fees.

Motion by Mayor Pro Tem Brown and seconded by Trustee Crites to approve Ordinance 1331. Upon roll call vote, motion passed unanimously.

Motion by Mayor Pro Tem Brown and seconded by Trustee Crites to approve Ordinance 1332. Upon roll call vote, motion passed unanimously.

Motion by Mayor Pro Tem Brown and seconded by Trustee Crites to approve Resolution 19-R-109. Upon roll call vote, motion passed unanimously.

Resolution 19-R-110 Authorizing the Town Manager to Execute a Contract with Waste Connections of Colorado, Inc. for Residential Solid Waste Services: Public Works Director Kent VanDyne presented the proposed resolution and agreement with Waste Connections. Motion by Mayor Pro Tem Brown and seconded by Trustee March to approve Resolution 19-R-110. Upon roll call vote, motion passed unanimously.

Resolution 19-R-111 Authorizing and Approving the Town of Frederick's Participation in the Metro Mortgage Assistance Plus Program and Authorizing the Executive of the Delegation and Participation Agreement and Other Documents in Connection Therewith: Deputy Town Manager Kirstyn Jovanovich presented the proposed resolution. Motion by Mayor Pro Tem Brown and seconded by Trustee Crites to approve Resolution 19-R-111. Upon roll call vote, motion passed unanimously.

Ordinance 1333 Amending Chapter 13, Article II, Section 13-55.4(c) of the Frederick Municipal Code Regarding Dedication of Water Prior to Obtaining a Building Permit: Town Attorney Rick Samson presented the proposed resolution. Motion by Mayor Pro Tem Brown and seconded by Trustee Crites to approve Ordinance 1333. Upon roll call vote, motion passed unanimously.

**Discussion Agenda:**

Building Permit Fee Deferment Program: Engineering Director Kevin Ash discussed the deferment program.

Motion by Mayor Pro Tem Brown and seconded by Trustee March to discontinue the program with a sunset date effective January 10, 2020. Upon roll call vote, motion passed unanimously.

**Mayor and Trustee Reports:**

Mayor Carey: He asked the Board to fund a Holiday Party for staff with a small token of the Board's appreciation.

Motion by Trustee Figurilli and seconded by Trustee O'Neal to fund a year end party for all staff at the Bella Rosa Golf Course in the amount of \$10,000 to be taken from the Oil Royalty Trust Fund. Upon roll call vote, motion passed unanimously.

Trustee Figurilli: Nothing at this time.

Trustee O'Neal: He commended staff on the pothole fixes after the last snow storm. He mentioned that Firestone and Dacono are using next door and it would be a great tool to add to our social media.

Trustee March: Nothing at this time.

Trustee Crites: She has been working with St. Brigits on an after school program. There is a need for our youth in the community to have healthy afterschool options.

Mayor Pro Tem Brown: She thanked staff for their work on the Festival of Lights and wished everyone a Merry Christmas.

Motion by Mayor Pro Tem Brown and seconded by Trustee Crites to go into executive session for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators under C.R.S. Section 24-6-402(4)(e)(1) regarding water, economic development and contractual negotiations. Upon roll call vote, motion passed unanimously.

Mayor Carey recessed the meeting of the Board of Trustees at 8:09 to go into executive session.

At 9:01 Mayor Carey reconvened the meeting of the Board of Trustees.

There being no further business of the Board, Mayor Carey adjourned the meeting at 9:01 p.m.

ATTEST:

Approved by the Board of Trustees:

\_\_\_\_\_  
Tony Carey, Mayor

\_\_\_\_\_  
Meghan C. Martinez, CMC, Town Clerk

Town of Frederick - List of Bills  
November 22, 2019 - December 26, 2019

24/7 NETWORKS INC	Hyperflex licensing	6,194.74
4 RIVERS EQUIPMENT LLC	Equipment maintenance	155.28
A-1 CHIPSEAL COMPANY	Pavement Maintenance Program	76,557.36
ACE HARDWARE OF FIRESTONE	Supplies	1,241.65
ACUSHNET COMPANY	Golf shop merchandise	160.67
ADAMSON POLICE PRODUCTS	Police equipment	3,947.99
AIRGAS USA LLC	Shop equipment	1,410.97
ALLIANCE DEVELOPMENT LLC	Refund overpayment	268.11
ALTITUDE SIGNAL LLC	Street Signal Maintenance	8,048.53
APPLIED CONCEPTS INC	Radar equipment	4,894.00
APRIL CORTEZ	Refund overpayment	54.58
ASPHALT SPECIALTIES CO INC	Hydrant Meter Deposit refund	2,200.00
AXON ENTERPRISE INC	Police equipment	6,324.00
BARGREEN ELLINGSON	Restaurant supplies	349.93
BARTON AUTO SALES	Conditional Use Site Plan refund	1,374.00
BLACK HILLS ENERGY	Gas utility	4,184.62
BOB JOHNSON COMPUTER STUFF INC	Patrol vehicle equipment	1,729.96
BUTCHER AND THE BLONDE LLC	Employee holiday appreciation	3,387.20
CARBON VALLEY CAR WASH LLC	Vehicle maintenance	329.62
CARBON VALLEY HEATING & AIR	Building maintenance	1,960.00
CARD SERVICES	Travel & training/supplies	10,276.63
CARRIAGE HILLS METRO DISTRICT	Hydrant Meter Deposit refund	2,200.00
CASELLE, INC.	Contract Support & Maintenance	2,004.00
CENTERLINE ENERGY CONSTRUCTION	Hydrant Meter Deposit refund	2,200.00
CENTRAL COLLECTION SERVICES	Commission fees	265.24
CENTRAL WELD COUNTY WATER DIST	Water usage and taps/2019 CBT carryover	348,798.17
CENTURYLINK COMMUNICATIONS LLC	Phone services	315.88
CHARLES ABBOTT ASSOCIATES INC	Inspection services - November 2019	49,793.09
CINTAS CORPORATION	Uniform service/First Aid supplies	706.47
CITIZEN PRINTING	2020 Calendars	8,646.00
CODE PUBLISHING INC	Frederick Municipal Code update	520.50
COLORADO BARRICADE CO	Signs	211.14
COLORADO DEPARTMENT OF AGRICULTURE	Equipment certifications	136.00
COLORADO DOORWAYS INC	Supplies	34.50
COLORADO INFORMATION SHARING CONS.	Membership fee	2,938.62
COMCAST	Phone, internet and cable services	1,155.11
CORE & MAIN LP	Water meter supplies	1,353.00
COYOTE RIDGE CONSTRUCTION LLC	Hydrant Meter Deposit refund/overpayment	2,335.25
CUMMINS ROCKY MOUNTAIN, INC.	Vehicle maintenance	184.88
CUSTOM FENCE & SUPPLY	Maintenance supplies	279.72
DANA KEPNER CO	Water meters	214.65
DBC IRRIGATION SUPPLY	Irrigation supplies	77.80
DENNIS ZEWE	Restitution	75.00
DENVER BEVERAGE	Restaurant equipment repairs	618.10
DENVER REGIONAL COUNCIL OF GOVERNMENTS	Regional Lidar Data	8,100.00
DISCOUNT PLUMBING SERVICES INC	Park restroom repairs	671.72
DOOR HANGERS DIRECT INC	Calendar distribution	1,250.00

Town of Frederick - List of Bills  
November 22, 2019 - December 26, 2019

DOSSIER SYSTEMS INC	Fleet Maintenance Software Service	1,011.00
DURAN EXCAVATING INC	HSIP Construction Project	56,328.15
E-470 PUBLIC HIGHWAY AUTHORITY	Travel	18.60
ECOLOGICAL RESOURCE CONSULTANTS INC	Richmond/CDG Water Supply Analysis	1,580.00
EON OFFICE	Office supplies	336.10
EVOLVE TECHNOLOGIES LLC	Telephone support	125.00
EZ EXCAVATING INC	Hydrant Meter Deposit refund	2,200.00
EZ LINKS GOLF LLC	Golf course supplies	550.00
FACTORY MOTOR PARTS CO	Shop supplies	683.44
FAIRFIELD AND WOODS PC	Legal services	4,339.50
FASTENAL COMPANY	Supplies	54.90
FELSBURG HOLT & ULLEVIG, INC.	Transportation Master Plan	26,666.00
FEUERSTEIN CONSULTING LLC	HSIP Construction Management	19,755.00
FREEDOM MAILING SERVICES LLC	Sales Tax Letter/mailing	3,942.34
FRONT RANGE METALWORKS LLC	Tunnel light installation	350.00
GRANT WRITING USA	Grant training class	455.00
GREEN MILL SPORTSMAN'S CLUB	Range use	300.00
GREEN MOUNTAIN PROMOTIONS	Employee appreciation	1,809.76
HARDLINE EQUIPMENT	Vehicle supplies	7.52
HIGH COUNTRY BEVERAGE	Restaurant supplies	134.10
HIGHER GROUND CONSULTING INC	Training	950.00
HOME DEPOT CREDIT SERVICES	Supplies and equipment	2,716.38
HURTH, SISK & BLAKEMORE LLP	Court appointed counsel	447.50
IAN ALBERT	Reimbursement for training expenses	66.13
INTERSTATE RENTAL & SALES, INC.	Equipment rental	165.98
JC GOLF ACCESSORIES	Golf shop accessories	291.13
JEFF CAHN INC	Judge services	1,200.00
JKST ENTERTAINMENT LLC	Festival of Lights entertainment	500.00
JOHNSON FARM HOA	GOCO Grant Reimbursement	21,267.39
JUSTIN RAMER	Refund overpayment	109.58
KENZ & LESLIE DISTRIBUTING CO	Oil stock	597.60
KING CHEVROLET	Vehicle maintenance	56.83
KODIAK RANCH	Festival of Lights entertainment	1,050.00
KRISTIN NORDECK BROWN PC	Legal services	2,156.00
KUMAR & ASSOCIATES INC	HSIP - Material testing	420.00
LAMP RYNEARSON & ASSOCIATES INC.	Thunder Valley K-8 Multiuse Trail Design	2,242.60
LASERFICHE	Conference	1,095.00
LIGHTING, ACCESSORY & WARNING SYSTEMS	Police vehicle equipment	868.50
LONGMONT HUMANE SOCIETY	Animal impound fees	1,021.50
LONGMONT TROPHY & ENGRAVING	Name plates	89.00
MACLOCK	Building maintenance	245.85
MAIL SOLUTIONS & PRINTING	Printing services	518.85
MARSH LAW PC	Legal services	6,690.96
MATTHEW ALBA	Good Neighbor settlement claim	785.00
MCGEE COMPANY	Mechanic shop equipment/parts	2,767.31
METCO LANDSCAPE LLC	Hydrant Meter Deposit refund	2,200.00
MIDWEST RADAR & EQUIPMENT	Radar certifications	480.00

Town of Frederick - List of Bills  
November 22, 2019 - December 26, 2019

MILE HIGH SHOOTING ACCESSORIES LLC	Police equipment	3,472.00
MINDY MEDINA	Refund overpayment	54.58
MOSES WITTEMYER HARRISON & WOODRUFF PC	Legal services	10,544.30
MOTOROLA SOLUTIONS INC	Police equipment	8,252.02
MOUNTAIN SALES & SERVICE	Restaurant equipment	200.00
MOUNTAIN STATES LIGHTING	Street maintenance	765.00
NATIONAL FITNESS CAMPAIGN LLC	Fitness court	95,460.00
NEW CONSOLIDATED LOWER BOULDER RESERVOIR	Legal services reimbursement	66.00
NEW EXPRESSION HOMES LLC	Refund overpayment	7.25
NORTHERN COLORADO CONSTRUCTORS INC	Hydrant Meter Deposit refund	2,200.00
O'KEEFE PUBLISHING INC	Advertising & promotions for golf course	400.00
OPTUM	Merchant HSA fees	77.00
O'REILLY AUTOMOTIVE INC	Auto parts	340.54
PATRICIA COCHRAN	Reimbursement for supplies	52.44
PAUL C BENEDETTI	Legal services	3,045.00
PET PICK-UPS	Park supplies	1,569.04
PETERSEN SPECIALTY	Office supplies	38.00
POLICE EXECUTIVE RESEARCH FORUM	Membership dues	200.00
PRAIRIE MOUNTAIN MEDIA	Publication costs	142.82
PRE ACTION FIRE INC	Building safety supplies	160.00
PRO GOLF REPAIR LLC	Pro Golf services	165.50
R & R PRODUCTS	Equipment supplies	127.30
RAMEY ENVIRONMENTAL COMPLIANCE	ORC Services Distribution & Collection Syst.	100.00
REDEMPTION ROAD COFFEE	Treelighting event	800.00
REDI SERVICES LLC	Porta-john services	521.00
REIF & HUNSAKER PC	Consulting services	733.50
RELIABLE TOWING & REPAIR	Towing services	500.00
RICHARD MCCASKILL	Reimbursement for supplies	58.88
SAFETY & CONSTRUCTION SUPPLY INC	Safety supplies	46.71
SAFEWAY	Supplies	184.25
SAMEDAY OFFICE SUPPLY	Office furniture	245.00
SAM'S CLUB / GEGRB	Training supplies	1,261.67
SAMSON LAW FIRM	Legal services	28,000.00
SETER & VANDER WALL P.C.	Metro District work	5,088.74
SHRED-IT USA	Document shredding	108.86
SIGNARAMA	Festival of Lights signs	155.00
STAPLES ADVANTAGE	Office supplies	1,448.41
STRIGLOS COMPANIES, INC.	Computer equipment	2,382.00
STRUCKMAN SCULPTURE ICE INC	Ice Sculpture for treelighting event	1,250.00
SUMMIT BODYWORKS GRAPHICS	Magnets	83.81
SUMMIT STRATEGIES	Economic Development Consulting	5,000.00
SYSCO DENVER	Restaurant food order	5,289.49
TEAM PAIN ENTERPRISES INC	FRA Skate park construction	44,156.00
TED JOHNSON	Damage deposit rental refund	1,000.00
TELOS ONLINE INC	Wi-Fi services	309.99
TEMPLE DISPLAY LTD	Holiday lights	4,665.41
THE SHERWIN-WILLIAMS CO	Paint and supplies	749.42

Town of Frederick - List of Bills  
November 22, 2019 - December 26, 2019

TICOS MEXICAN FOODS	Restaurant food supplies	293.70
TIMBERLAN	IT services	8,946.50
TLO LLC	Investigation fees	158.30
TOSHIBA BUSINESS SOLUTIONS USA	Copier maintenance	114.07
TOUR EDGE	Golf shop merchandise	2,981.50
TOWN OF FREDERICK	Petty cash payouts	265.26
TRANSWEST TRUCK	Parts and supplies	1,969.12
TRUDILIGENCE	Background checks	380.00
U.S. POSTAL SERVICE (CMRS-FP)	Postage	500.00
ULTIMATE TRAINING MUNITIONS	Training equipment	2,719.67
UNIFIRST CORPORATION	Mat service	580.87
UNITED POWER	Electric utility	7,427.28
UNIVERSITY AUTO PARTS INC	Parts and supplies	1,337.80
UPPER CASE PRINTING, INK.	Newsletter printing	2,294.00
UTILITY NOTIFICATION CENTER OF COLORADO	Utility locate transmissions	1,023.82
VORTEX COLORADO INC	Building maintenance	2,266.28
W.L. CONTRACTORS, INC.	Monthly maintenance fee	157.50
WARD ELECTRIC COMPANY INC	Building maintenance	1,947.82
WASTE CONNECTIONS OF COLO INC	Trash service	56,641.67
WEAR PARTS & EQUIPMENT CO INC	Plow blades	4,517.80
WELD COUNTY CLERK & RECORDER	2019 Coordinated Election/Recording costs	12,016.25
WELD COUNTY DEPARTMENT OF PUBLIC	Restaurant license renewal/water testing	1,228.00
WELD COUNTY GOVERNMENT	Detention services	58.56
WEX BANK	Fuel	5,850.73
WILLIAM O'DONNELL	Refund overpayment	21.15
WORKWELL OCCUPATIONAL MEDICINE LLC	DOT physical	90.00
WTC-WICKMAN TRACTOR CO	Equipment maintenance	182.81
YES COMMUNITIES	Refund overpayment	157.03
ZEP SALES & SERVICE	Shop supplies	324.05
	Total:	<u>1,089,708.65</u>



# TOWN OF FREDERICK BOARD OF TRUSTEES ACTION MEMORANDUM

Tony Carey, Mayor

Laura Brown, Mayor Pro Tem  
Rocky Figurilli, Trustee  
Salvatore "Sam" DeSantis, Trustee

Tracie Crites, Trustee  
Rusty O'Neal, Trustee  
Dan March, Trustee

## Consideration of Resolution to Accept Grant of Easement

**Agenda Date:** Town Board Meeting – January 14, 2019

**Attachments:**

- a. Grant of Easement
- b. Resolution 20-R-01

**Finance Review:** \_\_\_\_\_  
Finance Director

**Submitted by:** Jason Berg, E.I. \_\_\_\_\_  
Civil Engineer

**Approved for Presentation:**  \_\_\_\_\_  
Town Manager

Quasi-Judicial                       Legislative                       Administrative

### **Summary Statement:**

Grant of Easement for an eight-foot wide pedestrian path along Tipple Parkway on the south side of Eagle Business Park adjacent to Lot 2 and Lot 3 of Eagle Business Park Filing No. 4B.

### **Detail of Issue/Request:**

Due to the placement location of existing United Power telephone/power poles and steep grade, the Developer has facilitated the dedication of a standard eight-foot wide Pedestrian Easement north of Tipple Parkway adjacent to the right-of-way line. This easement dedication will allow for the installation of a pedestrian sidewalk connecting to the pedestrian sidewalk along the west side of Silver Birch Boulevard and allow for full pedestrian moment around the perimeter of the Eagle Business Park Filing No. 4B.

**Legal Comments:**

The Town Attorney reviewed the Grant of Easement and prepared the Resolution.

**Alternatives/Options:**

The Town Board may choose whether or not to accept the Grant of Easement.

**Financial Considerations:**

Not applicable.

**Staff Recommendation:**

Staff recommends approval of the Resolution as presented accepting the Grant of Easement for the 8-ft Pedestrian Easement.



**GRANT OF EASEMENT  
TO  
TOWN OF FREDERICK, COLORADO**

**KNOW ALL MEN BY THESE PRESENTS**, that Shadetree Eagle, LLC, a Colorado Limited Liability Company (referred to in this Easement as Grantors), in consideration of \$10.00 and other good and valuable consideration paid by the Town of Frederick, Colorado (referred to in this Easement as Grantee), the receipt and sufficiency of which is hereby acknowledged, does hereby grant, bargain, sell, transfer, and convey to Grantee, its successors, agents and assigns, a non-exclusive, perpetual easement.

The purpose of the easement is to access, construct, install, use, operate, inspect, repair, maintain, replace, and remove a sidewalk in and across the following-described real property owned by Grantor in Weld County, State of Colorado:

See attached **Exhibit A** (consisting of 2 pages)

The easement hereby granted shall be 8 feet in width, which shall be located across the above-described real property as described on the attached Exhibit A, which is incorporated herein by reference for all purposes.

Grantee agrees to maintain such easement in a state of good repair and efficiency so that no damages to Grantor's premises will result from Grantee's use. Grantor reserves the right to use the property in any manner provided such usage does not interfere with Grantee's rights hereunder.

All utility lines installed hereunder shall be covered by a minimum of 36 inches of soil, with the exception of storm water drainage, which may be sub surface or surface drainage. Grantor shall not intentionally cause the original cover over said utility line to be reduced below whichever is the greater of the original cover of 36 inches or below the minimum cover required at any time by any applicable utility standard or safety code.

Grantor shall not construct or place anything over or so close to any sidewalk or utility line or other facility of Grantee as will be likely to interfere with Grantee's surveillance of or access thereto by use of equipment or means customarily employed in the surveillance of or maintenance of said sidewalk or utility line.

This Easement shall constitute a covenant running with the land for the benefit of the Grantee and its successors, agents and assigns and it shall be binding upon the Grantee and its successors, agents, assigns, personal representatives and heirs and devisees.

The Grantor covenants that it is the owner of the Property and that the it has the authority to grant this Easement.

**IN WITNESS WHEREOF**, Grantor has executed this Grant of Easement this 25 day of November 2019.

GRANTOR:  
Shadtree Eagle, LLC, a Colorado Limited  
Liability Company

By [Signature]  
Manager

GRANTEE

Town of Frederick

By \_\_\_\_\_  
Tony Carey, Mayor

Attest:

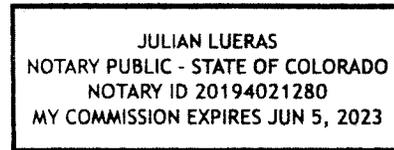
\_\_\_\_\_  
Meghan C Martinez, CMC, Town Clerk

STATE OF COLORADO     )  
  ) ss.  
COUNTY OF WELD         )

The foregoing Grant of Easement was acknowledged before me this 25<sup>th</sup> day of November 2019, by Julian Lueras.

Witness my hand and official seal.

