

ORDINANCE NO. 1015

**AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF
FIRESTONE, COLORADO ANNEXING THE PROPERTY KNOWN AS THE
DENMORE ANNEXATION TO THE TOWN OF FIRESTONE, COLORADO;
AND APPROVING THE ASSOCIATED ANNEXATION AGREEMENT**

WHEREAS, the Board of Trustees previously adopted Resolution 22-70, finding substantial compliance and initiating annexation proceedings for the Denmore Annexation, as described therein and as described below; and

WHEREAS, the Board of Trustees previously adopted Resolution 22-78, setting forth findings of fact and determinations regarding the eligibility of Denmore Annexation for annexation; and

WHEREAS, Denmore, LLC, who submitted the petition relating to the Denmore Annexation, and the Town wish to agree to certain terms pertaining to the Denmore Annexation; and

WHEREAS, the Board of Trustees has determined that it is in the best interests of the Town of Firestone to annex the property to be known as Denmore Annexation (the "Property") to the Town.

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

Section 1. The Board of Trustees makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. The Board of Trustees hereby incorporates the findings of Resolution 22-70 and Resolution 22-78; the Board of Trustees further finds that the annexation of the Property is in compliance with the Municipal Annexation Act of 1965 and that it is in the best interests of the Town to annex the Property to the Town.

Section 3. The Property, as more particularly described in **Exhibit A**, attached hereto and incorporated herein, is hereby annexed to the Town and made a part of the Town, to be known as the Denmore Annexation, which annexation shall become effective upon completion of the conditions contained in C.R.S. § 31-12-113, including, without limitation, all required filings for recording with the Weld County Clerk and Recorder.

Section 4. The Annexation Agreement between Denmore, LLC and the Town of Firestone regarding the Denmore Annexation is approved in substantially the same form as the copy attached hereto as **Exhibit B**. Upon the effective date of this Ordinance, the Mayor is authorized to execute such Agreement on behalf of the Town.

Section 5. That in annexing the Property to the Town, the Town does not assume any obligation regarding the construction of water mains, sewer lines, gas mains, electrical service lines, streets or any other service or utilities in connection with the Property hereby annexed, except as may be provided by ordinances of the Town.

INTRODUCED, READ, ADOPTED, APPROVED, AND ORDERED PUBLISHED BY
TITLE this 13th day of July, 2022.

TOWN OF FIRESTONE, COLORADO


Drew Alan Peterson, Mayor



ATTEST:


Jessica Koenig, GMC Town Clerk

APPROVED AS TO FORM:



William P. Hayashi, Town Attorney

EXHIBIT A
(Legal Description)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

EXHIBT B
(Annexation Agreement)

ANNEXATION AGREEMENT

This Agreement is made and entered into this ____ day of _____, 2022, by and between **DENMORE LLC.**, a Colorado limited liability company (“Annexor”), whose legal address is 1942 Broadway Street, Suite 314C, Boulder, Colorado, 80302, and the **TOWN OF FIRESTONE**, a Colorado municipal corporation, with a legal address of 9950 Park Avenue, Firestone, Colorado, 80504 (the “Town”). The Town and Annexor may be termed individually a “Party” or collectively the “Parties.”

WHEREAS, the Annexor holds fee title to more than fifty percent (50%) of the property to be annexed to the Town pursuant to the DENMORE ANNEXATION and as more particularly described in **Exhibit A**, attached hereto, (hereinafter the “Annexation Property” or the “Property”); and

WHEREAS, the Annexor desires to have the Property annexed to and be subject to the jurisdiction of the Town, upon and subject to the terms and conditions set forth herein, all of which conditions are agreeable to the Annexor; and

WHEREAS, the Annexor intends to file a Petition to annex the Property to the Town; and

WHEREAS, the Parties desire to include in this Agreement certain provisions, understandings and agreements regarding the Property and its annexation; and

WHEREAS, the Town Board of Trustees has determined that it is in the best interest of the Town to annex the Property, to provide municipal services thereto, and to receive revenues from the Property upon the terms and conditions contained herein.

