

TOWN OF ERIE
BOARD OF TRUSTEES REGULAR MEETING ¹
Tuesday, April 22, 2014
6:30 p.m.
Board Room, Erie Town Hall, 645 Holbrook Street, Erie, CO 80516

STUDY SESSION 5:45 P.M. COMMUNITY ROOM

I. CALL MEETING TO ORDER

II. PLEDGE OF ALLEGIANCE AND ROLL CALL

III. APPROVAL OF THE AGENDA

IV. CONSENT AGENDA (The consent agenda is intended to contain items that are prepared to be decided without discussion. Any Board member may request removal of any item they do not want to consider without discussion or wish to vote no on, without jeopardizing the approval of other items on the consent agenda. Items removed will be placed under IX. General Business, a. in the order they appear on the Agenda.) (This should be done prior to the motion to approve.)

- a. Approval of the April 8, 2014 Meeting Minutes
- b. Resolution 14-56; A Resolution of the Town of Erie Authorizing the Approval of the Prince Creek Development Agreement
- c. Resolution 14-57; A Resolution Approving an Urban Drainage and Flood Control District Amendment to the BP-20 Agreement Regarding Final Design, Right of Way Acquisition and Construction of Drainage and Flood Control Improvements
- d. Resolution 14-58; A Resolution Approving a Sponsorship Agreement with Old Mine Cidery & Brewpub for the Ballpark at Erie
- e. Resolution 14-59; A Resolution Authorizing the Award of a Design Contract for a Water Conservation Plan

V. PUBLIC COMMENT (This agenda item provides the public an opportunity to discuss items other than ordinances on second reading, public hearings and consent agenda items that are not on the agenda. The Board of Trustees is not prepared to decide on matters brought up at this time, but if warranted, will place them on a future agenda.)

VI. PROCLAMATIONS AND PRESENTATIONS (This agenda item is intended to contain Presentations to the Board that do not require any Board action. Presentations are limited to fifteen (15) minutes.)

- a. Proclamation of Appreciation for the Keep Erie Safe Committee

¹ FOR MORE INFORMATION ON THE AGENDA ITEMS LISTED OR FOR INDIVIDUALS WITH DISABILITIES NEEDING AUXILIARY AIDS OR TO REQUEST ASSISTANCE, PLEASE CONTACT THE TOWN CLERK'S OFFICE AT 645 HOLBROOK STREET, P.O. BOX 750, 303-926-2731.

VII. RESOLUTIONS (This agenda item is for all matters that should be decided by resolutions.)

- a. Resolution 14-60; A Resolution Authorizing Completion of a Storm Drainage Rate and Fee Study

VIII. ORDINANCES (To adopt an Ordinance of the First Reading, a Motion/Second/Approval is required to suspend Resolution 02-44 and adopt the Ordinance on the First Reading.)

NONE SCHEDULED

IX. GENERAL BUSINESS (This agenda item is reserved for matters that are ready for Board action, and do not fit into other categories, i.e. resolutions, ordinances...)

- a. Consideration of Repeal of Censure

X. STAFF REPORTS (This agenda item is reserved for specific items from Staff requiring Board direction or just relaying important information.)

NONE SCHEDULED

XI. BOARD OF TRUSTEES REPORTS & APPOINTMENTS (This agenda item is for all Board of Trustees reports, Board & Commission Appointment, and items of information as well as Board discussion items, not listed on the agenda.)

- a. BOT Reports

XII. EXECUTIVE SESSION

- a. 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); and, specifically to discuss negotiations regarding potential development within the Town, annexations related to development and potential intergovernmental agreements.

XIII. ADJOURNMENT (The Board's Goal is that all meetings be adjourned by 10:30pm. An agenda check will be conducted at or about 10:00 p.m., and no later than at the end of the first item finished after 10:00 p.m. Items not completed prior to adjournment will generally be taken up at the next regular meeting.)

TOWN OF ERIE
BOARD OF TRUSTEES REGULAR MEETING 1
Tuesday April 08, 2014
6:30 p.m.

Board Room, Erie Town Hall, 645 Holbrook, Erie, CO 80516

STUDY SESSION 5:45 P.M. COMMUNITY ROOM

I. CALL MEETING TO ORDER

Mayor Wilson called the April 8, 2014 Regular Meeting of the Board of Trustees to order at 6:30 p.m.

II. PLEDGE OF ALLEGIANCE AND ROLL CALL

Trustee Gruber – present
Mayor Pro Tem Grassi– present
Trustee Mahe– present
Trustee Carnival – present
Trustee Woog – present
Trustee Moore-present
Mayor Wilson – present

III. SWEARING IN OF ELECTED MAYOR AND BOARD OF TRUSTEES

Action: Town Clerk, Nancy Parker administered the Oath of Office to the following
New/and Returning Board Members:

Tina Harris-Mayor (2 Year Term)
Jennifer Kramer-Trustee (4 Year Term)
Waylon Schutt-Trustee (4 Year Term)
Mark Gruber –Trustee (4 Year Term)
Dan Woog-Trustee (2 Year Term)
Scott Charles-Trustee (2 Year Term)

IV. PROCLAMATIONS/RECOGNITION OF THE OUTGOING BOARD MEMBERS

- a. Mayor Harris recognized the years of service and accomplishments of Mayor Joe Wilson, Mayor Pro Tem Ronda Grassi, and Trustees Joe Carnival and Fred Mahe.

V. ROLL CALL OF INCOMING BOARD

Trustee Kramer– present
Trustee Schutt-present
Trustee Gruber- present
Trustee Moore - present
Trustee Woog - present
Trustee Charles-present
Mayor Harris– present

VI. APPROVAL OF THE AGENDA

Action: Trustee Schutt moved to approve the April 8, 2014 agenda, with the amendment of moving item c. from the Consent Agenda to item a. of Resolutions; the motion was seconded by Trustee Charles. The motion carried with all present voting in favor thereof.

VII. ELECTION OF MAYOR PRO TEM

Action: Trustee Moore moved to appoint Trustee Gruber as Mayor Pro-Tem for the next two years; the motion was seconded by Trustee Schutt. The motion carried with the following roll call vote:

Trustee Kramer- yes
Trustee Schutt-yes
Trustee Gruber- yes
Trustee Moore - yes
Trustee Woog - yes
Trustee Charles-yes
Mayor Harris- yes

VIII. APPOINTMENT OF TOWN OFFICERS

Action: Mayor Harris administered the Oath of Office to the following Town Officers for the term ending April of 2016:

Treasurer-Steve Felten
Town Attorney-Mark Shapiro
Town Clerk-Nancy Parker

IX. CONSENT AGENDA

- a. Approval of the March 25, 2014 Meeting Minutes
- b. Resolution 14-53; A Resolution Accepting a Water Conservation Grant
- c. Resolution 14-55; A Resolution Awarding a 2014 Fertilizer Contract

Action: Trustee Moore moved to approve the April 8, 2014 Consent Agenda as amended; the motion was seconded by Mayor Pro Tem Gruber. The motion carried with the following roll call vote:

Trustee Kramer- yes
Trustee Schutt-yes
Trustee Gruber- yes
Trustee Moore - yes
Trustee Woog - yes
Trustee Charles-yes
Mayor Harris- yes

X. PUBLIC COMMENT

Dave Johnson, 325 Anderson Court, Erie, CO. provided updates on Erie Senior s events and activities.
Gary Wetzberger, 1969 Seidler Court, Erie, CO. provided the Board with an update of the Arts Coalition of Erie update of activities.
Scott deLuis, 2480 Cessna Drive, Erie, CO. spoke on behalf of the Erie Airport Economic Development Council.

XI. RESOLUTIONS (This agenda items is for all matters that should be decided by resolutions.)

c. Resolution 14-54; A Resolution Approving the 2014 Fleet Purchases

Gary Behlen, Director of Public Works, presented staff recommendations for the approval of **Resolution 14-54**. During the February 11th meeting the Board approved the lease financing of new and replacement units for Parks (one new utility truck and replacement of units 302 and 310) and Administration (replacement of unit 136). In the course of obtaining leasing options from various financial institutions it was determined that available rates and other terms (e.g., down payment requirements and lease term) did not offer a fiscally reasonable method for purchasing the units. Staff is therefore requesting additional funds in the amount of \$55,649 to purchase these vehicles for cash.

Action: Mayor Pro Tem Gruber moved to approve Resolution 14-54; the motion was seconded by Trustee Moore. The motion carried with the following roll call vote:

Trustee Kramer– yes
Trustee Schutt-yes
Mayor Pro Tem Gruber- yes
Trustee Moore - yes
Trustee Woog - yes
Trustee Charles-yes
Mayor Harris– yes

XII. BOARD OF TRUSTEES REPORTS & APPOINTMENTS (This agenda item is for all Board of Trustees reports, Board & Commission Appointment, and items of information as well as Board discussion items, not listed on the agenda.)

Trustee Woog thanked the outgoing board for their service and contributions.

Trustee Kramer, also thanked the outgoing board.

Mayor Pro Tem Gruber thanked the voters, noting that this election was a record turn-out.

Trustee Charles thanked the outgoing Board and his family for their support.

Trustee Moore provided an update on the Erie Area Seniors and welcomed the new Board.

Trustee Schutt also thanked the outgoing Board. Trustee Schutt also asked about the abandoned property clean up in Northview that was brought up in public comment at the last meeting. The Town Administrator will report back to the Board on this.

Mayor Harris thanked the outgoing Board and reminded the new Board that there is a lot of meetings coming up to get them up and going.

XIII. ADJOURNMENT (The Board's Goal is that all meetings be adjourned by 10:30pm. An agenda check will be conducted at or about 10:00 p.m., and no later than at the end of the first item finished after 10:00 p.m. Items not completed prior to adjournment will generally be taken up at the next regular meeting.)

Action: Mayor Pro Tem Gruber moved to adjourn the April 08, 2014 Regular Meeting of the Town of Erie Board of Trustees; the motion was seconded by Trustee Kramer. The motion carried with all present voting in favor thereof.

Action: Mayor Harris adjourned the April 8, 2014 meeting at 7:33 p.m.

Respectfully Submitted,

Nancy J. Parker C.M.C., Town Clerk

Tina Harris, Mayor

TOWN OF ERIE
BOARD OF TRUSTEE AGENDA ITEM
Board Meeting Date: April 22, 2014

SUBJECT: RESOLUTIONS: CONSENT

CONSIDERATION OF RESOLUTION 14-56: A Resolution By The Board Of Trustees Of The Town Of Erie, Colorado Accepting Dedications As Shown In The Prince Creek Estates Minor Subdivision Plat; Authorizing The Appropriate Town Official To Sign The Grant of Permanent Avigation Easement Agreement; Authorizing The Appropriate Town Official To Sign The Prince Creek Estates Development Agreement; Adopting Certain Findings Of Fact And Conclusions Favorable To Acceptance Of The Development Agreement; And, Setting Forth Details In Relation Thereto.

CODE REVIEW: Erie Municipal Code, Title 10

PURPOSE: Board of Trustees acceptance of dedications, avigation easement and the Prince Creek Estates Development Agreement for the Prince Creek Estates Minor Subdivision Plat.

DEPARTMENT: Community Development

PRESENTER: Todd Bjerkaas, Senior Planner

FISCAL INFORMATION:	Cost as Recommended:	na
	Balance Available:	na
	Budget Line Item Number:	000 . 00 . 000 . 000000 . 000000
	New Appropriation Required:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

STAFF RECOMMENDATION: Staff recommends the Board of Trustees authorize the Mayor to accept the dedications and authorize signature of the Avigation Easement and Development Agreement by approving Resolution 14-56.

PLANNING COMMISSION RECOMMENDATION: n/a

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

Owner: Yihong Zhang and Xueqing Wang
2210 Tamarron Lane
Lafayette, CO 80026

Location: North of Erie Parkway and east of 109th Street, highlighted below in red.



Summary:

The Resolution, provided for consideration by the Board of Trustees, accepts dedications and authorizes the appropriate town official to sign the avigation easement and Prince Creek Estates Development Agreement which outlines obligations of the Town and the Owners for the Prince Creek Estates Minor Subdivision Plat.

Project Description:

The Prince Creek Estates Minor Subdivision Plat creates 4 single family lots, 1 tract for a private drive, drainage and utilities, and 1 tract for an existing conservation easement on 29.99 acres. The lots are between 1.88 acres and 2.65 acres in size.

Project Process:

The Community Development Director and Public Works Director have conditionally approved the Prince Creek Estates Minor Subdivision Plat, contingent upon the acceptance of the dedications, avigation easement, and development agreement by the Board of Trustees and the filing of appropriate documents with Town staff.

Public Notice:

Public Notice is not required.

Staff Recommendation:

Staff recommends the Board of Trustees authorize the Mayor to accept the dedications and authorize signature of the Avigation Easement and Development Agreement by approving Resolution 14-56.

Staff Review:

____ Town Attorney
____ Town Clerk
 Community Development Director
____ Finance Director
____ Police Chief
____ Public Works Director

Approved by:



A.J. Krieger
Town Administrator

ATTACHMENTS:

- a. Resolution 14-56
- b. Prince Creek Estates Minor Subdivision Plat
- c. Prince Creek Estates Development Agreement
- d. Grant of Permanent Avigation Easement Agreement

RESOLUTION NO. 14-56

A RESOLUTION BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE, COLORADO ACCEPTING DEDICATIONS AS SHOWN IN THE PRINCE CREEK ESTATES MINOR SUBDIVISION PLAT; AUTHORIZING THE APPROPRIATE TOWN OFFICIAL TO SIGN THE GRANT OF PERMANENT AVIGATION EASEMENT AGREEMENT; AUTHORIZING THE APPROPRIATE TOWN OFFICIAL TO SIGN THE PRINCE CREEK ESTATES DEVELOPMENT AGREEMENT; ADOPTING CERTAIN FINDINGS OF FACT AND CONCLUSIONS FAVORABLE TO ACCEPTANCE OF THE DEDICATIONS, AVIGATION EASEMENT AND DEVELOPMENT AGREEMENT; AND, SETTING FORTH DETAILS IN RELATION THERETO.

WHEREAS, the Board of Trustees of the Town of Erie, Colorado, considered the acceptance of dedications, avigation easement, and the development agreement on April 22, 2014, on the application of Yihong Zhang and Xueqing Wang, 2210 Tamarron Lane, Lafayette, CO 80026, for the Prince Creek Estates Minor Subdivision Plat, Town of Erie, County of Boulder, State of Colorado; and,

WHEREAS, the Board of Trustees of the Town of Erie, Colorado, desires to accept the dedications and avigation easement from Yihong Zhang and Xueqing Wang; and,

WHEREAS, the Board of Trustees of the Town of Erie believes it is in the best interest of the Town and its citizens to accept the Prince Creek Estates Development Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE, COLORADO, AS FOLLOWS:

Section 1. The Board of Trustees of the Town of Erie hereby accepts the dedications as set forth in the Prince Creek Estates Minor Subdivision Plat.

Section 2. The Board of Trustees of the Town of Erie hereby approves the Prince Creek Estates Development Agreement for the Prince Creek Estates Minor Subdivision Plat, and authorizes the appropriate Town Official to sign and bind the Town to the Development Agreement.

INTRODUCED, READ, SIGNED AND APPROVED this 22nd day of April 2014.

TOWN OF ERIE,
a Colorado municipal corporation

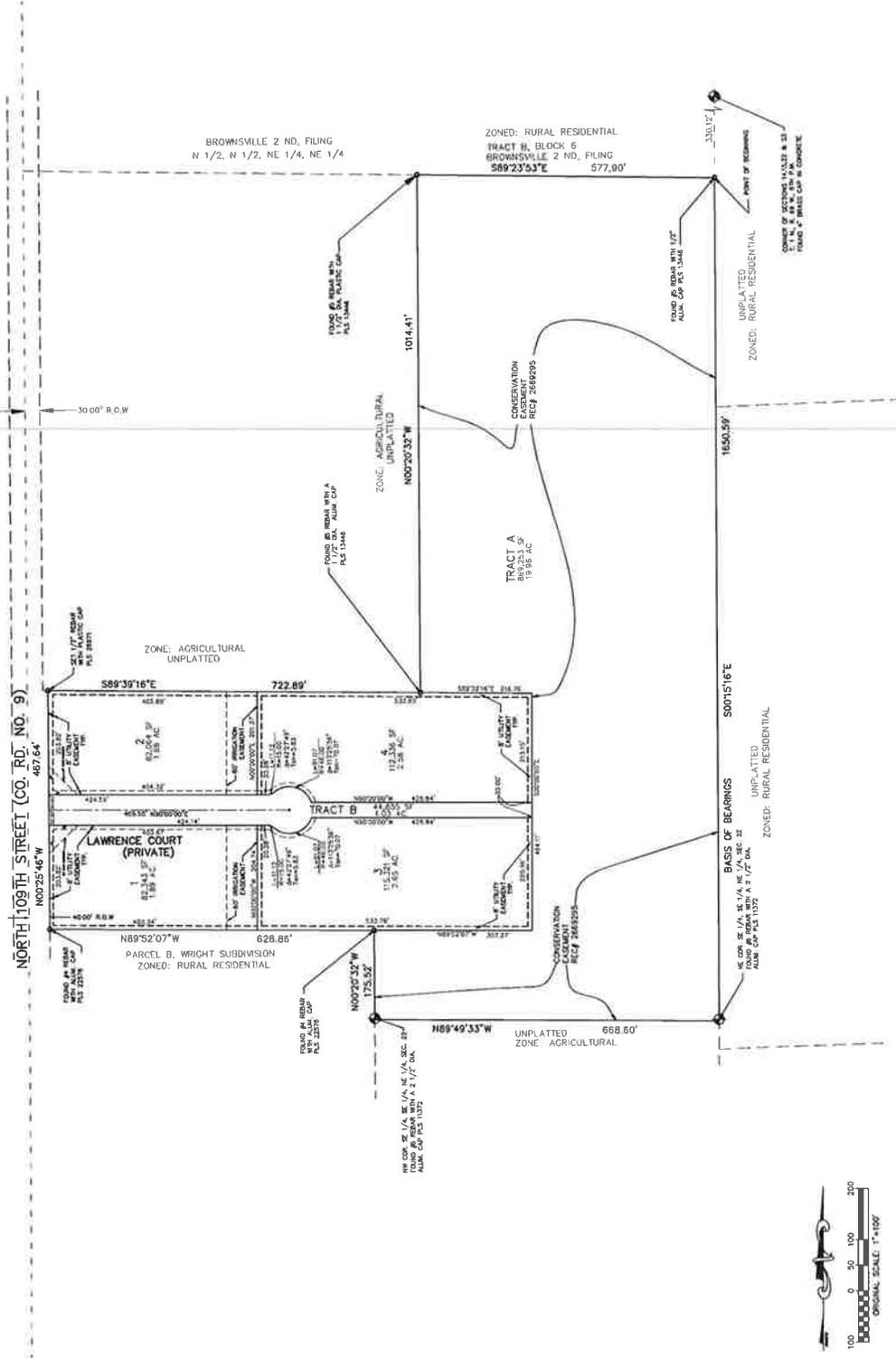
By: _____
Tina Harris, Mayor

ATTEST:

By: _____
Nancy J. Parker, CMC, Town Clerk

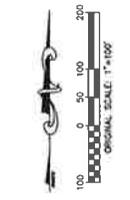
**PRINCE CREEK ESTATES
MINOR SUBDIVISION**

A REPLAT OF PARCEL A, WRIGHT SUBDIVISION
LOCATED IN THE EAST 1/2 OF SECTION 22 T. 1 N., R. 69 W., 6TH P.M.
TOWN OF ERIE, COUNTY OF BOULDER, STATE OF COLORADO.
29.99 ACRES - 4 RESIDENTIAL LOTS, 2 TRACTS
MS-13-00037
SHEET 2 OF 2



NO.	DATE	DESCRIPTION	BY
2	2/24/24	12/17/23 COMMENTS	DMP
1	11/7/23	8/21/23 COMMENTS	DMP

Paterson Partners
 8175 Arden Parkway
 Englewood, CO 80033
 Date: 8/28/23
 Drawn By: JML
 Reviewed By: AP
 SHEET 2 OF 2



**PRINCE CREEK ESTATES
DEVELOPMENT AGREEMENT**

THIS DEVELOPMENT AGREEMENT (“Agreement”) is made and entered into this 3 day of April 2014, by and between the **TOWN OF ERIE, a Colorado municipal corporation**, PO Box 750, Erie, Colorado, 80516, hereinafter referred to as “Erie” or “Town,” and **Yihong Zhang and Xueqing Wang**, 2210 Tamarron Lane, Lafayette, Colorado, 80026, hereinafter referred to as “Owner;” and

WHEREAS, Owner has submitted a Final Plat for the Prince Creek Estates (“Development”) attached hereto as “Exhibit A” and incorporated herein by reference. Said Final Plat has been approved by Erie; and

WHEREAS, the regulations of Erie require that the Owner enter into an Agreement with Erie relative to improvements related to the development; and

WHEREAS, this standard agreement has been modified by the parties as indicated by the addition of certain special provisions, if any, in Section IX.

NOW, THEREFORE, in consideration of the foregoing, the parties hereto promise, covenant and agree as follows:

I. TOWN ADMINISTRATIVE OFFICIAL

For the purposes of this Agreement, “Town Administrative Official” shall be defined as the Town Administrator or his or her designee.

II. DEVELOPMENT OBLIGATION AND COORDINATION

Owner shall be responsible for performance of the covenants set forth herein. Unless specifically provided in this Agreement to the contrary, all submittals to Erie and acceptances required of Erie in connection with this Agreement shall be submitted to, or rendered by, the Town Administrative Official, who shall have general responsibility for coordinating development with Owner.

III. PUBLIC USE DEDICATION

Owner shall convey to Erie certain lands as described as open space and park in “Exhibit A” attached hereto and incorporated herein by reference. Conveyance of these lands shall be by Warranty Deed in form and substance acceptable to Erie. If not already conveyed, conveyance shall be made within thirty (30) days of the date of this Agreement. Owner shall also furnish at the time of conveyance, at its own expense, an ALTA title policy for all interest(s) so conveyed, subject to acceptance by the Town of Erie. The property shall be free and clear of liens, taxes and encumbrances except for ad valorem real property taxes up to the date of dedication to the Town, but subject to all easements, rights-of-way, reservations, restrictions or other title burdens of record.

IV. PUBLIC AND COMMON FACILITIES IMPROVEMENTS

Owner agrees to design, construct and install according to Town accepted plans, all public



improvements and common facilities specifically regulated necessary for the Development including, but not limited to, street, alley, curb, gutter, sidewalks, landscaping, irrigation, fencing, street lights, water, waste water, storm sewer and drainage improvements, trails and park improvements on and off of the Development (hereinafter, "Public Improvements" and "Common Facilities") and as described in "Exhibit B" attached hereto and made part hereof. Owner agrees to dedicate said improvements to Erie, or others for the common facilities, and give a two (2) year guarantee for all improvements constructed.

A. Construction Standards

Owner shall construct all improvements required by this Agreement, and any other improvements constructed in relation to the Development, in accordance with plans and specifications accepted in writing by Erie, and in full conformity with Erie's "Standards and Specifications for Design and Construction of Public Improvements," ordinances and regulations.

