

TOWN OF ERIE  
BOARD OF TRUSTEES REGULAR MEETING <sup>1</sup>  
Tuesday, September 8, 2015  
STUDY SESSION START TIME 5:45 PM  
REGULAR MEETING START TIME 6:30 PM  
Erie Town Hall, 645 Holbrook Street, Erie, CO 80516

---

STUDY SESSION 5:45 PM IN THE COMMUNITY ROOM  
AGENDA FOR THE STUDY SESSION IS A DISCUSSION OF THE REGULAR MEETING AGENDA  
BELOW

---

REGULAR MEETING 6:30 PM IN THE BOARD 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 August 25, 2015 Meeting Minutes
- b. Ordinance No. 22-2015; An Ordinance Of The Town Of Erie, Colorado, Regarding The Bridgewater PUD Overlay Map – Amendment No. 3, Adopting Certain Findings Of Fact And Conclusions Favorable To The PUD Overlay Rezoning. **SECOND READING**
- c. Resolution 15-108; A Resolution of the Town of Erie Approving the Subdivision Plat for Bridgewater Master Subdivision Amendment No. 1
- d. Resolution 15-118; A Resolution Authorizing the Purchase of a Toro Infield Groomer

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. September as Attendance Awareness Month – St. Vrain Valley Schools

---

<sup>1</sup> 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. LAND DEVELOPMENT RESOLUTIONS AND ORDINANCES

### CANYON CREEK

- a. Ordinance 20-2015; An Ordinance of the Town of Erie, Colorado, Approving Canyon Creek Planned Development Amendment No. 9; Making Findings Supporting Canyon Creek Planned Development Amend No. 9; and Setting Forth Details in Relation Thereto  
(SECOND READING)
- b. Resolution 15-101; A Resolution by the Board of Trustees of the Town of Erie, Colorado Approving the 4 Corners Pre-Development Agreement (Continued from the August 25, 2015 Regular Meeting)

### VISTA RIDGE FILING 14

- c. Resolution 15-113; A Resolution Authorizing the Town of Erie, Colorado, to Enter Into the Following Agreements: A Purchase And Sale Agreement With Montex (Brownlee) LLC And Montex (Vista Ridge) LLC, A Purchase and Sale Agreement With Dillon Companies Inc., A Reciprocal Easement and Restriction Agreement With Montex (Vista Ridge) LLC, And a Repayment Option Agreement With Dillon Companies, Inc.; Authorizing and Directing the Appropriate Town Officers to Sign Said Agreements; and, Setting Forth Details in Relation Thereto.
- d. Resolution 15-114; A Resolution Authorizing the Town of Erie, Colorado, to Enter Into the Vista Ridge Filing No. 14 Non-Residential Development Agreement; Authorizing and Directing the Appropriate Town Officers to Sign Said Development Agreement; and, Setting Forth Details in Relation Thereto.
- e. Resolution 15-115; A Resolution Authorizing the Town of Erie, Colorado, to Enter Into a Grant of Permanent Avigation Easement Agreement; Authorizing and Directing the Appropriate Town Officers to Sign Said Grant of Permanent Avigation Easement Agreement; And, Setting Forth Details in Relation Thereto.

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

- a. Resolution 15-86; A Resolution Awarding a Design Contract for the Pedestrian Taxiway Underpass Repair at the Erie Municipal Airport
- b. Resolution 15-110; A Resolution Authorizing a Lease Agreement with Bijou Irrigation Company for the Lease of Nine Hundred and Eighty Colorado Big Thompson Units
- c.. Resolution 15-116; A Resolution Granting An Extension Of The Time Within Which To Record The Canyon Creek Filing No. 9, 1<sup>ST</sup> Amendment Final Plat, From September 9, 2015 To November 6, 2015; And Setting Forth Details In Relation Thereto.
- d. Resolution 15-117; A Resolution Authorizing The Town Of Erie, Colorado, To Enter Into The Flatiron Meadows Second Amended And Restated Master Development Agreement; Authorizing And Directing The Appropriate Town Officers To Sign Said Agreement; Extending The Approval Of The Flatiron Meadows Preliminary Plat No. 1 From January 14, 2015 To June 14, 2016; And, Setting Forth Details In Relation Thereto.

**IX. 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.)

- a. Ordinance No. 21-2015; An Ordinance Of The Town Of Erie, Colorado, Repealing The June 2015 Title 10 Unified Development Code; Adopting By Reference The August 2015 Title 10 Unified Development Code; Providing For The Effective Date Of This Ordinance; Setting Forth Details in Relation Thereto (SECOND READING)

**XI. 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. Approval of Letter of Support for Aspen Ridge Preparatory School Grant Application-Great Outdoors Colorado 2016 School Play Yard Initiative

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

NONE SCHEDULED

**XIII. 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

**XIV. 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, August 25, 2015**  
**6:30 p.m.**  
**Board Room, Erie Town Hall, 645 Holbrook, Erie, CO 80516**

---

**I. CALL MEETING TO ORDER**

Mayor Harris called the August 25, 2015 Regular Meeting of the Board of Trustees to order at 6:30 p.m.

**II. PLEDGE OF ALLEGIANCE AND ROLL CALL**

Roll Call:	Trustee Carroll	Present
	Trustee Schutt	Absent/Excused
	Mayor Pro Tem Gruber	Present
	Trustee Moore	Present
	Trustee Charles	Present
	Trustee Woog	Present
	Mayor Harris	Present

**III. APPROVAL OF THE AGENDA**

Action: Trustee Carroll moved to approve the August 25, 2015 Town of Erie Board of Trustees Meeting Agenda with the amendment of changing the order of X. Oil and Gas items with item b. Resolution 15-98 being heard before item a. Ordinance 21-2015; the motion was seconded by Trustee Moore. The motion carried with all present voting in favor thereof.

**IV. CONSENT AGENDA**

- a. Approval of the August 11, 2015 Meeting Minutes
- b. Approve Letter of Support for the Northern Integrated Supply Project
- c. Resolution 15-111; A Resolution Approving a Memorandum of Understanding Between the Town of Erie and the St. Vrain Valley School District Re-1J for a School Resource Officer
- d. Resolution 15-112; A Resolution Approving an Agreement with Urban Drainage and Flood Control Regarding Final Design, Right of Way Acquisition and Construction of Drainage and Flood Control Improvements for Coal Creek from County Line Road to Kenosha Road

Action: Trustee Charles moved to approve the August 25, 2015 Consent Agenda; the motion was seconded by Mayor Pro Tem Gruber. The motion carried with the following Roll Call vote:

Trustee Charles	Yes
Trustee Woog	Yes
Trustee Carroll	Yes
Trustee Moore	Yes
Mayor Pro Tem Gruber	Yes
Mayor Harris	Yes

**V. PUBLIC COMMENT**

Gerry Olow, 2255 Meadow View Parkway, Erie, CO., expressed concerns to the Board regarding Fair Housing issues.

**VI. LAND DEVELOPMENT RESOLUTIONS AND ORDINANCES**

**PUBLIC HEARING**

- a. **Ordinance 20-2015; An Ordinance of the Town of Erie, Colorado, Approving Canyon Creek Planned Development Amendment No. 9; Making Findings Supporting Canyon Creek Planned Development Amend No. 9; and Setting Forth Details in Relation Thereto**

The proposal for the Canyon Creek Filing No. 10 portion of the Canyon Creek PD is to designate three Principal Land Uses: 14.55 acres of CC-Community Commercial; 19.74 acres of HR-High Density Residential; and, 12.32 acres of MR-Medium Density Residential. The Canyon Creek PD Amendment No. 9 CC-Community Commercial Land Use, HR-High Density Residential Land Use, and MR-Medium Density Residential Land Use will follow the Unified Development Code Table of Permitted Uses in CC-Community Commercial, HR-High Density Residential, and MR-Medium Density Residential zone districts. PD Amendment No. 9 will allow Single Family Detached – Patio homes as a use by right, with the same architectural design guidelines as were adopted in Canyon Creek Filing No. 9 for the Boulder Creek Neighborhoods patio home development, within the HR-High Density Residential Land Use and MR-Medium Density Residential Land Use. Additionally, within 200 feet of the existing single family homes in Canyon Creek Filing 5, the applicant has proposed that the housing be restricted to alley loaded single family patio homes or duplexes. This will ensure an appropriate housing transition from the existing single family homes to the new development in Filing 10.

- b. **Resolution 15-101; A Resolution by the Board of Trustees of the Town of Erie, Colorado Approving the 4 Corners Pre-Development Agreement**

The Resolution provided for the Board of Trustees authorizes Town officials to accept, and to sign the 4 Corners Pre-Development Agreement. The Pre-Development Agreement addresses the current development proposal for residential and commercial development of the property, as illustrated in the Canyon Creek PD Amendment No. 9 application and the Canyon Creek Filing No. 10 Sketch Plan application that is being reviewed concurrently with the Pre-Development Agreement.

**Action:** Trustee Moore moved to continue Ordinance 20-2015 and Resolution 15-101 to the September 8, 2015 regular meeting; the motion was seconded by Trustee Charles. The motion carried with all present voting in favor thereof.

**BRIDGEWATER**

- c. **Ordinance No. 22-2015; An Ordinance Of The Town Of Erie, Colorado, Regarding The Bridgewater PUD Overlay Map – Amendment No. 3, Adopting Certain Findings Of Fact And Conclusions Favorable To The PUD Overlay Rezoning.**

The Colliers Hill property was annexed into the Town of Erie in October 2007 as Bridgewater. The property was granted initial zoning concurrent with the annexation. Included in the initial zoning was the approval of a PUD Overlay Map that modified certain development standards.

## **LAND DEVELOPMENT RESOLUTIONS AND ORDINANCES (continued)**

The property owner is beginning the process of transferring a 10 acre site to St. Vrain Valley School District for a future elementary school. Concurrent with the minor subdivision to create the 10 acre tract, the applicant has proposed an amendment to the PUD Overlay Map as permitted by Title 10 of the Town of Erie Municipal Code. The PUD Overlay District is generally used when there is special public interest that doesn't coincide with the traditional zoning in a geographic area. The PUD Overlay District may only be used when an application is not able to meet the requirements of a standard zone classification. The PUD is a mapped area with restrictions in addition to, or less than, those in the underlying traditional zone. Rather than attempt to create a new zoning category, an overlay zone is superimposed over the traditional zone and establishes additional regulations, or reduces or extends the existing uses. The underlying zoning identifies permitted land uses; the overlay zone may provide design restrictions, additional setbacks, or other exceptions to the base district regulations. The applicant is proposing to move Tract 1, the 10 acre elementary school site shown in the Bridgewater PUD Overlay Map – Amendment No. 2, further west on Colliers Parkway into the Village 11 single-family detached residential planning area. The southern portion of Village 11 then shifts east to replace the elementary school planning area. The revised Village 11 allows for both single-family detached and attached residential uses. An amendment to the Bridgewater Master Subdivision has been submitted concurrent with this PUD Amendment to create the elementary school tract in order to convey it to St. Vrain Valley School District. This PUD Overlay Map amendment causes the PUD to be consistent with the subdivision amendment.

**Action:** Mayor Harris opened the Public Hearing for Ordinance 22-2015 at 6:36 p.m. Prior to taking evidence or testimony the Mayor received affirmation that the evidence and or testimony from those wishing to give it was true.

Testimony on behalf of the Applicant was presented by:

Jerry Richmond, Executive Vice President of Raintree Investment Corporation  
7200 S. Alton Way  
Centennial, CO 80112

**Action:** Hearing no one else wishing to make Public Comment, Mayor Harris closed the public hearing for Ordinance 22-2015 at 6:46 p.m. This was the first reading of Ordinance 22-2015 and it will be brought back for Board action at the September 8, 2015 Regular Meeting of the Town of Erie Board of Trustees.

**d. Resolution 15-108; A Resolution of the Town of Erie Approving the Subdivision Plat for Bridgewater Master Subdivision Amendment No. 1**

The Resolution, provided for consideration by the Board of Trustees, accepts dedications as shown on the Bridgewater Master Subdivision First Amendment Plat. The property owner is beginning the process of transferring a 10 acre site to St. Vrain Valley School District for a future elementary school. Concurrent with the PUD Overlay Map amendment, the applicant has proposed an amendment to the Bridgewater Master Subdivision Plat to relocate the 10 acre elementary school site. The minor subdivision divides Tract 9 of the master subdivision to create two tracts: a 10 acre tract for the future elementary school (Tract 9A); and a 57.96 acre tract for future development (Tract 9B). The Community Development Director and Public Works Director have conditionally approved the Bridgewater Master Subdivision First Amendment Plat, contingent upon the acceptance of the dedications by the Board of Trustees.

**Action:** Mayor Pro Tem Gruber moved to continued Resolution 15-108 to the September 8, 2015 regular meeting. The motion was seconded by Trustee Charles. The motion carried with all present voting in favor thereof.

## VII. RESOLUTIONS

### PUBLIC HEARING

- a. **Resolution 15-109; A Resolution of the Board of Trustees Of The Town of Erie, Colorado Approving the Service Plan for the 232 Metropolitan District; And, Authorizing The Town Of Erie, Colorado, To Enter Into An Intergovernmental Agreement Between The Town Of Erie And The 232 Metropolitan District, Ensuring Compliance With The Approved Service Plan And The Erie Municipal Code; Authorizing And Directing The Appropriate Town Officers To Sign Said Intergovernmental Agreement; And Setting Forth Details In Relation Thereto.**

The Town has received the Service Plan (Plan) for the Sierra Vista Metropolitan District (District). The District encompasses approximately 126 acres of land located at the southwest corner of Interstate 25 and Erie Parkway. State Statute requires the Board of Trustees to approve the Plan by resolution of any special district organized within the municipal limits of the Town. This is a required step for the District to participate in the November 2015 Title 32 district election. The Board of Trustees adopted a special district ordinance and model service plan in June 2007. The special district ordinance was amended in 2013. The Plan has been submitted in accordance with the ordinance and amendment thereto. The Plan was submitted using the model service plan as a guide and the Districts have complied with the amended Town ordinance. The District will provide public improvements and services to a proposed development (non-residential), currently known as Erie Exchange. The Plan identifies improvements and services expected to be provided by the District, the Plan also describes how activities will be financed. The Plan identifies powers of the Districts as well as describes the limitations. In addition, disclosure of the District is included that advises potential property owners to investigate financing, servicing of indebtedness, etc. Town staff and Kim Crawford, Special Counsel to the Town has reviewed the Plan and have found it to be in general compliance with the model service plan and the Town ordinance as amended. Approval of Plan does not constitute the Town's approval of any future development plan or zoning. The only significant deviation from the Town's Model Service Plan that the applicant is requesting is to Section VIII – Dissolution. The Model Service Plan requires dissolution of the District in the event that debt is not issued within three years. The applicant requests that this term be extended to six years in order to match their financial plan as the financial plan anticipates issuance of debt no sooner than 2021.

**Action:** Mayor Harris opened the Public Hearing for Resolution 15-109 at 6:48 p.m. Prior to taking evidence or testimony the Mayor received affirmation that the evidence and or testimony from those wishing to give it was true.

**Testimony on behalf of the Applicant was presented by:**

Joe Knopinski  
Managing Principal, Development Planning &  
Finance Group  
1615 California Street, Suite 411  
Denver, CO 80202

Erin Clark  
McGeady Sisneros, P.C.  
450 E. 17th Avenue, Suite 400  
Denver, Colorado 80203-1254

**Action:** Hearing no one else wishing to make Public Comment, Mayor Harris closed the public hearing for Resolution 15-109 at 7:21 p.m. Trustee Charles moved to approve Resolution 15-109; the motion was seconded by Mayor Pro Tem Gruber. The motion carried with all present voting in favor thereof.

## VIII. OIL AND GAS

- b. **Resolution 15-98; A Resolution Authorizing the Town Of Erie, Colorado, to Enter Into an Operator Agreement With Encana Oil & Gas (USA) Inc.; Authorizing and Directing the Appropriate Town Officers to Sign Said Operator Agreement; and, Setting Forth Details in Relation Thereto**

This item was presented by special counsel John Sullivan and Barbara Green of Sullivan Green Seavy LLC.

**Action:** Following Board discussion Mayor Pro Tem Gruber moved to approve Resolution 15-98; the motion was seconded by Trustee Carroll. The motion carried with all present voting in favor thereof.

### PUBLIC HEARINGS

- a. **Ordinance No. 21-2015; An Ordinance Of The Town Of Erie, Colorado, Repealing The June 2015 Title 10 Unified Development Code; Adopting By Reference The August 2015 Title 10 Unified Development Code; Providing For The Effective Date Of This Ordinance; Setting Forth Details in Relation Thereto; And, Declaring an Emergency Therefore.**

Per Board of Trustees direction, the Town's Special Counsel is proposing an amendment to Title 10 and has provided the proposed amendment attached to Ordinance 21-2015 as Exhibit A. Barbara Green of Sullivan Green Seavy will present the proposed Code amendments to the Board of Trustees and be available to answer questions. The application to amend Title 10 of the Municipal Code of the Town of Erie, Colorado may be approved if the Board of Trustees finds that the approval criteria of Chapter 7.21.C.9 have been met: The proposed amendment will promote the public health, safety, and general welfare; The proposed amendment is consistent with the Town's Comprehensive Master Plan and the stated purposes of the Code; and The proposed amendment is necessary and desirable because of changing conditions, new planning concepts, or other social or economic conditions. The required public notice for the Title 10 Amendment is in compliance with Section 7.2.F of the Code and C.R.S. 31-16-203 (which requires two published notices when a Title of a Code is adopted by reference); with published notice in the Colorado Hometown Weekly on August 5, 2015 and August 12, 2015. Mailed and posted notice is not required for amendments to Title 10

**Action:** Mayor Harris opened the Public Hearing for Ordinance 21-2015 at 8:29 p.m. Prior to taking evidence or testimony the Mayor received affirmation that the evidence and or testimony from those wishing to give it was true.

Testimony on this Ordinance was presented by:

Deandrea Arndt, 828 Lehigh Circle, Erie, CO.

Kim Cook, Anadarko Petroleum, 1099 18<sup>th</sup> Street, Denver, CO.

Joe Evers, Colorado Oil and Gas Association (submitted letter for the record see exhibit A)

Kyle Roth, 2829 Prince, Erie, CO.

Liz Fisher, 635 Moffat St., Erie, CO.

Ray Schlott, 255 Meadow View Parkway, Erie, CO.

Jim Hoffmeyer, 1168 Fletcher Drive, Erie, CO.

**Action:** Mayor Harris closed the public meeting for Ordinance 21-2015 at 9:20 p.m. Trustee Moore moved to table this Ordinance to the September 8, 2015 regular meeting to be considered on a second reading in lieu of an Emergency. The motion was seconded by Trustee Woog; the motion carried with all present voting in favor thereof.

## IX. BOARD OF TRUSTEES REPORTS & APPOINTMENTS

**Action:** Trustee Carroll moved to appoint Erica Beatman to the Tree Board; the motion was seconded by Trustee Charles. The motion carried with all present voting in favor thereof.

Trustee Woog reported on a recent Erie Economic Development Council meeting he attended.

Trustee Moore noted that there was a meeting on September 3, 2015 regarding the new school being built by the BVSD.

Mayor Pro Tem Gruber asked former Mayor Andrew Moore to speak to them regarding BVSD possibly selling fiber outside of the School District.

## X. EXECUTIVE SESSION

- a. EXECUTIVE SESSION specifically, for discussion of a personnel matter under C.R.S. Section 24-6-402(4)(f) and not involving: any specific employees who have requested discussion of the matter in open session; any member of this body or any elected official; the appointment of any person to fill an office of this body or of an elected official; or personnel policies that do not require the discussion of matters personal to particular employees; specifically, to discuss the annual performance evaluation of Town Administrator A.J. Krieger.

**Action:** Trustee Charles moved to go into Executive Session specifically, for discussion of a personnel matter under C.R.S. Section 24-6-402(4)(f) and not involving: any specific employees who have requested discussion of the matter in open session; any member of this body or any elected official; the appointment of any person to fill an office of this body or of an elected official; or personnel policies that do not require the discussion of matters personal to particular employees; specifically, to discuss the annual performance evaluation of Town Administrator A.J. Krieger. The motion was seconded by Mayor Pro Tem Gruber. The motion carried with all present voting in favor thereof.

It's Tuesday August 25, 2015, and the time is 9:28 p.m. For the record, I am the presiding officer, Mayor Tina Harris. As required by the Open Meetings Law, this executive session is being electronically recorded. Also present at this executive session are the following persons:

Mayor Pro Tem Mark Gruber; Trustees Janice Moore, Jennifer Carroll, Dan Woog, Scott Charles; and Town Administrator A.J. Krieger

This is an EXECUTIVE SESSION specifically, for discussion of a personnel matter under C.R.S. Section 24-6-402(4)(f) and not involving: any specific employees who have requested discussion of the matter in open session; any member of this body or any elected official; the appointment of any person to fill an office of this body or of an elected official; or personnel policies that do not require the discussion of matters personal to particular employees; specifically, to discuss the annual performance evaluation of Town Administrator A.J. Krieger.

Upon completion of the Executive Session, Mayor Harris announced that the time is now 11:50 p.m., and the executive session has been concluded. The participants in the executive session were:

EXECUTIVE SESSION (continued)

Mayor Pro Tem Mark Gruber; Trustees Janice Moore, Jennifer Carroll, Dan Woog, Scott Charles; and Town Administrator A.J. Krieger;

For the record, if any person who participated in the executive session believes that any substantial discussion of any matters not included in the motion to go into the executive session occurred during the executive session, or that any improper action occurred during the executive session in violation of the Open Meetings Law, I would ask that you state your concerns for the record. Seeing none, the next agenda item is adjournment.

XI. ADJOURNMENT

Action: Trustee Woog moved to adjourn the August 25, 2015 Regular Meeting of the Town of Erie Board of Trustees; the motion was seconded by Mayor Pro Tem Gruber. The motion carried with all present voting in favor thereof.

Action: Mayor Harris adjourned the August 25, 2015 Regular Meeting of the Town of Erie Board of Trustees at 11:51 p.m.

Respectfully Submitted,

---

Nancy J. Parker, CMC, Town Clerk

---

Tina Harris, Mayor

**TOWN OF ERIE**  
**BOARD OF TRUSTEE AGENDA ITEM**  
**Board Meeting Date: September 8, 2015**

---

**SUBJECT:**

**CONSENT:**

**CONSIDERATION OF ORDINANCE 22-2015 (Second Reading):** An Ordinance Amending The Bridgewater Planned Unit Development (PUD) Overlay Map Pursuant To The Rezoning Application Of The Owner Thereof; Adopting Certain Findings Of Fact And Conclusions Favorable To The PUD Overlay Rezoning; And, Setting Forth Details In Relation Thereto.

**CODE REVIEW:**

Erie Municipal Code, Title 10

**PURPOSE:**

Public Hearing to consider a request to amend the Bridgewater PUD Overlay Map Amendment No. 2 to relocate the elementary school tract.

**DEPARTMENT:**

Community Development

**PRESENTER:**

Todd Bjerkaas PLA, Senior Planner

---

**FISCAL**

Cost as Recommended: na

**INFORMATION:**

Balance Available: na

Budget Line Item 000 . 00 . 000 . 000000 . 000000

Number:

New Appropriation

Required:  Yes  No

---

**STAFF**

**RECOMMENDATION:**

Staff recommends the Board of Trustees approve the rezoning to amend the Bridgewater PUD Overlay Map Amendment No. 2 by approving Ordinance 22-2015.

**PLANNING COMMISSION  
RECOMMENDATION:**

The Planning Commission held a public hearing for the PUD Overlay amendment Rezoning request on August 5, 2015. The Planning Commission by a 7-0 vote recommended approval of the Rezoning by approving Resolution P15-24.

---

---

---

**SUMMARY AND BACKGROUND OF SUBJECT MATTER:**

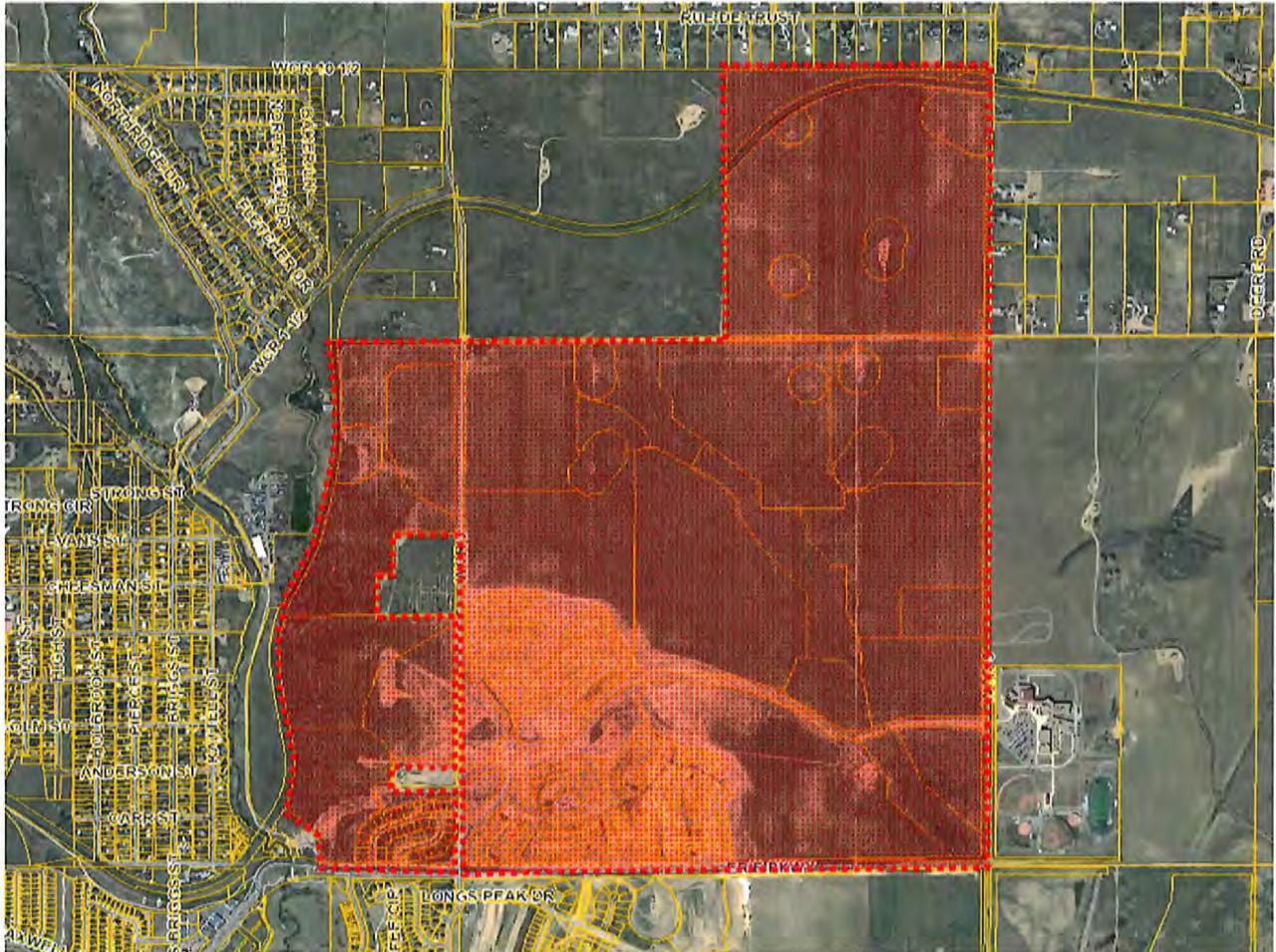
---

---

**Owner:** Daybreak Recovery Acquisition  
7200 S. Alton Way, Suite C400  
Centennial, CO 80012

**Representative:** Raintree Investment Corporation  
Jerry Richmond  
7200 S. Alton Way, Suite C400  
Centennial, CO 80012

**Location:** The Colliers Hill property is located on the northwest corner of WCR 5 and Erie Parkway.



**Background:**

The Colliers Hill property was annexed into the Town of Erie in October 2007 as Bridgewater. The property was granted initial zoning concurrent with the annexation. Included in the initial zoning was the approval of a PUD Overlay Map that modified certain development standards.

The property owner is beginning the process of transferring a 10 acre site to St. Vrain Valley School District for a future elementary school. Concurrent with the minor subdivision to create the 10 acre tract, the applicant has proposed an amendment to the PUD Overlay Map as permitted by Title 10 of the Town of Erie Municipal Code. The purpose of the PUD Overlay district as well as the details of the proposed amendment is outlined below.

**Purpose of PUD Overlay:**

The PUD Overlay District is generally used when there is special public interest that doesn't coincide with the traditional zoning in a geographic area. The PUD Overlay District may only be used when an application is not able to meet the requirements of a standard zone classification. The PUD is a mapped area with restrictions in addition to, or less than, those in the underlying traditional zone. Rather than attempt to create a new zoning category, an overlay zone is superimposed over the traditional zone and establishes additional regulations, or reduces or extends the existing uses. The underlying zoning identifies permitted land uses, the overlay zone may provide design restrictions, additional setbacks, or other exceptions to the base district regulations.

General purposes of a PUD are as follows:

- a. Establish a procedure for the development of larger parcels of land in order to reduce or eliminate the rigidity, delays, and inequities that otherwise would result from application of zoning standards and procedures designed primarily for small parcels.
- b. Ensure orderly and thorough planning and review procedures that will result in high-quality urban design.
- c. Encourage variety and avoid monotony in large developments by allowing greater freedom in selecting the means to provide access, light, open space, and amenity.
- d. Provide a mechanism for considering mixes of uses that can be made compatible by application of careful and imaginative treatment of interrelationships of activity.
- e. Encourage allocation and improvement of common open space in residential areas, and provide for maintenance of the open space at the expense of those who will directly benefit from it.
- f. To convert land so poorly developed as to be a public liability.
- g. Encourage the preservation of serviceable existing structures of historic value or artistic merit by providing the opportunity to use them imaginatively for purposes other than that for which they were originally intended.
- h. Encourage the assembly of properties that might otherwise be developed in unrelated increments to the detriment of surrounding neighborhoods.
- i. To simplify processing of development proposals for developers and the Planning Commission by providing for concurrent review of land use, subdivision, public improvements and siting considerations.

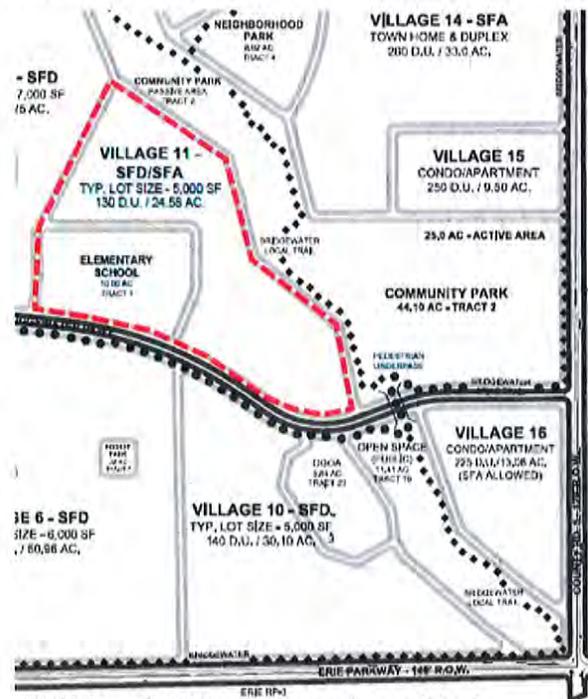
### PUD Overlay Amendment No. 3:

The applicant is proposing to move Tract 1, the 10 acre elementary school site shown in the Bridgewater PUD Overlay Map – Amendment No. 2, further west on Colliers Parkway into the Village 11 single-family detached residential planning area. The southern portion of Village 11 then shifts east to replace the elementary school planning area. The revised Village 11 allows for both single-family detached and attached residential uses.

An amendment to the Bridgewater Master Subdivision has been submitted concurrent with this PUD Amendment to create the elementary school tract in order to convey it to St. Vrain Valley School District. This PUD Overlay Map amendment causes the PUD to be consistent with the subdivision amendment.



PUD Overlay Map – Amendment No. 2



PUD Overlay Map – Amendment No. 3

### STAFF REVIEW AND ANALYSIS

#### **Compliance with Town Standards:**

Staff finds the application is consistent with the Approval Criteria of Title 10, Section 7.6 Rezoning PUD Overlay:

- a. **The PUD Rezoning is generally consistent with the Purpose of the PUD Overlay District in Section 2.7.D.1;**

*Staff Comment:* The identification of land uses is consistent with the purpose of the PUD Overlay District.

- b. **The PUD Rezoning will promote the public health, safety, and general welfare;**

*Staff Comment:* The elementary school and residential uses will promote the public health, safety and general welfare.

- c. **The PUD Rezoning is generally consistent with the Town's Comprehensive Master Plan and the purposes of this Code;**

*Staff Comment: An elementary school serving a residential neighborhood is generally consistent with the Comprehensive Plan.*

- d. **The PUD Rezoning is generally consistent with the PUD standards in Section 2.7.D.2;**

*Staff Comment: The revised planning areas are generally consistent with the PUD standards in Section 2.7.D.2 of the UDC.*

- e. **Adequate facilities and services (including roads and transportation, water, gas, electric, police and fire protection, and sewage and waste disposal, as applicable) will be available to serve the subject property while maintaining adequate levels of service to existing development;**

*Staff Comment: Adequate facilities and services are available or will be available prior to school and home construction.*

- f. **The PUD Rezoning is not likely to result in significant adverse impacts upon the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts will be substantially mitigated;**

*Staff Comment: The proposed PUD amendment will not result in adverse impacts upon the environment, wildlife and vegetation that cannot be mitigated.*

- g. **The PUD Rezoning is not likely to result in significant adverse impacts to significant scenic and historic features as identified in plans adopted by the Town;**

*Staff Comment: The proposed PUD amendment will not result in adverse impacts upon scenic and historic features in the vicinity of Colliers Hill.*

- h. **The PUD Rezoning is not likely to result in significant adverse impacts upon other property in the vicinity of the subject property;**

*Staff Comment: The proposed PUD amendment will not result in adverse impacts upon properties in the vicinity of Colliers Hill.*

- i. **Proposed uses on the subject property will be compatible in scale with uses on other properties in the vicinity of the subject property;**

*Staff Comment: The proposed uses on the Colliers Hill property will be compatible in scale with properties in the vicinity of Colliers Hill.*

- j. **The proposed phasing of the development is appropriate and the development can be substantially completed within the time period specified in the schedule of the development or Development Agreement submitted by the applicant; and**

*Staff Comment: The proposed phasing of the Colliers Hill property has been and will be covered in individual development agreements.*

- k. **The PUD Plan provides public benefit(s).**

*Staff Comment: The proposed amendment to the PUD Overlay provides public benefit in providing for an elementary school use within a residential neighborhood.*

**PUBLIC NOTICE**

Notice of this Public Hearing has been provided as follows:

Published in the Colorado Hometown Weekly:	August 5, 2015
Property Posted:	August 10, 2015
Letters to property owners within 300-feet:	August 7, 2015

**Staff Recommendation:**

Staff recommends the Board of Trustees approve the rezoning to amend the Bridgewater PUD Overlay Map Amendment No. 2 by approving Ordinance 22-2015.

---

**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. Ordinance 22-2015
- B. PC minutes and PC Resolution P15-24
- C. Application Materials
- D. Bridgewater PUD Overlay Map – Amendment No. 2 (sheet 2)
- E. Bridgewater Master Subdivision First Amendment

# ATTACHMENT A

**ORDINANCE NO. 22-2015**

**AN ORDINANCE AMENDING THE BRIDGEWATER PLANNED UNIT DEVELOPMENT (PUD) OVERLAY MAP PURSUANT TO THE REZONING APPLICATION OF THE OWNER THEREOF; ADOPTING CERTAIN FINDINGS OF FACT AND CONCLUSIONS FAVORABLE TO THE PUD OVERLAY REZONING; AND, SETTING FORTH DETAILS IN RELATION THERETO.**

**WHEREAS**, an application for rezoning to amend the Bridgewater PUD Overlay (“Bridgewater PUD Overlay Map Amendment No. 3”) has been filed by Daybreak Recovery Acquisition, 7200 S. Alton Way, Suite C400, Centennial, Colorado (“Owner”) for the rezoning of the following described real property to wit:

Tracts 1-25, Bridgewater Master Subdivision Final Plat (“Property”); and,

**WHEREAS**, the Bridgewater PUD Overlay Map Amendment was previously amended by Bridgewater PUD Overlay Map Amendment No. 1 on June 28, 2011 and Bridgewater PUD Overlay Map Amendment No. 2 on May 29, 2013; and,

**WHEREAS**, the Owner now desires to amend the Bridgewater PUD Overlay Map Amendment No. 2 through this Bridgewater PUD Overlay Map Amendment No. 3, and such Bridgewater PUD Overlay Map Amendment No. 3 is authorized by Title 10, “Unified Development Code,” of the Town of Erie Municipal Code (Code); and,

**WHEREAS**, the Planning Commission of the Town of Erie, Colorado, conducted a public hearing on August 5, 2015 , pursuant to the published notice for consideration of the Bridgewater PUD Overlay Map Amendment No. 3, and;

**WHEREAS**, the Board of Trustees of the Town of Erie, Colorado, considered the Bridgewater PUD Overlay Map Amendment No. 3 at a public hearing held on August 25, 2015 for which meeting public notice was legally given, and;

**WHEREAS**, the rezoning to Amend the PUD Overlay Map as proposed herein by the Bridgewater PUD Overlay Map Amendment No. 3 will preserve the health, safety, welfare and interest of the citizens of the Town of Erie, Colorado.

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

Section 1. That following a legally noticed and duly conducted public hearing, the Board of Trustees of the Town of Erie, Colorado has determined that the rezoning to amend the Bridgewater PUD Overlay Map Amendment No. 2 as set forth in the Bridgewater PUD Overlay Map Amendment No. 3 meets the Approval Criteria as specified in Title 10, “Unified Development Code,” of the Town of Erie Municipal Code,

and makes the following findings of fact:

- a. The PUD Rezoning is generally consistent with the purpose of the PUD overlay district in Subsection 2.7.D.1;
- b. The PUD Rezoning will promote the public health, safety, and general welfare;
- c. The PUD Rezoning is generally consistent with the Town's Comprehensive Master Plan and the purposes of this UDC;
- d. The PUD Rezoning is generally consistent with the PUD standards in Subsection 2.7.D.2;
- e. Adequate facilities and services (including streets and transportation, water, gas, electric, police and fire protection, and sewage and waste disposal, as applicable) will be available to serve the subject property while maintaining adequate levels of service to existing development;
- f. The PUD Rezoning is not likely to result in significant adverse impacts upon the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts will be substantially mitigated;
- g. The PUD Rezoning is not likely to result in significant adverse impacts to significant scenic and historic features as identified in plans adopted by the Town;
- h. The PUD Rezoning is not likely to result in significant adverse impacts upon other property in the vicinity of the subject property;
- i. Proposed uses on the subject property will be compatible in scale with uses on other properties in the vicinity of the subject property;
- j. The proposed phasing of the development is appropriate and the development can be substantially completed within the time period specified in the schedule of development or Development Agreement submitted by the applicant; and
- k. The PUD Plan provides public benefit(s).

Section 2. The Property is hereby rezoned by amending the Bridgewater PUD Overlay Map Amendment No. 2 by adoption of the Bridgewater PUD Overlay Map Amendment No. 3.

Section 3. The official zone district map of the Town of Erie, dated March 24, 2015, shall be amended by the designation of the above described Property as PUD Overlay, in accordance with the Bridgewater PUD Overlay Map Amendment No. 3 and the compliance with the requirements of Section 1, above. All activities conducted on the Property shall be in conformance with the applied zoning as identified in the Town of Erie Municipal Code.

Section 4. Severance Clause. If any article, section, paragraph, sentence, clause or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Board of Trustees hereby declares that it would have passed this Ordinance and each part or parts thereof, irrespective of the fact that any one part or parts may be declared invalid or unconstitutional.

Section 5. Effective Date. This ordinance shall take effect thirty (30) days after publication following final passage.

**INTRODUCED, READ, ADOPTED, ORDERED AND PUBLISHED IN FULL BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE THIS 8<sup>th</sup> DAY OF SEPTEMBER 2015.**

**TOWN OF ERIE, COLORADO,** a  
Colorado municipal corporation

By: \_\_\_\_\_  
Tina Harris, Mayor

ATTEST:

By: \_\_\_\_\_  
Nancy J. Parker, CMC, Town Clerk

## ATTACHMENT B

**Town of Erie**  
**Planning Commission Regular Meeting**  
**Wednesday, August 5, 2015**  
**6:30 p.m.**  
**Board Room, Erie Town Hall, 645 Holbrook, Erie, Co 80516**

---

**I. CALL MEETING TO ORDER & PLEDGE OF ALLEGIANCE**

Chairman Bottenhorn called the Regular Meeting of the Erie Planning Commission to order at 6:30 p.m.

**II. ROLL CALL**

Commissioner Bottenhorn - Present	Commissioner Fraser - Present
Commissioner Burgard – Present	Commissioner Gippe - Present
Commissioner Campbell - Present	Commissioner Harrison - Present
Commissioner Kemp - Present	

Staff Present: R. Martin Ostholthoff, Community Development Director;  
Todd Bjerkaas, Senior Planner; and  
Hallie Sawyer, Secretary to the Commission

**III. APPROVAL OF THE AGENDA**

Commissioner Kemp moved to approve the August 5, 2015, Regular Meeting Agenda as submitted. The motion, seconded by Commissioner Campbell, carried with all voting in favor thereof.

**IV. APPROVAL OF MINUTES**

**a. Minutes from the July 15, 2015, Regular Meeting.**

Commissioner Campbell moved to approve the July 15, 2015, Minutes as submitted. The motion, seconded by Commissioner Gippe, carried with all voting in favor thereof.

**V. PUBLIC COMMENTS** (This agenda item provides the public an opportunity to discuss items other than items that are on the agenda. The Planning Commission is not prepared to decide on matters brought up at this time, but if warranted, will place them on a future agenda.)

**None.**

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

**1. Public Hearing – Bridgewater PUD Amendment No. 3**

Purpose: Consider Bridgewater PUD Amendment for SVVSD school site.

Project File #: PUDA-000544-2015

Request: Consideration of Resolution P15-24, A Resolution Regarding The BridgeWater PUD Overlay Map – Amendment No. 3, Adopting Certain Findings Of Fact And Conclusions Favorable To The PUD Overlay Rezoning.

Location: The NW corner of WCR 5 & Erie Parkway

Applicants: Daybreak Recovery Acquisition

Raintree Investment Corporation, Jerry Richmond, Representative

(Staff Planner: T. Bjerkaas)

Chairman Bottenhorn opened the public hearing at 6:31 p.m. Mr. Bjerkaas presented the application for the BridgeWater PUD Amendment No. 3, entered the documents into evidence and presented the staff recommendation for approval of the resolution. There was no applicant or audience to swear in. Commissioner questions covered why the addition of the single family attached; would the density change; and what was the driving force for the change.

Commissioner comments noted that there was a better relationship with the school being next to the Community Park, but the reason for the change (State Statute requiring schools be 1000 feet from oil and gas operations) was understandable.

Chairman Bottenhorn closed the public hearing at 6:38 p.m.

Commissioner Kemp moved approval of Resolution P15-24, A Resolution Regarding The BridgeWater PUD Overlay Map – Amendment No. 3, Adopting Certain Findings Of Fact And Conclusions Favorable To The PUD Overlay Rezoning. The motion, seconded by Commissioner Campbell, carried with all voting in favor thereof.

**VII. STAFF REPORTS** (This agenda items is reserved for specific items from Staff requiring Commission direction or just relaying important information.)

None.

**VIII. COMMISSIONER REPORTS AND DISCUSSION ITEMS** (This agenda item is for all Planning Commission reports and items of information as well as Commission discussion items, not listed on the agenda)

Chairman Bottenhorn directed the commissioners to spend the next two weeks familiarizing themselves with the Unified Development Code and the Comprehensive Plan, with the goal of setting the date for a study session at the next Planning Commission meeting.

**IX. ADJOURNMENT**

There being no further business to come before the Commission, Chairman Bottenhorn adjourned the August 5, 2015, Regular Meeting of the Planning Commission at 6:41 p.m.

Respectfully Submitted,

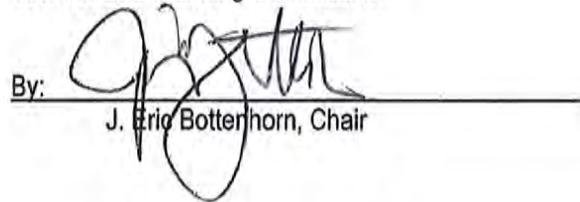
By:



Hallie S. Sawyer, Secretary

Town of Erie Planning Commission

By:



J. Eric Botterhorn, Chair

**RESOLUTION NO. P15-24**

**A RESOLUTION REGARDING THE BRIDGEWATER PUD OVERLAY MAP – AMENDMENT NO. 3, ADOPTING CERTAIN FINDINGS OF FACT AND CONCLUSIONS FAVORABLE TO THE PUD OVERLAY REZONING.**

**WHEREAS**, the Planning Commission of the Town of Erie Colorado has received and considered the BridgeWater PUD Overlay Map – Amendment No. 3 Rezoning on August 5, 2015 on the application of Daybreak Recovery Acquisition, 7200 S. Alton Way, Suite C400, Centennial, CO for rezoning of the of the following described real property:

Tracts 1 through 25, Bridgewater Master Subdivision Final Plat.

**WHEREAS**, the Bridgewater PUD Overlay Map – Amendment No. 3 is attached hereto as “Exhibit A.”

**NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE TOWN OF ERIE, COLORADO**, as follows:

**Section 1. Findings of Fact**

1. The application for PUD Overlay rezoning and supporting documents were submitted in accordance with Municipal Code, Title 10, Section 7.6.
2. Following a duly noticed and conducted public hearing, the Planning Commission determined that the application meets the approval criteria as specified in Title 10, Section 7.6 D.9 of the Town of Erie Municipal Code. Specifically that,
  - a. The PUD Rezoning is generally consistent with the Purpose of the PUD Overlay District in Section 2.7.D.1;
  - b. The PUD Rezoning will promote the public health, safety, and general welfare;
  - c. The PUD Rezoning is generally consistent with the Town’s Comprehensive Master Plan and the purposes of this Code;
  - d. The PUD Rezoning is generally consistent with the PUD standards in Section 2.7.D.2;
  - e. Adequate facilities and services (including roads and transportation, water, gas, electric, police and fire protection, and sewage and waste disposal, as applicable) will be available to serve the subject property while maintaining adequate levels of service to existing development;
  - f. The PUD Rezoning is not likely to result in significant adverse impacts upon the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts will be substantially mitigated;

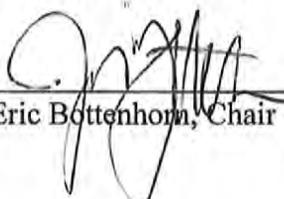
- g. The PUD Rezoning is not likely to result in significant adverse impacts to significant scenic and historic features as identified in plans adopted by the Town;
- h. The PUD Rezoning is not likely to result in significant adverse impacts upon other property in the vicinity of the subject property;
- i. Proposed uses on the subject property will be compatible in scale with uses on other properties in the vicinity of the subject property;
- j. The proposed phasing of the development is appropriate and the development can be substantially completed within the time period specified in the schedule of the development or Development Agreement submitted by the applicant; and
- k. The PUD Plan provides public benefit(s).

**Section 2. Conclusion and Order**

Based on the above Findings of Fact, the Planning Commission hereby forwards the BridgeWater PUD Overlay Map – Amendment No. 3, Rezoning application to the Board of Trustees with the Planning Commission’s recommendation for approval.