My commission expires: June 5<sup>th</sup> 2023



\_\_\_\_\_  
Notary Public

STATE OF COLORADO     )  
  ) ss.  
COUNTY OF WELD         )

The foregoing Grant of Easement was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by Tony Carey, Mayor of the Town of Frederick and by Meghan C. Martinez, as Town Clerk of the Town of Frederick.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

EXHIBIT A

November 20, 2019

Sheet 1 of 2

WELD COUNTY, COLORADO

8 FOOT WIDE PEDESTRIAN EASEMENT DESCRIPTION

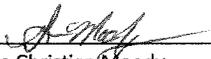
A eight (8) foot wide strip of land being in a portion of Lot 2 and Lot 3, Eagle Business Park Filing No. 4B, in Section 26, Township 2 North, Range 68 West of the Sixth Principal Meridian, County of Weld, State of Colorado, being more particularly described as follows:

Commencing at the SW corner of Lot 2, Eagle Business Park Filing No. 4B, and being the Point of Beginning,

Thence the following six (6) courses.

- 1.) Thence N 00°23'53" W, along the west line of said lot 2, a distance of 8.00 feet,
- 2.) Thence N 89° 36'07" E, a distance of 354.82 feet to the east line of said Lot 2,
- 3.) Thence continuing N 89° 36'07" E, a distance of 575.14 feet to a point on the east line of said Lot 3,
- 4.) Thence S 44°52'19" W, a distance of 11.63' to the South line of said Lot 3, and being the Southeast corner thereof,
- 5.) Thence S 89° 36'07" W, along the south line of said Lot 3, a distance of 566.93 feet, to the Southeast corner of said Lot 2,
- 6.) Thence continuing S 89°36'07" W, along the south line of said Lot 2, a distance of 354.82 feet to the Point of Beginning.

Containing 7406.3 sq.ft. or 0.17 acres more or less.

  
George Christian Moody  
Colorado Registered Land Surveyor No. 38002

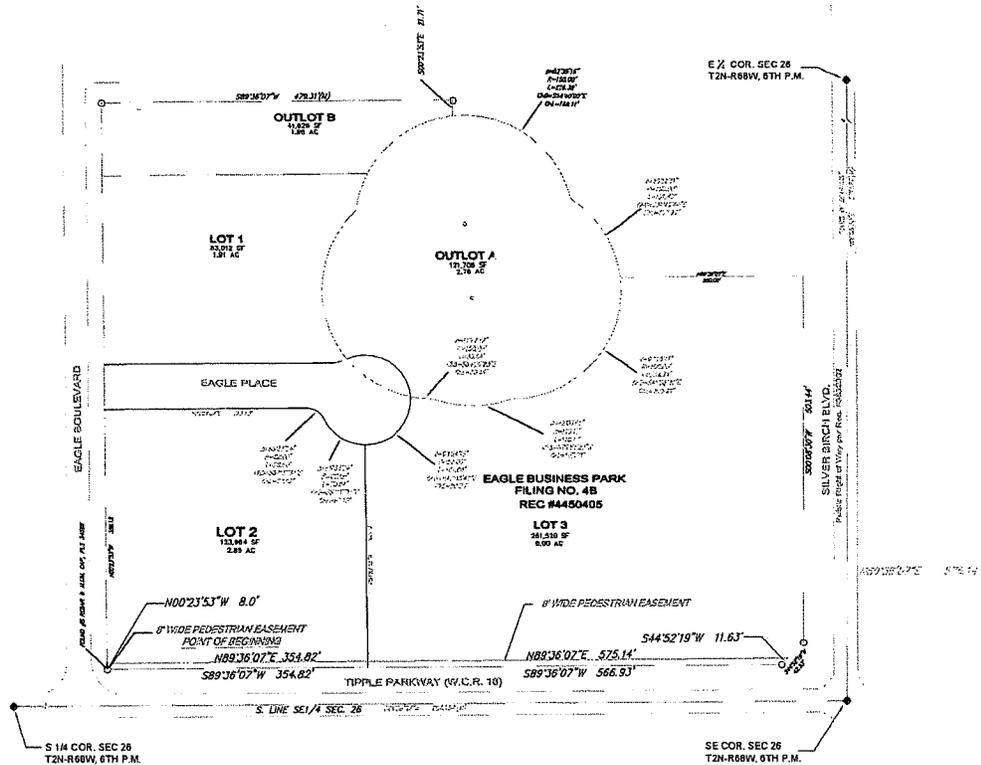
(seal)



Prepared by George C. Moody  
For and on behalf of:  
**Mountain Navigation Inc.**  
1824 South Zang Court  
Lakewood Co 80228  
PH: 303-514-5232  
www.mountainnav.com

# EXHIBIT A

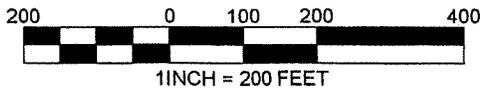
## 8 FOOT WIDE PEDESTRIAN EASEMENT



**NOTES:**

1. BEARINGS SHOWN ARE BASED ON THE SOUTH LINE OF LOT 3. EAGLE BUSINESS PARK FILING NO. 4B, REC.#4450405 OF THE RECORDS OF WELD COUNTY, COLORADO, BEARS S89°36'07"W AS SHOWN HEREON.

2. THIS EXHIBIT MAP IS NOT A "LAND SURVEY PLAT OR "IMPROVEMENT SURVEY PLAT". IT IS A GRAPHICAL REPRESENTATION OF THE 8' PEDESTRIAN EASEMENT DESCRIBED.



DATE: 11-20-19

**TOWN OF FREDERICK, COLORADO  
RESOLUTION NO. 20-R-01**

**A RESOLUTION OF THE TOWN OF FREDERICK, COLORADO,  
ACCEPTING GRANT OF EASEMENT ALONG TIPPLE PARKWAY**

**WHEREAS**, the Town of Frederick has determined that it needs an alternative easement for a pedestrian path along Tipple Parkway as a result of existing utilities and a steep grade; and

**WHEREAS**, Shadetree Eagle, LLC has agreed to give the required easement to the Town.

**BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF  
FREDERICK, COLORADO, AS FOLLOWS:**

**Section 1.** The attached Grant of Easement is accepted by the Town and the Town Manager is authorized to accept the Easement.

**Section 2. Effective Date.** This resolution shall become effective immediately upon adoption.

**Section 3. Repealer.** All resolutions, or parts thereof, in conflict with this resolution are hereby repealed, provided that such repealer shall not repeal the repealer clauses of such resolution nor revive any resolution thereby.

**Section 4. Certification.** The Town Clerk shall certify to the passage of this resolution and make not less than one copy of the adopted resolution available for inspection by the public during regular business hours.

**INTRODUCED, READ, PASSED, AND SIGNED 14TH DAY OF JANUARY  
2020.**

**ATTEST:**

**TOWN OF FREDERICK**

By \_\_\_\_\_  
Meghan C. Martinez, CMC, Town Clerk

By \_\_\_\_\_  
Tony Carey, Mayor



# TOWN OF FREDERICK BOARD OF TRUSTEES ACTION MEMORANDUM

Tony Carey, Mayor

Laura Brown, Mayor Pro Tem  
Rocky Figurilli, Trustee  
Salvatore "Sam" DeSantis, Trustee

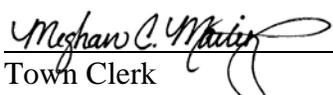
Tracie Crites, Trustee  
Rusty O'Neal, Trustee  
Dan March, Trustee

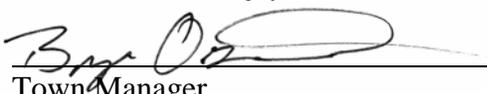
## **Ordinance Amending the Frederick Municipal Code Regarding the Planning Commission**

**Agenda Date:** Town Board Meeting – January 14, 2020

**Attachments:** a. Ordinance No. 1334

**Finance Review:** \_\_\_\_\_  
Finance Director

**Submitted by:**   
Town Clerk

**Approved for Presentation:**   
Town Manager

Quasi-Judicial                       Legislative                       Administrative

### **Summary Statement:**

Staff is requesting amendments to the Frederick Municipal Code related to the alternate membership of the Planning Commission.

### **Detail of Issue/Request:**

The attached Ordinance would amend the membership of the Planning Commission to enable Alternate A and Alternate B to be utilized for the purposes of determining quorum. This is a clean-up item to align the Planning Commission with the rest of the Commissions regarding the alternates and the determination of quorum.

This will enable the Commission to hold meetings in the event that some members of the quorum are unavailable. This will guarantee timely processing of land use items that are scheduled to appear in front of the Commission and the Board of Trustees.

**Legal/Political Considerations:**

The ordinance was drafted by the Town Attorney.

**Alternatives/Options:**

The Board may choose to approve the ordinance or deny the ordinance.

**Financial Considerations:**

Not applicable.

**Staff Recommendation:**

Staff recommends the Board adopt the ordinance as presented.

**TOWN OF FREDERICK, COLORADO  
ORDINANCE NO. 1334**

**AN ORDINANCE OF THE TOWN OF FREDERICK, COLORADO,  
AMENDING CHAPTER 2, ARTICLE IX, SECTION 2-222 OF THE  
*FREDERICK MUNICIPAL CODE* AS IT RELATES TO THE  
COMPOSITION OF COMMISSIONS**

**WHEREAS**, this amendment clarifies the composition of the Planning Commission.

**BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF  
FREDERICK, COLORADO, AS FOLLOWS:**

**Section 1.** Chapter 2, Article IX, Section 2-222(b) of the *Frederick Municipal Code* is hereby amended as follows:

“(b) There shall be appointed to the Planning Commission by the Board of Trustees two (2) citizen alternate members, to be designated as Alternate A and Alternate B.

(1) Alternate A shall be the senior alternate and shall be designated as the voting alternate in all instances, except when two (2) regular members are absent and both alternates shall be entitled to vote or in the absence of Alternate A, in which event Alternate B shall be the voting alternate.

(2) The alternate members may sit with the Commission in all meetings and public hearings and may participate in all discussions as though regular members.

(3) An alternate member will be seated as a voting member on the Commission in the absence of a regular member who is absent from the meeting for any reason except for a conflict of interest on a specific agenda item.

(4) If a regular member must absent himself or herself due to illness, conflict of interest or any other reason during the course of the meeting, an alternate member may be seated in order to maintain a quorum of the Commission for the conduct of business.”

**Section 2. Effective Date.** This ordinance shall be published and become effective as provided by law.

**Section 3. Severability.** If any part, section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining sections of the ordinance. The Town Board hereby declares that it would have passed the ordinance including each part, section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more parts, sections, subsections, sentence, clauses or phrases are declared invalid.

**Section 4. Repealer.** All ordinances or resolutions and motions of the Board of Trustees of the Town of Frederick or parts thereof, in conflict with this ordinance are to the extent of such conflict hereby superseded and repealed, provided that such repealer shall not repeal the repealer clauses of such ordinance, resolution or motion, nor revive any ordinance, resolution or motion thereby.

**INTRODUCED, READ, PASSED, ADOPTED AND ORDERED PUBLISHED  
THIS 14<sup>TH</sup> DAY OF JANUARY 2020.**

**ATTEST:**

**TOWN OF FREDERICK**

By \_\_\_\_\_  
Meghan C. Martinez, CMC, Town Clerk

By \_\_\_\_\_  
Tony Carey, Mayor



# TOWN OF FREDERICK BOARD OF TRUSTEES ACTION MEMORANDUM

Tony Carey, Mayor

Laura Brown, Mayor Pro Tem  
Rocky Figurilli, Trustee  
Salvatore "Sam" DeSantis, Trustee

Tracie Crites, Trustee  
Rusty O'Neal, Trustee  
Dan March, Trustee

---

## Consider Awarding a Construction Contract for the Thunder Valley Trail Project (SRTS)

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**Agenda Date:** Town Board Meeting – January 14, 2020

**Attachments:**

- a. SRTS Thunder Valley Trail Project Construction Contract
- b. Project Location Map
- c. Bid Tab Results
- d. Resolution 20-R-02

**Finance Review:** \_\_\_\_\_  
Finance Director

**Submitted by:** Kevin Ash  
Engineering Director

**Approved for Presentation:**   
Town Manager

Quasi-Judicial       Legislative       Administrative

---

### **Summary Statement:**

Bids for Construction of the SRTS THUNDER VALLEY TRAIL PROJECT were submitted on October 16, 2019, and staff is providing a recommendation for the award of this project to the most qualified bidder.

### **Detail of Issue/Request:**

On May 2, 2018, the Town received approval from CDOT authorizing grant funds for design services. This was immediately followed by a Town Board approved agreement on May 22, 2018 with Lamp Rynearson to prepare design and construction plans. Design has been completed and on September 20, 2019 the Town received notification from CDOT to Advertise for Construction. The Town solicited bids from construction firms through its website and the Longmont Times Call. Two companies submitted bids and were evaluated by Town of Frederick staff:

**Built on What Matters.**

Concrete Works of Colorado	Lafayette	\$1,093,992.66
Northern Colorado Concrete	Greeley	\$775,417.35

Northern Colorado Concrete (NCC) out of Greeley submitted the low bid of \$775,417.35 and the Town proceeded to contract with them. After evaluation by CDOT, it was determined that the NCC bid did not comply with the requirement of five percent of the contract being dedicated to the Disadvantaged Business Enterprise Program. Per the grant requirements, CDOT was not able to commit federal funds to a contractor not meeting this percentage. As a result, the second bid received from Concrete Works of Colorado in an amount of \$1,093,992.66 has been selected to advance with a contract and with reference checks, was determined to be the most qualified bidder. CDOT has reviewed the Concrete Works bid and given a Notice to Award for construction of the project.

**Legal/Political Considerations:**

The attached resolution was prepared by the Town Attorney.

**Alternatives/Options:**

The Town has the option of not awarding the contract for this work, to reject any and all negotiated scope and fee and to not proceed with the SRTS Thunder Valley Trail Project this year, or re-bid a different contract scope with budgeted funds. Not accepting funding would impact future funding opportunities through CDOT.

**Financial Considerations:**

The Open Space Fund has funds for this capital improvement allocated to this project. These funds were encumbered in the 2019 budget and have been extended to the 2020 budget.

**Staff Recommendation:**

Staff recommends that the Board approve the attached Resolution.

# SECTION 00520

## AGREEMENT

STATE OF COLORADO \_\_\_\_\_ )  
 )ss.  
COUNTY OF WELD \_\_\_\_\_ )

THIS AGREEMENT AND FORMAL CONTRACT, made and entered into this 14<sup>th</sup> day of January 14<sup>th</sup>, 2020, by and between Town of Frederick, Colorado, party of the first part, hereinafter called the "OWNER", and Concrete Works of Colorado, Inc. a Corporation of Boulder County, State of Colorado, hereinafter called the "CONTRACTOR", party of the second part,

WITNESSETH, that whereas the OWNER intends to construct the SRTS THUNDER VALLEY TRAIL, hereinafter called the "Work", in accordance with the Drawings, Specifications, and other Contract Documents prepared by the Town of Frederick.

NOW, THEREFORE, the OWNER and CONTRACTOR for the considerations hereinafter set forth, agree as follows:

1. The CONTRACTOR agrees to furnish all the necessary labor, materials, equipment, tools and services necessary to perform and complete in a workmanlike manner all work required for the construction of the Work, in strict compliance with the Contract Documents herein mentioned, which are hereby made a part of the Agreement, including the following Addenda:

Addendum No.	Date
1	10/11/2019
2	10/11/2019

- a) Contract Time: The CONTRACTOR agrees to commence work under this Contract in accordance with the written Notice to Proceed, and to finally complete the Work within the schedule provided by the Town. Contract time is defined in the Commencement and Completion of Work Project Special Provision.
- b) Sub-Contractors: The CONTRACTOR agrees to bind every Subcontractor by the terms of the Contract Documents. The Contract Documents shall not be construed as creating any contractual relation between the Subcontractor and the OWNER.

- c) Additional Work: Prior to incorporation of any change order into the Contract, or the performance of additional work, OWNER must make appropriations for any increase to the Contract Amount.
2. The OWNER agrees to pay, and the CONTRACTOR agrees to accept, in full payment for the performance of this Agreement, and in accordance with the Contract Documents, the Contract Amount of: **\$1,093,992.66**, plus any and all sums to be added and/or deducted resulting from all extra and/or omitted work in connection therewith, as authorized under the terms as stated in the General and Supplementary Conditions, all in accordance with the terms as stated in the Contract Documents.
- a) Progress Payments will be made in accordance with the General and Supplementary Conditions of the Contract Documents.
  - b) Progress Payments will be in the amount equal to ninety percent (95%) of the calculated value of the Work completed. The amount retained as provided above will be withheld by the OWNER until completion of the Agreement to ensure faithful completion of the Work under the terms of the Contract Documents.
  - c) Upon completion and acceptance of the Work in accordance with the Contract Documents, OWNER shall pay the remainder of the Contract Amount after publication by the OWNER in accordance with Colorado statutory requirements.

3. Contract Documents

It is hereby mutually agreed that the following list of instruments, plans, specifications, and documents which are attached hereto, bound herewith or incorporated herein by reference shall constitute the Contract Documents, all of which are made a part hereof, and collectively evidenced and constitute the Agreement between the parties hereto, and they are fully a part of the Agreement as if they were set out verbatim and in full herein, and are designated as follows:

- a) Bid Proposal
- b) Notice of Award
- c) Agreement
- d) Performance and Payment Bonds
- e) Certificates of Insurance, Policy Endorsement
- f) Notice to Proceed
- g) General Conditions
- h) Supplementary Conditions
- i) Technical Specifications
- j) Construction Drawings
- k) Addenda

4. Liquidated Damages

Refer to CDOT Specification

5. Contractor Representations

In order to induce OWNER to enter into this Agreement, CONTRACTOR makes the following representations:

- a) CONTRACTOR has familiarized himself with the nature and extent of the Contract Documents, Work, locality, and with all local conditions and federal, state, and local laws, ordinances, rules and regulations that in any manner may affect cost, progress or performance of the Work.
- b) CONTRACTOR has studied carefully the Contract Documents and all other items otherwise affecting cost, progress or performance of the Work which were relied upon by the Engineer in the preparation of the Contract Drawings and Specifications and which have been identified in the Supplementary Conditions as a part of the Contract Documents.
- c) CONTRACTOR has made or caused to be made examinations, investigations and tests and studies of such reports and related data in addition to those referred to in paragraph 5.b) as he deems necessary for the performance of the Work at the Contract Amount, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents; and no additional examinations, investigations, tests, reports or similar data are or will be required by CONTRACTOR for such purposes.
- d) CONTRACTOR has correlated the results of all such observations, examinations, investigations, tests, reports and data with the terms and conditions of the Contract Documents.
- e) CONTRACTOR has given Engineer written notice of all conflicts, errors or discrepancies that he has discovered in the Contract Documents and the written resolution thereof by Engineer is acceptable to CONTRACTOR.

6. Miscellaneous

- a) Terms used in this Formal Contract which are defined in Article 1 of the General Conditions shall have the meanings indicated in the General Conditions.
- b) No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by

law); and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

- c) OWNER and CONTRACTOR each binds himself, his partners, successors, assigns, and legal representatives to the other party hereto, his partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.
- d) No mechanic, contractor, sub-contractor, material supplier or other person can or will contract for or in any manner have or acquire any lien upon the Work covered by this Agreement, or the land upon which the same is situated.
- e) The amount of money appropriated by the contracting public entity, for public works projects, is equal to or in excess of the Contract Amount.
- f) The Agreement prohibits the issuance of any written Modification or other form of order or directive by the Owner requiring additional commensurate Work to be performed, which Work causes the aggregate amount payable under the Agreement to exceed the Contract Amount appropriated for the original Agreement, unless the Contractor is given written assurance by the Owner that lawful appropriations to cover the costs of the additional work have been made or unless such work is covered under remedy-granting provisions in the Agreement.