B. Engineering and Consulting Services

Owner agrees to furnish, at its expense, all necessary engineering and consulting services relating to the design and construction of the Development, including but not limited to, street, alleys, curb, gutter, sidewalks, landscaping, irrigation, fencing, street lights, signage, water, waste water, storm sewer and drainage improvements, trails and park improvements. Said engineering and consulting services shall conform to the standards and criteria for Public Improvements as established and accepted by Erie. These services shall be performed by or under the supervision of a Registered Professional Engineer and/or Registered Land Surveyor, or other professionals as appropriate, licensed by the State of Colorado, and in accordance with applicable Colorado law. The design services shall include inspection services deemed necessary by Erie.

C. Plan Submission and Acceptance

Owner shall furnish to the Town Administrative Official the required fees and complete plans for all improvements and development phases. Erie shall issue its written acceptance or rejection of said plans as expeditiously as reasonably possible. Said acceptance or rejection shall be based upon the standards and criteria for Public Improvements as established by Erie, and Erie shall notify Owner of all deficiencies which must be corrected prior to acceptance. All deficiencies shall be corrected and said plans shall be resubmitted to and accepted by Erie prior to construction. All acceptances required hereunder from Erie shall be made by the Town Administrative Official.

D. Public Improvement Permits ("PIP")

Before the construction or installation of any improvements, Owner shall obtain a PIP from Erie as provided in the Code. The PIP application, fees, plans, specifications and any other data filed by Owner will be reviewed by Erie. If found to be complete and in accordance with Erie's "Standards and Specifications for Design and Construction of Public Improvements" and other pertinent requirements, Erie will issue Owner the PIP. Owner shall reimburse Erie for any additional expenses incurred by Erie for the review of plans or inspection of construction work by consultants engaged by Erie for that purpose. The Developer shall also apply and pay for a PIP for all common facilities.



E. Testing and Inspection

Testing and inspection of the construction and materials shall be in accordance with Erie's "Standards and Specifications for Design and Construction of Public Improvements." In addition, Owner shall employ, at its own expense, a licensed and registered testing company, to perform all testing of materials or construction that may be reasonably required by Erie. Owner shall furnish copies of test results to the Town Administrative Official on a timely basis for review and acceptance prior to commencement or continuation of that particular phase of construction. At all times during said construction, Erie shall have access to inspect the materials and workmanship of said construction and all materials and work not conforming to the accepted plans and specifications shall be repaired or removed and replaced at Owner's expense so as to conform to the accepted plans and specifications.

All work shown on the accepted Public Improvements improvement plans requires inspection by the Public Works Department, Engineering Division. Except Town of Erie holidays, inspection services are provided Monday through Friday, from 7:00 a.m. to 4:00 p.m. During the hours listed above, inspections shall be scheduled a minimum of 24 hours in advance with the Engineering Division. Requests for inspection services beyond the hours listed above shall be submitted a minimum of 48 hours in advance in writing to the Director of Public Works for acceptance. Owner shall reimburse the Town for all direct costs of the after hours inspection services. If the request is denied, the work shall not proceed before or after the hours listed above.

Common Facilities shall have inspections performed by a professional consulting service acceptable to Erie. At all times Erie shall have access to inspect the materials and workmanship of the Common Facilities if deemed necessary by Erie. Inspection services for landscaping will also include the selection and tagging of plant materials prior to delivery to the site. Landscape and irrigation inspection services shall conform to the Erie's "Standards and Specifications for Design and Construction of Public Improvements."

F. Rights-of-way, Easements and Permits

Prior to commencement of construction of Public Improvements that require additional rights-of-way to be acquired, Owner shall acquire at its own expense and convey to Erie, all necessary land, rights-of-way and easements required by Erie for the construction of the proposed improvements related to the Development. Owner is only obligated to acquire that portion of land, rights-of-way and easements necessary for the construction of Public Improvements, roads and utilities required by this Agreement.

All such conveyances shall be free and clear of liens, taxes and encumbrances and shall be by Special Warranty Deed or easement in a form and substance acceptable to Erie. All title documents shall be recorded by Erie at Owner's expense. Owner shall also furnish, at its own expense, an ALTA title insurance policy for all interest(s) so conveyed, subject to acceptance by Erie.

Owner shall be responsible for obtaining the following to the extent applicable:



1. All permits as required by the United States Corps of Engineers.
2. Colorado Department of Health and Environment (“CDPHE”) “General Permit for Stormwater Discharges Associated with Construction Activity”, required during construction.
3. Town of Erie “Grading and Stormwater Quality Permit” per Erie “Standards and Specifications for Design and Construction of Public Improvements.”
4. Air Quality Permit.

G. Street Improvements

Owner shall furnish and install, at its own expense, the street improvements in conformance with the drawings, plans and specifications accepted by Erie and in accordance with the PIP.

H. Sidewalk Improvements

Owner shall furnish and install, at its own expense, all sidewalk improvements in conformance with the drawings, plans and specifications accepted by Erie. To minimize construction damage, detached sidewalk construction may be delayed until Certificates of Occupancy are issued for 80% of the properties facing a specific street on which sidewalks are to be constructed. Erie may require earlier construction if it determines that such sidewalks are needed for the safe passage of residents.

I. Street Signs, Traffic Signs, and Striping

Owner will furnish and install at Owners expense street name signs, striping, stop signs, speed limit and other signs on all streets, in accordance with the Manual of Uniform Traffic Control Devices, as from time to time amended, and other applicable legal requirements.

J. Street Lights

Owner shall furnish complete plans for street lighting to be reviewed and accepted by Erie. The total cost of street light installation shall be Owner's obligation. Owner shall cause, at its own expense, Xcel Energy to install all required street lighting pursuant to Xcel Energy plans and specifications as submitted to and accepted in writing by the Town Administrative Official. Said street lights shall be installed concurrently with the streets on which they are located. The type of street lights shall be accepted by Erie.

K. Water Improvements

Owner shall furnish and install all water mains, lines, and appurtenances in conformance with the drawings, plans and specifications accepted by Erie.

L. Wastewater Improvements

Owner shall furnish and install all sewer lines and appurtenances in conformance with the drawings, plans and specifications accepted by Erie.

M. Drainage Improvements

1. Drainage improvements for the Development shall be constructed by Owner



in accordance with drawings, plans and specifications accepted by Erie. Unless otherwise approved by Town, over lot grading shall not be initiated by Owner until Erie approves drainage improvement plans by the issuance of the PIP. Owner shall provide temporary erosion control during and after over lot grading until the site is stabilized.

2. Drainage improvements for the Development shall be constructed by the Owner in accordance with accepted construction plans.
3. Owner shall be responsible for obtaining a CDPHE "General Permit for Stormwater Discharges Associated with Construction Activity" required during construction. A copy of this permit shall be submitted to Erie.
4. Owner shall be responsible for obtaining a Town of Erie "Grading and Stormwater Quality Permit" per Erie's "Standards and Specifications for Design and Construction of Public Improvements."

N. Landscape Improvements

For public lands, common facilities, and rights-of-way, Owner shall furnish Erie complete final landscape and irrigation plans for each phase and obtain acceptance by Erie prior to commencement of construction. Owner shall construct landscape improvements as required in the landscape plan before the constructed improvements are accepted by Erie. Landscape plans need not be provided for private landscaping on single-family residential lots. For all development and Common Facilities other than single-family detached development, Owner shall furnish final landscape and irrigation plans to the Town Administrative Official for acceptance prior to installation of landscape improvements.

O. Utility Coordination and Installation

Owner shall be responsible for coordination of and payment for installation of on-site and off-site electric, street lights, natural gas, telephone, cable television and other such utilities. All utilities shall be placed underground as required by the Erie Municipal Code ("Code").

V. IMPROVEMENT ACCEPTANCE

A. Construction Acceptance

No later than ten (10) days after Public Improvements and/or Common Facilities are substantially complete, Owner shall request of the Town Administrative Official an inspection by Erie. If Owner does not request this inspection within ten (10) days of completion of the Public Improvements and/or Common Facilities, Erie may conduct the inspection without the approval of Owner. Owner shall provide Erie with complete "as-built" drawings in a form as defined in the Town of Erie Construction Standards and Specifications. If Owner has not completed appropriate Public Improvements and/or Common Facilities as provided for in this Agreement, Erie may exercise its right to secure performance as provided in Section X.C of this Agreement. If Public Improvements and/or Common Facilities completed by Owner are satisfactory, the Town Administrative Official shall grant "Construction Acceptance," which shall be subject to "Final Acceptance" as set

forth herein. If Public Improvements and/or Common Facilities are not satisfactory, the Town Administrative Official shall provide written notice to Owner of the repairs, replacements, construction or other work required to receive Construction Acceptance. Owner shall complete all needed repairs, replacements, construction or other work within thirty (30) days of said notice, weather permitting. After Owner completes the repairs, replacements, construction or other work required, Owner shall request of the Town Administrative Official a re-inspection of such work to determine if Construction Acceptance can be granted, and Erie shall provide written notice to Owner of the acceptability or unacceptability of such work prior to proceeding to complete any such work at Owner's expense. If Owner does not complete the repairs, replacements, or other work required within thirty (30) days of said notice, Erie may exercise its rights to secure performance as provided in Section X.C. of this Agreement. Erie reserves the right to schedule re-inspections. No "Certificate of Occupancy" will be issued by Erie prior to Construction Acceptance.

Additionally, for Common Facilities, the Owner shall include the Prince Creek Estates Homeowners Association ("HOA"), maintenance district, or final property owner in the final inspection procedures and provide Erie with written acceptance of the Common Facilities for maintenance from this final owner

B. Maintenance of Improvements

1. **Warranty**

Owner shall provide Erie with a minimum two (2) year warranty, from the date of Construction Acceptance, on all Public Improvements and shall provide a two (2) year warranty to the final owner for the Common Facilities.

2. **Maintenance of Improvements**

For a two (2) year period from the date of Construction Acceptance of any Public Improvements related to the Development, Owner shall, at its own expense, take all actions necessary to maintain said Public Improvements and make all needed repairs or replacements which, in the reasonable opinion of Erie, shall become necessary, except that Erie shall be responsible for snow removal on public streets. If within thirty (30) days after Owner's receipt of written notice from Erie requesting such repairs or replacements, Owner has not completed such repairs, Erie may exercise its rights to secure performance as provided in Section X.C of this Agreement.

C. Final Acceptance

At least thirty (30) days before two (2) years has elapsed from the issuance of Construction Acceptance, or as soon thereafter as weather permits, Owner shall request a Final Acceptance inspection in writing. The request shall be made to the Town Administrative Official. The Town Administrative Official shall inspect the Public Improvements and shall notify Owner in writing of all deficiencies and necessary repairs. After Owner has corrected all deficiencies and made all necessary repairs identified in said written notice, the Town Administrative Official shall issue to Owner a letter of Final Acceptance, as soon as reasonably possible thereafter, If Owner does not correct all deficiencies and make repairs

identified in said inspection to Erie's satisfaction within thirty (30) days after receipt of said notice, weather permitting, Erie may exercise its rights to secure performance as is provided in Section X.C of this Agreement. If any mechanic's liens have been filed with respect to the Public Improvements, Erie may retain all or a portion of the Improvement Guarantee up to the amount of such liens. If Owner fails to have Public Improvements finally accepted within two (2) years of the date of the issuance of construction acceptance or any Public Improvements are found not to conform to this Agreement, and applicable Town "Standards and Specifications for Design and Construction of Public Improvements," then the Owner shall be in default of the Agreement and Erie may exercise its rights under Section X.C of this Agreement.

D. Reimbursement to Erie

In the event it becomes necessary for Erie to complete the Public Improvements and/or Common Facility improvements due to the failure of Owner to complete said Public Improvements and/or Common Facility improvements, Erie may complete construction, repairs, replacements, or other work with funds other than the Improvement Guarantee, in which event Owner shall reimburse Erie within sixty (60) days after receipt of written demand and supporting documentation from the Town Administrative Official. If Owner fails to so reimburse Erie, then Owner shall be in default of this Agreement and Erie may exercise its rights under Section X.C of this Agreement.

VI. IMPROVEMENT GUARANTEE

A. Public Improvement and Common Facilities Schedule

Owner has submitted the certified Public Improvement and Common Facilities Schedule shown as "Exhibit B" attached hereto and incorporated herein by reference. Said exhibit generally identifies those Public Improvements to be furnished, installed or constructed relative to the Development. Omission of any improvement from "Exhibit B" does not relieve Owner from responsibility for furnishing, installing or constructing such improvement. The Owner shall list all Common Facilities separately and subtotal separately on "Exhibit B."

B. Improvement Guarantee

Owner shall submit to Town Administrative Official an Improvement Guarantee for all Public Improvements for the Final Plat. Said guarantee may be in cash or a letter of credit in form and substance.

1. Said guarantee, if a letter of credit, shall not expire during the winter season (November 1 - March 1). Said Improvement Guarantee shall include, but not be limited to, street, curb, gutter, sidewalks, landscaping, fencing, street lights, water, sewer, storm sewer and drainage improvements, trails and park improvements on or off the Development.
2. The total amount of the guarantee for the Development shall be calculated as a percentage of the total estimated cost including labor and materials of all Public Improvements to be constructed in the Development as described on

“Exhibit B.” The total minimum amounts are as follows:

- a) Prior to commencement of construction of Public Improvements and Common Facilities improvements: 115% of the amount(s) shown on “Exhibit B.” The guarantees will be provided on a phased basis as shown on “Exhibit B.”
- b) Upon Construction Acceptance of the Public Improvements in each phase through Final Acceptance: 25% of the amount(s) shown on “Exhibit B.” The Town will release the guarantees for the wet utilities separate from the roadway improvements on a phased basis as shown on “Exhibit B.”
- c) Upon Construction Acceptance of Common Facilities: 0%.
- d) After Final Acceptance of Public Improvements: 0%.

3. In addition to any other remedies it may have, Erie may, at any time prior to Final Acceptance, draw on any letter of credit or Improvement Guarantee received pursuant to this Agreement.

In the event that, a) the Owner fails to extend or replace the letter of credit at least sixty (60) days prior to expiration of such letter of credit, b) the letter of credit is set to expire, c) Erie receives notice that the letter of credit will not be renewed, d) the entity issuing the letter of credit becomes non-qualifying, or e) the letter of credit, in the sole determination of Erie, is at risk of being lost as a guarantee, then, in any of these events, the Owner shall be in default of this Agreement and Erie may immediately draw on the letter of credit for the full amount of the letter of credit. In such event as identified herein, no notice or prior notice shall be required prior to drawing on the letter of credit.

The Town may hold the funds obtained from the letter of credit until the Public Improvements and Common Facilities as set forth on “Exhibit B” are completed and accepted by the Town. In the event the Public Improvements and Common Facilities are not completed by the Owner within the time period set forth in this Agreement or in the manner as required by this Agreement, the Town may, at its sole discretion, use any or all of the funds to complete some or all of the Public Improvements and Common Facilities. In any event, the Town shall have no obligation to complete any or all of the Public Improvements and Common Facilities. Owner is further subject to the provisions of Section X.C of this Agreement, as well as the suspension of development activities by Erie including, but not limited to, the withholding of building permits and certificates of occupancy.

In the event that the cost of the Public Improvements and Common Facilities and construction is reasonably determined by Erie to be greater than the



amount of the security guarantee provided by the Owner to the Town, then Erie shall furnish written notice to Owner of the condition, and within thirty (30) days of receipt of such notice Owner shall provide Erie with a substituted qualifying Improvement Guarantee, or augment the deficient security as necessary to bring the security into compliance. If Owner fails to provide Erie with a substituted qualifying Improvement Guarantee, or augment the deficient security as necessary to bring the security into compliance, then Owner is in default of this Agreement, without further notice, and is subject to the provisions of Section X.C of this Agreement, as well as the suspension of development activities by Erie including, but not limited to, the withholding of building permits and certificates of occupancy.

4. If Erie draws on the letter of credit to correct deficiencies or complete Public Improvements and Common Facilities, any portion of said guarantee not utilized in correcting the deficiencies and/or completing improvements shall be returned to Owner within thirty (30) days after Final Acceptance of said Public Improvements and Common Facilities

C. Phasing

Owner's Phasing Plan is detailed on "Exhibit D." The Development is proposed to be completed in one phase. The completion of each phase of Development, including Public Improvements, Common Facilities, and private improvements, shall be in accordance with said plan and completion schedules or Erie approved modifications thereof. All modifications shall be in writing and signed by the Town Administrative Official.

VII. OVERSIZING AND REIMBURSEMENT

Erie may require Owner to build utility lines and other infrastructure large enough to serve property other than Owner's (oversizing). Erie may also require Owner to construct or participate in the construction of certain off-site Public Improvements. Certain such improvements qualify for reimbursement pursuant to the policies of Erie.

A. Reimbursement due to Owner for Qualifying Public Improvements Constructed by Owner

Owner is entitled to reimbursement for the oversize part of utilities and other infrastructure and/or a pro-rata portion of the cost of off-site Public Improvements. At the time of final approval of a subdivision plat or other development plan for properties that use these utilities or Public Improvements, Erie will require as a condition of approval, a proportional reimbursement to Owner as described in "Exhibit C," attached hereto and incorporated herein by this reference. Nothing contained in this Agreement shall operate to create an obligation on the part of Erie to pay or reimburse any costs to Owner in the event such costs are not recovered by Erie as contemplated herein, for any reason, from the properties or property owners that use the utilities or Public Improvements, so long as Erie has made a good faith effort to recover such costs.

B. Reimbursement due from Owner for Qualifying Public Improvements Constructed by Others

Owner will be required to reimburse Erie or others who have constructed oversized utilities and other infrastructure that will be utilized by Owner's property. The amount of the reimbursement due, if any, is described in "Exhibit C."

VIII. MISCELLANEOUS CONSTRUCTION STANDARDS

A. Trash, Debris, Mud

Owner agrees that during construction of the Development and improvements described herein, Owner will take appropriate steps necessary to control trash, debris and wind or water erosion in the Development. If Erie determines that said trash, debris or wind or water erosion causes substantial damage or injury or creates a major nuisance, Owner agrees to abate said nuisance and/or to correct or commence to correct within 24 hours, any damage or injury, and complete within five (5) working days after notification by Erie. If Owner does not abate said nuisance, Erie may abate the nuisance and/or correct any drainage or injury without notice to Owner, at Owner's expense. Owner also agrees to take any and all reasonable steps necessary to prevent the transfer of mud or debris from the construction site onto public rights-of-way and to immediately remove such mud and debris from public rights-of-way after notification by Erie. If Owner does not abate, or if an emergency exists, Erie may abate at Owner's expense.

B. Operation of Construction Equipment

The operation of construction equipment outside an enclosed structure shall be prohibited on weekdays between the hours of 7:00 p.m. and 7:00 a.m. On weekend days and legal holidays the operation of such equipment outside an enclosed structure shall be prohibited between the hours of 4:00 p.m. and 8:00 a.m. The Town Administrative Official may alter the hours of operation for good cause.

IX. SPECIAL PROVISIONS

A. Transportation

1. Tract B is a private road that shall be owned and maintained by the HOA.
2. North 109th Street
Owner shall be responsible for payment of a fee in lieu of future roadway improvements to North 109th Street. The improvements are for 467 linear feet of road frontage at a rate of \$41.00 per linear foot. The fee in lieu payment due with the Development is outlined in "Exhibit C."

B. Park and Open Space Dedication Requirements

The Owner is responsible for the dedication of parks and opens space as outlined in the Code.

TYPE	ACREAGE REQUIRED TO BE DEDICATED WITH PRINCE CREEK ESTATES	ACREAGE BEING DEDICATED WITH PRINCE CREEK ESTATES	FEE IN LIEU LAND OF DEDICATION PROVIDED WITH PRINCE CREEK ESTATES
Community Park	0.056	0	0.056

Neighborhood Park	0.033	0	0.033
Pocket Park	0.006	0	0.006
Open Space	0.190	19.96*	0

* Open Space acres credited from existing Conservation Easement

Owner hereby accepts an appraised land value of \$35,049.00 per acre for determining the fee in lieu calculation for park dedication purposes. Owner shall pay a fee in lieu of land dedication for 0.09 acres of Pocket Park, Neighborhood Park, and Community Park. The fee in lieu payment is outlined in "Exhibit C."

C. Improvements to Private Tracts

The Owner shall provide cash or letter of credit for improvements to be located on Tract B of the Development.

D. Maintenance Private Tracts

Tracts A and B shall be maintained by the HOA.

E. Maintenance of Vacant Lots

Owner shall be responsible for maintenance, including weed control, on all lots within the Development until such time the lots are conveyed to a homeowner.

F. Water

The Town will allow Owner to connect to the Left Hand Water District water system for potable water services to the Property. Owner shall provide the Town proof of payment to the Left Hand Water District for tap fees prior to the issuance of a building permit.

G. Sewer

1. Individual Onsite Wastewater Systems ("OWS")

Owner may utilize individual OWS for sewage disposal on each lot. An OWS permit shall be obtained from Boulder County Public Health prior to the issuance of a building permit from the Town.

2. North Water Reclamation Facility – Town Reimbursement

The Town is due recovery at a rate of \$410.00 for each Single Family Equivalent ("SFE"). Said reimbursement to the Town shall occur prior to the connection to the Towns sewage disposal system.

3. West Side Interceptor – Town Reimbursement

The Town is due recovery at a rate of \$1,500.00 for each SFE. Said reimbursement to the Town shall occur prior to the connection to the Towns sewage disposal system.

X. MISCELLANEOUS TERMS

A. Vested Rights

Erie agrees that the Final Subdivision Plat for the Prince Creek Estates constitutes a "site

specific development plan” pursuant to C.R.S. 24-68-101 et. Seq. (the “Vested Rights Act”) for that portion so platted, and in addition, that the rights which vest pursuant to the Vested Rights Act shall vest for a period of three (3) years. This Development Agreement shall be deemed to be a “development agreement” pursuant to the Vested Rights Act.

B. Ground Water Dedication

As provided by Erie ordinances, all tributary and not non-tributary ground water rights not already transferred to Erie shall be dedicated to Erie at the time of Final Plat recordation. Transfer of the water rights shall be by Special Warranty Deed tendered to Erie prior to signatures being affixed to this agreement.

C. Default

If Owner fails to fulfill the terms and conditions of this Agreement, Erie, in its sole discretion, may declare Owner in default and may call the security and draw on the letter of credit provided for in Section VI, and may further exercise all remedies available to Erie in law and equity. Erie may also, withhold any additional building permits, certificates of occupancy, or provision of new utilities fixtures or services until the completion of the Public Improvements and Common Facilities and/or the default has been cured by Owner. Any costs incurred by Erie, including, but not limited to, reasonable administrative costs and reasonable attorney’s fees, in pursuit of any remedies due to the breach by Owner shall be paid by Owner. Erie may deduct these costs from the Improvement Guarantee. Erie shall have the right to enforce the Owner's obligations hereunder by an action for any equitable remedy, including injunction or specific performance, or an action to recover damages. No remedy or election hereunder shall be deemed exclusive but shall, whenever possible, be cumulative with all other remedies at law or in equity.

If Owner fails to fulfill the terms and conditions of Section VI of this Agreement, or any other monetary, security or surety default, Erie, in its sole discretion, may declare Owner in default and may immediately call the security due and draw on the letter of credit provided for in Section VI without notice to Owner, and may further exercise all remedies available to Erie in law and equity and as provided for herein.