**INTRODUCED, READ, SIGNED AND APPROVED this 5<sup>th</sup> day of August 2015.**

TOWN OF ERIE, PLANNING COMMISSION

  
\_\_\_\_\_  
J. Eric Bottenhorn, Chair

ATTEST:

  
\_\_\_\_\_  
Hallie S. Sawyer, Secretary

EXHIBIT A



# BRIDGEWATER P.U.D. OVERLAY MAP - AMENDMENT NO. 3

PORTIONS OF THE SOUTHEAST QUARTER OF SECTION 8, SECTION 17 AND THE EAST HALF OF SECTION 18, TOWNSHIP 1 NORTH,  
RANGE 68 WEST OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO  
965.83 ACRES  
PUDA-000544-2015

PROPOSED P.U.D. TABLES  
PARKS AND OPEN SPACE COMPLIANCE

PROVIDED (Per Amendment)	RECORDED (Per Amendment)	PROVIDED (Per Amendment)
COMMUNITY PARK	45.1 AC	45.1 AC
OPEN SPACE	273.9 AC	273.9 AC
POCKET PARK	4.8 AC	4.8 AC
OPEN SPACE (MINIMUM 1.00 AC MIN)	108.8 AC	108.8 AC
MULTI-OPEN SPACE (MIN. 1/4, 1/4, 1/4, 1/4)	21.7 AC	21.7 AC
PRIVATE OPEN SPACE (MIN. 1/4, 1/4, 1/4, 1/4)	4.8 AC	4.8 AC

LAND USE SUMMARY OVERVIEW

TYPE	AREA	% OF TOTAL AREA
RESIDENTIAL ANCHOR	807.8 AC	83.7%
SCHOOL PARKED	10.0 AC	1.0%
PRIVATE OPEN SPACE	202.0 AC	21.0%
MULTI-OPEN SPACE	41.8 AC	4.3%
POCKET PARK	4.8 AC	0.5%
TOTAL ANCHOR	1066.4 AC	110.5%
PROJECT DENSITY	2,389 D.U. / 238.9 AC	

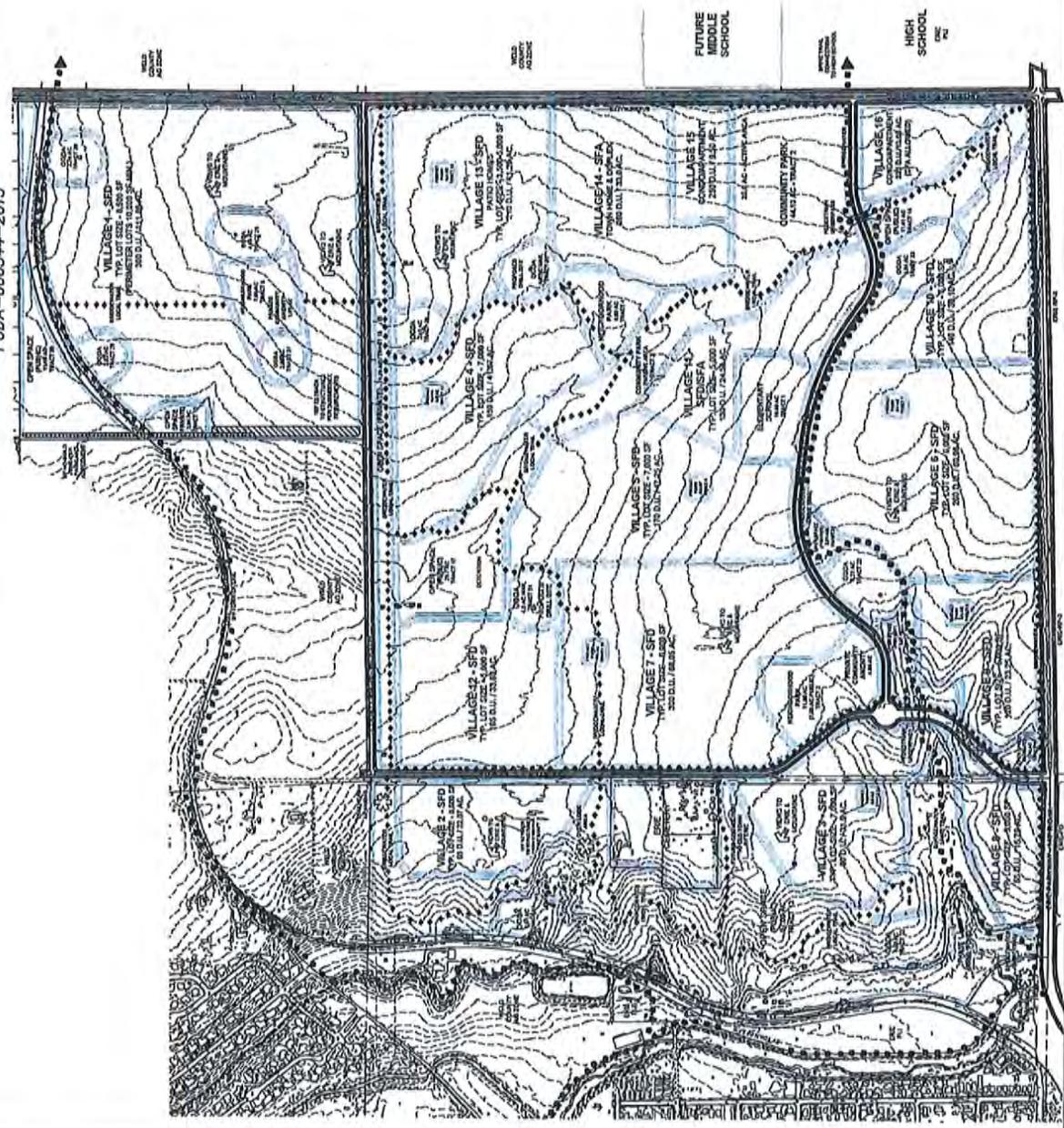
LAND USE SUMMARY

TRACT	AREA	TYPE	PERCENTAGE
TRACT 1	111.8 AC	RES	28%
TRACT 2	257.7 AC	RES	30%
TRACT 3	257.7 AC	RES	30%
TRACT 4	257.7 AC	RES	30%
TRACT 5	257.7 AC	RES	30%
TRACT 6	257.7 AC	RES	30%
TRACT 7	257.7 AC	RES	30%
TRACT 8	257.7 AC	RES	30%
TRACT 9	257.7 AC	RES	30%
TRACT 10	257.7 AC	RES	30%
TRACT 11	257.7 AC	RES	30%
TRACT 12	257.7 AC	RES	30%
TRACT 13	257.7 AC	RES	30%
TRACT 14	257.7 AC	RES	30%
TRACT 15	257.7 AC	RES	30%
TRACT 16	257.7 AC	RES	30%
TRACT 17	257.7 AC	RES	30%
TRACT 18	257.7 AC	RES	30%
TRACT 19	257.7 AC	RES	30%
TRACT 20	257.7 AC	RES	30%
TRACT 21	257.7 AC	RES	30%
TRACT 22	257.7 AC	RES	30%
TRACT 23	257.7 AC	RES	30%
TRACT 24	257.7 AC	RES	30%
TRACT 25	257.7 AC	RES	30%
TRACT 26	257.7 AC	RES	30%
TRACT 27	257.7 AC	RES	30%
TRACT 28	257.7 AC	RES	30%
TRACT 29	257.7 AC	RES	30%
TRACT 30	257.7 AC	RES	30%
TRACT 31	257.7 AC	RES	30%
TRACT 32	257.7 AC	RES	30%
TRACT 33	257.7 AC	RES	30%
TRACT 34	257.7 AC	RES	30%
TRACT 35	257.7 AC	RES	30%
TRACT 36	257.7 AC	RES	30%
TRACT 37	257.7 AC	RES	30%
TRACT 38	257.7 AC	RES	30%
TRACT 39	257.7 AC	RES	30%
TRACT 40	257.7 AC	RES	30%
TRACT 41	257.7 AC	RES	30%
TRACT 42	257.7 AC	RES	30%
TRACT 43	257.7 AC	RES	30%
TRACT 44	257.7 AC	RES	30%
TRACT 45	257.7 AC	RES	30%
TRACT 46	257.7 AC	RES	30%
TRACT 47	257.7 AC	RES	30%
TRACT 48	257.7 AC	RES	30%
TRACT 49	257.7 AC	RES	30%
TRACT 50	257.7 AC	RES	30%
TRACT 51	257.7 AC	RES	30%
TRACT 52	257.7 AC	RES	30%
TRACT 53	257.7 AC	RES	30%
TRACT 54	257.7 AC	RES	30%
TRACT 55	257.7 AC	RES	30%
TRACT 56	257.7 AC	RES	30%
TRACT 57	257.7 AC	RES	30%
TRACT 58	257.7 AC	RES	30%
TRACT 59	257.7 AC	RES	30%
TRACT 60	257.7 AC	RES	30%
TRACT 61	257.7 AC	RES	30%
TRACT 62	257.7 AC	RES	30%
TRACT 63	257.7 AC	RES	30%
TRACT 64	257.7 AC	RES	30%
TRACT 65	257.7 AC	RES	30%
TRACT 66	257.7 AC	RES	30%
TRACT 67	257.7 AC	RES	30%
TRACT 68	257.7 AC	RES	30%
TRACT 69	257.7 AC	RES	30%
TRACT 70	257.7 AC	RES	30%
TRACT 71	257.7 AC	RES	30%
TRACT 72	257.7 AC	RES	30%
TRACT 73	257.7 AC	RES	30%
TRACT 74	257.7 AC	RES	30%
TRACT 75	257.7 AC	RES	30%
TRACT 76	257.7 AC	RES	30%
TRACT 77	257.7 AC	RES	30%
TRACT 78	257.7 AC	RES	30%
TRACT 79	257.7 AC	RES	30%
TRACT 80	257.7 AC	RES	30%
TRACT 81	257.7 AC	RES	30%
TRACT 82	257.7 AC	RES	30%
TRACT 83	257.7 AC	RES	30%
TRACT 84	257.7 AC	RES	30%
TRACT 85	257.7 AC	RES	30%
TRACT 86	257.7 AC	RES	30%
TRACT 87	257.7 AC	RES	30%
TRACT 88	257.7 AC	RES	30%
TRACT 89	257.7 AC	RES	30%
TRACT 90	257.7 AC	RES	30%
TRACT 91	257.7 AC	RES	30%
TRACT 92	257.7 AC	RES	30%
TRACT 93	257.7 AC	RES	30%
TRACT 94	257.7 AC	RES	30%
TRACT 95	257.7 AC	RES	30%
TRACT 96	257.7 AC	RES	30%
TRACT 97	257.7 AC	RES	30%
TRACT 98	257.7 AC	RES	30%
TRACT 99	257.7 AC	RES	30%
TRACT 100	257.7 AC	RES	30%

OPEN SPACE REQUIREMENTS

TRACT	AREA	TYPE	PERCENTAGE
TRACT 1	111.8 AC	RES	28%
TRACT 2	257.7 AC	RES	30%
TRACT 3	257.7 AC	RES	30%
TRACT 4	257.7 AC	RES	30%
TRACT 5	257.7 AC	RES	30%
TRACT 6	257.7 AC	RES	30%
TRACT 7	257.7 AC	RES	30%
TRACT 8	257.7 AC	RES	30%
TRACT 9	257.7 AC	RES	30%
TRACT 10	257.7 AC	RES	30%
TRACT 11	257.7 AC	RES	30%
TRACT 12	257.7 AC	RES	30%
TRACT 13	257.7 AC	RES	30%
TRACT 14	257.7 AC	RES	30%
TRACT 15	257.7 AC	RES	30%
TRACT 16	257.7 AC	RES	30%
TRACT 17	257.7 AC	RES	30%
TRACT 18	257.7 AC	RES	30%
TRACT 19	257.7 AC	RES	30%
TRACT 20	257.7 AC	RES	30%
TRACT 21	257.7 AC	RES	30%
TRACT 22	257.7 AC	RES	30%
TRACT 23	257.7 AC	RES	30%
TRACT 24	257.7 AC	RES	30%
TRACT 25	257.7 AC	RES	30%
TRACT 26	257.7 AC	RES	30%
TRACT 27	257.7 AC	RES	30%
TRACT 28	257.7 AC	RES	30%
TRACT 29	257.7 AC	RES	30%
TRACT 30	257.7 AC	RES	30%
TRACT 31	257.7 AC	RES	30%
TRACT 32	257.7 AC	RES	30%
TRACT 33	257.7 AC	RES	30%
TRACT 34	257.7 AC	RES	30%
TRACT 35	257.7 AC	RES	30%
TRACT 36	257.7 AC	RES	30%
TRACT 37	257.7 AC	RES	30%
TRACT 38	257.7 AC	RES	30%
TRACT 39	257.7 AC	RES	30%
TRACT 40	257.7 AC	RES	30%
TRACT 41	257.7 AC	RES	30%
TRACT 42	257.7 AC	RES	30%
TRACT 43	257.7 AC	RES	30%
TRACT 44	257.7 AC	RES	30%
TRACT 45	257.7 AC	RES	30%
TRACT 46	257.7 AC	RES	30%
TRACT 47	257.7 AC	RES	30%
TRACT 48	257.7 AC	RES	30%
TRACT 49	257.7 AC	RES	30%
TRACT 50	257.7 AC	RES	30%
TRACT 51	257.7 AC	RES	30%
TRACT 52	257.7 AC	RES	30%
TRACT 53	257.7 AC	RES	30%
TRACT 54	257.7 AC	RES	30%
TRACT 55	257.7 AC	RES	30%
TRACT 56	257.7 AC	RES	30%
TRACT 57	257.7 AC	RES	30%
TRACT 58	257.7 AC	RES	30%
TRACT 59	257.7 AC	RES	30%
TRACT 60	257.7 AC	RES	30%
TRACT 61	257.7 AC	RES	30%
TRACT 62	257.7 AC	RES	30%
TRACT 63	257.7 AC	RES	30%
TRACT 64	257.7 AC	RES	30%
TRACT 65	257.7 AC	RES	30%
TRACT 66	257.7 AC	RES	30%
TRACT 67	257.7 AC	RES	30%
TRACT 68	257.7 AC	RES	30%
TRACT 69	257.7 AC	RES	30%
TRACT 70	257.7 AC	RES	30%
TRACT 71	257.7 AC	RES	30%
TRACT 72	257.7 AC	RES	30%
TRACT 73	257.7 AC	RES	30%
TRACT 74	257.7 AC	RES	30%
TRACT 75	257.7 AC	RES	30%
TRACT 76	257.7 AC	RES	30%
TRACT 77	257.7 AC	RES	30%
TRACT 78	257.7 AC	RES	30%
TRACT 79	257.7 AC	RES	30%
TRACT 80	257.7 AC	RES	30%
TRACT 81	257.7 AC	RES	30%
TRACT 82	257.7 AC	RES	30%
TRACT 83	257.7 AC	RES	30%
TRACT 84	257.7 AC	RES	30%
TRACT 85	257.7 AC	RES	30%
TRACT 86	257.7 AC	RES	30%
TRACT 87	257.7 AC	RES	30%
TRACT 88	257.7 AC	RES	30%
TRACT 89	257.7 AC	RES	30%
TRACT 90	257.7 AC	RES	30%
TRACT 91	257.7 AC	RES	30%
TRACT 92	257.7 AC	RES	30%
TRACT 93	257.7 AC	RES	30%
TRACT 94	257.7 AC	RES	30%
TRACT 95	257.7 AC	RES	30%
TRACT 96	257.7 AC	RES	30%
TRACT 97	257.7 AC	RES	30%
TRACT 98	257.7 AC	RES	30%
TRACT 99	257.7 AC	RES	30%
TRACT 100	257.7 AC	RES	30%

BRIDGEWATER P.U.D. OVERLAY MAP  
 1/4 OF SEC. 5, 1/2 OF SEC. 6, 1/4 OF  
 SEC. 8, SEC. 17, 1/2 OF SEC. 18,  
 TWP. 1N, R. 68W, CO. WELD, CO.  
 THE REST OF THE 6TH P.M. WELD COUNTY, CO.



NOTES:  
 1. COLLAPSE UNITS SHALL BE TRANSFERRED BETWEEN VILLAGE PARCELS AS LONG AS THE TOTAL PROJECT DENSITY IS NOT EXCEEDED.  
 2. VILLAGE AND TRACT BOUNDARIES SHOWN ARE APPROXIMATE AND MAY BE ADJUSTED AS LONG AS THE TOTAL AREA WITHIN THE BOUNDARY IS MAINTAINED 1%.







## ATTACHMENT C



TOWN OF ERIE
Community Development Department - Planning Division
645 Holbrook Street - PO Box 750 - Erie, CO 80516
Tel: 303.926.2770 - Fax: 303.926.2706 - Web: www.erieco.gov

LAND USE APPLICATION

Please fill in this form completely. Incomplete applications will not be processed.

STAFF USE ONLY
FILE NAME: Bridgewater Master Plat
FILE NO: PLDA-000659-2015 DATE SUBMITTED: 5/13/15 FEES PAID: \$250

PROJECT/BUSINESS NAME: Colliers Hill (formerly known as BridgeWater)
PROJECT ADDRESS: North of Erie Parkway and West of County Road 5
PROJECT DESCRIPTION: Relocation of Elementary School (tract 1) and reconfigure boundaries of adjacent parcels.

LEGAL DESCRIPTION (attach legal description if Metes & Bounds)

Subdivision Name: BridgeWater master plat
Filing #: Lot #: Block #: Section: 8, 17 & 18 Township: 1N Range: 68W

OWNER (attach separate sheets if multiple)

Name/Company: Daybreak Recovery Acquisition
Contact Person: Jon Shumaker c/o Raintree Investment Co
Address: 7200 S. Alton Way, Suite C400
City/State/Zip: Centennial, CO 80012
Phone: 303-267-6195 Fax:
E-mail: jrichmond@raintree.us.com

AUTHORIZED REPRESENTATIVE

Company/Firm: Raintree Investment Corporation
Contact Person: Jerry Richmond
Address: 7200 S. Alton Way, Suite C400
City/State/Zip: Centennial, CO 80012
Phone: 303-267-6195 Fax:
E-mail: jrichmond@raintree.us.com

MINERAL RIGHTS OWNER (attach separate sheets if multiple)

Name/Company:
Address:
City/State/Zip:

MINERAL LEASE HOLDER (attach separate sheets if multiple)

Name/Company:
Address:
City/State/Zip:

LAND-USE & SUMMARY INFORMATION

Present Zoning: LDR (PUD Overlay) Gross Site Density (du/ac):
Proposed Zoning: LDR (PUD Overlay) # Lots/Units Proposed:
Gross Acreage: 67.96 Gross Floor Area: 0

SERVICE PROVIDERS

Electric: United Power Gas: Xcel
Metro District: Fire District: Mountain View
Water (if other than Town): Sewer (if other than Town):

PAGE TWO MUST BE SIGNED AND NOTARIZED

DEVELOPMENT REVIEW FEES			
<b>ANNEXATION</b>		<b>SUBDIVISION</b>	
<input type="checkbox"/> Major (10+ acres)	\$ 4000.00	<input type="checkbox"/> Sketch Plan	\$ 1000.00 + 10.00 per lot
<input type="checkbox"/> Minor (less than 10 acres)	\$ 2000.00	<input type="checkbox"/> Preliminary Plat	\$ 2000.00 + 40.00 per lot
<input type="checkbox"/> Deannexation	\$ 1000.00	<input type="checkbox"/> Final Plat	\$ 2000.00 + 20.00 per lot
<b>COMPREHENSIVE PLAN AMENDMENT</b>		<input type="checkbox"/> Minor Subdivision Plat	\$ 2000.00
<input type="checkbox"/> Major	\$ 3000.00	<input type="checkbox"/> Minor Amendment Plat	\$ 1000.00 + 10.00 per lot
<input type="checkbox"/> Minor	\$ 1200.00	<input type="checkbox"/> Road Vacation (constructed)	\$ 1000.00
<b>ZONING/REZONING</b>		<input type="checkbox"/> Road Vacation (paper)	\$ 100.00
<input type="checkbox"/> Rezoning	\$ 1700.00 + 10.00 per acre	<b>SITE PLAN</b>	
<input type="checkbox"/> PUD Rezoning	\$ 1700.00 + 10.00 per acre	<input type="checkbox"/> Residential	\$ 1400.00 + 10.00 per unit
<input checked="" type="checkbox"/> PUD Amendment	\$ 1700.00 + 10.00 per acre	<input type="checkbox"/> Non-Resi. (>10,000 sq. ft.)	\$ 2200.00
<input type="checkbox"/> Major PD Amendment	\$ 3700.00 + 10.00 per acre	<input type="checkbox"/> Non-Resi. (>2,000 sq. ft.)	\$ 1000.00
<input type="checkbox"/> Minor PD Amendment	\$ 500.00	<input type="checkbox"/> Non-Resi. (<2,000 sq. ft.)	\$ 200.00
<b>SPECIAL REVIEW USE</b>		<input type="checkbox"/> Amendment (major)	\$ 1100.00
<input type="checkbox"/> Major	\$ 1000.00	<input type="checkbox"/> Amendment (minor)	\$ 350.00
<input type="checkbox"/> Minor	\$ 400.00	<b>VARIANCE</b>	\$ 600.00
<input type="checkbox"/> Oil & Gas	\$ 1200.00	<b>SERVICE PLAN</b>	\$ 10,000.00
All fees <b>include</b> both Town of Erie Planning & Engineering review. These fees <b>do not include</b> referral agency review fees, outside consultant review fees, or review fees incurred by consultants acting on behalf of staff. See Town of Erie Municipal Code, Title 2-10-5 for all COMMUNITY DEVELOPMENT FEES.			

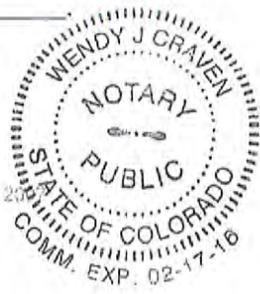
The undersigned is fully aware of the request/proposal being made and the actions being initiated on the referenced property. The undersigned understand that the application must be found to be complete by the Town of Erie before the request can officially be accepted and the development review process initiated. The undersigned is aware that the applicant is fully responsible for all reasonable costs associated with the review of the application/request being made to the Town of Erie. Pursuant to Chapter 7 (Section 7.2.B.5) of the Unified Development Code (UDC) of the Town of Erie, applicants shall pay all costs billed by the Town for legal, engineering and planning costs incurred by staff, including consultants acting on behalf of staff, necessary for project review. By this acknowledgement, the undersigned hereby certify that the above information is true and correct.

Owner: J. Sumali Date: 5/14/15  
 Owner: DAYBREAK RECOVERY ACQ Date: 5-14-15  
 Applicant: JERRY B. RICHMOND Date: 5-14-15  
Jerry B Richmond

STATE OF COLORADO )  
 County of Aspen ) ss.

The foregoing instrument was acknowledged before me this 14th day of May, 2015, by Jon Shumaker

My commission expires: 2/17/16  
 Witness my hand and official seal.



Wendy J Craven  
 Notary Public





# BRIDGEWATER P.U.D. OVERLAY MAP - AMENDMENT NO. 3

PORTIONS OF THE SOUTHEAST QUARTER OF SECTION 8, SECTION 17 AND THE EAST HALF OF SECTION 18, TOWNSHIP 1 NORTH,  
RANGE 68 WEST OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO  
965.83 ACRES  
PUDA-000544-2015

## PROPOSED P.U.D. TABLES

### PARKS AND OPEN SPACE COMPLIANCE

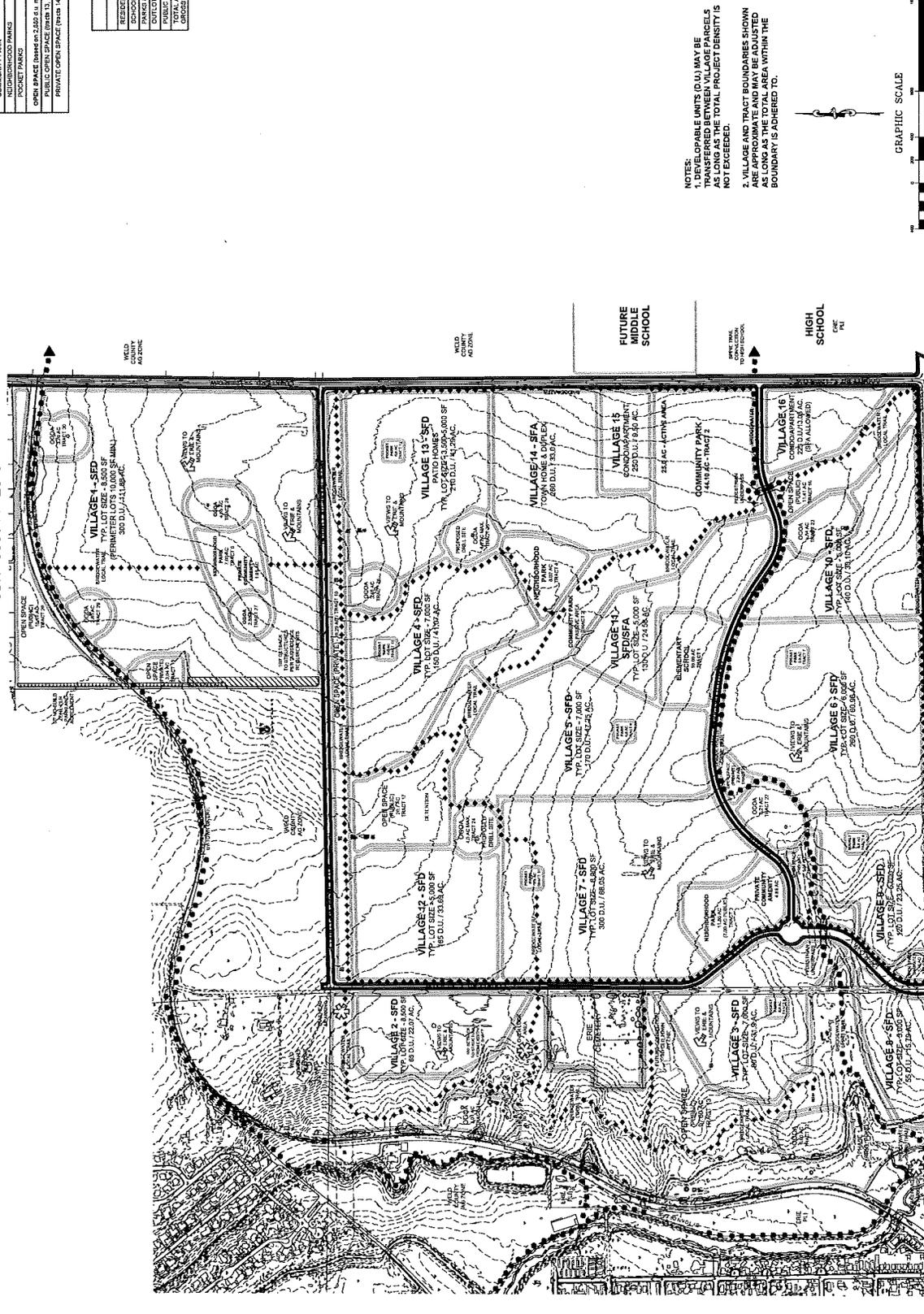
	REQUIRED	PROVIDED
PARK AREA (based on 2,800 G.U. area)	(per Amendment)	(per Amendment)
COMMUNITY PARK	40.0 AC	41.1 AC
OPEN SPACE	17.0 AC	27.0 AC
POCKET PARKS	4.2 AC	4.2 AC
OPEN SPACE (based on 2,800 G.U. area)	(per Amendment)	(per Amendment)
PRIVATE OPEN SPACE (based on 15, 18, 19, 21)	138.0 AC	138.0 AC
	13.3 % (based on total area)	13.3 % (based on total area)

### LAND USE SUMMARY OVERVIEW

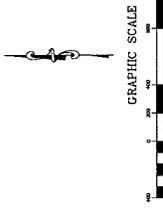
TYPE	AREA (AC)	% OF TOTAL AREA
RESIDENTIAL AREAS	607.68 AC	63.7%
SCHOOLS	10.00 AC	1.1%
PARKS & OPEN SPACE	250.92 AC	26.2%
OUTLOTS (CL. & O.D.)	48.29 AC	5.0%
TOTAL DEVELOPABLE	916.89 AC	96.0%
UNDEVELOPABLE	63.94 AC	6.7%
OPEN SPACE DENSITY	2,800 G.U. = 2.856 A.U./AC	

### LAND USE SUMMARY

TRACT	AREA (AC)	USE	ZONE/DISTRICT	UNITS ALLOWED
TRACT 1	44.00 AC	CD PARK	NA	LR
TRACT 2	22.50 AC	SFD	NA	LR
VILLAGE 2	22.50 AC	SFD	NA	LR
VILLAGE 3	31.66 AC	SFD	NA	LR
VILLAGE 4	41.79 AC	SFD	NA	LR
VILLAGE 5	47.29 AC	SFD	NA	LR
VILLAGE 6	108.00 AC	SFD	NA	LR
VILLAGE 7	108.00 AC	SFD	NA	LR
VILLAGE 8	15.59 AC	SFD	NA	LR
VILLAGE 9	23.29 AC	SFD	NA	LR
VILLAGE 10	35.19 AC	SFD	NA	LR
VILLAGE 11	24.59 AC	SFD/PA	NA	LR
VILLAGE 12	41.79 AC	SFD	NA	LR
VILLAGE 13	33.09 AC	SFA	NA	LR
VILLAGE 14	33.09 AC	SFA	NA	LR
VILLAGE 15	6.59 AC	SFA	NA	LR
VILLAGE 16	13.58 AC	SFA	NA	LR
SUBTOTAL	697.66 AC			
TRACT 1	10.00 AC	SCHOOL	NA	LR
TRACT 2	44.00 AC	CD PARK	NA	LR
TRACT 3	11.59 AC	NP PARK	NA	LR
TRACT 4	8.00 AC	NP PARK	NA	LR
TRACT 5	8.00 AC	NP PARK	NA	LR
TRACT 6	8.00 AC	NP PARK	NA	LR
TRACT 7	8.00 AC	NP PARK	NA	LR
TRACT 8	8.00 AC	NP PARK	NA	LR
TRACT 9	8.00 AC	NP PARK	NA	LR
TRACT 10	8.00 AC	NP PARK	NA	LR
TRACT 11	8.00 AC	NP PARK	NA	LR
TRACT 12	8.00 AC	NP PARK	NA	LR
PARK AREA	70.00 AC			
TRACT 13	87.00 AC	O.S. PUBLIC	NA	OS
TRACT 14	1.51 AC	O.S. PRIVATE	NA	OS
TRACT 15	1.51 AC	O.S. PRIVATE	NA	OS
TRACT 16	11.61 AC	O.S. PUBLIC	NA	OS
TRACT 17	20.79 AC	O.S. PRIVATE	NA	OS
TRACT 18	19.29 AC	O.S. PRIVATE	NA	OS
TRACT 19	13.52 AC	O.S. PRIVATE	NA	OS
TRACT 20	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 21	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 22	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 23	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 24	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 25	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 26	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 27	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 28	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 29	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 30	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 31	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 32	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 33	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 34	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 35	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 36	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 37	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 38	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 39	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 40	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 41	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 42	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 43	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 44	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 45	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 46	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 47	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 48	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 49	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 50	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 51	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 52	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 53	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 54	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 55	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 56	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 57	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 58	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 59	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 60	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 61	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 62	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 63	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 64	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 65	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 66	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 67	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 68	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 69	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 70	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 71	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 72	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 73	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 74	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 75	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 76	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 77	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 78	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 79	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 80	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 81	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 82	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 83	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 84	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 85	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 86	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 87	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 88	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 89	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 90	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 91	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 92	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 93	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 94	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 95	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 96	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 97	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 98	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 99	12.29 AC	O.S. PRIVATE	NA	OS
TRACT 100	12.29 AC	O.S. PRIVATE	NA	OS



**NOTE:**  
 1. DEVELOPABLE UNITS (D.U.) MAY BE AS LONG AS THE TOTAL PROJECT DENSITY IS NOT EXCEEDED.  
 2. VILLAGE AND TRACT BOUNDARIES SHOWN ARE APPROXIMATE AND MAY BE ADJUSTED AS LONG AS THE TOTAL AREA WITHIN THE BOUNDARY IS ADHERED TO.



**CSHORS**  
 2000 Broadway  
 Suite 300  
 Boulder, CO 80502  
 303.440.1100  
 www.cshors.com

# BRIDGEWATER P.U.D. OVERLAY MAP – AMENDMENT NO. 3

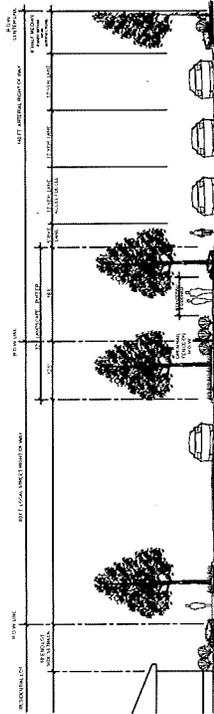
PORTIONS OF THE SOUTHEAST QUARTER OF SECTION 8, SECTION 17 AND THE EAST HALF OF SECTION 18, TOWNSHIP 1 NORTH,  
RANGE 68 WEST OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO  
965.83 ACRES  
PUDA-000544-2015

## STREET DESIGN CRITERIA

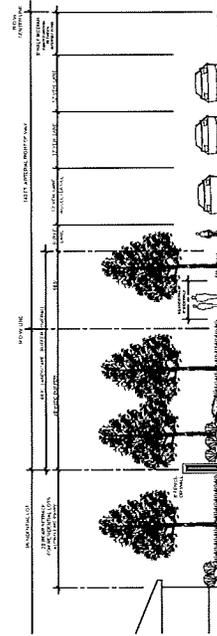
DESIGN ELEMENT	MINIMUM ARTERIAL (ERIE PKWY.)	MINIMUM ARTERIAL (CR 5)	MINIMUM ARTERIAL (CR 3)	MAJOR COLLECTOR (CR 4, 5P, CR10)	REGIONAL COLLECTOR (CR 6, 7, 8, 9, 10)	LOCAL STREET (CR 1, 2, 3, 4)	LOW VOLUME LOCAL STREET (CR 1, 2, 3, 4)	ALLEYS
RIGHT-OF-WAY WIDTH	140'	120'	120'	80'	70'	60'	54'	15' WID UTILITIES 30' W UTILITIES
COMMUNITY GATEWAYS RESIDENTIAL LOTS (EACH SIDE-OUTSIDE OF R.O.W.)	30' WIDE-ABOUT R.O.W.	0' WIDE-ABOUT R.O.W.	30' WIDE-ABOUT R.O.W.	N/A	N/A	N/A	N/A	N/A
DOUBLE FRONTAGE RESIDENTIAL LOTS (OUTSIDE OF R.O.W.)	N/A	0'	N/A	0' LANDSCAPE BUFFER IN THE R.O.W.	0' LANDSCAPE BUFFER IN THE R.O.W.	6'	6'	N/A

LOCAL PUBLIC UTILITY EASEMENTS, PUBLIC UTILITY EASEMENTS, AND OTHER PUBLIC UTILITY LINES WILL BE ALLOWED TO BE LOCATED WITHIN THE 30' LANDSCAPE BUFFER.

FOR LOTS ABUTTING ERIE PARKWAY, BRIDGEWATER PKWY, CR10, CR5, AND CR3, FENCING SHALL BE A MAXIMUM SIX (6) FEET IN HEIGHT WHICH MAY INCLUDE OPAQUE FENCING IN STRAIGHT RUNS LIMITED TO APPROXIMATELY 600' IN LENGTH WITHOUT A BREAK ALONG BRIDGEWATER PKWY, CR10, CR5, AND CR3. FOR LOTS ABUTTING ERIE PARKWAY, STRAIGHT RUNS SHALL BE LIMITED TO APPROXIMATELY 600' IN LENGTH AND 30% OF THE TOTAL FRONTAGE OF ERIE PARKWAY. MASONRY COLUMNS SHALL BE PROVIDED ON CORNERS OF LOTS SPACED A MINIMUM EVERY THREE FEET FOR ALL OPAQUE FENCING ALONG ARTERIAL STREETS.



TYPICAL SECTION - WHERE LOCAL STREET R.O.W. ABUTS ERIE PKWY.  
(PROVIDES OPEN VIEWS INTO THE COMMUNITY)



TYPICAL SECTION - WHERE LOTS BACK TO ERIE PKWY.  
(LIMITED TO 30% OF FRONTAGE, +/- 30 LOTS)

NOTE: TYPICAL SECTIONS ARE FOR ILLUSTRATIVE PURPOSES TO DEMONSTRATE LANDSCAPE BUFFER CONCEPTS. STREET SECTIONS TO BE DEVELOPED AND FINALIZED DURING PLAT PROCESS.

## DIMENSIONAL STANDARDS

DISTRICT	MINIMUM LOT STANDARDS		MINIMUM LOT SETBACKS (FT.) <sup>(1)(2)(3)(4)(5)(7)</sup>		MAX. HT.
	WIDTH (FT.)	AREA (S.F.)	FRONT (CR 5) (15' MIN. W/ 30' MIN. SETBACK)	REAR (CR 4, 5) (15' MIN. W/ 30' MIN. SETBACK)	
ER	100'	40,000	PRIN. - 30'	REAR - 30'	PRIN. - 35'
			ACC. - 40'	ACC. - 10'	
SR	75'	SFD 8,500 U.L. MF 5,000 U.L.	PRIN. - 25'	PRIN. - 10'	PRIN. - 25'
			ACC. - 35'	ACC. - 5'	
LR (WITH SFD)	40'	3,500	PRIN. - 20'	PRIN. - 20'	PRIN. - 35'
			ACC. - 30'	ACC. - 5'	
LR (WITH MF)	NONE	2,500	PRIN. - 20'	PRIN. - 20'	PRIN. - 25'
			ACC. - 30'	ACC. - 5'	

(1) ZERO LOT LINE SETBACKS SHALL BE PERMITTED FOR ATTACHED BUILDINGS PROVIDED THAT THE BUILDING MEETS THE ZONE DISTRICT INTERIOR LOT LINE SETBACK ON THE SIDE OF THE BUILDING THAT IS NOT ATTACHED TO THE LOT LINE.

(2) MULTIPLE PRINCIPAL BUILDINGS ON A SINGLE LOT SHALL BE SEPARATED BY A DISTANCE EQUAL TO THE DISTANCE THAT WOULD BE REQUIRED IF THEY WERE SEPARATED BY A LOT LINE.

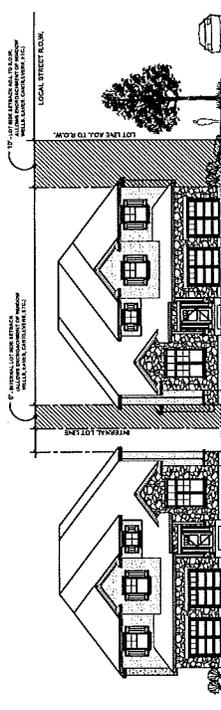
(3) FRONT, SIDE, AND REAR SETBACKS SHALL ALLOW FOR ENCROACHMENTS UP TO 2 FEET BEYOND THE BUILDING FOUNDATION FOR ABOVE-GRADE FEATURES INCLUDING PORCHES, PATIOS, DECKS, AND STAIRS. ENCROACHMENTS DOES NOT EXCEED 20 SQUARE FEET IN EACH INSTANCE AND EXTEND MORE THAN 2 FEET. THERE SHALL BE NO MORE THAN TWO (2) ABOVE-GRADE LIVING SPACE ENCROACHMENTS PER ELEVATION.

(4) SIDE AND REAR SETBACKS SHALL ALLOW FOR ENCROACHMENTS UP TO 3 FEET BEYOND THE BUILDING FOUNDATION FOR BELOW-GRADE WINDOW WELLS.

(5) REAR SETBACKS SHALL ALLOW FOR AN ENCROACHMENT OF UP TO 6' FOR A COVERED PATIO (NOT ENCLOSED).

(6) REDUCTION OF FRONT SETBACK TO 15' IS ALLOWED WHEN A GARAGE SIDES TO THE R.O.W.

(7) PROPERTY LINES ABUTTING THE EXTERIOR BOUNDARY OF THIS PUD SHALL ADHERE TO ALL REQUIRED SETBACKS OF THE UNDERLYING ZONE DISTRICT UNLESS OTHERWISE NOTED IN THE PUD.



TYPICAL SINGLE-FAMILY LOT SIDE SETBACK CONDITIONS  
(ENCROACHMENTS ALLOWED IN SETBACKS)

BRIDGEWATER P.U.D. OVERLAY MAP  
S.E. 1/4 OF SEC. 8, E. 1/2 OF SEC. 17, E. 1/2 OF SEC. 18,  
T1N. R68W OF THE 6TH P.M. WELD COUNTY, CO.

2508 Broadway  
Boulder, CO 80501  
303.440.3300  
www.bridgewaterpud.com

DATE: 10/27/2015  
SCALE: AS SHOWN  
PROJECT: BRIDGEWATER P.U.D. OVERLAY MAP AMENDMENT NO. 3



## ATTACHMENT D

# BRIDGEWATER P.U.D. OVERLAY MAP - AMENDMENT NO. 2

PORTIONS OF THE SOUTHEAST QUARTER OF SECTION 8, SECTION 17 AND THE EAST HALF OF SECTION 18, TOWNSHIP 1 NORTH,  
RANGE 68 WEST OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO

965.63 ACRES  
PUDA-13-00016

BRIDGEWATER P.U.D. 2014  
10000 S. W. 10th Ave., Suite 100  
Boulder, CO 80503  
TEL: 303.440.1000  
WWW.BRIDGEWATERPUD.COM

**PROPOSED P.U.D. TABLES**  
**PARKS AND OPEN SPACE COMPLIANCE**

TYPE	REQUIRED (SQUARE FEET)	PROVIDED (SQUARE FEET)
PARK AREA (Based on 2,000 G.A. (min.))	40,000	441,100
COMMUNITY PARK	24,000	27,800 (0.58 AC. PARK)
NEIGHBORHOOD PARK	4,000	4,000
WOODCUT PARKS	12,000	12,000
OPEN SPACE (Based on 2,000 G.A. (min.))	40,000	158,000
PRIVATE OPEN SPACE (Based on 10, 15, 18, 19, 20)	40,000	158,000

**LAND USE SUMMARY OVERVIEW**

TYPE	ACRES	% OF TOTAL AREA
RESIDENTIAL AREAS	10,000	1.1%
SCHOOL PARCEL	250,000	28.3%
PARKS & OPEN SPACE	158,000	17.7%
OUTLIER (ON LAND)	40,000	4.5%
OPEN SPACE (OFF LAND)	965.63	108.5%
<b>TOTAL ACRES</b>	<b>2,000 G.A. = 2,000 AC.</b>	

