

**ORDINANCE NO. 903**

AN ORDINANCE TO APPLY AND CONTRACT FOR BENEFICIAL USE OF WATER ON BEHALF OF THE TOWN OF FIRESTONE, A MUNICIPAL CORPORATION, AND PRESCRIBING THE TERMS FOR APPLICATION FOR AN ALLOCATION OF THE RIGHT TO USE COLORADO-BIG THOMPSON PROJECT WATER TO SAID TOWN OF FIRESTONE BY NORTHERN COLORADO WATER CONSERVANCY DISTRICT.

WHEREAS, under the Water Conservancy Act of Colorado, Title 37, Article 45, Colorado Revised Statutes of 1973, it is necessary that the Board of Trustees of the Town of Firestone, a Colorado municipal corporation, in order to obtain the perpetual right to use Colorado-Big Thompson Project water on an annually renewable basis under C.R.S. 37-45-131 within the boundaries of the Northern Colorado Water Conservancy District, contract for the beneficial use of water from Northern Colorado Water Conservancy District, and the Town by this ordinance desires to authorize and direct the Mayor and Town Clerk to apply to the Board of Directors of said District for such water contract.

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

Section 1: That the Town of Firestone has determined to apply for a contract providing for the beneficial use of One (1) acre-feet of water from Northern Colorado Water Conservancy District within the boundaries of the Northern Colorado Water Conservancy District.

Section 2: That the Mayor and Town Clerk be and are hereby authorized and directed to apply to the Board of Directors of said Northern Colorado Water Conservancy District for a contract providing to the Applicant the beneficial use of water upon terms prescribed by said Board in the manner and form as in this section provided, to-wit:

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

Applicant, Town of Firestone, a Colorado municipal corporation, acting as governing body of a water activity enterprise, hereby applies to Northern Colorado Water Conservancy District (hereinafter “Northern Water”), a political subdivision of the State of Colorado, organized and existing by virtue of Title 37, Article 45, Colorado Revised Statutes, for a contract for the right to beneficially use Colorado-Big Thompson Project water under the following terms and conditions:

1. The quantity of water herein requested by Applicant for annual application to beneficial use is One (1) acre-feet to be used so long as the Applicant fully complies with all of the terms, conditions, and obligations hereinafter set forth.

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

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

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

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

Section 3: In the opinion of the Board of Trustees of the Town of Firestone, acquisition of this annually renewable perpetual right of use water contract for the Colorado-Big Thompson Project water from Northern Water and the right to the beneficial use of water thereunder by said Town of Firestone is necessary; the continued acquisition and use of this water supply is essential for the well-being of the community and for the preservation of the public peace, health, and safety; and the adequate protection of the health of the inhabitants of the community.

Section 4: The Mayor and Town Clerk are hereby authorized to execute on behalf of Applicant all Application materials and other documents necessary to effect the contract herein specified.

Passed and adopted, signed and approved this 25<sup>th</sup> day of January, A.D., 2017.

TOWN OF FIRESTONE

By: \_\_\_\_\_  
Paul Sorensen, Mayor

ATTEST:

(SEAL)

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Carissa Medina, Town Clerk