D. Insurance and Safety

Owner shall, through contract requirements and other normal means, guarantee and furnish to Erie proof thereof that all employees and contractors engaged in the construction of improvements are covered by adequate Workman’s Compensation Insurance and Public Liability Insurance, and shall require the faithful compliance with all provisions of the Federal Occupational Safety and Health Act (OSHA).

E. Indemnification and Release of Liability

Owner agrees to indemnify and hold harmless Erie, its officers, employees, agents, or servants, and to pay any and all judgments rendered against said persons on account of any suit, action, or claim caused by arising from, or on account of acts or omissions by Owner, its officers, employees, agents, consultants, contractors, and subcontractors, and/or suit, action, or claim resulting from mineral right disputes and/or Owner’s failure to abide by the terms of this Agreement, and to pay to Erie and said persons their reasonable expenses,

including but not limited to, reasonable attorney's fees and reasonable expert witness fees, incurred in defending any such suit, action or claim. Owner's obligation herein shall not apply to the extent said suit, action or claim results from any acts or omissions of officers, employees, agents, or servants of Erie or conformance with requirements imposed by Erie, said obligation of Owner shall be limited to suits, actions, or claims based upon conduct prior to Final Acceptance by Erie of the construction work. Owner acknowledges that Erie's review and acceptance of plans for development of the Development is done in furtherance of the general public's health, safety and welfare and that no immunity is waived and no specific relationship with or duty of care to, Owner or third parties is assigned by such review acceptance.

F. Recording Agreement

Erie shall record this Agreement at Owner's expense in the office of the Clerk and Recorder, County of Boulder, State of Colorado, and Erie shall retain the recorded Agreement.

G. Binding Effect of Agreement

This Agreement shall be binding upon and inure to the benefit of the parties, their successors in interest, or their legal representatives, including all developers, purchasers and subsequent owners of any lots or parcels within the Property, and shall constitute covenants running with the land. Owner shall not be released from its obligations hereunder until written notice to the Erie Administrative Official of the assignment of said obligations to a successor, accompanied by written acceptance of such obligations by the successor, have been received by Erie and consent to such assignment by Erie as required by Paragraph X.H has been granted. This Agreement shall be recorded with the County Clerk & Recorder of Boulder County, Colorado, at Owner's expense. Subject to the conditions precedent herein, this Agreement may be enforced in any court of competent jurisdiction.

H. Assignment, Delegation and Notice

Owner shall provide to the Erie Administrative Official, for consent, written notice of: 1) any proposed transfer of title to all or any portion of the Development, 2) arrangements for delegation or transfer of the Improvement obligations hereunder to any successor, and 3) successor's written acceptance of such Improvement obligations. Notwithstanding the forgoing, Owner may sell developed lots or all of the multi-family tracts without Erie's consent, provided that the purchaser deposits with Erie all guaranties, security and sureties required under this Agreement. Until the Erie Administrative Official provides written consent to the assignment, Owner and Owner's successors and assigns shall be jointly and severally liable for the assigned Improvement obligations. Erie will not unreasonably withhold, delay or condition its consent to assignment. Erie may withhold its consent in the event it reasonably determines that the Improvement obligations or any constituent element of this Agreement may not be fulfilled through assignment or that the benefit of Erie's bargain under this Agreement may be materially and adversely impaired by such assignment.

I. Modification and Waiver

No modification of the terms of this Agreement shall be valid unless in writing and executed with the same formality as this Agreement, and no waiver of the breach of the provisions of any sections of this Agreement shall be construed as a waiver of any subsequent breach of

the same section or any other sections which are contained herein.

J. Addresses for Notice

Any notice or communication required or permitted thereunder 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:

Erie:

Town of Erie
Town Administrator
P.O. Box 750
Erie, Colorado 80516-0750

Owner:

Yihong Zhang and Xueqing Wang
2210 Tamarron Lane
Lafayette, Colorado, 80026

Mark Shapiro
Mark R. Shapiro, PC
1650 38th Street, Suite 103
Boulder, CO 80301-2624

With a copy to such other address or the attention of such other person(s) as hereafter designated in writing by the applicable parties in conformance with this procedure. Notices shall be effective upon mailing or personal delivery in compliance with this paragraph.

K. Force Majeure

Whenever Owner is required to complete construction, maintenance, repair, or replacement of improvements by an agreed upon deadline, Erie shall grant a reasonable extension of time if the performance cannot, as a practical matter, be completed in a timely manner due to Acts of God or other circumstances constituting force majeure or beyond the reasonable control of Owner.

L. Approvals

Whenever approval or acceptance of a matter is required or requested of Erie pursuant to any provisions of the Agreement, Erie shall act reasonably in responding to such matter.

M. Previous Agreements

All previous written agreements between the parties, their successors, and assigns, including, but not limited to, any Annexation, Pre-Annexation Agreement, or Development Agreement shall remain in full force and effect and shall control this Development. If any prior agreements conflict with this Agreement, then this Agreement controls.

N. Title and Authority

Owner warrants to Erie that Yihong Zhang and Xueqing Wang, is the record owner for the property within the Development. The undersigned further warrant having full power and authority to enter into this Agreement.

O. Severability

If any part, section, subsection, sentence, clause or phrase of this Agreement is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining sections of the Agreement. The parties hereby declare that they would have ratified this Agreement 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 be declared invalid.

P. Legal Fees; Venue

In the event that either party finds it necessary to retain an attorney in connection with a default by the other as to any of the provisions contained in this agreement, the defaulting party shall pay the other's reasonable attorney's fees and costs incurred in enforcing the provisions of this Agreement. For the resolution of any dispute arising hereunder, venue shall be in the Courts of the County of Weld, State of Colorado.

Q. Agreement Status After Final Acceptance

Upon Final Acceptance by Erie of all improvements and compliance by Owner with all terms and conditions of this Agreement, and provided that no litigation or claim is pending relating to this Agreement, this Agreement shall terminate and no longer be in effect.

R. Enforceability

This Agreement is made only between the Owner and Erie, or their successors and assigns, and is not intended to benefit, and may not be enforced by, any third parties.

[SIGNATURES ON FOLLOWING PAGE]



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

TOWN:

Town of Erie, a Colorado municipal corporation

_____, Mayor

ATTEST:

Nancy J. Parker, Town Clerk

OWNER:

Yihong Zhang, an individual



Yihong Zhang

STATE OF COLORADO)
) ss.
COUNTY OF Boulder)

The foregoing instrument was acknowledged before me this 3 day of April, 2014, by Yihong Zhang.

Witness my hand and official seal.
My Commission expires Oct 3, 2016.

GERALDINE G. GOLLEHON CALLAHAN
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID # 20124038040
MY COMMISSION EXPIRES OCTOBER 03, 2016



Notary Public

OWNER:

Xueqing Wang, an individual

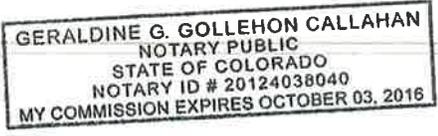


Xueqing Wang

STATE OF COLORADO)
) ss.
COUNTY OF Boulder

The foregoing instrument was acknowledged before me this 3 day of April,
2014, by Xueqing Wang.

Witness my hand and official seal,
My Commission expires Oct 3, 2016.





Notary Public

EXHIBITS LIST

EXHIBIT A – PRINCE CREEK ESTATES FINAL PLAT

EXHIBIT B – PUBLIC IMPROVEMENT SCHEDULE

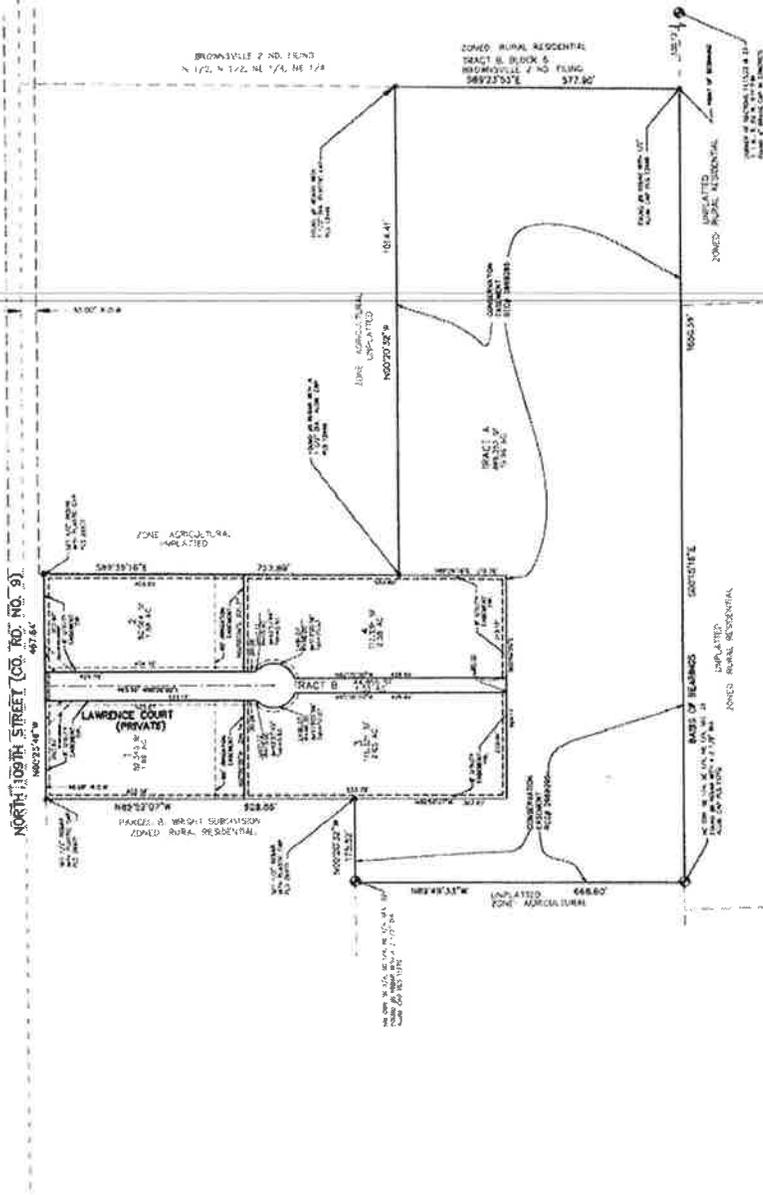
EXHIBIT C – PUBLIC IMPROVEMENT REIMBURSEMENT SCHEDULE

EXHIBIT D – PHASING PLAN



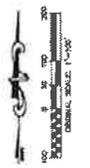
**PRINCE CREEK ESTATES
MINOR SUBDIVISION**

A REPEAT OF PARCEL A, WRIGHT SUBDIVISION
LOCATED IN THE EAST 1/2 OF SECTION 22 T. 1 N., R. 69 W., 6TH P.M.
TOWN OF ERIE COUNTY OF BOULDER, STATE OF COLORADO.
29.99 ACRES - 4 RESIDENTIAL LOTS, 2 TRACTS
MS-13-00097
SHEET 2 OF 2



NO.	DATE	DESCRIPTION	BY
1	12/15/11	ORIGINAL SUBDIVISION	PL
2	12/15/11	REPLAT	PL
3	12/15/11	REPLAT	PL

Patterson Partners
1475 Arden St., Englewood, CO 80150
Tel: 303.733.8888
Fax: 303.733.8888
www.pattersonpartners.com
SHEET 2 OF 2



Handwritten signature or initials.

EXHIBIT B
Public Improvement Schedule

No Public Improvements are included in this Agreement.

MS

EXHIBIT C

Public Improvement Reimbursement Schedule

Reimbursements due to others: None.

Reimbursements due Erie:

1. The Town shall collect from Owner Nineteen Thousand One Hundred Forty-Seven & 00/100 (\$19,147.00) as payment for fee in lieu of North 109th Street road improvements. Prior to recordation of the Agreement, the Owner shall pay Four Thousand Seven Hundred Eighty-Six & 75/100 (\$4,786.75) for one single family dwelling. Each additional single family dwelling shall pay Four Thousand Seven Hundred Eighty Six & 75/100 (\$4,786.75) due at the time of building permit issuance.
2. The Town shall collect from Owner, prior to recordation of this Agreement, three thousand, one hundred fifty-four & 41/100 Dollars (\$3,154.41) as payment for fee in-lieu of land dedication of a Community Park, Neighborhood park, and Pocket Park for 4 lots within Prince Creek Estates.

Reimbursements due Owner: None.



EXHIBIT D
Phasing Plan

The Development shall be constructed in one phase.

GRANT OF PERMANENT AVIGATION EASEMENT AGREEMENT

THIS GRANT OF PERMANENT AVIGATION EASEMENT AGREEMENT is made and entered into this 18 day of March, 2014, by and between **Yihong Zhang and Xueqing Wang**, 2210 Tamarron Lane, Lafayette, Colorado, 80026, hereinafter called "Grantor" and the **TOWN OF ERIE, COLORADO**, a Colorado municipal corporation, whose address is P.O. Box 750, Erie, CO 80516, hereinafter called "Grantee";

WITNESSETH:

WHEREAS, Grantor owns the real property (hereinafter referred to as the "Property") over, across and through which the Grantee wishes to acquire a permanent, perpetual non-exclusive easement for avigation and aviation purposes, as described in paragraph 1, below;

WHEREAS, the Grantor and the Grantee have agreed to terms and conditions for the grant of the easement to the Grantee and the Grantee's use and operation of the easement; and,

~~**WHEREAS**, the Grantor and the Grantee hereby wish to set forth their agreement and enter into this Grant of Permanent Avigation Easement Agreement.~~

NOW, THEREFORE, in consideration of the foregoing recitals and the obligations, covenants and agreements herein set forth, the legal sufficiency of which the parties due hereby acknowledge, the parties hereto agree as follows:

1. Grant of Easement. The Grantor hereby grants to the Grantee an easement and right-of-way for the use and benefit of the Grantee and of the public appurtenant to, over, across and through the property described on "Exhibit A," which exhibit is attached hereto and incorporated herein by this reference (herein referred to as the "Property"), for the passage of all aircraft ("aircraft" being defined for the purposes of this instrument as any device now know or hereinafter invented, used or designated for navigation of or flight in the air) by whomsoever owned and operated, in the airspace above the surface of Grantor's Property to an infinite height above said Grantor's Property, together with the right to cause in said airspace such noise, vibration, and all other effects that may be caused by the operation of aircraft using said airspace for landing at, taking off from, or operating at the Erie Municipal Airport and/or the Parkland Estates airport (herein after referred to as the "Avigation Easement"); and Grantor hereby waives, remises and releases the Grantee from any and all rights or causes of action which Grantor now has or which Grantor may have in the future against the Grantee, its successors and assigns, due to such noise, vibration, and other effects that may be caused by the operation of aircraft landing at, taking off from, or operating at the Erie Municipal Airport and/or the Parkland Estates airport, or the use in general of the Avigation Easement as granted herein.

2. No Structure to Interfere with the Avigation Easement. This Avigation Easement grants and conveys unto the Grantee, its agents, servants and employees, a continuing right and easement to take any action necessary to prevent the erection or growth of any structure, tree or other object into the airspace, or to mark or light as obstructions to air navigation any and all structures, trees or other objects, that may interfere with the use of the Erie Municipal Airport

and/or the Parkland Estates airport, together with the right of ingress to, egress from, and passage over the Grantor's Property for such purpose.

3. No Electrical Interference. The Grantor further agrees that this Avigation Easement and the Property described hereon is subject to a covenant whereby the Property will not hereafter be used or permitted or suffered to use in such a manner as to create electrical interference with navigational signals or radio communications at the Erie Municipal Airport and/or the Parkland Estates airport and aircraft, or which mimics airport lights, or which results in glare affecting aircraft using the Erie Municipal Airport and/or the Parkland Estates airport, or which otherwise endangers the landing, take-off, and passage of aircraft in the vicinity of the Grantor's Property.

4. Grantor's Warranty. Grantor warrants that he has full right and lawful authority to make the Grant of Easement herein contained, and promises and agrees to defend against any defect in title to the Property or the right to make the Grant of Easement as herein contained.

5. Inurement. Each and everyone of the benefits and burdens of this Permanent Grant of Avigation Easement shall inure to and be binding upon the respective legal representatives, heirs, executors, administrators, successors and assigns of the parties hereto.

6. Complete Agreement. This Permanent Grant of Avigation Easement represents the complete agreement between the parties hereto, and supersedes any and all other prior agreements, written and oral, between the parties.

7. Headings for Convenience Only. The paragraph headings are for convenience only and the substantive portions hereof control without regard to the headings.

8. Modification. This Permanent Grant of Avigation Easement shall be modified by a writing only, which writing must be only executed by the parties hereto in order to be effective.

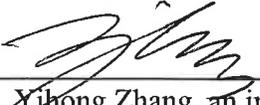
9. Controlling Law. This Permanent Grant of Avigation Easement shall be governed under, and construed pursuant to, the laws of the State of Colorado, and the parties hereto agree to jurisdiction in the Courts of Weld County, Colorado.

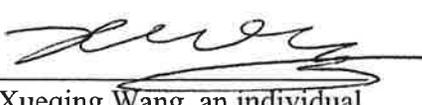
IN WITNESS WHEREOF, the parties hereto have executed this PERMANENT GRANT OF AVIGATION EASEMENT as of the day and year first above written.

GRANTORS:

Yihong Zhang

Xueqing Wang

By: 
Yihong Zhang, an individual

By: 
Xueqing Wang, an individual

STATE OF COLORADO)
COUNTY OF Boulder) ss.

The forgoing instrument was acknowledged before me this 18 day of March, 2014, by Yihong Zhang, an individual; and Xueqing Wang, an individual.

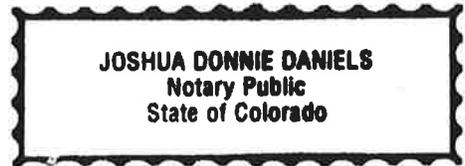
WITNESS my hand and official seal.

**My Commission Expires
April 25, 2016**

My commission expires: _____



Notary Public



GRANTEE:

TOWN OF ERIE, a Colorado municipal corporation

By: _____
_____, Mayor

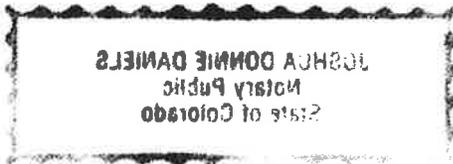
ATTEST:

By: _____
Nancy J. Parker, Town Clerk

EXHIBIT A
Legal Description

Prince Creek Estates Subdivision, Town of Erie, County of Boulder, State of Colorado.

My Commission Expires
April 28, 2016



TOWN OF ERIE
BOARD OF TRUSTEE AGENDA ITEM

Board Meeting Date: April 22, 2014

SUBJECT: **CONSENT**
Consideration of Resolution 14-57: A Resolution Approving an Amendment to Agreement between the Town of Erie, Urban Drainage and Flood Control District, Regarding Final Design, Right-of-Way Acquisition and Construction of Drainage and Flood Control Improvements for Reach BP20; And Setting Forth Details in Relation Thereto.

DEPARTMENT: Public Works

PRESENTER/PREPARER: **Gary Behlen, Director of Public Works**
Wendi Palmer, Civil Engineer

FISCAL INFORMATION: Cost as Recommended: **\$612,500**
Balance Available: \$825,000
Budget Line Item Number: 010 . 07 . 110 . 580950 . 130028
New Appropriation Required: Yes No

STAFF RECOMMENDATION: Request the Board of Trustees adopt Resolution 14-57 Amendment to Agreement between the Town of Erie and Urban Drainage and Flood Control District, Regarding Final Design, Right-of-Way Acquisition and Construction of Drainage and Flood Control Improvements for Reach BP20, authorize the Town Administrator to execute said amendment, and authorize staff to spend the funds.

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

Urban Drainage and Flood Control District (UDFCD) was established in 1969 by the Colorado legislature for assisting local governments with multi-jurisdictional drainage and flood control problems. In 2001 the Town of Erie and UDFCD completed a master drainage plan referred to as; Erie Outfall Systems Planning, Preliminary Design, Erie and Adjacent Boulder and Weld County Areas (OSP). This OSP is used to guide both new development and Town capital improvement projects.

On July 13, 2004 the Board of Trustees approved an agreement between the Town of Erie and UDFCD for the design and construction of Reach BP20. Reach BP20 is a drainage way identified in the OSP. This drainage way begins on the south at Arapahoe on the west side of 111th Street and continues through Flatirons Meadows Subdivision and Boulder County ultimately reaching Boulder Creek on the north. This project is to improve a section along 111th incorporate storm water detention improvements to Prince Lake No. 2, and crossing improvements to 111th Street to convey flows to the drainage way in Flatiron Meadows. The original design of the drainage way improvements along 111th Street are complete, and an easement has been purchased. The original cost estimate for constructing the improvements was \$1,700,000. The Town and UDFCD have been allocating additional funds for the construction of this project which is why there were amendments to the original agreement in 2012, 2013 and again in 2014.

This year the Town and UDFCD have budgeted \$612,500 to add to the funding of this project, this amendment to the agreement will secure the funds.

Upon approval of this agreement, the Town and UDFCD will add \$612,500 each to the existing account for finalizing the construction plans and construction of the drainage improvements. Construction of the

improvements is anticipated to begin in 2014. Any funds not used for this project will be returned, with interest, to the Town of Erie when the project is complete based on the proportion contributed.

The following is the contribution by the Town of Erie and UDFCD:

	<u>% Share</u>	<u>Previous Contribution</u>	<u>Additional Contribution</u>	<u>Total Contribution</u>
Town of Erie	50.22%	\$422,500	\$ 612,500	\$1,035,000
UDFCD	49.78%	\$413,500	\$ 612,500	\$1,026,000
TOTAL	100%	\$836,000	\$1,225,000	\$2,061,000

This agreement is to secure an additional \$1,225,000 for the project. The agreement has been reviewed by Town Staff and the Town Attorney and has found it to be acceptable.

Board Goal

This serves the Board's goal for Infrastructure – Fund and provide essential infrastructure that corresponds with the planned rate of growth.

Staff Review:

_____ Town Attorney
 _____ Town Clerk
 _____ Community Development Director
ST Finance Director
 _____ Police Chief
CSB Public Works Director

Approved by:



A.J. Krieger
 Town Administrator

ATTACHMENTS:

- a. Resolution 14-57
- b. Amendment to Agreement between the Town of Erie and Urban Drainage and Flood Control District, Regarding Final Design, right-of-way Acquisition and Construction of Drainage and Flood Control Improvements for Reach BP20.
- c. Vicinity Map
- d. July 13, 2004 Board Memo
- e. Original 2004 Signed Agreement
- f. May 8, 2012 Board Memo
- g. March 26, 2013 Board Memo

RESOLUTION NO. 14-57

A RESOLUTION APPROVING AN AMENDMENT TO AN AGREEMENT BETWEEN THE TOWN OF ERIE, URBAN DRAINAGE AND FLOOD CONTROL DISTRICT, REGARDING FINAL DESIGN, RIGHT OF WAY ACQUISITION AND CONSTRUCTION OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR REACH BP20; AND SETTING FURTHER DETAILS IN RELATION THERETO.