**LAND USE SUMMARY**

TRACT	AREA (AC)	USE	PERCENTAGE
VILLAGE 1	1,111 AC	SPD	55.6%
VILLAGE 2	2,277 AC	SPD	113.9%
VILLAGE 3	3,180 AC	SPD	159.0%
VILLAGE 4	4,157 AC	SPD	207.9%
VILLAGE 5	60,800 AC	SPD	3040.0%
VILLAGE 6	88,000 AC	SPD	4400.0%
VILLAGE 7	15,700 AC	SPD	785.0%
VILLAGE 8	29,700 AC	SPD	1485.0%
VILLAGE 9	29,700 AC	SPD	1485.0%
VILLAGE 10	29,700 AC	SPD	1485.0%
VILLAGE 11	29,700 AC	SPD	1485.0%
VILLAGE 12	29,700 AC	SPD	1485.0%
VILLAGE 13	41,700 AC	SPD	2085.0%
VILLAGE 14	41,700 AC	SPD	2085.0%
VILLAGE 15	29,700 AC	SPD	1485.0%
VILLAGE 16	29,700 AC	SPD	1485.0%
VILLAGE 17	29,700 AC	SPD	1485.0%
VILLAGE 18	29,700 AC	SPD	1485.0%
VILLAGE 19	29,700 AC	SPD	1485.0%
VILLAGE 20	29,700 AC	SPD	1485.0%
VILLAGE 21	29,700 AC	SPD	1485.0%
VILLAGE 22	29,700 AC	SPD	1485.0%
VILLAGE 23	29,700 AC	SPD	1485.0%
VILLAGE 24	29,700 AC	SPD	1485.0%
VILLAGE 25	29,700 AC	SPD	1485.0%
VILLAGE 26	29,700 AC	SPD	1485.0%
VILLAGE 27	29,700 AC	SPD	1485.0%
VILLAGE 28	29,700 AC	SPD	1485.0%
VILLAGE 29	29,700 AC	SPD	1485.0%
VILLAGE 30	29,700 AC	SPD	1485.0%
VILLAGE 31	29,700 AC	SPD	1485.0%
VILLAGE 32	29,700 AC	SPD	1485.0%
VILLAGE 33	29,700 AC	SPD	1485.0%
VILLAGE 34	29,700 AC	SPD	1485.0%
VILLAGE 35	29,700 AC	SPD	1485.0%
VILLAGE 36	29,700 AC	SPD	1485.0%
VILLAGE 37	29,700 AC	SPD	1485.0%
VILLAGE 38	29,700 AC	SPD	1485.0%
VILLAGE 39	29,700 AC	SPD	1485.0%
VILLAGE 40	29,700 AC	SPD	1485.0%
VILLAGE 41	29,700 AC	SPD	1485.0%
VILLAGE 42	29,700 AC	SPD	1485.0%
VILLAGE 43	29,700 AC	SPD	1485.0%
VILLAGE 44	29,700 AC	SPD	1485.0%
VILLAGE 45	29,700 AC	SPD	1485.0%
VILLAGE 46	29,700 AC	SPD	1485.0%
VILLAGE 47	29,700 AC	SPD	1485.0%
VILLAGE 48	29,700 AC	SPD	1485.0%
VILLAGE 49	29,700 AC	SPD	1485.0%
VILLAGE 50	29,700 AC	SPD	1485.0%
VILLAGE 51	29,700 AC	SPD	1485.0%
VILLAGE 52	29,700 AC	SPD	1485.0%
VILLAGE 53	29,700 AC	SPD	1485.0%
VILLAGE 54	29,700 AC	SPD	1485.0%
VILLAGE 55	29,700 AC	SPD	1485.0%
VILLAGE 56	29,700 AC	SPD	1485.0%
VILLAGE 57	29,700 AC	SPD	1485.0%
VILLAGE 58	29,700 AC	SPD	1485.0%
VILLAGE 59	29,700 AC	SPD	1485.0%
VILLAGE 60	29,700 AC	SPD	1485.0%
VILLAGE 61	29,700 AC	SPD	1485.0%
VILLAGE 62	29,700 AC	SPD	1485.0%
VILLAGE 63	29,700 AC	SPD	1485.0%
VILLAGE 64	29,700 AC	SPD	1485.0%
VILLAGE 65	29,700 AC	SPD	1485.0%
VILLAGE 66	29,700 AC	SPD	1485.0%
VILLAGE 67	29,700 AC	SPD	1485.0%
VILLAGE 68	29,700 AC	SPD	1485.0%
VILLAGE 69	29,700 AC	SPD	1485.0%
VILLAGE 70	29,700 AC	SPD	1485.0%
VILLAGE 71	29,700 AC	SPD	1485.0%
VILLAGE 72	29,700 AC	SPD	1485.0%
VILLAGE 73	29,700 AC	SPD	1485.0%
VILLAGE 74	29,700 AC	SPD	1485.0%
VILLAGE 75	29,700 AC	SPD	1485.0%
VILLAGE 76	29,700 AC	SPD	1485.0%
VILLAGE 77	29,700 AC	SPD	1485.0%
VILLAGE 78	29,700 AC	SPD	1485.0%
VILLAGE 79	29,700 AC	SPD	1485.0%
VILLAGE 80	29,700 AC	SPD	1485.0%
VILLAGE 81	29,700 AC	SPD	1485.0%
VILLAGE 82	29,700 AC	SPD	1485.0%
VILLAGE 83	29,700 AC	SPD	1485.0%
VILLAGE 84	29,700 AC	SPD	1485.0%
VILLAGE 85	29,700 AC	SPD	1485.0%
VILLAGE 86	29,700 AC	SPD	1485.0%
VILLAGE 87	29,700 AC	SPD	1485.0%
VILLAGE 88	29,700 AC	SPD	1485.0%
VILLAGE 89	29,700 AC	SPD	1485.0%
VILLAGE 90	29,700 AC	SPD	1485.0%
VILLAGE 91	29,700 AC	SPD	1485.0%
VILLAGE 92	29,700 AC	SPD	1485.0%
VILLAGE 93	29,700 AC	SPD	1485.0%
VILLAGE 94	29,700 AC	SPD	1485.0%
VILLAGE 95	29,700 AC	SPD	1485.0%
VILLAGE 96	29,700 AC	SPD	1485.0%
VILLAGE 97	29,700 AC	SPD	1485.0%
VILLAGE 98	29,700 AC	SPD	1485.0%
VILLAGE 99	29,700 AC	SPD	1485.0%
VILLAGE 100	29,700 AC	SPD	1485.0%
VILLAGE 101	29,700 AC	SPD	1485.0%
VILLAGE 102	29,700 AC	SPD	1485.0%
VILLAGE 103	29,700 AC	SPD	1485.0%
VILLAGE 104	29,700 AC	SPD	1485.0%
VILLAGE 105	29,700 AC	SPD	1485.0%
VILLAGE 106	29,700 AC	SPD	1485.0%
VILLAGE 107	29,700 AC	SPD	1485.0%
VILLAGE 108	29,700 AC	SPD	1485.0%
VILLAGE 109	29,700 AC	SPD	1485.0%
VILLAGE 110	29,700 AC	SPD	1485.0%
VILLAGE 111	29,700 AC	SPD	1485.0%
VILLAGE 112	29,700 AC	SPD	1485.0%
VILLAGE 113	29,700 AC	SPD	1485.0%
VILLAGE 114	29,700 AC	SPD	1485.0%
VILLAGE 115	29,700 AC	SPD	1485.0%
VILLAGE 116	29,700 AC	SPD	1485.0%
VILLAGE 117	29,700 AC	SPD	1485.0%
VILLAGE 118	29,700 AC	SPD	1485.0%
VILLAGE 119	29,700 AC	SPD	1485.0%
VILLAGE 120	29,700 AC	SPD	1485.0%
VILLAGE 121	29,700 AC	SPD	1485.0%
VILLAGE 122	29,700 AC	SPD	1485.0%
VILLAGE 123	29,700 AC	SPD	1485.0%
VILLAGE 124	29,700 AC	SPD	1485.0%
VILLAGE 125	29,700 AC	SPD	1485.0%
VILLAGE 126	29,700 AC	SPD	1485.0%
VILLAGE 127	29,700 AC	SPD	1485.0%
VILLAGE 128	29,700 AC	SPD	1485.0%
VILLAGE 129	29,700 AC	SPD	1485.0%
VILLAGE 130	29,700 AC	SPD	1485.0%
VILLAGE 131	29,700 AC	SPD	1485.0%
VILLAGE 132	29,700 AC	SPD	1485.0%
VILLAGE 133	29,700 AC	SPD	1485.0%
VILLAGE 134	29,700 AC	SPD	1485.0%
VILLAGE 135	29,700 AC	SPD	1485.0%
VILLAGE 136	29,700 AC	SPD	1485.0%
VILLAGE 137	29,700 AC	SPD	1485.0%
VILLAGE 138	29,700 AC	SPD	1485.0%
VILLAGE 139	29,700 AC	SPD	1485.0%
VILLAGE 140	29,700 AC	SPD	1485.0%
VILLAGE 141	29,700 AC	SPD	1485.0%
VILLAGE 142	29,700 AC	SPD	1485.0%
VILLAGE 143	29,700 AC	SPD	1485.0%
VILLAGE 144	29,700 AC	SPD	1485.0%
VILLAGE 145	29,700 AC	SPD	1485.0%
VILLAGE 146	29,700 AC	SPD	1485.0%
VILLAGE 147	29,700 AC	SPD	1485.0%
VILLAGE 148	29,700 AC	SPD	1485.0%
VILLAGE 149	29,700 AC	SPD	1485.0%
VILLAGE 150	29,700 AC	SPD	1485.0%
VILLAGE 151	29,700 AC	SPD	1485.0%
VILLAGE 152	29,700 AC	SPD	1485.0%
VILLAGE 153	29,700 AC	SPD	1485.0%
VILLAGE 154	29,700 AC	SPD	1485.0%
VILLAGE 155	29,700 AC	SPD	1485.0%
VILLAGE 156	29,700 AC	SPD	1485.0%
VILLAGE 157	29,700 AC	SPD	1485.0%
VILLAGE 158	29,700 AC	SPD	1485.0%
VILLAGE 159	29,700 AC	SPD	1485.0%
VILLAGE 160	29,700 AC	SPD	1485.0%
VILLAGE 161	29,700 AC	SPD	1485.0%
VILLAGE 162	29,700 AC	SPD	1485.0%
VILLAGE 163	29,700 AC	SPD	1485.0%
VILLAGE 164	29,700 AC	SPD	1485.0%
VILLAGE 165	29,700 AC	SPD	1485.0%
VILLAGE 166	29,700 AC	SPD	1485.0%
VILLAGE 167	29,700 AC	SPD	1485.0%
VILLAGE 168	29,700 AC	SPD	1485.0%
VILLAGE 169	29,700 AC	SPD	1485.0%
VILLAGE 170	29,700 AC	SPD	1485.0%
VILLAGE 171	29,700 AC	SPD	1485.0%
VILLAGE 172	29,700 AC	SPD	1485.0%
VILLAGE 173	29,700 AC	SPD	1485.0%
VILLAGE 174	29,700 AC	SPD	1485.0%
VILLAGE 175	29,700 AC	SPD	1485.0%
VILLAGE 176	29,700 AC	SPD	1485.0%
VILLAGE 177	29,700 AC	SPD	1485.0%
VILLAGE 178	29,700 AC	SPD	1485.0%
VILLAGE 179	29,700 AC	SPD	1485.0%
VILLAGE 180	29,700 AC	SPD	1485.0%
VILLAGE 181	29,700 AC	SPD	1485.0%
VILLAGE 182	29,700 AC	SPD	1485.0%
VILLAGE 183	29,700 AC	SPD	1485.0%
VILLAGE 184	29,700 AC	SPD	1485.0%
VILLAGE 185	29,700 AC	SPD	1485.0%
VILLAGE 186	29,700 AC	SPD	1485.0%
VILLAGE 187	29,700 AC	SPD	1485.0%
VILLAGE 188	29,700 AC	SPD	1485.0%
VILLAGE 189	29,700 AC	SPD	1485.0%
VILLAGE 190	29,700 AC	SPD	1485.0%
VILLAGE 191	29,700 AC	SPD	1485.0%
VILLAGE 192	29,700 AC	SPD	1485.0%
VILLAGE 193	29,700 AC	SPD	1485.0%
VILLAGE 194	29,700 AC	SPD	1485.0%
VILLAGE 195	29,700 AC	SPD	1485.0%
VILLAGE 196	29,700 AC	SPD	1485.0%
VILLAGE 197	29,700 AC	SPD	1485.0%
VILLAGE 198	29,700 AC	SPD	1485.0%
VILLAGE 199	29,700 AC	SPD	1485.0%
VILLAGE 200	29,700 AC	SPD	1485.0%
VILLAGE 201	29,700 AC	SPD	1485.0%
VILLAGE 202	29,700 AC	SPD	1485.0%
VILLAGE 203	29,700 AC	SPD	1485.0%
VILLAGE 204	29,700 AC	SPD	1485.0%
VILLAGE 205	29,700 AC	SPD	1485.0%
VILLAGE 206	29,700 AC	SPD	1485.0%
VILLAGE 207	29,700 AC	SPD	1485.0%
VILLAGE 208	29,700 AC	SPD	1485.0%
VILLAGE 209	29,700 AC	SPD	1485.0%
VILLAGE 210	29,700 AC	SPD	1485.0%
VILLAGE 211	29,700 AC	SPD	1485.0%
VILLAGE 212	29,700 AC	SPD	1485.0%
VILLAGE 213	29,700 AC	SPD	1485.0%
VILLAGE 214	29,700 AC	SPD	1485.0%
VILLAGE 215	29,700 AC	SPD	1485.0%
VILLAGE 216	29,700 AC	SPD	1485.0%
VILLAGE 217	29,700 AC	SPD	1485.0%
VILLAGE 218	29,700 AC	SPD	1485.0%
VILLAGE 219	29,700 AC	SPD	1485.0%
VILLAGE 220	29,700 AC	SPD	1485.0%
VILLAGE 221	29,700 AC	SPD	1485.0%
VILLAGE 222	29,700 AC	SPD	1485.0%
VILLAGE 223	29,700 AC	SPD	1485.0%
VILLAGE 224	29,700 AC	SPD	1485.0%
VILLAGE 225	29,700 AC	SPD	1485.0%
VILLAGE 226	29,700 AC	SPD	1485.0%
VILLAGE 227	29,700 AC	SPD	1485.0%
VILLAGE 228	29,700 AC	SPD	1485.0%
VILLAGE 229	29,700 AC	SPD	1485.0%
VILLAGE 230	29,700 AC	SPD	1485.0%
VILLAGE 231	29,700 AC	SPD	1485.0%
VILLAGE 232	29,700 AC	SPD	1485.0%
VILLAGE 233	29,700 AC	SPD	1485.0%
VILLAGE 234	29,700 AC	SPD	1485.0%
VILLAGE 235	29,700 AC	SPD	1485.0%
VILLAGE 236	29,700 AC	SPD	1485.0%
VILLAGE 237	29,700 AC	SPD	1485.0%
VILLAGE 238	29,700 AC	SPD	1485.0%
VILLAGE 239	29,700 AC	SPD	1485.0%
VILLAGE 240	29,700 AC	SPD	1485.0%
VILLAGE 241	29,700 AC	SPD	1485.0%
VILLAGE 242	29,700 AC	SPD	1485.0%
VILLAGE 243	29,700 AC	SPD	1485.0%
VILLAGE 244	29,700 AC	SPD	1485.0%
VILLAGE 245	29,700 AC	SPD	1485.0%
VILLAGE 246	29,700 AC	SPD	1485.0

# ATTACHMENT E



# BRIDGEWATER MASTER SUBDIVISION FIRST AMENDMENT

SHEET 2 OF 2  
MPA-000542-2015  
DAYBREAK FILING NO. 28 TRACT A  
NO20228 W 2034.23'

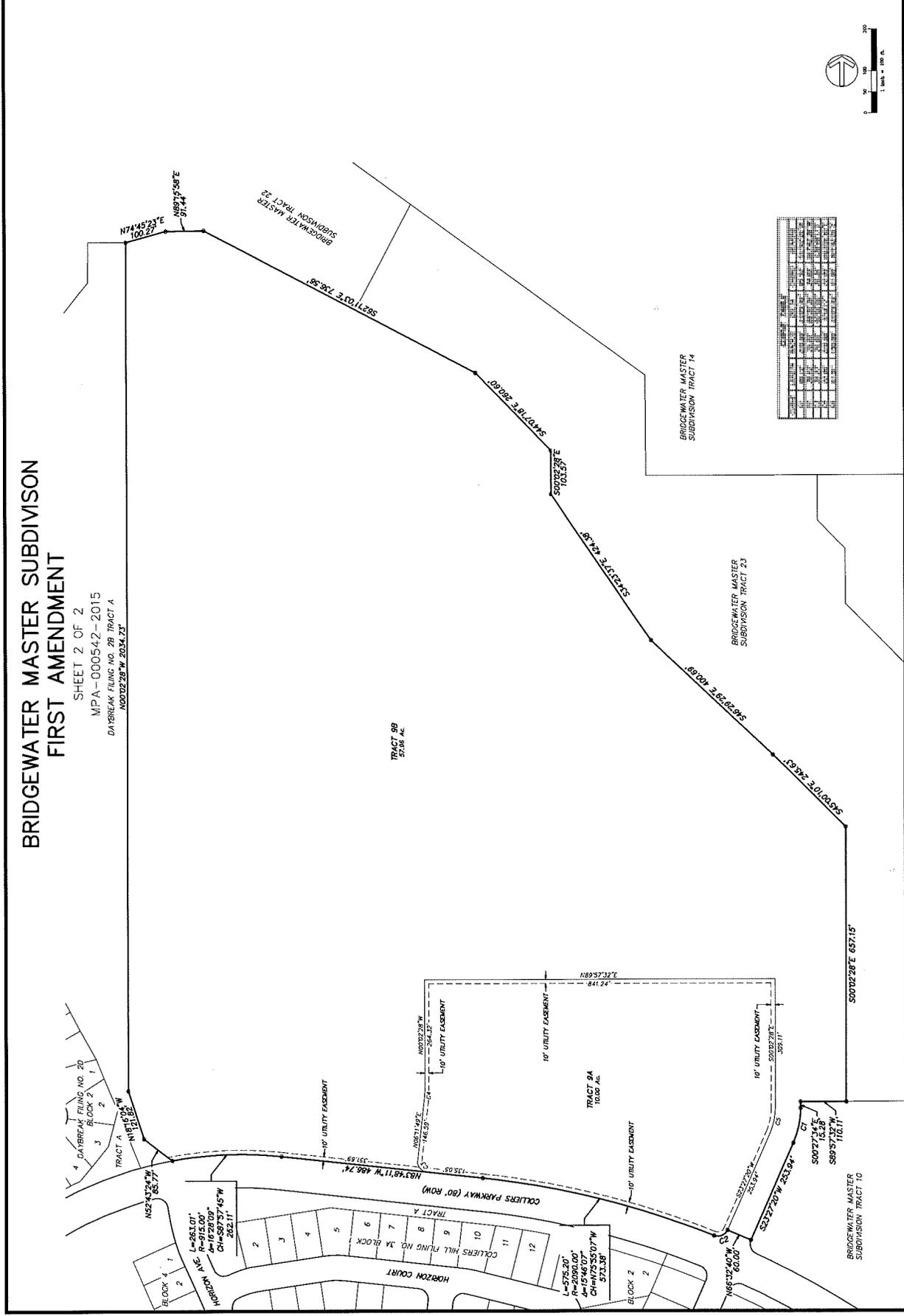
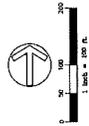
SCALE VERIFICATION  
AS SHOWN ON THIS PLAN  
IS ACCURATE TO  
A 1/4" = 100' STANDARD

BRIDGEWATER MASTER  
SUBDIVISION

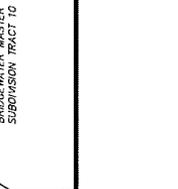
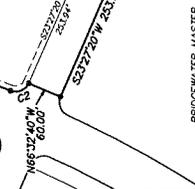
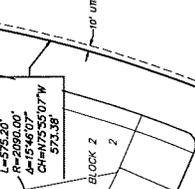
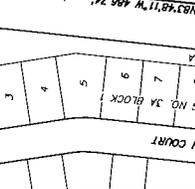
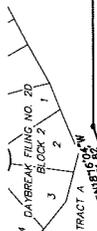
**HURST**  
ENGINEERING  
PLANNING  
SURVEYING  
HURST & ASSOCIATES, P.C.  
1500 BROADWAY, SUITE B  
BOULDER, CO 80504  
303.443.9105

BRIDGEWATER MASTER  
SUBDIVISION  
FIRST AMENDMENT  
FIRE, COLORADO

FILE NUMBER	11
DATE	02/27/2015
OWNER	BO
PROJECT	BRIDGEWATER MASTER SUBDIVISION
SHEET	2 OF 2



TRACT NO.	ACRES	AREA	PERCENT
TRACT 98	31.91	100.00	100.00
TRACT 94	10.00	31.31	98.12
TRACT 93	10.00	31.31	98.12
TRACT 92	10.00	31.31	98.12
TRACT 91	10.00	31.31	98.12
TRACT 90	10.00	31.31	98.12
TRACT 89	10.00	31.31	98.12
TRACT 88	10.00	31.31	98.12
TRACT 87	10.00	31.31	98.12
TRACT 86	10.00	31.31	98.12
TRACT 85	10.00	31.31	98.12
TRACT 84	10.00	31.31	98.12
TRACT 83	10.00	31.31	98.12
TRACT 82	10.00	31.31	98.12
TRACT 81	10.00	31.31	98.12
TRACT 80	10.00	31.31	98.12
TRACT 79	10.00	31.31	98.12
TRACT 78	10.00	31.31	98.12
TRACT 77	10.00	31.31	98.12
TRACT 76	10.00	31.31	98.12
TRACT 75	10.00	31.31	98.12
TRACT 74	10.00	31.31	98.12
TRACT 73	10.00	31.31	98.12
TRACT 72	10.00	31.31	98.12
TRACT 71	10.00	31.31	98.12
TRACT 70	10.00	31.31	98.12
TRACT 69	10.00	31.31	98.12
TRACT 68	10.00	31.31	98.12
TRACT 67	10.00	31.31	98.12
TRACT 66	10.00	31.31	98.12
TRACT 65	10.00	31.31	98.12
TRACT 64	10.00	31.31	98.12
TRACT 63	10.00	31.31	98.12
TRACT 62	10.00	31.31	98.12
TRACT 61	10.00	31.31	98.12
TRACT 60	10.00	31.31	98.12
TRACT 59	10.00	31.31	98.12
TRACT 58	10.00	31.31	98.12
TRACT 57	10.00	31.31	98.12
TRACT 56	10.00	31.31	98.12
TRACT 55	10.00	31.31	98.12
TRACT 54	10.00	31.31	98.12
TRACT 53	10.00	31.31	98.12
TRACT 52	10.00	31.31	98.12
TRACT 51	10.00	31.31	98.12
TRACT 50	10.00	31.31	98.12
TRACT 49	10.00	31.31	98.12
TRACT 48	10.00	31.31	98.12
TRACT 47	10.00	31.31	98.12
TRACT 46	10.00	31.31	98.12
TRACT 45	10.00	31.31	98.12
TRACT 44	10.00	31.31	98.12
TRACT 43	10.00	31.31	98.12
TRACT 42	10.00	31.31	98.12
TRACT 41	10.00	31.31	98.12
TRACT 40	10.00	31.31	98.12
TRACT 39	10.00	31.31	98.12
TRACT 38	10.00	31.31	98.12
TRACT 37	10.00	31.31	98.12
TRACT 36	10.00	31.31	98.12
TRACT 35	10.00	31.31	98.12
TRACT 34	10.00	31.31	98.12
TRACT 33	10.00	31.31	98.12
TRACT 32	10.00	31.31	98.12
TRACT 31	10.00	31.31	98.12
TRACT 30	10.00	31.31	98.12
TRACT 29	10.00	31.31	98.12
TRACT 28	10.00	31.31	98.12
TRACT 27	10.00	31.31	98.12
TRACT 26	10.00	31.31	98.12
TRACT 25	10.00	31.31	98.12
TRACT 24	10.00	31.31	98.12
TRACT 23	10.00	31.31	98.12
TRACT 22	10.00	31.31	98.12
TRACT 21	10.00	31.31	98.12
TRACT 20	10.00	31.31	98.12
TRACT 19	10.00	31.31	98.12
TRACT 18	10.00	31.31	98.12
TRACT 17	10.00	31.31	98.12
TRACT 16	10.00	31.31	98.12
TRACT 15	10.00	31.31	98.12
TRACT 14	10.00	31.31	98.12
TRACT 13	10.00	31.31	98.12
TRACT 12	10.00	31.31	98.12
TRACT 11	10.00	31.31	98.12
TRACT 10	10.00	31.31	98.12
TRACT 9	10.00	31.31	98.12
TRACT 8	10.00	31.31	98.12
TRACT 7	10.00	31.31	98.12
TRACT 6	10.00	31.31	98.12
TRACT 5	10.00	31.31	98.12
TRACT 4	10.00	31.31	98.12
TRACT 3	10.00	31.31	98.12
TRACT 2	10.00	31.31	98.12
TRACT 1	10.00	31.31	98.12



**TOWN OF ERIE**  
**BOARD OF TRUSTEE AGENDA ITEM**  
**Board Meeting Date: September 8, 2015**

---

**SUBJECT:**

**CONSENT:**

**CONSIDERATION OF RESOLUTION 15-108:** A Resolution By The Board Of Trustees Of The Town Of Erie, Colorado Accepting Dedications As Shown On The Bridgewater Master Subdivision First Amendment Plat; Authorizing The Appropriate Town Official To Sign The Bridgewater Master Subdivision First Amendment Plat; Adopting Certain Findings Of Fact And Conclusions Favorable To The Acceptance Of The Dedications; And, Setting Forth Details In Relation Thereto.

**CODE REVIEW:**

Erie Municipal Code, Title 10

**PURPOSE:**

Board of Trustees to consider the acceptance of dedications on the Bridgewater Master Subdivision First Amendment Plat.

**DEPARTMENT:**

Community Development

**PRESENTER:**

Todd Bjerkaas PLA, Senior Planner

---

**FISCAL**

Cost as Recommended: na

**INFORMATION:**

Balance Available: na

Budget Line Item 000 . 00 . 000 . 000000 . 000000

Number:

New Appropriation Required:  Yes  No

---

**STAFF**

**RECOMMENDATION:**

Staff recommends the Board of Trustees authorize the Mayor to accept the dedications by approving Resolution 15-108.

**PLANNING COMMISSION**

n/a

**RECOMMENDATION:**

---



**Summary:**

The Resolution, provided for consideration by the Board of Trustees, accepts dedications as shown on the Bridgewater Master Subdivision First Amendment Plat.

**Project Description:**

The property owner is beginning the process of transferring a 10 acre site to St. Vrain Valley School District for a future elementary school. Concurrent with the PUD Overlay Map amendment, the applicant has proposed an amendment to the Bridgewater Master Subdivision Plat to relocate the 10 acre elementary school site.

The minor subdivision divides Tract 9 of the master subdivision to create two tracts: a 10 acre tract for the future elementary school (Tract 9A); and a 57.96 acre tract for future development (Tract 9B).

**Project Process:**

The Community Development Director and Public Works Director have conditionally approved the Bridgewater Master Subdivision First Amendment Plat, contingent upon the acceptance of the dedications by the Board of Trustees.

**Public Notice:**

Public Notice is not required.

**Staff Recommendation:**

Staff recommends the Board of Trustees authorize the Mayor to accept the dedications as shown on the Bridgewater Master Subdivision First Amendment Plat by approving Resolution 15-108.

---

**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 15-108
- b. Bridgewater Master Subdivision First Amendment Plat

# ATTACHMENT A

**RESOLUTION NO. 15-108**

**A RESOLUTION BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE, COLORADO ACCEPTING DEDICATIONS AS SHOWN ON THE BRIDGEWATER MASTER SUBDIVISION FIRST AMENDMENT PLAT; AUTHORIZING THE APPROPRIATE TOWN OFFICIAL TO SIGN THE BRIDGEWATER MASTER SUBDIVISION FIRST AMENDMENT PLAT; ADOPTING CERTAIN FINDINGS OF FACT AND CONCLUSIONS FAVORABLE TO THE ACCEPTANCE OF THE DEDICATIONS; AND, SETTING FORTH DETAILS IN RELATION THERETO.**

**WHEREAS**, the Board of Trustees of the Town of Erie, Colorado, considered the acceptance of dedications on September 8, 2015, on the application of Daybreak Recovery Acquisition, 7200 Alton Way, Suite C400, Centennial, CO 80012, for the Bridgewater Master Subdivision First Amendment Plat, Town of Erie, County of Weld, State of Colorado; and,

**WHEREAS**, the Board of Trustees of the Town of Erie, desires to accept the dedications from Daybreak Recovery Acquisition; 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 dedications as shown on the Bridgewater Master Subdivision First Amendment Plat.

**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 on the Bridgewater Master Subdivision First Amendment Plat and authorizes the appropriate Town Official to sign the Bridgewater Master Subdivision First Amendment Plat.

**INTRODUCED, READ, SIGNED AND APPROVED this 8<sup>th</sup> day of September 2015.**

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

By: \_\_\_\_\_  
Tina Harris, Mayor

ATTEST:

By: \_\_\_\_\_  
Nancy J. Parker, CMC, Town Clerk

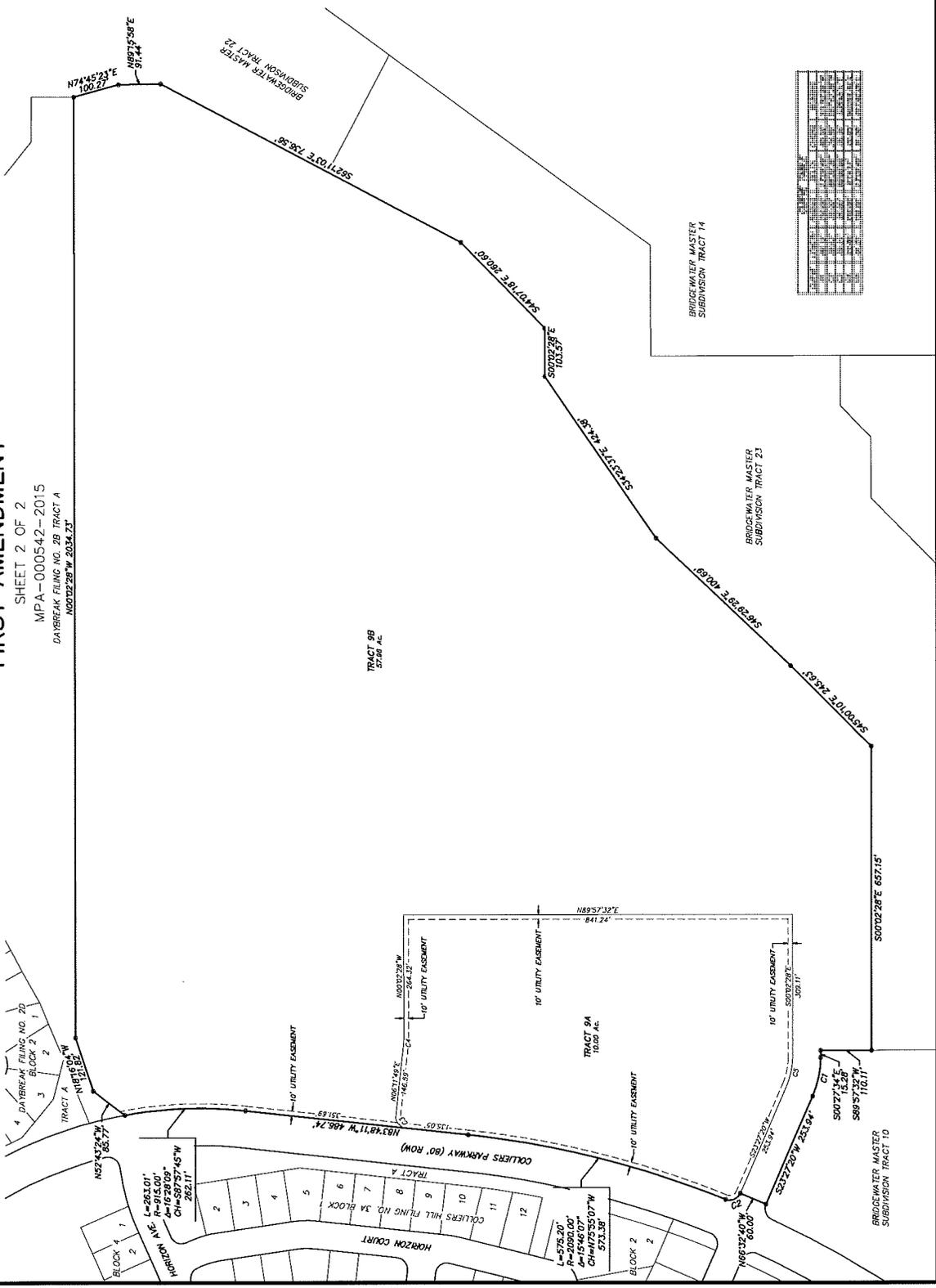
## ATTACHMENT B



# BRIDGEWATER MASTER SUBDIVISION FIRST AMENDMENT

SHEET 2 OF 2  
MPA-000542-2015  
DAYBREAK FILING NO. 2B TRACT A  
N02°02'28" W 2034.73'

SCALE INFORMATION  
AS SHOWN ON THIS PLAN  
IS TO BE USED FOR ALL  
CONSTRUCTION PURPOSES  
UNLESS OTHERWISE NOTED



NO.	DESCRIPTION	DATE	BY
1	PREPARED FOR THE MASTER	08/24/15	PL
2	REVISION		
3	REVISION		
4	REVISION		
5	REVISION		
6	REVISION		
7	REVISION		
8	REVISION		
9	REVISION		
10	REVISION		
11	REVISION		
12	REVISION		
13	REVISION		
14	REVISION		
15	REVISION		
16	REVISION		
17	REVISION		
18	REVISION		
19	REVISION		
20	REVISION		
21	REVISION		
22	REVISION		
23	REVISION		
24	REVISION		
25	REVISION		
26	REVISION		
27	REVISION		
28	REVISION		
29	REVISION		
30	REVISION		
31	REVISION		
32	REVISION		
33	REVISION		
34	REVISION		
35	REVISION		
36	REVISION		
37	REVISION		
38	REVISION		
39	REVISION		
40	REVISION		
41	REVISION		
42	REVISION		
43	REVISION		
44	REVISION		
45	REVISION		
46	REVISION		
47	REVISION		
48	REVISION		
49	REVISION		
50	REVISION		

**HURST**  
PIPING ENGINEERING  
SURVEYING  
PLANNING  
ENGINEERS  
1500 KENNEDY STREET  
DENVER, CO 80202  
303.443.1515

BRIDGEWATER MASTER  
SUBDIVISION  
FIRST AMENDMENT  
FIRST AMENDMENT  
ENGINE, COLORADO

DATE: 08/24/15  
SCALE: 1"=100'  
SHEET: 2 OF 2  
PROJECT: BRIDGEWATER MASTER SUBDIVISION FIRST AMENDMENT

**TOWN OF ERIE**  
**BOARD OF TRUSTEE AGENDA ITEM**  
**Board Meeting Date: September 8, 2015**

---

**SUBJECT:** **CONSENT AGENDA**  
 Consideration of Resolution 15-118: A Resolution Authorizing the Purchase of Toro Infield Groomer in the Amount of \$21,924.00

**DEPARTMENT:** Parks & Recreation

**PRESENTER:** Farrell Buller, Parks & Recreation Director

---

<b>FISCAL INFORMATION:</b>	Cost as Recommended:	<b>\$ 21,924.00</b>
	Balance Available:	\$ 22,583.00
	Budget Line Item	100 . 50 . 810 . 601200 - <b>\$12,583.00</b>
	Number:	100 . 70 . 450 . 601000 - <b>\$10,000.00</b>
	New Appropriation Required:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

---

**STAFF RECOMMENDATION:** **Approval of Resolution 15-118: A Resolution Authorizing the Purchase of Toro Infield Groomer in the Amount of \$21,924.00**

---

**SUMMARY AND BACKGROUND OF SUBJECT MATTER:**

As part of the 2015 supplemental budget process funds were transferred to the Heavy Equipment line item in order to purchase replacement equipment for the Parks & Open Space Maintenance Division. Funds still available in this account along with funds available in the Public Works Departments Fleet budget the purchase of a Toro Sand Pro 5040 is possible.

The request for the purchase of a replacement infield groomer is being brought forward now for the following reasons:

- The current infield groomer is 15 years old and is at the end of its useful life
- This replacement request has been included initial 2016 budget request; if approved for purchase with the available 2015 funds the 2016 capital request would be reduced by \$22,000.00
- If approved the replacement infield groomer could go into service immediately and be in use for the remainder of the current tournament season, which runs through October.

This current infield groomer is used to perform infield maintenance tasks at the Ball Park at Erie complex and on outlying fields throughout Erie's parks system. This replacement unit will allow for decreased down time, increased productivity and safer, more professional-looking /playing infield surfaces. Erie has a reputation for having top-quality sports field surfaces; a new Sand-Pro will allow for continued play surface excellence into the future.

---

**Staff Review:**

- \_\_\_ Town Attorney
- \_\_\_ Town Clerk
- \_\_\_ Community Development Director
- \_\_\_ Finance Director
- \_\_\_ Police Chief
- \_\_\_ Public Works Director
-  Park & Recreation Director

**Approved by:**

  
 \_\_\_\_\_  
**A.J. Krieger**  
**Town Administrator**

**Attachments:**

- a. Price Quote
- b. Toro Sand Pro 5040 specifications
- c. Resolution 15-118

**RESOLUTION NO. 15-118**

**A RESOLUTION OF THE TOWN OF ERIE, COLORADO AUTHORIZING THE PURCHASE OF A TORO SAND PRO 1540 INFIELD GROOMER IN THE AMOUNT OF \$21,924.00; AND, SETTING FORTH DETAILS IN RELATION THERETO.**

**WHEREAS**, the Town of Erie wishes to purchase a Toro Sand Pro 1540 Infield Groomer in the amount of \$21,924.00; and

**WHEREAS**, the Board of Trustees of the Town of Erie believes it is in the best interest of the Town to make this purchase.

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

Section 1. That the purchase of a Toro Sand Pro 1540 Infield Groomer is found to be a reasonable and acceptable purchase.

Section 2. That the Town of Erie be and is hereby authorized and directed to purchase a Toro Sand Pro 1540 Infield Groomer, and appropriate Town Officers are hereby authorized and directed to execute the purchase and expenditures of funds.

Section 3. That entering into this purchase 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 8TH DAY OF SEPTEMBER, 2015 BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE, COLORADO.**

**TOWN OF ERIE,**  
a Colorado Municipal Corporation

By \_\_\_\_\_  
Tina Harris, Mayor

ATTEST:

\_\_\_\_\_  
Nancy J. Parker, CMC, Town Clerk



4700 Holly Street, Denver CO 80216 Main: 303-320-1270 Fax:303-355-8250

August 10, 2015

Town of Erie- Parks and Recreation  
Attn: Rob Crabb  
P.O. Box 750  
Erie, CO 80516

Dear Rob,

As you requested, I am sending our current pricing information on the Toro Infield Pro 5040 infield groomer that you are interested in. These prices are from our current MAPO contract available to all of our tax supported accounts. The Service Fee listed below covers freight, set-up and delivery charges.

1- Toro Sand Pro 5040 with 3-wheel series-parallel hydrostatic drive, hydraulic raise and lower of the rear implement, QAS quick attach system, power steering, and powered by an 18 hp V-twin Vanguard engine	\$ 15,401.00
	<u>\$ 616.00</u>
	\$ 16,017.00
Available Accessories:	
QAS Finish Grader	\$ 2,188.00
QAS Nail Drag	\$ 1,086.00
Light Kit	\$ 213.00
Rahn Lip Broom Front Mount	\$ 2,420.00

All Toro Commercial Turf products come with a two-year or 1,500 operational hour's warranty.

These prices are guaranteed for 60 days.

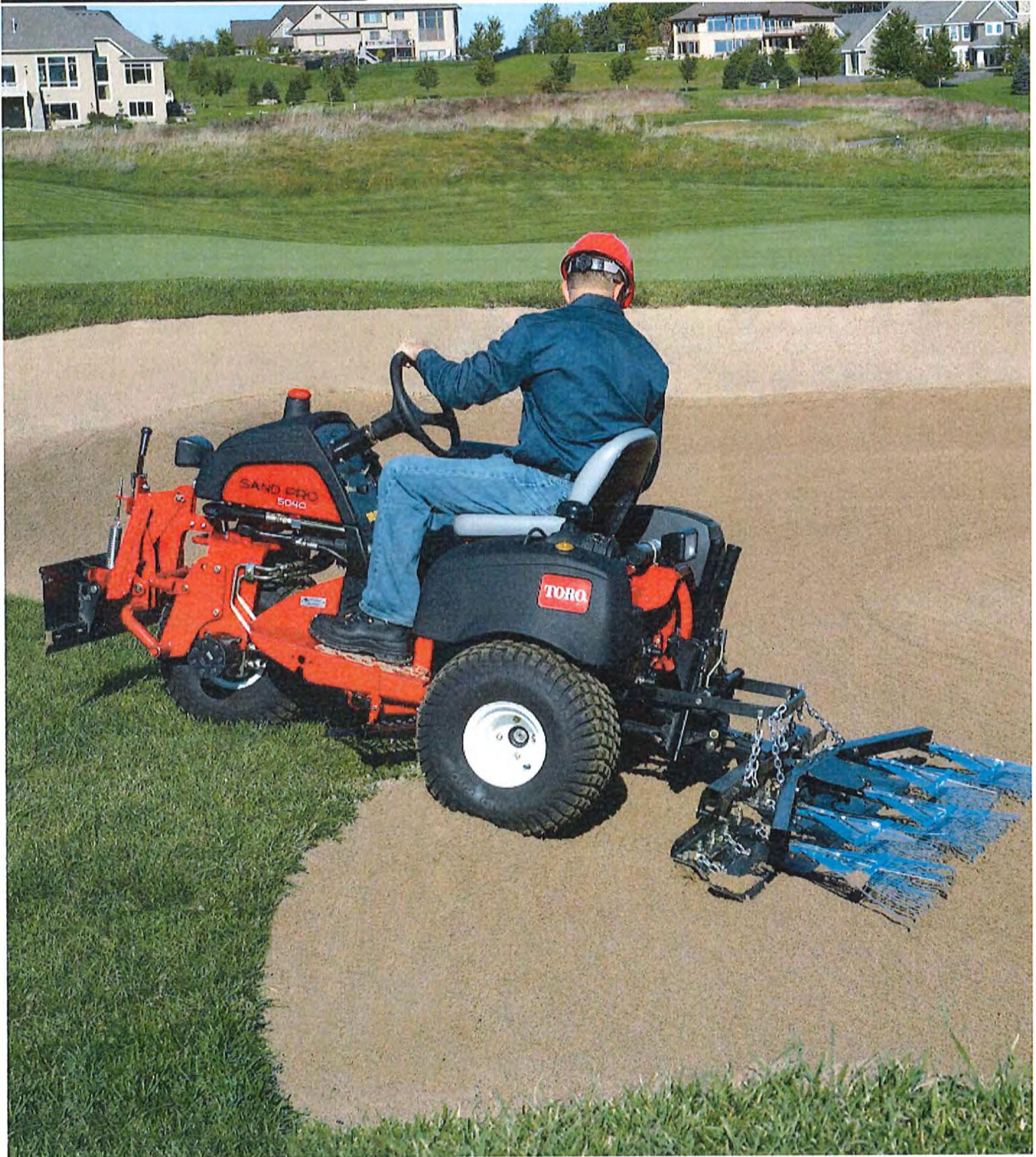
As always, feel free to give us a call if you have any questions.

Sincerely,

Tim Bullard  
Northern Territory Manager

**TORO** Count on it.

## Sand Pro® 3040 & 5040



**TORO.** Count on it.

*Sand Pro® 3040 & 5040*

- Patent-pending Quick Attach System™ (QAS)
- 17 available attachments
- Series/Parallel™ 3WD
- Hydraulic power steering (5040)
- Front (5040), mid and rear attachment points
- Steerable front attachments

# QAS changes everything.

It's time to demand more from a bunker rake. With the patent-pending Quick Attach System (QAS) and 17 attachments, the new Sand Pro 3040 and 5040 are versatile utility vehicles with as many uses outside the bunker as in it. QAS lets you change most attachments in under a minute and gives you more options out on the course. The Toro® Sand Pro keeps your bunkers in tournament condition every day.



**Count on  
Innovation**

**Perfect under pressure.**

Precisely calibrated tension springs and the Toro True Float contour following system produce the uncommonly smooth performance of the new Flex Blade. They enable the blade to self adjust, maintaining consistent pressure over the contour of the bunker thereby reducing operator influence and damage.

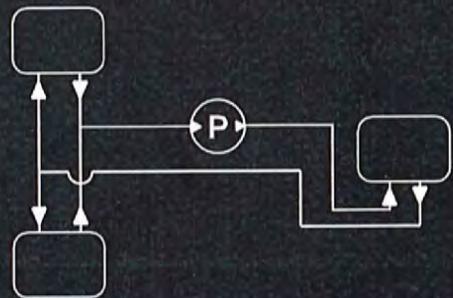




The segmented grooming broom attachment smooths and shapes without fluffing.

## Switch blade.

The new Toro Sand Pro offers up to 17 attachments designed to make you more productive and keep your bunkers in pristine condition. Leading the way is an innovative Flex Blade for the Sand Pro 5040. It raises and lowers hydraulically while tension springs maintain consistent pressure over the slope of the bunker. It is the first blade offering a steerable design making it ideal for pushing, packing, shaping and smoothing bunkers. The flexible design also prevents tip damage and gouging on the lip or walls of the bunker. A spring-balanced manual blade is also available. Factor in the hydraulic power steering and you have a compact utility vehicle that works hard with effortless maneuverability.



3-wheel Series/Parallel drive provides excellent traction going in and out of bunkers, even when pushing up sand after washouts.



## We spell productivity Q-A-S.

The need for a more versatile bunker rake led to the development of the Toro® Quick Attach System.™ QAS turns what was once a lengthy, tedious procedure into a quick change that any member of your maintenance crew can master in seconds. Now you can repair a bunker, groom wet or dry sand, blow debris or reconstruct a tee all without the need for dedicated machines. In most cases, changing attachments takes less than a minute. Both Sand Pro models offer a rear hydraulic QAS and mid-mount scarifier while the 5040 offers an optional front hydraulic QAS. The ability to carry three attachments ensures that you have the right tool for the right job at the right time.



Change from a spring rake to a drag mat in seconds—without any tools.

## Attachments

Segmented grooming broom



Tooth rake



Spring rake



Drag mat carrier system  
Coco mat



Cyclone™ 1000 blower



Spring balanced manual blade



### Also Available:

- Flex blade
- Finish grader
- Spiker
- Steel drag mat
- 60" manual blade
- Utility box
- Storage box
- Spring tine teeth
- Solid tine scarifier teeth and leveling blade
- Carbide tipped solid tine scarifier teeth
- Weeding tine teeth



## The tools you need when you need them.

Rear grooming attachments offer the flexibility to handle a variety of sand and weather conditions. The rear broom comes in three sections with two hinge points that allow the bristles to follow the contours of even the most intricate bunkers. The broom is ideal for contour shaping and grooming without the fluffing created by traditional rake attachments. Drag mats

come in steel and coco designs that swap easily using the QAS. The coco drag mat works well for brushing in topdressing on greens. Smooth tires are available for use on greens. A mid-mount attachment on the 5040 allows you to scarify and groom in a single pass. Mid-mount attachments can rotate up and out of the way when entering and exiting bunkers to protect the bunker lip.

# Specifications for Sand Pro® 3040 & 5040

## Engine

**Model:** Vanguard® V-Twin cylinder, 4-cycle, OHV  
**Rating:** 3040: 16 hp (11.9 kW), @ 3600 rpm  
5040: 18 hp (13.4 kW) @ 3600 rpm  
**Displacement:** 3040: 29.3 cu. in. (480 cc); 5040: 34.8 cu. in. (570 cc)  
**Oil capacity:** 1.75 quart (1.8 liter)  
**Fuel/capacity:** Gasoline/5 gallon (18.9 liter)  
**Cooling:** Air (high flow blower)  
**Air cleaner system:** Remote mounted 3-phase Donaldson® air cleaner

## Traction Unit

**Drive:** Direct driven hydrostatic variable speed displacement piston pump to 3 hydraulic motors for 3WD, patented Series/Parallel™ hydraulic traction system  
**Brakes:** Dynamic braking through the hydrostatic transmission, hand actuated brake lever  
**Steering:** 15" (38 cm) diameter steering wheel, zero turning radius.  
3040: Gear drive manual steering 5040: Hydraulic power steering  
**Gauges:** Hour meter  
**Tires:** Three 22 x 11.00-8 pneumatic tubeless tires  
**Hydraulic oil:** 5.0 gallon (18.9 liter). 35 micron replaceable cartridge  
**Main frame:** Welded rectangular tubular steel frame construction  
**Seat:** High-back cushion seat w/drain hole, 4" (10.2 cm) front-back adjustment w/additional 1.75" (4.5 cm) mounting adjustment, arm rests optional  
**Controls:** Hand operated choke, throttle, and hydraulic control for raising/lowering with float, 3040: Rear hydraulic lift and lower controls, 5040: Front (optional) and rear hydraulic lift and lower controls

## Ground Speed

Infinitely variable 0-10 mph (16 km/h) for.; 4.3 mph (6.9 km/h) rev.

## Electrical

**Battery:** 12 volt, 15 amp., 300 CCA @ 0°F  
**Starter:** 12 volt electric

## Sound Level (operator)

87 dB(A)

## Dimensions

**Width:** 58" (147 cm); **Length:** 67.5" (171.5 cm)  
**Height:** 45.25" (114.9 cm); **Wheelbase:** 42.75" (108 cm)  
**Weight:** Net weight (less fluids): 930 lbs. (421.8 kg)  
**Ground clearance:** 6.0" (15.2 cm)

## Attachments & Accessories (Optional)

### QAS Mount

**Hydraulic Flex Blade (5040 only):** Front QAS, 36" (91.4 cm) width steel blade, 4 position settings – raise, hold, lower, and float; transport height: 8.5" (21.5 cm)  
**Grooming broom:** Rear QAS, 3 brooms, 72.6" (184.9 cm) wide  
**Tooth rake:** Rear QAS, 72" (183 cm) width, with 5 rake sections, 27 prongs adjustable for depth and wear  
**Spring rake:** Rear QAS, 76" (193 cm) width, with 5 rake sections and spring teeth for excellent floatation and minimal surface disruption  
**Drag mat carrier system:** Rear QAS, 72" (183 cm) width, steel or coco drag mats, 2' (61 cm) working surface, hydraulic raise/lower  
**Cyclone 1000 blower:** Rear QAS, quick connect, hydraulic power, 2000 rpm fan speed (2700 cfm @ 81 mph)  
**Finish grader:** Rear QAS, 66" (168 cm) width, box plow and scarifier, 1.8" (4.5 cm) max working depth, spring loaded to allow relief if an obstruction is hit; hardened carbide tips available for scarifier teeth  
**Spiker:** Rear QAS, 57.6" (746 cm) width, 1.25" (3.1 cm) max working depth, 2.4" (6.1 cm) blade spacing; two independently floating units, with 12 spiker blades and 11 hold down fingers

### Mid-Mount

**Scarifier/leveling blade:** Selectable depth from 0-1.5" (3.8 cm), 52" (132.1 cm) wide, transport height: 6.75" (17.1 cm)

### Additional

**Manual blade:** 40" (101 cm) width steel blade, transport height: 11" (27.9 cm), spring assisted for raising plow, optional 60" (152.4 cm) blade kit available  
**Turf tire:** 22 x 11.00-8  
**Hitch kit:** 200 lbs (90.7 kg) gross trailer weight/hitch load  
**See product specifications manual for additional attachments.**

**Warranty:** Two year limited

## TORO® PROFESSIONAL SERVICES

**Toro Financing** A full service offering for all your equipment and irrigation purchases. Flexible financing options can be tailored to meet your operational needs.

**Toro Protection Plus Extended Protection Plan** Protect your budget and your equipment investment. Plans are available for both new and used equipment, and you can choose from various terms to fit your financing terms.

**Toro Genuine Parts** Keep the productivity and performance of your equipment at its peak. Learn about Performance Parts pricing and MVP kits. Find replacement parts online at [Toro.com/partsviewer](http://Toro.com/partsviewer).

**Toro Training** Toro Factory Service Schools are available. Explore the training and customer care areas of [Toro.com](http://Toro.com) and [ToroNSN.com](http://ToroNSN.com) for readily available education and training materials.

**Toro Controller Repair** Provides irrigation controller boards ready for immediate board exchange to assure that downtime is minimal and your turf stays protected. Toro is the choice for reliability.

**Toro NSN®** An industry-first support network that provides reliable, around-the-clock irrigation central control system troubleshooting and operation assistance. Call 1-800-ASK-TORO.

Products depicted in this brochure are for demonstration purposes only.  
Actual products offered for sale may vary.  
©2006 The Toro Company, 8111 Lyndale Ave. S., Bloomington, MN 55420-1196  
Part No. 06-060-T. Printed in U.S.A.