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

1. Warranties of Parties.

(a) Annexor.

(i) Annexor is the legal and equitable owner of that certain portion of the Annexation Property, as more particularly described in **Exhibit A-1**.

(b) Town of Firestone

(i) The Town of Firestone is a Colorado statutory municipality and has the power to take all actions required to authorize this Agreement and to carry out the obligations hereunder.

2. Annexation. The annexation of the Annexation Property shall be in accordance with the Colorado Municipal Annexation Act of 1965, as amended, the Firestone Municipal Code and all applicable laws.

(a) Conditions Precedent. Annexation of the Property shall not become effective, and neither the Annexor nor the Town shall record or cause to be recorded the items described in C.R.S. § 31- 12- 113(2)(a)(II)(A) or this Agreement, until all of the following conditions have been satisfied (it being acknowledged that the Town shall record the requisite documents to effect annexation of the Property upon satisfaction of the conditions precedent):

- (i) The Annexor and the Town have mutually executed and delivered this Agreement;
- (ii) The ordinance approving the annexation of the Property has become effective in accordance with the provisions of the Firestone Development Code; and
- (iii) The Board of Trustees approves Residential A (R-A) and Neighborhood Center (NC) zoning for the Property.

(b) Failure of Conditions. Until the conditions precedent set forth in subparagraph 2.a have been satisfied, this document shall constitute an offer by the Annexor and the Town to enter into this Agreement (notwithstanding the parties' mutual execution and delivery of this document), and the annexation of the Property to the Town shall not become effective. In such case, neither the Annexor nor the Town shall record or cause to be recorded this Agreement or the items described in C.R.S. § 31- 12- 113(2)(a)(II)(A).

3. Purpose. The purpose of this Agreement is to set forth the terms, conditions, and fees to be paid by the Annexor upon the initial development of the Property. Unless otherwise expressly provided to the contrary herein, all conditions contained herein are in addition to any and all requirements of the Firestone Development Code and Firestone Municipal Code, as amended.

4. Consent to Annexation. Annexor hereby consents to the annexation of the Property subject to the terms of any Petition for Annexation filed with the Town, pursuant to C.R.S. § 31- 12-107(1), and this Agreement.

5. Zoning.

(a) Annexor hereby consents to the zoning of the Property as Residential A (R-A) and Neighborhood Center (NC), in accordance with the Town's established zoning designations. Initial zoning of the Property shall be considered simultaneously with the Petition for Annexation by the Town as allowed by the Colorado Municipal Annexation Act of 1965.

(b) Because the zoning of property in Colorado constitutes legislative action by a municipality, nothing in this Agreement shall be construed to be an agreement, commitment, or contract binding the Town to approval of any specific zoning. Moreover,

nothing in this Paragraph shall constitute or be interpreted as a waiver or abrogation of the Town's legislative, governmental, or police powers to later rezone the Property to promote and protect the health, safety and general welfare of the Town or its inhabitants.

6. Application of Town Laws. Except as expressly provided herein, all Town ordinances, regulations, policies, and procedures, and all requirements contained in the Firestone Development Code and Firestone Municipal Code, currently in effect and as the same may be amended from time to time, shall be applicable to the use and development of the Property, upon annexation.

7. Water Services. The Town will provide water services to the Annexation Property, if Annexor satisfies all requirements of the Firestone Development Code or Firestone Municipal Code including, but not limited to, the dedication of water rights and/ or the payment of fees in lieu thereof, and the construction of water lines and facilities necessary to service the land use proposed for the Property.