SIGNATURES:

OWNER: Town of Frederick, Colorado

DATE: \_\_\_\_\_

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

ATTEST: \_\_\_\_\_

TITLE: \_\_\_\_\_

Address for giving notices:

401 Locust Street  
P.O. Box 435  
Frederick, Colorado 80530

CONTRACTOR: \_\_\_\_\_

DATE: \_\_\_\_\_

BY: \_\_\_\_\_

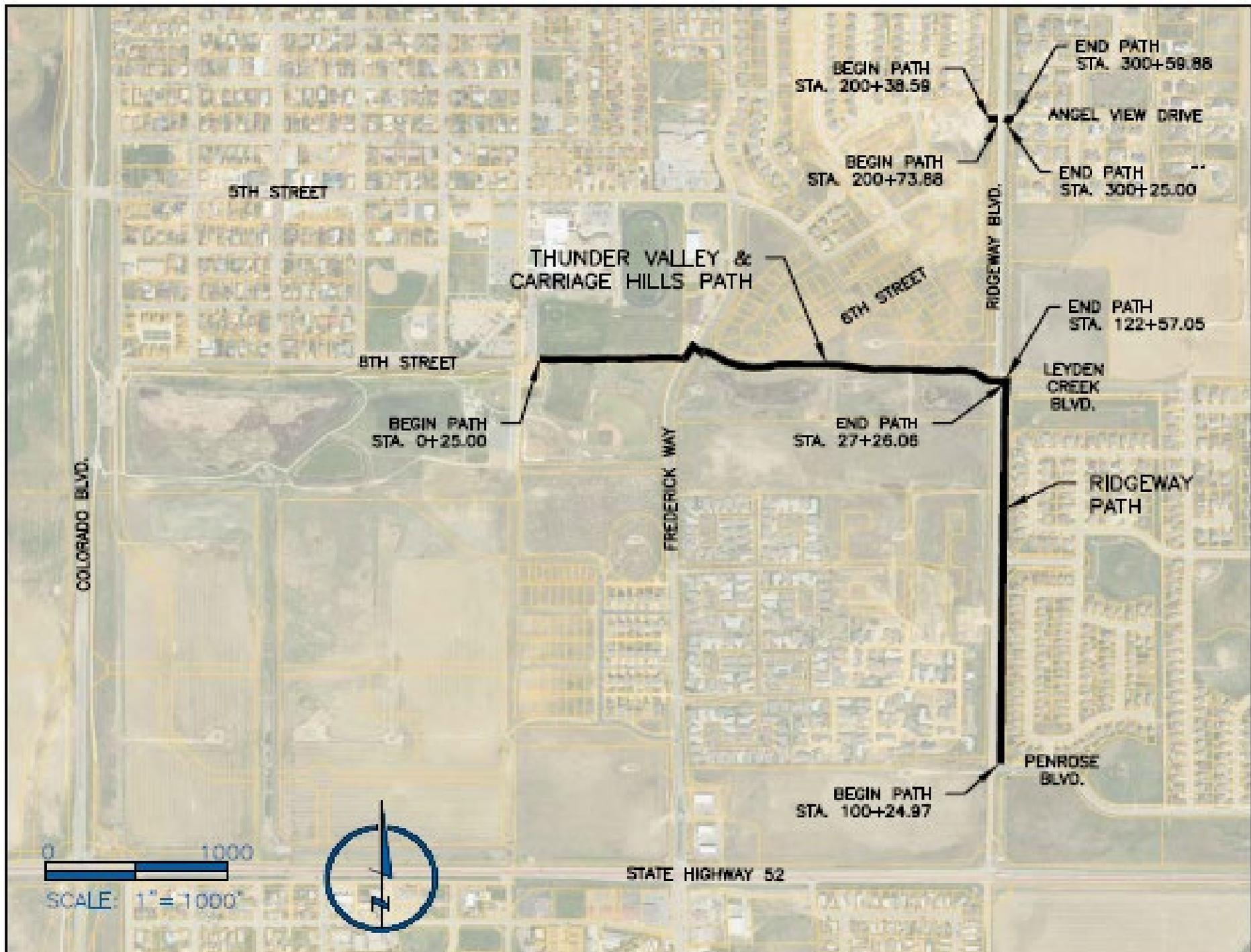
TITLE: \_\_\_\_\_

ATTEST: \_\_\_\_\_

TITLE: \_\_\_\_\_

Address for giving notices:

\_\_\_\_\_  
\_\_\_\_\_



**THUNDER VALLEY TRAIL PROJECT - SRTS M490-009, 22054  
 BID SCHEDULE**

Item			Unit	Quantity	Northern Colorado Concrete		Concrete Works	
					Unit Cost	Extension	Unit Cost	Extension
201	Clearing And Grubbing	LS	1.00					
202	Removal of Sidewalk	SY	127.00	\$5,000.00	\$5,000.00	\$78,580.00	\$78,580.00	
202	Removal of Curb & Gutter	LF	41.00	\$10.00	\$1,270.00	\$16.00	\$2,032.00	
202	Removal of Concrete Curb Ramp	SY	29.00	\$10.00	\$410.00	\$12.00	\$492.00	
202	Removal of Concrete Pavement	SY	13.00	\$10.00	\$290.00	\$28.00	\$812.00	
20	Removal of Ditch Lining (Conc Pan)	LF	109.00	\$10.00	\$130.00	\$45.00	\$585.00	
202	Removal of Pipe	LF	9.00	\$20.00	\$2,180.00	\$16.00	\$1,744.00	
202	Removal of End Section	EA	7.00	\$10.00	\$90.00	\$57.00	\$513.00	
202	Plug Culvert	EA	1.00	\$50.00	\$350.00	\$248.00	\$1,736.00	
202	Removal of Asphalt Mat	SY	98.00	\$100.00	\$100.00	\$944.00	\$944.00	
202	Removal of Fence	LF	16.00	\$10.00	\$980.00	\$22.00	\$2,156.00	
208	Embankment Material (Complete In Place)	CY	1224.00	\$10.00	\$160.00	\$7.00	\$112.00	
208	Erosion Log (12-Inch)	LF	322.00	\$40.00	\$48,960.00	\$51.00	\$62,424.00	
208	Erosion Control Management	DA	30.00	\$4.80	\$1,545.60	\$6.00	\$1,932.00	
208	Aggregate Bag	LF	68.00	\$400.00	\$12,000.00	\$341.00	\$10,230.00	
208	Pre-Fabricated Concrete Washout Structure	EA	5.00	\$7.00	\$476.00	\$8.00	\$544.00	
208	Erosion Control Log Inlet Protection	LF	150.00	\$1,500.00	\$7,500.00	\$1,400.00	\$7,000.00	
208	Vehicle Tracking Pad	EA	9.00	\$6.00	\$900.00	\$23.00	\$3,450.00	
208	Removal And Disposal Of Sediment (Labor)	HR	22.00	\$1,200.00	\$10,800.00	\$2,470.00	\$22,230.00	
208	Removal And Disposal Of Sediment (Equip)	HR	15.00	\$50.00	\$1,100.00	\$70.00	\$1,540.00	
210	Reset End Section	EA	3.00	\$50.00	\$750.00	\$55.00	\$825.00	
210	Adjust Manhole	EA	1.00	\$200.00	\$600.00	\$299.00	\$897.00	
212	Seeding (Native)	AC	2.72	\$100.00	\$100.00	\$392.00	\$392.00	
212	Seeding (Grass)	AC	0.43	\$825.00	\$2,244.00	\$938.00	\$2,551.36	
213	Soil Conditioning	AC	3.15	\$1,500.00	\$645.00	\$1,710.00	\$735.30	
213	Mulching (Weed Free Hay)	AC	3.15	\$3,395.00	\$10,694.25	\$3,860.00	\$12,159.00	
213	Mulch Tackifier	LB	31.50	\$1,250.00	\$3,937.50	\$1,420.00	\$4,473.00	
304	Aggregate Base Course	CY	697.00	\$1,250.00	\$39,375.00	\$88.00	\$2,772.00	
306	Reconditioning	SY	1416.00	\$40.00	\$27,880.00	\$60.00	\$41,820.00	
403	Hot Mix Asphalt (Patching Asphalt)	TN	32.00	\$20.00	\$28,320.00	\$6.00	\$8,496.00	
506	Riprap (12-Inch)	CY	36.00	\$100.00	\$3,200.00	\$154.00	\$4,928.00	
603	18" Reinforced Concrete Pipe	LF	48.00	\$100.00	\$3,600.00	\$170.00	\$6,120.00	
603	30" Reinforced Concrete Pipe	LF	36.00	\$50.00	\$2,400.00	\$135.00	\$6,480.00	
603	23"x14" Reinforced Concrete Pipe Elliptical	LF	68.00	\$100.00	\$3,600.00	\$194.00	\$6,984.00	
603	30"x19" Reinforced Concrete Pipe Elliptical	LF	216.00	\$50.00	\$3,400.00	\$190.00	\$12,920.00	
603	18" Reinforced Concrete End Section	EA	2.00	\$100.00	\$21,600.00	\$216.00	\$46,656.00	
603	18" Reinforced Concrete End Section	EA	1.00	\$1,000.00	\$2,000.00	\$1,350.00	\$2,700.00	
603	30"x19" Reinforced Concrete End Section Ell	EA	5.00	\$1,000.00	\$1,000.00	\$1,510.00	\$1,510.00	
604	Manhole Slab Base (5-foot)	EA	1.00	\$1,500.00	\$7,500.00	\$2,440.00	\$12,200.00	
604	Storm Sewer Ring And Cover	EA	1.00	\$1,000.00	\$1,000.00	\$5,020.00	\$5,020.00	
607	Fence (Plastic)	LF	2000.00	\$300.00	\$300.00	\$500.00	\$500.00	
608	Concrete Sidewalk (6-inch)	SY	4183.00	\$2.25	\$4,500.00	\$3.00	\$6,000.00	
608	Concrete Curb Ramp	SY	89.00	\$70.00	\$292,810.00	\$69.00	\$288,627.00	
608	Detectable Warning	SY	17.00	\$90.00	\$8,010.00	\$230.00	\$20,470.00	
608	Sidewalk Drain	EA	6.00	\$20.00	\$340.00	\$490.00	\$8,330.00	
609	Gutter Type II (2-foot)	LF	289.00	\$2,000.00	\$12,000.00	\$3,620.00	\$21,720.00	
614	Rectangular Rapid Flashing Beacon	EA	6.00	\$30.00	\$8,670.00	\$75.00	\$21,675.00	
620	Sanitary Facility	EA	1.00	\$7,500.00	\$45,000.00	\$10,120.00	\$60,720.00	
625	Construction Surveying	LS	1.00	\$100.00	\$100.00	\$3,100.00	\$3,100.00	
626	Mobilization	LS	1.00	\$5,000.00	\$5,000.00	\$28,430.00	\$28,430.00	
627	Thermoplastic Pavement Marking (Xwalk Stop)	SF	300.00	\$70,000.00	\$70,000.00	\$139,000.00	\$139,000.00	
630	Construction Traffic Control	LS	1.00	\$20.00	\$6,000.00	\$28.00	\$8,400.00	
630	Traffic Control Inspector	DA	4.00	\$3,000.00	\$3,000.00	\$46,050.00	\$46,050.00	
630	Traffic Control Management	DA	10.00	\$650.00	\$2,600.00	\$114.00	\$456.00	
630	F/A Minor Contract Revisions	FA	1.00	\$500.00	\$5,000.00	\$682.00	\$6,820.00	
630	F/A Erosion Control	FA	1.00	\$40,000.00	\$40,000.00	\$40,000.00	\$40,000.00	
700	F/A On-The-Job Trainee	FA	1.00	\$4,000.00	\$4,000.00	\$4,000.00	\$4,000.00	
700	F/A Burrowing Owl Study	FA	1.00	\$0.00	\$0.00	\$0.00	\$0.00	
700	F/A Potholing	FA	1.00	\$6,000.00	\$6,000.00	\$6,000.00	\$6,000.00	
				\$4,000.00	\$4,000.00	\$4,000.00	\$4,000.00	
<b>Total Project Cost:</b>				<b>Total: \$775,417.35</b>		<b>Total: \$1,093,992.66</b>		

**TOWN OF FREDERICK, COLORADO  
RESOLUTION NO. 20-R-02**

**A RESOLUTION OF THE TOWN OF FREDERICK, COLORADO  
AUTHORIZING THE TOWN MANAGER TO EXECUTE A CONTRACT  
WITH CONCRETE WORKS OF COLORADO FOR THE SAFE ROUTES  
TO SCHOOL (SRTS) THUNDER VALLEY TRAIL PROJECT**

**WHEREAS**, the Town has agreed to complete the Safe Routes to School Thunder Valley Trail Project, which is an 8-foot concrete trail that runs along the east side of Ridgeway Blvd and extends westward across Town property to the Thunder Valley K-8 School; and

**WHEREAS**, such work will specifically benefit the state of Colorado and the Town of Frederick; and

**WHEREAS**, CDOT has agreed to pay the Town of Frederick for these services; and

**WHEREAS**, the Town has solicited bids for the project, CDOT has issued a Notice to Award the contract to Concrete Works of Colorado.

**NOW THEREFORE, BE IT RESOLVED** by the Board of Trustees of the Town of Frederick, Colorado, that:

**Section 1.** The Town Manager is authorized to execute the contract with Concrete Works of Colorado in the amount of \$1,093,992.66 to construct the SRTS Thunder Valley Trail Project.

**Section 2.** Effective Date. This resolution shall become effective immediately upon adoption.

**Section 3.** Repealer. All resolutions, or parts thereof, in conflict with this resolution are hereby repealed, provided that such repealer shall not repeal the repealer clauses of such resolution nor revive any resolution thereby.

**Section 4.** Certification. The Town Clerk shall certify to the passage of this resolution and make not less than one copy of the adopted resolution available for inspection by the public during regular business hours.

**INTRODUCED, READ, PASSED, AND ADOPTED THIS 14<sup>TH</sup> DAY OF  
JANUARY, 2020.**

**ATTEST:**

**TOWN OF FREDERICK**

By \_\_\_\_\_  
Meghan C. Martinez, CMC, Town Clerk

By \_\_\_\_\_  
Tony Carey, Mayor



# TOWN OF FREDERICK BOARD OF TRUSTEES ACTION MEMORANDUM

Tony Carey, Mayor

Laura Brown, Mayor Pro Tem  
Rocky Figurilli, Trustee  
Salvatore "Sam" DeSantis, Trustee

Tracie Crites, Trustee  
Rusty O'Neal, Trustee  
Dan March, Trustee

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## Consider Awarding a Consultant Contract for Construction Management Services for the Thunder Valley Trail Project (SRTS)

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**Agenda Date:** Town Board Meeting – January 14, 2020

**Attachments:**

- a. SRTS Thunder Valley Trail Project CM Services Contract
- b. Resolution 20-R-03

**Finance Review:** \_\_\_\_\_  
Finance Director

**Submitted by:** Kevin Ash  
Engineering Director

**Approved for Presentation:**   
Town Manager

Quasi-Judicial       Legislative       Administrative

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### **Summary Statement:**

Bids for Construction Management Services for the SRTS THUNDER VALLEY TRAIL PROJECT were submitted on November 26, 2019, and staff is providing a recommendation for the award of this project to the most qualified bidder.

### **Detail of Issue/Request:**

On November 16, 2019, the Town posted a request for proposals soliciting construction management services for the Safe Routes to School Project. On November 26, 2019, the Town received two proposals from construction management firms – Feuerstein Consulting and Otak. Proposals were evaluated on five categories: Scope, Personnel, Availability, Firm Capability and Cost. Both firms submitted proposals that scored well and demonstrated the qualifications required to perform the project services. The deciding factors were Personnel and Cost. Feuerstein Consulting had recently performed well on the Town's SH 52 Accel Turn Lane project (HSIP) and proposed to use the same project

**Built on What Matters.**

manager. Additionally, Feuerstein's bid of \$92,925 versus the Otak bid of \$123,815 provided a noticeable benefit to the project budget. Feuerstein Consulting, LLC was determined to be the most qualified bidder.

The fee includes five months of full-time construction observation, review of all material submittals, and complete documentation that shows compliance with plans, specifications and CDOT grant requirements. The agreement is an hourly, not to exceed contract. The Town only pays for the actual hours used.

**Legal/Political Considerations:**

The attached resolution was prepared by the Town Attorney.

**Alternatives/Options:**

The Town has the option of not awarding the contract for this work, to reject any and all negotiated scope and fee and to not proceed with a consultant to provide construction management services for the SRTS Thunder Valley Trail Project, or re-bid a different contract scope with budgeted funds. Not awarding this contract would place a higher level of construction administration and inspection responsibilities on the existing engineering staff. This would negatively impact the level of service engineering provides in other areas.

**Financial Considerations:**

The Street and Alley Fund has funds allocated to this project. These funds were encumbered in the 2019 budget and have been extended to the 2020 budget.

**Staff Recommendation:**

Staff recommends that the Board approve the attached Resolution.

## INDEPENDENT CONTRACTOR AGREEMENT

### Construction Management Services

### Thunder Valley Trail Project (SRTS) CDOT Project No. SRTS M490-009 Subaccount No. 22054

**THIS INDEPENDENT CONTRACTOR AGREEMENT** (the "Agreement") is made and entered into this 14<sup>th</sup> day of January, 2020 (the "Effective Date") by and between the Town of Frederick, Colorado, a Colorado municipal corporation (the "Town") and **Feuerstein Consulting, LLC** ("Contractor"), a Colorado limited liability company.

**WHEREAS**, The Town desires to engage the services of Contractor to provide the services more fully described on Exhibit A regarding construction management services of the Thunder Valley Trail Project (SRTS); and

**WHEREAS**, the Contractor wishes to become associated with the Town as an independent contractor for such purpose; and

**WHEREAS**, the parties wish to memorialize their contractual relationship.

**NOW, THEREFORE**, incorporating the foregoing Recitals herein, which are hereby acknowledged as being true and correct, and in consideration of the mutual promises, agreements, undertakings and covenants, as set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby mutually agree as follows:

### SECTION 1: PARTIES

1.01 Town. Town is a municipal corporation located in Frederick, Colorado.

1.02 Contractor. Contractor is a private, independent business who will exercise discretion and judgment of an independent contractor in the performance and exercise of its rights and obligations under this Agreement. Contractor shall use its own judgment and skills in determining the method, means, and manner of performing this Agreement. Contractor shall be responsible for the proper performance of this Agreement in accordance with any and all applicable federal, state, and municipal laws, regulations, and orders.

1.03 Intent of the Parties. By this Agreement, Town and Contractor intend Contractor to be an independent contractor in relationship to the Town and not the Town's employee.

Consequently, Contractor will not be considered an employee or agent of the Town at any time under any circumstances, for any purpose.

### SECTION 2: TERM, DUTIES, COMPENSATION

2.01 Term. This Agreement shall commence on the Effective Date, and shall remain in existence for a period of one (1) year unless sooner terminated as herein

provided, and if necessary shall be submitted to the Town sixty (60) days prior to the expiration of the Agreement to consider renewal, subject to appropriation.

2.02 Duties and Compensation. Contractor's duties, compensation and provisions for payment thereof shall be as set forth in Exhibit A, and any contemplated change in said terms shall be submitted to the Town in writing for review and approval prior to any such change.

2.03 Background Check. Town may, at its' sole discretion, conduct a background check of Contractor, its owners and employees. Contractor agrees to execute any forms necessary to facilitate the background check.

2.04 Monthly Report: Commencing thirty (30) days after the date of execution of this Agreement and every thirty (30) days thereafter, Contractor shall provide Town a written report of the status of the work with respect to the Scope of Services, Work Schedule, and other material information. Failure to provide any required monthly report may, at the option of Town, suspend the processing of any partial payment request.

### **SECTION 3: OPERATIONS**

3.01 Expenses: Contractor shall not incur any expense or debt on behalf of Town without written authorization.

3.02 Federal, State, and Municipal Laws and Regulations. Town and Contractor each agree to abide by all applicable federal, state, and municipal laws and regulations and rules.

3.03 Town Representative: Town will designate, prior to commencement of work, its project representative ("Town Representative") who shall make, within the scope of his or her authority, all necessary and proper decisions with reference to the project. All requests for contract interpretations, change orders, and other clarification or instruction shall be directed to Town Representative.

3.04 Work Compatible with State Contract: The design work under this Agreement shall be compatible with the requirements of a separate contract between Town and the State (which is incorporated herein by this reference) for the design/construction of the project. The State is an intended third party beneficiary of this contract for that purpose.

Upon advertisement of the project work for construction, Contractor shall make available services as requested by the State to assist the State in the evaluation of construction and the resolution of construction problems that may arise during the construction of the project. Contractor shall review the construction contractor's shop drawings for conformance with the contract documents and compliance with the provisions of the State's publication, "Standard Specifications for Road and Bridge Construction", in connection with this work.

## **SECTION 4: INSURANCE AND INDEMNITY PROVISIONS**

4.01 Insurance. Contractor shall maintain and keep in force during the term hereof one or more policies of liability insurance written by one or more responsible insurance carrier(s), which will include protecting and indemnifying the Town in the following amounts:

- a) Comprehensive General Liability - \$2,000,000 combined aggregate
- b) Automobile Liability - \$1,000,000
- c) Workers Compensation

Each liability insurance policy shall name Town as an additional insured. Contractor shall furnish an original counterpart of such insurance policy to the Town upon the Town's written request. Contractor shall also furnish to Town appropriate certificates for such insurance which shall include a commitment by each insurance company to notify Town in writing of any material change, expiration or cancellation of the insurance policy required hereunder not less than thirty (30) days prior to such change, expiration or cancellation becoming effective. In addition to the above, Contractor shall obtain and keep in force during the term hereof such insurance required by any law or regulation, or prudent business practices.

4.02 Damage and Indemnity. Contractor assumes full responsibility for any and all damages caused by Contractor's exercise of its activities as authorized by this Agreement. Contractor agrees that it will at all times protect, defend and indemnify and hold harmless Town, its officers, agents, employees, tenants and their successors and assigns from and against all liabilities, losses, claims, demands, actions and court costs (including reasonable attorneys' fees), arising from or growing out of loss or damage to property or injury to or death to any persons resulting in any manner from the actions or failure to act of Contractor or any invitees, guests, agents, employees or subcontractors of Contractor, whether brought by any of such persons or any other person arising from Contractor's activities as authorized by this Agreement. Contractor shall promptly pay to Town, its successors or assigns, the full amount of any such costs, loss or damage which Town, its successors or assigns may sustain or incur, or for which Town, its successors or assigns, may become liable.