[Toro.com](http://Toro.com)



**Count on it.**



**FROM THE OFFICE OF THE MAYOR**

**PROCLAMATION OF SEPTEMBER AS ATTENDANCE AWARENESS MONTH**

**WHEREAS**, good attendance is essential to student achievement and graduation, and we are committed to dedicating our resources and attention to reducing chronic absenteeism rates, with a focus as early as prekindergarten and kindergarten; and

**WHEREAS**, chronic absence – missing 10 percent or more of school for any reason including excused and unexcused absences, or just two days a month – is a proven predictor of academic trouble and dropout rates; and

**WHEREAS**, chronic absence predicts lower third-grade reading proficiency, course failure and eventual dropout, it weakens our communities and our local economy; and

**WHEREAS**, schools and community partners can reach out more frequently to absent students to determine what barriers they face to attending school and what would help them attend more regularly; and

**WHEREAS** chronic absence can be significantly reduced when schools, families and communities work together to monitor and promote good attendance and address hurdles that keep children from getting to school;

**NOW, THEREFORE BE IT RESOLVED** that I Tina Harris, Mayor of the Town of Erie do hereby proclaim that our town will stand with the nation in recognizing September as “Attendance Awareness Month.” We hereby commit to focusing on reducing chronic absenteeism to give all children an equitable opportunity to learn, grow and thrive academically, emotional and socially.

\_\_\_\_\_  
Tina Harris, Mayor

ATTEST:

\_\_\_\_\_  
Nancy J. Parker, CMC, Town Clerk

**TOWN OF ERIE**  
**BOARD OF TRUSTEE AGENDA ITEM**  
**Board Meeting Date: September 8, 2015**

---

**SUBJECT:** **LAND DEVELOPMENT RESOLUTIONS AND ORDINANCES**  
**CONSIDERATION OF ORDINANCE 20-2015 (SECOND READING):**

An Ordinance Of The Town Of Erie, Colorado, Approving Canyon Creek PD Amendment No. 9; Making Findings Supporting Canyon Creek PD Amendment No. 9; And, Setting Forth Details In Relation Thereto.

**PURPOSE:** Canyon Creek PD Amendment No. 9 proposes to amend the Canyon Creek Filing No. 10 area of the subdivision to:

1. Change land use designations from CBR – Community / Business / Residential to CC – Community Commercial, HR – High Density Residential, and MR – Medium Density Residential.
2. Modify lot dimensional standards.
3. Modify architectural standards for single family patio homes.

**CODE REVIEW:** Erie Municipal Code, Title 10

**DEPARTMENT:** Community Development

**PRESENTER:** Deborah Bachelder AICP, Senior Planner

---

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

---

**STAFF RECOMMENDATION:** Staff finds the application consistent with the PD Amendment approval criteria in Municipal Code Section 10.7.23 C.9 and recommends approval of the Canyon Creek PD Amendment No. 9 application in draft Ordinance 20-2015.

---

**PLANNING COMMISSION RECOMMENDATION:** The Planning Commission held a public hearing for the PD Amendment request on July 15, 2015. The Planning Commission recommended approval of the PD Amendment in Resolution P15-23.

---

**SUMMARY AND BACKGROUND OF SUBJECT MATTER:**

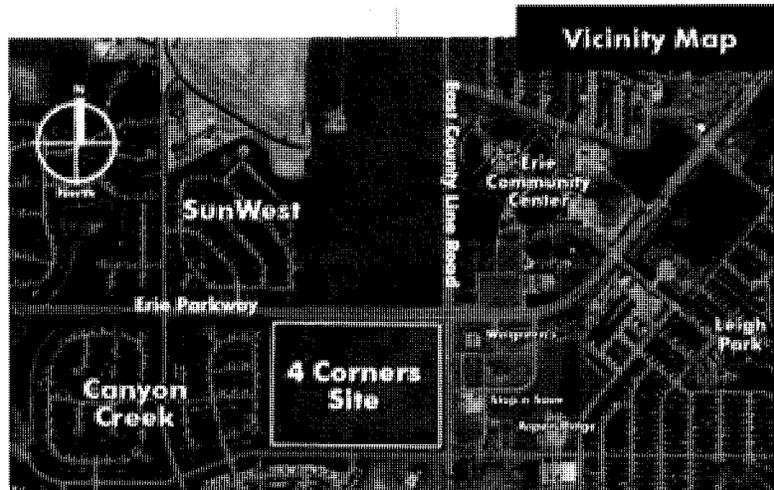
---

**Applicant:** RMCS, LLC  
21 South Sunset Street  
Longmont, Colorado, 80501

**Owners:** Erie Commercial Venture, LLC  
7720 East Belleview Avenue, Suite 350  
Greenwood Village, Colorado, 80111

**Property Location:**

The portion of Canyon Creek PD Amendment No. 9 that is being modified is located in the Canyon Creek Subdivision Filing No. 10 (4 Corners Site) which is located on the southwest corner of Erie Parkway and County Line Road.



**Current Land Use and Zoning – Canyon Creek Filing No. 10:**

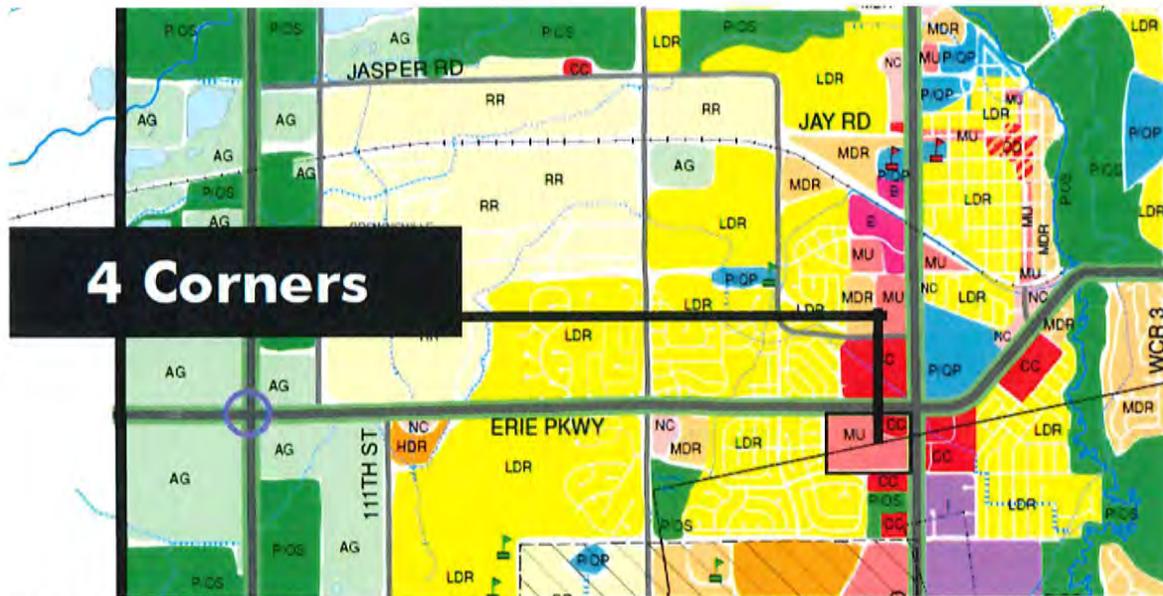
Zoning: Canyon Creek PD – Planned Development  
 Project Size: 46.6 Acres  
 Existing Use: Vacant Lot

**Adjacent Land Use and Zoning:**

	ZONING	LAND USE
<b>NORTH</b>	CC – Community Commercial CMU – Community Mixed Use LR – Low Density Residential	Ranchwood – Vacant Commercial Ranchwood – Vacant Mixed Use Sunwest – Single Family Residential
<b>EAST</b>	CC – Community Commercial	Commercial Uses / Charter School
<b>SOUTH</b>	PD – Planned Development	Canyon Creek Filing 6: Church Canyon Creek Filing 6 – Single Family Residential
<b>WEST</b>	PD – Planned Development	Canyon Creek Filing 5 – Single Family Residential

**Compliance with Town of Erie Comprehensive Plan:**

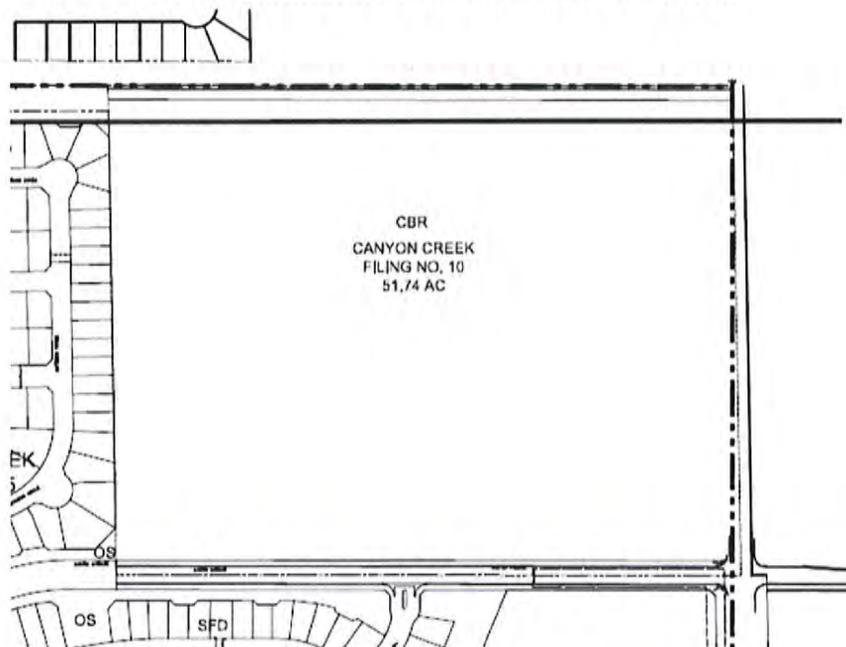
The application is in general Compliance with the Land Use designations on the Comprehensive Plan, Land Use Plan Map. This property allows for MU – Mixed Use and CC – Community Commercial land uses.



**Current Canyon Creek PD Amendment No. 8:**

As illustrated on the PD map below, the Canyon Creek Filing No. 10 area of the PD is currently designated on the PD zoning map as 51.74 acres of CBR – Commercial / Business / Retail.

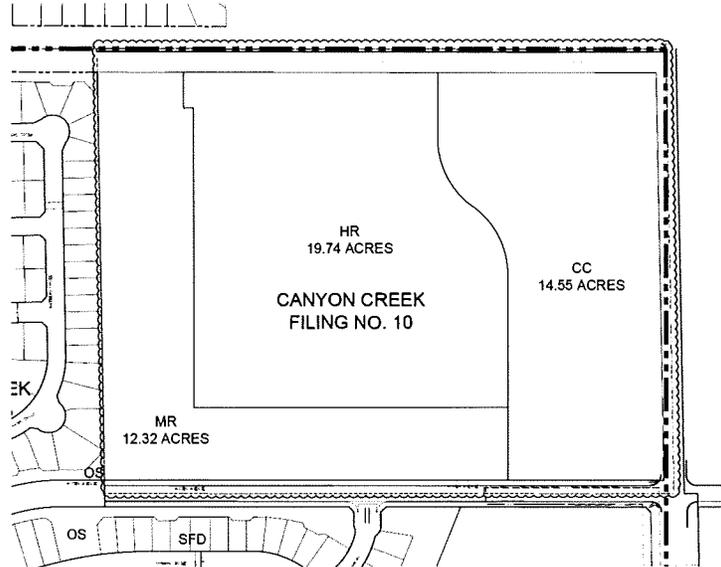
Existing Canyon Creeks PD Amendment No. 8 Map



**Proposed Canyon Creek PD Amendment No. 9:**

Canyon Creek PD Amendment No. 9 proposes amendments to create a mixed use neighborhood with a variety of commercial and residential dwelling types.

Proposed Canyon Creeks PD Amendment No. 9 Map



Proposed Land Uses

As illustrated on the PD Amendment No. 9 map above, the proposal for the Canyon Creek Filing No. 10 portion of the Canyon Creek PD is to designate three Principal Land Uses: 14.55 acres of CC-Community Commercial; 19.74 acres of HR-High Density Residential; and, 12.32 acres of MR-Medium Density Residential.

The Canyon Creek PD Amendment No. 9 CC-Community Commercial Land Use, HR-High Density Residential Land Use, and MR-Medium Density Residential Land Use will follow the Unified Development Code Table of Permitted Uses in CC-Community Commercial, HR-High Density Residential, and MR-Medium Density Residential zone districts.

Minor modifications to the Permitted Uses are found in Table II on Sheet 2 of the PD Amendment document. PD Amendment No. 9 will allow Single Family Detached – Patio homes as a use by right, with the same architectural design guidelines as were adopted in Canyon Creek Filing No. 9 for the Boulder Creek Neighborhoods patio home development, within the HR-High Density Residential Land Use and MR-Medium Density Residential Land Use. Additionally, within 200 feet of the existing single family homes in Canyon Creek Filing 5, the applicant has proposed that the housing be restricted to alley loaded single family patio homes or duplexes. This will ensure an appropriate housing transition from the existing single family homes to the new development in Filing 10.

Number of Dwelling Units:

PD Amendment No. 9 sets the maximum number of dwelling units in Canyon Creek Filing 10 as:

Land Use	Maximum Units	Minimum Density	Maximum Density
MR-Medium Density Residential:	107	5	10
High Density Residential:	393	10	20
Total:	500		

The proposed density range for the MR Land Use is the same as the Unified Development Code. The proposed density range for the HR Land Use is the same as the Unified Development Code with the density bonus option the UDC offers as an incentive to encourage a mix of dwelling unit types.

Lot Sizes:

Canyon Creek PD Amendment No. 9 also proposes minimum lot sizes and minimum lot widths based on residential use types. Adjacent is the proposed table of new minimum lot sizes and widths for Canyon Creek Filing No. 10 (modification occurring in bubbled portion of the table):

<b>III. MINIMUM LOT SIZES (per Planning Area)</b>				
<b>PLANNING AREA (Filing No.)</b>	<b>PRINCIPAL LAND USE</b>	<b>MIN. RES. LOT AREA (sq. feet)</b>	<b>MIN. INTERIOR RES. LOT WIDTH (feet)</b>	<b>MIN. CORNER RES. LOT WIDTH (feet)</b>
Filing No.1		5,000	50'	60'
Filing No.2		5,000	50'	60'
Filing No.3		5,000	50'	60'
Filing No.4		5,000	50'	60'
Filing No.5		5,000	50'	60'
Filing No.6		5,000	50'	60'
Filing No.7		5,000	50'	60'
Filing No.8		N/A	N/A	N/A
Filing No.9 SFD		9,500	80'	90'
Filing No.9 SFD-P		5,500	35'	40'
Filing No.9 TH		1,450	20'	35'
Filing No.10 MR & HR	SFD - Alley Loaded	3,150	30'	35'
Filing No.10 MR & HR	SFD - Patio Alley Loaded	3,800	30'	35'
Filing No.10 MR & HR	Duplex	2,250 per DU	25'	30'
Filing No.10 MR & HR	Town Home - Alley Loaded	1,450 per DU	NA	NA
Filing No.10 MR & HR	Multifamily	1,250 per DU	NA	NA

As reference for comparison; the table below is the Town's Municipal Code standard minimum lot sizes for our HR – High Density Residential and MR – Medium Density Residential Land Use areas.

<b>Zone District</b>	<b>Minimum Lot Area</b>	<b>Minimum Lot Width</b>
HR – High Density Residential	5,000 Single Family 2,500 Multifamily	50 feet Single Family 60 feet Single Family corner lot No minimum lot width for Multifamily
MR – Medium Density Residential	5,000 Single Family 2,500 Multifamily	50 feet Single Family 60 feet Single Family corner lot No minimum lot width for Multifamily

**Setbacks:**

Below is the proposed table of minimum setbacks for the proposed land uses in Canyon Creek Filing No. 10 (modification occurring in bubbled portion of the table):

**IV. MINIMUM SET BACK TO PRINCIPAL BUILDINGS**

All setbacks measured from the Property Line (PL) to the structure as noted.

Multiple principal buildings on a single lot shall be separated a distance equal to the distance that would be required if they were separated by a lot line.

PLANNING AREA (Filing No.)	FRONT YARD (feet)		SIDE YARD (feet)		REAR YARD (feet)
	To garage	To bldg.	Interior lot	Along street	
Filing No.1 - SFD	20'	20'	5'	15'	15'
Filing No.2 - SFD	20'	20'	5'	15'	15'
Filing No.3 - SFD	20'	20'	5'	15'	15'
Filing No.4 - SFD	20'	20'	5'	15'	15'
Filing No.5 - SFD	20'	20'	5'	15'	15'
- DC	20'	20'	10'	20'	20'
- MDR	20'	10'	5/0'*/***	5'	5'
Filing No.6 - SFD	20'	20'	5'***	15'*	15'
- RA	20'	20'	10'	20'	20'
- CBR	N/A	20'	5/0'*	20'	20'
Filing No.7 - SFD	20'	20'	5'	15'	15'
Filing No.8 - MDR	20'	15'	5/0'*	10'	15'
Filing No.9 - SFD	25'	25'	10'	20'	20'
- TH****	20'	5'	5/0'/*	5'	5'
- SFD-P****	20'	15'*****	5'	10'	10'
Filing No. 10 - CRD	N/A	20'	10/0'	20'	20'

As reference for comparison; the table below is the Town's Municipal Code standard setbacks.

Zone District	Front Yard to Garage	Front Yard to Building	Side Yard Interior Lot Line	Side Yard to Street	Rear Yard
MR – Low Density Residential	20'	20'	5'/0' for attached dwelling unit	20''	20''
HR – High Density Residential	20'	20'	10'/0' for attached dwelling unit	20'	20'
CC – Community Commercial		20'	10'/0' for attached units	20'	20'

The PD Amendment proposes to use the same setback encroachment language approved for the SFD-P and TH in Canyon Creek Filing No. 9 for the HR – High Density Residential and MR – Medium Density Residential Land Use areas. The encroachment language proposed for the CC – Community Commercial Land Use area states:

\*\*\*\*\* Awnings, blade signs, incidental architectural features such as cornices, eaves, canopies, chimneys, bay windows, ornamental features and other similar architectural features may project not more than five (5) feet into any required setback.

Maximum Building Height:

Adjacent is the proposed table of maximum building heights for the proposed land uses in Canyon Creek Filing No. 10 (modification occurring in bubbled portion of the table):

The HR – High Density Residential Land Use area includes a requirement that the proposed 45 foot building height maximum be limited to a three story building with the allowance of a mezzanine/entresol (mid-story level) within the building.

**VI. ADDITIONAL STANDARDS**

PLANNING AREA (Filing No.)	MIN. SETBACK BETWEEN BUILDINGS (feet)	MAX. LOT COVERAGE (percent %)		MAX BLDG. HEIGHT (feet)	
		Principal	Accessory *	Principal	Accessory
Filing No. 1 - SFD	10'	30%	30%	35'	25'
Filing No. 2 - SFD	10'	30%	30%	35'	25'
Filing No. 3 - SFD	10'	30%	30%	35'	25'
Filing No. 4 - SFD	10'	30%	30%	35'	25'
Filing No. 5 - SFD	10'	30%	30%	35'	25'
- DC	10'	30%	30%	35'	25'
- MDR	10'	NA	NA	25'	25'
Filing No. 6 - SFD	10'	NA	NA	35'	25'
- RA	10'	30%	30%	45'**	25'
- CBR	10'	30%	30%	35'	25'
Filing No. 7 - SFD	10'	NA	NA	35'	25'
Filing No. 8 - MDR	10'	NA	NA	35'	25'
Filing No. 9 - SFD	10'	30%	30%	35'	25'
-TH	0'	NA	NA	35'	NOT PERMITTED
-SFD-P	0'	NA	NA	35'	NOT PERMITTED
Filing No. 10 - MR	NA	NA	NA	35'	25'
-HR***	NA	NA	NA	45'	25'
-CC	NA	NA	NA	45'	25'

\* Maximum coverage of required yard

\*\* - 55' permitted for the domed portion of the church structure only.

- A cross may be placed on top of the domed portion, however the dome may not exceed 55 feet and the total height of the dome and cross may not exceed 60

- A bell tower is permitted but shall not be considered an appurtenance and shall not exceed 45 feet in height.

\*\*\* A maximum of three (3) stories is allowed; however, a mezzanine or entresol space is permitted if it has an interior entrance connection to the third floor unit, does not provide a separate, primary exterior entrance to the building, and the building height remains at or under 45 feet.

As reference for comparison; the table below is the Town's Municipal Code standard maximum building height for our CC – Community Commercial, HR – High Density Residential and MR – Medium Density Residential Land Use areas.

Zone District	Maximum Height
CC – Community Commercial	45 feet/3 stories max.
HR – High Density Residential	Principal: 35 feet Accessory: 25 feet
MR – Medium Density Residential	Principal: 35 feet Accessory: 25 feet

**STAFF ANALYSIS:**

Canyon Creek PD Amendment No. 9 was reviewed for conformance with Municipal Code, Title 10, UDC Section 10.7.23 C.9. Approval Criteria. Staff finds the Canyon Creek PD Amendment No. 9 application in compliance with the Approval Criteria as listed below.

- a. The PD district zoning is generally consistent with the purpose of the PD zone district as set forth in UDC Sections 2.5 and 7.6.  
Staff: It is generally consistent.
- b. The modification to the UDC regulations is based on creative and innovative design and amenities incorporated in the PD zone district that could not otherwise be achieved through other standard zoning districts or through another modification processes such as Alternative Equivalent Compliance in UDC Subsection 6.1.C or the PUD Overlay District in UDC Subsection 2.7.D.  
Staff: The modification allows for the construction of a mixed use neighborhood at the crossroads of the Towns primary principal arterial streets (Erie Parkway and County Line Road).
- c. The PD zoning district will promote the public health, safety, and general welfare.  
Staff: The PD Amendment promotes the public health, safety and general welfare.
- d. The PD zoning district is generally consistent with the Town of Erie Comprehensive Master Plan; Transportation Master Plan; Parks, Recreation, Open Space, and Trails Master Plan, and other pertinent Town plan and policy documents.  
Staff: The PD Amendment is generally consistent with the Town of Erie master plans.
- e. Adequate and sufficient public safety, utility facilities and services, recreation facilities, parks, open space, and schools are available to serve the property, while maintaining sufficient levels of service to existing development.  
Staff: Adequate facilities are available to serve the property and existing development.
- f. The PD zone district provides adequate vehicular circulation and parking facilities in terms of traffic volumes, convenience, safety, access, screening and noise.  
Staff: All proposed vehicular facilities will meet the Town requirements at the time of plat application.
- g. A pedestrian and bicycle circulation system that provides connections to adjacent properties, existing and future trails, parks, open space, recreational facilities, schools, and other places of public gathering.  
Staff: Adequate pedestrian and bicycle circulation are proposed in the supporting Sketch Plan application.
- h. The PD zone district is not likely to result in significant adverse impacts to the natural environment, and significant scenic and historic features.  
Staff: Significant adverse impacts are not anticipated.
- i. The PD zone district will not result in significant adverse impacts on properties in the vicinity of the PD zone district, or such impacts will be substantially mitigated.  
Staff: Adequate access onto the adjacent principal arterial streets to help mitigate any vehicular impacts on the adjacent properties and the supporting Sketch Plan application has indicated that an emphasis will be made to provide safe pedestrian access through the site. Significant adverse impacts are not anticipated.
- j. Proposed uses will be compatible in scale with uses on properties in the vicinity of the PD zone district.  
Staff: The proposed development will provide a transition of residential uses from the proposed commercial to the existing land uses that is compatible in scale.

- k. The residential areas of a PD zone district allocate a variety of housing types and densities appropriate to the size of the residential development area.  
Staff: The PD Amendment allows for diversification of the housing within Canyon Creek.
- l. Visual relief is provided through building placement, shortened or interrupted street vistas, visual access to open space, parks, and other design methods.  
Staff: The Sketch Plan that supports the PD Amendment provides visual relief through the use of alleys and common open spaces.
- m. The modifications permitted in the PD zone district have been made in exchange for greater public benefits that would not have otherwise be achieved through development under another zone district.  
Staff: The PD Amendment will allow for a wider diversity of housing and commercial options within the Canyon Creek Subdivision.

**Staff Recommendation:**

Staff finds the application consistent with the PD Amendment approval criteria in Municipal Code Section 10.7.23 C.9 and recommends approval of the Canyon Creek PD Amendment No. 9 application, on a second reading of the Ordinance. Staff has provided draft Ordinance 20-2015 approving the application for the Board of Trustees to consider.

**Public Notice**

Colorado Hometown Weekly Newspaper Publication:	July 22, 2015
Notice Posted on Public Notice Boards and on Property; and,	
Letters to adjacent property owners mailed:	July 24, 2015

The documentation required for the PD Amendment application is complete. The Community Development file for the Canyon Creek PD Amendment No. 9 application is entered into the public record.

**Neighborhood Meeting:**

As required by the Municipal Code a Neighborhood Meeting was held on June 26th at 6:00 p.m. in the Erie Community Center. The required notice for the Neighborhood Meeting was provided.

---

**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. Ordinance 20-2015
- B. Planning Commission Resolution P15-23 and Minutes

**EXHIBIT A**

**ORDINANCE NO. 20-2015**

**AN ORDINANCE OF THE TOWN OF ERIE, COLORADO, APPROVING CANYON CREEK PD AMENDMENT NO. 9; MAKING FINDINGS SUPPORTING CANYON CREEK PD AMENDMENT NO. 9; AND, SETTING FORTH DETAILS IN RELATION THERETO.**

**WHEREAS**, Erie Commercial Venture, LLLP, 6950 East Belleview Avenue, Suite 202, Greenwood Village, Colorado, hereinafter known as the “Developer,” has submitted a “PD” Planned Development Amendment (“Canyon Creek PD Amendment No. 9”) for those certain lands within the Town of Erie, Colorado, known as “Canyon Creek”, under the authority provided by the Municipal Code of the Town of Erie, Colorado; and,

**WHEREAS**, the Planning Commission of the Town of Erie, Colorado, conducted a public hearing on July 15, 2015, pursuant to the published notice for consideration of the Canyon Creek Planned Development “PD” Amendment No. 9, on the application of Erie Commercial Venture, LLLP, 6950 East Belleview Avenue, Suite 202, Greenwood Village, Colorado, and;

**WHEREAS**, the Board of Trustees of the Town of Erie, Colorado, considered the Canyon Creek PD Amendment No. 9 at a public hearing held on August 11, 2015 for which meeting public notice was legally given, on the application of the Developer, being the amendment of the PD for the following real property; to wit:

A Portion of the Southeast One-Quarter of Section 13, and A Portion of the Southeast One-Quarter of the Southwest One-Quarter of Section 13, and A Portion of the South One-Half of Section 24, Township 1 North, Range 69 West of the Sixth Principal Meridian, Town of Erie, County of Boulder, State of Colorado,

and,

**WHEREAS**, the Developer’s application and supporting documents are in substantial compliance with the “*Town of Erie, 2005 Comprehensive Plan*” and the “*Town of Erie Municipal Code, Title 10*”; and,

**WHEREAS**, Canyon Creek PD Amendment No. 9 as proposed will preserve the health, safety, welfare and interest of the citizens of the Town of Erie, Colorado; and,

**WHEREAS**, the notice has been given and the public hearings have been held, all as required by the Municipal Code of the Town of Erie.

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

**Section 1.** That following a legally noticed and duly conducted public hearing, the Board of Trustees of the Town of Erie has determined that the Canyon Creek PD Amendment No. 9 application meets the approval criteria in Municipal Code Title 10, Section 7.23 C.9., as applied to an existing PD, specifically making the following findings:

- a. The PD district zoning is generally consistent with the purpose of the PD zone district as set forth in UDC Sections 2.5 and 7.6.

Finding: It is generally consistent.

- b. The modification to the UDC regulations is based on creative and innovative design and amenities incorporated in the PD zone district that could not otherwise be achieved through other standard zoning districts or through another modification processes such as Alternative Equivalent Compliance in UDC Subsection 6.1.C or the PUD Overlay District in UDC Subsection 2.7.D.

Finding: The modification allows for the construction of a mixed use neighborhood at the crossroads of the Towns primary principal arterial streets (Erie Parkway and County Line Road).

- c. The PD zoning district will promote the public health, safety, and general welfare.

Finding: The PD Amendment promotes the public health, safety and general welfare.

- d. The PD zoning district is generally consistent with the Town of Erie Comprehensive Master Plan; Transportation Master Plan; Parks, Recreation, Open Space, and Trails Master Plan, and other pertinent Town plan and policy documents.

Finding: The PD Amendment is generally consistent with the Town of Erie master plans.

- e. Adequate and sufficient public safety, utility facilities and services, recreation facilities, parks, open space, and schools are available to serve the property, while maintaining sufficient levels of service to existing development.

Finding: Adequate facilities are available to serve the property and existing development.

- f. The PD zone district provides adequate vehicular circulation and parking facilities in terms of traffic volumes, convenience, safety, access, screening and noise.

Finding: All proposed vehicular facilities meet the Town Municipal Code requirements at the time of plat application.

- g. A pedestrian and bicycle circulation system that provides connections to adjacent properties, existing and future trails, parks, open space, recreational facilities, schools, and other places of public gathering.

Finding: Adequate pedestrian and bicycle circulation are proposed in the supporting Sketch Plan application.

- h. The PD zone district is not likely to result in significant adverse impacts to the natural environment, and significant scenic and historic features.

Finding: Significant adverse impacts are not anticipated.

- i. The PD zone district will not result in significant adverse impacts on properties in the vicinity of the PD zone district, or such impacts will be substantially mitigated.

Finding: Adequate access onto the adjacent principal arterial streets will help mitigate any vehicular impacts on the adjacent properties and the supporting Sketch Plan application has indicated that an emphasis will be made to provide safe pedestrian access through the site. Significant adverse impacts are not anticipated.

- j. Proposed uses will be compatible in scale with uses on properties in the vicinity of the PD zone district.

Finding: The proposed development will provide a transition of residential uses from the proposed commercial to the existing land uses that is compatible in scale.

- k. The residential areas of a PD zone district allocate a variety of housing types and densities appropriate to the size of the residential development area.

Finding: The PD Amendment allows for diversification of the housing within Canyon Creek.

- i. Visual relief is provided through building placement, shortened or interrupted street vistas, visual access to open space, parks, and other design methods.

Finding: The Sketch Plan that supports the PD Amendment provides visual relief through the use of alleys and common open spaces.

- m. The modifications permitted in the PD zone district have been made in exchange for greater public benefits that would not have otherwise be achieved through development under another zone district.

Finding: The PD Amendment will allow for a wider diversity of housing and commercial options within the Canyon Creek Subdivision.

That the proposed Canyon Creek Planned Development Amendment No. 9 will preserve the health, safety, welfare, and interest of the citizens of Erie, Colorado.

**Section 2.** That Canyon Creek PD Amendment No. 9, as specifically set forth in the Town of Erie, Canyon Creek PD Amendment No. 9 application, for the Property owned by the Developer, described herein above, is hereby approved, in accordance with the provisions of Municipal Code, Title 10 of the Town of Erie, Colorado.

**Section 3.** The Canyon Creek PD Amendment No. 9 shall not affect the Developer's commitments made in the Annexation Agreement, Development Agreements, and the Site Plan Agreements, except as may be specifically amended herein.

**Section 4. Severance Clause.** If an article, section, paragraph, sentence, clause or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Board of Trustees of the Town of Erie, Colorado hereby declares that it would have passed this Ordinance and each part or parts thereof, irrespective of the fact that any one part or parts may be declared invalid or unconstitutional.

**Section 5. Repeal.** All other ordinances or parts of any ordinances or other Code provisions in conflict herewith are hereby repealed.

**Section 6. Effective Date.** This Ordinance shall take effect thirty (30) days after publication following final passage or upon the full execution of the Canyon Creek PD Amendment No. 9 and the recording of the same with the Boulder County Clerk and Recorder, whichever occurs later.

**INTRODUCED, PASSED, ADOPTED AND ORDERED PUBLISHED IN FULL  
BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE THIS 8<sup>TH</sup> DAY OF  
SEPTEMBER 2015.**

**PUBLISHED IN FULL ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2015.**

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

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

Tina Harris, Mayor

ATTEST:

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

Nancy Parker, Town Clerk

**EXHIBIT B**

**RESOLUTION NO. P15-23**

**A RESOLUTION REGARDING THE HEARING ON  
CANYON CREEK PD AMENDMENT NO. 9, ADOPTING CERTAIN FINDINGS OF  
FACT AND CONCLUSIONS FAVORABLE TO THE PD AMENDMENT.**

**WHEREAS**, the Planning Commission of the Town of Erie, Colorado, considered Canyon Creek PD Amendment No. 9 at a public hearing on Wednesday, July 15, 2015, on the application of Erie Commercial Venture, LLLP, 6950 East Belleview Avenue, Suite 202, Greenwood Village, Colorado, for the PD Amendment of the following real property; to wit:

A Portion of the Southeast One-Quarter of Section 13, and A Portion of the Southeast One-Quarter of the Southwest One-Quarter of Section 13, and A Portion of the South One-Half of Section 24, Township 1 North, Range 69 West of the Sixth Principal Meridian, Town of Erie, County of Boulder, State of Colorado;

**NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE TOWN OF ERIE, COLORADO, AS FOLLOWS:**

**Section 1. Findings of Fact.**

1. The applicant's application and supporting documents are in substantial compliance with the Town of Erie Municipal Code, Title 10.
2. Following a duly noticed and conducted public hearing, the Planning Commission determined that the application meets the approval criteria in Municipal Code Title 10, Section 10.7.23 C.9. Approval Criteria:
  - a The PD district zoning is generally consistent with the purpose of the PD zone district as set forth in UDC Sections 2.5 and 7.6.
  - b The modification to the UDC regulations is based on creative and innovative design and amenities incorporated in the PD zone district that could not otherwise be achieved through other standard zoning districts or through another modification processes such as Alternative Equivalent Compliance in UDC Subsection 6.1.C or the PUD Overlay District in UDC Subsection 2.7.D.
  - c The PD zoning district will promote the public health, safety, and general welfare.
  - d The PD zoning district is generally consistent with the Town of Erie Comprehensive Master Plan; Transportation Master Plan; Parks, Recreation, Open Space, and Trails Master Plan, and other pertinent Town plan and policy documents.
  - e Adequate and sufficient public safety, utility facilities and services, recreation facilities, parks, open space, and schools are available to serve the property, while maintaining sufficient levels of service to existing development.
  - f The PD zone district provides adequate vehicular circulation and parking facilities in terms of traffic volumes, convenience, safety, access, screening and noise.
  - g A pedestrian and bicycle circulation system that provides connections to adjacent properties, existing and future trails, parks, open space, recreational facilities, schools, and other places of public gathering.

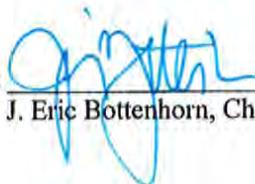
- h The PD zone district is not likely to result in significant adverse impacts to the natural environment, and significant scenic and historic features.
  - i The PD zone district will not result in significant adverse impacts on properties in the vicinity of the PD zone district, or such impacts will be substantially mitigated.
  - j Proposed uses will be compatible in scale with uses on properties in the vicinity of the PD zone district.
  - k The residential areas of a PD zone district allocate a variety of housing types and densities appropriate to the size of the residential development area.
  - l Visual relief is provided through building placement, shortened or interrupted street vistas, visual access to open space, parks, and other design methods.
  - m The modifications permitted in the PD zone district have been made in exchange for greater public benefits that would not have otherwise be achieved through development under another zone district.
3. That the proposed Canyon Creek Planned Development Amendment No. 9 will preserve the health, safety, welfare, and interest of the citizens of Erie, Colorado.

**Section 2. Conclusions and Order Recommending Approval to the Board of Trustees for Canyon Creek PD Amendment No. 9.**

- 1. The applicant's application and supporting documents are in substantial compliance with Municipal Code, Title 10.
- 2. Based on the above Findings of Fact, the Planning Commission hereby forwards the Canyon Creek PD Amendment No. 9 application to the Board of Trustees with the Planning Commission's recommendation for approval.

**INTRODUCED, READ, SIGNED AND APPROVED** this 15<sup>th</sup> day of July 2015.

TOWN OF ERIE, PLANNING COMMISSION

By:   
J. Eric Bottenhorn, Chair

ATTEST:

By:   
Hallie S. Sawyer, Secretary

**Town of Erie**  
**Planning Commission Regular Meeting**  
**Wednesday, July 15, 2015**  
**6:30 p.m.**  
**Board Room, Erie Town Hall, 645 Holbrook, Erie, Co 80516**

---

**I. CALL MEETING TO ORDER & PLEDGE OF ALLEGIANCE**

Chairman Bottenhorn called the Regular Meeting of the Erie Planning Commission to order at 6:30 p.m.

**II. ROLL CALL**

Commissioner Bottenhorn - Present	Commissioner Fraser -
Commissioner Burgard – Arrived 6:32	Commissioner Gippe - Excused
Commissioner Campbell - Present	Commissioner Harrison - Present
Commissioner Kemp - Present	

Staff Present: R. Martin Ostholthoff, Community Development Director;  
Deborah Bachelder, Senior Planner;  
Todd Bjerkaas, Senior Planner;  
A.J. Krieger, Town Administrator;  
Paula Mehle, Economic Development; and  
Hallie Sawyer, Secretary to the Commission

**III. APPROVAL OF THE AGENDA**

Commissioner Campbell moved to amend the agenda by moving item VI.6. Public Hearing – Comprehensive Plan Amendment to the first business item, and approve the July 15, 2015, Regular Meeting Agenda as amended. The motion, seconded by Commissioner Kemp, carried with all voting in favor thereof.

**IV. APPROVAL OF MINUTES**

**a. Minutes from the May 20, 2015, Regular Meeting.**

Commissioner Harrison moved to approve the May 20, 2015, Minutes as submitted. The motion, seconded by Commissioner Campbell, carried with all voting in favor thereof.

**V. PUBLIC COMMENTS** (This agenda item provides the public an opportunity to discuss items other than items that are on the agenda. The Planning Commission is not prepared to decide on matters brought up at this time, but if warranted, will place them on a future agenda.)

Comment was taken from Ken Martin, Chairman of the Town of Erie Open Space and Trails Advisory Board, regarding OSTAB's concerns about the proposed Sketch Plan for Canyon Creek Filing 10 Four Corners development that will be considered later in the meeting.

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

**1. Public Hearing – Comprehensive Plan Amendment - TO BE CONTINUED TO AUGUST 19<sup>TH</sup>, 2015**

Purpose: Consideration of a Comprehensive Plan Amendment

Project File #: CPA-000195-2015

Request: Consideration of Resolution P15-\_\_\_

Location: N/A

Applicants: N/A

(Staff Planner: Marty Ostholthoff)

Chairman Bottenhorn opened the public hearing at 6:35 p.m., and continued the hearing to August 19, 2015.

## **2. Public Hearing – Vista Ridge F-14 Minor Subdivision Plat**

Purpose: Consideration of Minor Subdivision Plat

Project File #: MS-14-00049

Request: Consideration of Resolution P15-19, A Resolution Regarding The Minor Subdivision Plat Of Vista Ridge Filing No. 14, Adopting Certain Findings Of Fact And Conclusions Favorable To The Minor Subdivision Plat.

Location: NW Corner of Sheridan Blvd. and CO Highway 7

Applicants: Montex (Brownlee)

(Staff Planner: Todd Bjerkaas)

Chairman Bottenhorn opened the public hearing at 6:35 p.m. Mr. Bjerkaas presented the applications for the Vista Ridge Filing 14 Minor Subdivision Plat and Site Plan, entered the documents into evidence and presented the staff recommendations for approval of the two resolutions. Chairman Bottenhorn swore in the audience.

Drew Warot and Brandon McClary, 65 Tejon Street, Denver, represented Kings Soopers, the project anchor, and were present to address questions and concerns.

Public Comment was taken from Betty Jo Booth, Chairman of the Board for the Vista Ridge Academy; Monica Wernick of Vista Ridge; and Stephen Weddig, 1265 Graham Circle. Comments covered Vista Academy's concerns about the rear of the King Soopers Store being so close to the school; store deliveries impacting school drop offs; losing fields and open space; impact on area homes and traffic; with Erie's Safeway being in Lafayette and King Soopers in Broomfield, folks in the middle had nowhere close to shop.

Commissioner questions and concerns covered store deliveries vs. school drop-offs; blending of architectural detail with the surrounding community; entryway coverings to provide protection from weather; Highway 7/Sheridan expansion time frames; estimated completion time; why 3' shorter parking spaces; parking lot safety; location of existing cottonwood trees; what determined size of fueling bay; why no drive-thru like for Starbucks; how will current topography be changed; will perimeter walks be extended to existing walks; are the sign size changes unique to Erie; is the property to the west future multifamily; explain process of evaluating future store sites; and will three pad sites be sold or leased to future users.

Chairman Bottenhorn closed the public hearings at 7:51 p.m.

Commissioner comments covered general excitement to welcome King Soopers to Erie, citing the huge need that will be filled; appreciation for delivery times occurring during evening hours; thanks for well written reports and submittal and for answering all of the questions and concerns; good presentation; and all commissioners noted agreement with all of the proposed Alternative Compliance requests.

Commissioner Campbell moved approval of Resolution P15-19, A Resolution Regarding The Minor Subdivision Plat Of Vista Ridge Filing No. 14, Adopting Certain Findings Of Fact And Conclusions Favorable To The Minor Subdivision Plat. The motion, seconded by Commissioner Kemp, carried with all voting in favor thereof.

## **3. Public Hearing – Vista Ridge F-14 Site Plan**

Purpose: Consideration of Site Plan

Project File #: SP-14-00050

Request: Consideration of Resolution P15-20, A Resolution making Certain Findings Of Fact And Conclusions Favorable To The Site Plan For Vista Ridge Filing no. 14, Town of Erie, County of Weld, State of Colorado.

Location: NW Corner of Sheridan Blvd. and CO Highway 7

Applicants: Montex (Brownlee)

(Staff Planner: Todd Bjerkaas)

Commissioner Harrison moved approval of Resolution P15-20, A Resolution making Certain Findings Of Fact And Conclusions Favorable To The Site Plan For Vista Ridge Filing no. 14, Town of Erie, County of Weld, State of Colorado. The motion, seconded by Commissioner Campbell, carried with all voting in favor thereof.

Chairman Bottenhorn called for a short recess at 8:00 p.m. The meeting was called back to order at 8:03p.m.

**4. Public Hearing – Vista Ridge F-2, 1<sup>st</sup> Amendment Preliminary Plat**

Purpose: Consideration of Preliminary Plat

Project File #: PP-000055-2014

Request: Consideration of Resolution P15-21, A Resolution Regarding The Vista Ridge Filing No. 2, 1<sup>st</sup> Amendment Preliminary Plat, Adopting Certain Findings Of Fact And Conclusions Favorable To The Preliminary Plat.

Location: North of Ridge View Drive between the Primrose School and Vista Academy

Applicants: Montex (Vista Ridge, LLC)

(Staff Planner: Marty Ostholthoff)

Chairman Bottenhorn opened the public hearing at 8:04 p.m. Mr. Ostholthoff presented the applications for the Vista Ridge Filing 2, 1<sup>st</sup> Amendment Preliminary Plat and Site Plan, entered the documents into evidence and presented the staff recommendations for approval of the two resolutions. Chairman Bottenhorn swore in the audience.

Ward Ritter, Chartered Homes, 3160 Village Vista Drive, Erie, was present to address any questions and concerns.

There was no public comment.

Commissioner questions and concerns covered will this be more upscale than Latitude; will the homes backing to the golf course have walkouts; soils/foundation issues – are there guarantees in place; street tops; and estimated HOA costs.

Chairman Bottenhorn closed the public hearing at 8:27p.m.

The Commission had no further comments.

Commissioner Kemp moved approval of Resolution P15-21, A Resolution Regarding The Vista Ridge Filing No. 2, 1<sup>st</sup> Amendment Preliminary Plat, Adopting Certain Findings Of Fact And Conclusions Favorable To The Preliminary Plat. The motion, seconded by Commissioner Harrison, carried with all voting in favor thereof.

**5. Public Hearing – Vista Ridge F-2, 1<sup>st</sup> Amendment Site Plan**

Purpose: Consideration of Site Plan

Project File #: SP-000054-2014

Request: Consideration of Resolution P15-22, A Resolution Making Certain Findings Of Fact And Conclusions Favorable To The Site Plan For Vista Ridge Filing No. 2, 1<sup>st</sup> Amendment, Town Of Erie, County Of Weld, State Of Colorado.

Location: North of Ridge View Drive between the Primrose School and Vista Academy

Applicants: Montex (Vista Ridge, LLC)

(Staff Planner: Marty Ostholthoff)

Commissioner Kemp moved approval of Resolution P15-22, A Resolution Making Certain Findings Of Fact And Conclusions Favorable To The Site Plan For Vista Ridge Filing No. 2, 1<sup>st</sup> Amendment, Town Of Erie, County Of Weld, State Of Colorado. The motion, seconded by Commissioner Harrison, carried with all voting in favor thereof.

**6. Public Hearing – Canyon Creek Planned Development Amendment No. 9**

Purpose: Consideration of Planned Development Amendment No. 9 for Canyon Creek

Project File #: PDA-000544-2015

Request: Consideration of Resolution P15-23, A Resolution Regarding The Hearing On Canyon Creek PD Amendment No. 9, Adopting Certain Findings Of Fact And Conclusions Favorable To The PD Amendment.

Location: SW Corner of Erie Parkway & County Line Road

Applicants: Erie Commercial Ventures, LLLP  
(Staff Planner: Deborah Bachelder)

Chairman Bottenhorn opened the public hearing at 8:29 p.m. Mrs. Bachelder presented the applications for the Canyon Creek PD Amendment No. 9 and Sketch Plan for Canyon Creek Filing 10, entered the documents into evidence and presented the staff recommendations for approval of the resolution. Chairman Bottenhorn swore in the audience, and disclosed that the architect for this project had been a client of his firm in the past. They were no longer doing business, and his judgment would not be swayed by the acquaintance.

Justin McClure, RMCS, LLC, 21 S. Sunset Street, would present details of the Sketch Plan and was available to address questions and concerns.

Public Comment was taken from Douglas Luers, 600 Mathews Circle; and Vladimir Dixy, 409 Graham Way. Concerns covered view from back yards; need for a view corridor and or open space between developments; construction noise and dirt; light pollution; home values; traffic signal at Austin Avenue & County Line; need for a small grocer like Sprouts; and will the Town be financing infrastructure.

Commissioner question and concerns included traffic; impact of this added density on existing Town facilities; plug for splash parks; strategy for leasing/owning retail pad sites; how has McStain done with their alley loaded Single Family; market study; will they partner with preferred builders; and will the multifamily be serviced by elevators of walkups.

Commissioner Bottenhorn closed the public hearing at 9:21 p.m.

Commissioner Comments covered excitement to see this plan; nice to see plans for a desperately needed grocery store in this specific area; this is a better compromise than big box development; likes linear park idea; tonight has been mind-blowing, seeing this type of growth presented after 16 years; excitement about the possibilities; appreciation for park alternatives; fascinating concept that looks neat; appreciation for an appropriate plan that should be in this location; and the 45' height will be appropriate.

Commissioner Campbell moved approval of Resolution P15-23, A Resolution Regarding The Hearing On Canyon Creek PD Amendment No. 9, Adopting Certain Findings Of Fact And Conclusions Favorable To The PD Amendment. The motion, seconded by Commissioner Kemp, carried with all voting in favor thereof.

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

**1. Canyon Creek F-10 Sketch Plan**

Purpose: Consider proposed sketch plan

Project File #: SK-000206-2015

Request: Consider and comment on proposed sketch plan

Location: SW Corner of Erie Parkway & County Line Road

Zoning: Canyon Creek Planned Development

Applicants: Erie Commercial Ventures, LLLP

(Staff Planner: Deborah Bachelder)

Comments were made during the public hearing portion of the meeting.

**VIII. STAFF REPORTS** (This agenda items is reserved for specific items from Staff requiring Commission direction or just relaying important information.)

The Stakeholders meeting next Tuesday, July 21<sup>st</sup> will begin at 6 p.m.

**IX. COMMISSIONER REPORTS AND DISCUSSION ITEMS** (This agenda item is for all Planning Commission reports and items of information as well as Commission discussion items, not listed on the agenda)

**None.**

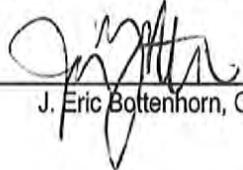
X. **ADJOURNMENT**

There being no further business to come before the Commission, Chairman Bottenhorn adjourned the July 15, 2015, Regular Meeting of the Planning Commission at 9:33 p.m.