(a) No Vested Rights. IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT ANNEXOR HAS NO CLAIM OR ENTITLEMENT TO RECEIVE WATER UTILITY SERVICES FROM THE TOWN OR RIGHT TO ANY PORTION OF THE SUPPLY OF WATER OR CAPACITY IN THE TOWN'S WATER SYSTEM TO SERVE THE POTENTIAL MAXIMUM DEVELOPMENT OF THE PROPERTY OR FUTURE SUBDIVISION PHASES UNDER THIS AGREEMENT. Annexor acknowledges and agrees that no vested property rights are granted by this Agreement. Further, Annexor hereby waives and releases any common law vested rights, whether known or unknown, suspected or unsuspected, contingent or fixed, relating to water treatment and conveyance capacity, which Annexor may or might hereafter have or acquire against the Town arising from or relating to the granting of any land-use approvals, building permits, certificates of occupancy, or the construction of public improvements.

(b) System Connection. Annexor acknowledges and agrees that capacity in the Town's water system may not be available or capable of serving the potential maximum development of the Property, and that the Town is not making and it expressly disclaims any express or implied warranty, representation, or commitment of any kind that the Property is capable of receiving water utility services from the Town, to sell or furnish utility services or extend utility infrastructure to the Property for future development, or to make available capacity from the existing Town water utility system sufficient to meet the projected water needs of the Property or any future development of the Property.

(c) No Guarantee of Water. Nothing in this Agreement shall be construed to provide or warrant, and the Town specifically disclaims, and that it is obligated under this Agreement to supply any guaranteed minimum or maximum volume or quantity of potable water to the Property at any time, nor is the Town making any express or implied warranty, representation, or commitment of any kind regarding the available supply, flow rates or quantity of potable water.

(d) Existing Central Weld Connections. Upon development of the Annexation Property and conditioned upon the Town committing to provide water services for the benefit of the Annexation Property, Annexor shall terminate any and all existing Central Weld County Water District water service connections to the Annexation Property, and shall take any and all other steps as necessary to effectuate a change of service provider for the Annexation Property to the Town.

7. Sewer Services. Town does not provide wastewater services to the Annexation Property, and Annexor acknowledges that the Town has no obligation under this Agreement to provide sewer service to the Annexation Property upon annexation. Annexor is directed to St. Vrain Sanitation District for the provision of wastewater services. Annexor shall be responsible for satisfying all requirements of St. Vrain Sanitation District for the extension of wastewater services necessary to serve the land use proposed for the Annexation Property.

8. Other Services. Upon annexation, the Town shall provide all customary public safety (but excluding fire protection) and public roadway and maintenance services to the Annexation Property, to the same extent and upon the same terms and conditions as such services are provided to other properties throughout the Town.

9. Special District Formation. The Town will allow the formation of a special district on the Property to finance the construction of public improvements, subject to the applicable provisions of the Firestone Development Code and Firestone Municipal Code, as amended.

(a) Annexor shall submit a proposed service plan for the special district, and the Town shall review and timely act upon such service plan and the organization of the special district in accordance with C.R.S., § 32-1-204.5, and any other applicable state statutes.

10. Special District Inclusion. Upon annexation or upon thirty (30) days' written notice of the Town to Annexor, as determined by the Town, Annexor shall initiate an action necessary to assure inclusion of the Annexation Property into the Northern Colorado Water Conservancy District, the Municipal Subdistrict, Northern Colorado Water Conservancy District, the St. Vrain Sanitation District, Frederick-Firestone Fire Protection District, the Carbon Valley Recreation District (if the Property is not yet within one or more of these district), and any other special districts as determined by the Town.

11. Special District Exclusion.

(a) Upon annexation, Annexor will initiate and diligently pursue actions necessary to assure exclusion of the Annexation Property from any and all special districts that provide municipal services to the Annexation Property of a type described in sections 7 and 8; provided, however, that Annexor shall not be required to complete any such exclusion until such time that the Town or the special districts are able to actually provide such services to the Annexation Property.