## **SECTION 5: TERMINATION**

5.01 Termination. Either party upon fifteen (15) days prior written notice may terminate this Agreement with or without cause.

a) Neither party shall be liable or deemed to be in default for any delay or failure in performance under this Agreement or interruption of service resulting, directly or indirectly, from acts of God, civil or military authority, acts of public enemy, war, riots, civil disturbances, insurrections, accidents, fire, explosions, earthquakes, floods, or any causes beyond the control of such party.

b) Upon termination by either party, Contractor shall immediately cease any and all activities related to this Agreement, and shall return any keys, materials, tools, plans, or other items provided by Town to the contractor in conjunction with this Agreement.

## SECTION 6: MISCELLANEOUS

6.01 Savings Clause. If any part, term, or provision of this Agreement is declared unlawful or unenforceable, the remainder of this Agreement shall remain in full force and effect, except that, in the event any state or federal governmental agency or court authoritatively determines that the relationship between Contractor and Town is one of employment rather than independent contractor, this Agreement shall become null and void in its entirety.

6.02 Conflicts of Interest; Non-hire Provision. Contractor is free to enter into this Agreement, and that this engagement does not violate the terms of any agreement between the Contractor and any third party. During the term of this agreement, Contractor shall devote as much productive time, energy and abilities to the performance of its duties hereunder as is necessary to perform the required duties in a timely and productive manner. Contractor is expressly free to perform services for other parties while performing services for Town. For a period of six months following any termination, Contractor shall not, directly or indirectly hire, solicit, or encourage leaving Town's employment, any employee, consultant, or contractor of Town or hiring any such employee, consultant, or contractor who has left Town's employment or contractual engagement within one year of such employment or engagement.

6.03 Right to Injunction. The parties hereto acknowledge that the services to be rendered by Contractor under this Agreement and the rights and privileges granted to Town under the Agreement are of a special, unique, unusual, and extraordinary character which gives them a peculiar value, the loss of which cannot be reasonably or adequately compensated by damages in any action at law, and the breach by Contractor of any of the provisions of this Agreement will cause Town irreparable injury and damage. Contractor expressly agrees that Town shall be entitled to injunctive and other equitable relief in the event of, or to prevent, a breach of any provision of this Agreement by Contractor. Resort to such equitable relief, however, shall not be construed to be a waiver of any other rights or remedies that Town may have for damages or otherwise. The various rights and remedies of Town under this Agreement or otherwise shall be construed to be cumulative, and no one of them shall be exclusive of any other or of any right or remedy allowed by law. Contractor waives any and all right to injunctive relief in the event of any dispute with Town, and Contractor's sole remedy in such a dispute shall be at law.

6.04 Independent Contractor. This Agreement shall not render Contractor an employee, partner, agent of, or joint venturer with Town for any purpose. Contractor is and will remain an independent contractor in their relationship to Town. Town shall not be responsible for withholding taxes with respect to Contractor's compensation hereunder. Contractor shall have no claim against Town hereunder or otherwise for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind.

**IMPORTANT NOTICE: Independent contractor is not entitled to unemployment insurance benefits unless Independent Contractor or some other entity provides unemployment compensation coverage. Independent Contractor is obligated to pay federal and state income tax on any moneys paid pursuant to the this contract.**

6.05 Illegal Aliens. Contractor shall not knowingly employ or contract with an illegal alien to perform work under this contract Contractor certifies that (i) Contractor does not knowingly employ or contract with any illegal aliens; (ii) Contractor has confirmed or attempted to confirm the employment eligibility of all employees who are newly hired for employment in the United State; and (iii) Contractor shall not enter into a contract with a subcontractor that fails to certify to the Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract. Contractor shall comply with all reasonable requests made in the course of an investigation by the Colorado Department of Labor and Employment. If Contractor fails to comply with any requirement of this provision, Town may terminate this contract for cause and Contractor shall be liable for actual and consequential damages to the State. A Contractor that operates as a sole proprietor hereby swears or affirms under penalty of perjury that Contractor (i) is a citizen of the United States or otherwise lawfully present in the United States pursuant to federal law; and (ii) shall produce proper identification prior to the effective date of this Contract.

6.06 Ability to Bind the Other Party. Neither Town nor Contractor is the agent of the other, and neither shall have the right to bind the other by contract or otherwise, except as specifically provided in this Agreement.

6.07 Applicable Law. This Agreement shall be construed according to the laws of the State of Colorado.

6.08 Time. Time is of the essence of this Agreement and of each covenant thereof. In the computation of any period of time, which shall be required or permitted hereunder, for notice, or under any law for any notice or other communication or for the performance of any term, condition, covenant, or obligation, the day from which such period runs shall be excluded and the last day of such period shall be included, unless it is a Saturday, Sunday or legal holiday, in which case, the period shall be deemed to run until the end of the next day which is not a Saturday, Sunday, or legal holiday.

6.09 Recitals and Exhibits. The Recitals hereto and any Exhibits which may be attached to this Agreement are hereby incorporated herein and made a part of this Agreement by this reference; however, in the event of a conflict between provisions in this Agreement and any exhibits, the provisions in this Agreement shall control.

6.10 Attorney's Fees. If either party employs an attorney to enforce this Agreement, the party in default shall pay the prevailing party the reasonable expenses of the prevailing party, including but not limited to attorney's fees reasonably incurred whether occasioned by litigation or not.

6.11 Assignment and Subcontracting. Contractor may not delegate, assign or subcontract all of any part of its duties and obligations hereunder without obtaining the Town's prior written consent.

6.12 Waiver of Conditions. No consent or waiver, express or implied, by a party to or of any breach or default by the other in the performance by the other of its obligations hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or default in the performance of such party or any other party of the same or any other of its

obligations. Failure on the part of any party to complain of any act or failure to act of any other party or to declare any such party in default, irrespective of how long such failure continues, shall not constitute a waiver by such party of its rights hereunder.

Town acceptance of drawings, designs, plans, specifications, reports, and incidental work or materials furnished hereunder shall not in any way relieve Contractor of responsibility for the quality or technical accuracy of the work. Town's approval or acceptance of, or payment for, any of the services shall not be construed to operate as a waiver of any rights or benefits provided to Town under this Agreement. Contractor may not waive all or any part of its duties, obligations or conditions hereunder without obtaining the express written consent of the Town.

6.13 Merger of Understanding. The provisions of this Agreement represent the entire and integrated agreement between the Town and the Contractor and supersede all prior negotiations, representations and agreements, whether written or oral, except as where noted. This Agreement may be modified only by a written document signed by both parties and approved by the Town at a public meeting. This Agreement is confidential and proprietary between the parties and shall not be disclosed to any third party without an agreement between the parties to that effect in writing.

6.14 Third Party Rights. The parties do not intend to confer any benefit hereunder on any person or entity other than the parties hereto, their respective successors and assigns, and as otherwise expressly stated herein.

6.15 Captions. The captions in 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.

6.16 Acknowledgment of Review. Contractor hereby expressly acknowledges that he/she has reviewed and understands each and every provision of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates written below.

TOWN

CONTRACTOR

Town of Frederick, Colorado

Feuerstein Consulting, LLC

By \_\_\_\_\_  
Bryan Ostler, (Date)  
Town Manager

By \_\_\_\_\_  
(Date)

ATTEST:

\_\_\_\_\_  
Meghan Martinez, Town Clerk

**EXHIBIT A**  
**DUTIES AND COMPENSATION**

SCOPE:

For Project SRTS Thunder Valley Trail:

Construction inspection and documentation	\$92,925.00
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Project Time: 840 hours X \$90.00 = \$75,600.00

Drive Time: 135 hours X \$45.00 = \$ 6,075.00

Submittals: 45 hours X \$90.00 = \$ 4,050.00

Closing Project: 80 hours X \$90.00 = \$ 7,200.00

Total	\$92,925.00
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This quote is for work beginning December 2019 and ending April 2020. This quote is for the following work during the above period:

1. construction inspection
2. project documentation
3. material documentation

COMPENSATION:

As full compensation for the services rendered pursuant to this Agreement, the Town shall pay the Contractor a sum not to exceed ninety-two thousand five hundred dollars (\$92,500), to be paid monthly upon presentation to the Town of Contractor's monthly invoice. The Town will be billed only for the man-hours actually used.



# TOWN OF FREDERICK BOARD OF TRUSTEES ACTION MEMORANDUM

Tony Carey, Mayor

Laura Brown, Mayor Pro Tem  
Rocky Figurilli, Trustee  
Salvatore "Sam" DeSantis, Trustee

Tracie Crites, Trustee  
Rusty O'Neal, Trustee  
Dan March, Trustee

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## To Consider the Phase 1 Agreement with the Northern Integrated Supply Project Water Activity Enterprise for Participation in the Northern Integrated Supply Project (NISP)

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**Agenda Date:** Town Board Meeting – January 14, 2020

**Attachments:**

- a. Resolution 20-R-04
- b. Phase 1 Agreement with the Northern Integrated Supply Project Water Activity Enterprise

**Finance Review:** \_\_\_\_\_  
Finance Director

**Submitted by:** Sarah Watson  
Civil Engineer

**Approved for Presentation:**   
Town Manager

Quasi-Judicial       Legislative       Administrative

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### **Summary Statement:**

Approval of the attached Phase 1 Agreement with the Northern Integrated Supply Project Water Activity Enterprise would commit the Town to continuing its participation in the Northern Integrated Supply Project (NISP).

### **Detail of Issue/Request:**

NISP is a proposed water supply project being coordinated by the Northern Colorado Water Conservancy District (NCWCD) that would create 40,000 acre-feet of new water supplies to 15 water providers. This water is developed by constructing off-stream reservoirs to capture peak river flows without contributing to agricultural dry-up. Frederick is currently a participant in NISP in the amount of 2,600 shares which will yield 2,600 acre-feet of high quality water. On January 10, 2008, Frederick assumed Berthoud's 1,300 share interest in NISP and on December 8, 2009, Frederick formalized the

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transfer of 1,300 shares of Central Weld County Water District's (CWCWD) interest in NISP to the Town.

The Town's Financial Plan will continue to be updated for the project as financing options and project cost change. The NISP participants will also participate in pre-construction financing for Land and Water Rights Acquisition. A mixture of cash, bonds and/or low-interest loans are expected to finance the total project, which is now estimated at \$1.4 billion (including conveyance costs). It should be noted that half of the NISP water supplies are fully consumable.

The cost of the Town's participation in Phase 1 of NISP is \$1.3 million. Phase 1 will include the acquisition of property associated with the Galeton Reservoir site (approximately 3,700 acres), Glade Reservoir site (approximately 400 acres), Highway 287 relocation (acreage to be determined), and easements for both the NISP delivery pipelines and the Galeton Unit pipelines. This phase also includes Water Secure properties served by and/or under the New Cache and Larimer and Weld Irrigation Companies' ditch systems (acreage to be determined based upon available funds after the above items have been purchased) and operation, maintenance, and improvement costs for the NISP Phase 1 Assets.

**Legal Comments:**

The Agreement is similar to previous agreements that the Board has approved and all participants approve the same document subject to specific costs and entity names. The resolution was reviewed by the Town Attorney.

**Alternatives/Options:**

Not approve the attached agreement and search for other water supplies. The other current sources of high quality water identified by staff and consultants are CBT and Windy Gap. The current market price for CBT water is now between \$55,000 and \$65,000 per unit which is equivalent to about \$92,000 per acre-foot. This is much higher than the projected \$35,000 per acre-foot costs for NISP. There are limited supplies of Windy Gap and CBT available and NCWCD regulations may limit the Town's ability to acquire large blocks of CBT in the future. It is staff's opinion that NISP is the preferred option at this time.

**Financial Considerations:**

Water Funds are included in the 2020 Budget for costs associated with Phase 1 of NISP.

**Staff Recommendation:**

Staff recommends that the Board approve the attached Resolution.

**TOWN OF FREDERICK, COLORADO  
RESOLUTION NO. 20-R-04**

**A RESOLUTION OF THE TOWN OF FREDERICK, COLORADO  
AUTHORIZING THE MAYOR TO EXECUTE THE PHASE 1  
AGREEMENT WITH THE NORTHERN INTEGRATED SUPPLY  
PROJECT WATER ACTIVITIES ENTERPRISE (NISP)**

**WHEREAS**, the Town has a substantial investment in NISP; and

**WHEREAS**, approval of this Phase 1 Agreement assures the Town of its ability to participate in Phase 1 of the Project.

**NOW THEREFORE, BE IT RESOLVED** by the Board of Trustees of the Town of Frederick, Colorado, that:

**Section 1.** The attached Phase 1 Agreement with the Northern Colorado Water Conservancy District is approved and the Mayor is authorized to execute it.

**Section 2.** Effective Date. This resolution shall become effective immediately upon adoption.

**Section 3.** Repealer. All resolutions, or parts thereof, in conflict with this resolution are hereby repealed, provided that such repealer shall not repeal the repealer clauses of such resolution nor revive any resolution thereby.

**Section 4.** Certification. The Town Clerk shall certify to the passage of this resolution and make not less than one copy of the adopted resolution available for inspection by the public during regular business hours.

**INTRODUCED, READ, PASSED, AND ADOPTED THIS 14TH DAY OF  
JANUARY, 2020.**

**ATTEST:**

**TOWN OF FREDERICK**

By \_\_\_\_\_  
Meghan C. Martinez, CMC  
Town Clerk

By \_\_\_\_\_  
Tony Carey, Mayor

**NISP PHASE 1 AGREEMENT**

**DATED AS OF JANUARY \_\_\_\_\_, 2020**

**BY AND AMONG**

**NORTHERN INTEGRATED SUPPLY PROJECT WATER ACTIVITY ENTERPRISE**

**AND**

**THE NISP PHASE 1 PARTICIPANTS LISTED HEREIN**

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EXHIBIT A NISP PHASE 1 PARTICIPANTS

EXHIBIT B NISP PHASE 1 DESCRIPTION AND SUMMARY WORK PLAN

EXHIBIT C NOTIFICATIONS

**THIS NISP PHASE 1 AGREEMENT** (this “**Agreement**”) dated as of January \_\_\_\_\_, 2020, is made effective as provided in Section 7.1 hereof by and between (a) the Northern Integrated Supply Project Water Activity Enterprise (the “**Enterprise**”), and (b) the Town of Frederick (the “**Participant**”), and is made with reference to the following facts:

### **RECITALS**

A. The Enterprise is a government-owned business within the meaning of Article X, § 20(2)(d) of the Colorado Constitution, organized pursuant to C.R.S. §§ 37-45.1-101 *et seq.*, that is owned by the Northern Colorado Water Conservancy District (“**District**”), and whose address is 220 Water Avenue, Berthoud, Colorado 80513. The Enterprise is a water activity enterprise that will exercise the authorities granted by C.R.S. §§ 37-45-101 *et seq.*, 37-45.1-101 *et seq.*, 31-35-401 *et seq.*, and any other relevant grant of statutory authority for the purpose of the planning, financing, acquisition, construction and operation of the Northern Integrated Supply Project (“**NISP**”).

B. NISP is a complex regional water supply and storage project that will be developed over time by the Enterprise for the purpose of providing water supply, water storage, and related benefits to the Participant and all other participants that elect to participate in NISP (collectively, the “**NISP Phase 1 Participants**”), and that, from time to time, execute an agreement in a form substantially similar to this Agreement (a “**NISP Phase 1 Agreement**”) for the purpose of receiving a NISP Allotment, as is further defined in Section 1 below and in **Exhibit A** attached hereto.

C. NISP is described in general in the Summary section of the U.S. Army Corps of Engineers Final Environmental Impact Statement for the Northern Integrated Supply Project.

D. NISP has been and will be developed in multiple phases over a period of time. “**NISP Phase 1**” includes the pre-construction elements and actions for NISP more generally described in **Exhibit B** attached hereto, which may be modified from time to time by the Enterprise.

E. The Enterprise is entering into a NISP Phase 1 Agreement with each NISP Phase 1 Participant to provide funding for NISP Phase 1 activities and to define the NISP Phase 1 Participants’ current rights and obligations in NISP.

### **AGREEMENT**

THEREFORE, in consideration of the facts recited above and of the covenants, terms, and conditions set forth herein, the parties agree as follows:

#### **Section 1. Definitions**

“**Agreement**” has the meaning assigned to the term in the introductory paragraph to this Agreement.

“**Annual Interim Agreement**” means the annual funding agreements entered into between the Enterprise and the NISP Participants under which the NISP Participants agree to pay, on a pro

rata basis, for the operation, maintenance, legal, administrative, improvement, and other costs of developing NISP. The most recent Annual Interim Agreement was the Fifteenth Interim Agreement, executed in 2019. The Annual Interim Agreements do not and will not provide funds to pay for NISP Phase 1 Project Costs, which instead are subject to this Agreement.

“**District**” has the meaning assigned to the term in the recitals to this Agreement.

“**Enterprise**” has the meaning assigned to the term in the introductory paragraph to this Agreement.

“**Enterprise Board**” means the Board of Directors of the Enterprise.

“**Event of Default**” means an event described in Section 6.1 or Section 6.4 hereof as an Event of Default.

“**Fiscal Year**” means the fiscal year of the Enterprise, which currently begins on October 1 of each calendar year and ends on September 30 of the following calendar year, or such other twelve-month period which may be designated by the Enterprise as its Fiscal Year.

“**NISP**” has the meaning assigned to the term in the recitals to this Agreement.

“**NISP Allotment**” means the number of NISP Units allotted by the Enterprise to a NISP Phase 1 Participant pursuant to a NISP Phase 1 Agreement, including the allotment of NISP Units to the undersigned Participant pursuant to Section 2.2 of this NISP Phase 1 Agreement. **Exhibit A** shows the current NISP Allotment of NISP Units to each NISP Phase 1 Participant.

“**NISP Assets**” means, and may include, without limitation, water, waterworks, water rights, rights to water, or contractual or other interests in water, sources of water supply, works, improvements, water projects, water facilities, stock in or other agreements with canal companies, water companies, and water users' associations, and real and personal property or interests therein that are necessary or convenient to or for the diversion, storage, collection, and distribution of water yielded by NISP to and for the use of NISP Phase 1 Participants. NISP Phase I Assets, as defined below, are a subset of NISP Assets.

“**NISP Participant**” means an entity that holds a NISP Allotment.

“**NISP Participation Percentage**” means the quotient of a NISP Phase 1 Participant's NISP Allotment divided by the sum of all NISP Phase 1 Participants' NISP Allotments, as such NISP Participation Percentages may be modified in accordance herewith. The NISP Participation Percentages are further described in Section 4 hereof and are set forth in **Exhibit A** hereto opposite each NISP Phase 1 Participant's name.

“**NISP Phase 1 Agreement**” has the meaning assigned to the term in the recitals to this Agreement.

“**NISP Phase 1 Asset Disposition**” means any sale, lease, transfer, or other conveyance of NISP Phase 1 Assets by the Enterprise occurring before adoption of a resolution of project termination under Section 10.1.

“**NISP Phase 1 Assets**” are NISP Assets that the Enterprise has determined should be acquired at this point in the development of NISP in order to assure that these assets will be available for integration into NISP. NISP Phase 1 Assets include real property and other assets purchased with funds made available as the result of this Agreement that are necessary or convenient to the construction and operation of NISP, including without limitation (i) real property and other assets for NISP reservoir sites and associated facilities, (ii) stock in or other agreements with mutual ditch companies, irrigation companies, water companies and water users' associations, and (iii) real property or interests in real property associated with the use of such stock or other agreements. Each of the District and the Enterprise own and/or control other assets that are or may in the future be a part of NISP that are not included within NISP Phase 1 Assets as defined for the purposes of this Agreement.

“**NISP Phase 1 Budget**” means the NISP Phase 1 Budget approved by the Enterprise Board on August 1, 2019, as such NISP Phase 1 Budget may be amended or supplemented from time to time in accordance with this Agreement.

“**NISP Phase 1 Capital Funding Obligations**” means the pro rata obligations of each NISP Phase 1 Participant to fund NISP Phase 1 Project Costs in the amounts set forth in **Exhibit A** attached hereto. The amount of NISP Phase 1 Capital Funding Obligations is the product of the NISP Participation Percentage multiplied by the NISP Phase 1 Project Costs.

“**NISP Phase 1 Participants**” means all NISP Participants which execute a NISP Phase 1 Agreement, including any additional parties who execute a NISP Phase 1 Agreement from time to time pursuant to Section 9 hereof.

“**NISP Phase 1 Project Costs**” means all costs associated with the purchase, acquisition, improvement, operation, and maintenance of NISP Phase 1 Assets. NISP Phase 1 Project Costs do not include and are separate from the annual NISP costs paid under Annual Interim Agreements.

“**NISP Unit**,” for purposes of this Agreement, means the right to 1/40,000th of the benefits and yield of NISP, which may include water supply, delivery, and storage, subject to any terms and conditions included in subsequent agreements related to future phases of NISP or otherwise in the final allotment contract between the parties. There are 40,000 NISP Units. The Enterprise and the Participants agree that “NISP Unit” may be defined in greater detail in subsequent agreements related to future phases of NISP or otherwise in the final allotment contracts for NISP.