Respectfully Submitted,

Town of Erie Planning Commission

By:   
Hallie S. Sawyer, Secretary

By:   
J. Eric Bottenhorn, Chair

**TOWN OF ERIE**  
**BOARD OF TRUSTEE AGENDA ITEM**  
**Board Meeting Date: September 8, 2015**

---

**SUBJECT:** LAND DEVELOPMENT RESOLUTIONS AND ORDINANCES

**Consideration of Resolution 15-101 (Continued from 8/25/2015):**  
 A Resolution By The Board Of Trustees Of The Town Of Erie, Colorado Approving The 4 Corners Pre-Development Agreement; Authorizing The Appropriate Town Official To Sign Said Pre-Development Agreement; And, Setting Forth Details In Relation Thereto.

**PURPOSE:** Authorize Town officials to accept, and to sign the 4 Corners Pre-Development Agreement.

**CODE:** Erie Municipal Code, Title 10

**DEPARTMENT:** Community Development

**PRESENTER:** Deborah Bachelder AICP, Senior Planner

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

**STAFF RECOMMENDATION:** Approval of Resolution 15-101 authorizing Town officials to accept, and to sign the 4 Corners Pre-Development Agreement.

**PLANNING COMMISSION RECOMMENDATION:** N/A

**SUMMARY AND BACKGROUND**

The Resolution provided for the Board of Trustees authorizes Town officials to accept, and to sign the 4 Corners Pre-Development Agreement. The Pre-Development Agreement addresses the current development proposal for residential and commercial development of the property, as illustrated in the Canyon Creek PD Amendment No. 9 application and the Canyon Creek Filing No. 10 Sketch Plan application that is being reviewed concurrently with the Pre-Development Agreement.

---

**Staff Review:**

\_\_\_\_ Town Attorney  
\_\_\_\_ Town Clerk  
PK Community Development Director  
\_\_\_\_ Finance Director  
\_\_\_\_ Police Chief  
\_\_\_\_ Public Works Director

**Approved by:**

  
\_\_\_\_  
**A. J. Krieger**  
**Town Administrator**

---

**ATTACHMENTS:**

- A. Draft Resolution 15-101
- B. 4 Corners Pre-Development Agreement

**EXHIBIT A**

**RESOLUTION NO. 15-101**

**A RESOLUTION BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE, COLORADO APPROVING THE 4 CORNERS PRE-DEVELOPMENT AGREEMENT; AUTHORIZING THE APPROPRIATE TOWN OFFICIAL TO SIGN SAID PRE-DEVELOPMENT AGREEMENT; AND, SETTING FORTH DETAILS IN RELATION THERETO.**

**WHEREAS**, the Board of Trustees approved Ordinance 20-2015, rezoning the Canyon Creek Filing No. 10 (4 Corners) Property, in Canyon Creek PD Amendment No.9, from the Commercial Business Retail (CBR) land use category, to a combination of Community Commercial (CC), High Density Residential (HR) and Medium Density Residential (MR) land use categories; and,

**WHEREAS**, both Erie and the Owner now desire to enter into the Pre-Development Agreement to bind the Owner to those uses, maximum number of dwelling units, lot size, bulk and dimension standards, landscaping and densities for the Property specifically relied upon by the Board of Trustees in approving the rezoning ordinance; and,

**WHEREAS**, the Director of the Community Development Department recommends that the Board of Trustees approve and accept the Pre-Development Agreement.

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

Section 1. That the Board of Trustees of the Town of Erie hereby approves the 4 Corners Pre-Development Agreement, a copy of which is attached hereto and incorporated herein by this reference.

Section 2. That the Town of Erie be and is hereby authorized and directed to enter into the 4 Corners Pre-Development Agreement, and the appropriate Town officers are hereby authorized and directed to sign and bind the Town to the Pre-Development Agreement.

**ADOPTED AND APPROVED THIS 8<sup>TH</sup> DAY OF SEPTEMBER, 2015, 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

**EXHIBIT B**

**4 CORNERS  
Pre-Development Agreement**

**THIS PRE-DEVELOPMENT AGREEMENT** ("Agreement") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2015, by and between the **TOWN OF ERIE**, a Colorado municipal corporation, hereinafter referred to as "Erie", and RMCS, LLC, a Colorado limited liability company, hereinafter referred to as "Developer;"

**WHEREAS**, On June 3, 2014, Developer and Erie Commercial Venture, LLLP, hereinafter referred to as "Owner", entered into an Agreement of Purchase and Sale, whereby Developer shall purchase the real property described on Exhibit A, attached hereto and incorporated herein by this reference (the "Property"); and,

**WHEREAS**, it is anticipated that Developer and Owen will complete the closing of the purchase and sale, and that the Property will be simultaneously conveyed to Developer on a date in the future which shall not be later than February 1, 2016; and

**WHEREAS**, Developer has submitted to Erie an application to amend the current Canyon Creek PD zoning ("PD Amendment") of the Property from the Commercial Business Retail (CBR) land use category to a combination of Community Commercial (CC), High Density Residential (HR) and Medium Density Residential (MR) land use categories; and,

**WHEREAS**, the Board of Trustees of Erie held public hearings on the Developer's PD Amendment application for re-zoning on \_\_\_\_\_ and again on \_\_\_\_\_ ("Public Hearing"), at which time evidence and testimony were received by the Board of Trustees, and which evidence and testimony were relied upon by the Board of Trustees in making findings and in determining whether or not the Erie Municipal Code's criteria for the re-zoning had been met by the Developer; and,

**WHEREAS**, Developer presented evidence and testimony at the Public Hearing, regarding uses, maximum number of dwelling units, lot size, bulk and dimension standards, landscaping and densities for the Property, which evidence and testimony was specifically relied upon by the Board of Trustees in making findings and in determining that the Erie Municipal Code's criteria for the re-zoning had been met by the Developer and in approving the re-zoning of the Property; and,

**WHEREAS**, the Board of Trustees of Erie did approve the PD Amendment application for re-zoning of the property on \_\_\_\_\_, as depicted on the zoning map, marked Exhibit B ("Zoning Map"); and,

**WHEREAS**, both Erie and Developer understand and agree that Developer will submit a subdivision and/or site plan applications for the Property at some future date in accordance with the Erie Municipal Code and the terms of the PD Amendment, and that at the time of the subdivision of the Property a development agreement will be required of Developer in conjunction with the subdivision process, which development agreement will include provisions regarding the required improvements and special provisions related to the subdivision and development of the Property, together with the terms set forth herein; and,

**WHEREAS**, this Agreement is not intended to replace the development agreements that may be required as part of the Erie Municipal Code, but is intended only to bind the parties hereto to those items specifically set forth herein and relied upon by the Board of Trustees in making findings and in determining that the Erie Municipal Code's criteria for the re-zoning had been met by the Developer.

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

1. **Zoning.** The approved zoning for the Property is depicted on the Zoning Map, attached hereto as Exhibit B and incorporated herein by this reference.

2. **Access Locations.** Access points to the Property may be located as depicted on Exhibit C attached hereto and incorporated herein by this reference; provided however that Developer obtains written agreement from Erie and the Ranchwood Minor Subdivision owners for such access locations.

3. **Street Standards.** All streets lying within the Property shall be constructed in accordance with the standards set forth on Exhibit D attached hereto and incorporated herein by this reference. Any street classification not shown on Exhibit D shall follow the street standards identified in the Town of Erie Standards and Specifications for Design and Construction of Public Improvements.

4. **Metropolitan, Improvement and Financing Districts.** Developer may apply to include the Property, subject to Erie and/or Town of Erie Urban Renewal Authority approvals, in one or more metropolitan, special improvement, urban renewal and/or other financing districts for construction of improvements to street and other public ways, or other private or public improvements authorized by law.

5. **Reimbursable Expenses.** Developer acknowledges that Erie is due reimbursements for certain improvements as set forth herein below. Developer may request from Erie and/or Town of Erie Urban Renewal Authority that the reimbursements due Erie Developer be funded through inclusion of all or a portion of the Property in a Tax Infrastructure Financing (TIF) district and/or a 30-year deferral repayment agreement between Developer and Erie, consistent with the provisions of the Erie Municipal Code:

- a. 25% of the cost of the signal at Erie Parkway and County Line Road, in an amount not to exceed \$57,507;
- b. Erie Parkway construction along frontage, in an amount not to exceed \$913,546;
- c. 15 inch and 30 inch Coal Creek Sewer Interceptor, in an amount not to exceed \$177.66 per single-family equivalent (SFE); and
- d. NWRP Sewer Interceptor, in an amount not to exceed \$410.00 per SFE.

6. **Fees.** Erie may consider reviewing documentation and other data provided by Developer to reduce certain development fees including without limitation raw water and tap fees. By way of example, residential raw water fees and tap fees can be determined on projected annual usage of the various residential unit types based on current regional demographic studies of occupants per residential unit type and per capita water usage. All residential and commercial tap fees will be due upon issuance of building permits.

7. **Maximum Total Number of Dwelling Units.** The maximum total number of dwelling units on the Property shall be five hundred (500).

8. **Open Space and Park Dedication Fees.** Erie may consider adjusting the persons per dwelling unit figure for calculating residential Open Space and Park dedications based on current regional demographic studies of average occupants per residential unit types.

9. **Default.** If Developer fails to fulfill the terms and conditions of this Agreement, and such failure continues for a period of fifteen (15) days after written notice thereof from Erie, Erie, in its sole discretion, may declare Developer in default and may withhold any additional building permits, certificates of occupancy, or provision of new utilities fixtures or services until the default is cured. Erie may further pursue any other remedy now or hereafter available to Erie under applicable law. Any costs incurred by Erie, including, but not limited to, administrative costs and reasonable attorney's fees, in pursuit of any remedies due to the breach by Developer shall be paid by Developer. Erie may deduct these costs from any Improvement Guarantee which may be in place. No remedy or election hereunder shall be deemed exclusive but shall, whenever possible, be cumulative with all other remedies at law or in equity.

10. **Indemnification and Release of Liability.** Developer 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 Developer, its officers, employees, agents, consultants, contractors, and subcontractors, and/or suit, action or claim resulting from Developer's default under 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. Developer'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.

11. **Recording Agreement.** Erie shall record this Agreement at Developer's expense in the office of the Clerk and Recorder, County of Boulder, State of Colorado, on, or subsequent to, the Effective Date as set forth in paragraph 21 herein, and Erie shall retain the recorded Agreement.

12. **Binding Effect of Agreement.** The Agreement shall run with the Property and shall insure benefit of and be binding upon the successors and assigns of the parties hereto.

13. **Assignment.** Developer's duties and obligations pursuant to this Agreement may not be assigned to any third party or agency without the express written consent of

Erie, which consent may be withheld at Erie's sole discretion, with the exception that Developer may assign this Agreement to Erie Four Corners, LLC, at any time without the need for Erie's consent.

14. **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.

15. **Addresses for Notice.** Any notice or communication required or permitted hereunder shall be given in writing and shall be personally delivered, sent via overnight delivery service 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

With a copy (which shall not constitute notice) to:

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

Developer:

RMCS, LLC  
21 S. Sunset Street  
Longmont, Colorado 80503  
ATTN: Justin McClure, Manager

With a copy (which shall not constitute notice) to:

James Tienken  
Tienken & Associates, P.C.  
824 Pine Street  
Louisville, CO 80027

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.

16. **Previous Agreements.** This Agreement shall constitute the entire agreement between the parties hereto and shall supersede all prior contracts, proposals, representations, negotiations and letters of intent, whether written or oral, pertaining to the Property.

17. **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.

18. **Attorney Fees.** 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.

19. **Situs, Venue and Severability.** The laws of the State of Colorado shall govern the interpretation, validity, performance and enforcement 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.

20. **Paragraph Headings.** Paragraph headings are inserted for convenience only and in no way limit or define the interpretation to be placed upon this Agreement.

21. **Effective Date and Automatic Substitution.** This Agreement shall become effective and binding on the date and at the time that the Property is conveyed by Owner to Developer and recorded in the real estate records of the office of the Boulder County Clerk and Recorder, but shall not be effective nor binding prior to that time. Furthermore, upon said conveyance and recording, Developer shall automatically be substituted as the owner of said Property for the purposes of this Agreement, and shall thereafter, for all purposes of this Agreement, it shall be deemed that Developer and Owner are one in the same.

**IN WITNESS WHEREOF**, the parties hereto have executed this Pre-Development Agreement as of the date first set forth above.

**ERIE:**  
**TOWN OF ERIE, a Colorado municipal Corporation**

**DEVELOPER:**  
**RMCS,LLC, a Colorado limited liability company**

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

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

ATTEST:

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

STATE OF COLORADO    )  
  ) SS.  
COUNTY OF BOULDER    )

Subscribed and sworn before me this \_\_\_ day of \_\_\_\_\_, 2015, by Justin McClure, Manager RMCS, LLC

Witness my hand and official seal.  
My Commission Expires: \_\_\_\_\_.

(Seal)

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

## **EXHIBITS LIST**

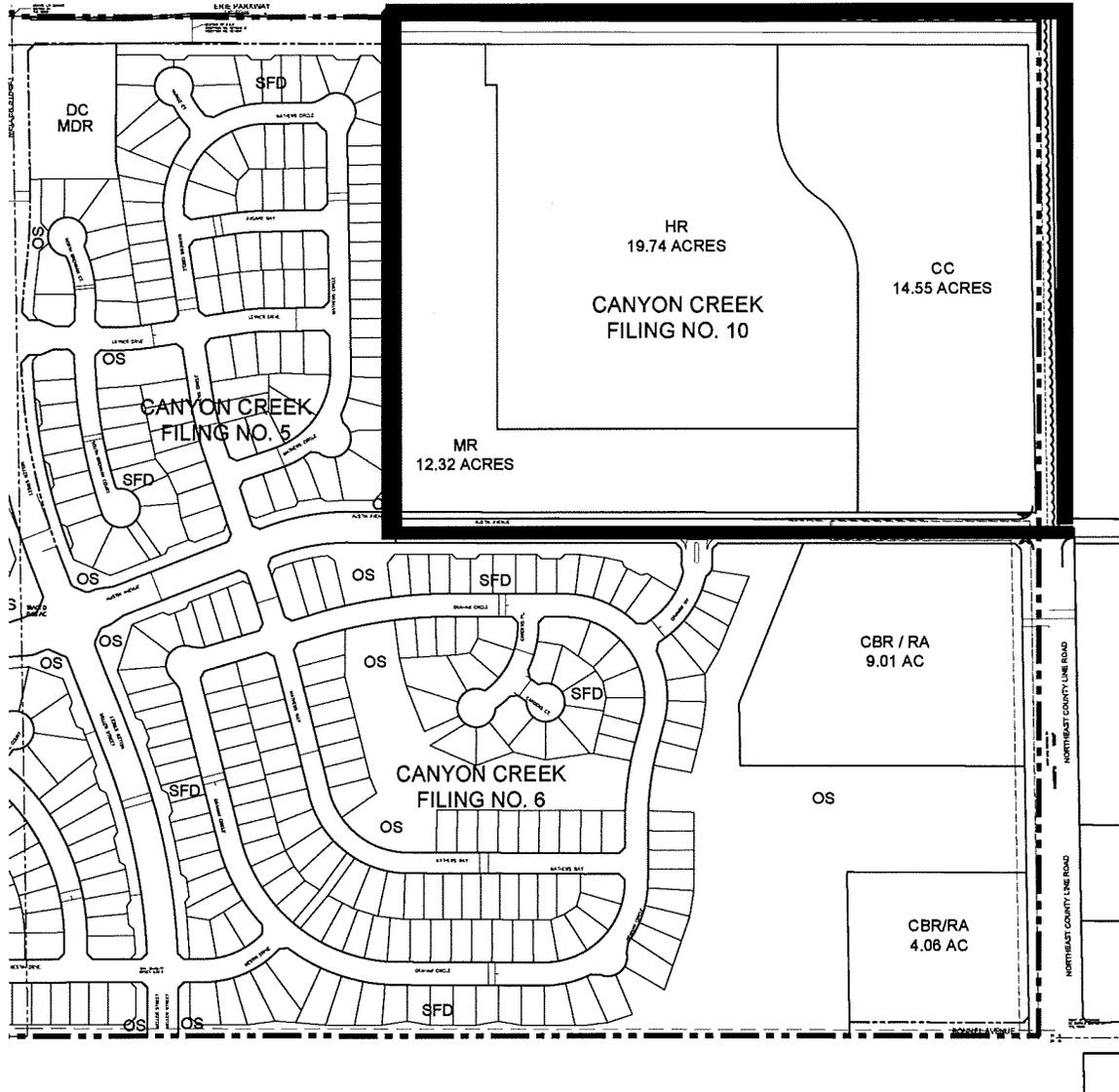
<u>EXHIBIT A</u>	Legal Description of the 4 Corners Parcel
<u>EXHIBIT B</u>	Property Zoning Map
<u>EXHIBIT C</u>	Access Location Map
<u>EXHIBIT D</u>	Street Standards

Exhibit A

4 Corners Parcel Legal Description

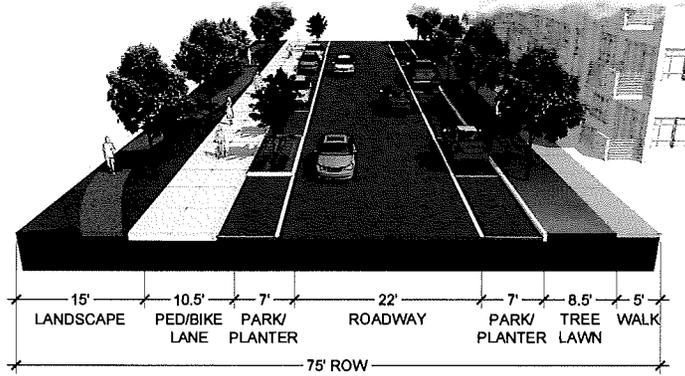
A portion of the Southeast One-Quarter of Section 13, and A portion of the South One-Half Section 24, Township 1 North Range 69 West of the Sixth Principal Meridian, Town of Erie, County of Boulder, State of Colorado.

**EXHIBIT B**  
**Property Zoning Map**

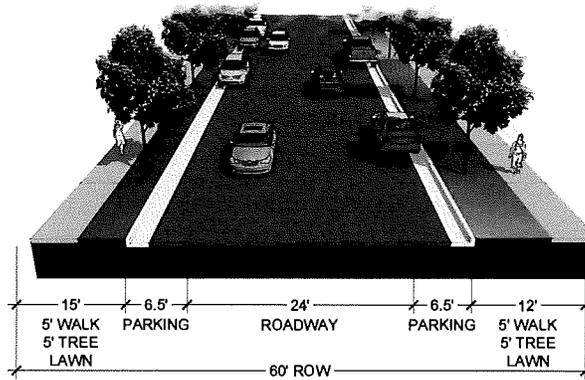




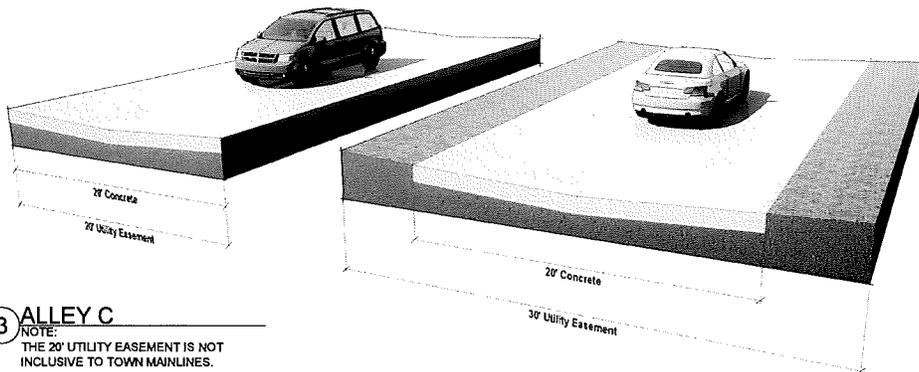
**EXHIBIT D**  
**Street Standards**



① STREET SECTION A



② STREET SECTION B



③ ALLEY C  
NOTE:  
THE 20' UTILITY EASEMENT IS NOT  
INCLUSIVE TO TOWN MAINLINES.

④ ALLEY D

**TOWN OF ERIE**  
**BOARD OF TRUSTEES AGENDA ITEM**  
**Board Meeting Date: September 8, 2015**

---

**SUBJECT:** **CONSENT -RESOLUTIONS**

**CONSIDERATION OF RESOLUTION 15-113:** A Resolution Authorizing The Town of Erie, Colorado, To Enter Into The Following Agreements: A Purchase And Sale Agreement With Montex (Brownlee) LLC And Montex (Vista Ridge) LLC, A Purchase And Sale Agreement With Dillon Companies Inc., A Reciprocal Easement and Restriction Agreement With Montex (Vista Ridge) LLC, And A Repayment Option Agreement With Dillons Companies, Inc.; Authorizing And Directing The Appropriate Town Officers To Sign Said Agreements; and Setting Forth Details In Relation Thereto.

**DEPARTMENT:** Administration

**PRESENTER:** A.J. Krieger, Paula Mehle *pm*

---

<b>FISCAL INFORMATION:</b>	Cost as Recommended:	<b>\$3,037,920.00</b>
	Balance Available:	\$0
	Budget Line Item Number:	100-20-910-576000
	New Appropriation Required:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

---

**STAFF RECOMMENDATION:** Approval of Resolution 15-113

---

**SUMMARY AND BACKGROUND OF SUBJECT MATTER:**

---

**Summary:**

The Resolution, provided for consideration by the Board of Trustees, authorizes the appropriate town official to sign the following:

- Purchase and Sale Agreement of 20.2528 acres within Vista Ridge Filing No. 14 between the Town of Erie and Montex (Vista Ridge) LLC and Montex (Brownlee) LLC;
- Reciprocal Easement and Restriction Agreement on 20.2528 acres within Vista Ridge Filing No. 14 between the Town of Erie and Montex (Vista Ridge) LLC and Montex (Brownlee) LLC and the future developer, Dillon Companies, Inc.;
- Purchase and Sale Agreement of 20.2528 acres within Vista Ridge Filing No. 14 between the Town of Erie and Dillon Companies, Inc.;
- Repayment Option Agreement between the Town of Erie and Dillon Companies, Inc.

The Montex (VistaRidge) LLC and Montex (Brownlee) LLC representative has signed the Purchase and Sale Agreement and Reciprocal Easement and Restriction Agreement without notarization of signatures due to timing conflicts. The signatures express the intention and support by Montex (Vista Ridge) LLC and Montex (Brownlee) LLC for the project and their intention to provide final notarized signatures before the September 8, 2015 Board of Trustee if travel allows.

**Public Notice:**

Public Notice is not required.

**Staff Review:**

\_\_\_\_ Town Attorney  
\_\_\_\_ Town Clerk  
\_\_\_\_ Community Development Director  
\_\_\_\_ Finance Director

**Approved by:**



**A.J. Krieger**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Police Chief  
Public Works Director

Town Administrator

---

**ATTACHMENTS:**

- Resolution 15-113
- Purchase and Sale Agreement by and between Montex (Brownlee), Montex (Vista Ridge) and the Town of Erie
- Reciprocal Easement and Restriction Agreement
- Purchase and Sale Agreement by and between the Town of Erie and Dillon Companies, Inc
- Repayment Option Agreement

**RESOLUTION NO. 15-113**

**A RESOLUTION AUTHORIZING THE TOWN OF ERIE, COLORADO, TO ENTER INTO THE FOLLOWING AGREEMENTS: A PURCHASE AND SALE AGREEMENT WITH MONTEX (BROWNLEE) LLC AND MONTEX (VISTA RIDGE) LLC, A PURCHASE AND SALE AGREEMENT WITH DILLON COMPANIES INC., A RECIPROCAL EASEMENT AND RESTRICTION AGREEMENT WITH MONTEX (VISTA RIDGE) LLC, AND A REPAYMENT OPTION AGREEMENT WITH DILLON COMPANIES, INC.; AUTHORIZING AND DIRECTING THE APPROPRIATE TOWN OFFICERS TO SIGN SAID AGREEMENTS; AND, SETTING FORTH DETAILS IN RELATION THERETO.**

**WHEREAS**, the Town of Erie, Colorado wishes to enter into the following agreements: a Purchase and Sale Agreement with Montex (Brownlee) LLC and Montex (Vista Ridge) LLC, a Purchase and Sale Agreement with Dillon Companies Inc., a Reciprocal Easement and Restriction Agreement with Montex (Vista Ridge) LLC, and a Repayment Option Agreement with Dillon Companies, Inc. (the "Dillon Agreements"); and

**WHEREAS**, the Board of Trustees of the Town of Erie believes it is in the best interest of the Town to enter into the Dillon Agreements.

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

Section 1. That the Dillon Agreements, copies of which are attached hereto and incorporated herein by reference, are found to be reasonable and acceptable agreements for the purchase of property from Montex (Brownlee) LLC and Montex (Vista Ridge) LLC and the sale of the same property to Dillon Companies Inc., for the obtaining of reciprocal easements for travel over the property adjacent to the purchase/sale property, and for the obtaining of an option from the Dillon Companies Inc. to buy back the purchase/sale property in the event Dillon Companies Inc. fail to build and open a store on the property.

Section 2. That the Town of Erie be and is hereby authorized and directed to enter into the Dillon Agreements, and the appropriate Town officers are hereby authorized and directed to sign and bind the Town of Erie to said Agreements.

Section 3. That entering into the Dillon Agreements 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 8<sup>TH</sup> DAY OF SEPTEMBER, 2015, 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

## PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT ("**Agreement**") is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2015 ("Effective Date"), by and between **MONTEX (BROWNLEE), LLC**, a Colorado limited liability company, and **MONTEX (VISTA RIDGE), LLC**, a Colorado limited liability company, hereinafter together referred to in the singular as "**Seller**", and the **TOWN OF ERIE**, a Colorado municipal corporation, as "**Purchaser**".

### WITNESSETH:

WHEREAS, Seller is the fee simple owner to certain real property located in the Town of Erie, County of Weld, and State of Colorado, together with all improvements located thereon and all rights and appurtenances thereunto appertaining ("**Premises**"), as depicted in Exhibit "A-1" and more particularly described in Exhibit "A-2" attached hereto and made a part hereof; and

WHEREAS, Seller and Purchaser previously entered into an Option to Purchase Agreement ("**Option Agreement**") on October 28, 2014, which Option Agreement shall run for twelve (12) months and provides the framework for the terms and conditions contained in this Agreement; and

WHEREAS, Seller wishes to sell to Purchaser the Premises and Purchaser wishes to purchase from Seller the Premises, upon the terms and conditions hereinafter set forth; and

WHEREAS, Purchaser wishes to simultaneously enter into a separate purchase and sale agreement with Dillon Companies, Inc., a Kansas corporation dba King Soopers ("**Developer**") for the purpose of transferring the Premises to Developer ("**Developer Purchase**"); and

WHEREAS, the Developer Purchase is a condition precedent to Close as defined and as is provided hereinafter in Article VII.

NOW, THEREFORE, in consideration of Ten and 00/100 Dollars (\$10.00), the covenants and agreements of the parties contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

### ARTICLE I - PURCHASE PRICE

- 1.1 Purchase Price. The purchase price ("**Purchase Price**") for the Premises shall be Three Million Thirty-Seven Thousand Nine Hundred Twenty and 00/100 Dollars (\$3,037,920.00), to be adjusted as set forth herein.
- 1.2 Termination of Option to Purchase Agreement. As of the Effective Date of this Agreement, the Option to Purchase Agreement dated October 28, 2014 by and between the parties hereto for the Premises shall be null and void and of no

further force or effect, and the Ten Thousand and 00/100 Dollars (\$10,000.00) in consideration for the Option to Purchase Agreement is transferred to an "**Earnest Money Deposit**" for all purposes under the Agreement.

## **ARTICLE II - TITLE**

- 2.1 **Zoning.** Seller represents and warrants to Purchaser that at the time of Closing (as hereinafter defined) the Premises will be zoned PD-Planned Development, which zoning classification permits the construction, operation and commercial use of an approximately 125,000 square foot combination food and drug store with 636 parking spaces, a fuel center, adjoining retail of approximately 8,000 square feet and outlots, which collectively is generally depicted as "**Lots 1-6**" (individually a "**Lot**" or collectively "**Lots**") and "**Tract A**" on the draft of the subdivision plat Filing No. 14, which is attached hereto as **Exhibit "B"** and made a part hereof ("**Draft Plat**"), and the same shall be called the "**Plat**" herein and as defined and as is provided hereinafter in Section 3.3. As a condition precedent to each party's obligations hereunder, prior to Closing, Seller shall receive written confirmation from the Town of Erie, Colorado and any additional governmental authority responsible for zoning, including but not limited to access approval(s) from the State of Colorado Department of Transportation ("**CDOT**") for all access points and control plans as depicted in the Plat, stating that the Premises lawfully may be used in the manner set forth above.
- 2.2 **Survey.** Within fifteen (15) days from the date hereof, Seller, at its sole cost and expense, shall furnish to Purchaser a current certified ALTA/ACSM Land Title survey ("**Survey**") of the Premises, substantially in accordance with the "**Survey Checklist**" attached hereto and made a part hereof as **Exhibit "C"**. If the legal description set forth in the Survey varies in any material respect from that attached hereto as **Exhibit "A-1"**, then Purchaser, at its option, may terminate this Agreement, whereupon all consideration paid by Purchaser shall be returned to Purchaser, and the parties hereto shall have no further obligations hereunder. In the event Purchaser elects not to terminate this Agreement, then the legal description from the Survey shall be substituted for **Exhibit "A-2"**.
- 2.3 **Title Commitment.** Within thirty (30) days from the date hereof, Seller, at its sole cost and expense, shall furnish to Purchaser a title insurance commitment (the "**Title Commitment**") issued by a title company selected by Purchaser ("**Title Company**") for an Owner's Policy of Title Insurance (ALTA Form 2006), insuring good and marketable title to the Premises in Purchaser, in accordance with the terms of this Agreement. The Title Commitment shall list as exceptions all easements, restrictions, encumbrances, reservations, liens and other matters, including those shown on the Survey ("**Exceptions**"), affecting the Premises, and shall include legible copies of all instruments creating such Exceptions. Said Title Commitment shall state that all standard exceptions shall be deleted in the final policy and, further, will require the Title Company to provide all affirmative coverages deemed necessary by Purchaser.

- 2.4 Purchaser's Objections. Purchaser shall have thirty (30) business days after the later to occur of (i) execution of this Agreement or (ii) receipt of all of the following: (a) the Title Commitment, (b) the Survey, and (c) legible copies of all liens and encumbrances enumerated in the Title Commitment, to notify Seller of any Exceptions in the Title Commitment or any matter disclosed by the Survey which makes the Premises unsuitable for Purchaser's purposes, in Purchaser's sole judgment ("**Title Objections**"). If it elects to do so, Seller thereupon shall have thirty (30) days within which to cause such Title Objections to be removed from the Title Commitment or cause the matters reflected on the Survey to be removed, as the case may be ("**Cure**"). In the event that Seller is unable or unwilling to effect such Cure, then Purchaser, at its option, may elect (i) to terminate this Agreement, whereupon all consideration paid by Purchaser shall be returned to Purchaser, and the parties hereto shall have no further obligations hereunder except for any obligation hereunder which, by its express terms, survives any termination of this Agreement, or (ii) to waive such Title Objections and to proceed to Closing, as set forth in Article VII hereof. All Exceptions approved by Purchaser or Title Objections subsequently waived in writing shall hereinafter be deemed to be "**Permitted Exceptions**".

### **ARTICLE III - ADDITIONAL CONDITIONS PRECEDENT**

- 3.1 Tests, Studies, and Inspections. Purchaser shall have sixty (60) days from the date hereof within which to conduct such tests, studies, inspections and other examinations (collectively, "**Examinations**") as it may elect in its sole judgment, to determine the suitability of the Premises for Purchaser's and Developer's purposes. Such Examinations may include, but shall not be limited to, soil tests, borings, engineering studies, environmental studies, feasibility studies, topographical surveys, drainage plans, marketing studies, financial studies, utility availability investigations, and ability to obtain building permits and all other required permits or licenses, including but not limited to CDOT's access permits pursuant to the Plat. If the Examinations disclose matters which make the Premises unsuitable for Purchaser's and Developer's purposes, in Purchaser's sole judgment, then Purchaser may terminate this Agreement by giving written notice within such sixty (60) day period to Seller, in which event all consideration paid by Purchaser shall be returned to Purchaser, and the parties hereto shall have no further obligations hereunder except for any obligation hereunder which, by its express terms, survives any termination of this Agreement. During such sixty (60) day period, Purchaser and Purchaser's agents, employees and contractor shall have the right to enter upon the Premises at all times to conduct the Examinations.

Purchaser will indemnify, protect, defend (with counsel chosen by Seller), and hold the Premises, Seller, and Seller's officers, directors, shareholders, participants, partners, affiliates, employees, representatives, invitees, agents, and contractors free and harmless from and against any and all claims, costs, losses, liabilities, damages, lawsuits, judgments, actions, proceedings, penalties, demands, attorneys' fees, liens (including, without limitation, mechanic's liens), or

expenses of any kind or nature whatsoever (collectively, "**Claims**"), arising out of or resulting from any entry or activities upon the Premises by Purchaser, Purchaser's agents, contractors or subcontractors, and the contractors or subcontractors of such agents. Notwithstanding the foregoing, to the extent any Claims arise from or relate to the condition of the Premises prior to Purchaser's exercise of the entry rights granted herein, Purchaser's indemnification and other obligations under this paragraph shall not apply. Purchaser's indemnification obligations set forth herein shall survive any termination of this Agreement and the Closing and shall not be merged with the Deed.

- 3.2 Assemblage. Seller acknowledges that the Premises are comprised of a portion of two parcels, which Purchaser desires to acquire in order to sell and transfer to Developer for Developer's intended purpose as provided in Section 2.1, and Seller agrees that Closing hereunder shall be conditioned upon such Developer Purchase also closing. In the event that Purchaser (as seller) is unable to close on Developer Purchase at the time scheduled for Closing hereunder, then Closing shall be extended by thirty (30) days.
- 3.3 Subdivision. Prior to Closing, Developer, at Developer's expense, shall cause to be prepared and to be filed a subdivision plat ("**Plat**") or development plan ("**Plan**") for the Premises with Seller's acknowledgement in conjunction with Developer Purchase, in form and substance acceptable to Developer, if such filing is required as a condition precedent to conveying title to Purchaser or as a condition precedent to close on Developer Purchase. The Plat will be inclusive of the Premises and "Lots 7-9", which Lots 7-9 may collectively be referred to as "**Tract A**", and as depicted in Exhibit "B" as the "Total Development Area".
- 3.4 Funding Approval. If Purchaser fails to receive funding approval from Developer's management or the senior management of Developer's parent company, The Kroger Co., an Ohio corporation, for the project contemplated for the Premises within ninety (90) days after the date hereof, Purchaser may terminate this Agreement by giving written notice within such ninety (90) day period to Seller, in which event consideration paid to Seller shall be returned to Purchaser and the parties hereto shall have no further obligations hereunder.

#### **ARTICLE IV - REPRESENTATIONS**

- 4.1 Representations of Seller. Seller represents and warrants to Purchaser that the following statements are true as of the date hereof and shall continue to be true on the Closing Date (as hereinafter defined):
- (i) Seller has fee simple title to the Premises.
  - (ii) Seller has received no written notice of any pending or contemplated claim, litigation, condemnation, administrative action or other legal proceeding involving or affecting any portion of the Premises.

- (iii) There is no oral or written lease, agreement or contract in any way affecting or related to the Premises except (i) as may be filed of record in the official records of the Clerk and Recorder of Weld County and (ii) a farming lease with an affiliate of Seller, which Seller will terminate at Closing.
- (iv) Seller has caused no default to currently exist under any agreement which in any way affects the Premises.
- (v) Both Seller and the individual executing this Agreement on behalf of Seller have the full right, power and authority to enter into this Agreement and to cause the same to create a legal and binding obligation of Seller.
- (vi) Seller has received no written notice of any violation of any applicable building code, zoning code or environmental or other law or regulation affecting the Premises.
- (vii) To Seller's knowledge, no portion of the Premises heretofore has been used as a site for the dumping of hazardous waste or other toxic materials.
- (viii) Seller has received no written notice of any violation of law regulation concerning the release of Hazardous Materials on or under the Premises. As used herein, the term "**Hazardous Materials**" means any substance or material the release of which is regulated or controlled by any local, state or federal law.
- (ix) The Premises are not under a tax reduction program or any other classification that lessens or reduces the real estate tax obligations in any manner and that has caused or may cause an increase in present or future real estate taxes on the Premises as a result of the tax savings or deferrals received in prior years.
- (x) To Seller's knowledge, no portion of the Premises is located within any state, local or federally protected "wetlands" (as such term is defined in applicable state, local or federal legislation).

As used herein, the term Seller's knowledge means the current, actual knowledge of Andy Chaikovsky without any duty of investigation.

4.2 Survival of Representations, Covenants and Warranties. Representations, covenants and warranties set forth in this Agreement shall be continuing and shall survive the Closing until the earlier to occur of (i) three (3) years after Closing, or (ii) one (1) year after King Soopers opens for business at the Premises.

## ARTICLE V - LOSS

- 5.1 Risk of Loss. If the Premises or any portion thereof are damaged by casualty, force majeure or other cause, then Purchaser, at its option may elect (i) to deduct the cost of restoration, as determined by Purchaser's engineer, from the Purchase Price, and to proceed in accordance with the terms and conditions of this Agreement, or (ii) to terminate this Agreement, whereupon all consideration paid by Purchaser shall be returned to Purchaser and the parties hereto shall have no further obligations hereunder.
- 5.2 Sale "As Is". Except for the express representations, warranties and covenants of Seller contained in this Agreement, Purchaser has not relied upon and will not rely upon, either directly or indirectly, any representation or warranty of Seller or any of its respective agents and acknowledges that no such representations have been made. Purchaser represents that it is a knowledgeable, experienced and sophisticated Purchaser of real estate and that it is relying solely on its own expertise and that of Purchaser's consultants in purchasing the Premises. Purchaser is, or as of Closing will be, familiar with the Premises. Except for the express representations, warranties and covenants of Seller contained in this Agreement, Purchaser is relying solely upon its own, independent inspection, investigation and analysis of the Premises as it deems necessary or appropriate in so acquiring the Premises from Seller, including, without limitation, an analysis of any and all matters concerning the condition of the Premises and its suitability for Purchaser's intended purposes, and a review of all applicable laws, ordinances, rules and governmental regulations (including, but not limited to, those relative to building, zoning and land use) affecting the development, use, occupancy or enjoyment of the Premises. Upon Closing, except to the extent of the express representations, warranties and covenants of Seller under this Agreement, Purchaser shall assume the risk that adverse matters, including, but not limited to, adverse physical and environmental conditions may not have been revealed by Purchaser's inspections and investigations. Purchaser acknowledges and agrees that upon Closing, subject only to the express representations, warranties and covenants of Seller contained in this Agreement, Seller shall sell and convey to Purchaser and Purchaser shall accept the Premises "AS-IS, WHERE-IS" and "WITH ALL FAULTS". Seller is not liable or bound in any manner by any oral or written statements, representations, or information pertaining to the Premises furnished by any real estate broker, agent, employee, servant or other person, unless the same are specifically set forth or referred to herein. Purchaser acknowledges that subject to the express representations, warranties and covenants of Seller contained in this Agreement, the Purchase Price reflects the "as is" nature of this sale and any faults, liabilities, defects or other adverse matters that may be associated with the Premises. The terms and conditions of this paragraph shall expressly survive the closing and shall not be merged with the Deed. Purchaser has fully reviewed the disclaimers and waivers set forth in this Agreement with its counsel and understands the significance and effect thereof. Without limiting the generality of the foregoing, subject only to the express representations, warranties and covenants of Seller

contained in this Agreement, Purchaser hereby expressly waives and relinquishes any and all rights and remedies Purchaser may now or hereafter have against Seller, whether known or unknown, with respect to (i) the nature or condition of the Premises (including, without limitation, any design or natural defect of any kind or nature whatsoever), (ii) the condition of title to the Premises, (iii) the Premises' fitness for Purchaser's intended use (including, without limitation, Purchaser's ability to construct or otherwise develop the Premises) and (iv) any past, present or future presence or existence of Hazardous Materials on, under or about the Premises or with respect to any past, present or future violations of any rules, regulations or laws, now or hereafter enacted, regulating or governing the use, handling, storage or disposal of Hazardous Materials.

#### **ARTICLE VI - CONDEMNATION**

- 6.1 Condemnation. In the event that condemnation proceedings are commenced or Purchaser has reasonable cause to believe that such proceedings hereafter may be commenced, then Purchaser may elect to terminate this Agreement by giving written notice to Seller, whereupon Purchaser shall receive all consideration paid by Purchaser under this Agreement, and the parties hereto shall have no further obligations hereunder. In the event of an actual taking in condemnation or a conveyance in lieu thereof prior to Closing, then Purchaser, at its option, may (i) proceed to Closing, in which event the Purchase Price shall be reduced by the amount of the condemnation award or the sales price, in the event of a conveyance in lieu of condemnation, if such amounts are paid prior to Closing, or (ii) terminate this Agreement whereupon the consideration paid by Purchaser shall be returned to Purchaser and the parties hereto shall have no further obligations hereunder. Seller shall not convey any portion of the Premises and shall not agree to any condemnation settlement without Purchaser's prior written consent, and any condemnation award not paid prior to Closing shall be assigned to Purchaser at Closing.

#### **ARTICLE VII - CLOSING**

- 7.1 Date of Closing. The Closing shall occur at the office of the Title Company, on a date and at a time selected by Purchaser and Developer, on or before the later of (i) ninety (90) days or (ii) midnight on October 27, 2015 (the "Closing Date"). Purchaser shall notify Seller of the actual date set for Closing. Seller shall provide Purchaser with all documents required under this Agreement to be executed or submitted at Closing for review at least seven (7) days prior to the scheduled Closing Date.
- 7.2 Seller's Obligations. At Closing, Seller shall deliver the following:
- (i) Evidence satisfactory to Purchaser that the Title Company, within twenty (20) days of Closing, will issue an Owner's Policy of Title Insurance with all standard exceptions deleted and all affirmative coverages required by

Purchaser in the amount of the Purchase Price, insuring good and marketable fee simple absolute title to the Premises in Purchaser, and insuring all rights, easements and privileges appurtenant to the Premises (including without limitation those set forth in the Reciprocal Easement and Restriction Agreement described below), free and clear of all liens, encumbrances, restrictions, easements, reservations and other matters, except for the Permitted Exceptions.

- (ii) A special warranty deed ("**Deed**"), in form and substance acceptable to Purchaser, fully executed and acknowledged by Seller, and in proper form for recording, conveying the Premises to Purchaser in fee simple absolute, free and clear of all easements, restrictions, conditions, reservations, liens or other encumbrances other than the Permitted Exceptions.
- (iii) A "Certificate of Non-Foreign Status - Entity Seller," in the same form as that attached hereto as Exhibit "D", certifying that Seller is not a "foreign person" as such term is defined in the applicable statutes.
- (iv) Seller's Certificate, executed and acknowledged in recordable form, confirming the truth and accuracy of the representations, warranties, and covenants of Seller contained in Section 2.1 and Article IV hereof, subject to matters that become known prior to Closing in the same form as that attached hereto as Exhibit "E".
- (v) Three (3) fully executed and acknowledged counterparts in recordable form of the Reciprocal Easement and Restriction Agreement, in the same form as that attached hereto as Exhibit "F".
- (vi) A written and fully executed termination of the lease, license or occupancy agreement between Seller and its affiliate to farm the Premises or any portion thereof.
- (vii) Complete and exclusive possession of the Premises to Purchaser.
- (viii) Such affidavits as are required by the Title Company to satisfy all affirmative coverages deemed necessary by Purchaser and for the elimination of any standard or printed exceptions in Purchaser's Owner's Policy of Title Insurance, including, without limitation, the exception for unfiled mechanic's liens, parties in possession and unrecorded easements.
- (ix) Such other documents as may be necessary or desirable to consummate the purchase and sale contemplated in this Agreement and the Developer Purchase.

7.3 Purchaser's Obligations. Provided that all conditions precedent to Closing set forth herein have been satisfied, and further provided that Seller has delivered all items required by it to be delivered, and the Title Company has committed to

deliver the title policy in accordance with Section 7.2(i) hereof, then Purchaser shall deliver to the Title Company, at Closing, the Purchase Price less the consideration paid for this Agreement, adjusted in accordance with the terms of this Agreement.

- 7.4 Closing Costs, Adjustment and Prorations. Ad valorem taxes and general assessments relating to the Premises for the entire year of Closing shall be prorated between Seller and Purchaser as of the Closing Date, based upon the best available estimates of the amount of same which will be due and payable on the Premises for the year of Closing. As soon as the actual amount of taxes and assessments is determined, Seller and Purchaser shall readjust the amount of taxes and assessments to be paid by each party. All transfer taxes, Survey charges, title insurance premiums for the standard ALTA 2006 form with preprinted exceptions deleted, one half of escrow charges, and recording costs other than for recordation of the Deed, shall be paid by Seller. The cost of recording the Deed, one-half of escrow charges, and the cost of all endorsements ordered by Purchaser (other than to remove the pre-printed exceptions) shall be paid by Purchaser. Each party shall be responsible for its own attorneys' fees.
- 7.5 Utilities. If any utilities servicing the Premises are being used at the time of Closing, Seller shall cause same to be transferred to Purchaser's account at Closing. Seller shall be responsible for payment of all utility charges up to and through Closing.

#### **ARTICLE VIII - DEFAULT**

- 8.1 Seller's Default. If Seller fails to perform in accordance with the terms of this Agreement, or if any representation or warranty made by Seller herein shall be untrue upon execution hereof or on the Closing Date, then Purchaser may (i) rescind this Agreement and may receive back the consideration paid by Purchaser under this Agreement or (ii) seek specific performance.
- 8.2 Purchaser's Default. If Purchaser fails to perform its obligations hereunder, which failure continues for thirty (30) days after Purchaser's receipt of prior written notice of its default hereunder, and if such failure is not caused, in whole or in part, by the acts or omissions of Seller, then Seller, as its sole and exclusive remedy, either at law or in equity, may terminate this Agreement and receive from Purchaser the amount of Ten Thousand Dollars (\$10,000) as liquidated damages and not as a penalty, whereupon the parties hereto shall have no further obligations hereunder. The parties hereto hereby agree that, without resale, Seller's damages will be difficult to ascertain and that the liquidated damages payable to Seller as described in the preceding sentence constitute a forfeiture of the Earnest Money Deposit.



Notice shall be deemed to be served upon deposit in an office of the United States Postal Service, or successor governmental agency, registered or certified mail, return receipt requested, or upon receipt by a reputable overnight courier service (such as UPS or FedEx), receipt requested,

- 9.4 Integration. This Agreement constitutes the entire agreement between the parties related to the purchase and sale of the Premises and shall be deemed to be a full, final and completed integration of all prior or contemporaneous understandings or agreements between the parties related thereto.
- 9.5 Additional Documentation. Seller and Purchaser shall execute such additional documentation as reasonably may be required to effectuate the covenants set forth in this Agreement.
- 9.6 Amendments. This Agreement may be amended or supplemented only by a written instrument signed by both parties hereto.
- 9.7 Counterparts. This Agreement may be executed in any number of identical counterparts, each of which shall be considered an original, but together shall constitute but one and the same agreement.
- 9.8 Governing Law. This Agreement shall be governed by and all disputes related hereto shall be determined in accordance with the laws of the State of Colorado.
- 9.9 Successors. This Agreement shall be binding upon the parties hereto, their respective heirs, administrators, personal representatives, successors and assigns.
- 9.10 Captions. The captions or section headings are for convenience and ease of reference only and shall not be construed to limit, modify or alter the terms of this Agreement.
- 9.11 Survival. The representations, warranties and agreements set forth herein shall survive Closing for the period set forth in Section 4.2 hereof.
- 9.12 Calculation of Time. In the event the final date of any time period which is set out in any provision of this Agreement falls on a Saturday, Sunday or legal holiday, in such event, such time period shall be extended to the next regular business day.
- 9.13 Time is of the Essence. The parties hereto acknowledge and agree that time is of the essence with respect to their obligations hereunder.