(b) Upon annexation, the Town may, at its option, initiate actions necessary to

assure exclusion of the Property from any and all special districts that provide municipal services to the Annexation Property of a type described in sections 7 and 8. The Annexor shall bear the related costs and legal fees for said exclusion, including any amounts as may be required to pay to any special district to effectuate exclusion, if the exclusion proceedings are initiated within 12 months of the effective date of the annexation.

12. Land Dedication. Annexor further agrees as follows:

(a) Property Conveyance For Future Right-of-Way. Upon annexation or upon sixty (60) days' written notice of the Town to Annexor, as determined by the Town, Annexor shall convey to the Town, by special warranty deed, in fee simple absolute, free and clear of all liens and encumbrances, any, land necessary for additional future right-of-way for Frontier Street or Firestone Blvd. on the eastern and/or southern boundary of the Annexation Property, as determined by the Town in its sole and absolute discretion. In connection with the further subdivision and development of the Annexation Property, the Town may require additional dedications of rights-of-way for public streets necessary to serve the subdivided or developed Annexation Property.

13. Water Dedication. Annexor represents that there are appurtenant to the Property certain surface and/or groundwater "water rights" owned by Annexor, as more particularly described on **Exhibit B**, attached hereto and made a part of this Agreement ("the Water Rights"), Annexor further represents that the Water Rights constitute all of the water rights appurtenant to the Property, and that the Water Rights are and will be used in connection with current uses of the Property until the Property is developed.

(a) Grant of Right of First Refusal. Annexor hereby agrees to grant to the Town a right of first refusal to acquire the Water Rights owned by Annexor ("Right of First Refusal").

(b) Exercise of Right of First Refusal. Annexor will not sell the Water Rights, or any part thereof, without first offering it to the Town for purchase. The Right of First Refusal granted to the Town shall be honored by Annexor and exercised in the following manner:

- (i) If, at any time, Annexor elects to place the fee title interest in the Water Rights for sale to a third-party, or Annexor receives a bona fide third-party offer to purchase or otherwise acquire title to the Water Rights, or any part thereof, any contract which may be entered into between Annexor and such bona fide purchaser shall specifically provide that the transaction shall be subject to the Right of First Refusal set forth in this Agreement.
- (ii) In the event that Annexor enters into such contract with a bona fide third-party purchaser, the Town shall have the prior right to purchase and acquire title to the Water Rights, or the portion

thereof described in such contract, upon the same terms and conditions as therein provided or, at Annexor's option, for cash, except in the event the Water Rights are to be conveyed or purchased in conjunction with a transfer of the Annexation Property; in such case where the fee title interest in the Water Rights is to be conveyed or purchased in conjunction with the sale or purchase of the fee title interest in the Annexation Property, the Town shall have the prior right to purchase and acquire title only to the Water Rights without having to acquire the Annexation Property with the Water Rights, and if the Town exercises the right of first refusal under such circumstances, Annexor shall be required to execute and deliver a Dry-Up covenant as part of the proposed sale and conveyance of the Water Rights to the Town.

- (iii) Annexor shall submit to the Town a duplicate original of an executed contract with the bona fide purchaser, together with duplicate originals executed by Annexor of a contract between Annexor and the Town, containing the same terms and conditions as the purchase and sale contract with the third-party bona fide purchaser, except as provided in paragraph (ii) above. If, after the receipt of such documents, the Town shall fail to exercise its right of first refusal by signing and returning to Annexor within 60 days of receipt, a signed copy of said contract, Annexor shall have the right to conclude the proposed sale and conveyance on the same terms and conditions, and no other, as in the contract with the bona fide third-party purchaser.
- (iv) The Town's failure to exercise its Right of First Refusal, or its written disclaimer of such right, shall be deemed a waiver and cancellation of such Right of First Refusal if the proposed sale and conveyance to the same bona fide third party purchaser is consummated. If the proposed sale and conveyance to the same bona fide third-party purchaser is not consummated, the Right of First Refusal herein set forth shall not be deemed waived or cancelled, but shall remain in full force and effect. The Town's failure to exercise, or disclaimer of, such Right of First Refusal with respect to any transfer of less than all of the Water Rights shall not be deemed a waiver of such right with respect to that part of the Water Rights owned by Annexor after such transfer.
- (v) This Right of First Refusal shall apply to all transactions involving a conveyance of title to the Water Rights, or any portion thereof, including but not limited to a purchase, an exchange, or any other transfer of an interest in the Water Rights for consideration.