“**Upfront Payment**” means the cash payment made by a NISP Phase 1 Participant to the Enterprise for the purpose of paying its NISP Phase 1 Capital Funding Obligations.

## **Section 2. Purpose of Agreement and NISP Allotment**

2.1 Purpose of Agreement. The purpose of this Agreement is to (i) confirm the Participant’s NISP Allotment, which allotment may be further defined in one or more subsequent allotment contracts between the Enterprise and such Participant; (ii) provide for the acquisition and funding of NISP Phase 1 Assets; and (iii) define Participant’s pro rata share of and obligation

to pay for NISP Phase 1 Project Costs. Performance of the terms of this Agreement constitutes good and sufficient consideration for all parties to this Agreement.

2.2 NISP Allotment. The Enterprise hereby allots to the undersigned Participant 2,600 NISP Units. Unless this NISP Allotment is terminated or modified under the terms herein, the Participant shall have a right to its NISP Units under any subsequent allotment contracts on the same terms and conditions as other similarly situated NISP Participants.

2.3 NISP Allotment Termination. This NISP Allotment shall terminate in the event any of the following shall occur: (i) default and forfeiture pursuant to Section 6 of this Agreement, (ii) the undersigned Participant does not participate in future NISP funding or financing agreements on the same terms and conditions as other similarly situated NISP Phase 1 Participants, (iii) the undersigned Participant does not enter into, or provide funding required under, future Annual Interim Agreements on the same terms and conditions as other NISP Phase 1 Participants, (iv) the undersigned Participant and the Enterprise do not enter into a final NISP allotment contract on the same terms and conditions as other NISP Phase 1 Participants, (v) a withdrawal or reduction in further NISP participation pursuant to Section 8 of this Agreement (provided that, in the case of a reduction in further NISP participation, the NISP Allotment shall be terminated to the extent of the reduction), (vi) a Project Termination pursuant to Section 10 of this Agreement, or (vii) the undersigned Participant violates the rules and regulations of the Enterprise, as may be established or amended from time to time.

### **Section 3. Funding**

3.1 NISP Phase 1 Budget and Annual Budgets. The Enterprise Board has previously approved the NISP Phase 1 Budget. The Enterprise Board also has previously approved the Fiscal Year 2020 Enterprise budget and shall provide and approve Enterprise operating budgets for future Fiscal Years annually or more frequently as needed, which budgets will be funded by the NISP Participants through Annual Interim Agreements.

3.2 NISP Phase 1 Capital Funding Obligations. Each NISP Phase 1 Participant hereby agrees to meet its NISP Phase 1 Capital Funding Obligations under its NISP Phase 1 Agreement and in the amount set forth in **Exhibit A** attached hereto by providing its Upfront Payment to the Enterprise on or before January 22, 2020. The Enterprise shall deposit the proceeds of each NISP Phase 1 Participant's Upfront Payment into segregated accounts as further described in Section 3.3.

3.3 Segregated Accounts. For the purpose of making NISP Phase 1 accounting specific to each NISP Phase 1 Participant, the Enterprise shall create interest-bearing segregated accounts within the Enterprise that are unique to each Participant. In addition to the NISP Phase 1 Participants' Upfront Payments, the Enterprise shall also deposit all revenue that may be generated from the lease or operation of NISP Phase 1 Assets pursuant to Section 5.3 into the segregated accounts in proportion to the NISP Phase 1 Participant's NISP Participation Percentages. All funds in the segregated accounts, including any interest that may accrue, shall be used by the Enterprise to pay for NISP Phase 1 Project Costs. Disbursements under the NISP Phase 1 Agreements from the segregated accounts shall be made in proportion to the NISP Phase 1 Participants' NISP Participation Percentages as they exist at the time of such disbursements. The Enterprise shall

provide Participant with annual reports of all deposits and disbursements from, and interest accrued on, the Participant's segregated account.

3.4 Participants' Claim on Segregated Account Funds. Each NISP Phase 1 Participant shall have a claim on the full balance of its respective segregated account regardless of the source of funds, except that the NISP Phase 1 Participants are entitled to payment of the balance only upon the conclusion of NISP Phase 1, which shall occur when the Enterprise and Participant enter into a subsequent agreement related to future phases of NISP or a final allotment contract for NISP that expressly supersedes this Agreement; replacement of the balance by another entity under Sections 8.1 and 9.2; or Project termination under Section 10.

#### **Section 4. NISP Participation Percentages**

The initial NISP Participation Percentages are for the purpose of establishing the NISP Phase 1 Participants' respective responsibilities to pay their pro rata amounts contained in the approved NISP Phase 1 Budget. The NISP Participation Percentage of a NISP Phase 1 Participant may be modified by the Enterprise from time to time as the result of the execution by a new NISP Phase 1 Participant of a NISP Phase 1 Agreement pursuant to Section 9.1, the withdrawal or reduction of participation of a NISP Phase 1 Participant pursuant to Section 8, or the transfer or assignment of a NISP Allotment in whole or in part pursuant to Sections 8, 9, or 13 of this Agreement, and in each such case **Exhibit A** shall be amended to reflect all such changes. All amendments to **Exhibit A** shall, upon approval by the Enterprise, be attached hereto and upon attachment, shall supersede all prior versions of **Exhibit A** without the requirement of further amendment of this Agreement.

#### **Section 5. Future Development of NISP Phase 1**

5.1 The NISP Phase 1 Participants acknowledge that NISP Phase 1 is still in the conceptual stage and there are no assurances that NISP or any water supplies will be developed as a result of the NISP Phase 1 Agreements. The NISP Phase 1 Participants therefore recognize that they are not acquiring any interest in NISP except as expressly provided in the NISP Phase 1 Agreements, and that the NISP Phase 1 Participants are not acquiring under the NISP Phase 1 Agreements any interest in any future water supply or access to any other services from NISP or the Enterprise except as expressly provided hereunder.

5.2 The Enterprise agrees to diligently pursue NISP and the acquisition of NISP Phase I Assets in good faith to the extent that funds therefor are provided by NISP Phase 1 Participants under the NISP Phase 1 Agreements and Annual Interim Agreements. By entering into this Agreement and accepting payments from the undersigned Participant, the Enterprise does not obligate itself to, nor does the Enterprise warrant that it will, proceed with NISP beyond NISP Phase 1 or that it will construct or operate NISP. By entering into their respective NISP Phase 1 Agreements and making payments hereunder, the NISP Phase 1 Participants do not obligate themselves to, nor do they warrant that they will, proceed with NISP beyond NISP Phase 1 or that they will maintain their NISP Allotments and NISP Participation Percentages at the same level in the future; the NISP Phase 1 Participants may withdraw from NISP Phase 1 or NISP, reduce their overall participation in NISP, or transfer or assign all or a portion of their NISP Allotment and NISP Participation Percentage under the terms of their respective NISP Phase 1 Agreements. At

the end of NISP Phase 1, the Enterprise Board will determine after consultation with the NISP Phase 1 Participants whether to proceed with NISP. The Enterprise agrees that, if the NISP Phase 1 Participants provide all required funding, if the Enterprise has the ability, and if the Enterprise Board determines that NISP is feasible and practical, it will pursue the construction and operation of NISP if requested to do so by sufficient NISP Phase 1 Participants to fully fund NISP. In the event that the Enterprise Board decides not to proceed with NISP, it will so notify the NISP Phase 1 Participants, and, upon the giving of such notice, NISP Phase 1 will be wound up in accordance with Section 10 hereof.

5.3 The Enterprise, acting by and through the Enterprise Board and with input from and consultation with the NISP Phase 1 Participants, will acquire, own, and control NISP Phase 1 Assets. Any such acquired NISP Phase I Assets shall be used solely for the purpose of NISP; provided, however, that any such NISP Phase I Assets may be used for another purpose on a temporary basis subject to payment of fair compensation to the Enterprise for such other use. The Enterprise shall use reasonable efforts to generate revenues from NISP Phase I Assets. Income from the temporary lease or use of NISP Phase 1 Assets shall only be used for NISP purposes.

5.4 Before termination of NISP and this Agreement and wind-up as provided in Section 10 of this Agreement, the Enterprise may in its discretion, with input from and consultation with the NISP Phase 1 Participants, make NISP Phase 1 Asset Dispositions. Proceeds from a NISP Phase 1 Asset Disposition shall, at the discretion of the Enterprise Board, be (i) used to further pursue NISP Phase 1, (ii) used for the purposes of the development and construction of NISP, or (iii) distributed to then-existing NISP Phase 1 Participants in proportion to their respective NISP Participation Percentages as they exist at the time of such distribution.

## **Section 6. Default and Forfeiture**

6.1 Default by NISP Phase 1 Participant. Upon (i) the termination of a NISP Allotment pursuant to Section 2.3 of this Agreement (except for clause (vi) thereof), (ii) the failure of a NISP Phase 1 Participant to make any payment in full when due under a NISP Phase 1 Agreement, or (iii) the failure of a NISP Phase 1 Participant to perform any other obligation hereunder, the Enterprise shall make written demand upon such NISP Phase 1 Participant. If a failure described in clause (ii) above is not remedied, with a late-fee penalty equal to 3% of the defaulted amount, within thirty (30) days from the date of such demand, such failure shall constitute an Event of Default at the expiration of such period. If a failure described in clause (iii) above cannot be remedied within thirty (30) days from the date of such demand but such NISP Phase 1 Participant commences remedial action within such thirty (30) day period in a form acceptable to the Enterprise, then such failure shall not constitute an Event of Default hereunder. Notice of any such demand shall be provided to each other NISP Phase 1 Participant by the Enterprise.

Additionally, if a NISP Phase 1 Participant shall file any petition or institute any proceedings under any act or acts, state or federal, dealing with or relating to the subject of bankruptcy or insolvency or under any amendment of such act or acts, either as a bankrupt or as an insolvent or as a debtor or in any similar capacity, wherein or whereby a NISP Phase 1 Participant asks or seeks or prays to be adjudicated a bankrupt, or to be discharged from any or all of its debts or obligations, or offers to its creditors to effect a composition or extension of time to

pay its debts, or asks, seeks or prays for a reorganization or to effect a plan of reorganization or for a readjustment of its debts or for any other similar relief, or if a NISP Phase 1 Participant shall make a general or any assignment for the benefit of its creditors then in each and every such case, such action by a NISP Phase 1 Participant shall be deemed to be an Event of Default hereunder.

6.2 Forfeiture. Upon an Event of Default by a NISP Phase 1 Participant under Section 6.1, the Enterprise may give notice of termination of the defaulting NISP Phase 1 Participant's NISP Allotment and NISP Participation Percentage under this Agreement, which termination shall be effective thirty (30) days following the sending of the notice unless such termination is delayed by judicial action. Upon such notice given, such termination shall result in the complete forfeiture of any and all right, title, claim, or interest, whether express or implied, of the NISP Phase 1 Participant in or to NISP, including without limitation any and all NISP Allotments or NISP Phase 1 Assets under this Agreement or any other Annual Interim Agreement related to NISP. The undersigned Participant, by executing this Agreement, certifies that it has fully disclosed to the governing body of such undersigned Participant the existence and consequence of this Agreement, and agrees that but for the Participant's acceptance of the termination of a NISP Allotment pursuant to Section 2.3 of this Agreement and the consequences of an Event of Default under Section 6.1, the Enterprise would not have entered into this Agreement or any other agreement related to NISP. Except for claims of breach against the Enterprise under the express terms of this Agreement, the undersigned Participant waives any and all legal or equitable claims, in any forum, to NISP, NISP Allotments, or NISP Phase 1 Assets, or against the Enterprise, arising out of an Event of Default under this Agreement by the undersigned Participant. Irrespective of such termination, a NISP Phase 1 Participant shall remain liable to the Enterprise to pay the full amount of its pro rata share of the NISP Phase 1 Project Costs under a NISP Phase 1 Agreement, except as such amounts are otherwise recovered by the Enterprise as provided by this Agreement.

6.3 Reallocation Upon Event of Default and Forfeiture. Upon an Event of Default and Forfeiture under Sections 6.1 and 6.2, the Enterprise shall use its best efforts to reallocate the defaulted NISP Phase 1 Participant's forfeited NISP Allotment and NISP Participation Percentage first to the remaining NISP Phase 1 Participants who elect to receive additional NISP Units by the Enterprise in proportion to the pro rata interest in NISP of each remaining NISP Phase 1 Participant who elected to receive additional NISP Units, and second to an entity or entities that the Enterprise Board determines may be a NISP Participant or NISP Participants pursuant to Section 9. Notwithstanding that all or any portion of a defaulting NISP Phase 1 Participant's NISP Allotment and NISP Participation Percentage is so transferred, such defaulting NISP Phase 1 Participant shall remain liable to the Enterprise to pay the full amount of its share of NISP Phase 1 Project Costs hereunder except to the extent that the Enterprise receives payment from the transferee thereof.

6.4 Default by Enterprise. Upon failure of the Enterprise to perform any obligation of the Enterprise under this Agreement, the Participant may make written demand upon the Enterprise, and if such failure is not remedied within thirty (30) from the date of such demand, or for such additional time as is reasonably required in the discretion of Participant to correct the same, such failure shall constitute an Event of Default at the expiration of such period. The Participant shall provide notice of such demand to each NISP Phase 1 Participant. Upon an Event of Default of the Enterprise under this Section 6.4, the Enterprise and the Participant agree that

they shall confer in good faith to attempt to resolve the Event of Default, and if conferral fails to resolve the Event of Default, then to participate in non-binding mediation.

6.5 **Enforcement of Remedies.** In addition to the remedies set forth in this Section 6, upon the occurrence of an Event of Default as defined herein, the Enterprise or a NISP Phase 1 Participant, as the case may be, shall be entitled to proceed to protect and enforce the rights vested in such party by agreement by such appropriate judicial proceeding as such party shall deem most effectual, either by suit in equity or by action of law, whether for the specific performance of any covenant or agreement contained herein or to enforce any other legal or equitable right vested in such party by this Agreement or by law. The provisions of a NISP Phase 1 Agreement and the duties of each party thereto, their respective boards, officers or employees shall be enforceable by the other party hereto by mandamus or other appropriate suit, action or proceeding in any court of competent jurisdiction, and the prevailing party shall be entitled to an award of its costs and attorney fees to the extent permitted by law.

## **Section 7. Term**

7.1 No provision of this Agreement shall take effect until all NISP Phase 1 Participants listed on **Exhibit A** duly authorize, execute, and deliver to the Enterprise their respective NISP Phase 1 Agreements, and the Enterprise duly authorizes, executes, and delivers to the NISP Phase 1 Participants their respective NISP Phase 1 Agreements.

7.2 The NISP Allotment confirmed in Section 2.2 of this Agreement shall be perpetual unless terminated pursuant to this Agreement. The term of the remainder of this Agreement shall continue until the Enterprise and Participant enter into a subsequent agreement related to future phases of NISP or a final allotment contract for NISP that expressly supersedes this Agreement, unless otherwise terminated pursuant to this Agreement.

## **Section 8. Withdrawal from Agreement or Withdrawal from or Reduction in Further NISP Participation**

NISP Phase 1 Participants may withdraw from a NISP Phase 1 Agreement and further participation in NISP, or may reduce further participation in NISP, as provided in this Section 8. NISP Phase 1 Participants also may transfer their NISP Units, in whole or in part, as provided in Section 9 below.

8.1 Except as otherwise provided in Section 8.2 below, a NISP Phase 1 Participant may withdraw from NISP Phase 1 and NISP, or reduce its overall participation in NISP, by giving the Enterprise and all other NISP Phase 1 Participants written notice of such withdrawal or reduction in overall NISP participation not less than 180 days prior to the withdrawal or reduction date. Notwithstanding the foregoing, a NISP Phase 1 Participant that withdraws or reduces NISP participation under this Section 8 shall not receive any balance in its respective segregated account unless an equal amount is provided to the Enterprise by another entity as replacement of the balance in the withdrawing or reducing NISP Phase 1 Participant's account.

8.2 Withdrawal from a NISP Phase 1 Agreement and NISP, or reduction in overall NISP participation, shall not excuse any withdrawing or reducing NISP Phase 1 Participant's performance of obligations imposed upon that party by any judgment which has been

entered by a court of competent jurisdiction or regulation to which the Enterprise or the NISP Phase 1 Participants are subject and that arise from or are related to activities of the NISP Phase 1 Agreements conducted during the period when the withdrawing or reducing NISP Phase 1 Participant participated in the NISP Phase 1 Agreement.

**Section 9. Transfer of NISP Allotment; Admission of New NISP Phase 1 Participants**

9.1 Additional entities may become NISP Phase 1 Participants if the NISP Enterprise, in its discretion, approves transfer of existing or allotment of new NISP Units to such entity, provided, however, that the total number of NISP Units shall not be increased without the consent of each NISP Participant.

9.2 Transfer of NISP Allotment.

9.2.1 The Enterprise Board shall approve a requested transfer of NISP Units constituting all or a portion of a NISP Allotment from a NISP Phase 1 Participant to one or more other NISP Participants that have a NISP Allotment as of the time of the transfer if the Enterprise Board determines that (i) the NISP Participant receiving the additional NISP Units has an existing or future need for additional NISP Units for use within the District, (ii) the NISP Participant receiving the additional NISP Units has sufficient financial capacity, and (iii) the transfer will not create a material risk under applicable law; provided, however, that approval of a transfer is subject to delivery capacity limitations.

9.2.2 At any time after all final federal permitting approvals for NISP are issued and any litigation challenging such approvals is no longer pending or appealable, a NISP Participant may request a transfer of NISP Units constituting all or a portion of a NISP Allotment to a municipality or a district formed under Colorado law that is not an existing NISP Participant at the time of the proposed transfer. The NISP Enterprise shall approve such a requested transfer if the Enterprise Board determines that (i) the entity receiving the NISP Units has an existing or future need for said NISP Units for use within the District, (ii) the NISP Participant receiving the NISP Units has sufficient financial capacity, (iii) the transfer will not create a material risk under applicable law, and (iv) the entity has not transferred or entered into an agreement to transfer water out of the Northern Colorado Water Conservancy District. Any such transfer shall also be subject to delivery capacity limitations. The Enterprise Board may deny a proposed transfer under this Section 9.2.2 if it finds that, based on extraordinary circumstances, the proposed transfer would not be in the best interests of the Enterprise or the Northern Colorado Water Conservancy District.

9.2.3 A transfer of NISP Units under this Section 9 also shall result in the transfer of all rights and obligations under the relevant NISP Phase 1 Agreement that correspond to the transferred NISP Units. Notwithstanding the foregoing, a NISP Phase 1 Participant that transfers NISP Units under this Section 9 is not entitled to any balance in its respective segregated account that corresponds to the amount of NISP Units transferred unless an equal amount of money is provided to the Enterprise by the transferee as replacement of the balance in transferor NISP Phase 1 Participant's account. The transferring NISP Phase 1 Participant may also assign the corresponding portion of its segregated account to the transferee.

## **Section 10. Project Termination**

10.1 Event Giving Rise to Project Termination. NISP shall terminate and the process of winding-up of NISP shall be initiated upon the Enterprise Board's adoption of a resolution of termination. Such resolution may be adopted after the Enterprise Board's receipt of a written request from all NISP Phase 1 Participants to terminate NISP Phase 1 or NISP, or for other financial, legal or practical reasons that would make completion of NISP Phase 1 or NISP impracticable as determined by the Enterprise Board. The decision to adopt a resolution of termination shall be in the Enterprise Board's discretion.

10.2 Winding Up Procedure. Upon the Enterprise Board's adoption of a resolution of termination under Section 10.1 above, NISP Phase 1 shall be wound up within a reasonable time pursuant to the procedures set forth in this Section 10.2.

(i) The Enterprise Board shall appoint a winding-up agent to carry out the procedures and responsibilities set forth in this Section 10.2 and to take any other actions as determined by the Enterprise Board to be necessary and convenient to the winding up of NISP Phase 1.

(ii) The winding-up agent shall obtain from the Financial Services Manager of the District an accounting of NISP Phase 1 Assets and NISP Phase 1 liabilities and operations through the last day of the month in which the Enterprise Board adopts a resolution of termination under Section 10.1 above. The winding-up agent may also cause a proper accounting to occur at other times, including before or after the distribution of NISP Phase 1 Assets pursuant to Section 10.3 below, if the Enterprise Board determines in its discretion that such an additional accounting is reasonably necessary for the orderly winding up of NISP.

(iii) Option of Northern Colorado Water Conservancy District to Purchase Certain NISP Phase 1 Assets. The District shall have an option to purchase, within 180 days of adoption of a resolution of termination by the Enterprise pursuant to this Section 10, the real property necessary or useful for Glade Reservoir, Galeton Reservoir, and any of the associated diversion structures, pipelines, ditches, forebays, or other property or assets then owned by the Enterprise and determined by the District to be necessary to place water into storage

in either or in each. The purchase price to be paid by the District for any NISP Phase 1 Assets subject to this Section 10.2(iii) shall be the price paid by the Enterprise for such asset plus the cost of capital improvements thereon or, if such asset was acquired by the Enterprise other than by purchase, the actual cost to acquire such asset. The proceeds of any sale of NISP Phase 1 Assets to the District under this Section 10.2(iii) shall be transferred to the non-defaulting NISP Phase 1 Participants in accordance with Section 10.3 below.