WHEREAS, the Urban Drainage and Flood Control District (UDRCD) was established in 1969 by the Colorado legislature for assisting local governments with multi-jurisdictional drainage and flood control problems; and

WHEREAS, in 2001, the Town of Erie and UDFCD completed a master drainage plan referred to as "Erie Outfall Systems Planning, Preliminary Design, Erie and Adjacent Boulder and Weld County Areas (OSP)", to be used to guide both new development and Erie capital improvements projects; and

WHEREAS, in July of 2004, an agreement between the Town of Erie and UDFCD, for Project identified as Right-of-way acquisition and Construction of Drainage and Flood Control Improvements for Reach BP20 was approved; and

WHEREAS, in March of 2013, the Board of Trustees approved and amending to the 2004 agreement in which UDFCD added an additional \$262,500.00 to the Project; and

WHEREAS, UDFCD and the Town have budgeted to have funds available for construction in 2014; to secure the funds an amendment to the agreement is needed; and

WHEREAS, the Board of Trustees of the Town of Erie believes it is in the best interest of the Town to enter into such an amendment to the agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE, COLORADO, AS FOLLOWS:

- Section 1.** The Attached Amendment to the Agreement between the Town of Erie and UDFCD, for Project identified as Right-of-way acquisition and Construction of Drainage and Flood Control Improvements for Reach BP20, is hereby approved.
- Section 2.** That the appropriate Town officers hereby are authorized and directed to sign said amendment to the agreement.
- Section 3.** That entering into this amendment to the agreement is found to be in the best interest of the Town of Erie, and necessary for the preservation of the public health and safety.

ADOPTED AND APPROVED THIS 22nd DAY OF APRIL 2014, BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE, COLORADO.

TOWN OF ERIE,
A COLORADO MUNICIPAL CORPORATION

BY: _____
Tina Harris, Mayor

ATTEST:

BY: _____
Nancy J. Parker, CMC, Town Clerk

AMENDMENT TO
AGREEMENT REGARDING
FINAL DESIGN, RIGHT-OF-WAY ACQUISITION AND CONSTRUCTION
OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR
REACH BP20, TOWN OF ERIE

Agreement No. 04-05.06C

THIS AGREEMENT, made this _____ day of _____, 2014, by and between URBAN DRAINAGE AND FLOOD CONTROL DISTRICT (hereinafter called "DISTRICT") and TOWN OF ERIE (hereinafter called "TOWN") and collectively known as "PARTIES";

WITNESSETH:

WHEREAS, PARTIES have entered into "Agreement Regarding Final Design, Right-of-Way Acquisition and Construction of Drainage and Flood Control Improvements for Reach BP20, Town of Erie" (Agreement No. 04-05.06) dated August 2, 2004, as amended; and

WHEREAS, PARTIES now desire to construct improvements along Reach BP20; and

WHEREAS, PARTIES desire to increase the level of funding by \$1,225,000; and

WHEREAS, DISTRICT's Board of Directors has authorized additional DISTRICT financial participation for PROJECT (Resolution No. 13, Series of 2014); and

WHEREAS, the Board of Trustees of TOWN and the Board of Directors of DISTRICT have authorized, by appropriation or resolution, all of PROJECT costs of the respective PARTIES.

NOW, THEREFORE, in consideration of the mutual promises contained herein, PARTIES hereto agree as follows:

1. Paragraph 4. PROJECT COSTS AND ALLOCATION OF COSTS is deleted and replaced as follows:
 4. PROJECT COSTS AND ALLOCATION OF COSTS
 - A. PARTIES agree that for the purposes of this Agreement PROJECT costs shall consist of and be limited to the following:
 1. Final design services;
 2. Delineation, description and acquisition of required rights-of-way/ easements;
 3. Construction of improvements;
 4. Contingencies mutually agreeable to PARTIES.
 - B. It is understood that PROJECT costs as defined above are not to exceed \$2,061,000 without amendment to this Agreement.

PROJECT costs for the various elements of the effort are estimated as follows:

<u>ITEM</u>	<u>AS AMENDED</u>	<u>PREVIOUSLY AMENDED</u>
1. Final Design	\$ 130,000	\$130,000
2. Right-of-way	80,000	80,000
3. Construction	1,750,000	525,000
4. Contingency	101,000	101,000
Grand Total	\$2,061,000	\$836,000

This breakdown of costs is for estimating purposes only. Costs may vary between the various elements of the effort without amendment to this Agreement provided the total expenditures do not exceed the maximum contribution by all PARTIES plus accrued interest.

C. Based on total PROJECT costs, the maximum percent and dollar contribution by each party shall be:

	<u>Percentage Share</u>	<u>Previously Contributed</u>	<u>Additional Contribution</u>	<u>Maximum Contribution</u>
DISTRICT	49.78%	\$413,500	\$ 612,500	\$1,026,000
TOWN	50.22%	\$422,500	612,500	\$1,035,000
TOTAL	100.00%	\$836,000	\$1,225,000	\$2,061,000

2. Paragraph 5. MANAGEMENT OF FINANCES is deleted and replaced as follows:

5. MANAGEMENT OF FINANCES

As set forth in DISTRICT policy (Resolution No. 11, Series of 1973, Resolution No. 49, Series of 1977, and Resolution No. 37, Series of 2009), the funding of a local body's one-half share may come from its own revenue sources or from funds received from state, federal or other sources of funding without limitation and without prior Board approval.

Payment of each party's full share (TOWN - \$1,035,000; DISTRICT - \$1,026,000) shall be made to DISTRICT subsequent to execution of this Agreement and within 30 days of request for payment by DISTRICT. The payments by PARTIES shall be held by DISTRICT in a special fund to pay for increments of PROJECT as authorized by PARTIES, and as defined herein. DISTRICT shall provide a periodic accounting of PROJECT funds as well as a periodic notification to TOWN of any unpaid obligations. Any interest earned by the monies contributed by PARTIES shall be accrued to the special fund established by DISTRICT for PROJECT and such interest shall be used only for PROJECT upon approval by the contracting officers (Paragraph 13).

Within one year of completion of PROJECT if there are monies including interest earned remaining which are not committed, obligated, or disbursed, each party shall receive a share of such monies, which shares shall be computed as were the original shares.

3. All other terms and conditions of Agreement No. 04-05.06 shall remain in full force and effect.

WHEREFORE, PARTIES hereto have caused this instrument to be executed by properly authorized signatories as of the date and year first above written.

URBAN DRAINAGE AND
FLOOD CONTROL DISTRICT

(SEAL)

By _____

ATTEST:

Title Executive Director

Date _____

TOWN OF ERIE

(SEAL)

By _____

ATTEST:

Title _____

Date _____

APPROVED AS TO FORM:

Town Attorney



drawn by: DS
 checked by: DO
 approved by: DK
 project no.: 2004-1318
 drawing name: FIG 1
 date: 4/23/07

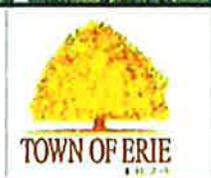
FIGURE 1

ERIE REACH BP20

VICINITY MAP AND KEY FEATURES

ERIE, COLORADO

2007



**TOWN OF ERIE
BOARD OF TRUSTEE AGENDA ITEM
Board Meeting Date: July 13, 2004**

SUBJECT: **RESOLUTION:** **Consideration of Resolution 04-34: A Resolution Approving an Agreement between the Town of Erie and Urban Drainage and Flood Control District, Regarding Final Design, Right-of-way Acquisition and Construction of Drainage and Flood Control Improvements for Reach BP20, Town of Erie**

DEPARTMENT: **Public Works Engineering**

PRESENTER: **Gary W. Behlen, Director of Public Works**

FISCAL

INFORMATION: **Cost as Recommended: \$160,000**
 Budget Line Item Number: 010.07.110.580950.040002
 Balance Available: \$160,000
 New Appropriation Required: No

STAFF

RECOMMENDATION: Requesting the Board of Trustees to adopt a resolution to enter into an Agreement between the Town of Erie and Urban Drainage and Flood Control District, Regarding Final Design, Right-of-way Acquisition and Construction of Drainage and Flood Control Improvements for Reach BP20

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

Urban Drainage and Flood Control District (UDFCD) was established in 1969 by the Colorado legislature for assisting local governments with multi-jurisdictional drainage and flood control problems. In 2001 the Town and UDFCD completed a master drainage plan referred to as; Erie Outfall Systems Planning, Preliminary Design, Erie and Adjacent Boulder and Weld County Areas (OSP). This OSP is used to guide both new development and Town capital improvement projects. When requested by the Town, UDFCD will offer assistance with both construction of Town capital improvement projects and maintenance of improvements constructed by developers when reviewed and accepted by UDFCD, as funding is available.

The Town of Erie selected Reach BP20 (see attached vicinity map) as one of two of this year's engineering design projects with UDFCD. This drainage area needs improvement because; currently drainage runs along 111th St. road side ditch which is experiencing sever erosion. UDFCD has assisted the Town twice in the last couple of years with remedial improvements to 111th St. road side ditch, until the Town and UDFCD designs and constructs a permanent improvement in accordance with the OSP. The drainage area includes: Arapahoe Ridge Filings 2, 3 and 4, a portion of Arapahoe Ridge Filing 1, and portions of Lafayette and unincorporated Boulder County.

UDFCD will participate and provide financial assistance for this project. With the approval of this agreement, the Town will authorize \$160,000, to be used along with UDFCD's \$71,000.

Once the design is complete including a final engineering construction estimate, the Town and UDFCD will amend this agreement for the construction of this project. UDFCD can provide financial assistance for land acquisition and construction, up to a shared 50/50 split between UDFCD and the Town. The

anticipated construction cost, is \$600,000.00, and is in the Five Year Town of Erie Drainage Capital Improvement Plan for the year 2005.

The staff's recommendation is to adopt a resolution to enter into an Agreement between the Town of Erie and Urban Drainage and Flood Control District, Regarding Final Design, Right-of-way Acquisition and Construction of Drainage and Flood Control Improvements for Reach BP20.

Staff Review:

Attorney

Clerk

Comm Dev.

Finance

Police

Public Works

Approved by:


Mike N Acimovic
Town Administrator

ATTACHMENTS:

- A. Resolution 04-34
- B. Agreement
- C. Vicinity map

RESOLUTION NO. 04-34

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE TOWN OF ERIE AND URBAN DRAINAGE AND FLOOD CONTROL DISTRICT, REGARDING FINAL DESIGN, RIGHT-OF-WAY ACQUISITION AND CONSTRUCTION OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR REACH BP20; AND, SETTING FURTHER DETAILS IN RELATION THERETO.

WHEREAS, the Urban Drainage and Flood Control District (UDRCD) was established in 1969 by the Colorado legislature for assisting local governments with multi-jurisdictional drainage and flood control problems; and

WHEREAS, in 2001, the Town of Erie and UDFCD completed a master drainage plan referred to as "Erie Outfall Systems Planning, Preliminary Design, Erie and Adjacent Boulder and Weld County Areas (OSP)", to be used to guide both new development and Erie capital improvements projects; and

WHEREAS, the Town of Erie selected the redesign of Reach BP20 as one of two of this years engineering design projects with UDFCD.

WHEREAS, UDFCD will participate and provide financial assistance for this project.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE, COLORADO, AS FOLLOWS:

Section 1. The Attached Agreement between the Town of Erie and UDFCD, for Project identified as Right-of-way acquisition and Construction of Drainage and Flood Control Improvements for Reach BP20, is hereby approved.

Section 2. That the appropriate Town officers hereby are authorized and directed to sign said agreement.

Section 3. Staff is authorized to expend \$160,000 for this project, to be used along with the UDFCD \$71,000 contribution.

ADOPTED AND APPROVED THIS 13TH DAY OF JULY 2004, BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE, COLORADO.

**TOWN OF ERIE,
A COLORADO MUNICIPAL CORPORATION**

By: _____
Andrew J Moore, Mayor

ATTEST:

By: _____
Teresa Andrews, Town Clerk

AGREEMENT REGARDING
FINAL DESIGN, RIGHT-OF-WAY ACQUISITION AND CONSTRUCTION
OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR
REACH BP20, TOWN OF ERIE

Agreement No. 04-05.06

THIS AGREEMENT, made this 2nd day of August, 2004, by and between URBAN DRAINAGE AND FLOOD CONTROL DISTRICT (hereinafter called "DISTRICT") and TOWN OF ERIE (hereinafter called "TOWN") and collectively known as "PARTIES";

WITNESSETH:

WHEREAS, DISTRICT, in a policy statement previously adopted (Resolution No. 14, Series of 1970 and Resolution No. 11, Series of 1973) expressed an intent to assist public bodies which have heretofore enacted floodplain regulation measures; and

WHEREAS, PARTIES participated in a joint planning study titled "Outfall System Planning Preliminary Design, Erie and Adjacent Boulder and Weld County Areas" by Love and Associates, Inc., dated May 2001 (hereinafter called "PLAN"); and

WHEREAS, PARTIES now desire to proceed with the design, right-of-way acquisition and construction of drainage and flood control improvements for Reach BP20 from Arapahoe Road to Leon Wurl Parkway (hereinafter called "PROJECT"); and

WHEREAS, DISTRICT has adopted at a public hearing a Five-Year Capital Improvement Program (Resolution No. 9 1, Series of 2003) for drainage and flood control facilities in which PROJECT was included; and

WHEREAS, DISTRICT has heretofore adopted a Special Revenue Fund Budget for calendar year 2004 subsequent to public hearing (Resolution No. 80, Series of 2003) which includes funds for PROJECT; and

WHEREAS, DISTRICT's Board of Directors has authorized DISTRICT financial participation for PROJECT (Resolution No. 30, Series of 2004); and

WHEREAS, the Board of Trustees of TOWN and the Board of Directors of DISTRICT have authorized, by appropriation or resolution, all of PROJECT costs of the respective PARTIES.

NOW, THEREFORE, in consideration of the mutual promises contained herein, PARTIES hereto agree as follows:

1. SCOPE OF THIS AGREEMENT

This Agreement defines the responsibilities and financial commitments of PARTIES with respect to PROJECT.

2. SCOPE OF PROJECT

A. Final Design. PROJECT shall include the final design of improvements in accordance with the recommendations defined in PLAN. Specifically, the final design of facilities shall extend along BP20 from Arapahoe Road to approximately Station 158+00, as shown on Exhibit A.

- B. Right-of-Way Delineation and Acquisition. Right-of-way for the improvements as set forth in the final design and an estimate of costs for acquisition shall be determined. Maps, parcel descriptions and parcel plats shall also be prepared.
- C. Construction. PROJECT shall include construction by TOWN of the drainage and flood control improvements as set forth in the final design.

3. PUBLIC NECESSITY

PARTIES agree that the work performed pursuant to this Agreement is necessary for the health, safety, comfort, convenience, and welfare of all the people of the State, and is of particular benefit to the inhabitants of DISTRICT and the property therein.

4. PROJECT COSTS AND ALLOCATION OF COSTS

A. PARTIES agree that for the purposes of this Agreement PROJECT costs shall consist of and be limited to the following:

- 1. Final design services;
- 2. Delineation, description and acquisition of required rights-of-way/easements;
- 3. Construction of improvements;
- 4. Contingencies mutually agreeable to PARTIES.

B. It is understood that PROJECT costs as defined above are not to exceed \$23 1,000 without amendment to this Agreement.

PROJECT costs for the various elements of the effort are estimated as follows:

<u>ITEM</u>	<u>AMOUNT</u>
1. Final Design	\$ 65,000
2. Right-of-way	80,000
3. Construction	*
4. Contingency	86,000
Grand Total	\$23 1,000

This breakdown of costs is for estimating purposes only. Costs may vary between the various elements of the effort without amendment to this Agreement provided the total expenditures do not exceed the maximum contribution by all PARTIES plus accrued interest.

* Monies for right-of-way and construction shall be added at a later date by amendment to this Agreement.

C. Based on total PROJECT costs, the maximum percent and dollar contribution by each party shall be:

	<u>Percentage Share</u>	<u>Maximum Contribution</u>
DISTRICT	31%	\$71,000
TOWN	69%	160,000
TOTAL	100.00%	\$23 1,000

5. MANAGEMENT OF FINANCES

As set forth in DISTRICT policy (Resolution No. 11, Series of 1973 and Resolution No. 49, Series of 1977), the cost sharing shall be after subtracting state, federal, or other sources of funding from third parties. However, monies TOWN may receive from federal funds, the Federal Revenue Sharing Program, the Federal Community Development Program, or such similar discretionary programs as approved by DISTRICT's Board of Directors may be considered as and applied toward TOWN's share of improvement costs.

Payment of each party's full share (TOWN - \$160,000; DISTRICT - \$71,000) shall be made to DISTRICT subsequent to execution of this Agreement and within 30 days of request for payment by DISTRICT. The payments by PARTIES shall be held by DISTRICT in a special fund to pay for increments of PROJECT as authorized by PARTIES, and as defined herein. DISTRICT shall provide a periodic accounting of PROJECT funds as well as a periodic notification to TOWN of any unpaid obligations. Any interest earned by the monies contributed by PARTIES shall be accrued to the special fund established by DISTRICT for PROJECT and such interest shall be used only for PROJECT upon approval by the contracting officers (Paragraph 13).

Within one year of completion of PROJECT if there are monies including interest earned remaining which are not committed, obligated, or disbursed, each party shall receive a share of such monies, which shares shall be computed as were the original shares.

6. FINAL DESIGN

The contracting officers for PARTIES, as defined under Paragraph 13 of this Agreement, shall select an engineer mutually agreeable to both PARTIES. DISTRICT shall contract with selected engineer and shall supervise and coordinate the final design including right-of-way delineation subject to approval of the contracting officer for TOWN. Payment for final design services shall be made by DISTRICT as the work progresses from the PROJECT fund established as set forth above.

Final design services shall consist of, but not be limited to, the following:

- A. Preparation of a work plan schedule identifying the timing of major elements in the design;
- B. Delineation of required right-of-way/easements;
- C. Preparation of detailed construction plans and specifications;
- D. Preparation of an estimate of probable construction costs of the work covered by the plans and specifications;
- E. Preparation of an appropriate construction schedule.

DISTRICT shall provide any written work product by the engineer to TOWN.

7. RIGHT-OF-WAY

TOWN, with DISTRICT assistance, shall be responsible for acquiring, subject to approval of DISTRICT, such land or interests in land needed to implement construction of the drainage and flood control improvements as defined herein. The cost to be shared by PARTIES for right-of-way acquisition may include relocation costs of existing occupants. Appraisal costs and costs

associated with condemnation (including outside legal costs) will also be considered a PROJECT cost. Right-of-way acquisition shall be in accordance with DISTRICT policy attached hereto as Exhibit B. Within Exhibit B, references to purchasing agency will be references to TOWN. In reference to Paragraph 1.D and 2.D of Exhibit B, the Purchasing Agency shall pay the reasonable costs of the property owners appraisal only when the Purchasing Agency's appraisal is \$5,000 or greater. DISTRICT shall serve as the paying agency.

- A. Coordination of Right-of-Way Acquisition. Cost sharing by PARTIES will be based on supporting documentation such as formal appraisals, reasonable relocation cost settlements, legal description of the property, and other information deemed appropriate to the acquisition. Furthermore, cost sharing will be only for the properties, or portions thereof, approved by PARTIES to be needed for the drainage and flood control portions of PROJECT. Request for such approval shall include appraisals of property, legal description of the property, and other information deemed appropriate to the acquisition by PARTIES to this Agreement. TOWN shall purchase the right-of-way only after receiving prior approval of DISTRICT.
- B. Payment for Right-of-Way Acquisition. Following purchase or receipt of executed memorandum of agreement between TOWN and property owner for the needed right-of-way that commits the property owner to sell property to TOWN at a price certain and on a date certain, TOWN shall so advise DISTRICT and request payment as provided above. DISTRICT shall make payment within 30 days of receipt of request accompanied by the information set forth above.
- C. Ownership of Property and Limitation of Use. TOWN shall own the property either in fee or non-revocable easement and shall be responsible for same. It is specifically understood that the right-of-way is being used for drainage and flood control purposes. The properties upon which PROJECT is constructed shall not be used for any purpose that will diminish or preclude its use for drainage and flood control purposes. TOWN may not dispose of or change the use of the properties without approval of DISTRICT. If, in the future, TOWN disposes of any portion of or all of the properties acquired upon which PROJECT is constructed pursuant to this Agreement; changes the use of any portion or all of the properties upon which PROJECT is constructed pursuant to this Agreement; or modifies any of the improvements located on any portion of the properties upon which PROJECT is constructed pursuant to this Agreement; and TOWN has not obtained the written approval of DISTRICT prior to such action, TOWN shall take any and all action necessary to reverse said unauthorized activity and return the properties and improvements thereon, acquired and constructed pursuant to this Agreement, to the ownership and condition they were in immediately prior to the unauthorized activity at TOWN's sole expense. In the event TOWN breaches the terms and provisions of this Paragraph 7.C and does not voluntarily

cure as set forth above, DISTRICT shall have the right to pursue a claim against TOWN for specific performance of this portion of the Agreement.

PARTIES shall, prior to the recording by TOWN of any document transferring title or another interest to property acquired pursuant to this Agreement to TOWN, execute a memorandum of this Agreement (Exhibit C), specifically a verbatim transcript of Paragraph 7.C. Ownership of Property and Limitation of Use except for this sub-paragraph which shall not be contained in the memorandum. The memorandum shall reference by legal description the property being acquired by TOWN and shall be recorded in the records of the Clerk and Recorder of Boulder County immediately following the recording of the document transferring title or another interest to TOWN.

8. MANAGEMENT OF CONSTRUCTION

A. Costs. Construction costs shall consist of those costs as incurred by the lowest acceptable bidder(s) including detour costs, licenses and permits, utility relocations, and construction related engineering services as defined in Paragraph 4 of this Agreement.

B. Construction Management and Payment

1. TOWN, with the assistance of DISTRICT, shall administer and coordinate the construction-related work as provided herein.
2. TOWN, with assistance and approval of DISTRICT, shall advertise for construction bids; conduct a bid opening; prepare construction contract documents; and award construction contract(s).
3. TOWN shall require the contractor to provide adequate liability insurance that includes DISTRICT. The contractor shall be required to indemnify DISTRICT. Copies of the insurance coverage shall be provided to DISTRICT.
4. TOWN, with assistance of DISTRICT, shall coordinate field surveying; staking; inspection; testing; acquisition of right-of-way; and engineering as required to construct PROJECT. TOWN, with assistance of DISTRICT, shall assure that construction is performed in accordance with the construction contract documents including approved plans and specifications and shall accurately record the quantities and costs relative thereto. Copies of all inspection reports shall be furnished to DISTRICT on a weekly basis. DISTRICT, at option of TOWN, shall retain an engineer to perform all or a part of these duties.
5. DISTRICT, with approval of TOWN, shall contract with and provide the services of the design engineer for basic engineering construction services to include addendum preparation; survey control points; explanatory sketches; revisions of contract plans; shop drawing review; as-built plans; weekly inspection of work; and final inspection.
6. PARTIES shall have access to the site during construction at all times to observe the progress of work and conformance to construction contract documents including plans and specifications.

