

TOWN OF SUPERIOR
RESOLUTION NO. R-83
SERIES 2020

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF SUPERIOR APPROVING THE ASSIGNMENT AND ASSUMPTION OF CONTRACTS BETWEEN ROCKY MOUNTAIN FIRE PROTECTION DISTRICT AND MOUNTAIN VIEW FIRE PROTECTION DISTRICT

BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF SUPERIOR, COLORADO, as follows:


Section 1. The Assignment and Assumption of Contracts between Rocky Mountain Fire Protection District and Mountain View Fire Protection District is hereby approved in the form attached hereto.


ADOPTED this 14th day of December, 2020.



Clint Folsom, Mayor

ATTEST:




Phyllis E. Hardin, Town Clerk-Treasurer

ASSIGNMENT AND ASSUMPTION OF CONTRACTS

THIS ASSIGNMENT AND ASSUMPTION OF CONTRACTS (this "*Assignment*"), effective as of January 1, 2021 (the "*Effective Date*"), is made by ROCKY MOUNTAIN FIRE PROTECTION DISTRICT, a political subdivision of the State of Colorado, f/k/a Cherryvale Fire Protection District, a quasi-municipal corporation of the State of Colorado ("*Rocky Mountain*") in favor of MOUNTAIN VIEW FIRE PROTECTION DISTRICT, f/k/a Mountain View Fire Rescue District, a political subdivision of the State of Colorado ("*Mountain View*").

RECITALS

WHEREAS, Rocky Mountain and Mountain View are political subdivisions of the State of Colorado, organized pursuant to the Colorado Special District Act, C.R.S. § 32-1-101, *et seq.* Both Rocky Mountain and Mountain View are authorized to provide, and are currently providing, the same services, which are fire suppression, fire prevention and public education, rescue, extrication, hazardous materials, ambulance, and emergency medical services for the health, safety, and welfare of their respective citizens. As of the Effective Date, Rocky Mountain and Mountain View are merging into a single, unified fire protection district whereby Mountain View will continue, and Rocky Mountain will dissolve.

WHEREAS, the Town of Superior, a Colorado municipal corporation of the State of Colorado, and Rocky Mountain are parties to that certain IGA and Lease (both as defined below) related to real property commonly known as Station 5 and more specifically described in the IGA and the Lease.

WHEREAS, Rocky Mountain desires to assign, and Mountain View desires to assume, all of Rocky Mountain's rights, title, and interest, and all of its liabilities and obligations, under the IGA and the Lease.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Rocky Mountain and Mountain View agree as follows:

1. *Assignment.* Rocky Mountain hereby assigns to Mountain View all of Rocky Mountain's rights, title and interest in and to:

a. That certain Intergovernmental Agreement for the Construction of the Rock Creek Fire Station between Town of Superior, Colorado, a Colorado municipal corporation, and Cherryvale Fire Protection District, a quasi-municipal corporation and political subdivision of the State of Colorado, dated January 26, 1998 ("*IGA*"); and

b. That certain Ground Lease Agreement between the Town of Superior, a Colorado municipal corporation, and Cherryvale Fire Protection District, a quasi-municipal corporation and political subdivision of the State of Colorado, dated January 26, 1998, as amended by that First Amendment to Ground Lease Agreement by and between Cherryvale Fire Protection District and the Town of Superior dated September 24, 2007 and recorded March 3, 2008 as

Reception No. 2913355 in the Office of the Clerk and Recorder of Boulder County, Colorado ("Lease").

2. **Assumption.** Mountain View hereby assumes and agrees to be bound by all of Rocky Mountain's liabilities and obligations pursuant to the IGA and the Lease, and agrees to perform and observe all of the covenants contained in the IGA and the Lease.

3. **No Representations or Warranties.** This Assignment is made by Rocky Mountain without any representation or warranty whatsoever, express or implied, with respect to the IGA or the Lease.