(iv) After complying with Section 10.2(ii) and 10.2(iii), the winding-up agent shall offer, on an asset-by-asset basis, each non-cash NISP Phase 1 Asset to all of the NISP Phase 1 Participants for cash or cash equivalents for the price paid by the Enterprise for such NISP Phase 1 Assets plus the cost of capital improvements or, if such NISP Phase 1 Asset was acquired by the Enterprise other than by purchase, the actual cost to acquire such NISP Phase 1 Asset. If more than one NISP Phase 1 Participant desires to purchase any such NISP Phase 1 Asset, the winding-up agent shall sell the NISP Phase 1 Asset to the highest bid submitted by a NISP Phase 1 Participant in a closed-bid process.

(v) Subject to Section 10.2(vi) and (vii), and after complying with Section 10.2(ii) through (iv), the winding-up agent shall make commercially reasonable efforts to reduce to cash or cash equivalents the NISP Phase 1 Assets.

(vi) The winding-up agent shall exercise discretion in light of legal, tax, contractual, and other considerations as to whether to liquidate particular NISP Phase 1 Assets and to propose a sale to the Enterprise Board under Section 10.2(v). The winding-up agent may consult with legal counsel, tax consultants, or other experts.

(vii) Any sale or transfer of an NISP Phase 1 Asset by the winding-up agent shall require advance notice to all NISP Phase I Participants and approval by the Enterprise Board.

(viii) While conducting the winding-up procedures of this Section 10.2, the winding-up agent shall manage the Enterprise's NISP Phase 1 Assets with reasonable care and with the same powers as the Enterprise's managers exercised before the Enterprise Board adopted a resolution of termination under Section 10.1.

### 10.3 Distribution of NISP Phase 1 Assets.

(i) Subject to Section 10.3(ii) below, upon completion of the winding-up procedure set forth in Section 10.2 above, the Enterprise Board, with the assistance of the winding-up agent, shall distribute the cash or cash equivalents held by the Enterprise in the following manner and order:

(A) To cover any expenses incurred as a result of the winding-up procedures set forth in Section 10.2;

(B) To maintain a reserve fund as the Enterprise Board may deem necessary to cover any contingent liabilities or obligations of the Enterprise as identified with specificity by the Enterprise, provided that such reserves or any part thereof not required for payment of such contingent liabilities shall be distributed as hereinafter provided;

(C) To satisfy any loans or advances made to the Enterprise by the NISP Phase 1 Participants; and then

(D) To the non-defaulting NISP Phase 1 Participants in proportion to their NISP Participation Percentages after adjusting for any debts each NISP Phase 1 Participant may owe to the Enterprise.

(ii) Distribution of Enterprise assets under Section 10.3(i) is subject to the following terms and conditions:

(A) If any unliquidated non-cash NISP Phase 1 Assets remain after completion of the winding-up procedures set forth in Section 10.2, then the Enterprise Board shall exercise all reasonable efforts to determine whether the unliquidated non-cash NISP Phase 1 Assets are to be conveyed to and owned by the NISP Phase 1 Participants individually or jointly.

(B) Notwithstanding Section 10.3(ii)(A) above, a NISP Phase 1 Participant is not entitled to and does not have the right to demand distributions of non-cash NISP Phase 1 Assets in general or of any particular non-cash NISP Phase 1 Asset.

10.4 Completion of Winding-Up of NISP. After the distribution of all NISP Phase 1 Assets pursuant to Section 10.3, the winding-up agent shall give notice to the Enterprise Board that NISP has been terminated and the NISP Phase 1 Assets have been disposed of pursuant to the NISP Phase 1 Agreements.

## **Section 11. Liability of Enterprise and NISP Phase 1 Participants**

11.1 Enterprise and Undersigned NISP Phase 1 Participant Liability. Participant shall not be liable to another NISP Phase 1 Participant or to the Enterprise, and the Enterprise shall not be liable to the NISP Phase 1 Participants, for consequential, indirect, punitive, or special damages arising under this Agreement. Neither the Enterprise nor Participant shall be liable for the acts or omissions of the other NISP Phase 1 Participants.

11.2 Enterprise Liability. Any and all obligations of the Enterprise that may arise under this Agreement, whether financial or otherwise, shall be payable solely from the revenues, income, rents and receipts earned by the Enterprise. Nothing herein shall be deemed to prevent the Enterprise from making any payments from any other legally available source. In no event shall the Enterprise be required to spend any money from taxes in violation of Section 20(4) of Article X of the Colorado Constitution in the performance of its obligations under this Agreement or which would cause the Enterprise to lose its enterprise status as such status is defined in the Colorado Constitution. In addition, neither the Enterprise nor the District shall be required to expend any

funds or impair any assets of the District in the performance of any of the Enterprise's obligations under this Agreement. The obligations of the Enterprise under this Agreement do not constitute a debt or indebtedness of the Enterprise or the District within the meaning of any constitutional, charter or statutory provision or limitation, and shall not be considered or held to be a general obligation of the Enterprise or the District.

11.3 Undersigned NISP Phase 1 Participant Liability. Any and all obligations of the undersigned Participant that may arise under this Agreement, whether financial or otherwise, shall be satisfied by funds not subject to or in violation of Section 20 of Article X of the Colorado Constitution Nothing herein shall be deemed to prevent the undersigned Participant from making any payments from any legally available source. The obligations of the undersigned Participant under this Agreement do not constitute a debt, indebtedness or multiple fiscal year obligation within the meaning of any constitutional, charter or statutory provision or limitation, and shall not be considered or held to be a general obligation of the Participant.

11.4 Governmental Immunity. The Enterprise and the undersigned Participant are each relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, defenses, or protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101 *et seq.*, as amended from time to time.

## **Section 12. Amendments**

This Agreement may be amended only by a writing executed by the Enterprise and each non-defaulting NISP Phase 1 Participant.

## **Section 13. Assignment; Binding on Successors**

Except as otherwise provided in this Agreement, the rights and duties of the Participant may not be assigned or delegated without the written consent of the Enterprise. Any attempt to assign or delegate such rights or duties in contravention of this Agreement shall be null and void. This Agreement shall inure to the benefit of, and be binding upon, the successors and assigns of the Enterprise and the Participant.

## **Section 14. Third Party Beneficiaries**

Any NISP Phase 1 Participant shall have the right as a third-party beneficiary to initiate and maintain suit to enforce the obligations of other NISP Phase 1 Participants hereunder. Except as provided in the preceding sentence, no other entities are conferred a benefit under this Agreement or may enforce this Agreement as third-party beneficiaries.

## **Section 15. Counterparts**

This Agreement may be executed by the Enterprise and the Participant in separate counterparts that are identical except as to the number of NISP Units and the identity of the NISP Phase 1 Participant, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument. Facsimile and electronic signatures shall be binding for all purposes.

**Section 16. Merger of Prior Agreements**

This Agreement and the exhibits hereto constitute the entire agreement between the parties and supersede all prior agreements and understandings between the parties relating to the subject matter hereof.

**Section 17. Severability**

If one or more clauses, sentences, paragraphs or provisions of this Agreement shall be held to be unlawful, invalid or unenforceable, then the remainder of this Agreement shall not be affected thereby.

**Section 18. Choice of Law; Venue**

This Agreement shall be governed by the laws of the State of Colorado, and each party hereto consents and submits to venue in the District Court of Weld County, Colorado.

**Section 19. Notices**

Notices authorized or required to be given under this Agreement shall be in writing and shall be deemed to have been given when mailed, postage prepaid, or delivered during working hours, to the addresses set forth in **Exhibit C**, or to such other address as a party may provide to the other party and other NISP Phase 1 Participants from time to time. Any notice to the Participant shall be given to all NISP Phase 1 Participants. Notices authorized or required to be given under this Agreement may in the alternative be given by electronic mail (email) to the email addresses set forth in **Exhibit C**, or to such other email addresses as a party may provide to the other party and other NISP Phase 1 Participants from time to time, provided that the receiving party acknowledges and does not object to receipt of such notice by email.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Enterprise and NISP Phase 1 Participants hereto, pursuant to resolutions duly and regularly adopted by their respective governing bodies, have caused their names to be affixed by their proper and respective officers as of the date set forth above.

**NORTHERN INTEGRATED SUPPLY  
PROJECT WATER ACTIVITY ENTERPRISE**

By: \_\_\_\_\_  
Bradley D. Wind  
General Manager

**TOWN OF FREDERICK**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT A**

**NISP PHASE 1 PARTICIPANTS**

<b>Participant</b>	<b>NISP Allotment</b>	<b>NISP Participation Percentage</b>	<b>NISP Phase 1 Capital Funding Obligations</b>
Erie	6,500	16.25%	\$3,250,000
Left Hand Water District	4,900	12.25%	2,450,000
Fort Morgan	3,600	9.00%	1,800,000
Central Weld County Water District	3,500	8.75%	1,750,000
Windsor	3,300	8.25%	1,650,000
Fort Collins-Loveland Water District	3,000	7.50%	1,500,000
Frederick	2,600	6.50%	1,300,000
Fort Lupton	2,050	5.13%	1,025,000
Severance	2,000	5.00%	1,000,000
Lafayette	1,800	4.50%	900,000
Evans	1,600	4.00%	800,000
Morgan County Quality Water District	1,300	3.25%	650,000
Firestone	1,300	3.25%	650,000
Eaton	1,300	3.25%	650,000
Dacono	1,250	3.13%	625,000
<b>Totals</b>	<b>40,000</b>	<b>100.00%</b>	<b>\$20,000,000</b>

## **EXHIBIT B**

### **NISP PHASE 1 PROJECT DESCRIPTION AND SUMMARY WORK PLAN**

The work to be performed and costs to be included under the NISP Phase 1 Project include the following:

- Acquisition of property associated with the Galeton Reservoir site (approximately 3,700 acres).
- Acquisition of property associated with Glade Reservoir site (approximately 400 acres)
- Acquisition of property associated with Highway 287 relocation (acreage to be determined).
- Acquisition of easements for both the NISP delivery pipelines and the Galeton Unit pipelines.
- Water Secure properties served by and/or under the New Cache and Larimer and Weld Irrigation Companies' ditch systems (acreage to be determined based upon available funds after the above items have been purchased).
- Operation, maintenance, and improvement costs for the NISP Phase 1 Assets.

**EXHIBIT C**  
**NOTIFICATIONS**

<b>IF TO:</b>	<b>MAILING ADDRESS</b>	<b>EMAIL</b>
Northern Integrated Supply Project Water Activity Enterprise	c/o NISP Project Manager 220 Water Avenue Berthoud, CO 80513	<a href="mailto:cbrouwer@northernwater.org">cbrouwer@northernwater.org</a> <a href="mailto:braley@troutlaw.com">braley@troutlaw.com</a>
Central Weld County Water District	c/o Mr. Stan Linker District Manager 2235 2 <sup>nd</sup> Avenue Greeley, CO 80631-7203	<a href="mailto:stan@cwewd.com">stan@cwewd.com</a>
Dacono	c/o Mr. A.J. Euckert City Manager PO Box 186 Dacono, CO 80514-0186	<a href="mailto:AEuckert@cityofdacono.com">AEuckert@cityofdacono.com</a>
Eaton	c/o Mr. Jeff Schreier Town Administrator 223 1 <sup>st</sup> Street Eaton, CO 80615-3479	<a href="mailto:jeff@eatonco.org">jeff@eatonco.org</a>
Erie	c/o Mr. Todd Fessenden Deputy Public Works Director PO Box 750 Erie, CO 80516-0750	<a href="mailto:tfessenden@erieco.gov">tfessenden@erieco.gov</a>
Evans	c/o Mr. Randy Ready Public Works Director 1100 37 <sup>th</sup> Street Evans, CO 80620-2036	<a href="mailto:rready@evanscolorado.gov">rready@evanscolorado.gov</a>
Firestone	c/o Ms. Julie Pasillas Public Utilities Director PO Box 100 Firestone, CO 80520-0100	<a href="mailto:jpasillas@firestoneco.gov">jpasillas@firestoneco.gov</a>
Fort Collins–Loveland Water District	c/o Mr. Chris Matkins General Manager 5150 Snead Drive Fort Collins, CO 80525-3764	<a href="mailto:chrism@fclwd.com">chrism@fclwd.com</a>
Fort Lupton	c/o Mr. Chris Cross Assistant City Administrator 130 S McKinley Ave Fort Lupton, CO 80621-1343	<a href="mailto:ccross@fortlupton.org">ccross@fortlupton.org</a>

IF TO:	MAILING ADDRESS	EMAIL
Fort Morgan	c/o Mr. Jeffrey Wells Acting City Manager PO Box 100 Fort Morgan, CO 80701-0100	<a href="mailto:jwells@cityoffortmorgan.com">jwells@cityoffortmorgan.com</a>
Frederick	c/o Ms. Sarah Watson Water Engineer PO Box 435 Frederick, CO 80530-0435	<a href="mailto:swatson@frederickco.gov">swatson@frederickco.gov</a>
Lafayette	c/o Mr. Jeff Arthur Public Works Director 1290 S Public Rd Lafayette, CO 80026-2706	<a href="mailto:Jeff.arthur@cityoflafayette.com">Jeff.arthur@cityoflafayette.com</a>
Left Hand Water District	c/o Mr. Chris Smith General Manager PO Box 210 Niwot, CO 80544-0210	<a href="mailto:chrissmith@lefthandwater.org">chrissmith@lefthandwater.org</a>
Morgan County Quality Water District	c/o Mr. Kent Pflager General Manager PO Box 1218 Fort Morgan, CO 80701-1218	<a href="mailto:kpflager@mcqwd.org">kpflager@mcqwd.org</a>
Severance	c/o Mr. Nicholas Wharton Town Administrator PO Box 339 Severance, CO 80546-0339	<a href="mailto:nwharton@townofseverance.org">nwharton@townofseverance.org</a>
Windsor	c/o Mr. John Thornhill Director of Community Development 301 Walnut Street Windsor, CO 80550	<a href="mailto:jthornhill@windsorgov.com">jthornhill@windsorgov.com</a>



# TOWN OF FREDERICK BOARD OF TRUSTEES ACTION MEMORANDUM

Tony Carey, Mayor

Laura Brown, Mayor Pro Tem  
Rocky Figurilli, Trustee  
Salvatore "Sam" DeSantis, Trustee

Tracie Crites, Trustee  
Rusty O'Neal, Trustee  
Dan March, Trustee

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## Consideration of Appointment of Backup Prosecutor

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**Agenda Date:** Town Board Meeting – January 14, 2020

**Attachments:**

- a. Contract for services
- b. Resume
- c. Resolution 20-R-06

**Finance Review:** \_\_\_\_\_  
Finance Director

**Submitted by:** \_\_\_\_\_  
Town Attorney

**Approved for Presentation:**   
Town Manager

Quasi-Judicial       Legislative       Administrative

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### **Summary Statement:**

There is a need to have an attorney to act as a backup prosecutor in the event our current prosecutor is unavailable. The Town Attorney will continue to provide backup services when the prosecutor has a conflict, but would not be available for extended periods of time.

### **Detail of Issue/Request:**

Jacob Starkovich has acted as special counsel to the Liquor Licensing Authority on several occasions and is an experienced municipal prosecutor.

### **Legal Comments:**

The Town Attorney is familiar with the work of Mr. Starkovich and recommends his approval as backup prosecutor.

**Built on What Matters.**

**Alternatives/Options:**

The alternative would be to continue as we are currently with no designated backup prosecutor and to come to the Board when a need arises.

**Financial Considerations:**

Not applicable.

**Staff Recommendation:**

Staff recommends approval of the attached Resolution as presented.

**BACKUP PROSECUTING ATTORNEY  
PERSONAL SERVICES AGREEMENT**

**THIS AGREEMENT** is entered by and between the Town of Frederick, Colorado, hereinafter referred to as the “Town” and the law firm of Starkovich Law, LLC., herein after referred to as “Backup Prosecuting Attorney,” this \_\_\_\_ day of January 2020.

**WHEREAS**, the Town requires personal services of a legal nature, as more full set forth below; and

**WHEREAS**, Jacob Starkovich, a member of the firm of Starkovich Law, LLC., is fully qualified, through experience and education, and is duly licensed as a Colorado attorney to perform such services, and is ready, willing and able to help the Town in carrying out such services as set forth herein; and

**WHEREAS**, the Town has reviewed and evaluated the Backup Prosecuting Attorney’s qualifications and deems that the Backup Prosecuting Attorney is qualified to perform the services set forth herein; and

**WHEREAS**, the Town desires to contract with the firm of Starkovich Law, LLC. for performance of services, with Jacob Starkovich being designated as the Backup Prosecuting Attorney.

**NOW, THEREFORE**, in consideration of the mutual covenants hereinafter contained and subject to the terms and conditions hereinafter stated, it is hereby understood and agreed by the parties as follows:

**AGREEMENT**

1. **Contractor.** The Town hereby agrees to engage and compensate the Backup Prosecuting Attorney as an Independent Contractor and the Backup Prosecuting Attorney agrees to personally perform the services hereinafter described subject to the conditions set forth herein.

2. **Scope of Services.** The Backup Prosecuting Attorney agrees to perform and carry out satisfactorily, those duties and work towards the specific needs of the Town as agreed upon by the Backup Prosecuting Attorney and the Town. The Backup Prosecuting Attorney agrees to devote his best efforts in the performance of services provided hereunder.

A. The Backup Prosecuting Attorney shall prosecute ordinance and traffic violations before the Municipal Court and other legally constituted tribunals, including appeals taken from the Municipal Court.

B. The Backup Prosecuting Attorney shall attend all arraignments and trials, as set by the Municipal Court. In the event of unexpected absence on the part of the Backup Prosecuting Attorney, including illness, the Backup Prosecuting Attorney shall work with Court

staff and the Town's municipal attorney to ensure services are provided to allow the continued operation of court business.

C. The Backup Prosecuting Attorney shall advise the Frederick Police Department of legal matters related to the enforcement of criminal and traffic laws.

D. The Backup Prosecuting Attorney shall call to the attention of Town staff matters of law and changes or developments therein affecting the Municipal Court.

E. The Backup Prosecuting Attorney shall perform such other duties as may be prescribed for him by the Town through the Town Manager.

3. **Term.** The Backup Prosecuting Attorney serves at the pleasure of the Town Board and this Agreement shall be effective as of January 14, 2020. Either party may terminate this agreement upon thirty days' written notice to the other party. Such termination shall in no way prejudice the payment due the Backup Prosecuting Attorney for services rendered to date of termination nor prejudice the Town's right to services to the date of termination.

4. **Compensation.**

A. Hourly Fee. The Backup Prosecuting Attorney will be paid at the rate of \$150 an hour. Such fees may be changed upon agreement of both parties. The bill for such fees will be payable within thirty days of receipt of the bill for services by the Town.

B. Additional fees. Costs to include copy charges, fax charges, long distance charges, court filing fees, services of process charges will be reimbursed to the Backup Prosecuting Attorney on a monthly basis. Other costs, including those incurred by the Backup Prosecuting Attorney related to Town business, may be reimbursed at the discretion of the Town Manager. Travel time and mileage to and from Frederick shall not be considered reimbursable costs.

C. Insurance, Social Security, Unemployment Compensation, Worker's Compensation, and Income Taxes. Backup Prosecuting Attorney agrees to assume responsibility for and pay any and all insurance, Social Security, worker's compensation, unemployment compensation taxes, and any similar items for himself. As an independent entity, not an agent or employee of Town, Backup Prosecuting Attorney shall be responsible for its own tax reporting and withholding. Further, Backup Prosecuting Attorney agrees to indemnify Town and hold Town harmless from any and all income tax or other tax liability to any governmental entity resulting from the Agreement payment received by Backup Prosecuting Attorney hereunder.

**IMPORTANT NOTICE: Independent Contractor is not entitled to Unemployment Insurance benefits unless unemployment compensation coverage is provided by Independent Contractor or some other entity. Independent Contractor is obligated to pay federal and state income tax on any moneys paid pursuant to this Agreement.**

**5. Status of Backup Prosecuting Attorney.** The Backup Prosecuting Attorney shall perform all services under this Agreement as an Independent Contractor and not as an agent or employee of the Town. The Backup Prosecuting Attorney shall not be supervised by any employee or official of the Town. The Backup Prosecuting Attorney shall not represent that the Backup Prosecuting Attorney is an employee or agent of the Town in any capacity.

**6. Indemnification of Town.** The Backup Prosecuting Attorney shall indemnify and hold harmless the Town, its officers, and employees, against all claims, liabilities, damages, fines, penalties, and costs arising during or after the term of this Agreement arising out of or resulting from performance of the Agreement except from willful or reckless conduct attributable to the Town. The Town does not waive immunity or other protection from liability otherwise given by the Colorado Governmental Immunity Act or other statute, constitution, ordinance, resolution, or rule of law.