(c) Non-Transferability. This Right of First Refusal shall be deemed a right extended solely and exclusively to the Town and to no third parties whether or not affiliated with the Town. The Town shall not convey or assign, in whole or in part, any of its rights associated with this Agreement to any person or third-party without Annexor's prior written consent, which shall not be unreasonably withheld.

14. Special Provisions.

(a) Firestone Trail. Upon the further subdivision and development of the Annexation Property, Annexor or the then owner of the Annexation Property shall be responsible for the design and construction of a segment of the Town's planned, future regional multi-modal trail, Firestone Trail, beginning north of Firestone Boulevard, from Weld County Road 24 to Weld County Road 26,.

(b) Pedestrian Crossing. Upon the further subdivision and development of the Annexation Property, Annexor or the then owner of the Annexation Property, shall be responsible for the design and construction of off-site and on-site pedestrian crossings of Firestone Boulevard required by the Town for development of the Annexation Property.

15. Assignment. The rights, duties, and obligations of the Annexor hereunder may be assigned to another person or entity only with the prior written consent of the Town. In such event, the assignee shall assume all of the rights, duties, and obligations of the Annexor hereunder and the Annexor shall be correspondingly relieved from all such liabilities, duties and obligations.

16. Notices. All notices, demands or other documents required or desired to be given to either party under this Agreement shall be made in writing and shall be deemed effective upon receipt and shall be personally delivered or mailed by certified mail as follows:

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

Annexor: Denmore LLC
1942 Broadway Street, Suite 314C
Boulder, CO 80302

17. Remedies. The sole and exclusive remedies of Annexor against the Town for any breach of this Agreement shall be limited to breach of contract claims. The Town's remedies under this Agreement include, but are not limited to, the following:

(a) The refusal to issue any building permit or certificate of occupancy;

(b) The revocation of any building permit previously issued under which construction directly related to such building permit has not commenced, except a building permit previously issued to a third party;

(c) A demand that the security given for the completion of any public improvements be paid or honored; and

(d) Any other remedy available at law.

18. Cooperation. This Agreement is the product of the voluntary and cooperative effort of the Parties and shall not be construed or interpreted against either Party solely on the basis of that Party having drafted any portion of this Agreement

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

20. Recordation. Upon annexation of the Property, this Agreement shall be recorded in the records of the Clerk and Recorder of Weld County, State of Colorado.

21. Future Acts. Following execution of this Agreement, the parties covenant and agree that they will cooperate with each other in accomplishing the terms, conditions and provisions of the Agreement, and will execute such additional documents as necessary to effectuate the Agreement

22. Third Parties. The covenants, stipulations and agreements contained in this Agreement are and shall be for the sole and exclusive benefit of the parties hereto and their respective successors and assigns, and nothing in this Agreement, express or implied, is intended nor shall be construed of confer upon or give any other person any rights, remedy or claim under or by reason of the Agreement. The Town shall not be obligated or liable under the terms of this Agreement to any person or entity not a party hereto. Further, the Town shall not be bound by any contracts or conditions that Annexor may negotiate with third parties related to matters set forth in this Agreement.

23. Police Power. Nothing contained in the Agreement shall constitute or be interpreted as a repeal of existing Codes or ordinances or as a waiver or release of the Town's legislative, governmental or police powers to promote and protect, the health, safety, morals or general welfare of the municipality or its inhabitants. This Agreement shall not prohibit the enactment by the Town of any tax, fee, ordinance, resolution, rule, or regulation which is of uniform and general application.