7. TOWN shall review and approve contractor billings and send them to DISTRICT for approval. DISTRICT shall remit payment to contractor based on billings approved by PARTIES.
 8. TOWN, with assistance and written concurrence by DISTRICT, shall prepare and issue all written change or work orders to the contract documents.
 9. PARTIES shall jointly conduct a final inspection and accept or reject the completed PROJECT in accordance with the contract documents.
 10. TOWN shall provide DISTRICT a set of mylar reproducible "as-built" plans.
- C. Construction Change Orders. In the event that it becomes necessary and advisable to change the scope or detail of the work to be performed under the contract(s), such changes shall be rejected or approved in writing by the contracting officers. No change orders shall be approved that increase the costs beyond the funds available in the PROJECT fund, including interest earned on those funds, unless and until the additional funds needed to pay for the added costs are committed by all PARTIES.

9. MAINTENANCE

PARTIES agree that TOWN shall own and be responsible for maintenance of the completed and accepted PROJECT. PARTIES further agree that DISTRICT, at TOWN's request, shall assist TOWN with the maintenance of all facilities constructed or modified by virtue of this Agreement to the extent possible depending on availability of DISTRICT funds. Such maintenance assistance shall be limited to drainage and flood control features of PROJECT. Maintenance assistance may include activities such as keeping flow areas free and clear of debris and silt, keeping culverts free of debris and sediment, repairing drainage and flood control structures such as drop structures and energy dissipaters, and clean-up measures after periods of heavy runoff. The specific nature of the maintenance assistance shall be set forth in a memorandum of understanding from DISTRICT to TOWN, upon acceptance of DISTRICT's annual Maintenance Work Program.

DISTRICT shall have right-of-access to right-of-way and storm drainage improvements at all times for observation of flood control facility conditions and for maintenance when funds are available.

10. FLOODPLAIN REGULATION

TOWN agrees to regulate and control the floodplain of the Erie Outfall System within TOWN in the manner prescribed by the National Flood Insurance Program and prescribed regulations thereto as a minimum.

PARTIES understand and agree, however, that TOWN cannot obligate itself by contract to exercise its police powers. If TOWN fails to regulate the floodplain of the Erie Outfall System within TOWN in the manner prescribed by the National Flood Insurance Program and prescribed regulations thereto as a minimum, DISTRICT may exercise its power to do so and TOWN shall cooperate fully.

11. TERM OF AGREEMENT

The term of this Agreement shall commence upon final execution by all PARTIES and shall terminate two years after the final payment is made to the construction contractor and the final accounting of funds on deposit at DISTRICT is provided to all PARTIES pursuant to Paragraph 5 herein, except for Paragraph 10. FLOODPLAIN REGULATION, Paragraph 7.C. Ownership of Property and Limitation of Use, and Paragraph 9. MAINTENANCE, which shall run in perpetuity.

12. LIABILITY

Each party hereto shall be responsible for any suits, demands, costs or actions at law resulting from its own acts or omissions and may insure against such possibilities as appropriate.

13. CONTRACTING OFFICERS AND NOTICES

- A. The contracting officer for TOWN shall be Gary W. Behlen, Public Works Director, Town of Erie, 645 Holbrook, Erie, Colorado 805 16.
- B. The contracting officer for DISTRICT shall be the Executive Director, 2480 West 26th Avenue, Suite 156B, Denver, Colorado 80211.
- C. Any notices, demands or other communications required or permitted to be given by any provision of this Agreement shall be given in writing, delivered personally or sent by registered mail, postage prepaid and return receipt requested, addressed to PARTIES at the addresses set forth above or at such other address as either party may hereafter or from time to time designate by written notice to the other party given when personally delivered or mailed, and shall be considered received in the earlier of either the day on which such notice is actually received by the party to whom it is addressed or the third day after such notice is mailed.
- D. The contracting officers for PARTIES each agree to designate and assign a PROJECT representative to act on the behalf of said PARTIES in all matters related to PROJECT undertaken pursuant to this Agreement. Each representative shall coordinate all PROJECT-related issues between PARTIES, shall attend all progress meetings, and shall be responsible for providing all available PROJECT-related file information to the engineer upon request by DISTRICT or TOWN. Said representatives shall have the authority for all approvals, authorizations, notices or concurrences required under this Agreement or any amendments or addenda to this Agreement.

14. AMENDMENTS

This Agreement contains all of the terms agreed upon by and among PARTIES. Any amendments or modifications to this Agreement shall be in writing and executed by PARTIES hereto to be valid and binding.

15. SEVERABILITY

If any clause or provision herein contained shall be adjudged to be invalid or unenforceable by a court of competent jurisdiction or by operation of any applicable law, such invalid or

unenforceable clause or provision shall not affect the validity of the Agreement as a whole and all other clauses or provisions shall be given full force and effect.

16. APPLICABLE LAWS

This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado. Venue for any and all legal actions regarding the transaction covered herein shall lie in District Court in and for the TOWN of Denver, State of Colorado.

17. ASSIGNABILITY

No party to this Agreement shall assign or transfer any of its rights or obligations hereunder without the prior written consent of the nonassigning party or parties to this Agreement.

18. BINDING EFFECT

The provisions of this Agreement shall bind and shall inure to the benefit of PARTIES hereto and to their respective successors and permitted assigns.

19. ENFORCEABILITY

PARTIES hereto agree and acknowledge that this Agreement may be enforced in law or in equity, by decree of specific performance or damages, or such other legal or equitable relief as may be available subject to the provisions of the laws of the State of Colorado.

20. TERMINATION OF AGREEMENT

This Agreement may be terminated upon thirty (30) day's written notice by any of PARTIES, but only if there are no contingent, outstanding contracts. If there are contingent, outstanding contracts, this Agreement may only be terminated upon mutual agreement of all PARTIES and only upon the cancellation of all contingent, outstanding contracts. All costs associated with the cancellation of the contingent contracts shall be shared between PARTIES in the same ratio(s) as were their contributions and subject to the maximum amount of each party's contribution as set forth herein.

21. PUBLIC RELATIONS

It shall be at TOWN's sole discretion to initiate and to carry out any public relations program to inform the residents in PROJECT area as to the purpose of PROJECT and what impact it may have on them. Technical and final design recommendations shall be presented to the public by the selected engineer. In any event DISTRICT shall have no responsibility for a public relations program, but shall assist TOWN as needed and appropriate.

22. NO DISCRIMINATION IN EMPLOYMENT

In connection with the performance of work under this Agreement, PARTIES agree not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified because of race, color, ancestry, creed, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability and further agree to insert the foregoing provision in all subcontracts hereunder.

23. APPROPRIATIONS

Notwithstanding any other term, condition, or provision herein, each and every obligation of TOWN and/or DISTRICT stated in this Agreement is subject to the requirement of a prior appropriation of funds therefore by the appropriate governing body of TOWN and/or DISTRICT.

24. NO THIRD PARTY BENEFICIARIES

It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to PARTIES, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person on such Agreement. It is the express intention of PARTIES that any person or party other than any one of PARTIES receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

WHEREFORE, PARTIES hereto have caused this instrument to be executed by properly authorized signatories as of the date and year first above written.

URBAN DRAINAGE AND
FLOOD CONTROL DISTRICT

(SEAL)

ATTEST:

Paul A. Anderson

By [Signature]

Title Executive Director

Date 5/2/04

TOWN OF ERIE

(SEAL)

ATTEST:

Jessica A. Anderson

By [Signature]

Title Mayer

Date 7/19/04

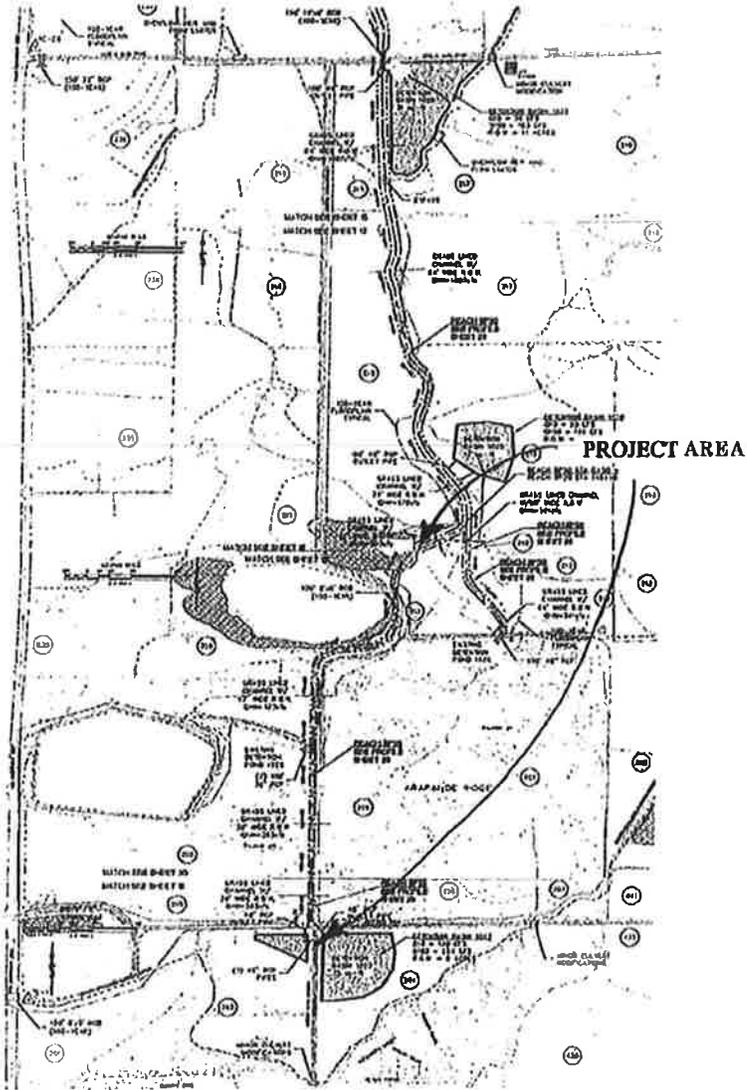
APPROVED AS TO FORM:

Town Attorney

AGREEMENT REGARDING
FINAL DESIGN, RIGHT-OF-WAY ACQUISITION AND CONSTRUCTION
OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR
REACH BP20, TOWN OF ERIE

(UDFCD Agreement No. 04-05.06)

Exhibit A



SAMPLE

**AGREEMENT REGARDING
FINAL DESIGN, RIGHT-OF-WAY ACQUISITION AND CONSTRUCTION
OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR
REACH BP20, TOWN OF ERIE**

(UDFCD Agreement No. 04-05.06)

Exhibit B

**REAL PROPERTY ACQUISITION POLICY
April 1982
(Amended March 1985)**

WHEREAS, DISTRICT participates in construction and maintenance projects and in floodplain preservation efforts wherein it is necessary to acquire by purchase or condemnation, title to, easements over, or right of entry to real property for flood control purposes; and

WHEREAS, in some cases local governments are the purchasing agency with DISTRICT participating in the cost of the acquisition, and in other cases DISTRICT is the purchasing agency; and

WHEREAS, when local governments are the purchasing agency it is desirable for DISTRICT to have guidelines that will serve as a basis for DISTRICT sharing in the cost of the acquisition; and

WHEREAS, when DISTRICT is the purchasing agency it is also desirable to have guidelines for the purchase or condemnation of real property by DISTRICT.

NOW THEREFORE, the following policy shall be used in the acquisition of real property when DISTRICT funds are involved:

1. LOCAL GOVERNMENT IS PURCHASING AGENCY

- A. DISTRICT shall participate to the extent set forth in an interagency agreement in the cost to acquire by purchase or condemnation, title to, easements over, or right of entry to real property needed for PROJECT. Such property shall be described by the use of boundary survey data and shall include only the parcels needed for the flood control project or flood control portions of PROJECT.
- B. The purchasing agency shall cause an appraisal to be made by an appraiser approved by DISTRICT of the real property subject to acquisition. The appraiser shall possess an MAI designation for acquisitions estimated to cost more than \$10,000.
- C. The property owner should be advised informally and as early as possible of the interest of the agency in acquisition of the property. Further informal discussions and negotiations as appropriate should be held prior to completion of the appraisal.
- D. Negotiations shall be continued with the owner(s) on the basis of the appraisal once it is completed. If the appraised price is unacceptable to the owner(s) the purchasing agency, in accordance with all applicable Colorado State laws, shall provide a formal notice of intent to acquire the property together with a description of the property to be acquired to anyone

having an interest of record in the property involved. Such owner(s) may employ one appraiser of their choosing to appraise the property to be acquired. Such appraisal shall be made using sound, fair, and recognized appraisal practices which are consistent with law. If a copy of the appraisal obtained by the property owner(s) is submitted to the purchasing agency within 90 days of the date formal notice was provided, the purchasing agency shall pay the reasonable costs of the appraisal.

- E. Assuming the second appraisal is based upon sound appraisal principles and data and is reasonable and valid, the purchasing agency shall negotiate a purchase, with the price of the land or property actually taken being the fair market value thereof. In no event shall the negotiated purchase price exceed the highest of the two appraisals. Factors such as the effect of time between the dates of the two appraisals, the basis for each appraisal and ameliorating factors that can be handled during construction work (if any is to take place) shall be considered.
- F. In those cases where the property owner and the purchasing agency cannot agree on a price as set forth in Paragraph E above, DISTRICT will not share in any costs exceeding the higher appraisal assuming it is based on sound appraisal principles and data and is reasonable and valid. The purchasing agency may:
 - 1. Decide not to pursue the purchase, or
 - 2. Negotiate a price in excess of the higher appraisal and be responsible for all costs exceeding the higher appraisal, or
 - 3. Initiate and conduct eminent domain proceedings in any court having jurisdiction, under such statutes and in such manner as the purchasing agency deems necessary and proper to protect the interests of the purchasing agency and DISTRICT. All costs associated with the condemnation shall be shared by the purchasing agency and DISTRICT on the basis set forth in the interagency agreement.

If eminent domain proceedings are initiated and a settlement is negotiated prior to a court determination, the maximum settlement in which DISTRICT will participate is the higher appraisal, as long as it was based on sound appraisal principles and data and was considered reasonable and valid, plus costs incurred to date that would normally be the responsibility of a condemning agency. Such costs may include filing fees, expert witness fees, and non-expert witness fees.

2. DISTRICT IS PURCHASING AGENCY

The same policy and procedure as set forth above shall be the case except that DISTRICT is the purchasing agency. Specifically,

- A. When approved by the Board of Directors DISTRICT may acquire by purchase or condemnation, title to, easements over, or right of entry to real property needed for the approved flood control purpose. Such property shall be described by the use of a boundary survey.

- B. DISTRICT shall cause an appraisal to be made by an appraiser of the property subject to acquisition. The appraiser shall possess an MAI designation for acquisitions estimated to cost more than \$10,000. An appraisal is not necessarily required for acquisitions less than \$1,000 or for right of entry permits being sought for maintenance purposes. In most of those cases the right of entry permit is temporary in nature and involves little or no funds.
- C. The property owner should be advised informally and as early as possible of the interest of DISTRICT in acquisition of the property. Preliminary negotiations as appropriate should be held with the owner(s) before the appraisal is completed.
- D. Negotiations shall be continued with the owner(s) on the basis of the appraisal (except for right of entry and acquisitions less than \$1,000). If the appraisal price is unacceptable to owner, DISTRICT, in accordance with § 3 S-1-121, CRS 1973, shall provide a formal notice of intent to acquire the property together with a description of the property to be acquired to anyone having an interest of record in the property involved. Such owner(s) may employ an appraiser of their choosing to appraise the property to be acquired. Such appraisal shall be made using sound, fair, and recognized appraisal practices which are consistent with law. If a copy of the appraisal obtained by the property owner(s) is submitted to DISTRICT within 90 days of the date the formal notice was provided, DISTRICT shall pay the reasonable costs of the appraisal.
- E. Assuming the second appraisal is based on sound appraisal principles and data and is reasonable and valid, DISTRICT shall negotiate a purchase price between the two appraisals, with the price of the land or property actually taken being the fair market value thereof. Factors such as the effect of time between the dates of the two appraisals, the basis for each appraisal, and ameliorating factors that can be handled during construction work (if any is to take place) shall be considered.
- F. In those cases where the property owner and DISTRICT cannot agree on a price representing the fair market value somewhere between the two appraisals DISTRICT may:
1. Decide not to pursue the purchase, or
 2. Initiate and conduct eminent domain proceedings in any court having jurisdiction, under such statutes and in such manner as DISTRICT deems necessary and proper to protect the interests of DISTRICT.
- If eminent domain proceedings are initiated and a settlement is negotiated prior to a court determination, the settlement shall not exceed the total of the highest appraisal, assuming it is based on sound appraisal principles and data and is reasonable and valid, plus costs incurred to date that would normally be the responsibility of a condemning agency. Such costs might include filing fees, expert witness fees, and non-expert witness fees.

SAMPLE

AGREEMENT REGARDING
FINAL DESIGN, RIGHT-OF-WAY ACQUISITION AND CONSTRUCTION
OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR
REACH BP20, TOWN OF ERIE

(UDFCD Agreement No. 04-05.06)

Exhibit C

MEMORANDUM

This MEMORANDUM is entered into this _____ day of _____, 20__ by and between URBAN DRAINAGE AND FLOOD CONTROL DISTRICT, a quasi-governmental entity, whose address is 2480 West 26th Avenue, Suite 156-B, Denver, Colorado 802 11 (hereinafter called "DISTRICT") and _____, a governmental entity, whose address is _____ (hereinafter called "TOWN") and collectively known as "PARTIES";

WHEREAS, PARTIES entered into "Agreement Regarding Final Design, Right-of-Way Acquisition and Construction of Drainage and Flood Control Improvements for _____," UDFCD Agreement No. _____ on or about _____, 20__ (hereinafter called "AGREEMENT"); and

WHEREAS, AGREEMENT is unrecorded, however PARTIES have agreed in AGREEMENT to record this MEMORANDUM in the records of the Clerk and Recorder of _____, State of Colorado, in order to put all who inquire on notice of AGREEMENT and in particular Paragraph 7.C of AGREEMENT; and

WHEREAS, in AGREEMENT, PARTIES agreed to participate equally (up to a maximum of \$ _____ each) in the cost of the construction of drainage and flood control improvements for _____ within TOWN boundaries which include _____ (hereinafter called "PROJECT"); and

WHEREAS, construction of PROJECT may require the acquisition by TOWN of real property; and

WHEREAS, AGREEMENT further provides that TOWN will own all real property required to construct the improvements and that TOWN ownership of that real property shall be subject to the terms and conditions of AGREEMENT and in particular Paragraph 7.C of AGREEMENT; and

WHEREAS, Paragraph 7.C of AGREEMENT provides in appropriate part as follows:

"7.C. Ownership of Property and Limitation of Use. TOWN shall own the property either in fee or non-revocable easement and shall be responsible for same. It is specifically understood that the right-of-way is being used for drainage and flood control purposes. The properties

upon which PROJECT is constructed shall not be used for any purpose that will diminish or preclude its use for drainage and flood control purposes. TOWN may not dispose of or change the use of the properties without approval of DISTRICT. If, in the future, TOWN disposes of any portion of or all of the properties acquired upon which PROJECT is constructed pursuant to this Agreement, changes the use of any portion or all of the properties upon which PROJECT is constructed pursuant to this Agreement, or modifies any of the improvements located on any portion of the properties upon which PROJECT is constructed pursuant to this Agreement, and TOWN has not obtained the written approval of DISTRICT, prior to such action, TOWN shall take any and all action necessary to reverse said unauthorized activity and return the properties and improvements thereon, acquired and constructed pursuant to this Agreement, to the ownership and condition they were in immediately prior to the unauthorized activity at TOWN's sole expense. In the event TOWN breaches the terms and provisions of this Paragraph 7.C and does not voluntarily cure as set forth above, DISTRICT shall have the right to pursue a claim against TOWN for specific performance of this portion of the Agreement."; and

WHEREAS, TOWN has just acquired the real property described in Exhibit Z attached hereto and incorporated herein by reference, as if set forth verbatim herein, pursuant to the terms and conditions of AGREEMENT for the construction of PROJECT; and

WHEREAS, PARTIES intend that the terms and provisions of AGREEMENT, including but not limited to Paragraph 7.C of AGREEMENT set forth verbatim above, shall apply to and control the real property described in Exhibit Z.

NOW THEREFORE IT IS AGREED by and between PARTIES that the terms and provisions of AGREEMENT, including but not limited to Paragraph 7.C of AGREEMENT set forth verbatim above shall apply to and control the real property described in Exhibit Z, now owned by TOWN.

This MEMORANDUM is not a complete summary of AGREEMENT. Provisions in this MEMORANDUM shall not be used in interpreting AGREEMENT's provision. In the event of conflict between this MEMORANDUM and the unrecorded AGREEMENT, the unrecorded AGREEMENT shall control.

WHEREFORE, PARTIES have caused this MEMORANDUM to be executed by properly authorized signatures as of the date and year above written.

URBAN DRAINAGE AND
FLOOD CONTROL DISTRICT

(SEAL)

ATTEST:

By _____

Title Executive Director

Date _____

TOWN OF ERIE

(SEAL)

ATTEST:

Clerk and Recorder,

APPROVED AS TO FORM:

Attorney for the _____

By _____
Assistant Attorney

BY _____

Title _____

Date _____

RECOMMENDED AND APPROVED:

REGISTERED AND COUNTERSIGNED:

BY _____

STATE OF COLORADO)
) ss.

CITY AND COUNTY OF DENVER)

Subscribed and sworn to before me this _____ day of _____, 20__, by
L. Scott Tucker, Executive Director of Urban Drainage and Flood Control District.

WITNESS my hand and official seal.
(SEAL)

Notary Public

My Commission Expires _____

STATE OF COLORADO)
) ss.

COUNTY OF _____)

Subscribed and sworn to before me this _____ day of _____, 20__, by

WITNESS my hand and official seal.
(SEAL)

Notary Public

My Commission Expires _____

TOWN OF ERIE
BOARD OF TRUSTEE AGENDA ITEM
Board Meeting Date: May 8, 2012

SUBJECT: **CONSENT**
Consideration of Resolution 12-51: A Resolution Approving an Amendment to Agreement between the Town of Erie, Urban Drainage and Flood Control District, Regarding Final Design, right-of-way Acquisition and Construction of Drainage and Flood Control Improvements for Reach BP20; And Setting Forth Details in Relation Thereto.

DEPARTMENT: Public Works

PRESENTER: Gary W. Behlen, Director of Public Works

FISCAL INFORMATION: Cost as Recommended: \$0
Balance Available: NA
Budget Line Item Number:
New Appropriation Required: Yes No

STAFF RECOMMENDATION: Request the Board of Trustees adopt Resolution 12-51 Amendment to Agreement between the Town of Erie and Urban Drainage and Flood Control District, Regarding Final Design, right-of-way Acquisition and Construction of Drainage and Flood Control Improvements for Reach BP20, authorize the Town Administrator to execute said amendment, and authorize staff to spend the funds.

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

Urban Drainage and Flood Control District (UDFCD) was established in 1969 by the Colorado legislature for assisting local governments with multi-jurisdictional drainage and flood control problems. In 2001 the Town of Erie and UDFCD completed a master drainage plan referred to as; Erie Outfall Systems Planning, Preliminary Design, Erie and Adjacent Boulder and Weld County Areas (OSP). This OSP is used to guide both new development and Town capital improvement projects.