**7. Notice of Claims or Suit.** Backup Prosecuting Attorney agrees to forward immediately to the Town every demand, notice, summons, or other process received by Backup Prosecuting Attorney that involves a claim, suit or other legal proceeding arising from Backup Prosecuting Attorney's performance of the contractual obligations imposed by this Agreement. All notices to be mailed by certified mail return receipt requested to:

Town Manager  
Town of Frederick  
401 Locust Street,  
P.O. Box 435,  
Frederick, CO 80530

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

TOWN:  
Town Manager  
Town of Frederick  
401 Locust Street,  
P.O. Box 435,  
Frederick, CO 80530

BACKUP PROSECUTING ATTORNEY:  
Jacob Starkovich, Esq.  
PO Box 1242  
Broomfield, CO 80038

**9. Entire Agreement.** This instrument embodies the whole agreement of the parties. This are no promises, terms, conditions, or obligations other than those contained herein; and this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, between the parties hereto. Except as provided herein, there shall be no modifications of this Agreement except in writing. Subject to the conditions precedent herein, this Agreement may be enforced in any court of competent jurisdiction.

**IN WITNESS WHEREOF**, the parties have made and executed this Agreement this \_\_\_\_\_ day of January 2020.

TOWN OF FREDERICK

JACOB STARKOVICH, ESQ.

By:

By:

\_\_\_\_\_  
Tony Carey, Mayor

\_\_\_\_\_  
Jacob Starkovich, Esq.

ATTEST:

\_\_\_\_\_  
Meghan C. Martinez, CMC, Town Clerk

## Jacob A. Starkovich

POB 1242, Broomfield, Colorado 80038 • 720-937-4293 • [starlaw@mail.com](mailto:starlaw@mail.com) • starlawdenver.com

### Legal Experience

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#### **Private Attorney – Starkovich Law, LLC**

**March 2008 - Present**

- A firm focusing on general legal practice and successful in over 550 trials and settlements.
- Assisted the Aurora Public Defender, City of Littleton, City of Brighton and Commerce City as a Court Appointed Attorney.
- Town of Lyons Prosecutor and Town of Frederick special prosecutor for Liquor Licensing; Erie Special Prosecuting Attorney; City of Thornton substitute prosecutor.

#### **Deputy City Attorney – City of Thornton, Colorado**

**February 2003 – March 2008**

- Prosecuted misdemeanor criminal offenses, ordinance violations, code violations and model traffic code offenses averaging over 13,000 cases per year for five years.
- Vast court trial and jury trial experience including over 220+ prosecution cases proceeding to trial over five years with approximately an 85% conviction rate.
- Researched criminal and civil issues for the drafting of city ordinances, amendments, memorandums of understanding and inter-governmental agreements to be presented to city council for consideration.
- Represented the Local Licensing Authority on state and local liquor licensing and administrative law issues.
- Conducted civil depositions relating to police and fire department civil issues and criminal investigations.

#### **Deputy District Attorney - Colorado 10<sup>th</sup> Judicial**

**December 2000 - February 2003**

- Conducted thousands of arraignments and plea-bargaining with attorneys and pro se defendants.
- Prepared and prosecuted over 30 misdemeanor jury trials and several district court felony jury trials.
- Perfected motion and brief writing and conducted hundreds of motion and restitution hearings.
- Completed numerous successful appeals including researching and writing appellate briefs and responses.
- Vast experience in felony juvenile district court with detention and adjudication hearings and court trials.
- Performed on call duties to assist law enforcement officers with search warrant and evidence gathering issues.

#### **Appellate Division - Colorado 18<sup>th</sup> Judicial**

**April 1999 - September 1999**

- Researched case law and wrote memorandums and appellate briefs for the 18<sup>th</sup> Judicial District.
- Wrote case briefs from U.S. Supreme Court, Colorado Supreme Court and Colorado Court of Appeals cases.

#### **Consumer Relations - Colorado State Court**

**January 1996 - August 1996**

- Researched and published Colorado court procedure manuals for the education of high school and law students.
- Created educational materials for pro-se citizens on family law issues and how to obtain restraining orders.

### Additional Supervisory and Enforcement Experience

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#### **Colorado Rockies - Guest Services Supervisor**

**1995 - 2000**

- Supervised a team averaging 25 people who provided customer service, information and policy enforcement.

#### **Denver Broncos - Guest Relations Supervisor**

**1995 - 1997**

- Trained and supervised customer service representatives and resolved over 50 customer issues per game day.

#### **Denver Nuggets - Media Relations Assistant**

**1995 - 1997**

- Secured favorable media relations by compiling quarter-by-quarter statistics for the media.

#### **Regis Intramural Director; Regis Athletic Affairs Director; Regis Resident Assistant**

**1994 -1997**

- Selected as the Intramural Director to provide a structured, complex sports program for over students year round.
- Appointed by the Student President to assist the Athletic Director in athletic promotions and game day events.
- Resident assistant on multi-cultural, substance abuse and various issues while enforcing campus policies.

## Jacob A. Starkovich

### Education

- **Oklahoma City University School of Law - Top 30% in class / Grade Point Average 7.2 (B-) out of 12(A+).** Juris Doctorate Degree conferred May 6, 2000. Licensed to practice law in Colorado on October 16, 2000.
- **Regis University - Denver, Colorado - Grade Point Average 3.1 out of 4.0.** Bachelor of Arts Degree with Double Major in Political Science and Philosophy conferred May 4, 1997.

### Committees, Associations and Training

- Appointed to serve as a member of the Broomfield Local Licensing Authority for licensing and enforcement issues related to liquor licensing. **2016-present.**
- Appointed to serve as counsel to the Denver Homeless Ministry Board which serves Denver's homeless in ministry and general counsel and care. <http://www.thedhms.org/> **2012-present.**
- Appointed by the Westminster City Council to serve on the Board of Building Code Appeals as a board member serving to assist in appeals of interpretations of building code issues. **2008-2012.**
- Instrumental as a committee member with a goal to create communication for the sharing of juvenile criminal information between Thornton and Adams County School District 12 and Judicial District 17. **2006-2007.**
- Collaborated with traffic engineering and the police department to develop photo red light and photo speed radar for Thornton by researching the legality and feasibility of these devices. **2006-2007.**
- Assisted the Thornton Fire Department creating a juvenile diversion program for those at risk of committing arson and fire related offenses by setting goals to prevent future fire related offenses by juveniles. **2005-2006**
- Responsible for annual training on legislation promulgated by the Colorado Legislature and drafting and presenting the necessary changes for the Thornton City Council. **2004-2007.**
- Appointed by the Pueblo District Attorney to serve on the Pueblo Child Advocacy Board of Directors as a board member and assisted with fund-raising to build a new home for the crisis center. **2002-2003.**
- Attended the annual District Attorney Conference and Colorado Municipal League conferences that covered vast areas of criminal and municipal law. **2001-2006.**

### Honors and Highlights

- Nominated and Awarded by the City of Thornton for implementing full time court. **2007**
- Performed dozens of educational speaking and training sessions for high school students on Life, Law and Political issues focusing on criminal justice and the juvenile justice system as well as regularly speaking to juveniles ordered to attend juvenile diversion education classes across the metro area. **2003-2007**
- Regular volunteer for Denver and Boulder homeless shelters to serve food to the needy and assisted in English language training for Hispanic immigrants. **2003-present**
- Selected for Pueblo's "Ask a Lawyer" Educational TV program as guest attorney discussing the many legal implications of receiving a driving under the influence charge and a domestic violence charges. **2002**
- Wrote and published civil procedure article for law school seminar titled "28 U.S.C. § 1367 and The Federal Court of Appeals for the Tenth Circuit." **1999**
- Co-Founder of the Oklahoma City University Law Sports and Entertainment Law association and served as vice president for two years while conducting training for other interested law students. **1997-2000**

- Awarded the Regis President's Leadership Award for providing leadership skills by creating numerous community activities, community services and conducting tutoring for local school children. ***1993-1997***



# TOWN OF FREDERICK BOARD OF TRUSTEES ACTION MEMORANDUM

Tony Carey, Mayor

Laura Brown, Mayor Pro Tem  
Rocky Figurilli, Trustee  
Salvatore "Sam" DeSantis, Trustee

Tracie Crites, Trustee  
Rusty O'Neal, Trustee  
Dan March, Trustee

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## Request to Consider Implementation of Fence Permit Process

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**Agenda Date:** Town Board Meeting – January 14, 2020

**Attachments:**

- a. Fence Permit Application
- b. Section 2.16 Land Use Code (Current)
- c. Fence Permit Informational Brochure
- d. Ordinance 1327
- e. Resolution 20-R-05
- f. Exhibit A – Fence Permit Valuation Fee

**Finance Review:**

\_\_\_\_\_  
Finance Director

**Submitted by:**

Kevin Ash  
\_\_\_\_\_  
Engineering Director

**Approved for Presentation:**

  
\_\_\_\_\_  
Town Manager

Quasi-Judicial

Legislative

Administrative

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**Summary Statement:**

This is a request to adopt an ordinance to revise the Frederick Municipal Code to implement a fence permit process for the Town of Frederick. This item was tabled from the November 12, 2019 Board meeting.

**Detail of Issue/Request:**

At the May 14, 2019 meeting, the Board of Trustees directed staff to research the option of implementing a fence permitting process. On June 11, 2019, staff presented information on a fence permitting process, including potential benefits, neighboring locality procedures and the inspection process. As a result, the Board directed staff to prepare an action item for consideration by the Board to

**Built on What Matters.**

implement the fence permit process. On September 24, 2019, staff presented an action item for proposed fence permit, the Board discussed possible changes to the proposed fence permit and voted to table until November 12, 2019 Board meeting. At the November 12, 2019 meeting, the item was tabled to the January 14, 2020 Board meeting.

Staff has drafted an ordinance that requires building permits for all fences and the enclosed brochure includes general information on material and height requirements as defined in section 2.16 of the Land Use Code. In addition, the attached resolution updates the Town's Fee Schedule to include fees for fence permits. Once the permit process is established, information on the process and costs will be made available on the Town's website and promoted in partnership with the Town's Communications Division.

The Municipal Code does not include material and design requirements for fencing. Fence design standards are included under Section 2.16, Fences and Walls in the Town of Frederick Land Use Code, a copy of which is attached. Some of the highlights of this section include materials, height and maintenance requirements, which are described in brief in the informational brochure, which will be included in the new resident packet, as well as to those seeking to obtain a fence permit within Frederick.

Modification of the current fence and wall criteria in the Land Use Code is under review at this time. Further direction from the Board is needed and an ordinance will need to be prepared for a future meeting to update the appropriate sections of the Land Use Code.

**Legal/Political Considerations:**

The attached ordinance and resolution was prepared by the Town Attorney, with input from the Chief Building Official and Town Staff.

**Alternatives/Options:**

The Town has the option of not adopting a new fence permit process and continuing with the current policy of not permitting fences. Section 2.16(g) Maintenance gives the Town Building Inspector or Community Services Officer the authority to order the removal or repair of dilapidated, unsightly or dangerous fences, walls or retaining walls.

**Financial Considerations:**

This proposed process will set a fee of \$50 for single family residential fences. The fee for all other fences will be based on a valuation using the Building Permit Fees table under Section 18-1-70 in the Town's fee schedule. Review of the fence permit will fall under the Building Division.

**Staff Recommendation:**

The attached ordinance will create a fence permit process within the Town of Frederick. In addition, the attached resolution will establish a fence permit fee within the Town's Fee Schedule.



# Fence Permit Application

## Directions:

1. Attach two copies of a plot plan, drawing/sketch or the attached Diagram Example Worksheet of the property to include existing buildings, fences, streets, alleys and proposed fences. Some lots and subdivisions may have specific requirements for type, height and fencing material allowed. Please verify requirements with the Town Land Use Code Section 2.16, available online at [frederick.municipal.codes/LUC](http://frederick.municipal.codes/LUC). The Town does not have responsibility over additional HOA requirements.
2. Attach documents and/or drawings detailing design and construction of the fence to include material, height and installation method.
3. It is the responsibility of the property owner and/or contractor to locate property lines and install fencing accordingly. Improperly placed fencing could result in fencing having to be moved or removed at the property owner's expense.
4. A Fence Permit is not required for temporary fences erected in conjunction with a valid Building Permit or Temporary Use Permit.
5. Call Before You Dig! For utility line locates, dial: 811 or 1-800-922-1987.
6. By signing below, the applicant acknowledges they have read this application and agree to install the fencing according to any or all of the following that apply: Town of Frederick Land Use Code, Subdivision Final Development Plans and/or International Building Codes.

Property Owner: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_ Subdivision: \_\_\_\_\_

**Contractor Information (If Applicable)** Any contractor doing work in the Town of Frederick is required to obtain a contractor's license before a permit will be issued.

Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_

Contractors License with Town of Frederick: \_\_\_\_\_ License# \_\_\_\_\_

Valuation Total: \$ \_\_\_\_\_ Fence Type (ex: 3-rail, Privacy, etc.): \_\_\_\_\_

Material: Wood \_\_\_\_\_ Vinyl \_\_\_\_\_ Other \_\_\_\_\_ Height: \_\_\_\_\_ Length: \_\_\_\_\_

Owner/Contractor: \_\_\_\_\_

Signature

Date

**Building Department Use:**

Received By: \_\_\_\_\_

Fence Permit: \$ \_\_\_\_\_

Date Received: \_\_\_\_\_

Use Tax: \$ \_\_\_\_\_

Permit #: \_\_\_\_\_

Total: \$ \_\_\_\_\_

# **General Process for Fence Permits**

## **STEP 1: Application Submission and Permit Fee**

- Complete Fence Permit Application.
- Submit the application to the Town of Frederick with the following attachments:
  - Two copies of a plot plan or drawing/sketch: (ex. Google maps screenshot, sketch, attached Diagram Example Worksheet)
    - Indicate **dimensions, location** and **materials** of the fence.
    - Show the location of the primary structure and any accessory structures.
    - Show streets and alleyways, indicate frontage of lot.
  - Itemized list of **material and labor costs** associated with project.
- Staff will collect the permit fee at this time. Permit fee is non-refundable if the permit is denied.
  - Single Family Residential: \$50
  - Other than Single Family Residential: Fee based on valuation of total project cost.
  - Use Tax is collected on all permits.

**NOTE:** If you are using a contractor or company to install the fence, all contractors must be licensed by the Town of Frederick.

## **STEP 2: Staff Review**

- All required items listed above must be received in order for the Building Official and Planning staff to review the application.

## **STEP 3: Permit Issuance**

- Upon approval, the Building Department will notify you when the permit is ready to be picked up.
- The permit must be displayed in a visible location at the job site until project completion.

**NOTE:** You must be in possession of a valid permit before beginning any construction.

## **STEP 4: Construct Fence**

**No Inspection required for Fences seven (7) feet high and under.**

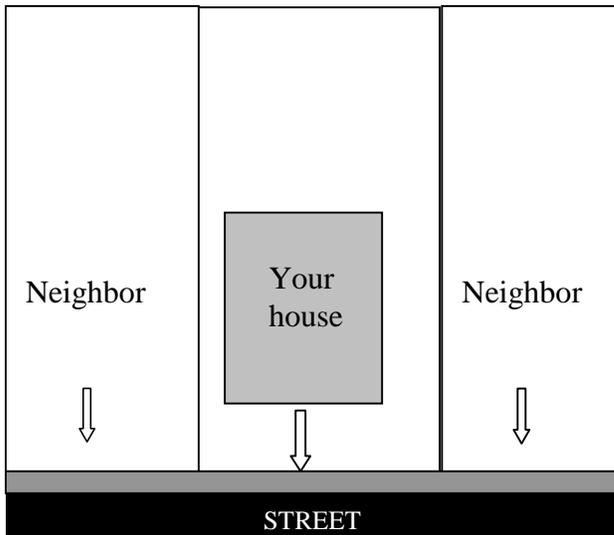
# Diagram Example Worksheet

In-lieu of a plot plan or drawing/sketch, please utilize the diagram below. Two copies are required.

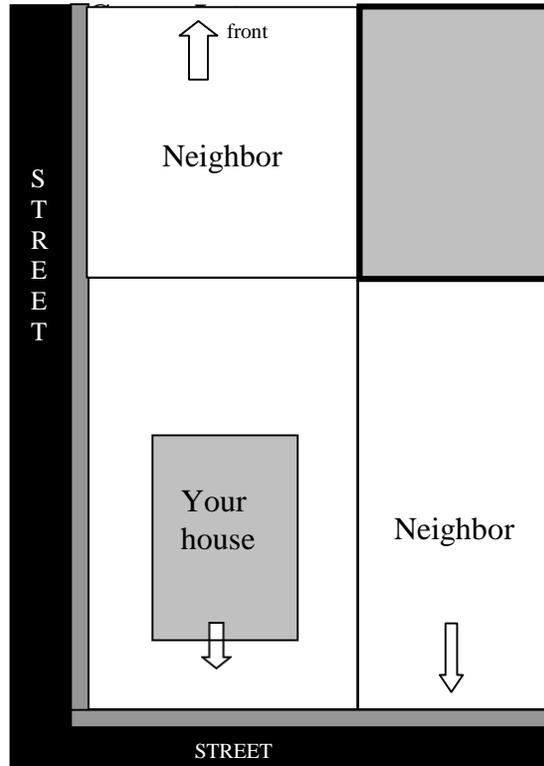
Please select the diagram below that best represents your home and lot. Place "X's" where you will be placing your fence and indicate distance from sidewalks if applicable. It is the responsibility of the homeowner or contractor to submit plans to their HOA, build fence according to approved fencing detail and material for their area and ensure that their fence is placed appropriately. Fences are not allowed to go beyond the front of the house.

**The Town is NOT responsible for enforcing HOA rules and covenants.**

## Interior Lot

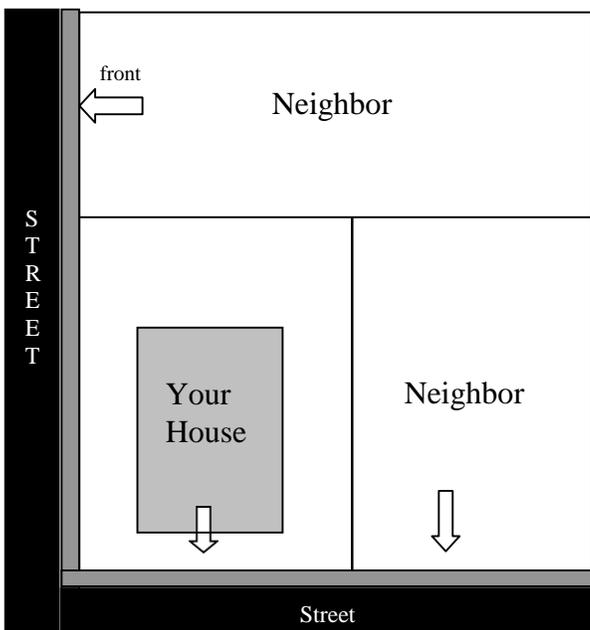


## Regular Corner Lot



## REVERSE CORNER LOT

(When side of neighbor's house faces back of your house)



Notes:

## Sec. 2.16. Fences and walls.

1. *Intent.* It is the intent of this Section to ensure that walls and fences are attractive and in character with the neighborhood.
2. *General provisions.*
  - a. *Compatibility.* Walls and fences shall be architecturally compatible with the style, materials and colors of the principal buildings on the same lot.
  - b. *Visual interest.* If used along collector or arterial streets, such features shall be made visually interesting by integrating architectural elements such as brick or stone columns, varying the alignment or setback, softening the appearance with plantings, or through similar techniques.
    - (1) In order to prevent mundane expanses of fencing, a fence must have a unique element located every fifty (50) feet.
    - (2) Retaining walls in residential districts:
      - (a) Adjacent to a local street are exempt from this requirement;
      - (b) Adjacent to a collector or arterial street and more than three hundred (300) square feet shall have a unique element every fifty (50) feet.
    - (3) Retaining walls in a non-residential zoning district and more than three hundred (300) square feet shall have a unique element every fifty (50) feet.
  - c. *Fence/wall materials.*
    - (1) Stone walls, brick walls with a stone or cast stone cap, treated wood fences, decorative metal, cast iron fences, stucco walls, and stone piers are encouraged.
    - (2) Solid walls and fences are permitted in rear and side yards of all zoning districts, provided they are not within the site distance triangle.
    - (3) Fences used within front setbacks of all zoning districts shall be at least fifty percent (50%) open. Allowable fences are split rail, wrought iron, picket or other opaque fences of a similar nature.
    - (4) Hedges may be used in the same manner and for the same purposes as a fence or wall.
    - (5) Solid fences shall be constructed to meet the wind design criteria of the currently adopted building code, using a basic wind speed of ninety (90) miles per hour.

(6) Other materials may be incorporated in fences and walls as may be approved by the Planning Director.

(7) Chain link fencing is permitted in the following instances:

(a) In the Industrial zoning district with the following restrictions:

- i) The chain link is vinyl coated;
- ii) It is no taller than eight (8) feet anywhere on the premises.

(b) Around a publicly owned recreation area with the following restrictions:

- i) The chain link is vinyl coated.

(c) Around the playground area of a state licensed child care center with the following restrictions:

- i) The chain link is vinyl coated.
- ii) The fence is less than five (5) feet tall.

d. *Prohibited materials.*

(1) Contemporary security fencing such as concertina or razor wire, barbed wire or electronically charged fences are prohibited unless specifically allowed by the Board of Trustees. Electric barrier fencing installed and used with a transmitter collar worn by a dog(s) for the purpose of maintaining the dog(s) within the owner or keeper's premises shall be permitted.