IN WITNESS WHEREOF, the parties hereto have executed this Purchase and Sale Agreement as of the date and year first above written.

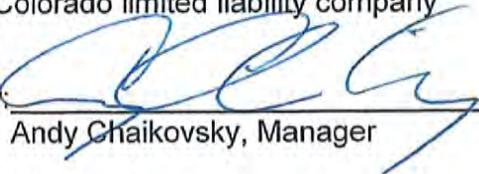
(Signatures Immediately Follow)

WITNESSES:

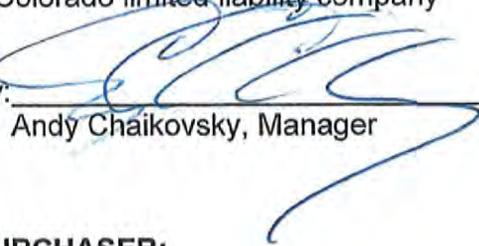
\_\_\_\_\_  
\_\_\_\_\_

SELLER:

**MONTEX (BROWNLEE), LLC,**  
a Colorado limited liability company

By:   
\_\_\_\_\_  
Andy Chaikovsky, Manager

**MONTEX (VISTA RIDGE), LLC,**  
a Colorado limited liability company

By:   
\_\_\_\_\_  
Andy Chaikovsky, Manager

ATTEST:

\_\_\_\_\_  
Nancy J. Parker, Town Clerk

**PURCHASER:**

**TOWN OF ERIE,**  
a Colorado Municipal corporation

By: \_\_\_\_\_  
Tina Harris, Mayor







Exhibit "A-1"

PREMISES

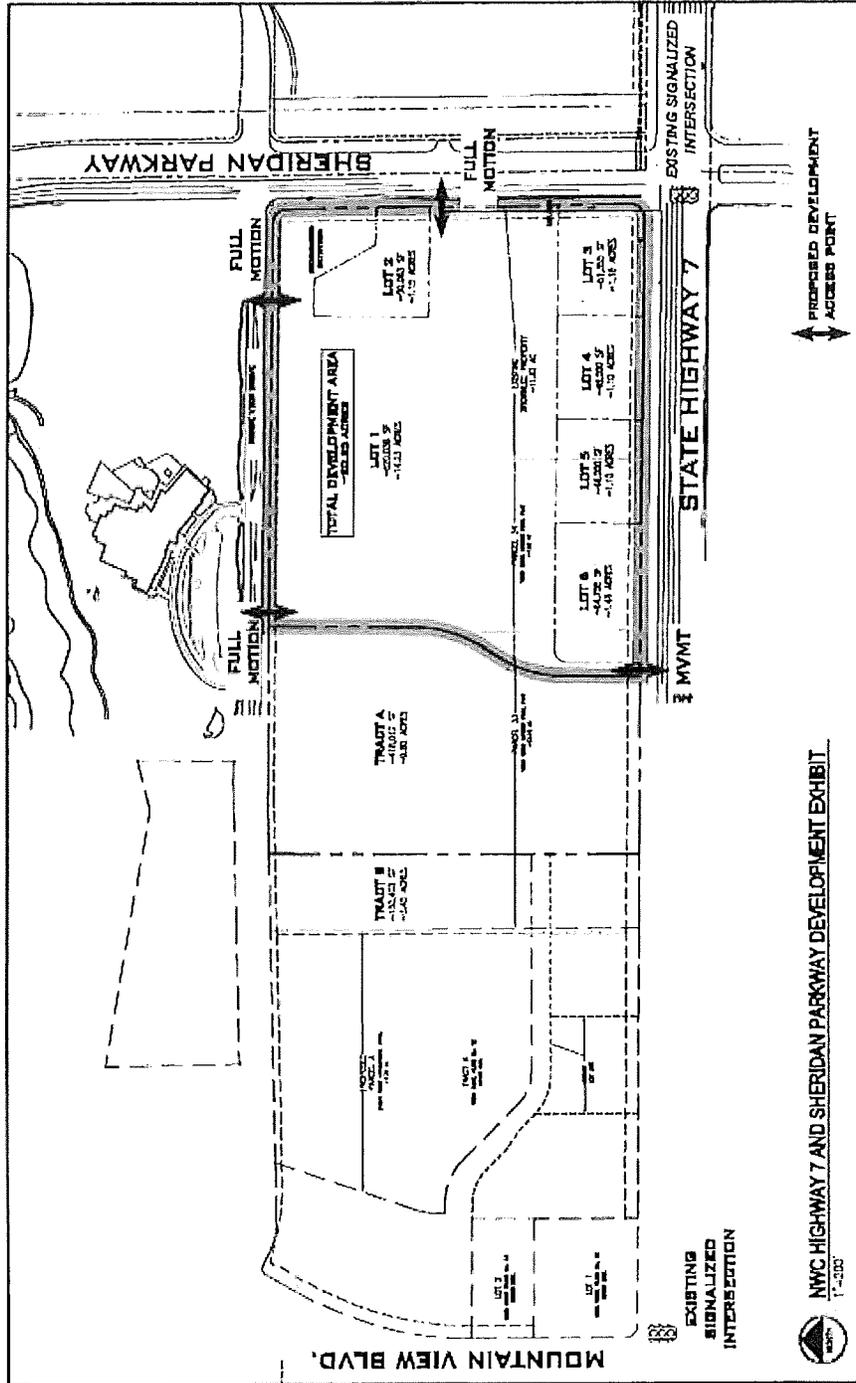


Exhibit A-1-1

## Exhibit "A-2"

### PREMISES LEGAL DESCRIPTION

#### LEGAL DESCRIPTION:

A PARCEL OF LAND SITUATED IN THE S 1/2 OF SECTION 33, TOWNSHIP 1 NORTH, RANGE 68 WEST OF THE 6<sup>TH</sup> P.M., BEING A PART OF PARCELS 1 AND 2 OF SUBDIVISION EXEMPTION NO. 977 RECORDED JUNE 9, 2003 AT RECEPTION NO. 3070624 AND A PART OF PARCELS 33 & 34, VISTA RIDGE AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

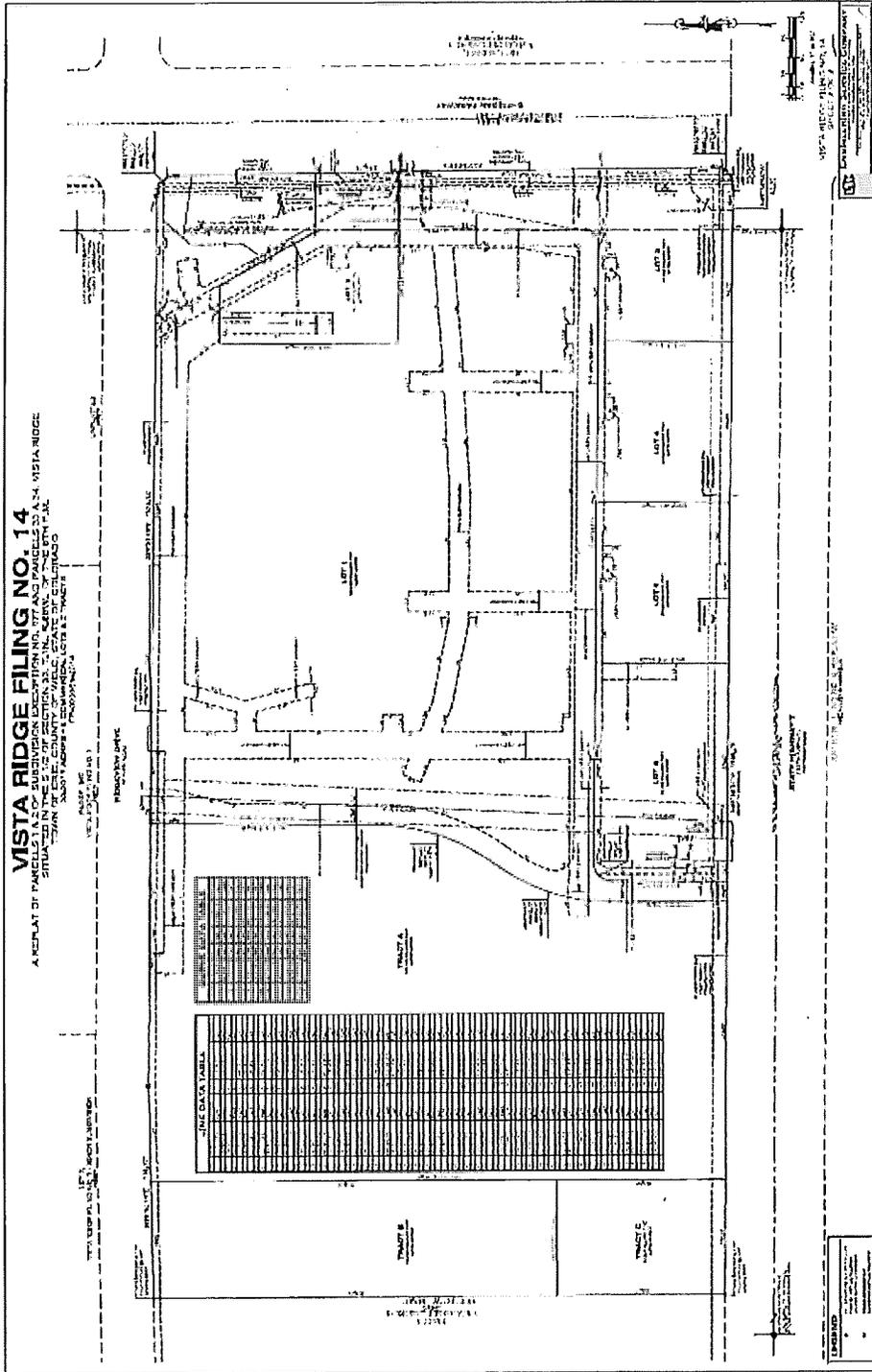
COMMENCING AT THE S ¼ CORNER OF SAID SECTION 33;  
THENCE N00°06'16"E ALONG THE EAST LINE OF THE SW ¼ OF SAID SECTION 33 A DISTANCE OF 75.00 FEET TO THE NORTH RIGHT OF WAY LINE OF COLORADO STATE HIGHWAY 7, SAID POINT BEING THE POINT OF BEGINNING;  
THENCE N89°38'37"W ALONG THE SAID NORTH RIGHT OF WAY LINE A DISTANCE OF 1001.35 FEET;  
THENCE N00°21'23"E A DISTANCE OF 174.74 FEET TO A POINT OF CURVE;  
THENCE ALONG A CURVE TO THE RIGHT WHOSE CHORD BEARS N18°13'47"E A DISTANCE OF 184.15 FEET, SAID CURVE HAVING A CENTRAL ANGLE OF 35°44'47", A RADIUS OF 300.00 FEET, AN ARC LENGTH OF 187.17 FEET TO A POINT OF REVERSE CURVE;  
THENCE ALONG A CURVE TO THE LEFT WHOSE CHORD BEARS N18°13'47"E A DISTANCE OF 184.15 FEET, SAID CURVE HAVING A CENTRAL ANGLE OF 35°44'47", A RADIUS OF 300.00 FEET, AN ARC LENGTH OF 187.17 FEET TO A POINT OF TANGENT;  
THENCE N00°21'23"E ALONG SAID TANGENT A DISTANCE OF 341.29 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF RIDGE VIEW DRIVE;  
THENCE S89°31'49"E ALONG SAID SOUTHERLY RIGHT OF WAY LINE A DISTANCE OF 937.44 FEET TO A POINT OF CURVE;  
THENCE ALONG A CURVE TO THE RIGHT WHOSE CHORD BEARS S45°03'17"E A DISTANCE OF 42.04 FEET, SAID CURVE HAVING A CENTRAL ANGLE OF 88°57'03", A RADIUS OF 30.00 FEET, AN ARC LENGTH OF 46.57 FEET TO A POINT OF TANGENT ON THE WESTERLY RIGHT OF WAY LINE OF SHERIDAN BOULEVARD;  
THENCE S00°34'46"E ALONG SAID WESTERLY RIGHT OF WAY LINE A DISTANCE OF 804.79 FEET TO A POINT OF CURVE;  
THENCE ALONG A CURVE TO THE RIGHT WHOSE CHORD BEARS S44°53'10"W A DISTANCE OF 42.77 FEET, SAID CURVE HAVING A CENTRAL ANGLE OF 90°55'52", A RADIUS OF 30.00 FEET, AN ARC LENGTH OF 47.61 FEET TO A POINT OF TANGENT ON SAID NORTH RIGHT OF WAY LINE OF STATE HIGHWAY 7;  
THENCE N89°38'54"W ALONG SAID NORTH RIGHT OF WAY LINE A DISTANCE OF 62.20 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS (882,212 SQUARE FEET) 20.2528 ACRES.

THE ABOVE LEGAL DESCRIPTION IS TO BE KNOWN AS:  
LOTS 1 THROUGH 6, VISTA RIDGE FILING NO. 14,  
UPON RECORDING OF THE FINAL PLAT.

# Exhibit "B"

## PLAT







**Exhibit "D"**

**Certificate of Non-Foreign Status – Entity Seller**

Section 1445 of the Internal Revenue Code provides that a transferee of a U.S. Premises interest must withhold tax if the transferor is a foreign person. For U.S. tax purposes (including section 1445), the owner of a disregarded entity (which has legal title to a U.S. Premises interest under local law) will be the transferor of the Premises and not the disregarded entity. To inform the Town of Erie, a municipal corporation, as Purchaser (herein, "Transferee"), that withholding of tax is not required upon the disposition of a U.S. Premises interest by, MONTEX (BROWNLEE), LLC, a Colorado limited liability company, and MONTEX (VISTA RIDGE), LLC, a Colorado limited liability company, collectively as Seller (herein, "Transferor"), the undersigned hereby certifies the following:

1. Transferor is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations);
2. Transferor is not a disregarded entity as defined in section 1.1445-2(b)(2)(iii);
3. Transferor's U.S. employer identification number is \_\_\_\_\_; and
4. Transferor's office address is:

\_\_\_\_\_

The undersigned, on behalf of Transferor, understands that Transferee may disclose this Certification to the Internal Revenue Service, and that any false statement contained herein could be punishable by fine, imprisonment, or both.

Under penalties of perjury, the undersigned, on behalf of Transferor, declares that this Certification have been examined and to the best of undersigned's knowledge and belief it is true, correct, and complete, and the undersigned further declares that he/she has authority to sign this document on behalf of Transferor.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2015.

(Signatures Immediately Follow)

WITNESSES:

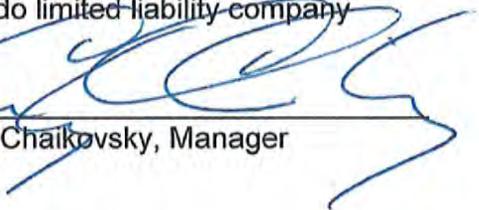
\_\_\_\_\_  
\_\_\_\_\_

SELLER:

**MONTEX (BROWNLEE), LLC,**  
a Colorado limited liability company

By:   
\_\_\_\_\_  
Andy Chaikovsky, Manager

**MONTEX (VISTA RIDGE), LLC,**  
a Colorado limited liability company

By:   
\_\_\_\_\_  
Andy Chaikovsky, Manager

**Exhibit "E"**

**Seller's Certificate**

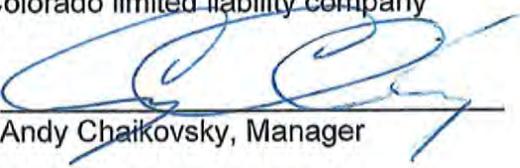
I, \_\_\_\_\_, hereby certify and confirm that the representations, warranties and covenants made by me, as set forth in ARTICLE II, at Section 2.1 and ARTICLE IV, at Section 4.1 and elsewhere in that certain PURCHASE AND SALE AGREEMENT ("Agreement") made and entered into on the \_\_\_ day of \_\_\_\_\_, 2015, by and between MONTEX (BROWNLEE), LLC, a Colorado limited liability company, and MONTEX (VISTA RIDGE), LLC, a Colorado limited liability company, collectively as Seller, and the Town of Erie, a Colorado municipal corporation, as Purchaser, are true and accurate on this the \_\_\_ day of \_\_\_\_\_, 2015, and shall survive the Closing Date until the earlier to occur of (i) three (3) years after Closing, or (ii) one (1) year after King Soopers opens for business at the Premises.

WITNESSES:

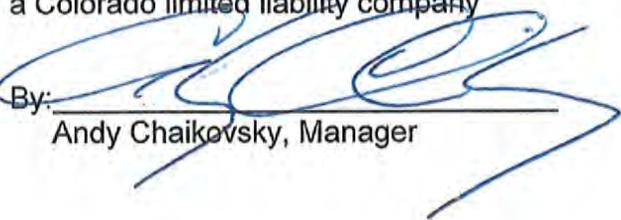
\_\_\_\_\_  
\_\_\_\_\_

SELLER:

**MONTEX (BROWNLEE), LLC,**  
a Colorado limited liability company

By:   
\_\_\_\_\_  
Andy Chaikovsky, Manager

**MONTEX (VISTA RIDGE), LLC,**  
a Colorado limited liability company

By:   
\_\_\_\_\_  
Andy Chaikovsky, Manager



(Seller Acknowledgment – Vista Ridge)

STATE OF \_\_\_\_\_ )  
 )  
COUNTY OF \_\_\_\_\_ ) SS.

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by Andy Chaikovsky, the Manager of Montex (Vista Ridge) LLC, a Colorado limited liability company, on behalf of the company, as Seller.

IN WITNESS WHEREOF I have hereunto set my hand and official seal.

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

## Exhibit "F"

### RECIPROCAL EASEMENT AND RESTRICTION AGREEMENT

THIS RECIPROCAL EASEMENT AND RESTRICTION AGREEMENT (this "**Agreement**") is made as of the \_\_\_\_ day of \_\_\_\_\_, 2015, by and between the TOWN OF ERIE, a Colorado municipal corporation ("**Town**") and MONTEX (VISTA RIDGE), LLC, a Colorado limited liability company ("**Montex**").

#### RECITALS

A. Town is the owner of certain parcels of real estate situated in the Town of Erie, County of Weld, and State of Colorado more particularly described in Exhibit A-1 attached hereto and made a part hereof (collectively, the "**King Soopers Tract**") and shown on the plot plan attached as Exhibit A-2 hereto and made a part hereof (the "**Plot Plan**").

B. Montex is the owner of a certain parcel of real property contiguous to King Soopers Tract, as shown on the Plot Plan and more particularly described in Exhibit B-1 attached hereto and make a part hereof ("**Tract A**").

C. The King Soopers Tract and Tract A are individually referred to herein as a "**Tract**" and collectively as "**Tracts**." The Town is referred to herein as the "**King Soopers Tract Owner**." Montex is referred to herein as the "**Tract A Owner**." The King Soopers Tract Owner and the Tract A Owner are individually referred to herein as "**Owner**" and collectively as "**Owners**."

D. Town and Montex desire to enter into this Agreement to provide for reciprocal access between the Tracts, to impose certain use restrictions on Tract A, and to provide reimbursement to the King Soopers Tract Owner, its successors and assigns, for work performed in connection with this Agreement.

#### AGREEMENT

NOW, THEREFORE, in consideration of the King Soopers Tract, and Ten Dollars (\$10.00), the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

#### ARTICLE X - DEFINITIONS

10.1 Definitions. The following terms shall be defined as set forth below:

(i) "**Adjoiner Access**." The three (3) points of vehicular and pedestrian access between the King Soopers Tract and Tract A as set forth on the Plot Plan, which will be the only cross access points between the Tracts.

(ii) **"King Soopers Entity."** King Soopers, or its parent company, or any subsidiary or affiliated company of either King Soopers or its parent.

**ARTICLE XI -  
EASEMENTS**

11.1 Access Easement. The parties hereby grant a non exclusive easement over the Adjoiner Access in favor of each Tract to permit unobstructed pedestrian and vehicular passage (but not parking) by the owner thereof and its agents, contractors, employees, tenants, licensees and invitees to promote the free flow of vehicular and pedestrian traffic throughout the Tracts, except for areas improved with buildings and their related appurtenances as those areas may exist from time to time, provided that nothing herein shall prevent the King Soopers Tract Owner or its tenants or licensees from storing bascars or selling merchandise anywhere on the King Soopers Tract (which shall not be deemed to violate this provision) so long as such use maintains reasonable access across the King Soopers Tract to Tract A or, if such use does not maintain reasonable access across the King Soopers Tract to Tract A, such use is temporary in nature (temporary meaning less than 48 hours) or has been approved in writing in advance by the Owner of Tract A, its successors or assigns), and further provided that nothing herein shall prevent the exclusive use of any receiving area situated on a servient Tract by the owner thereof or its tenants or licensees.

Notwithstanding anything contained in this Agreement to the contrary, the validity of the easement over the Adjoiner Access granted to the Owner of Tract A is conditioned upon the Montex's payment to King Soopers of the Reimbursement Amount (as defined in Section 8.1) which is a one-time reimbursement payment due to King Soopers for Montex's prorata share of site costs associated with the King Soopers Tract. The parties will execute and record an instrument evidencing satisfaction and termination of the foregoing condition upon payment of the Reimbursement Amount.

11.2 Utility Easement. The parties hereby grant a non-exclusive easement over the parking areas and drive lanes of each Tract, except as may be improved with buildings and their related appurtenances from time to time in favor of each Tract to permit the construction, maintenance and use of all apparatus necessary to provide utility services to another Tract , including without limitation telephone, electricity, water, natural gas and storm and sanitary sewers, provided that the same are constructed, installed, maintained and repaired in compliance with all laws, orders, rules and regulations of any governmental or private authority having jurisdiction over same, including without limitation the requirements of any utility companies, and are constructed underground. The dominant Tract Owner, in order to exercise its easement rights under this Section 2.2, must obtain the servient Tract Owner's approval of the plans and specifications for and the location of the utility facilities the dominant Tract Owner intends to install on the servient Tract, which approval shall not be unreasonably withheld, delayed or conditioned. To facilitate such approval, the servient Tract Owner shall have ten (10) days from receipt of the dominant Tract Owner's plans and specifications to either accept such plans and specifications or deny such plans and

specifications as noted above. Any such denial shall include specific reasons for such denial sufficient to instruct the servient Tract Owner to provide amended plans and specifications which shall be approved by the servient Tract Owner. If the servient Tract Owner does not respond within such ten (10) day period, the plans and specifications shall be deemed approved. Any disruption or demolition of a servient Tract by reason of the use of this easement shall be kept to a minimum and shall not exceed one (1) day in duration except during the period when the King Soopers Tract and/or Tract A is initially constructed, unless such disruption or demolition cannot be reasonably completed within such one (1) day period, in which event the period will be extended to such time period as reasonably is required and such area forthwith shall be restored as quickly as possible by the dominant Tract Owner to its original condition at no expense to the servient Tract Owner.

Notwithstanding the foregoing, the Owners of the King Soopers Tract and Tract A shall use the foregoing easement only in the event the service is unavailable from the road right-of-way adjoining the King Soopers Tract and/or Tract A or the cost of tying into such service in the road right-of-way is greater than the cost of tying into the utility service located in the Tracts. A right-of-way utility service shall be deemed "unavailable" if all permits, easements and authorizations required for its use are not readily obtainable.

11.3 Indemnification. The dominant Tract Owner shall indemnify, defend and hold harmless the other Tract Owners and their tenants and licensees from all claims, liens, damages and expenses, including without limitation reasonable attorneys' fees, arising out of its use of any of the easements established in this Article II.

11.4 No Public Dedication. Nothing herein shall create a gift or dedication to the public or otherwise create any rights of the public in or of any portion of the Tracts. Notwithstanding any other provision hereof to the contrary, each Owner periodically may restrict ingress and egress on its Tract in order to prevent a prescriptive easement from arising by continued public use of same. Any restriction on ingress or egress shall be limited to the minimum time period necessary to prevent a gift, dedication, creation of a prescriptive easement or other right, and shall occur at such times as to have minimum effect on the construction or operation of the Tracts.

## **ARTICLE XII - LIABILITY INSURANCE**

12.1 Liability Insurance. The King Soopers Tract Owner and Tract A Owner shall each maintain comprehensive general liability insurance, providing coverage with a combined bodily injury, death and property damage limit of Three Million Dollars (\$3,000,000) or more per occurrence and Three Million Dollars (\$3,000,000.00) in the aggregate.

12.2 Self-Insurance. An Owner or its tenant having a net worth of One Hundred Million Dollars (\$100,000,000) or more or a market capitalization of One Billion

Dollars (\$1,000,000,000) or more may self-insure this obligation upon notice to the other Tract Owner and shall provide information sufficient to enable a claim to be made under such self-insurance. An Owner that is also a King Soopers Entity may satisfy the requirements of the immediately preceding sentence by making available on the websites of the issuers of such comprehensive generally liability insurance required by this Section 3.2 (or, with respect to self-insurance, on a website designated by such King Soopers Entity) a Memorandum of Insurance evidencing such coverage.

### **ARTICLE XIII - DAMAGE OR DESTRUCTION**

13.1 Casualty. In the event that any part of the Adjoiner Access is destroyed or damaged, the Owner of the affected portion of the Adjoiner Access, at its sole cost and expense, forthwith shall clear and restore such area to its prior condition.

13.2 Condemnation. In the event that any part of the Adjoiner Access is condemned, the Owner of the affected portion of the Adjoiner Access, at its sole cost and expense, forthwith shall restore such area as much as practicable to provide the same improvements as were existing prior to the condemnation. Any award on account of a condemnation of the Tracts or any portion thereof shall first be used for such restoration, and any claim to the award made by a Tract Owner or its tenants or licensees hereunder shall be expressly subject and subordinate to its use for the restoration. The term "**condemnation**" as used herein shall include all conveyances made in anticipation or in lieu of an actual taking.

### **ARTICLE XIV - RESTRICTIONS**

14.1 Drug Store, Health, and Beauty Store Restriction. No part of Tract A shall be used as a drug store or a business principally devoted to the sale of health and beauty aids, or for a pharmacy department requiring the services of a registered pharmacist; provided, however, that the foregoing shall not prohibit any portion of Tract A from being leased to or operated by tenants or users, such as Sally Beauty Supply, Ulta Cosmetics, State Beauty Supply, Beauty Brands and/or other similar beauty supply store. This restriction shall immediately terminate if (a) a drug store or pharmacy department on the King Soopers Tract is not operational for a period of three hundred and sixty-five (365) consecutive days following completion of the initial building improvements on the King Soopers Tract or (b) any improvement on the King Soopers Tract does not contain a pharmacy department within a grocery store operated for a period of three hundred and sixty-five (365) consecutive days following completion of the initial building improvements by King Soopers or its parent company.

14.2 Food Store Restriction. No part of Tract A shall be used as a food store or food department, or for the sale of groceries, meats, fish, produce, dairy products, bakery products, or any of them for off-premises consumption, provided that nothing herein shall prevent (i) the sale of such products as an incidental part of a business so long as the total number of square feet devoted to the display for the sale of such

products does not exceed ten percent (10%) of the total square footage of the building improvements in which such products are sold or five hundred (500) square feet, including, in either case, one-half (1/2) of the aisle space adjacent to any display area, whichever is smaller; (ii) the operation of a restaurant, including any so-called "fast casual," "fast food," "counter-service" or other type of restaurant which permits customers to "take out" orders and is not primarily a sit-down restaurant (iii) no more than two (2) retail operations which sells ice cream, frozen yogurt and similar related dairy products, (iv) no more than two (2) bagel or similar baked good shops, (v) no more than two (2) donut, pastry and/or cupcake shops such as Dunkin Donuts, Lamars Donuts or Gigi's cupcakes, (vi) no more than one (1) cookie shops, (vii) no more than two (2) stores that feature both in-store dining and the sale of baked goods and other items for off-premises consumption, such as Kneaders Bakery and Cafe, Corner Bakery, Einsteins or Panera Bread, and (viii) coffee shops that sell coffee and related beverages, along with baked goods, for on and off-premises consumption, such as Starbucks, Ink Coffee or Seattle's Best Coffee . This restriction shall immediately terminate if (a) a grocery store or supermarket on the King Soopers Tract is not operational for a period of three hundred and sixty-five (365) consecutive days following completion of the initial building improvements on the King Soopers Tract.

14.3 Gas Station Restriction. No part of Tract A shall be used for the sale of automotive fuel, including without limitation gasoline and diesel fuel, and any technological evolution thereof. Nothing in this Section 5.3 shall be deemed to include any automotive repair shop or service shop as Jiffy Lube, Grease Monkey, Brake Express, Midas, Discount Tire or Les Schwab. This restriction shall immediately terminate if (a) a fuel center on the King Soopers Tract is not operational for a period of three hundred and sixty-five (365) consecutive days following completion of the initial building improvements on the King Soopers Tract.

14.4 Remedies. The remedies for breach of any of the restrictions set forth in this Article shall be cumulative, not exclusive, and shall include injunctive relief.

#### **ARTICLE XV - TAXES**

Each Owner shall pay (or cause to be paid) before delinquency all real estate taxes and assessments levied on its Tract and the improvements situated thereon.

#### **ARTICLE XVI - DEFAULT**

16.1 Default. Except as otherwise expressly set forth in this Agreement, should an Owner breach any of its obligations hereunder and such breach continue for a period of thirty (30) days after its receipt of written notice, the other Owner or any King Soopers Entity having a legal or equitable interest in a Tract shall be entitled to cure such breach in addition to all remedies at law or in equity, provided that the curing Owner shall furnish prior notice of its intention to cure to the defaulting Owner and any King Soopers Entity having a legal or equitable interest in a Tract, and further provided that no notice

is required should the breach create an emergency or interfere with use of a Tract. All expenses incurred by the curing Owner or such King Soopers Entity having a legal or equitable interest in a Tract to cure the defaulting Owner's breach pursuant to the preceding notice shall be reimbursed by the defaulting Owner within thirty (30) days after receipt of written evidence confirming the payment of such expenses.

16.2 Lien on Tract. Any sums remaining unpaid in accordance with Section 7.1, together with interest calculated at three percent (3%) above the prime rate charged by CitiBank, N.A., New York, New York, or any successor thereto, or at the highest annual interest rate allowed by law, whichever is less, may be secured by a lien on the Tract of the defaulting Owner and may be perfected in accordance with the laws of the State of Colorado, which lien shall retain the original priority of title of this Agreement.

16.3 Attorneys' Fees. In the event any litigation or legal proceeding arises out of this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees in addition to all other expenses that it incurs as a result thereof.

#### ARTICLE XVII - MISCELLANEOUS PROVISIONS

17.1 Reimbursement of Costs. In the event that a King Soopers Entity becomes the fee simple owner of the King Soopers Tract, then the King Soopers Entity shall construct the Adjoiner Access in accordance with Exhibit C attached hereto. Within twenty (20) days after the first foundation for a building is poured on Tract A or any part thereof, the owner of the largest portion of Tract A (calculated by acreage) shall pay to the owner of the largest portion of the King Soopers Tract (calculated by acreage) the sum of Two Hundred Thousand and 00/100 Dollars (\$200,000.00) (the "**Reimbursement Amount**"), which amount represents Tract A's one-time reimbursement to the King Soopers Tract Owner for Tract A Owner's share of the site work cost associated with construction of the Adjoiner Access and the internal drive lanes on the King Soopers Tract that provide access to the Adjoiner Access, as further depicted in Exhibit C (the "**Work**"). No other amounts shall be due from the Tract A Owner to the King Soopers Tract Owner in connection with the Work. At such time as construction of the Adjoiner Access is completed, all maintenance, repair, and replacement of the Adjoiner Access shall be performed by the owner of the Tract upon which such maintenance, repair, or replacement occurs.

17.2 Except as provided below, this Agreement may be terminated or rescinded only with the approval of both of the owners of the King Soopers Tract and Tract A. With the prior written approval of any King Soopers Entity having a legal or equitable interest in a Tract, the King Soopers Tract Owner and the Tract A Owner together may modify or amend this Agreement by filing an amendment hereto in the Office of the Recorder, Weld County, Colorado; provided that, if the Owners of King Soopers Tract and Tract A are not also the owner of all of the Tracts, the consent of the owner of the applicable Tract shall be obtained should such modification or amendment (i) further restrict any use permitted upon Tract A, (ii) eliminate the easement rights

appurtenant to such applicable Tract as granted in Article II hereof, or (iii) alter any portion of the Adjoiner Access. No such modification or amendment granting increased rights or privileges to the owner of a Tract or relaxing or waiving the within restrictions as against said Tract shall require the consent of the owner of any Tract except both of the owners of the King Soopers Tract and Tract A.

17.3 No Joint Venture. This Agreement shall not create an association, partnership, joint venture, or a principal and agency relationship between the owners of the Tracts or their tenants or licensees.

17.4 No Waiver. No waiver of any provision hereof shall thereafter be deemed to imply or constitute another waiver of the same provision.

17.5 Severability. Should any provision hereof be declared invalid by a legislative, administrative or judicial body of competent jurisdiction, the other provisions hereof shall remain in full force and effect and shall be unaffected.

17.6 Notices. All notices and approvals required or permitted under this Agreement shall be served by certified mail, return receipt requested, to a party at the last known address of its principal place of business. Date of service of notice or approval shall be the date on which such notice or approval is received. Should a Tract be subdivided by separate ownership and an additional Tract is not established pursuant to Section 8.2 hereof, the party that owns the largest portion thereof is irrevocably appointed attorney-in-fact for all parties who may own an interest in the Tract to receive all notices and to render all approvals hereunder, which receipt of notices and delivery of approvals shall be binding on all such parties.

17.7 Run with the Land. This Agreement shall run with the land in perpetuity and shall be binding on and inure to the benefit of Montex, Town, and their respective successors and assigns; provided, however, if any of the provisions of this Agreement shall be unlawful, void or voidable for violation of the Rule Against Perpetuities, then such provisions shall continue only until twenty one (21) years after the death of the survivor of the now-living descendants of her Majesty, Queen Elizabeth II, the Queen of England.

17.8 Governing Law; Venue. This Agreement is made and entered into in Weld County, Colorado and is governed by and its terms shall be construed under the laws of the State of Colorado. Any action relating to this Agreement shall be brought and prosecuted only in the courts of the County of Weld, State of Colorado, and each party waives any right or claim of right to elect or require any action to be brought or maintained or venue changed to any other place.

17.9 No Merger of Interests. In the event any easements, rights, benefits, covenants, restrictions, or other provisions of this Agreement that burden any portion of a Tract inure to the benefit of an Owner who also owns the burdened Tract, such commonality of interests shall not result in or be construed as a merger of the provisions of this Agreement, and all easements, rights, benefits, covenants, conditions,



TOWN:

TOWN OF ERIE,  
a Colorado Municipal corporation

By: \_\_\_\_\_  
Tina Harris, Mayor

ATTEST:

\_\_\_\_\_  
Nancy J. Parker, Town Clerk

STATE OF COLORADO        )  
  )     SS.  
COUNTY OF                    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by \_\_\_\_\_, the \_\_\_\_\_ of the Town of Erie, a municipal corporation, on behalf of the corporation.

IN WITNESS WHEREOF I have hereunto set my hand and official seal.

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

(notary seal)

## Exhibit A-1

### KING SOOPERS TRACT Legal Description

#### LEGAL DESCRIPTION:

A PARCEL OF LAND SITUATED IN THE S 1/2 OF SECTION 33, TOWNSHIP 1 NORTH, RANGE 68 WEST OF THE 6<sup>TH</sup> P.M., BEING A PART OF PARCELS 1 AND 2 OF SUBDIVISION EXEMPTION NO. 977 RECORDED JUNE 9, 2003 AT RECEPTION NO. 3070624 AND A PART OF PARCELS 33 & 34, VISTA RIDGE AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

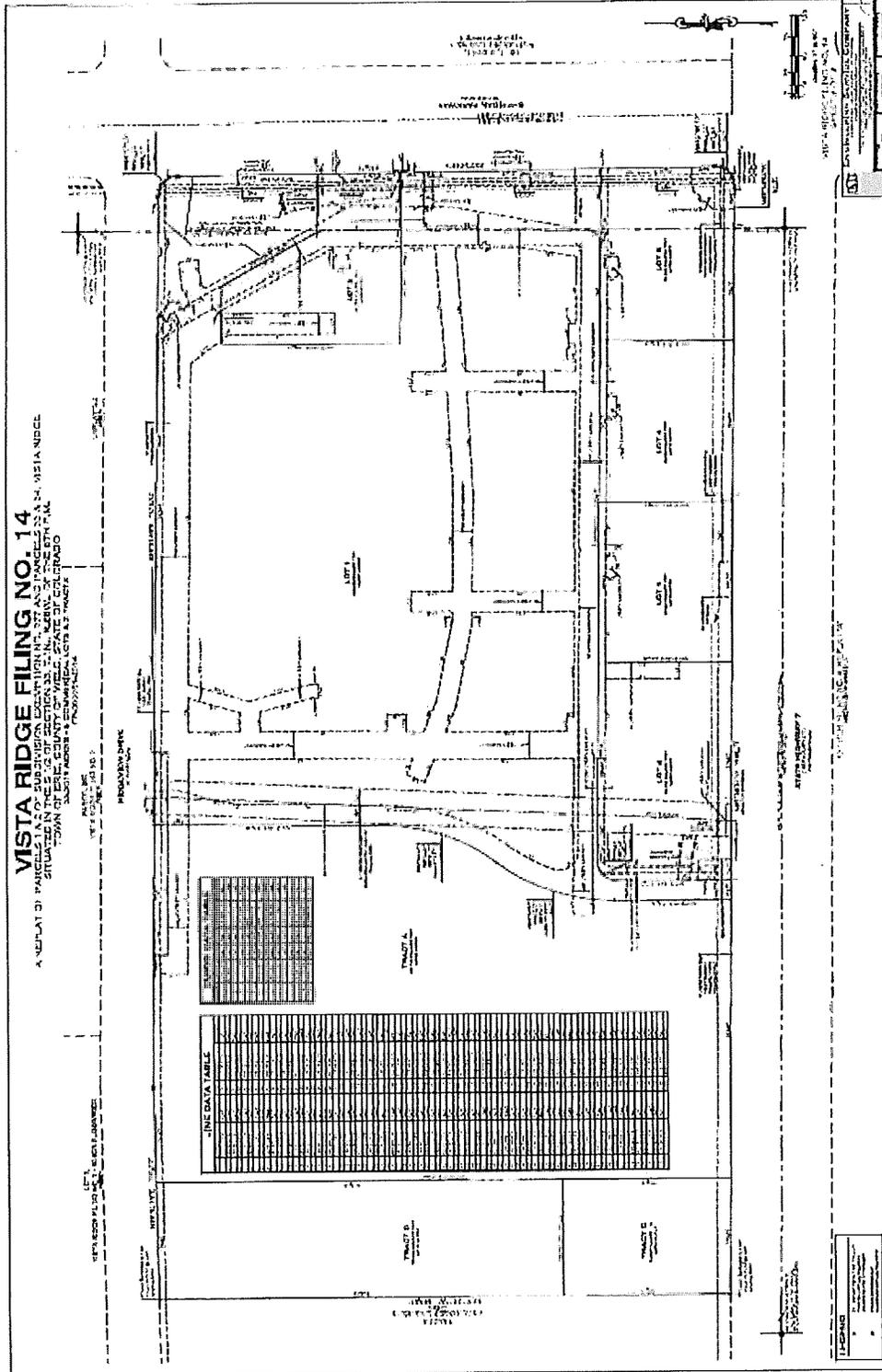
COMMENCING AT THE S ¼ CORNER OF SAID SECTION 33;  
THENCE N00°06'16"E ALONG THE EAST LINE OF THE SW ¼ OF SAID SECTION 33 A DISTANCE OF 75.00 FEET TO THE NORTH RIGHT OF WAY LINE OF COLORADO STATE HIGHWAY 7, SAID POINT BEING THE POINT OF BEGINNING;  
THENCE N89°38'37"W ALONG THE SAID NORTH RIGHT OF WAY LINE A DISTANCE OF 1001.35 FEET;  
THENCE N00°21'23"E A DISTANCE OF 174.74 FEET TO A POINT OF CURVE;  
THENCE ALONG A CURVE TO THE RIGHT WHOSE CHORD BEARS N18°13'47"E A DISTANCE OF 184.15 FEET, SAID CURVE HAVING A CENTRAL ANGLE OF 35°44'47", A RADIUS OF 300.00 FEET, AN ARC LENGTH OF 187.17 FEET TO A POINT OF REVERSE CURVE;  
THENCE ALONG A CURVE TO THE LEFT WHOSE CHORD BEARS N18°13'47"E A DISTANCE OF 184.15 FEET, SAID CURVE HAVING A CENTRAL ANGLE OF 35°44'47", A RADIUS OF 300.00 FEET, AN ARC LENGTH OF 187.17 FEET TO A POINT OF TANGENT;  
THENCE N00°21'23"E ALONG SAID TANGENT A DISTANCE OF 341.29 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF RIDGE VIEW DRIVE;  
THENCE S89°31'49"E ALONG SAID SOUTHERLY RIGHT OF WAY LINE A DISTANCE OF 937.44 FEET TO A POINT OF CURVE;  
THENCE ALONG A CURVE TO THE RIGHT WHOSE CHORD BEARS S45°03'17"E A DISTANCE OF 42.04 FEET, SAID CURVE HAVING A CENTRAL ANGLE OF 88°57'03", A RADIUS OF 30.00 FEET, AN ARC LENGTH OF 46.57 FEET TO A POINT OF TANGENT ON THE WESTERLY RIGHT OF WAY LINE OF SHERIDAN BOULEVARD;  
THENCE S00°34'46"E ALONG SAID WESTERLY RIGHT OF WAY LINE A DISTANCE OF 804.79 FEET TO A POINT OF CURVE;  
THENCE ALONG A CURVE TO THE RIGHT WHOSE CHORD BEARS S44°53'10"W A DISTANCE OF 42.77 FEET, SAID CURVE HAVING A CENTRAL ANGLE OF 90°55'52", A RADIUS OF 30.00 FEET, AN ARC LENGTH OF 47.61 FEET TO A POINT OF TANGENT ON SAID NORTH RIGHT OF WAY LINE OF STATE HIGHWAY 7;  
THENCE N89°38'54"W ALONG SAID NORTH RIGHT OF WAY LINE A DISTANCE OF 62.20 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS (882,212 SQUARE FEET) 20.2528 ACRES.

THE ABOVE LEGAL DESCRIPTION IS TO BE KNOWN AS:  
LOTS 1 THROUGH 6, VISTA RIDGE FILING NO. 14,  
UPON RECORDING OF THE FINAL PLAT.

# Exhibit A-2

## PLOT PLAN



**Exhibit B-1**

**TRACT A  
Legal Description**

LEGAL DESCRIPTION:

A PARCEL OF LAND SITUATED IN THE SW 1/4 OF SECTION 33, TOWNSHIP 1 NORTH, RANGE 68 WEST OF THE 6<sup>TH</sup> P.M., BEING A PART OF PARCELS 33 & 34, VISTA RIDGE AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE S ¼ CORNER OF SAID SECTION 33;  
THENCE N00°06'16"E ALONG THE EAST LINE OF SAID SE ¼ A DISTANCE OF 75.00 FEET TO THE NORTH RIGHT OF WAY LINE OF COLORADO STATE HIGHWAY 7; THENCE N89°38'37"W ALONG THE SAID NORTH RIGHT OF WAY LINE A DISTANCE OF 1001.35 FEET TO THE POINT OF BEGINNING;  
THENCE CONTINUING N89°38'37"W ALONG SAID NORTH RIGHT OF WAY LINE A DISTANCE OF 414.81 FEET;  
THENCE N00°00'00"E A DISTANCE OF 863.57 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF RIDGE VIEW DRIVE;  
THENCE N88°50'35"E ALONG SAID SOUTH RIGHT OF WAY LINE A DISTANCE OF 142.56 FEET;  
THENCE S89°31'49"E CONTINUING ALONG SAID SOUTH RIGHT OF WAY LINE A DISTANCE OF 390.71 FEET;  
THENCE S00°21'23"W A DISTANCE OF 341.29 FEET TO A POINT OF CURVE;  
THENCE ALONG A CURVE TO THE RIGHT WHOSE CHORD BEARS S18°13'47"W A DISTANCE OF 184.15 FEET, SAID CURVE HAVING A CENTRAL ANGLE OF 35°44'47", A RADIUS OF 300.00 FEET, AN ARC LENGTH OF 187.17 FEET TO A POINT OF REVERSE CURVE;  
THENCE ALONG A CURVE TO THE LEFT WHOSE CHORD BEARS S18°13'47"W A DISTANCE OF 184.15 FEET, SAID CURVE HAVING A CENTRAL ANGLE OF 35°44'47", A RADIUS OF 300.00 FEET, AN ARC LENGTH OF 187.17 FEET TO A POINT OF TANGENT;  
THENCE S00°21'23"W ALONG SAID TANGENT A DISTANCE OF 174.74 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS (420,169 SQUARE FEET) 9.6458 ACRES.

THE ABOVE LEGAL DESCRIPTION IS TO BE KNOWN AS:  
TRACT A, VISTA RIDGE FILING NO. 14,  
UPON RECORDING OF THE FINAL PLAT.

Exhibit C

ADJOINER ACCESS

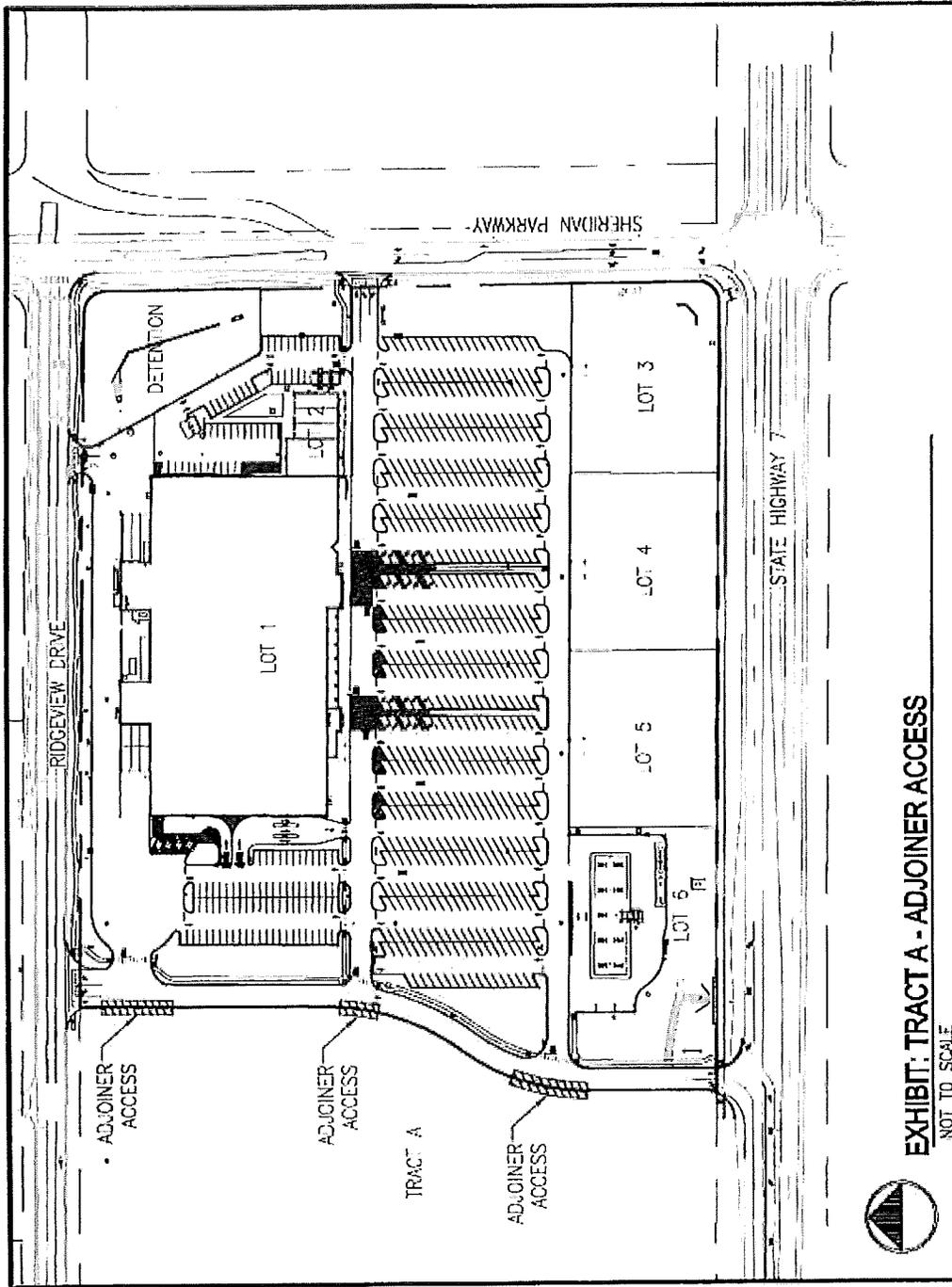


EXHIBIT: TRACT A - ADJOINER ACCESS  
NOT TO SCALE



RECORDING REQUESTED BY  
AND WHEN RECORDED RETURN TO:

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

### RECIPROCAL EASEMENT AND RESTRICTION AGREEMENT

THIS RECIPROCAL EASEMENT AND RESTRICTION AGREEMENT (this "**Agreement**") is made as of the \_\_\_\_ day of \_\_\_\_\_, 2015, by and between the **TOWN OF ERIE**, a Colorado municipal corporation ("**Town**") and **MONTEX (VISTA RIDGE), LLC**, a Colorado limited liability company ("**Montex**").