On July 13, 2004 the Board approved an agreement between the Town of Erie and UDFCD for the design and construction of Reach BP20. Reach BP20 is on the west side of 111th Street from Arapahoe Avenue to Flatirons Meadows Subdivision. The original Board Memo and agreement is attached. The 2004 agreement authorized \$160,000 to be funded by the Town and \$71,000 to be funded by UDFCD, and was placed in an account with UDFCD, for the design engineering and land acquisition for Reach BP20. The design of the drainage way improvements is complete, and an easement has been purchased. Both the Town of Erie and UDFCD have budgeted to have the funds available for construction by 2014. The estimated construction cost is \$1,700,000. This year UDFCD has \$80,000 available to add to the funding of this project. To secure the funds, an amendment to the original agreement is needed.

Upon approval of this agreement, UDFCD will add \$80,000 to the existing account for the construction of the drainage improvements. Any funds not used for this project will be returned, with interest, to the Town of Erie when the project is complete based on the proportion contributed. This agreement is to secure the \$80,000 for the future project. The agreement has been reviewed by Town Staff and the Town Attorney and has found it to be acceptable.

of Erie when the project is complete based on the proportion contributed. This agreement is to secure the \$80,000 for the future project. The agreement has been reviewed by Town Staff and the Town Attorney and has found it to be acceptable.

Staff Review:

_____ **Town Attorney**
_____ **Town Clerk**
_____ **Community Development Director**
_____ **Finance Director**
_____ **Police Chief**
 _____ **Public Works Director**

Approved by:



A.J. Krieger
Town Administrator

ATTACHMENTS:

- a. Resolution 12-51
- b. Amendment to Agreement between the Town of Erie and Urban Drainage and Flood Control District, Regarding Final Design, right-of-way Acquisition and Construction of Drainage and Flood Control Improvements for Reach BP20.
- c. Vicinity Map
- d. July 13, 2004 Board Memo
- e. Original 2004 Signed Agreement

TOWN OF ERIE
BOARD OF TRUSTEE AGENDA ITEM
Board Meeting Date: March 26, 2013

SUBJECT: **CONSENT**
 Consideration of Resolution 13-42: A Resolution Approving an Amendment to Agreement between the Town of Erie, Urban Drainage and Flood Control District, Regarding Final Design, right-of-way Acquisition and Construction of Drainage and Flood Control Improvements for Reach BP20; And Setting Forth Details in Relation Thereto.

DEPARTMENT: Public Works

PRESENTER: Gary W. Behlen, Director of Public Works

FISCAL	Cost as Recommended:	\$50,000; \$75,000; \$137,500				
INFORMATION:	Balance Available:	\$50,000; \$75,000; \$150,000				
	Budget Line Item	010		07	110	580950 130028
	Number:	015		07	110	580950 130035
		015		07	110	580950 130037
	New Appropriation	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
	Required:					

STAFF RECOMMENDATION: Request the Board of Trustees adopt Resolution 13-42 Amendment to Agreement between the Town of Erie and Urban Drainage and Flood Control District, Regarding Final Design, right-of-way Acquisition and Construction of Drainage and Flood Control Improvements for Reach BP20, authorize the Town Administrator to execute said amendment, and authorize staff to spend the funds.

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

Urban Drainage and Flood Control District (UDFCD) was established in 1969 by the Colorado legislature for assisting local governments with multi-jurisdictional drainage and flood control problems. In 2001 the Town of Erie and UDFCD completed a master drainage plan referred to as; Erie Outfall Systems Planning, Preliminary Design, Erie and Adjacent Boulder and Weld County Areas (OSP). This OSP is used to guide both new development and Town capital improvement projects.

On July 13, 2004 the Board approved an agreement between the Town of Erie and UDFCD for the design and construction of Reach BP20. Reach BP20 is on the west side of 111th Street from Arapahoe Avenue to Flatirons Meadows Subdivision. The original Board Memo and agreement is attached. The 2004 agreement authorized \$160,000 to be funded by the Town and \$71,000 to be funded by UDFCD, and was placed in an account with UDFCD, for the design engineering and land acquisition for Reach BP20. The design of the drainage way improvements is complete, and an easement has been purchased.

On May 8, 2012 the Board approved an amendment to the 2004 agreement in which UDFCD added an additional \$80,000 to the project. Both the Town of Erie and UDFCD have budgeted to have the funds available for construction by 2014. The estimated construction cost is \$1,700,000. This year the Town of Erie and UDFCD each has \$262,500 available to add to the funding of this project. To secure the funds, an amendment to the agreement is needed.

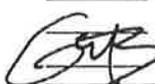
Upon approval of this agreement, the Town of Erie and UDFCD will add \$262,500 each to the existing account for the construction of the drainage improvements. Any funds not used for this project will be returned, with interest, to the Town of Erie when the project is complete based on the proportion contributed.

The following is the contribution by the Town of Erie and UDFCD:

	% Share	Previous Contribution	Additional Contribution	Total Contribution
Town of Erie	50.53%	\$160,000	\$262,500	\$422,500
UDFCD	49.47%	\$151,000	\$262,500	\$413,500
TOTAL	100%	\$231,000	\$525,000	\$836,000

This agreement is to secure an additional \$525,000 for the future project. The agreement has been reviewed by Town Staff and the Town Attorney and has found it to be acceptable.

Staff Review:

____ Town Attorney
____ Town Clerk
____ Community Development Director
57 Finance Director
 Police Chief
 Public Works Director

Approved by:



A.J. Krieger
Town Administrator

ATTACHMENTS:

- a. Resolution 13-42
- b. Amendment to Agreement between the Town of Erie and Urban Drainage and Flood Control District, Regarding Final Design, right-of-way Acquisition and Construction of Drainage and Flood Control Improvements for Reach BP20.
- c. Vicinity Map
- d. July 13, 2004 Board Memo
- e. Original 2004 Signed Agreement
- f. May 8, 2012 Board Memo
- g. 2012 signed Amendment to Agreement

TOWN OF ERIE
BOARD OF TRUSTEE AGENDA ITEM

Board Meeting Date: April 22, 2014

SUBJECT: **CONSENT AGENDA:**
Resolution 14-58; A Resolution of the Board of Trustees Supporting a Sponsorship Agreement with Old Mine Cidery & Brewpub for the Ballpark at Erie, Authorizing and Directing the Appropriate Town Officers to Sign Said Agreement; and Setting Forth Details Thereto.

DEPARTMENT: Administration

PRESENTER: Fred Diehl, Assistant to the Town Administrator

FISCAL	Cost as Recommended:	\$0.00
INFORMATION:	Balance Available:	\$0.00
	Budget Line Item Number:	NA
	New Appropriation Required:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

STAFF RECOMMENDATION: Approval of Resolution 14-58 in support of a Sponsorship Agreement with Old Mine Cidery & Brewpub for displaying banners at the Ballpark at Erie.

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

SUMMARY: Old Mine Cidery & Brewpub of Erie is seeking to execute a Sponsorship Agreement with the Town that would provide for the display of three banners at the Ballpark at Erie. Town staff is supportive of such a Sponsorship Agreement as it provides an opportunity to promote a new local business and provides some revenues to offset costs associated with Parks & Recreation operations and events.

BACKGROUND: Resolution 06-38 established the Town's Municipal Sponsorship Marketing Policy authorizing the Town to enter into sponsorship agreements with vendors interested in marketing at various Town-owned venues. Resolution 10-72 amended Resolution 06-38 allowing the Town to enter into Sponsorship Agreements with commercial enterprises whose business is substantially derived from the sale or manufacture of alcoholic products, if such Agreement is found to be in the Town's best interest and approved by the Board of Trustees.

Board of Trustees Goals: Continue to Enhance Recreational & Cultural Amenities for All Erie Citizens: Sponsorship of community events.

Staff Review:

Assistant to the Town Administrator
 Town Clerk
 Community Development Director
 Finance Director
 Police Chief
 Public Works Director
 Park & Rec. Director
 Town Attorney

Approved by:


A. J. Krieger
Town
Administrator

ATTACHMENTS:

- a. Resolution 14-58
- b. Resolution 10-72
- c. Resolution 06-38

RESOLUTION NO. 14-58

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF ERIE, COLORADO, IN SUPPORT OF A SPONSORSHIP AGREEMENT WITH OLD MINE BREWING CIDERY & BREWPUB FOR THE BALLPARK AT ERIE, AUTHORIZING AND DIRECTING THE APPROPRIATE TOWN OFFICERS TO SIGN SAID AGREEMENT; AND SETTING FORTH DETAILS THERETO.

WHEREAS, Resolution 06-38 established the Town's Municipal Sponsorship Marketing Policy authorizing the Town to enter into sponsorship agreements with vendors interested in marketing at various Town-owned venues; and

WHEREAS, Resolution 10-72 amended Resolution 06-38 allowing the Town to enter into Sponsorship Agreements with commercial enterprises whose business is substantially derived from the sale or manufacture of alcoholic products, if such Agreement is found to be in the Town's best interest and approved by the Board of Trustees; and

WHEREAS, The Town is supportive of such a Sponsorship Agreement as it is in keeping with the Board of Trustees Goal to continue to enhance recreational & cultural amenities for all Erie citizens through the sponsorship of community events.

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

Section 1. That Town of Erie Staff is hereby authorized and directed to enter into a Sponsorship Agreement with Old Mine Cidery & Brewpub for advertising at the Ballpark at Erie.

Section 2. That this Sponsorship Agreement is found to be in the best interest of the Town of Erie.

ADOPTED AND APPROVED THIS 22nd DAY OF APRIL, 2014, BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE, COLORADO.

TOWN OF ERIE,
a Colorado municipal corporation

By: _____
Tina Harris, Mayor

ATTEST:

By: _____
Nancy J. Parker, CMC, Town Clerk

RESOLUTION NO. 10 - 72
Series of 2010

A RESOLUTION AMENDING TOWN OF ERIE RESOLUTION NO. 06-38; AMENDING THE TOWN OF ERIE MUNICIPAL SPONSORSHIP MARKETING POLICY; AND, SETTING FORTH DETAILS IN RELATION THERETO.

WHEREAS, the Board of Trustees of the Town of Erie, Colorado adopted Resolution No. 06-38 on March 14, 2006, establishing a Town Municipal Sponsorship Marketing Policy and authorizing the Town to enter into Municipal Sponsorship Marketing Agreements and to sell naming rights to certain Town-owned or operated facilities and events as a source of revenue; and,

WHEREAS, the Board of Trustees of the Town of Erie, Colorado now desires to amend the Town Municipal Sponsorship Marketing Policy to allow for flexibility in selecting facilities and events sponsors; and,

WHEREAS, the Board of Trustees of the Town of Erie believes it is in the best interest of the Town to amend the Town Municipal Sponsorship Marketing Policy in such a manner.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE, COLORADO, AS FOLLOWS:

Section 1. That Resolution No. 06-38 setting forth and adopting the Town Municipal Sponsorship Marketing Policy is hereby amended to modify Part 3 of the Town Municipal Sponsorship Marketing Policy, to amend subpart 3) thereof to read as follows:

- 3) Commercial enterprises whose business is substantially derived from the sale or manufacture of alcoholic products, unless such Sponsorship Agreement is found to be in the Town's best interest and approved by the Board of Trustees.

Section 2. That Resolution No. 06-38 setting forth and adopting the Town Municipal Sponsorship Marketing Policy is hereby amended to modify Part 3 of the Town Municipal Sponsorship Marketing Policy, to add a new subpart 5) thereof to read as follows:

- 5) Commercial enterprises whose business is substantially derived from the sale or manufacture of tobacco products.

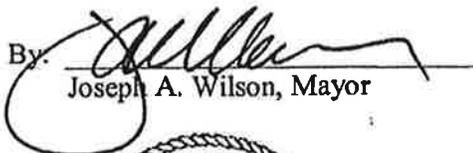
Section 3. That Resolution No. 06-38 setting forth and adopting the Town Municipal Sponsorship Marketing Policy is hereby amended to modify Part 4 of the Town Municipal Sponsorship Marketing Policy to remove the prohibition of alcohol from Sponsorship Agreement, to now read as follows:

Part 4. The Town will not enter into any Sponsorship Agreement that will or may promote tobacco products, gambling, sexually related products or services, the sales or manufacturing of firearms or weapons, or products or services that are contrary to the interest of public health, safety or welfare.

Section 4. That amending Resolution No. 06-38 setting forth and adopting the Town Municipal Sponsorship Marketing Policy in the manner set forth herein is found to be in the best interest of the Town of Erie, and necessary for the preservation of the public health and safety.

ADOPTED AND APPROVED THIS 22ND DAY OF JUNE, 2010, BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE, COLORADO.

TOWN OF ERIE,
a Colorado municipal corporation

By: 
Joseph A. Wilson, Mayor

ATTEST:

By: 
Nancy Parker, CMC, Town Clerk



RESOLUTION NO. 06-38

A RESOLUTION ESTABLISHING A TOWN MUNICIPAL SPONSORSHIP MARKETING POLICY AND AUTHORIZING THE TOWN TO ENTER INTO MUNICIPAL SPONSORSHIP MARKETING AGREEMENTS AND TO SELL NAMING RIGHTS TO CERTAIN TOWN-OWNED OR OPERATED FACILITIES AND EVENTS AS A SOURCE OF REVENUE; AND SETTING FORTH DETAILS IN RELATION THERETO.

WHEREAS, the Town of Erie, owns, maintains and operates various public parks, recreational areas and facilities; and

WHEREAS, the Town desires to identify and seek additional revenue sources through municipal marketing and naming rights agreements (collectively "Sponsorship Agreements"); and

WHEREAS, the Town desires to establish policies and guidelines, relating to potential Sponsorship Agreements for Town of Erie parks, recreational areas, facilities, publications or events that may be used as a means of recognizing financial support from an individual, external organization or corporation.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE, COLORADO, AS FOLLOWS:

Section 1: The Town of Erie hereby establishes and adopts the following MUNICIPAL SPONSORSHIP MARKETING POLICY:

Part 1. The following policies shall apply to municipal marketing and naming rights agreements (collectively "Sponsorship Agreements"):

- 1) Town staff may actively solicit proposals for sponsorships, including naming rights, for municipal parks, recreation areas, facilities, publications or events, with the prior approval of the Town Administrator.
- 2) The Town Administrator, the Finance Director and representatives of other affected departments, will review all sponsorship activities, solicitations and Sponsorship Agreements.
- 3) Sponsorship Agreements must safeguard the Town's assets and interests, and result in benefits to the Town and its residents.
- 4) An existing Town recreation area, park, facility or event may be named after an individual, corporation, or other entity as recognition for financial support, where such naming is consistent with applicable Town guidelines and policies.
- 5) The Town will only enter into Sponsorship Agreements that are consistent with the Town's character, values and service priorities.

- 6) No Sponsorship Agreement will impair or diminish the authority of the Town and its responsibilities in respect to any municipal facility or event that is the subject of the Agreement.
- 7) All Sponsorship Agreements shall be subject to all state, federal and local laws, ordinances, rules, and regulations.
- 8) Sponsorship Agreements that will generate more than \$10,000 in annual revenue or in-kind goods or services to the Town and all naming rights agreements, regardless of the dollar amount, will be subject to the approval of the Board of Trustees.
- 9) The Town shall always have the right and opportunity to reject any submitted proposals for any reason. The Town shall also have the right at any time to suspend or terminate a Sponsorship Agreement if circumstances arise whereby the continued arrangement would no longer satisfy the selection criteria by which the Sponsorship was initially evaluated and approved.

Part 2. The Town will determine and use selection criteria, based upon the nature and character of each proposed Sponsorship Agreement, to evaluate potential Sponsorship Agreement opportunities. The selection criteria used to evaluate a prospective sponsor ("Prospective Sponsor") may include, but shall not be limited to:

- 1) Consistency of the Prospective Sponsor's products, customers and promotional goals with the Town's character, values and service priorities;
- 2) The Prospective Sponsor's historical participation and association with community projects, events and continued willingness to participate;
- 3) Community support for, or opposition to, the proposed sponsorship;
- 4) The operating and maintenance costs associated with the proposed sponsorship;
- 5) Anticipated public perception of the association of the Town and the Prospective Sponsor;
- 6) The Prospective Sponsor's regard for and demonstrated success in environmental stewardship.

Part 3. The Town will not enter into Sponsorship Agreements with any of the following:

- 1) Businesses that are subject to regulation or monitoring by local, state or federal law enforcement agencies, including the Erie Police Department, for regulatory compliance (e.g. sexually oriented businesses, bars, massage facilities, gun shops, manufacturers or sellers of firearms or weapons).
- 2) Religious or political organizations.
- 3) Commercial enterprises whose business is substantially derived from the sale or manufacture of alcoholic or tobacco products.

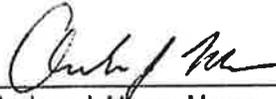
- 4) Individuals or commercial enterprises having past, present, or pending business agreements or associations with the Town, if a Sponsorship Agreement would have an appearance of impropriety.

Part 4. The Town will not enter into any Sponsorship Agreement that will or may promote tobacco products, alcohol, gambling, sexually related products or services, the sales or manufacturing of firearms or weapons, or products or services that are contrary to the interest of public health, safety or welfare.

Section 2: The Town is hereby authorized to negotiate and enter into Municipal Marketing Sponsorship Agreements based upon and in accordance with the herein set forth Municipal Sponsorship Marketing Policy.

ADOPTED AND APPROVED THIS 14th DAY OF MARCH, 2006, BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE, COLORADO.

TOWN OF ERIE,
a Colorado municipal corporation

By: 
Andrew J. Moore, Mayor



By: 
Theresa Stayton, Deputy Town Clerk

TOWN OF ERIE
BOARD OF TRUSTEE AGENDA ITEM
Board Meeting Date: April 22, 2014

SUBJECT: **CONSENT AGENDA**
 Consideration of Resolution 14-59: A Resolution Authorizing Award Of A Design Contract To AMEC, Earth and Environmental, In The Amount Of \$35,562; And Setting Forth Details In Relation Thereto.

DEPARTMENT: Public Works

PRESENTER: **Gary Behlen, Director of Public Works**
Russell Pennington, Deputy Director of Public Works

FISCAL INFORMATION: Cost as Recommended: **\$ 39,000**
 Balance Available: \$ 43,800 (with supplemental appropriation)
 Budget Line Item Number: 002 . 07 . 110 . 580950 . 110024
 New Appropriation Required: Yes No

STAFF RECOMMENDATION: Approving Resolution 14-59 awarding said contract, authorizing the Town Administrator to execute said contract, authorizing Staff to expend contracted funds and contingency funds.

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

The 2014 Capital Budget includes funds for updating the Town's Water Conservation Plan. Town Staff along with AMEC, Earth and Environmental submitted an application for grant monies offered by the Colorado Water Conservation Board (CWCB). The Town received the grant in the amount of \$33,087 which was accepted by the BOT at the April 9, 2014 Board of Trustees Meeting.

AMEC is a worldwide engineering, project management and consultancy company. Town Staff has worked with members of AMEC on other projects such as the Town's Drought Mitigation Plan. AMEC has also worked with the CWCB to develop the current CWCB Municipal Drought Management Plan Guidance Documents.

During the grant process, Town Staff worked with AMEC to build a cost estimate to develop the Water Conservation Plan update, which will include Town Staff's time (In-kind Services) to perform certain tasks. In 2008, Erie developed a Water Conservation Plan in accordance with the Water Conservation Act of 2004 and this plan is required to be updated this year.

Erie is required to have a Water Conservation Plan in place to meet the provision of Colorado Revised Statue Section 37-60-126 and in order to receive future financial assistance from either the Colorado Water Conservation Board or the Colorado Water Resources and Power Development Authority.

Staff recommends the award of this contract to AMEC in the amount of \$35,562.

The funding sources for this project is as follows:

Erie Match (In-kind Services)	\$ 8,603
Erie Match (Cash Funds)	\$ 2,475
CWCB Grant	<u>\$33,087</u>
Total	\$44,165

Project Budget Summary

Contract	\$35,562
Contingency	\$3,438
Total	\$39,000

Project Schedule

Notice of Award	April 23, 2014
Water Conservation Plan Update Complete	December, 2014

Board Goal

This serves the Board's goal for Infrastructure – Fund and provide essential infrastructure that corresponds with the planned rate of growth.

Staff Review:

_____ Town Attorney
_____ Town Clerk
_____ Community Development Director
 Finance Director
 Police Chief
 Public Works Director

Approved by:



A.J. Krieger
Town Administrator

ATTACHMENTS:

- a. Resolution 14-59

RESOLUTION NO. 14-59

A RESOLUTION OF THE TOWN OF ERIE, AWARDING A DESIGN CONTRACT TO AMEC, EARTH AND ENVIRONMENTAL, IN THE AMOUNT OF \$35,562.00; AND, SETTING FORTH DETAILS IN RELATION THERETO.

WHEREAS, the Town of Erie, Colorado wishes to award a Design Contract to AMEC Earth and Environmental for the updating of the Town's Water Conservation Plan in the amount of \$35,562.00; and

WHEREAS, the Board of Trustees of the Town of Erie believes it is in the best interest of the Town to enter into such a contract.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE, COLORADO, AS FOLLOWS:

Section 1. That the contract between the Town of Erie and AMEC, Earth and Environmental is found to be a reasonable and acceptable contract for the updating of the Town's Water Conservation Plan.

Section 2. That the Town of Erie be and is hereby authorized and directed to enter into the contract with AMEC, Earth and Environmental, to update the Town's Water conservation Plan in the amount of \$35,52.00 with a contingency not to exceed \$3,438.00.

Section 3. That entering into the contract is found to be in the best interest of the Town of Erie, and necessary for the preservation of the public health and safety.

ADOPTED AND APPROVED THIS 22ND DAY OF APRIL, 2014, BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE, COLORADO.

TOWN OF ERIE,
a Colorado municipal corporation

By: _____
Tina Harris, Mayor

ATTEST:

By: _____
Nancy J. Parker, CMC, Town Clerk

TOWN OF ERIE
BOARD OF TRUSTEE AGENDA ITEM
Board Meeting Date: April 22, 2014

SUBJECT: **RESOLUTION**
Resolution 14-60: A Resolution Authorizing The Engagement Of Willdan Financial Services For Completion Of A Storm Drainage Rate And Fee Study; Authorizing And Directing The Appropriate Town Officers To Enter Into An Agreement For Such Services; And, Setting Forth Details In Relation Thereto.

DEPARTMENT: Finance

PRESENTER: **Steve Felten**
Finance Director

FISCAL	Cost as Recommended:	\$30,700.00
INFORMATION:	Balance Available:	\$0.00
	Budget Line Item Number:	000 . 00 . 000 . 000000 . 000000
	New Appropriation Required:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

STAFF RECOMMENDATION: **Staff recommends the Board of Trustees approve entering into an agreement with Willdan Financial Services to complete a storm drainage rate and fee study.**

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

In 2013 the Town began the process of performing a professional water and wastewater rate and fee study as required by the municipal code. That study is expected to be completed for presentation to the Board at a study session in July or early August. Subsequent to beginning the water and wastewater fee study, staff has determined that it would be prudent to conduct a similar study for the Town's storm drainage activities.

A formal study of the Town's fee structure for its storm drainage activities has not been done in at least 10 years. The Town has two funds that relate to storm drainage activities – the Storm Drainage Impact Fund and the Storm Drainage Operating Fund. Both funds have significant capital projects that will be required over the next few years, but neither fund has an adequate revenue stream to fund these projects. In addition, the flooding experienced last year clearly demonstrated the necessity of having a well-maintained storm drainage infrastructure. A rate study will enable the Board and Town staff to determine the appropriate levels of storm drainage related fees for the next five years.