24. No Partnership or Agency. Notwithstanding any language in this Agreement, neither party shall be deemed a member, partner or joint venture of each other and neither party shall be responsible for the debts or liabilities of the other nor the other's contractor or agent.

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

26. Attorney's Fees. In the event that it is necessary to initiate legal proceedings to enforce the provisions of this Agreement, the non-prevailing party shall be responsible for all reasonable legal expenses and costs incurred by the prevailing party, including reasonable attorney's fees.

27. Effective Date. This Agreement shall be effective and binding upon the parties immediately upon the effective date of an ordinance annexing the Property, regardless of whether the Agreement is executed prior to the effective date of said ordinance annexing the Property.

28. Entire Agreement. This Agreement including the Exhibits and Recitals, which are incorporated herein, set forth the entire agreement of the parties concerning the Denmore Annexation. There are no promises, terms, conditions, or obligations other than those contained herein that exist with respect to the annexation. This Agreement shall supersede all other provisions, communications, representations, or agreements, either verbal or written, between the parties with respect to the annexation and the economic incentives.

29. Waiver Limitations. A written waiver by either party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver or any subsequent breach by another party.

30. Headings. The headings of the sections or subsections of this Agreement are only for the convenience and reference of the parties and are not intended to define, limit, or describe the scope or intent of this Agreement.

31. Severability. If any part, term or provision of this Agreement is held by any court of competent jurisdiction to be illegal, invalid or unenforceable, the validity of the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term or provision held to be invalid, and the parties shall cooperate to cure any such defect.

32. No Vested Property Rights. It is understood and agreed by the parties that no vested property rights are granted by this Agreement. The Annexor represents to the Town that there are no vested rights to the Annexation Property from the County of Weld or any other governmental entity. Annexor hereby waives and releases any prior vested rights which may have been so granted or acquired in Weld County so long as the Property remains annexed into the Town.

33. Disconnection. No right or remedy of disconnection of the Annexation Property from the Town shall accrue from this Agreement, other than that provided by C.R.S. § 31-12-119. In the event the Annexation Property or any portion thereof is disconnected from the Town at the

Annexor's request, the Town shall have no obligation to serve the disconnected Annexation Property.

34. Referendum. If the annexation of the Annexation Property or any portion thereof is challenged by a referendum, all provisions of the Agreement, together with the duties and obligations of each party, shall be suspended pending the outcome of the referendum election. If the referendum challenge to the annexation results in disconnection of the Annexation Property from the Town, then this Annexation Agreement shall be null and void and of no further effect. If the referendum challenge fails, then the Annexor and the Town shall continue to be bound by this Annexation Agreement.

35. Court Order. In the event that the annexation of the Property or any portion thereof is voided by Final Action ("Final Action" means that no appeal can be made or the time to appeal has expired) of a court of proper jurisdiction (such Final Action not being associated with referendum or initiative matters), the Town and the Annexor shall cooperate to cure any legal defects cited by the court or that resulted in disconnection of the Annexation Property, and immediately upon such cure this Annexation Agreement shall be deemed to be an agreement to annex the Property to the Town pursuant to the Colorado Municipal Annexation Act of 1965. The Annexor shall reapply for annexation when the Initial Annexation Property becomes eligible for annexation as determined by the Town.

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

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

DENMORE LLC.

[illegible]

Witness my hand and official seal.

(Commission Expiration)

11

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

By: _____
Drew Peterson, Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney

EXHIBIT A

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

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

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

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

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

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

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

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

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

EXHIBIT A-1

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

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

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

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

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

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

THENCE SOUTH 88°04'18" EAST, A DISTANCE OF 548.57 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY OF COUNTY ROAD 15;

THENCE SOUTH 00°52'27" WEST, ALONG SAID EAST LINE, A DISTANCE OF 1,337.36 FEET;

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

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

CONTAINING AN AREA OF 145.304 ACRES, (6,329,462 SQUARE FEET), MORE OR LESS.