(2) Chain link fencing with or without slats shall not be used as a fencing material except as identified in Section [2.16.2.c\(7\)](#).

e. *Retaining walls.* Retaining walls shall be designed to resist loads due to the lateral pressure of retained material in accordance with accepted engineering practice and shall not be unsightly or detrimental to abutting property.

(1) Retaining walls are permitted where required for landscaping or architectural purposes.

f. *Height limitations.* Fences or walls shall be:

(1) No more than forty-two (42) inches high between the front building line and the front property line. For corner lots, front yard fence regulations shall apply to both street sides of the lot.

- (2) No more than forty-two (42) inches high if located on a side yard line in the front yard, except if required for demonstrated unique security purposes.
- (3) No more than seven (7) feet high for an opaque privacy fence located on a rear property line or on a side yard line in the rear yard.
- (4) No more than seven (7) feet high for opaque privacy fences that are located directly adjacent to and integrated with the architecture of the house or connected to a courtyard.
- (5) No more than thirty (30) inches high when located within the site distance triangle, and fences or walls within this site distance triangle shall not be solid.
- (6) In the Industrial (I) zone district, a chain link fence may be up to eight (8) feet tall.
- (7) Fences around a recreation court (e.g., tennis, squash racket, squash tennis or badminton) or around a publicly owned recreation area may exceed seven (7) feet in height if the fence is at least fifty percent (50%) open.

g. *Maintenance.*

- (1) Dilapidated, unsightly, or dangerous fences, walls, or retaining walls shall be removed or repaired when so ordered by the Building Inspector or Community Service Officer according to Municipal Code Chapter [7](#), Article II or Chapter [11](#), Article III.

3. *Warranty period.* Developers shall provide a warranty period for perimeter fences along arterial and collector streets of two (2) years. Provision for compliance shall be as outlined in the warranty section of the Memorandum of Agreement for Public Improvements (MOAPI). (Ord. 1145 § 15 (Exh. A), 2013)

**The Frederick Land Use Code is current through Ordinance 1295, passed 2018.**

Disclaimer: The Town Clerk's Office has the official version of the Frederick Land Use Code. Users should contact the Town Clerk's Office for ordinances passed subsequent to the ordinance cited above.

[Town Website: www.frederickco.gov](http://www.frederickco.gov)

Town Telephone: (720) 382-5500

[Code Publishing Company](#)



## FENCE MATERIALS AND DESIGN

Section 2.16, Fences and Walls, of the Frederick Land Use Code, outlines the types of materials allowed for fences within the Town of Frederick.

A variety of fence and wall materials are allowed including:

- Treated wood
- Decorative metal
- Cast iron fences
- Stucco walls
- Stone walls
- Brick walls with a stone cap
- Chain link (with restrictions in certain zones)

Materials that are generally not permitted include security fencing such as razor wire, barbed wire, or electronically charged fences; chain link fencing is only allowed as under section 2.16(2)(c) (7).

If you have any questions regarding allowable or prohibited materials, contact the Planning Department at (720) 382-5650.

More information on materials is available online at [Frederick.Municipal.Codes/LUC/2.16](https://www.frederickco.gov/Planning/2016-Land-Use-Code/2.16-Fences-and-Walls)

## MORE INFORMATION

### Fence Permit Fee

For single family residential properties, there is a flat fee of \$50, plus use tax. For all other properties, the fee is based on valuation of total project cost.

### Application

The fence permit application is available at Town Hall during regular business hours or online at [FrederickCO.gov/Fences](https://www.frederickco.gov/Fences).

### Questions?

For questions, please contact the Town of Frederick Building Division at (720) 382-5604 or email [MTheisen@FrederickCO.gov](mailto:MTheisen@FrederickCO.gov).

## CONTACT US

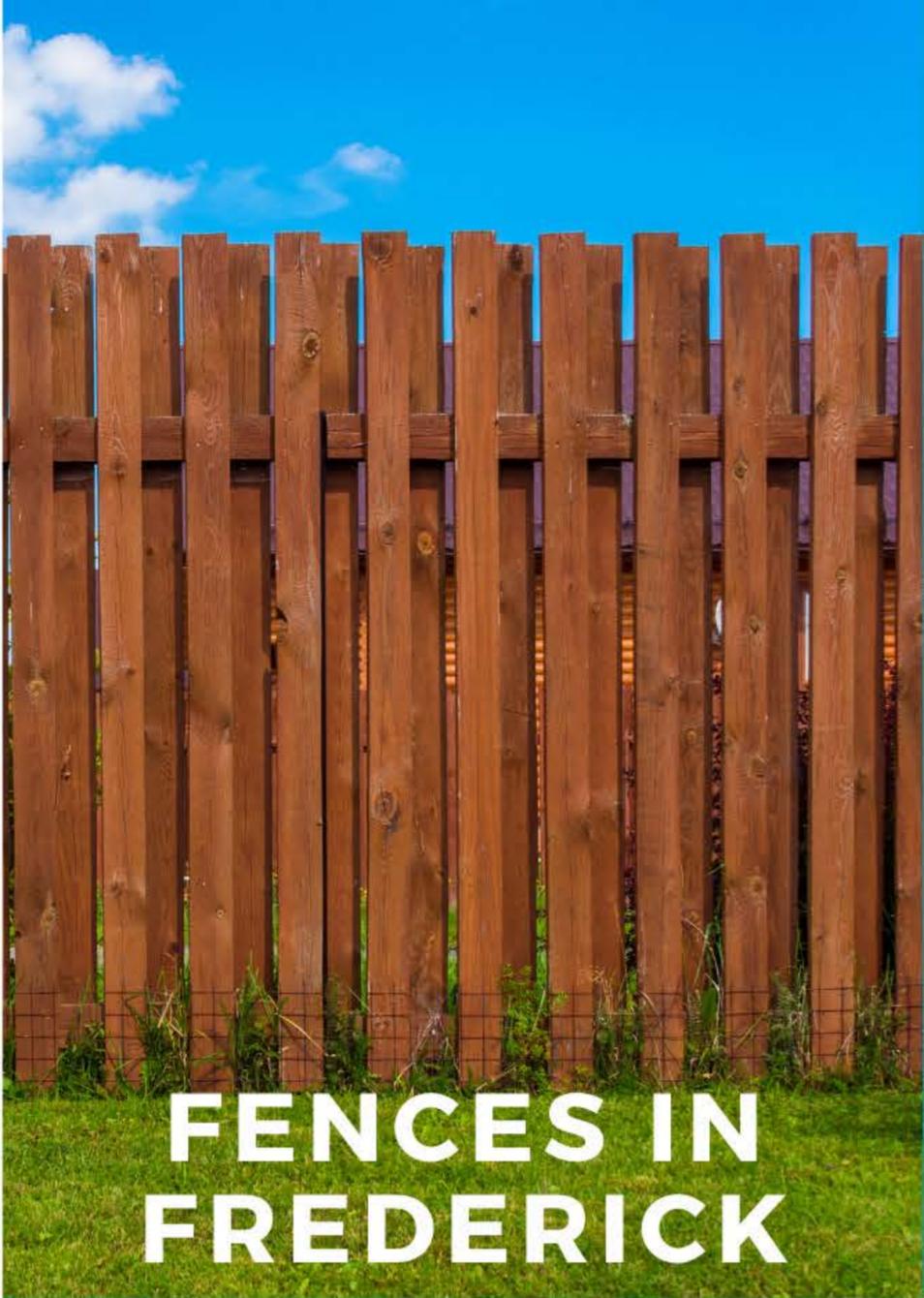
Town of Frederick  
Engineering Department  
Building Division  
401 Locust Street  
Frederick, CO 80530

Phone: (720) 382-5604

Fax: (720) 382-5520

Email: [Building@FrederickCO.gov](mailto:Building@FrederickCO.gov)

[FrederickCO.gov](https://www.frederickco.gov)



## FENCES IN FREDERICK

Frequently Asked Questions  
about Installing, Altering or  
Relocating Fences in Frederick



Built On What Matters

# DO I NEED A FENCE PERMIT?

Yes. A permit is needed:

- To install a new fence
- To move an existing fence
- To alter an existing fence (such as materials)

The fence permit process ensures that fences are installed in accordance with current land use and building regulations, do not negatively impact sight lines and ensure that fences are attractive and in character with the community.

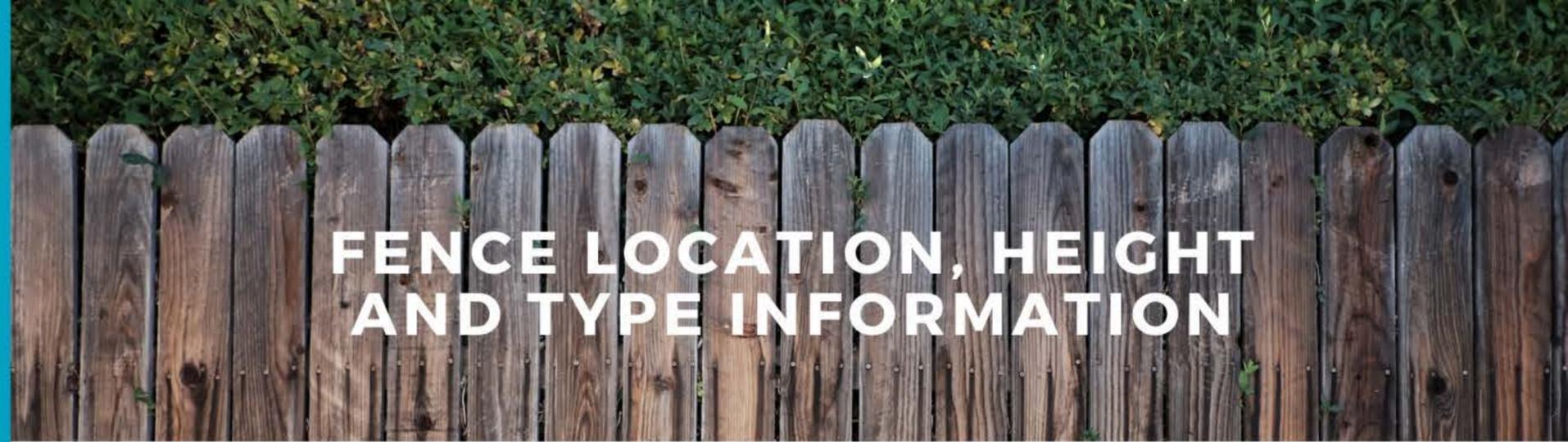
# HOW DO I GET A FENCE PERMIT?

Permits are issued by the Town of Frederick's Building Division. Applicants must submit an application and two copies of a plot plan or sketch using the provided diagram examples to identify existing buildings, fences, streets and alleys, as well as the location of proposed fences and/or alterations.

Applications are available online at [FrederickCO.gov/Fences](http://FrederickCO.gov/Fences).

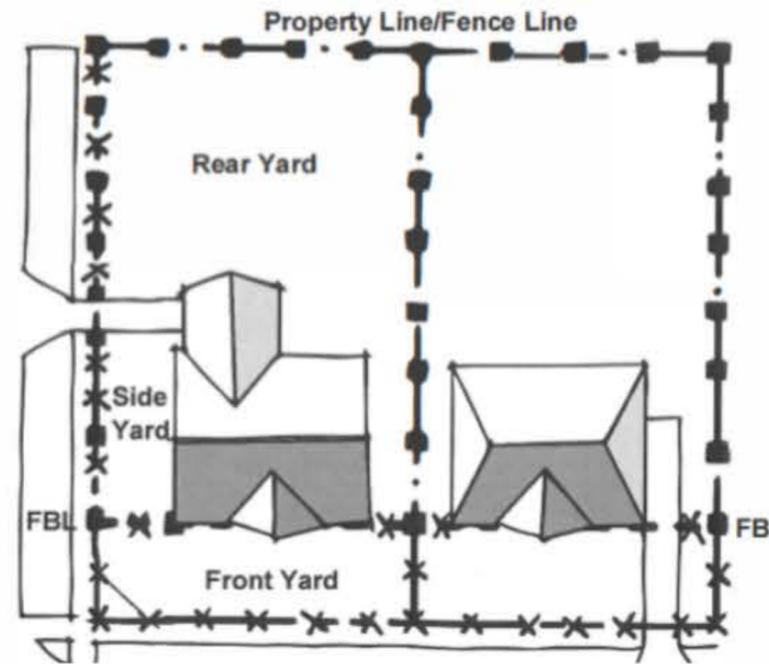
Mail to:  
 Frederick Building Division  
 PO Box 435  
 Frederick, CO 80530

Email to:  
[MTheisen@FrederickCO.gov](mailto:MTheisen@FrederickCO.gov)



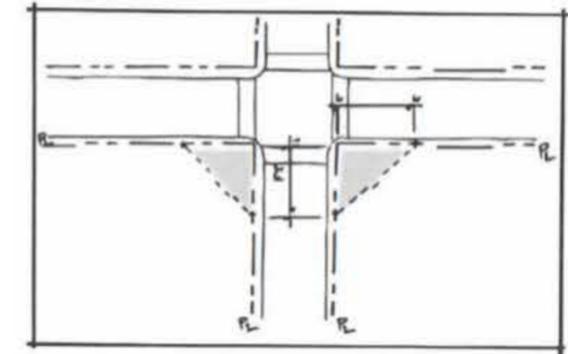
# FENCE LOCATION, HEIGHT AND TYPE INFORMATION

## RESIDENTIAL FENCE HEIGHT AND PLACEMENT



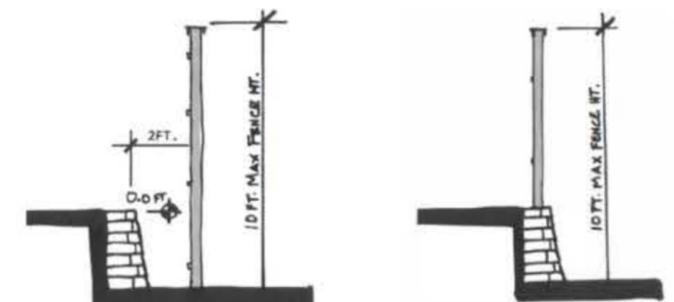
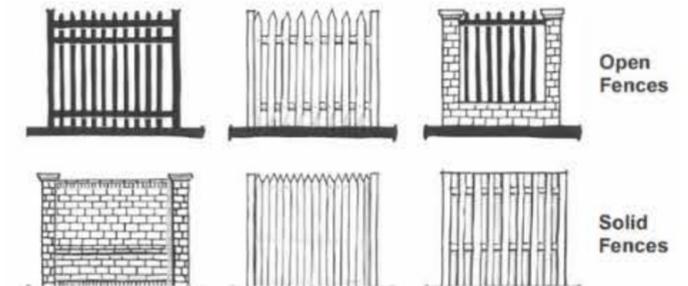
	<ul style="list-style-type: none"> <li>• Fence height is limited to 7 feet behind the Front Building Line (FBL)</li> <li>• Solid fences are permitted</li> </ul>
	<ul style="list-style-type: none"> <li>• Height is limited to 42 inches</li> <li>• Fence must be at least 50% open</li> </ul>
	<ul style="list-style-type: none"> <li>• Either type of fence or a combination of the two outlined above is permitted depending on location of the "front" of the house</li> </ul>

## SIGHT DISTANCE TRIANGLE



Do you have a corner lot? If so, then sight distance restrictions apply. Solid fences taller than 30 inches are not permitted in the sight distance triangle (indicated in gray). If you are planning on building a fence impacting a sight distance triangle, please contact the Building Division for assistance.

## EXAMPLES OF FENCE TYPES AND FENCES ON RETAINING WALLS



**TOWN OF FREDERICK, COLORADO  
ORDINANCE NO. 1327**

**AN ORDINANCE OF THE TOWN OF FREDERICK, COLORADO, AMENDING  
CHAPTER 18, ARTICLE I, OF THE *FREDERICK MUNICIPAL CODE* REGARDING  
BUILDING CODE REGULATIONS TO REQUIRE BUILDING PERMITS FOR  
FENCES.**

**WHEREAS**, the provisions of the Frederick Building Code are necessary to protect life, health, and property within the Town, to prevent nuisances within the Town, to preserve and enforce the general welfare, and to protect safety, order and security of the Town and the inhabitants thereof; and

**WHEREAS**, the purpose of this amendment is to require building permits for all fences.

**BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF FREDERICK, COLORADO, AS FOLLOWS:**

**Section 1.** Section 18-1-70 of the *Frederick Municipal Code* is hereby amended by the addition of the following subsections:

“(94) Section 105.2 Building: of the *International Residential Code* is amended by the replacement of the phrase “2. Fences not over 7 feet (2134 mm) high” with the words “2. Deleted” (Design standards for fences and walls are included in the Land Use Code undersection 2.16.)

“(95) Section 105.2 Building: of the *International Building Code* is amended by the replacement of the phrase “2. Fences not over 7 feet (2134 mm) high” with the words “2. Deleted” (Design standards for fences and walls are included in the Land Use Code undersection 2.16.)

**Section 2. Effective Date.** This ordinance shall be published and become effective as provided by law.

**Section 3. Severability.** If any part, section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining sections of the ordinance. The Town Board hereby declares that it would have passed the ordinance including each part, section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more parts, sections, subsections, sentence, clauses or phrases are declared invalid.

**Section 4. Repealer.** All ordinances or resolutions and motions of the Board of Trustees of the Town of Frederick or parts thereof, in conflict with this ordinance are to the extent of such conflict hereby superseded and repealed, provided that such repealer shall not repeal the repealer clauses of such ordinance, resolution or motion, nor revive any ordinance, resolution or motion thereby.

**INTRODUCED, READ, PASSED, ADOPTED AND ORDERED PUBLISHED THIS  
14TH DAY OF JANUARY, 2020.**

**ATTEST:**

By \_\_\_\_\_  
Meghan C. Martinez, CMC, Town Clerk

**TOWN OF FREDERICK**

By \_\_\_\_\_  
Tony Carey, Mayor

**TOWN OF FREDERICK  
RESOLUTION NO. 20-R-05**

**A RESOLUTION OF THE TOWN OF FREDERICK, COLORADO,  
AMENDING FEES FOR MUNICIPAL SERVICES**

**WHEREAS**, The Town of Frederick has adopted Ordinance No. 1161 which established a process for establishing certain municipal fees; and

**WHEREAS**, Ordinance No. 1161 directed the Town Clerk to prepare and publish by posting a listing of all such fees; and

**WHEREAS**, pursuant to the Ordinance No. 1161, the fee schedule is reviewed and updated periodically by resolution; and

**NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF FREDERICK, WELD COUNTY, COLORADO THAT:**

**Section 1.** The Board of Trustees hereby amends the Fee Schedule with the changes noted on the attached Exhibit A.

**Section 2. Effective Date.** This resolution and attached Exhibit A shall become effective immediately upon adoption.

**Section 3. Repealer.** All resolutions, or parts thereof, in conflict with this resolution are hereby repealed, provided that such repealer shall not repeal the repealer clauses of such resolution nor revive any resolution thereby.

**Section 4. Certification.** The Town Clerk shall certify to the passage of this resolution and make not less than one copy of the adopted resolution available for inspection by the public during regular business hours.

**INTRODUCED, READ, PASSED, AND ADOPTED ON THIS 14TH DAY OF JANUARY, 2020.**

**ATTEST;**

\_\_\_\_\_  
Meghan C. Martinez, CMC, Town Clerk

**TOWN OF FREDERICK**

By \_\_\_\_\_  
Tony Carey, Mayor

## EXHIBIT A

### Section 18-1-70 Building Code Permit Fees

Building Permit Fees:

Value of Project	Fee
\$1.00 to \$500	\$23.50
\$501 to \$2,000	\$23.50 for the first \$500 plus \$3.05 for each additional \$100 or fraction thereof, up to and including \$2,000
\$2,001 to \$25,000	\$69.25 for the first \$2,000 plus \$14.00 for each additional \$1,000 or fraction thereof, up to and including \$25,000
\$25,001 to \$50,000	\$391.75 for the first \$25,000 plus \$10.10 for each additional \$1,000 or fraction thereof, up to and including \$50,000
\$50,001 to \$100,000	\$643.75 for the first \$50,000 plus \$7.00 for each additional \$1,000 or fraction thereof, up to and including \$100,000
\$101,001 to \$500,000	\$993.75 for the first \$100,000 plus \$5.60 for each additional \$1,000 or fraction thereof, up to and including \$500,000
\$500,001 to \$1,000,000	\$3,233.75 for the first \$500,000 plus \$4.75 for each additional \$1,000 or fraction thereof, up to and including \$1,000,000
\$1,000,001 and up	\$5,608.75 for the first \$1,000,000 plus \$3.65 for each additional \$1,000 or fraction thereof

Plan Review Fee

65% of Building Permit Fee

Fence Permit Fee:

Residential:

Flat Rate

\$50.00

Commercial:

Valuation of Project

Building Permit Fee Valuation

*\*Use Tax is collected on all building permits.*