To conduct this rate study, staff recommends engaging the same firm that is performing the water and wastewater study – Willdan Financial Services - at an estimated cost of \$30,700 (see attached proposal). An additional appropriation would be necessary to fund this study, to be paid for by the Storm Drainage Operating Fund. It is anticipated that the study would be concluded within the same timeframe as the water and wastewater rate study for presentation to the Board at the study session referred to above. This rate and fee study would help ensure that storm drainage fees are established at appropriate rates, with the objective of implementing any resulting changes effective January 1, 2015.

Staff Review:

- _____ Town Attorney
- _____ Town Clerk
- _____ Community Development Director
- JF Finance Director
- _____ Police Chief
- _____ Parks and Recreation Director
- _____ Public Works Director

Approved by:


A.J. Krieger
Town Administrator

ATTACHMENTS:

- a. Resolution 14-60
- b. Willdan Financial Services Proposal for Services

RESOLUTION NO. 14-60

A RESOLUTION AUTHORIZING THE ENGAGEMENT OF WILLDAN FINANCIAL SERVICES FOR COMPLETION OF A STORM DRAINAGE RATE AND FEE STUDY; AUTHORIZING AND DIRECTING THE APPROPRIATE TOWN OFFICERS TO ENTER INTO AN AGREEMENT FOR SUCH SERVICES; AND, SETTING FORTH DETAILS IN RELATION THERETO.

WHEREAS, the Town of Erie, Colorado wishes to enter into an agreement with Willdan Financial Services for the purpose of completing a storm drainage rate and fee study for the Town; and

WHEREAS, the Board of Trustees of the Town of Erie believes it is in the best interest of the Town to enter into such an agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE, COLORADO, AS FOLLOWS:

Section 1. That the services and fees as described in the proposal for services from Willdan Financial Services, a copy of which is attached hereto and incorporated herein by reference, is found to be a reasonable and acceptable proposal for the purpose of completion of a storm drainage rate and fee study for the Town of Erie.

Section 2. That the Town of Erie be and is hereby authorized and directed to enter into an agreement with Willdan Financial Services for the services described in the attached proposal for a fee not to exceed \$30,700, and the Town Administrator is hereby authorized and directed to sign and bind the Town of Erie to said agreement for completion of a storm drainage rate and fee study.

Section 3. That entering into the agreement is found to be in the best interest of the Town of Erie, and necessary for the preservation of the public health and safety.

ADOPTED AND APPROVED THIS 22ND DAY OF APRIL, 2014, BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE, COLORADO.

TOWN OF ERIE, a Colorado municipal corporation

By: _____
Tina Harris, Mayor

ATTEST:

By: _____
Nancy Parker, Town Clerk

April 15, 2014

Mr. Steve Felten
Finance Director
Town of Erie
645 Holbrook
Erie, Colorado 80516

RE: Proposal to Complete a Storm Drainage Fee Study

Dear Mr. Felten:

On behalf of Willdan Financial Services (Willdan), I am pleased to submit this proposal to the Town of Erie (Town) to complete a storm drainage fee study. This proposal anticipates this study be completed in conjunction with the Water and Wastewater Rate and Fee Study, with joint meetings between the two studies. This proposal includes the following sections: Scope of Services, Project Team, Fee Estimate and Project Schedule.

PROPOSED SCOPE OF SERVICES

Willdan will undertake the following tasks to meet the Town's study objectives:

Task 1: Project Orientation and Management

Willdan will facilitate a Study Orientation Workshop with Town representatives to assure mutual understanding of study objectives, finalize study schedule and discuss relevant Town policies.

Task 2: Data Collection and Analysis

Willdan will work with the Town to identify the operational, financial and property (building footprint and impervious area) data required in the preparation of this study. The types of data to be requested will include, but are not limited to:

- Most recently approved operating budget, including detailed information presented in summary form therein;
- Copies of prior relevant studies (e.g. rate, master plans, etc.);
- Audited historical financial information;
- Existing Town ordinances and financial policies;
- Property/billing data in a form to be specified by Willdan and agreed to by the Town; and
- Other related information including existing and anticipated policies that would be useful to the study.

Willdan recognizes that some of the requested information will be "off-the-shelf" and some of it may not be readily available to the Town or that the information may not be in the format requested. Willdan will work with Town personnel to minimize the burden of data collection and develop acceptable/reasonable proxies for certain data when necessary. However, there may be certain data points that are critical, which require specific additional data collection efforts by the Town. It will be necessary for Town staff to cooperate, as mutually agreed upon, in assembling, collecting and summarizing such information.

Task 3: Financial Plan Development

Willdan shall develop a storm drainage utility financial plan for the study period, fiscal years 2014 through 2019. The plan will test the adequacy of revenue from existing rates and charges to meet future revenue requirements. If necessary, Willdan shall develop alternative scenarios of revenue increases from rate adjustments in order to meet revenue requirements.

Task 301: Develop up to three (3) cash flow scenarios for the study period for the storm drainage utility containing the following elements:

- Capital improvement program
- Funding plan for capital improvements including impact fee revenues, grants and loans
- Projected revenue from existing rates
- Operation and maintenance expenses recognizing most recent budget, expected operational changes and inflation
- Annual capital costs including routine capital outlay and debt service on existing and proposed loans
- Maintenance of minimum capital and operating reserves
- Maintenance of minimum debt service coverage

Task 302: Facilitate Financial Plan Workshop with Town representatives to review alternative scenarios and finalize financial plan

Task 4: Cost of Service Analysis

Willdan shall identify the cost of providing storm drainage service to customer classes based on impervious area¹.

Task 401: Identify customer classes and allocate costs to customer classes based on industry-standard cost of service methodology. Customer classifications may include: single family residential, multifamily residential and commercial.

Industry standard cost of service methods require the use of a stormwater billing database which contains individual customer records and which includes at least the following data:

- Customer ID number
- Customer Address
- Customer Class/Type (Single Family Residential, Commercial, etc.)
- Total Square Feet of Impervious Area (this will differ from total building square footage based on a variety of factors)
- Total Square Feet of Parcel Area

¹ The key piece of data for Tasks 4 and 5 is customer billing database which contains customer identification numbers/addresses, customer type/class and total impervious surface for each parcel within the Town's stormwater service area. This proposal assumes provision of this database to Willdan by the Town.



Task 5: Design Rates

Willdan shall develop storm drainage rates that are:

- Projected to produce adequate revenue
- Projected to recover revenue consistent with cost of service principles
- Understandable
- Easy to administer
- In compliance with Town pricing policies and objectives

Task 501: Design cost of service rates for each year of study period.

Task 502: Compare typical monthly bills under existing and proposed rates for each customer class.

Task 6: Prepare Study Report and Presentation

Willdan will document study assumptions, procedures, findings and recommendations in a study report.

Task 601: Publish draft study report for Town review.

Task 602: Facilitate conference call with Town representatives to review Town comments.

Task 603: Incorporate Town comments and publish final report.

Task 604: Attend one Board meeting to present study findings and recommendations.

PROJECT TEAM

Kevin Burnett will serve as Willdan's project manager for this study and will be assisted by Jonathan Varnes. Jeff McGarvey will serve as technical advisor and QA/QC reviewer.

FEE ESTIMATE

On the basis of the Scope described herein, Willdan proposes a lump sum fee of \$30,700.

ADDITIONAL SERVICES

The Town may request services that are supplemental to those included in the Basic Services and may include, but not be limited to, the following tasks:

- Development of more than three financial plan scenarios
- Assistance with the compilation of a stormwater billing database, as described in Task 4 herein.
- More Draft/Final Report iterations than proposed herein
- Attendance at additional workshops or meetings

PROJECT SCHEDULE

Willdan will work within a schedule agreeable to the Town and will make certain that its resources are managed effectively to meet project deadlines, but anticipate that the project will be completed, with a presentation to the Town's Board, by August.



Willdan appreciates this opportunity to submit our proposal and qualifications. If you have any questions please feel free to contact Kevin Burnett at kburnett@willdan.com or (303) 990-4616.

Very truly yours,

WILLDAN FINANCIAL SERVICES



Chris Fisher
Vice President – Group Manager



Kevin Burnett
Senior Project Manager

The terms of this proposal are accepted.
TOWN OF ERIE, COLORADO

Signature

Title

Date



TOWN OF ERIE
BOARD OF TRUSTEE AGENDA ITEM
Board Meeting Date: April 22, 2014

SUBJECT: **STAFF REPORT:**
Economic Development Activity Update

DEPARTMENT: Administration

PRESENTER: Paula Mehle, Economic Development Coordinator *pm*

FISCAL	Cost as Recommended:	n/a
INFORMATION:	Balance Available:	n/a
	Budget Line Item Number:	n/a
	New Appropriation Required:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

ACTIVITY & ANNOUNCEMENT SUMMARY:

RETAIL ATTRACTION: The Town will be hosting a booth at the ICSC Real Estate Convention May 18 through May 20, 2014. At the event staff will meet with multiple national retailers and developers to promote opportunities under the brand “Your Customers are Already Here.” Prior to the event, staff will be sending push notifications through the erieco@ICSC app as well as Constant Contact messages to retailers and developers. New demographics on the six retail intersections have been updated on the Town website and the app showing highlighting Erie’s impressive numbers.

HISTORIC DOWNTOWN BUSINESS DISTRICT: Craft beer is now flowing in Historic Downtown Erie. Industrial Revolution Brewery located at the northeast corner of Cheesman and Pierce Streets business has been strong, so much that one of the owners has retired from his former job to focus on the brewery. The Old Mine had its official grand opening in March with the addition of an inviting back patio area offering tantalizing smells of barbeque pork on Fridays through Sundays. Echo Brewing and Cask, Inc. is finalizing their site improvements and anticipate a late spring opening.

TRANSACTIONS: The property located at 89 South Briggs Street (formerly Lui’s Chinese Restaurant) recently was sold by Summit Bank to Foxtail Pines Veterinary Hospital. The former Slices restaurant located at 149 Briggs Street will reopen as Ciancos offering a similar menu of pizza and sandwiches. The new Hunters Grill had its soft opening on April 9th at the former Briggs Station Restaurant at 71 Erie Parkway. The new owners come to Erie with experience as they operate the Hunters Chop House restaurant in Estes Park. The Town’s successful economic gardening efforts resulted in the retention of FRP Apparel in Erie. Staff assisted FRP with its expansion and relocation to 1020 Carbon Court in a unit between Columbine Appliances and Napa Auto Parts.

SMALL BUSINESS DEVELOPMENT: Staff is developing a brochure which will provide an overview of the regulations and opportunities for marketing a business in Erie. This new piece will include information on how to participate in community events including advertising and sponsorship. Additional material will be available to site selectors and businesses considering if Erie is the right location for them when the Town’s revised website goes live. The new pages will include information on workforce, quality of life, detailed demographic information and available resources.

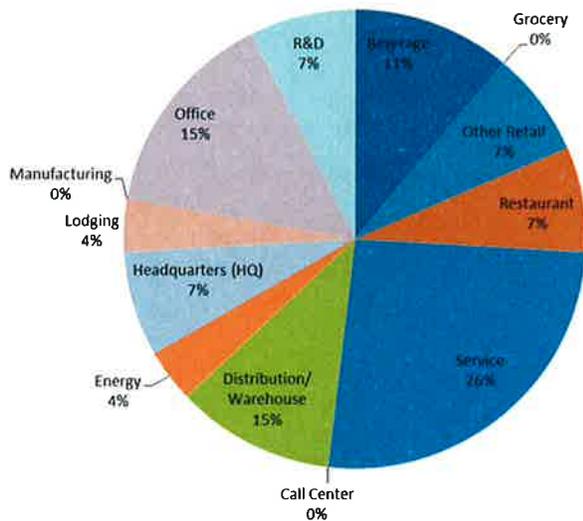
MARKETING: Nearly every week an Economic Development Newsflash or Constant Contact message is sent out from the Town. Newsflashes regularly report on upcoming events and programs geared toward start up and small businesses with messages such as free and low cost business education programs. Constant Contact messages are focused primarily towards developers and retailers with messages about development opportunities and the growth Erie is experiencing.

TOWN OF ERIE
BOARD OF TRUSTEE AGENDA ITEM
Board Meeting Date: April 22, 2014

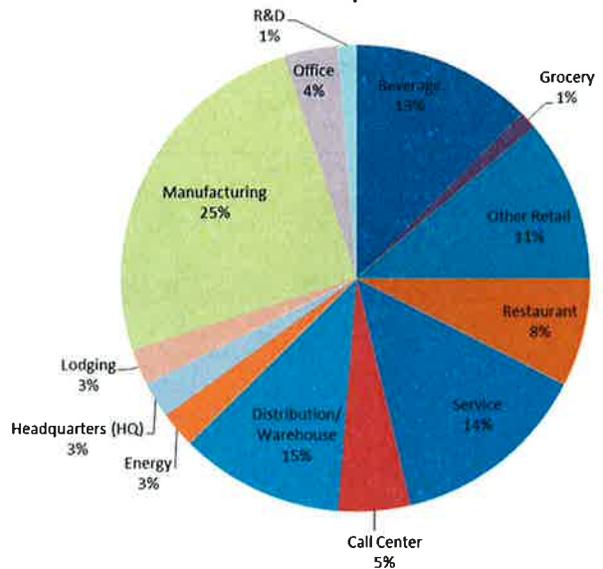
AWARDS: The recent economic development efforts of the Town have not gone unnoticed. Upstate Colorado Economic Development recognized Erie for its participation in regional boards and events, increased marketing, and collaboration with other communities to strengthen the resources for businesses, particularly within the southwest Weld County area.

PROSPECT INQUIRIES:

Specific Prospect Type - All Inquiries
 Year to Date as of March 31, 2014
 Total Inquiries 27

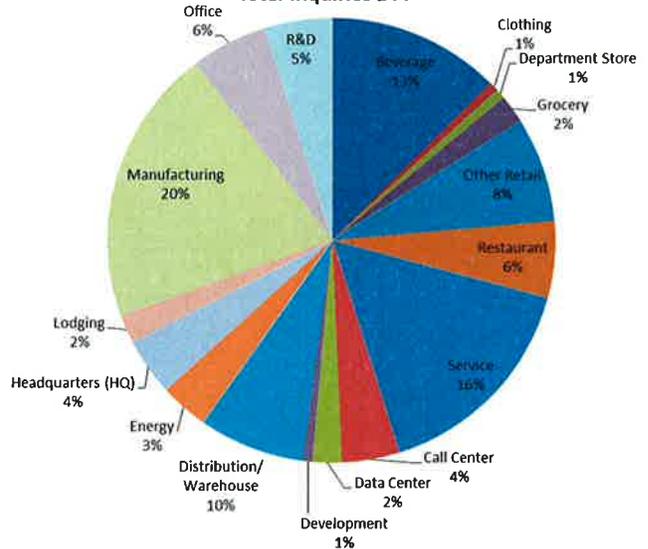


Specific Prospect Type - All Inquiries
 All of 2013
 Total Inquiries 80

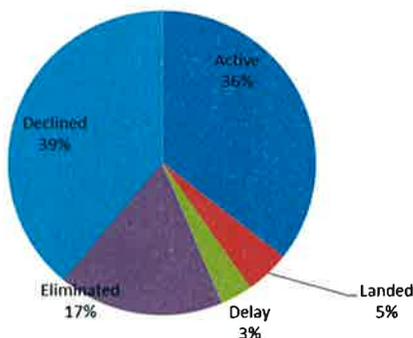


The Specific Prospect Type pie chart reports on all prospect inquiries to the Town of Erie. The charts include prospects that the Town is unable to assist due to site criteria that is not currently available in Erie. Timing of inquiring is based on date of initial contact.

Specific Prospect Type - All Inquiries
 August, 2012 to March, 2014
 Total Inquiries 144



Erie Current Prospect Activity
 August 2012 to March 31, 2014
 of 144 Inquiries



TOWN OF ERIE
BOARD OF TRUSTEE AGENDA ITEM
Board Meeting Date: April 22, 2014

Staff Review:

- Assistant to the Town Administrator
- Town Clerk
- Community Development Director
- Finance Director
- Police Chief
- Public Works Director
- Park & Recreation Director

Approved by:



A.J. Krieger
Town
Administrator

ATTACHMENTS:

- a. n/a

TOWN OF ERIE
BOARD OF TRUSTEE AGENDA ITEM
Board Meeting Date: April 22, 2014

SUBJECT: **STAFF REPORT**
Black Rock Elementary School Traffic Access Review Report and Meeting

DEPARTMENT: Public Works

PRESENTER: **Gary Behlen, Director of Public Works**
Russell Pennington, Deputy Director of Public Works

FISCAL INFORMATION: Cost as Recommended: \$ N/A
Balance Available: \$ N/A
Budget Line Item Number: 000 . 00 . 000 . 000000 . 000000
New Appropriation Required: Yes No

STAFF RECOMMENDATION:

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

Town Staff has received a number of complaints from concerned citizens regarding the traffic situation at the Black Rock Elementary School during the morning and evening drop off times. In 2013, Staff hired Fox Tuttle Transportation Group to perform an evaluation of the situation.

Fox Tuttle focused on documenting existing traffic control and operations around the school site, and identifying potential mitigation measures, if any, along the Town Streets. The report from Fox Tuttle is attached for your review.

The streets that serve the school and adjacent neighborhoods have an extensive network of sidewalks, pathways, crosswalks, bikeable shoulders, and school speed zones. In this context the area is designed to be very "walkable and bikeable."

Unfortunately, the volume of students who are driven to and from school by parents has resulted in significant traffic and congestion on roadways adjacent to the school during the morning and afternoon school access periods. Unfortunately, the school site was not designed to accommodate the volume of parents who chose to drive their children to school.

On April, 7, 2014, Staff from the Public Works Department and the Police Department met with representatives from the school district to discuss the situation, the report, and alternatives that could help alleviate the situation. The focus of the meeting was mainly centered on modifications to the school site such as adding parking and relocating teacher parking to outlying areas, reconfiguring the pick-up/drop-off loop, relocating the school bus loading/unloading area, etc. The school will be looking into the options discussed and their budgets to determine how to best remediate the situation.

Staff Review:

_____ Town Attorney
_____ Town Clerk
_____ Community Development Director
_____ Finance Director
_____ Police Chief
 Public Works Director

Approved by:



A.J. Krieger
Town Administrator

ATTACHMENTS:

a. Black Rock Elementary School Traffic Access Review Report

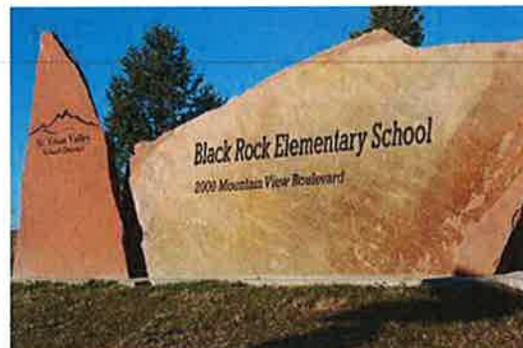
November 7, 2013

Russell Pennington, PE
Deputy Director of Public Works
Town of Erie
645 Holbrook Street
P.O. Box 750
Erie, CO 80516

RE: Black Rock Elementary School Traffic Access Review Report

Dear Russell:

The Fox Tuttle Transportation Group has completed an initial review of traffic access on Town of Erie streets in the vicinity of the Black Rock Elementary School in Erie, CO during the peak morning student drop-off period and the afternoon student pick-up period. Our focus was on documenting existing traffic control and operations around the school site, and identifying potential mitigation measures, if any, along the Town streets. It should be noted that we were not charged with reviewing or evaluating the internal traffic flow patterns and operations within the school site itself at this time.



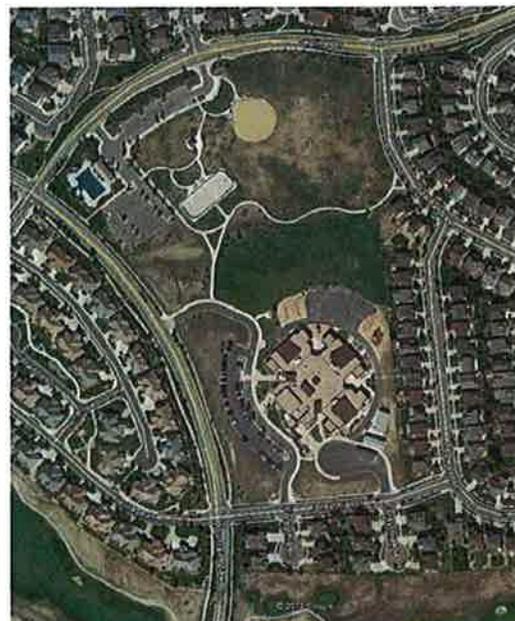
Our findings, observations, and recommendations are summarized by topic or time period as follows:

Black Rock Elementary School:

It is our understanding that there are approximately 750 students attending the school with grades ranging from pre-school to 5th grade. Most of the students live within walking distance of the school, with only two school buses serving the outlying fringe of the attendance area. It is also our understanding that only a small fraction of the students (10% or less) are currently “open enrolled” from outside the attendance area.

Surrounding Access Roadways:

The school is located on the east side of Mountain View Boulevard, just north of Forsythia Drive. Figure 1 provides an illustration of the site vicinity. Automobile site access is provided by a one-way



loop that enters from Forsythia Drive and exits onto Mountain View Boulevard. This drive serves as a pick-up/drop-off loop and also accesses the schools only parking lot. A second access driveway onto Forsythia Drive serves school buses only.

In the vicinity Mountain View Boulevard is approximately 44 feet wide with a single through lane in each direction, a center turn lane or paved median area, and "bikeable shoulders" along each edge. There are detached sidewalks along both sides of Mountain View Boulevard and the posted speed limit is 35 miles per hour. There is a 20 mile per hour school speed zone with radar speed indications along Mountain View Boulevard in the vicinity of the school, and there is a signed and marked school crosswalk across the north leg of the Mountain View / Forsythia intersection. A school crossing guard employed by the Town of Erie staffs this crosswalk during school arrival and departure periods to help students cross Mountain View Boulevard.



Forsythia Drive is approximately 44 feet wide with on-street parking allowed along both sides in the vicinity of the school. There are sidewalks along both sides of Forsythia Drive and the school frontage is signed as a 20 mile per hour school speed zone.



Dogwood Drive and Azalea Way are local access roadways with sidewalks along both sides, serving residences to the east of the school. Skyline Drive is a collector roadway providing access to the north of the school site and the adjacent park. There is a signed 20 mile per hour school speed zone along Skyline Drive and a signed and marked school crosswalk across Skyline Drive at the Azalea Way intersection at the northeast corner of the adjacent park. Sidewalks and pathways extend through the park to the school site.

Intersections in the vicinity are controlled by stop signs on the minor street approaches, and most major intersections have signed and marked pedestrian crosswalks.



School Access Observations:

School access traffic was observed during the morning student arrival or drop-off period (approximately 8:25 to 9:10 AM – first bell at 8:55AM), and the afternoon student departure or pick-up period (approximately 3:00 to 3:45 PM – bell at 3:30 PM). To facilitate a description of the traffic patterns observed, the roadways around the school site have been divided into 6 subareas as are illustrated on Figure 2. The following sections of this report detail the traffic patterns of note in each of these locations during the drop-off and pick-up periods.