#### RECITALS

A. Town is the owner of certain parcels of real estate situated in the Town of Erie, County of Weld, and State of Colorado more particularly described in Exhibit A-1 attached hereto and made a part hereof (collectively, the "**King Soopers Tract**") and shown on the plot plan attached as Exhibit A-2 hereto and made a part hereof (the "**Plot Plan**").

B. Montex is the owner of a certain parcel of real property contiguous to King Soopers Tract, as shown on the Plot Plan and more particularly described in Exhibit B-1 attached hereto and make a part hereof ("**Tract A**").

C. The King Soopers Tract and Tract A are individually referred to herein as a "**Tract**" and collectively as "**Tracts**." The Town is referred to herein as the "**King Soopers Tract Owner**." Montex is referred to herein as the "**Tract A Owner**." The King Soopers Tract Owner and the Tract A Owner are individually referred to herein as "**Owner**" and collectively as "**Owners**."

D. Town and Montex desire to enter into this Agreement to provide for reciprocal access between the Tracts, to impose certain use restrictions on Tract A, and to provide reimbursement to the King Soopers Tract Owner, its successors and assigns, for work performed in connection with this Agreement.

#### AGREEMENT

NOW, THEREFORE, in consideration of the King Soopers Tract, and Ten Dollars (\$10.00), the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE 1  
DEFINITIONS

1.1 Definitions. The following terms shall be defined as set forth below:

(a) **“Adjoiner Access.”** The three (3) points of vehicular and pedestrian access between the King Soopers Tract and Tract A as set forth on the Plot Plan, which will be the only cross access points between the Tracts.

(b) **“King Soopers Entity.”** King Soopers, or its parent company, or any subsidiary or affiliated company of either King Soopers or its parent.

ARTICLE 2  
EASEMENTS

2.1 Access Easement. The parties hereby grant a non exclusive easement over the Adjoiner Access in favor of each Tract to permit unobstructed pedestrian and vehicular passage (but not parking) by the owner thereof and its agents, contractors, employees, tenants, licensees and invitees to promote the free flow of vehicular and pedestrian traffic throughout the Tracts, except for areas improved with buildings and their related appurtenances as those areas may exist from time to time, provided that nothing herein shall prevent the King Soopers Tract Owner or its tenants or licensees from storing bascars or selling merchandise anywhere on the King Soopers Tract (which shall not be deemed to violate this provision) so long as such use maintains reasonable access across the King Soopers Tract to Tract A or, if such use does not maintain reasonable access across the King Soopers Tract to Tract A, such use is temporary in nature (temporary meaning less than 48 hours) or has been approved in writing in advance by the Owner of Tract A, its successors or assigns), and further provided that nothing herein shall prevent the exclusive use of any receiving area situated on a servient Tract by the owner thereof or its tenants or licensees.

Notwithstanding anything contained in this Agreement to the contrary, the validity of the easement over the Adjoiner Access granted to the Owner of Tract A is conditioned upon the Montex’s payment to King Soopers of the Reimbursement Amount (as defined in Section 8.1) which is a one-time reimbursement payment due to King Soopers for Montex’s prorata share of site costs associated with the King Soopers Tract. The parties will execute and record an instrument evidencing satisfaction and termination of the foregoing condition upon payment of the Reimbursement Amount.

2.2 Utility Easement. The parties hereby grant a non-exclusive easement over the parking areas and drive lanes of each Tract, except as may be improved with buildings and their related appurtenances from time to time in favor of each Tract to permit the construction, maintenance and use of all apparatus necessary to provide utility services to another Tract , including without limitation telephone, electricity, water, natural gas and storm and sanitary sewers, provided that the same are constructed, installed, maintained and repaired in compliance with all laws, orders, rules and regulations of any governmental or private authority having jurisdiction over same, including without limitation the requirements of any utility companies, and are constructed underground. The

dominant Tract Owner, in order to exercise its easement rights under this Section 2.2, must obtain the servient Tract Owner's approval of the plans and specifications for and the location of the utility facilities the dominant Tract Owner intends to install on the servient Tract, which approval shall not be unreasonably withheld, delayed or conditioned. To facilitate such approval, the servient Tract Owner shall have ten (10) days from receipt of the dominant Tract Owner's plans and specifications to either accept such plans and specifications or deny such plans and specifications as noted above. Any such denial shall include specific reasons for such denial sufficient to instruct the servient Tract Owner to provide amended plans and specifications which shall be approved by the servient Tract Owner. If the servient Tract Owner does not respond within such ten (10) day period, the plans and specifications shall be deemed approved. Any disruption or demolition of a servient Tract by reason of the use of this easement shall be kept to a minimum and shall not exceed one (1) day in duration except during the period when the King Soopers Tract and/or Tract A is initially constructed, unless such disruption or demolition cannot be reasonably completed within such one (1) day period, in which event the period will be extended to such time period as reasonably is required and such area forthwith shall be restored as quickly as possible by the dominant Tract Owner to its original condition at no expense to the servient Tract Owner.

Notwithstanding the foregoing, the Owners of the King Soopers Tract and Tract A shall use the foregoing easement only in the event the service is unavailable from the road right-of-way adjoining the King Soopers Tract and/or Tract A or the cost of tying into such service in the road right-of-way is greater than the cost of tying into the utility service located in the Tracts. A right-of-way utility service shall be deemed "unavailable" if all permits, easements and authorizations required for its use are not readily obtainable.

2.3 Indemnification. The dominant Tract Owner shall indemnify, defend and hold harmless the other Tract Owners and their tenants and licensees from all claims, liens, damages and expenses, including without limitation reasonable attorneys' fees, arising out of its use of any of the easements established in this Article II.

2.4 No Public Dedication. Nothing herein shall create a gift or dedication to the public or otherwise create any rights of the public in or of any portion of the Tracts. Notwithstanding any other provision hereof to the contrary, each Owner periodically may restrict ingress and egress on its Tract in order to prevent a prescriptive easement from arising by continued public use of same. Any restriction on ingress or egress shall be limited to the minimum time period necessary to prevent a gift, dedication, creation of a prescriptive easement or other right, and shall occur at such times as to have minimum effect on the construction or operation of the Tracts.

### ARTICLE 3 LIABILITY INSURANCE

3.1 Liability Insurance. The King Soopers Tract Owner and Tract A Owner shall each maintain comprehensive general liability insurance, providing coverage with a combined bodily injury, death and property damage limit of Three Million Dollars (\$3,000,000) or more per occurrence and Three Million Dollars (\$3,000,000.00) in the aggregate.

3.2 Self-Insurance. An Owner or its tenant having a net worth of One Hundred Million Dollars (\$100,000,000) or more or a market capitalization of One Billion Dollars (\$1,000,000,000) or more may self-insure this obligation upon notice to the other Tract Owner and shall provide information sufficient to enable a claim to be made under such self-insurance. An Owner that is also a King Soopers Entity may satisfy the requirements of the immediately preceding sentence by making available on the websites of the issuers of such comprehensive generally liability insurance required by this Section 3.2 (or, with respect to self-insurance, on a website designated by such King Soopers Entity) a Memorandum of Insurance evidencing such coverage.

#### ARTICLE 4 DAMAGE OR DESTRUCTION

4.1 Casualty. In the event that any part of the Adjoiner Access is destroyed or damaged, the Owner of the affected portion of the Adjoiner Access, at its sole cost and expense, forthwith shall clear and restore such area to its prior condition.

4.2 Condemnation. In the event that any part of the Adjoiner Access is condemned, the Owner of the affected portion of the Adjoiner Access, at its sole cost and expense, forthwith shall restore such area as much as practicable to provide the same improvements as were existing prior to the condemnation. Any award on account of a condemnation of the Tracts or any portion thereof shall first be used for such restoration, and any claim to the award made by a Tract Owner or its tenants or licensees hereunder shall be expressly subject and subordinate to its use for the restoration. The term "**condemnation**" as used herein shall include all conveyances made in anticipation or in lieu of an actual taking.

#### ARTICLE 5 RESTRICTIONS

5.1 Drug Store, Health, and Beauty Store Restriction. No part of Tract A shall be used as a drug store or a business principally devoted to the sale of health and beauty aids, or for a pharmacy department requiring the services of a registered pharmacist; provided, however, that the foregoing shall not prohibit any portion of Tract A from being leased to or operated by tenants or users, such as Sally Beauty Supply, Ulta Cosmetics, State Beauty Supply, Beauty Brands and/or other similar beauty supply store. This restriction shall immediately terminate if (a) a drug store or pharmacy department on the King Soopers Tract is not operational for a period of three hundred and sixty-five (365) consecutive days following completion of the initial building improvements on the King Soopers Tract or (b) any improvement on the King Soopers Tract does not contain a pharmacy department within a grocery store operated for a period of three hundred and sixty-five (365) consecutive days following completion of the initial building improvements by King Soopers or its parent company.

5.2 Food Store Restriction. No part of Tract A shall be used as a food store or food department, or for the sale of groceries, meats, fish, produce, dairy products, bakery products, or any of them for off-premises consumption, provided that nothing herein shall prevent (i) the sale of such products as an incidental part of a business so long as the total number of square feet devoted to the display for the sale of such products does not exceed ten percent (10%) of the total square footage of

the building improvements in which such products are sold or five hundred (500) square feet, including, in either case, one-half (1/2) of the aisle space adjacent to any display area, whichever is smaller; (ii) the operation of a restaurant, including any so-called "fast casual," "fast food," "counter-service" or other type of restaurant which permits customers to "take out" orders and is not primarily a sit-down restaurant (iii) no more than two (2) retail operations which sells ice cream, frozen yogurt and similar related dairy products, (iv) no more than two (2) bagel or similar baked good shops, (v) no more than two (2) donut, pastry and/or cupcake shops such as Dunkin Donuts, Lamars Donuts or Gigi's cupcakes, (vi) no more than one (1) cookie shops, (vii) no more than two (2) stores that feature both in-store dining and the sale of baked goods and other items for off-premises consumption, such as Kneaders Bakery and Cafe, Corner Bakery, Einsteins or Panera Bread, and (viii) coffee shops that sell coffee and related beverages, along with baked goods, for on and off-premises consumption, such as Starbucks, Ink Coffee or Seattle's Best Coffee . This restriction shall immediately terminate if (a) a grocery store or supermarket on the King Soopers Tract is not operational for a period of three hundred and sixty-five (365) consecutive days following completion of the initial building improvements on the King Soopers Tract.

5.3 Gas Station Restriction. No part of Tract A shall be used for the sale of automotive fuel, including without limitation gasoline and diesel fuel, and any technological evolution thereof. Nothing in this Section 5.3 shall be deemed to include any automotive repair shop or service shop as Jiffy Lube, Grease Monkey, Brake Express, Midas, Discount Tire or Les Schwab. This restriction shall immediately terminate if (a) a fuel center on the King Soopers Tract is not operational for a period of three hundred and sixty-five (365) consecutive days following completion of the initial building improvements on the King Soopers Tract.

5.4 Remedies. The remedies for breach of any of the restrictions set forth in this Article shall be cumulative, not exclusive, and shall include injunctive relief.

## ARTICLE 6 TAXES

Each Owner shall pay (or cause to be paid) before delinquency all real estate taxes and assessments levied on its Tract and the improvements situated thereon.

## ARTICLE 7 DEFAULT

7.1 Default. Except as otherwise expressly set forth in this Agreement, should an Owner breach any of its obligations hereunder and such breach continue for a period of thirty (30) days after its receipt of written notice, the other Owner or any King Soopers Entity having a legal or equitable interest in a Tract shall be entitled to cure such breach in addition to all remedies at law or in equity, provided that the curing Owner shall furnish prior notice of its intention to cure to the defaulting Owner and any King Soopers Entity having a legal or equitable interest in a Tract, and further provided that no notice is required should the breach create an emergency or interfere with use of a Tract. All expenses incurred by the curing Owner or such King Soopers Entity having a legal or equitable interest in a Tract to cure the defaulting Owner's breach pursuant to the preceding notice

shall be reimbursed by the defaulting Owner within thirty (30) days after receipt of written evidence confirming the payment of such expenses.

7.2 Lien on Tract. Any sums remaining unpaid in accordance with Section 7.1, together with interest calculated at three percent (3%) above the prime rate charged by CitiBank, N.A., New York, New York, or any successor thereto, or at the highest annual interest rate allowed by law, whichever is less, may be secured by a lien on the Tract of the defaulting Owner and may be perfected in accordance with the laws of the State of Colorado, which lien shall retain the original priority of title of this Agreement.

7.3 Attorneys' Fees. In the event any litigation or legal proceeding arises out of this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees in addition to all other expenses that it incurs as a result thereof.

## ARTICLE 8 MISCELLANEOUS PROVISIONS

8.1 Reimbursement of Costs. In the event that a King Soopers Entity becomes the fee simple owner of the King Soopers Tract, then the King Soopers Entity shall construct the Adjoiner Access in accordance with Exhibit C attached hereto. Within twenty (20) days after the first foundation for a building is poured on Tract A or any part thereof, the owner of the largest portion of Tract A (calculated by acreage) shall pay to the owner of the largest portion of the King Soopers Tract (calculated by acreage) the sum of Two Hundred Thousand and 00/100 Dollars (\$200,000.00) (the "**Reimbursement Amount**"), which amount represents Tract A's one-time reimbursement to the King Soopers Tract Owner for Tract A Owner's share of the site work cost associated with construction of the Adjoiner Access and the internal drive lanes on the King Soopers Tract that provide access to the Adjoiner Access, as further depicted in Exhibit C (the "**Work**"). No other amounts shall be due from the Tract A Owner to the King Soopers Tract Owner in connection with the Work. At such time as construction of the Adjoiner Access is completed, all maintenance, repair, and replacement of the Adjoiner Access shall be performed by the owner of the Tract upon which such maintenance, repair, or replacement occurs.

8.2 Except as provided below, this Agreement may be terminated or rescinded only with the approval of both of the owners of the King Soopers Tract and Tract A. With the prior written approval of any King Soopers Entity having a legal or equitable interest in a Tract, the King Soopers Tract Owner and the Tract A Owner together may modify or amend this Agreement by filing an amendment hereto in the Office of the Recorder, Weld County, Colorado; provided that, if the Owners of King Soopers Tract and Tract A are not also the owner of all of the Tracts, the consent of the owner of the applicable Tract shall be obtained should such modification or amendment (i) further restrict any use permitted upon Tract A, (ii) eliminate the easement rights appurtenant to such applicable Tract as granted in Article II hereof, or (iii) alter any portion of the Adjoiner Access. No such modification or amendment granting increased rights or privileges to the owner of a Tract or relaxing or waiving the within restrictions as against said Tract shall require the consent of the owner of any Tract except both of the owners of the King Soopers Tract and Tract A.

8.3 No Joint Venture. This Agreement shall not create an association, partnership, joint venture, or a principal and agency relationship between the owners of the Tracts or their tenants or licensees.

8.4 No Waiver. No waiver of any provision hereof shall thereafter be deemed to imply or constitute another waiver of the same provision.

8.5 Severability. Should any provision hereof be declared invalid by a legislative, administrative or judicial body of competent jurisdiction, the other provisions hereof shall remain in full force and effect and shall be unaffected.

8.6 Notices. All notices and approvals required or permitted under this Agreement shall be served by certified mail, return receipt requested, to a party at the last known address of its principal place of business. Date of service of notice or approval shall be the date on which such notice or approval is received. Should a Tract be subdivided by separate ownership and an additional Tract is not established pursuant to Section 8.2 hereof, the party that owns the largest portion thereof is irrevocably appointed attorney-in-fact for all parties who may own an interest in the Tract to receive all notices and to render all approvals hereunder, which receipt of notices and delivery of approvals shall be binding on all such parties.

8.7 Run with the Land. This Agreement shall run with the land in perpetuity and shall be binding on and inure to the benefit of Montex, Town, and their respective successors and assigns; provided, however, if any of the provisions of this Agreement shall be unlawful, void or voidable for violation of the Rule Against Perpetuities, then such provisions shall continue only until twenty one (21) years after the death of the survivor of the now-living descendants of her Majesty, Queen Elizabeth II, the Queen of England.

8.8 Governing Law; Venue. This Agreement is made and entered into in Weld County, Colorado and is governed by and its terms shall be construed under the laws of the State of Colorado. Any action relating to this Agreement shall be brought and prosecuted only in the courts of the County of Weld, State of Colorado, and each party waives any right or claim of right to elect or require any action to be brought or maintained or venue changed to any other place.

8.9 No Merger of Interests. In the event any easements, rights, benefits, covenants, restrictions, or other provisions of this Agreement that burden any portion of a Tract inure to the benefit of an Owner who also owns the burdened Tract, such commonality of interests shall not result in or be construed as a merger of the provisions of this Agreement, and all easements, rights, benefits, covenants, conditions, restrictions, and provisions of this Agreement shall be and remain in full force and effect. This Agreement shall provide mutual and reciprocal rights to, between, and among the easements granted herein and the Owners to the same extent as if all subsequent owners of all Tracts executed this instrument.

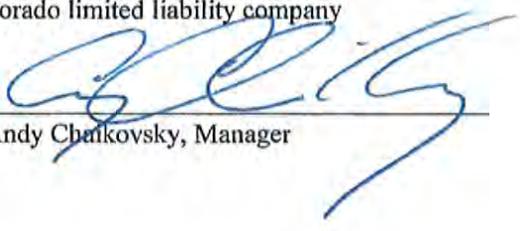
8.10 Captions. The captions and headings of the various provisions of this Agreement are for convenience and identification only and shall not be deemed to limit or define the operative provisions of this Agreement.

8.11 Entire Agreement. This Agreement contains the entire undertaking by the parties hereto and there are no other terms, expressed or implied, except as contained herein.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

**MONTEX:**

**MONTEX (VISTA RIDGE), LLC,**  
a Colorado limited liability company

By:   
Andy Chaikovsky, Manager

STATE OF COLORADO            )  
  )     SS.  
COUNTY OF                    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by Andy Chaikovsky, the Manager of Montex (Vista Ridge) LLC, a Colorado limited liability company, on behalf of the company.

IN WITNESS WHEREOF I have hereunto set my hand and official seal.

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

(notary seal)



**Exhibit A-1**

**KING SOOPERS TRACT  
Legal Description**

**LEGAL DESCRIPTION:**

A PARCEL OF LAND SITUATED IN THE S 1/2 OF SECTION 33, TOWNSHIP 1 NORTH, RANGE 68 WEST OF THE 6<sup>TH</sup> P.M., BEING A PART OF PARCELS 1 AND 2 OF SUBDIVISION EXEMPTION NO. 977 RECORDED JUNE 9, 2003 AT RECEPTION NO. 3070624 AND A PART OF PARCELS 33 & 34, VISTA RIDGE AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE S ¼ CORNER OF SAID SECTION 33;  
THENCE N00°06'16"E ALONG THE EAST LINE OF THE SW ¼ OF SAID SECTION 33 A DISTANCE OF 75.00 FEET TO THE NORTH RIGHT OF WAY LINE OF COLORADO STATE HIGHWAY 7, SAID POINT BEING THE POINT OF BEGINNING;  
THENCE N89°38'37"W ALONG THE SAID NORTH RIGHT OF WAY LINE A DISTANCE OF 1001.35 FEET;  
THENCE N00°21'23"E A DISTANCE OF 174.74 FEET TO A POINT OF CURVE;  
THENCE ALONG A CURVE TO THE RIGHT WHOSE CHORD BEARS N18°13'47"E A DISTANCE OF 184.15 FEET, SAID CURVE HAVING A CENTRAL ANGLE OF 35°44'47", A RADIUS OF 300.00 FEET, AN ARC LENGTH OF 187.17 FEET TO A POINT OF REVERSE CURVE;  
THENCE ALONG A CURVE TO THE LEFT WHOSE CHORD BEARS N18°13'47"E A DISTANCE OF 184.15 FEET, SAID CURVE HAVING A CENTRAL ANGLE OF 35°44'47", A RADIUS OF 300.00 FEET, AN ARC LENGTH OF 187.17 FEET TO A POINT OF TANGENT;  
THENCE N00°21'23"E ALONG SAID TANGENT A DISTANCE OF 341.29 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF RIDGE VIEW DRIVE;  
THENCE S89°31'49"E ALONG SAID SOUTHERLY RIGHT OF WAY LINE A DISTANCE OF 937.44 FEET TO A POINT OF CURVE;  
THENCE ALONG A CURVE TO THE RIGHT WHOSE CHORD BEARS S45°03'17"E A DISTANCE OF 42.04 FEET, SAID CURVE HAVING A CENTRAL ANGLE OF 88°57'03", A RADIUS OF 30.00 FEET, AN ARC LENGTH OF 46.57 FEET TO A POINT OF TANGENT ON THE WESTERLY RIGHT OF WAY LINE OF SHERIDAN BOULEVARD;  
THENCE S00°34'46"E ALONG SAID WESTERLY RIGHT OF WAY LINE A DISTANCE OF 804.79 FEET TO A POINT OF CURVE;  
THENCE ALONG A CURVE TO THE RIGHT WHOSE CHORD BEARS S44°53'10"W A DISTANCE OF 42.77 FEET, SAID CURVE HAVING A CENTRAL ANGLE OF 90°55'52", A RADIUS OF 30.00 FEET, AN ARC LENGTH OF 47.61 FEET TO A POINT OF TANGENT ON SAID NORTH RIGHT OF WAY LINE OF STATE HIGHWAY 7;  
THENCE N89°38'54"W ALONG SAID NORTH RIGHT OF WAY LINE A DISTANCE OF 62.20 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS (882,212 SQUARE FEET) 20.2528 ACRES.

THE ABOVE LEGAL DESCRIPTION IS TO BE KNOWN AS:  
LOTS 1 THROUGH 6, VISTA RIDGE FILING NO. 14,  
UPON RECORDING OF THE FINAL PLAT.



**Exhibit B-1**

**TRACT A  
Legal Description**

LEGAL DESCRIPTION:

A PARCEL OF LAND SITUATED IN THE SW 1/4 OF SECTION 33, TOWNSHIP 1 NORTH, RANGE 68 WEST OF THE 6<sup>TH</sup> P.M., BEING A PART OF PARCELS 33 & 34, VISTA RIDGE AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

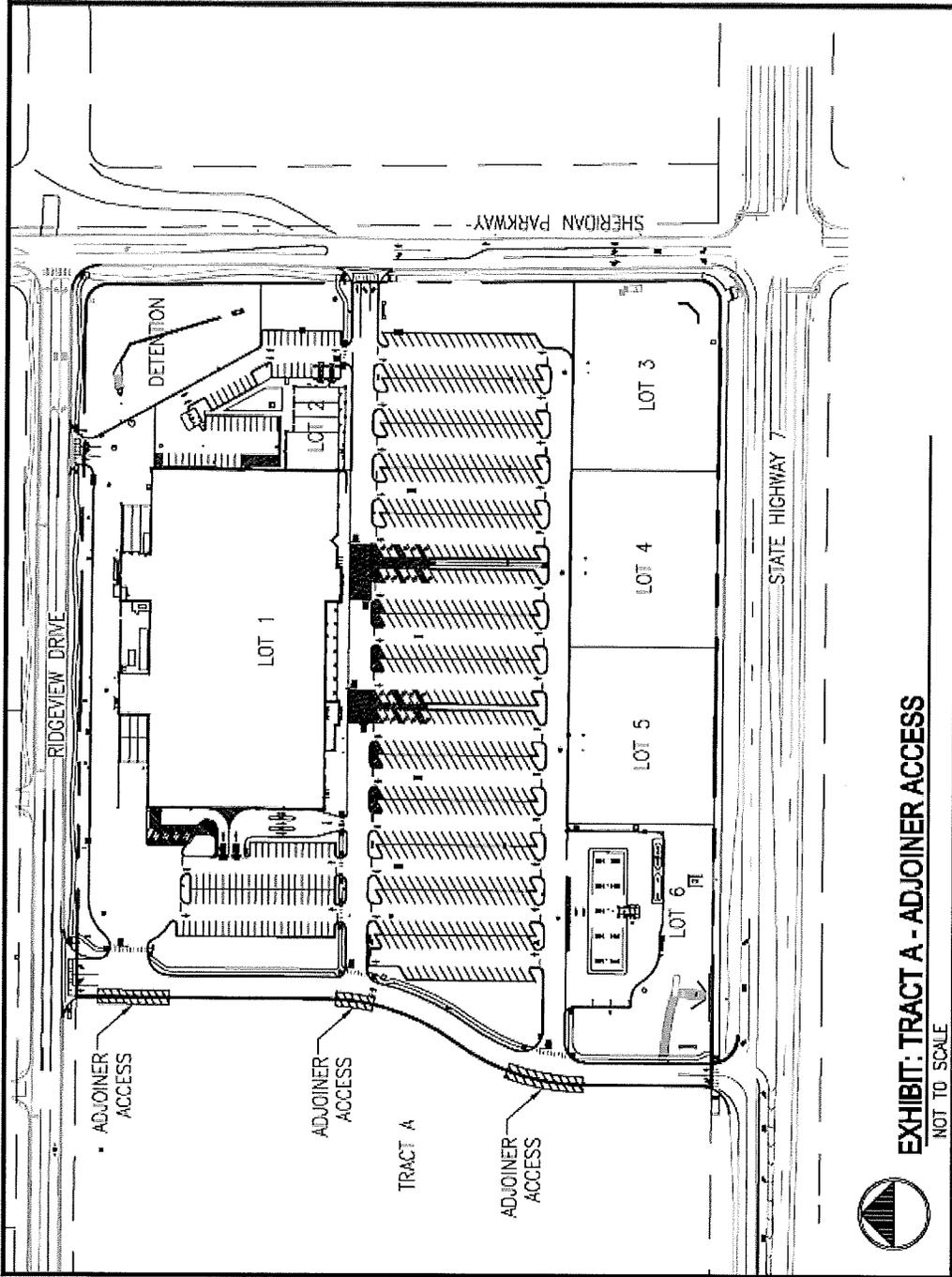
COMMENCING AT THE S ¼ CORNER OF SAID SECTION 33;  
THENCE N00°06'16"E ALONG THE EAST LINE OF SAID SE ¼ A DISTANCE OF 75.00 FEET TO THE NORTH RIGHT OF WAY LINE OF COLORADO STATE HIGHWAY 7; THENCE N89°38'37"W ALONG THE SAID NORTH RIGHT OF WAY LINE A DISTANCE OF 1001.35 FEET TO THE POINT OF BEGINNING;  
THENCE CONTINUING N89°38'37"W ALONG SAID NORTH RIGHT OF WAY LINE A DISTANCE OF 414.81 FEET;  
THENCE N00°00'00"E A DISTANCE OF 863.57 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF RIDGE VIEW DRIVE;  
THENCE N88°50'35"E ALONG SAID SOUTH RIGHT OF WAY LINE A DISTANCE OF 142.56 FEET;  
THENCE S89°31'49"E CONTINUING ALONG SAID SOUTH RIGHT OF WAY LINE A DISTANCE OF 390.71 FEET;  
THENCE S00°21'23"W A DISTANCE OF 341.29 FEET TO A POINT OF CURVE;  
THENCE ALONG A CURVE TO THE RIGHT WHOSE CHORD BEARS S18°13'47"W A DISTANCE OF 184.15 FEET, SAID CURVE HAVING A CENTRAL ANGLE OF 35°44'47", A RADIUS OF 300.00 FEET, AN ARC LENGTH OF 187.17 FEET TO A POINT OF REVERSE CURVE;  
THENCE ALONG A CURVE TO THE LEFT WHOSE CHORD BEARS S18°13'47"W A DISTANCE OF 184.15 FEET, SAID CURVE HAVING A CENTRAL ANGLE OF 35°44'47", A RADIUS OF 300.00 FEET, AN ARC LENGTH OF 187.17 FEET TO A POINT OF TANGENT;  
THENCE S00°21'23"W ALONG SAID TANGENT A DISTANCE OF 174.74 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS (420,169 SQUARE FEET) 9.6458 ACRES.

THE ABOVE LEGAL DESCRIPTION IS TO BE KNOWN AS:  
TRACT A, VISTA RIDGE FILING NO. 14,  
UPON RECORDING OF THE FINAL PLAT.

Exhibit C

ADJOINER ACCESS



**EXHIBIT: TRACT A - ADJOINER ACCESS**  
NOT TO SCALE

## PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2015 ("Effective Date"), by and TOWN OF ERIE, a Colorado municipal corporation, as "Seller", and the DILLON COMPANIES, INC., a Kansas corporation, as "Purchaser".

### WITNESSETH:

WHEREAS, Seller is the contract owner of certain real property located in the Town of Erie, County of Weld, and State of Colorado, together with all improvements located thereon and all rights and appurtenances thereunto appertaining ("Premises"), as depicted in Exhibit "A-1" and more particularly described in Exhibit "A-2" attached hereto and made a part hereof; and

WHEREAS, Seller wishes to sell to Purchaser the Premises and Purchaser wishes to purchase from Seller the Premises, upon the terms and conditions hereinafter set forth; and

WHEREAS, Seller wishes to simultaneously enter into a Repayment Option Agreement with Purchaser that is more particularly described in Exhibit F attached hereto and made a part hereof ("Repayment Agreement").

NOW, THEREFORE, in consideration of Ten and 00/100 Dollars (\$10.00), the covenants and agreements of the parties contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

### ARTICLE I - PURCHASE PRICE

- 1.1 Purchase Price. The purchase price ("Purchase Price") for the Premises shall be Zero and 00/100 Dollars (\$00.00).

### ARTICLE II - TITLE

- 2.1 Zoning. Seller represents and warrants to Purchaser that at the time of Closing (as hereinafter defined) the Premises will be zoned PD-Planned Development, which zoning classification permits the construction, operation and commercial use of an approximately 125,000 square foot combination food and drug store with 636 parking spaces, a fuel center, adjoining retail of approximately 8,000 square feet and outlots, which collectively is generally depicted as "Lots 1-6" (individually a "Lot" or collectively "Lots") on the draft of the subdivision plat Filing No. 14, which is attached hereto as Exhibit "B" and made a part hereof ("Draft Plat"), and the same shall be called the "Plat" herein and as defined and as is provided hereinafter in Section 3.3. As a condition precedent to each party's obligations hereunder, prior to Closing, Seller shall receive written confirmation from the Town of Erie, Colorado and any additional governmental authority responsible for zoning, including but not limited to access

approval(s) from the State of Colorado Department of Transportation ("CDOT") for all access points and control plans as depicted in the Plat, stating that the Premises lawfully may be used in the manner set forth above.

- 2.2 Survey. Purchaser, at its sole cost and expense, shall obtain a current certified ALTA/ACSM Land Title survey ("Survey") of the Premises, substantially in accordance with the "Survey Checklist" attached hereto and made a part hereof as Exhibit "C". If the legal description set forth in the Survey varies in any material respect from that attached hereto as Exhibit "A-1", then Purchaser, at its option, may terminate this Agreement, whereupon all consideration, if any, paid by Purchaser shall be returned to Purchaser, and the parties hereto shall have no further obligations hereunder. In the event Purchaser elects not to terminate this Agreement, then the legal description from the Survey shall be substituted for Exhibit "A-2".
- 2.3 Title Commitment. Purchaser, at its sole cost and expense, has obtained a title insurance commitment (the "Title Commitment") issued by a title company selected by Purchaser ("Title Company") for an Owner's Policy of Title Insurance (ALTA Form 2006), insuring good and marketable title to the Premises in Purchaser, in accordance with the terms of this Agreement. The Title Commitment shall list as exceptions all easements, restrictions, encumbrances, reservations, liens and other matters, including those shown on the Survey ("Exceptions"), affecting the Premises, and shall include legible copies of all instruments creating such Exceptions. Said Title Commitment shall state that all standard exceptions shall be deleted in the final policy and, further, will require the Title Company to provide all affirmative coverages deemed necessary by Purchaser.
- 2.4 Purchaser's Objections. Purchaser shall have thirty (30) business days after the later to occur of (i) execution of this Agreement or (ii) receipt of all of the following: (a) the Title Commitment, (b) the Survey, and (c) legible copies of all liens and encumbrances enumerated in the Title Commitment, to notify Seller of any Exceptions in the Title Commitment or any matter disclosed by the Survey which makes the Premises unsuitable for Purchaser's purposes, in Purchaser's sole judgment ("Title Objections"). If it elects to do so, Seller thereupon shall have thirty (30) days within which to cause such Title Objections to be removed from the Title Commitment or cause the matters reflected on the Survey to be removed, as the case may be ("Cure"). In the event that Seller is unable or unwilling to effect such Cure, then Purchaser, at its option, may elect (i) to terminate this Agreement, whereupon all consideration paid by Purchaser shall be returned to Purchaser, and the parties hereto shall have no further obligations hereunder except for any obligation hereunder which, by its express terms, survives any termination of this Agreement, or (ii) to waive such Title Objections and to proceed to Closing, as set forth in Article VII hereof. All Exceptions approved by Purchaser or Title Objections subsequently waived in writing shall hereinafter be deemed to be "Permitted Exceptions".

### ARTICLE III - ADDITIONAL CONDITIONS PRECEDENT

- 3.1 Funding Approval. If Purchaser fails to receive funding approval from Developer's management or the senior management of Developer's parent company, The Kroger Co., an Ohio corporation, for the project contemplated for the Premises within ninety (90) days after the date hereof, Purchaser may terminate this Agreement by giving written notice within such ninety (90) day period to Seller, in which event consideration paid to Seller shall be returned to Purchaser and the parties hereto shall have no further obligations hereunder.

### ARTICLE IV - REPRESENTATIONS

- 4.1 Representations of Seller. Seller represents and warrants to Purchaser that the following statements are true as of the date hereof and shall continue to be true on the Closing Date (as hereinafter defined):
- (i) As of the Closing Date, Seller has fee simple title to the Premises.
  - (ii) Seller has received no written notice of any pending or contemplated claim, litigation, condemnation, administrative action or other legal proceeding involving or affecting any portion of the Premises.
  - (iii) There is no oral or written lease, agreement or contract in any way affecting or related to the Premises except (i) as may be filed of record in the official records of the Clerk and Recorder of Weld County and (ii) a farming lease with an affiliate of Seller, which Seller will terminate at Closing.
  - (iv) Seller has caused no default to currently exist under any agreement which in any way affects the Premises.
  - (v) Both Seller and the individual executing this Agreement on behalf of Seller have the full right, power and authority to enter into this Agreement and to cause the same to create a legal and binding obligation of Seller.
  - (vi) Seller has received no written notice of any violation of any applicable building code, zoning code or environmental or other law or regulation affecting the Premises.
  - (vii) To Seller's knowledge, no portion of the Premises heretofore has been used as a site for the dumping of hazardous waste or other toxic materials.
  - (viii) Seller has received no written notice of any violation of law regulation concerning the release of Hazardous Materials on or under the Premises. As used herein, the term "Hazardous Materials" means any substance or material the release of which is regulated or controlled by any local, state or federal law.

- (ix) The Premises are not under a tax reduction program or any other classification that lessens or reduces the real estate tax obligations in any manner and that has caused or may cause an increase in present or future real estate taxes on the Premises as a result of the tax savings or deferrals received in prior years.
- (x) To Seller's knowledge, no portion of the Premises is located within any state, local or federally protected "wetlands" (as such term is defined in applicable state, local or federal legislation).

As used herein, the term Seller's knowledge means the current, actual knowledge of AJ Krieger, Town Administrator, without any duty of investigation.

- 4.2 Survival of Representations, Covenants and Warranties. Representations, covenants and warranties set forth in this Agreement shall be continuing and shall survive the Closing until the earlier to occur of (i) three (3) years after Closing, or (ii) one (1) year after King Soopers opens for business at the Premises.

#### ARTICLE V - LOSS

- 5.1 Risk of Loss. If the Premises or any portion thereof are damaged by casualty, force majeure or other cause, then Purchaser, at its option may elect (i) to deduct the cost of restoration, as determined by Purchaser's engineer, from the Purchase Price, and to proceed in accordance with the terms and conditions of this Agreement, or (ii) to terminate this Agreement, whereupon all consideration paid by Purchaser shall be returned to Purchaser and the parties hereto shall have no further obligations hereunder.
- 5.2 Sale "As Is". Except for the express representations, warranties and covenants of Seller contained in this Agreement, Purchaser has not relied upon and will not rely upon, either directly or indirectly, any representation or warranty of Seller or any of its respective agents and acknowledges that no such representations have been made. Purchaser represents that it is a knowledgeable, experienced and sophisticated Purchaser of real estate and that it is relying solely on its own expertise and that of Purchaser's consultants in purchasing the Premises. Purchaser is, or as of Closing will be, familiar with the Premises. Except for the express representations, warranties and covenants of Seller contained in this Agreement, Purchaser is relying solely upon its own, independent inspection, investigation and analysis of the Premises as it deems necessary or appropriate in so acquiring the Premises from Seller, including, without limitation, an analysis of any and all matters concerning the condition of the Premises and its suitability for Purchaser's intended purposes, and a review of all applicable laws, ordinances, rules and governmental regulations (including, but not limited to, those relative to building, zoning and land use) affecting the development, use, occupancy or enjoyment of the Premises. Upon Closing, except to the extent of

the express representations, warranties and covenants of Seller under this Agreement, Purchaser shall assume the risk that adverse matters, including, but not limited to, adverse physical and environmental conditions may not have been revealed by Purchaser's inspections and investigations. Purchaser acknowledges and agrees that upon Closing, subject only to the express representations, warranties and covenants of Seller contained in this Agreement, Seller shall sell and convey to Purchaser and Purchaser shall accept the Premises "AS-IS, WHERE-IS" and "WITH ALL FAULTS". Seller is not liable or bound in any manner by any oral or written statements, representations, or information pertaining to the Premises furnished by any real estate broker, agent, employee, servant or other person, unless the same are specifically set forth or referred to herein. Purchaser acknowledges that subject to the express representations, warranties and covenants of Seller contained in this Agreement, the Purchase Price reflects the "as is" nature of this sale and any faults, liabilities, defects or other adverse matters that may be associated with the Premises. The terms and conditions of this paragraph shall expressly survive the closing and shall not be merged with the Deed. Purchaser has fully reviewed the disclaimers and waivers set forth in this Agreement with its counsel and understands the significance and effect thereof. Without limiting the generality of the foregoing, subject only to the express representations, warranties and covenants of Seller contained in this Agreement, Purchaser hereby expressly waives and relinquishes any and all rights and remedies Purchaser may now or hereafter have against Seller, whether known or unknown, with respect to (i) the nature or condition of the Premises (including, without limitation, any design or natural defect of any kind or nature whatsoever), (ii) the condition of title to the Premises, (iii) the Premises' fitness for Purchaser's intended use (including, without limitation, Purchaser's ability to construct or otherwise develop the Premises) and (iv) any past, present or future presence or existence of Hazardous Materials on, under or about the Premises or with respect to any past, present or future violations of any rules, regulations or laws, now or hereafter enacted, regulating or governing the use, handling, storage or disposal of Hazardous Materials.

#### ARTICLE VI - CONDEMNATION

- 6.1 Condemnation. In the event that condemnation proceedings are commenced or Purchaser has reasonable cause to believe that such proceedings hereafter may be commenced, then Purchaser may elect to terminate this Agreement by giving written notice to Seller, whereupon Purchaser shall receive all consideration paid by Purchaser under this Agreement, and the parties hereto shall have no further obligations hereunder. In the event of an actual taking in condemnation or a conveyance in lieu thereof prior to Closing, then Purchaser, at its option, may (i) proceed to Closing, in which event the Purchase Price shall be reduced by the amount of the condemnation award or the sales price, in the event of a conveyance in lieu of condemnation, if such amounts are paid prior to Closing, or (ii) terminate this Agreement whereupon the consideration paid by Purchaser shall be returned to Purchaser and the parties hereto shall have no further

obligations hereunder. Seller shall not convey any portion of the Premises and shall not agree to any condemnation settlement without Purchaser's prior written consent, and any condemnation award not paid prior to Closing shall be assigned to Purchaser at Closing.

## ARTICLE VII - CLOSING

- 7.1 Date of Closing. The Closing shall occur at the office of the Title Company, on a date and at a time selected by Purchaser and Developer, on or before the later of (i) ninety (90) days after the date hereof or (ii) midnight on October 27, 2015 (the "Closing Date"). Purchaser shall notify Seller of the actual date set for Closing. Seller shall provide Purchaser with all documents required under this Agreement to be executed or submitted at Closing for review at least seven (7) days prior to the scheduled Closing Date.
- 7.2 Seller's Obligations. At Closing, Seller shall deliver the following:
- (i) Evidence satisfactory to Purchaser that the Title Company, within twenty (20) days of Closing, will issue an Owner's Policy of Title Insurance with all standard exceptions deleted and all affirmative coverages required by Purchaser in the amount of the Purchase Price, insuring good and marketable fee simple absolute title to the Premises in Purchaser, and insuring all rights, easements and privileges appurtenant to the Premises, free and clear of all liens, encumbrances, restrictions, easements, reservations and other matters, except for the Permitted Exceptions.
  - (ii) A special warranty deed ("Deed"), in form and substance acceptable to Purchaser, fully executed and acknowledged by Seller, and in proper form for recording, conveying the Premises to Purchaser in fee simple absolute, free and clear of all easements, restrictions, conditions, reservations, liens or other encumbrances other than the Permitted Exceptions.
  - (iii) A "Certificate of Non-Foreign Status - Entity Seller," in the same form as that attached hereto as Exhibit "D", certifying that Seller is not a "foreign person" as such term is defined in the applicable statutes.
  - (iv) Seller's Certificate, executed and acknowledged in recordable form, confirming the truth and accuracy of the representations, warranties, and covenants of Seller contained in Section 2.1 and Article IV hereof, subject to matters that become known prior to Closing in the same form as that attached hereto as Exhibit "E".
  - (v) Three (3) counterparts of Repayment Option Agreement, substantially in the form attached hereto as Exhibit "F", fully executed and acknowledged by Seller.
  - (vi) Three (3) counterparts of the Vista Ridge Filing No. 14 Minor Subdivision Non-Residential Development Agreement, substantially in the form

attached hereto as Exhibit "G", fully executed and acknowledged by Seller.

- (vii) Complete and exclusive possession of the Premises to Purchaser.
- (viii) Such affidavits as are required by the Title Company to satisfy all affirmative coverages deemed necessary by Purchaser and for the elimination of any standard or printed exceptions in Purchaser's Owner's Policy of Title Insurance, including, without limitation, the exception for unfiled mechanic's liens, parties in possession and unrecorded easements.
- (ix) Such other documents as may be necessary or desirable to consummate the purchase and sale contemplated in this Agreement and the Developer Purchase.

7.3 Purchaser's Obligations. Provided that all conditions precedent to Closing set forth herein have been satisfied, and further provided that Seller has delivered all items required by it to be delivered, and the Title Company has committed to deliver the title policy in accordance with Section 7.2(i) hereof, then Purchaser shall deliver to the Title Company, at Closing, (i) the necessary Closing Costs adjusted in accordance with the terms of this Agreement, (ii) three (3) counterparts of the Repayment Option Agreement, substantially in the form attached hereto as Exhibit "F", fully executed and acknowledged by Purchaser, and (iii) three (3) counterparts of the Vista Ridge Filing No. 14 Minor Subdivision Non-Residential Development Agreement, substantially in the form attached hereto as Exhibit "G", fully executed and acknowledged by Purchaser.

7.4 Closing Costs, Adjustment and Prorations. Ad valorem taxes and general assessments relating to the Premises for the entire year of Closing shall be prorated between Seller and Purchaser as of the Closing Date, based upon the best available estimates of the amount of same which will be due and payable on the Premises for the year of Closing. As soon as the actual amount of taxes and assessments is determined, Seller and Purchaser shall readjust the amount of taxes and assessments to be paid by each party. All transfer taxes, Survey charges, title insurance premiums for the standard ALTA 2006 form with preprinted exceptions deleted, one half of escrow charges, and recording costs other than for recordation of the Deed, shall be paid by Seller. The cost of recording the Deed, one-half of escrow charges, and the cost of all endorsements ordered by Purchaser (other than to remove the pre-printed exceptions) shall be paid by Purchaser. Each party shall be responsible for its own attorneys' fees.

7.5 Utilities. If any utilities servicing the Premises are being used at the time of Closing, Seller shall cause same to be transferred to Purchaser's account at Closing. Seller shall be responsible for payment of all utility charges up to and through Closing.

## ARTICLE VIII - DEFAULT

- 8.1 Seller's Default. If Seller fails to perform in accordance with the terms of this Agreement, or if any representation or warranty made by Seller herein shall be untrue upon execution hereof or on the Closing Date, then Purchaser may (i) rescind this Agreement and may receive back the consideration paid by Purchaser under this Agreement or (ii) seek specific performance.
- 8.2 Purchaser's Default. If Purchaser fails to perform its obligations hereunder, which failure continues for thirty (30) days after Purchaser's receipt of prior written notice of its default hereunder, and if such failure is not caused, in whole or in part, by the acts or omissions of Seller, then Seller, as its sole and exclusive remedy, either at law or in equity, may terminate this Agreement and receive from Purchaser the amount of Ten Thousand and 00/100 Dollars (\$10,000.00) as liquidated damages and not as a penalty, whereupon the parties hereto shall have no further obligations hereunder. The parties hereto hereby agree that, without resale, Seller's damages will be difficult to ascertain and that the liquidated damages payable to Seller as described in the preceding sentence constitute a forfeiture of the Earnest Money Deposit.