4. **Further Assurances.** Following the Effective Date, and until such time as Rocky Mountain is dissolved, upon Mountain View's reasonable request, Rocky Mountain shall take such steps and actions, and provide such cooperation and assistance to Mountain View and its successors, assigns, and legal representatives as may be reasonably necessary to effect, evidence, or perfect the assignment of the IGA and the Lease to Mountain View, including but not limited to providing assistance and cooperation in the execution of the Consent to Assignment in substantially similar form to that set forth in Exhibit A.

5. **Successors and Assigns.** The provisions of this Assignment shall bind and inure to the benefit of Rocky Mountain and Mountain View and their respective successors and assigns.

6. **Governing Law.** This Assignment shall be governed by the internal laws of the State of Colorado, without giving any effect to any choice or conflict of law provision or rule. Jurisdiction and venue of any dispute arising under this Assignment shall lie in the Boulder County District Court.

7. **Counterparts.** This Assignment may be executed in one or more originals (including by facsimile transmission, scanned pdf, or other electronic means), but all of which together shall constitute one and the same instrument.

8. **Governmental Immunity.** Nothing in this Assignment is intended to be, and shall not be construed as, a waiver of the limitations on damages or any of the privileges, immunities, or defenses provided to, or enjoyed by, Rocky Mountain or Mountain View, or either of their directors, officers, employees, volunteers, or agents, under common law or pursuant to statute, including but not limited to the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*

[signature page follows]

IN WITNESS WHEREOF, Rocky Mountain and Mountain View have duly executed and delivered this Assignment as of the Effective Date.

ROCKY MOUNTAIN:

ROCKY MOUNTAIN FIRE PROTECTION DISTRICT, a political subdivision of the State of Colorado, f/k/a Cherryvale Fire Protection District, a quasi-municipal corporation of the State of Colorado

By: _____

Jeremy DeBacker, Board President

MOUNTAIN VIEW:

MOUNTAIN VIEW FIRE PROTECTION DISTRICT, f/k/a Mountain View Fire Rescue District, a political subdivision of the State of Colorado

By: _____

Chad Christian, Board President

EXHIBIT A

CONSENT TO ASSIGNMENT

The undersigned party (the "*Consenting Party*") hereby consents to the assignment by ROCKY MOUNTAIN FIRE PROTECTION DISTRICT, a political subdivision of the State of Colorado, f/k/a Cherryvale Fire Protection District, a quasi-municipal corporation of the State of Colorado ("*Rocky Mountain*"), to MOUNTAIN VIEW FIRE PROTECTION DISTRICT, f/k/a Mountain View Fire Rescue District, a political subdivision of the State of Colorado ("*Mountain View*"), of all of Rocky Mountain's right, title, and interest in, to and under the following agreements (the "*Contracts*"):

1. Intergovernmental Agreement For the Construction of the Rock Creek Fire Station between Town of Superior, Colorado, a Colorado municipal corporation of the State of Colorado, and Cherryvale Fire Protection District, a quasi-municipal corporation and political subdivision of the State of Colorado, dated January 26, 1998.
2. Ground Lease Agreement between the Town of Superior, a Colorado municipal corporation of the State of Colorado, and Cherryvale Fire Protection District, a quasi-municipal corporation and political subdivision of the State of Colorado, dated January 26, 1998, as amended by that First Amendment to Ground Lease Agreement by and between Cherryvale Fire Protection District and the Town of Superior dated September 24, 2007 and recorded March 3, 2008 as Reception No. 2913355 in the Office of the Clerk and Recorder of Boulder County, Colorado.

The Consenting Party hereby agrees that, upon the assignment by Rocky Mountain to Mountain View of the Contracts (a) all references in the Contract to Rocky Mountain shall be amended for all purposes such that Mountain View is the party to the agreement instead of Rocky Mountain, (b) Mountain View will be entitled, in place of Rocky Mountain, to exercise any and all rights of Rocky Mountain under the Contracts in accordance with the terms of the Contracts, and (c) the Consenting Party will accept performance by Mountain View under the Contracts from and after the date of this Consent to Assignment.

Dated: December 14TH, 2020

Consenting Party:

The Town of Superior, a Colorado municipal corporation

By: Clint Folsom
Name: CLINT FOLSOM
Its: MAYOR