Observations During the Morning Student Arrival or Drop-Off Period:

Area 1 – Forsythia Drive east of the main school entrance:

- Students being dropped off against the south curbline of Forsythia Drive crossing unescorted through traffic to the school site.
- Parents parked along the north curbline for unloading students. Many parents then walked their children to the building.
- Buses arriving and departing through the neighborhood east of the school rather than from Mountain View Boulevard apparently due to congestion near the school access.
- A parent vehicle parked in the entrance to the bus loop while unloading students and blocking inbound access by an arriving school bus.
- Westbound parent vehicles stopping in the westbound through lane as they waited to enter the school site.
- Westbound through vehicles bypassing the school site needed to travel wrong way in the on-coming lane to bypass the inbound school queue.



Area 2 – Forsythia Drive/main school entrance intersection:

- Vehicles were backed out of the school site (from the slow moving drop-off loop) into the intersection on Forsythia Drive.
- Some parent vehicles failing to yield to pedestrians crossing the school driveway.



Area 3 – Forsythia Drive between the school access and Mountain View Boulevard:

- The entire block had eastbound vehicles stopped or slowly moving forward in the eastbound through lane as they waited to enter the school site.

- Any eastbound vehicles that wanted to bypass this queue needed to travel wrong way in the oncoming westbound lane, and then swerve diagonally through the school access intersection to continue eastbound on Forsythia Drive.
- The crossing guard was on duty helping pedestrians across Mountain View Boulevard.

Area 4 – Northbound Mountain View Boulevard approaching Forsythia Drive:

- 10 or more northbound vehicles queued in the northbound through lane, either stopped or creeping forward that were destined for the school access on Forsythia Drive.
- Any northbound vehicles that wanted to continue north on Mountain View Boulevard needed to travel around this stopped queue by driving in the oncoming lane or using the left turn lane as a through lane when approaching the intersection. They then needed to swerve to the right when traveling through the Forsythia Drive intersection to avoid the southbound queue of vehicles that were headed toward the school access on Forsythia Drive.



Area 5 – Mountain View Boulevard north of Forsythia Drive

- The slow moving drop-off queue at the school site and on Forsythia Drive resulted in a very long southbound queue (20 vehicles or more) on Mountain View Boulevard approaching the Forsythia Drive intersection. This southbound queue extended back to or beyond the school exit driveway onto Mountain View Drive.
- Vehicles were observed approaching the tail end of this long southbound queue and making a U-turn on Mountain View Boulevard. These vehicles then circulated around the back of the school site through the neighborhood on Skyline Drive, Azalea Way and Dogwood Drive before turning onto Forsythia Drive to access the school entrance driveway from the east since this line in traffic was shorter than coming directly in off of Mountain View Boulevard.



Area 6 – Neighborhood streets east of the school site

- These neighborhood streets (Azalea, Dogwood, etc.) served school access traffic from residents living east of the school.
- These streets also served the traffic that cut through the neighborhood to avoid congestion on Mountain View Boulevard as described above.

Observations During the Afternoon Student Departure or Drop-Off Period:

Area 1 – Forsythia Drive east of the main school entrance:

- Students being picked up against the south curbline of Forsythia Drive crossing unescorted through traffic from the school site.
- Parents parked along the north curbline for loading students. Many parents then walked their children from the building.
- Buses arriving and departing through the neighborhood east of the school rather than from Mountain View Boulevard apparently due to congestion near the school access.
- Westbound parent vehicles stopping in the westbound through lane as they waited to enter the school site.
- Westbound through vehicles bypassing the school site needed to travel wrong way in the on-coming lane to bypass the inbound school queue.



Area 2 – Forsythia Drive/main school entrance intersection:

- Vehicles were backed out of the school site (from the slow moving pick-up loop) into the intersection on Forsythia Drive.
- Some parent vehicles failing to yield to pedestrians crossing the school driveway.

Area 3 – Forsythia Drive between the school access and Mountain View Boulevard:

- The entire block had eastbound vehicles stopped or slowly moving forward in the eastbound through lane as they waited to enter the school site. Vehicles began parking in the through lane at least 10 minutes before the school bell (after which the pick-up queue could begin to slowly move).
- Any eastbound vehicles that wanted to bypass this queue needed to travel wrong way in the oncoming westbound lane, and then swerve diagonally through the school access intersection to continue eastbound on Forsythia Drive.
- The crossing guard was on duty helping pedestrians across Mountain View Boulevard.



Area 4 – Northbound Mountain View Boulevard approaching Forsythia Drive:

- 6 or more northbound vehicles queued in the northbound through lane, either stopped or creeping forward that were destined for the school access on Forsythia Drive.
- Any northbound vehicles that wanted to continue north on Mountain View Boulevard needed to travel around this stopped queue by driving in the oncoming lane or using the left turn lane as a through lane when approaching the intersection. They then needed to swerve to the right when traveling through the Forsythia Drive intersection to avoid the southbound queue of vehicles that were headed toward the school access on Forsythia Drive.



Area 5 – Mountain View Boulevard north of Forsythia Drive

- The slow moving drop-off queue at the school site and on Forsythia Drive resulted in a southbound queue (8 to 10 vehicles) on Mountain View Boulevard approaching the Forsythia Drive intersection.

Area 6 – Neighborhood streets east of the school site

- These neighborhood streets (Azalea, Dogwood, etc.) served school access traffic from residents living east of the school.
- These streets also served any traffic that cut through the neighborhood to avoid congestion on Mountain View Boulevard.



Summary and Recommendations:

- The Town of Erie streets that serve the school and adjacent neighborhoods have an extensive network of sidewalks, pathways, crosswalks, bikeable shoulders, and school speed zones. In this context the area is designed to be very “walkable and bikeable”, and students attending Black Rock Elementary School have the opportunity to travel to/from school on foot or by bicycle.

- Unfortunately, the volume of students who are driven to and from school by parents has resulted in significant traffic and congestion on roadways adjacent to the school during the morning and afternoon school access periods.
- The traffic congestion related to parent's vehicles entering the school site during these peak drop-off and pick-up periods has resulted in:
 - vehicles stopping and standing in through lanes while waiting to access the school driveway;
 - through vehicles bypassing stopped vehicles by traveling the wrong way in on-coming lanes, or using left turn lanes as through lanes;
 - vehicles having to make weaving movements through intersections to bypass vehicles queued or parked in the through lane;
 - vehicles making u-turns and circulating through surrounding neighborhoods to bypass long vehicle queues waiting to access the school site;
 - parents and students cutting between vehicles while walking across streets that are clogged with stopped or slowly moving traffic;
 - parents loading and unloading students while queued in intersections and in through lanes;
 - parents loading and unloading students while parked on the far side of the street from the school and failing to escort their children across to the school property;
 - school buses having to circulate out-of-direction through the neighborhood to access the bus loop to avoid congestion near the school driveway entrance.
- Congestion was significant during both the morning and afternoon periods with the impacts lasting for 20 minutes or more.
- The morning student arrival period resulted in the longer vehicle queues than during the afternoon departure period.
- Unfortunately, this situation is not one that can be solved by simple signing, marking, or traffic control revisions on the Town of Erie streets that surround the school site. One treatment that the Town may consider is posting signs along the south side of Forsythia Drive where it is adjacent to the school site that read "No Parking, Stopping, or Standing For Student Loading/Unloading". These signs would hopefully prevent parents from loading/unloading children on the south side of the street and failing to escort their children across the street when traffic congestion is highest. Unfortunately, this will also penalize those parents who do use this south curbline and do escort their students across the street.
- Unfortunately, the school site was not designed to accommodate the volume of parents who have chosen to drive their children to school rather than allowing them to

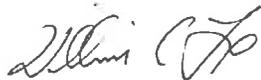


walk of bike to school. Based on conversations with school staff and crossing guards, it appears that this situation has been growing worse over time.

- Any significant mitigation measures to the problems observed and described above will require the Town to work closely with the St. Vrain Valley School District to identify a comprehensive set of on-site and off-site measures. Unfortunately, this may result in the need for costly modifications within the school site and along Town rights-of-way where space is already limited and the existing topography will be a challenge. Ultimately the solution would require providing significant additional space for parent vehicles to enter the school site while waiting to pick-up or drop-off students. Measures might include adding parking and relocating teacher parking to outlying areas, reconfiguring the pick-up/drop-off loop to add a second lane, relocating the school bus loading/unloading area and repurposing the existing bus loop for additional parent vehicle access, etc. Again, we do not see any quick and easy solutions, and mitigation measures may come at the expense of area that is already being used for other school activities.

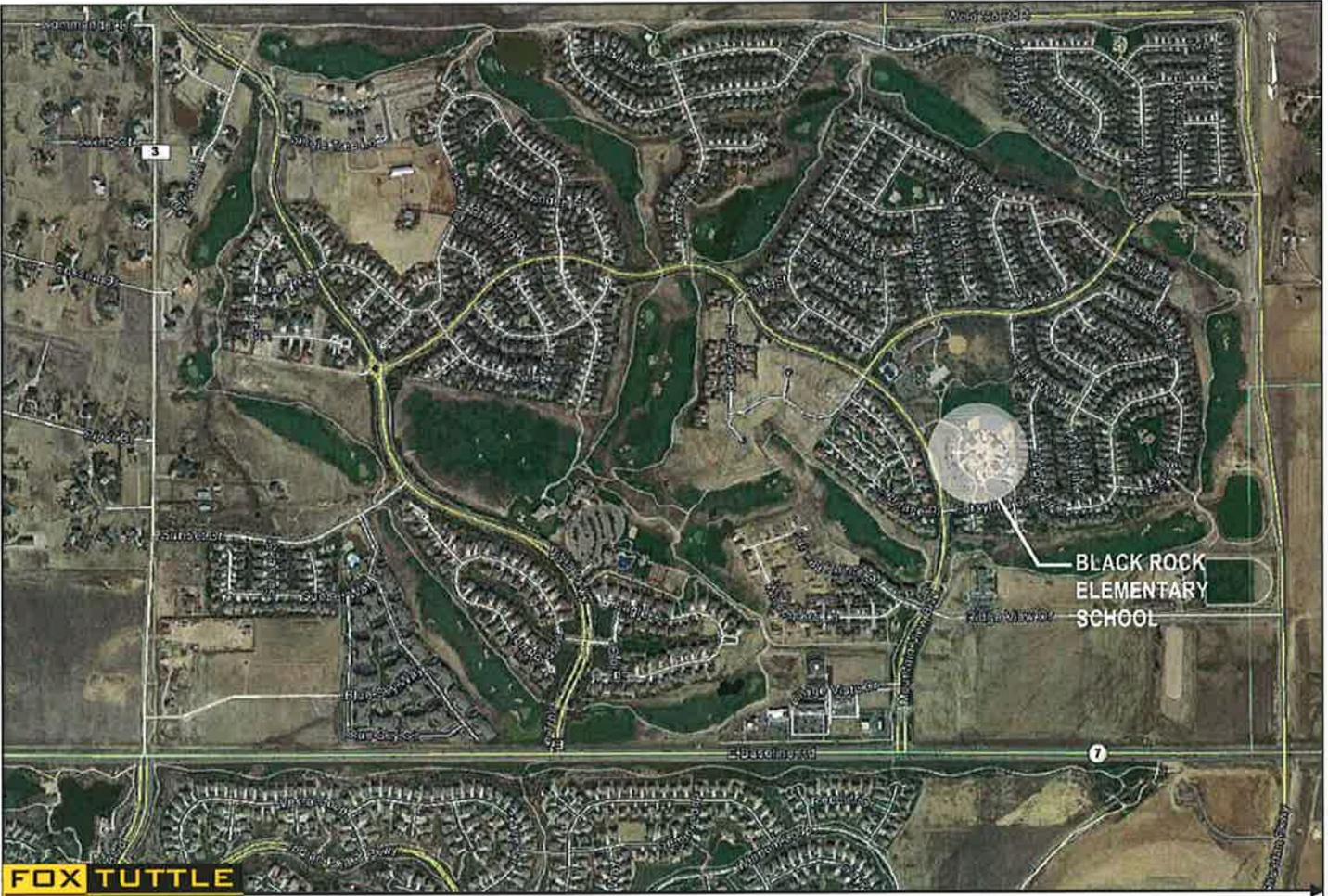
I hope this information is helpful. Please do not hesitate to call if you have any questions or if we can be of assistance working on solutions with the School District.

Sincerely,
Fox Tuttle Transportation Group, LLC



William C. Fox, P.E.
Principal

Attachments: Figures 1 - 2



FOX TUTTLE
TRANSPORTATION GROUP

BLACK ROCK ELEMENTARY SCHOOL ACCESS REVIEW
VICINITY MAP

FT Project #	12053	Original Scale	NTS	Date	11/7/13	Drawn by	SGT	Figure #	1
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FOX TUTTLE
TRANSPORTATION GROUP

BLACK ROCK ELEMENTARY SCHOOL ACCESS REVIEW
PEAK OBSERVATION AREAS

FT Project #	12053	Original Scale	NTS	Date	11/7/13	Drawn by	SGT	Figure #	2
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TOWN OF ERIE
BOARD OF TRUSTEE AGENDA ITEM
Board Meeting Date: April 22, 2014

SUBJECT: **STAFF REPORT**
9th Annual Spring Clean Up

DEPARTMENT: Public Works

PRESENTER: **Gary Behlen, Director of Public Works**

FISCAL INFORMATION: Cost as Recommended: \$ N/A
Balance Available: \$ N/A
Budget Line Item Number: 000 . 00 . 000 . 000000 . 000000
New Appropriation Required: Yes No

STAFF RECOMMENDATION:

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

Town of Erie to Host 9th Annual Spring Clean-Up
SATURDAY, MAY 3, 2014

ERIE, CO – The Town of Erie Department of Public Works and Parks are partnering with a variety of vendors including Front Range Landfill, Goodwill Industries of Denver, Service Guys, Shred-It, and other vendors during the 9th Annual Town of Erie Spring Clean-Up set for Saturday, May 3, 2014. There are a lot of new services being provided this year! Services for the landfill will run from 7:00 am to 2:00 pm. Services at the Leon A Wurl Service Center (150 Bonnell Avenue) will run from 8:00 am to 2:00 pm (shredding 9:00 am to 12:00 pm).

Great Ways to Get Rid of Unwanted Items

Drop Off Unwanted Items and Yard Waste at Front Range Landfill: The Front Range Landfill, located at **1830 Weld County Road 5** in Erie, will accept large household items and yard waste. Hours of operation will be from 7:00 am to 2:00 pm. Residents may dispose of any large household items as well as tree limbs or other yard waste **FREE OF CHARGE**. Residents must show either a Town of Erie water bill or driver's license with an Erie address as proof of residency. Reminder, as of July 1, 2013, electronic disposal is no longer allowed through trash and landfill services. Please note the following:

- All loads must be covered
- All load's must be level with bed of the Truck and/or Trailer
- Construction materials such as roofing shingles, concrete, and framing materials could be subject to charges
- Items that will not be accepted include hazardous materials such as refrigerators, car batteries, tires, and paint.

Donate Used Home Supplies Goodwill: Goodwill will have a collection center set up at the Leon A. Wurl Service Center (Service Center) located at **150 Bonnell Avenue** from 8:00 am to 2:00 pm. All donations must be clean and in working order. General guidelines for donations are:

Goodwill accepts:

Gently used or new clothing	Home electronics	Small appliances
Books	Shoes	Sports equipment
Toys	Housewares	Linens
Jewelry	Computer electronics	

Goodwill does not accept:

Large appliances
Windows or doors
Car batteries
Pressurized containers
Skis

Mattresses
Water heaters
Paint & chemicals
Tires
Propane tanks

Large rolls of carpet
Construction material
Box springs
Swing or slide sets
TV's

Non-Working Items and Some Household Hazardous Waste Services: The Town of Erie's Public Works Department is collaborating with other vendors to provide FREE disposal of non-working items and some household hazardous waste items at the Service Center from 8:00 am to 2:00 pm. Items accepted include:

TVs	Electronic devices including computers
Wire	Metal framed windows (without glass)
Car batteries	Paint
Copper	Brass
Any appliances (including refrigerators with Freon, dishwashers, stove, washer/dryer, hot water heaters, BBQs (do not accept propane tanks), etc)	

Document Shredding: The Town of Erie's Public Works Department is collaborating with Shred It to provide free document shredding service of outdated files or confidential paperwork at the Service Center (150 Bonnell Ave) from **9:00 am to 12:00 pm**.

Brush & Limb Drop Off Service: Due to the recent Emerald Ash Borer quarantine within the Town of Erie, the Parks Division will not be accepting tree limbs for this event. Please take all tree limbs, branches, and yard debris to directly to the Front Range Landfill.

For more information on any of the Town of Erie Fall Clean-Up events, please contact Kris McDaniel at 303-926-2872 or krismc@erieco.gov.

Staff Review:

_____ Town Attorney
_____ Town Clerk
_____ Community Development Director
_____ Finance Director
_____ Police Chief
 Public Works Director

Approved by:



A.J. Krieger
Town Administrator

ATTACHMENTS:

a. Vicinity map

TOWN OF ERIE
BOARD OF TRUSTEE AGENDA ITEM
Board Meeting Date: April 22, 2014

SUBJECT: **STAFF REPORT**
Center for Resource Conservation: Water-Wise Landscape Seminar Update

DEPARTMENT: Public Works

PRESENTER: **Gary Behlen, Director of Public Works**

PREPARER: **Bethany Peer, Public Works, Administrative Technician**

FISCAL INFORMATION: Cost as Recommended: \$ N/A
Balance Available: \$ N/A
Budget Line Item Number: 000 . 00 . 000 . 000000 . 000000
New Appropriation Yes No
Required:

STAFF RECOMMENDATION:

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

Center for ReSource Conservation Water-Wise Landscape Seminar hosted by the Town of Erie

ERIE, CO – The Town of Erie recently hosted the Center for ReSource Conservation for our 3rd Annual Water-Wise Landscape Seminar. We had 28 people from Erie and surrounding areas gather at the Erie Community Center the evening of Wednesday, April 9. The seminar was presented by Alison Peck of Matrix Gardens. The **Integrating Xeriscape into your Landscape** seminar shared valuable information including how to transform non-functional areas of your landscape into stunning, low-maintenance areas that you can enjoy. Along with the presentation, attendees were also able to have many of their water conservation questions answered. People commented that the knowledge presented was very resourceful and applicable to their water conservation goals.

Other Water Conservation Programs offered by the Town of Erie

High Efficiency Washing Machine Rebate Program

Water customers of the Town of Erie with a current, non-delinquent account that purchase a qualifying model listed on the www.energystar.gov website could qualify for a rebate of \$50. The machine must be purchased new and installed at your Erie address and remain there for one year. Supporting documentation such as the original receipt, copy of your water bill and proper identification must be supplied. Complete details of the program can be found on the Public Works page on the Town of Erie website-www.erieco.gov.

Slow the Flow Outdoor Audit Program

The Town has partnered with the Center for ReSource Conservation to provide FREE sprinkler inspections to residents from June-August. Inspections include a customized watering schedule, learn do-it yourself maintenance and tips on how to improve efficiency. Space is limited and appointments will be scheduled on a first come first serve basis. To register for the program, residents can contact the CRC at 303-999-3824 or register on-line at www.conservationcenter.org.

Slow the Flow Indoor Audit Program

The Center for ReSource Conservation will offer an indoor water inspection program for residents. It includes an evaluation of inside water use and water fixtures, and an offer to install at least two aerators and one low-flow showerhead. Inside water inspections are available March-May and September-December. To register for the program, residents can contact the CRC at 303-999-3824 or register on-line at www.conservationcenter.org.

Do-It-Yourself Irrigation Audit Kit

Town of Erie residents are able to check out an Irrigation Audit Kit that contains supplies and instructions to conduct a series of tests. The tests will measure the precipitation rate (how much water your irrigation system puts out), evaluate the evenness of the water application, check their soil type, and will have charts to determine optimum watering times. Public Works Department has three Irrigation Audit Kits for Town of Erie residents to use. The kits are available on a first come, first serve basis. For more information, please call Bethany Peer at 303-926-2870.

Staff Review:

- _____ Town Attorney
- _____ Town Clerk
- _____ Community Development Director
- _____ Finance Director
- _____ Police Chief
-  _____ Public Works Director

Approved by:



A.J. Krieger
Town Administrator

TOWN OF ERIE
BOARD OF TRUSTEE AGENDA ITEM

Board Meeting Date: April 22, 2014

SUBJECT: **STAFF REPORTS**
 FEMA/ 2013 Flood Event Update

DEPARTMENT: Public Works

PRESENTER/PREPARER: **Gary Behlen, Director of Public Works**
Raelynn Ferrera, Public Works Coordinator

FISCAL INFORMATION: Cost as Recommended: **\$ 0**
 Balance Available: **\$ 0**
 Budget Line Item Number: 000 . 00 . 000 . 000000 . 000000
 New Appropriation Required: Yes No

STAFF RECOMMENDATION: N/A

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

Following the September 2013 flood event the Town has worked to reestablish the affected areas; staff composed a list of projects, including road and trail repair, debris removal, water facility repairs and pedestrian bridge repairs. Town staff is now working with FEMA to write project-worksheets for all the affected areas.

Final submittal for all categories has been written by FEMA and submitted to the state. The project amount submitted for each category:

<u>Project Category</u>	<u>Submitted Project Total</u>
Category A: Debris removal	\$30,837.84
Category B: Emergency protective measures	\$28,566.16
Category C: Road Systems and Bridges	\$107,648.98
Category D: Water control facilities	\$575,674.53
Category G: Parks, recreational, and other Items	\$454,163.63
Total Project Amount	\$1,196,891.14

The Town is estimated to receive a reimbursement of 87.5% of the total project amount submitted to the state, the cost share breakdown is:

Federal 75%	\$897,668.32
State 12.5%	\$149,611.38
Town 12.5%	<u>\$149,611.38</u>
	\$1,196,891.14

The town also received two Colorado Water Conservation Board Flood Recovery Grants in the Amount of \$25,000 each for the Erie Commons Irrigation Pond and the Coal Creek Restoration of the Drop Structure & Pedestrian Bridge projects.

Projects Category Status:

Category A work –debris removal at drop structures, pedestrian bridges and trails was completed in-house by town staff.

Category C work – WCR10.5, 10, 7, 12, 111th Street, Arapahoe Road were cleared of debris, repaired, re-shouldered and open.

Category D work - Erie Commons Irrigation Pond has been repaired and in use for the irrigation season. The North Water Reclamation Facility Reuse Reservoir repair is under contract and in progress.

Category G work – Coal Creek- Rock Creek Trail work is in progress and being completed by town staff and is estimated to be completed by early May. Coal Creek Restoration of Drop Structure & Ped Bridge is under contract and in progress and is estimated to be completed by the end of July.

Board Goal

This serves the Board's goal for Financial Responsibility – Manage Erie's financial operation in an open, responsible and ethical manner.

Staff Review:

_____ Town Attorney
_____ Town Clerk
_____ Community Development Director
_____ Finance Director
_____ Police Chief
 _____ Public Works Director

Approved by:



A.J. Krieger
Town Administrator

ATTACHMENTS:

a. NONE