## ARTICLE IX - MISCELLANEOUS

- 9.1 Seller's Indemnification. Seller hereby agrees to indemnify and save harmless Purchaser from and against all costs, claims, expenses, or damages, including reasonable attorneys' fees arising out of or related to ownership, possession or use of the Premises up through and including Closing or arising from a breach of Seller's representations, covenants and warranties hereunder.
- 9.2 Brokerage Commissions. Seller represents to Purchaser that it has not contacted, contracted with or entered into any agreement with any real estate broker or agent in connection with the sale of the Premises, and that it has not taken any action which might result in any real estate broker's, finder's or other fee or commission being due or payable in connection with this transaction. Seller shall indemnify and save harmless Purchaser from and against all costs, claims, expenses or damages, including reasonable attorneys' fees, resulting from or related to any brokerage commission due or alleged to be due. This obligation to indemnify shall survive the expiration, consummation or earlier termination of this Agreement.
- 9.3 Notice and Approval. All notices required or permitted to be given hereunder shall be in writing and shall be delivered to the parties at the following addresses:

If to Seller: Town of Erie  
650 Holbrook Street  
P.O. Box 750  
Erie, Colorado 80516  
Attn: Town Administrator  
Telephone: (303) 926-2700

If to Purchaser: King Soopers  
Attention: Real Estate Department  
65 Tejon Street  
Denver, CO 80223  
Telephone: (303) 778-3346

with a copy to: The Kroger Co.  
Law Department  
1014 Vine Street  
Cincinnati, OH 45202-1100  
Telephone: (513) 762-1384

Notice shall be deemed to be served upon deposit in an office of the United States Postal Service, or successor governmental agency, registered or certified mail, return receipt requested, or upon receipt by a reputable overnight courier service (such as UPS or FedEx), receipt requested,

- 9.4 Integration. This Agreement constitutes the entire agreement between the parties related to the purchase and sale of the Premises and shall be deemed to be a full, final and completed integration of all prior or contemporaneous understandings or agreements between the parties related thereto.
- 9.5 Additional Documentation. Seller and Purchaser shall execute such additional documentation as reasonably may be required to effectuate the covenants set forth in this Agreement.
- 9.6 Amendments. This Agreement may be amended or supplemented only by a written instrument signed by both parties hereto.
- 9.7 Counterparts. This Agreement may be executed in any number of identical counterparts, each of which shall be considered an original, but together shall constitute but one and the same agreement.
- 9.8 Governing Law. This Agreement shall be governed by and all disputes related hereto shall be determined in accordance with the laws of the State of Colorado.
- 9.9 Successors. This Agreement shall be binding upon the parties hereto, their respective heirs, administrators, personal representatives, successors and assigns.

- 9.10 Captions. The captions or section headings are for convenience and ease of reference only and shall not be construed to limit, modify or alter the terms of this Agreement.
- 9.11 Survival. The representations, warranties and agreements set forth herein shall survive Closing for the period set forth in Section 4.2 hereof.
- 9.12 Calculation of Time. In the event the final date of any time period which is set out in any provision of this Agreement falls on a Saturday, Sunday or legal holiday, in such event, such time period shall be extended to the next regular business day.
- 9.13 Time is of the Essence. The parties hereto acknowledge and agree that time is of the essence with respect to their obligations hereunder.

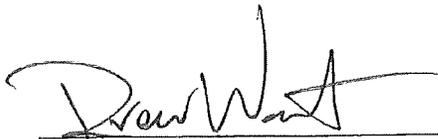
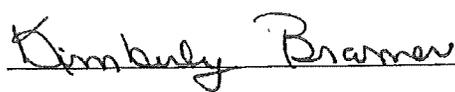
IN WITNESS WHEREOF, the parties hereto have executed this Purchase and Sale Agreement as of the date and year first above written.

(Signatures Immediately Follow)

ATTEST:

\_\_\_\_\_  
Nancy J. Parker, Town Clerk

WITNESS:

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

**SELLER:**

TOWN OF ERIE,  
a Colorado Municipal corporation

\_\_\_\_\_  
Tina Harris, Mayor

**PURCHASER:**

DILLON COMPANIES, INC.,  
a Kansas corporation

By:   
\_\_\_\_\_  
Russell J. Dispense

Its: Vice President



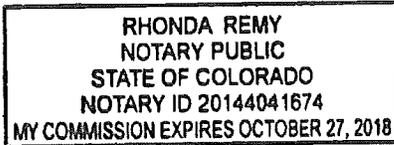


(Purchaser Acknowledgment)

STATE OF Colorado )  
 )  
COUNTY OF Denver ) SS.

The foregoing instrument was acknowledged before me this 3<sup>rd</sup> day of September, 2015, by Russell Disgense, the Vice President of Dillon Companies Inc., a Kansas corporation, on behalf of the corporation, as Purchaser.

IN WITNESS WHEREOF I have hereunto set my hand and official seal.



R Remy  
Notary Public



Exhibit "A-2"

PREMISES LEGAL DESCRIPTION

LEGAL DESCRIPTION:

A PARCEL OF LAND SITUATED IN THE S 1/2 OF SECTION 33, TOWNSHIP 1 NORTH, RANGE 68 WEST OF THE 6<sup>TH</sup> P.M., BEING A PART OF PARCELS 1 AND 2 OF SUBDIVISION EXEMPTION NO. 977 RECORDED JUNE 9, 2003 AT RECEPTION NO. 3070624 AND A PART OF PARCELS 33 & 34, VISTA RIDGE AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE S 1/4 CORNER OF SAID SECTION 33;  
THENCE N00°06'16"E ALONG THE EAST LINE OF THE SW 1/4 OF SAID SECTION 33 A DISTANCE OF 75.00 FEET TO THE NORTH RIGHT OF WAY LINE OF COLORADO STATE HIGHWAY 7, SAID POINT BEING THE POINT OF BEGINNING;  
THENCE N89°38'37"W ALONG THE SAID NORTH RIGHT OF WAY LINE A DISTANCE OF 1001.35 FEET;  
THENCE N00°21'23"E A DISTANCE OF 174.74 FEET TO A POINT OF CURVE;  
THENCE ALONG A CURVE TO THE RIGHT WHOSE CHORD BEARS N18°13'47"E A DISTANCE OF 184.15 FEET, SAID CURVE HAVING A CENTRAL ANGLE OF 35°44'47", A RADIUS OF 300.00 FEET, AN ARC LENGTH OF 187.17 FEET TO A POINT OF REVERSE CURVE;  
THENCE ALONG A CURVE TO THE LEFT WHOSE CHORD BEARS N18°13'47"E A DISTANCE OF 184.15 FEET, SAID CURVE HAVING A CENTRAL ANGLE OF 35°44'47", A RADIUS OF 300.00 FEET, AN ARC LENGTH OF 187.17 FEET TO A POINT OF TANGENT;  
THENCE N00°21'23"E ALONG SAID TANGENT A DISTANCE OF 341.29 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF RIDGE VIEW DRIVE;  
THENCE S89°31'49"E ALONG SAID SOUTHERLY RIGHT OF WAY LINE A DISTANCE OF 937.44 FEET TO A POINT OF CURVE;  
THENCE ALONG A CURVE TO THE RIGHT WHOSE CHORD BEARS S45°03'17"E A DISTANCE OF 42.04 FEET, SAID CURVE HAVING A CENTRAL ANGLE OF 88°57'03", A RADIUS OF 30.00 FEET, AN ARC LENGTH OF 46.57 FEET TO A POINT OF TANGENT ON THE WESTERLY RIGHT OF WAY LINE OF SHERIDAN BOULEVARD;  
THENCE S00°34'46"E ALONG SAID WESTERLY RIGHT OF WAY LINE A DISTANCE OF 804.79 FEET TO A POINT OF CURVE;  
THENCE ALONG A CURVE TO THE RIGHT WHOSE CHORD BEARS S44°53'10"W A DISTANCE OF 42.77 FEET, SAID CURVE HAVING A CENTRAL ANGLE OF 90°55'52", A RADIUS OF 30.00 FEET, AN ARC LENGTH OF 47.61 FEET TO A POINT OF TANGENT ON SAID NORTH RIGHT OF WAY LINE OF STATE HIGHWAY 7;  
THENCE N89°38'54"W ALONG SAID NORTH RIGHT OF WAY LINE A DISTANCE OF 62.20 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS (882,212 SQUARE FEET) 20.2528 ACRES.

THE ABOVE LEGAL DESCRIPTION IS TO BE KNOWN AS:  
LOTS 1 THROUGH 6, VISTA RIDGE FILING NO. 14,  
UPON RECORDING OF THE FINAL PLAT.







**Exhibit "D"**

**Certificate of Non-Foreign Status – Entity Seller**

Section 1445 of the Internal Revenue Code provides that a transferee of a U.S. Premises interest must withhold tax if the transferor is a foreign person. For U.S. tax purposes (including section 1445), the owner of a disregarded entity (which has legal title to a U.S. Premises interest under local law) will be the transferor of the Premises and not the disregarded entity. To inform Dillon Companies, Inc., a Kansas corporation, as Purchaser (herein, "Transferee"), that withholding of tax is not required upon the disposition of a U.S. Premises interest by, Town of Erie, a Colorado municipal corporation, as Seller (herein, "Transferor"), the undersigned hereby certifies the following:

1. Transferor is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations);
2. Transferor is not a disregarded entity as defined in section 1.1445-2(b)(2)(iii);
3. Transferor's U.S. employer identification number is \_\_\_\_\_; and
4. Transferor's office address is:

\_\_\_\_\_

The undersigned, on behalf of Transferor, understands that Transferee may disclose this Certification to the Internal Revenue Service, and that any false statement contained herein could be punishable by fine, imprisonment, or both.

Under penalties of perjury, the undersigned, on behalf of Transferor, declares that this Certification have been examined and to the best of undersigned's knowledge and belief it is true, correct, and complete, and the undersigned further declares that he/she has authority to sign this document on behalf of Transferor.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

(Signatures Immediately Follow)

ATTEST:

\_\_\_\_\_  
Nancy J. Parker, Town Clerk

SELLER:

**TOWN OF ERIE,**  
a Colorado Municipal corporation

\_\_\_\_\_  
Tina Harris, Mayor

**Exhibit "E"**

**Seller's Certificate**

I, \_\_\_\_\_, hereby certify and confirm that the representations, warranties and covenants made by me, as set forth in ARTICLE II, at Section 2.1 and ARTICLE IV, at Section 4.1 and elsewhere in that certain PURCHASE AND SALE AGREEMENT ("Agreement") made and entered into on the \_\_\_\_ day of \_\_\_\_\_, 2015, by and between the TOWN OF ERIE, a Colorado municipal corporation, as Seller, and DILLON COMPANIES, INC., a Kansas corporation, as Purchaser, are true and accurate on this the \_\_\_\_ day of \_\_\_\_\_, 2015, and shall survive the Closing until the earlier to occur of (i) three (3) years after Closing, or (ii) one (1) year after King Soopers opens for business at the Premises.

SELLER:

**TOWN OF ERIE,**  
a Colorado Municipal corporation

ATTEST:

\_\_\_\_\_  
Nancy J. Parker, Town Clerk

\_\_\_\_\_  
Tina Harris, Mayor



Exhibit "F"

REPAYMENT OPTION AGREEMENT

(Dillon Companies, Inc. – Lots 1-6, Vista Ridge Filing No. 14 Minor Subdivision)

THIS REPAYMENT OPTION AGREEMENT ("**Repayment Agreement**") is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2015 ("Effective Date"), by and **TOWN OF ERIE**, a Colorado municipal corporation, ("**Town**"), whose address is 650 Holbrook Street, P.O. Box 750, Erie, Colorado 80516, Attention: Town Administration, and **DILLON COMPANIES, INC.**, a Kansas corporation dba King Soopers ("**Dillon**"), whose address is 65 Tejon Street, Denver, Colorado 80223, Attention: Real Estate Department.

RECITALS

WHEREAS, on the date of this Agreement, in conjunction with a particular Purchase and Sale Agreement ("**Purchase and Sale Agreement**") entered into by and between Town and Dillon, Town has conveyed to Dillon that certain real property more particularly described as follows: Lots 1-6, Vista Ridge Filing No. 14 Minor Subdivision, Town of Erie, County of Weld, State of Colorado, according to the recorded plat thereof (the "**Property**"); and

WHEREAS, in consideration of Town's conveyance of the Property to Dillon, Dillon has agreed to grant to Town the "Repayment Option," as hereinafter defined; and

WHEREAS, Town and Dillon enter into this Agreement to set forth the terms and conditions of the Repayment Option.

AGREEMENT

NOW, THEREFORE, in consideration of Town's conveyance of the Property to Dillon, and of other good and valuable consideration in the Purchase and Sale Agreement, the receipt and sufficiency of which are hereby acknowledged by the parties, Town and Dillon covenant and agree as follows:

1. Retail Building. The "**Retail Building**" shall mean a building on a portion of the Property containing a King Soopers (or another trade name within The Kroger Co. family of companies) retail store in a large format building of a type similar to other such retail stores in large format buildings operated elsewhere in the State of Colorado offering such types of retail products and services as is ordinary and customary for such a retail store.

2. Improvements. The "**Improvements**" shall mean the "Public Improvements and Common Facilities" as defined and in connection with the "Non-Residential Development Agreement" entered into by and between Town and Dillon on \_\_\_\_\_, 2015.

3. Obtaining Governmental Approvals. Dillon agrees to obtain, prior to commencement of construction of any Improvements, all permits, licenses, certificates, consents and any other approvals necessary or required pursuant to any law, ordinance, resolution, order, rule or

regulation of any governmental authority having jurisdiction over the Property and the development thereof ("**Governmental Approvals**") in order for Dillon to construct the Retail Building and Improvements to be constructed on the Property. The Governmental Approvals shall be deemed to include, but not be limited to, building approvals by the Town of Erie.

4. Open-By Date. Dillon shall, within three (3) years following issuance of all permits by Town and applicable requirements have been met of all governmental agencies with jurisdiction over Property, pursuant to and as necessary for Dillon to construct Improvements and Retail Building on the Property, open a Retail Building on a portion of the Property for at least one day as a grocery store similar to a majority of Dillon's other grocery stores in Colorado (the "**Open-By Date**"). Dillon shall provide to the Town written notice of the Open-By Date. The Open-By Date shall be extended one day for each day of delay in the construction of Dillon's Retail Building, if any, caused by Force Majeure, if and only if Dillon first provides to Town written notice of the new Open-By Date created by such extensions. Notwithstanding the foregoing, however, nothing in this Agreement shall obligate Dillon actually to continue to operate the Retail Building for business with the public for longer than one day. Dillon shall have the right, in its sole discretion, to determine thereafter whether to continue to keep the Retail Building open for business to the public.

5. Repayment Option. In the event that the Open-By Date is not met as defined herein, Dillon shall make a one-time "Repayment", as hereinafter defined, from Dillon to Town upon the terms and conditions as hereinafter set forth (the "**Repayment Option**"). The Repayment Option shall apply to the Property (together with its appurtenances, including, without limitation, each sewer and water tap, if any,) theretofore acquired by Dillon for use in connection with the Property.

6. Exercise of Repayment Option. Town shall have the right to exercise the Repayment Option because of Dillon's failure to meet the Open-By Date by giving Dillon written notice within forty-five (45) days after the Open-By Date. If such notice shall not be so given by Town to Dillon on or before the expiration of the period as aforesaid, Town's right to exercise the Repayment Option shall thereupon cease and terminate, except as hereinafter provided.

7. Repayment Option Price. The "**Repayment Option Price**" shall mean the purchase price of the land paid by Town for the Property in the last, immediately preceding recorded purchase transaction of said Property, and evidenced by the recorded Special Warranty Deed with respect to the Property, which was contemplated at Three Million Thirty-Seven Thousand Nine Hundred Twenty and 00/100 Dollars (\$3,037,920.00), and was to be adjusted as set forth in final closing statements.

8. Transfer if Repayment. Within ninety (90) days after Town gives notice of the exercise of the Repayment Option, Dillon shall tender to Town any documents as may reasonably be necessary for the transfer of "good funds", as defined under Colorado law, from Dillon to Town in the amount of the Repayment Option Price.

9. Evidencing Expiration of Repayment Option. In the event Dillon opens the Retail Building as described in Paragraph 4 prior to the time Town exercises the Repayment Option for Dillon's failure to meet the Open-By Date deadline, or in the event Town fails to exercise the

Repayment Option within the time and in the manner set forth above, Town shall not have any further right to exercise the Repayment Option and Town agrees, upon Dillon's written request, to deliver promptly to Dillon a duly executed and acknowledged release in recordable form, releasing Town's right to exercise the Repayment Option.

10. Force Majeure. In the event that Dillon is unable to meet a respective deadline because of delays from causes beyond the reasonable control of Dillon, such as, but not limited to, acts of God, strikes, lock-outs, work stoppages, unavailability of or delay in receiving labor or materials (other than as a result of any delay or failure by Dillon to make payments therefor), defaults by contractors or subcontractors (other than as a result of any delay or failure by Dillon to make payments therefor), weather conditions, drought conditions or circumstances existing in reasonable anticipation of drought conditions, or fire or other casualty, acts of war, or acts of terrorism, then the date by which Dillon shall be required to meet the respective deadline, and the date by which Town shall be required to exercise the Repayment Option because of Dillon's failure to meet such deadline, shall be extended for a period of time (a "**Force Majeure Delay Period**") equal to the length of said delay or delays, if and only if Dillon first provides to Town written notice of the new Open-By Date created by such extensions. Notwithstanding the foregoing, however, a Force Majeure Delay Period shall not be deemed to have commenced until the later of the date of the occurrence of the event which causes such delay or the date which is thirty (30) days prior to the date upon which notice of the occurrence of such event is given by Dillon to Town.

11. Notices. All notices, consents or other instruments or communications provided for under this Agreement, shall be in writing, signed by the party giving the same and shall be deemed properly given and received on the earlier of when actually delivered and received or three business days after mailed, if sent by registered or certified mail, postage prepaid, to the address for a party set forth at the beginning of this Agreement, or as such party may designate by written notice to the other party, with a copy, in the case of notices to Town of Erie, Attention: Town Administration, 650 Holbrook Street, P.O. Box 750, Erie, Colorado 80516 and with a copy, in the case of notices to Dillon, to The Kroger Co., 1014 Vine Street, Cincinnati, Ohio 45202, Attention: Kroger Law Department.

12. No Oral Amendment or Modifications. No amendments, waivers or modifications of the terms and provisions contained in this Agreement, and no acceptances, consents or waivers by Town under this Agreement, shall be valid or binding unless in writing and executed by the party to be bound thereby. No such termination, extension, modification or amendment shall be effective unless and until a proper instrument in writing has been executed.

13. Severability. If any provision of this Agreement shall be held invalid, illegal or unenforceable, it shall not affect or impair the validity, legality or enforceability of any other provision of this Agreement, and there shall be substituted for the affected provision a valid and enforceable provision as similar as possible to the affected provision.

14. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

15. Captions for Convenience. All headings and captions used herein are for

convenience only and are of no meaning in the interpretation or effect of this Agreement.

16. Applicable Law. This Agreement shall be interpreted and enforced according to the laws of the State of Colorado.

17. Time of the Essence. Time is of the essence with respect to performance required under this Agreement.

18. Costs of Legal Proceedings. In the event either party institutes legal proceedings with respect to this Agreement or the Property, the prevailing party shall be awarded, in addition to any other relief to which it is entitled, its costs and expenses incurred in connection with such legal proceedings including, without limitation, reasonable attorneys' fees.

19. Compliance with Laws. Dillon agrees that, in performing its obligations under this Agreement, Dillon shall comply with all laws, rules, regulations, ordinances and orders of any governmental authority having jurisdiction.

20. No Third-Party Beneficiaries. None of the terms, conditions or covenants contained in this Agreement shall be deemed to be for the benefit of any person other than Dillon and Town, and their successors and assigns specifically designated as such in writing, and no other person shall be entitled to rely hereon in any manner.

21. Computation of Time. In computing any period of time under this Agreement, the date of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or federal legal holiday, in which event the period shall run until the end of the next day which is not a Saturday, Sunday, or federal legal holiday.

IN WITNESS WHEREOF, Town and Dillon have executed this Repayment Option Agreement as of the day and year first above written.

ATTEST:

\_\_\_\_\_  
Nancy J. Parker, Town Clerk

WITNESSES:

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

**TOWN:**  
**TOWN OF ERIE,**  
a Colorado Municipal corporation

\_\_\_\_\_  
Tina Harris, Mayor

**PURCHASER:**  
**DILLON COMPANIES, INC.,**  
a Kansas corporation

By: \_\_\_\_\_  
Its: \_\_\_\_\_

(Town of Erie)

STATE OF )  
                  )     SS.  
COUNTY OF )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by \_\_\_\_\_, the \_\_\_\_\_ of Town of Erie, a Colorado municipal corporation, as Town.

IN WITNESS WHEREOF I have hereunto set my hand and official seal.

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

(Dillon Acknowledgment)

STATE OF                    )  
                                  )     SS.  
COUNTY OF                )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by \_\_\_\_\_, the \_\_\_\_\_ of Dillon Companies Inc., a Kansas corporation, on behalf of the corporation, as Purchaser.

IN WITNESS WHEREOF I have hereunto set my hand and official seal.

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

Exhibit "G"

**Vista Ridge Filing No. 14 Minor Subdivision  
NON-RESIDENTIAL DEVELOPMENT AGREEMENT**

**THIS NON-RESIDENTIAL DEVELOPMENT AGREEMENT** ("Agreement") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2015, 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 **DILLON COMPANIES, INC.**, a Kansas corporation, 65 Tejon Street, Denver, Colorado, 80223, hereinafter referred to as "Owner;" and

**WHEREAS**, Owner has submitted a final plat for the Vista Ridge Filing No. 14 Minor Subdivision ("Development") attached hereto as "Exhibit A" and incorporated herein by reference. Said Development has been approved by Erie; and

**WHEREAS**, The Town has reviewed its Water Supply Plan, which addresses the Town's existing water obligations and its present and future water supplies. The Town has also reviewed its Conservation Plan and its Municipal Code regarding water dedications, and has determined, at its sole discretion, that it will be able to provide an adequate water supply to serve the water needs of the Development at full build out pursuant to Section 29-20-301 C.R.S. et seq. As a term and condition of providing said water, the Owner hereby agrees to comply with the Town's Municipal Code regarding water dedications and cash in lieu of water dedications.

**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 VIII.

**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 AND PUBLIC COMMON FACILITIES IMPROVEMENTS**

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

**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, United Power to install all required street lighting pursuant to United Power 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."
5. All drainage improvements not located on Town owned property shall be maintained by the Owner, maintenance district, or final property owner. Drainage improvements may include, but are not limited to: landscaping, open areas, grass, shrubs, trees, retaining walls, sidewalks, ponds, pipes, underdrains, swales, drain pans, and inlet grates.
6. Owner shall include the Business Association, maintenance district, or final property owner in the final inspection procedures and provide Erie with written acceptance of the drainage facilities for maintenance from this final owner.

**N. Landscape Improvements**

For 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.

**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 Code.

**P. Underdrains**

The Owner may choose to install foundation underdrains and a site wide underdrain

collection system under the Town owned sanitary sewer system. The Town grants the use of Town owned right-of-way for these facilities but the Town assumes no maintenance responsibility for the facilities. These underdrain systems shall be maintained by the Owner, Business Association, or maintenance district.

The Owner shall install a curb underdrain system pursuant to the Towns "Standards and Specifications for Design and Construction of Public Improvements" and as shown on the Town accepted construction plans. This system shall be maintained by the Town.

**Q. Maintenance Definition**

Maintenance is the process of preserving capital improvements, structures, development, or systems to meet its function or original intent of the facility. This is the preservation, conservation, keeping in good conditions, operating safely, operating efficiently, testing, inspection, servicing, repairing, grading, cleaning, picking up trash and debris, pest control, painting, mowing, pruning, and prolonging of these facilities. Maintenance also includes the provision of financial support to maintain the facilities. Facilities include but are not limited to: landscaping, open areas, grass, shrubs, trees, playgrounds, site furniture and fixtures, retaining walls, signs, sidewalks, drainage structures such as ponds, swales, drain pans, inlets, and outlet structures.

Maintenance may involve many different number and types of companies, services, individuals to look after the facility and the ability to coordinate these efforts. Maintenance includes both routinely scheduled activities, as well as non-routine repairs that may be required.

A maintenance plan should be prepared and submitted as part of the development review/approval process and be provided to the Business Association or District responsible for maintenance activities.

**IV. IMPROVEMENT ACCEPTANCE**

**A. Construction Acceptance**

No later than ten (10) business days after improvements 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) business days of completion of improvements, 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 commercial phase improvements as provided for in this Agreement, Erie may exercise its right to secure performance as provided in Section IX.B of this Agreement. If improvements 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 improvements 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 (subject to extension due to force majeure events), Erie may exercise its rights to secure performance as provided in Section IX.B of this Agreement. Erie reserves the right to schedule re-inspections.

Additionally, for Common Facilities, the Owner shall include the Business Association, maintenance district, or final property owner in the final inspection procedures and provide Erie with written acceptance of the common facility 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 the 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 IX.B 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, within thirty (30) days of Owner's request, inspect the public improvements and shall promptly 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 (but in no event more than thirty (30) days after corrections and repairs have been accepted). 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 IX.B 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 IX.B 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 not be entitled to any funds contemplated or forthcoming from the Town, nor shall the Town be required to spend any funds, as may be required pursuant to Section VIII.H of this Agreement until Erie has been made whole (and evidence of Erie's expenditures and supporting documentation shall be promptly provided to Owner).

**V. 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" that are included on the Town accepted plans 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 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 "substantial completion 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 "substantial completion construction acceptance" of common facilities: 0%.
  - d) After Final Acceptance of Public Facilities: 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; provided, however, that funds received as a result of a draw on the letter of credit shall only be used to complete the Public Improvements, Common Facilities and all related actual and documented Town costs and expenses until such time as said Improvements and Facilities are complete and all actual and documented costs and expenses paid. 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 IX.B 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 IX.B 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**

If Applicable, Owner's Phasing Plan is detailed on "Exhibit C." The completion of each phase of Development, including public, 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.

### **VI. 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 D." 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 D."

**VII. 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.

**VIII. SPECIAL PROVISIONS**

**A. Transportation**

Owner shall be responsible for the construction of transportation improvements as outlined on and limited to the Town accepted construction plans for the Development.

**B. Construction Access**

All construction traffic for the Development shall enter the Development from Sheridan Boulevard and/or Ridge View Drive unless otherwise directed by the Public Works Director. State Highway 7 shall not be used for construction access. Employee parking or

storage of construction materials shall only occur interior to the Development and is strictly prohibited on Ridge View Drive, Sheridan Boulevard, and State Highway 7.

**C. 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 third party.

**D. Sanitary Sewer**

1. Coal Creek Interceptor

The Town is due cost recovery at a rate of \$55.00 for each Single Family Equivalent ("SFE"). The reimbursement is outlined in "Exhibit D."

2. NWRF Interceptor

The Town is due cost recovery at a rate of \$410.00 for each SFE. The reimbursement is outlined in "Exhibit D."

**E. Water**

Owner shall pay raw water fees for all permanently irrigated areas on Lots 1, 2 and 6 of the Development and adjacent right-of-ways prior to the issuance of building permits or irrigation taps. Native seeded areas not permanently irrigated may be temporarily irrigated until establishment without paying raw water fees. The establishment period is generally two years.

**F. Drainage Improvements**

Owner shall be responsible for the installation and on-going maintenance of all drainage facilities within Lots 1, 2 and 6 of the Development.

**G. Disclosure Statements**

1. An Airport Disclosure statement indicating the existence of an Avigation Easement ("Exhibit E") shall be signed by the property owner with the execution of the sales contract for the property.

2. A Landfill Disclosure statement indicating that Landfills exist in the area ("Exhibit F") shall be signed by the property owner with the execution of the sales contract for the property.

**H. Reimbursement**

Town agrees it shall pay up to \$1.5 million for the construction of Public Improvements and Common Facilities of regional benefit as identified on "Exhibit B." The Town shall pay such costs through reimbursement to the Owner, as set forth herein. Owner shall construct and pay for all of the items on "Exhibit B." Upon completion of said Public Improvements and Common Facilities and upon verification by the Town of the final costs of the construction, the Town shall reimburse Owner in annual installments which shall not exceed an amount equal to the Town's municipal sales tax revenue from Lots 2, 3, 4, 5, and 6 of the Development as shown on "Exhibit A" in any given year, up to the total amount of \$1.5 million, at which time said payments shall terminate (the

“Reimbursement End Date”). Such reimbursement payments will be made annually based on the prior year's sales calculations, and the right to receive the reimbursement is personal to the Owner and does not run with the land. Such reimbursement payments will be subject to annual appropriation and do not constitute a multi-year obligation on the part of the Town. In any event, such reimbursement payments shall conclude after the 10th year of such payments regardless of the total amount reimbursed to Owner. The reimbursement is outlined in “Exhibit D.”

**I. Monument Sign**

Town agrees to reimburse Owner for up to one-half the cost, in an amount not to exceed \$25,000.00, as reimbursement for the Town's pro-rata share of the monument sign that Owner is constructing per Section XI.I of the Sheridan-Highway 7 Commercial Center Annexation Agreement. Such reimbursement shall occur within thirty (30) days of completion of the construction of the monument sign and upon verification by the Town of the final costs of construction of the monument sign. The reimbursement is outlined in “Exhibit D.”

**IX. MISCELLANEOUS TERMS**

**A. Vested Rights**

Erie agrees that the Final Subdivision Plat for the Vista Ridge Filing No. 14 Minor Subdivision 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 Agreement shall be deemed to be a “development agreement” pursuant to the Vested Rights Act.

**B. Default**

If Owner fails to fulfill the terms and conditions of this Agreement after being given notice and the opportunity to cure as specified herein, 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 V, 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 expressly related to this Development only, until the completion of the Public Improvements and Common Facilities for this Development and/or the default has been cured by Owner. Any actual and documented 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 V 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 V without notice to Owner, and may further exercise all remedies available to Erie in law and equity and as provided for herein.

**C. 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). Notwithstanding anything contained herein to the contrary, the Owner, its parent company, The Kroger Co., an Ohio corporation, or any of Owner's tenants having a net worth of One Hundred Million Dollars (\$100,000,000) or more or a market capitalization of One Billion Dollars (\$1,000,000,000) or more may self-insure this obligation.

**D. 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.

**E. Recording Agreement**

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

**F. Binding Effect of Agreement**

Except as otherwise provided herein, this Agreement shall run with the land included within the Development and shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto.

**G. Assignment, Delegation and Notice**

Owner shall provide to the Town Administrative Official, for approval, written notice of: 1) any proposed transfer of title to all or any portion of the Development to any successor, 2) arrangements for delegation or transfer of the Improvement obligations hereunder to any successor, and 3) any successor's written acceptance of such Improvement obligations. Owner and Owner's successor shall be jointly and severally liable for the Improvement obligations of Owner under this Agreement until written approval by the Town Administrative Official of the proposed transfer of title, delegation and acceptance of Improvement obligations, which approval shall not be unreasonably withheld, conditioned or delayed.

**H. 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.

**I. 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

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

Owner:

Dillon Companies, Inc., a  
Kansas corporation  
65 Tejon Street  
Denver, Colorado 80223

Dillon Companies, Inc.  
c/o The Kroger Law Department  
1014 Vine Street  
Cincinnati, OH 45202

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.

**J. 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.

**K. 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, and all such approvals or acceptances shall not be unreasonably withheld, conditioned or delayed.

**L. 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.

**M. Title and Authority**

Owner warrants to Erie that Dillon Companies, Inc., a Kansas corporation, is the record owner for the property within the Development. The undersigned further warrant to have full power and authority to enter into this Agreement.

**N. 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.

**O. 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 hereunder, venue shall be in the Courts of the County of Weld, State of Colorado.

**P. Agreement Status After Final Acceptance Reimbursement End Date**

Upon the later to occur of (i) Final Acceptance by Erie of all Public Improvements and Public Facilities or (ii) the Reimbursement End Date, 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.

**Q. 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 Non-Residential Development Agreement as of the date first set forth above.

**TOWN OF ERIE:**  
Town of Erie, a Colorado Municipal corporation

**OWNER:**  
Dillon Companies, Inc., a Kansas corporation

\_\_\_\_\_  
Tina Harris, Mayor  
ATTEST:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

\_\_\_\_\_  
Nancy J. Parker, Town Clerk

STATE OF COLORADO    )  
  ) SS.  
COUNTY OF                )

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 2015, by \_\_\_\_\_ as \_\_\_\_\_ of Dillon Companies, Inc., a Kansas corporation.

Witness my hand and official seal.  
My Commission expires \_\_\_\_\_.

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

STATE OF COLORADO )  
 ) ss.  
COUNTY OF WELD )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_,  
2015, by \_\_\_\_\_, the \_\_\_\_\_ of Town of Erie, a Colorado  
municipal corporation, as Grantee.  
IN WITNESS WHEREOF I have hereunto set my hand and official seal.

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

EXHIBITS LIST

EXHIBIT A – VISTA RIDGE FILING NO. 14 MINOR SUBDIVISION

EXHIBIT B – PUBLIC IMPROVEMENT SCHEDULE

EXHIBIT C – PHASING PLAN

EXHIBIT D – PUBLIC IMPROVEMENT REIMBURSEMENT SCHEDULE

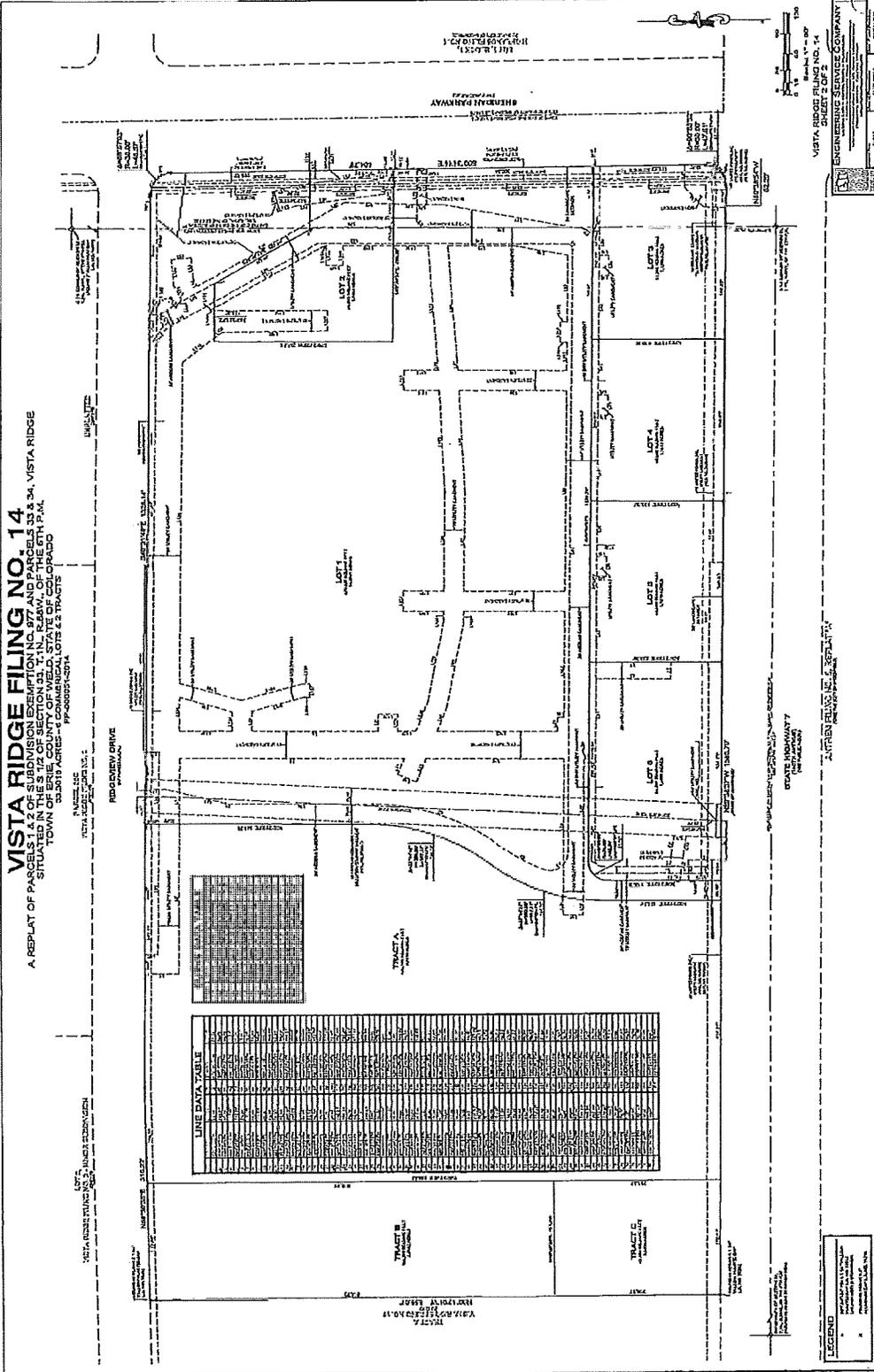
EXHIBIT E – AIRPORT DISCLOSURE

EXHIBIT F – LANDFILL DISCLOSURE

EXHIBIT G – FORM OF LETTER OF CREDIT



**VISTA RIDGE FILING NO. 14**  
 A REPEAT OF PARCELS 1 & 2 OF SUBDIVISION EXEMPTION NO. 877 AND PARCELS 33 & 34, VISTA RIDGE  
 SITUATED IN THE S 1/2 OF SECTION 03, T. 1 N., R. 34 W., OF THE 6TH P.M.  
 TOWN OF WINDY HOLLOW, COUNTY OF GARFIELD, STATE OF UTAH  
 20.2011 ACRES - 14 COMMERCIAL LOTS & 2 TRACTS  
 PP-00051-0514



**LINE DATA TABLE**

LINE NO.	LINE TYPE	START POINT	END POINT	LENGTH	AREA	PERMITS	REMARKS
1	...	...	...	...	...	...	...
2	...	...	...	...	...	...	...
3	...	...	...	...	...	...	...
4	...	...	...	...	...	...	...
5	...	...	...	...	...	...	...
6	...	...	...	...	...	...	...
7	...	...	...	...	...	...	...
8	...	...	...	...	...	...	...
9	...	...	...	...	...	...	...
10	...	...	...	...	...	...	...
11	...	...	...	...	...	...	...
12	...	...	...	...	...	...	...
13	...	...	...	...	...	...	...
14	...	...	...	...	...	...	...
15	...	...	...	...	...	...	...
16	...	...	...	...	...	...	...
17	...	...	...	...	...	...	...
18	...	...	...	...	...	...	...
19	...	...	...	...	...	...	...
20	...	...	...	...	...	...	...
21	...	...	...	...	...	...	...
22	...	...	...	...	...	...	...
23	...	...	...	...	...	...	...
24	...	...	...	...	...	...	...
25	...	...	...	...	...	...	...
26	...	...	...	...	...	...	...
27	...	...	...	...	...	...	...
28	...	...	...	...	...	...	...
29	...	...	...	...	...	...	...
30	...	...	...	...	...	...	...
31	...	...	...	...	...	...	...
32	...	...	...	...	...	...	...
33	...	...	...	...	...	...	...
34	...	...	...	...	...	...	...
35	...	...	...	...	...	...	...
36	...	...	...	...	...	...	...
37	...	...	...	...	...	...	...
38	...	...	...	...	...	...	...
39	...	...	...	...	...	...	...
40	...	...	...	...	...	...	...
41	...	...	...	...	...	...	...
42	...	...	...	...	...	...	...
43	...	...	...	...	...	...	...
44	...	...	...	...	...	...	...
45	...	...	...	...	...	...	...
46	...	...	...	...	...	...	...
47	...	...	...	...	...	...	...
48	...	...	...	...	...	...	...
49	...	...	...	...	...	...	...
50	...	...	...	...	...	...	...
51	...	...	...	...	...	...	...
52	...	...	...	...	...	...	...
53	...	...	...	...	...	...	...
54	...	...	...	...	...	...	...
55	...	...	...	...	...	...	...
56	...	...	...	...	...	...	...
57	...	...	...	...	...	...	...
58	...	...	...	...	...	...	...
59	...	...	...	...	...	...	...
60	...	...	...	...	...	...	...
61	...	...	...	...	...	...	...
62	...	...	...	...	...	...	...
63	...	...	...	...	...	...	...
64	...	...	...	...	...	...	...
65	...	...	...	...	...	...	...
66	...	...	...	...	...	...	...
67	...	...	...	...	...	...	...
68	...	...	...	...	...	...	...
69	...	...	...	...	...	...	...
70	...	...	...	...	...	...	...
71	...	...	...	...	...	...	...
72	...	...	...	...	...	...	...
73	...	...	...	...	...	...	...
74	...	...	...	...	...	...	...
75	...	...	...	...	...	...	...
76	...	...	...	...	...	...	...
77	...	...	...	...	...	...	...
78	...	...	...	...	...	...	...
79	...	...	...	...	...	...	...
80	...	...	...	...	...	...	...
81	...	...	...	...	...	...	...
82	...	...	...	...	...	...	...
83	...	...	...	...	...	...	...
84	...	...	...	...	...	...	...
85	...	...	...	...	...	...	...
86	...	...	...	...	...	...	...
87	...	...	...	...	...	...	...
88	...	...	...	...	...	...	...
89	...	...	...	...	...	...	...
90	...	...	...	...	...	...	...
91	...	...	...	...	...	...	...
92	...	...	...	...	...	...	...
93	...	...	...	...	...	...	...
94	...	...	...	...	...	...	...
95	...	...	...	...	...	...	...
96	...	...	...	...	...	...	...
97	...	...	...	...	...	...	...
98	...	...	...	...	...	...	...
99	...	...	...	...	...	...	...
100	...	...	...	...	...	...	...

VISTA RIDGE FILING NO. 14  
 MAP NO. 14-001  
 PREPARED BY: [Name]  
 DATE: [Date]  
 SCALE: [Scale]

RED DOUBT DRIVE  
 VISTA RIDGE PARKWAY  
 VISTA RIDGE PARKWAY

**LEGEND**  
 1. [Symbol] [Description]  
 2. [Symbol] [Description]  
 3. [Symbol] [Description]

**EXHIBIT B**  
**PUBLIC IMPROVEMENT SCHEDULE**



5300 DTC Parkway, Suite 100  
Greenwood Village, CO 80111  
(303) 770-8884 (Phone)  
(303) 770-3636 (Fax)

Date: 13-Jul-16  
Project: King Soopers #129-Erle, CO  
Location: NWC Hwy 7 & Sheridan  
By: B. McGray

Opinion of Probable Cost -

	Quantity	Unit	Unit Cost	Total
<b>1 ON-SITE IMPROVEMENTS</b>				
<b>2 Earth Work</b>				
3 Cut/Fill Material to rough grade	88247	C.Y.	\$2.90	\$197,916.30
<b>4 North-South Internal Drive (Hwy 7 to Ridgeview)</b>				
<b>5 Paving &amp; Associated Earthwork</b>				
6 Fine Grading (Re-Condition: 18" depth)	3024	S.Y.	\$4.50	\$13,808.00
7 Heavy Duty Asphalt (7.5" full depth)	27218	S.F.	\$3.53	\$96,079.54
8 Curb and Gutter (1.5')	924	L.F.	\$18.00	\$16,832.00
9 Concrete Sidewalk	411	S.Y.	\$46.00	\$18,495.00
10 Handicap Ramps	0	EA	\$750.00	\$4,500.00
<b>11 Striping and Signage</b>				
12 Signs (traffic)	2	EA	\$250.00	\$600.00
13 Striping - arrows, lanes	1	LS	\$2,000.00	\$2,000.00
<b>14 Landscaping</b>				
15 Landscaping & Irrigation (Parkstrip)	4024	S.F.	\$3.00	\$12,072.00
<b>16 Utilities</b>				
17 Site Lights (Base, Poles, Fixtures, Electrical)	3	EA	\$4,500.00	\$13,500.00
<b>18 Total N-S Drive Improvements</b>				<b>\$177,386.64</b>
<b>19 East-West Internal Drive (Rear alley behind King Soopers building and adjacent to pond)</b>				
<b>20 Paving &amp; Associated Earthwork</b>				
21 Fine Grading (Re-Condition: 18" depth)	4097	S.Y.	\$4.50	\$18,436.50
22 Heavy Duty Asphalt (7.5" full depth)	36871	S.F.	\$3.53	\$130,154.63
23 Curb and Gutter	297	L.F.	\$18.00	\$5,346.00
24 Handicap Ramps	2	EA	\$750.00	\$1,500.00
<b>25 Striping and Signage</b>				
26 Signs (traffic)	2	EA	\$260.00	\$600.00
27 Striping - arrows, lanes	1	LS	\$1,500.00	\$1,500.00
<b>28 Utilities</b>				
29 Site Lights (Base, Poles, Fixtures, Electrical)	4	EA	\$4,500.00	\$18,000.00
<b>30 Total E-W Drive Improvements</b>				<b>\$176,437.13</b>
<b>31 East-West Internal Drive (Access adjacent to lots 3-6)</b>				
<b>32 Paving &amp; Associated Earthwork</b>				
33 Fine Grading (Re-Condition: 18" depth)	3888	S.Y.	\$4.50	\$18,596.00
34 Heavy Duty Asphalt (7.5" full depth)	33192	S.F.	\$3.53	\$117,167.76
35 Curb and Gutter (adjacent to islands)	1214	L.F.	\$18.00	\$21,852.00
<b>36 Landscaping</b>				
37 Median Islands along drive	8890	S.F.	\$3.00	\$20,070.00
<b>38 Striping and Signage</b>				
39 Signs (traffic)	1	EA	\$260.00	\$260.00
40 Striping - arrows, lanes	1	LS	\$1,500.00	\$1,500.00
<b>41 Utilities</b>				
42 Site Lights (Base, Poles, Fixtures, Electrical)	7	EA	\$4,500.00	\$31,500.00
<b>43 Total E-W Drive Improvements</b>				<b>\$208,936.76</b>
<b>44 East-West Internal Drive (Tract A to Sheridan Pkwy)</b>				
<b>45 Paving &amp; Associated Earthwork</b>				
46 Fine Grading (Re-Condition: 18" depth)	3128	S.Y.	\$4.50	\$14,080.50
47 Heavy Duty Asphalt (7.5" full depth)	28182	S.F.	\$3.53	\$99,411.86
48 Curb and Gutter (adjacent to islands)	842	L.F.	\$18.00	\$11,566.00
49 Concrete Sidewalk (4" thick)	102	S.Y.	\$46.00	\$4,500.00
<b>50 Landscaping</b>				
51 Median Islands along drive	4620	S.F.	\$3.00	\$13,860.00
<b>52 Striping and Signage</b>				
53 Signs (traffic)	6	EA	\$250.00	\$1,260.00
54 Striping - arrows, lanes	1	LS	\$1,500.00	\$1,500.00
<b>55 Utilities</b>				
56 Site Lights (Base, Poles, Fixtures, Electrical)	8	EA	\$4,500.00	\$36,000.00

57	<b>Total E-W Drive Improvements</b>				<b>\$182,248.36</b>
58	<b>Utilities</b>				
59	<b>Storm</b>				
60	8" PVC Roof drain	27	LF	\$7.80	\$210.60
61	12" PVC Roof drain	224	LF	\$18.36	\$4,110.40
62	18" RCP	43	LF	\$36.50	\$1,588.50
63	18" RCP	1288	LF	\$48.50	\$63,766.00
64	24" RCP	388	LF	\$68.00	\$24,168.00
65	30" RCP	409	LF	\$99.00	\$40,491.00
66	36" RCP	733	LF	\$125.00	\$91,625.00
67	42" RCP	439	LF	\$161.00	\$68,289.00
68	Type 13 Inlet	10	EA	\$3,600.00	\$36,000.00
69	Type R Inlet (Single)	3	EA	\$5,300.00	\$15,900.00
70	Type R Inlet (Double)	3	EA	\$7,000.00	\$21,000.00
71	Type R Inlet (Triple)	1	EA	\$8,000.00	\$8,000.00
72	5' Manhole	3	EA	\$4,000.00	\$12,000.00
73	6' Manhole	1	EA	\$6,000.00	\$6,000.00
74	18" FES	1	EA	\$500.00	\$500.00
75	Outlet Structure	1	EA	\$16,000.00	\$16,000.00
76	Concrete drainage channel	178	LF	\$72.00	\$12,816.00
77	Non-Displacement Boring Casing, Spacers and Pils	1	EA	\$1,000.00	\$1,000.00
78	<b>Water</b>				
82	6" PVC Water line (C900)	720	L.F.	\$28.00	\$20,160.00
83	8" PVC Water line (C900)	2298	L.F.	\$32.00	\$73,536.00
84	12" PVC Water line (C900)	720	L.F.	\$38.00	\$27,360.00
85	Fire Hydrant Assembly	10	EA	\$3,000.00	\$30,000.00
86	8" Gate valve	17	EA	\$1,800.00	\$30,600.00
87	12" Gate valve	9	EA	\$2,400.00	\$21,600.00
88	Tees (8")	5	EA	\$470.00	\$2,350.00
89	Tees (12")	5	EA	\$850.00	\$4,250.00
90	Thrust Block	21	EA	\$125.00	\$2,625.00
91	8" Bend (Horiz. & Vert.)	11	EA	\$470.00	\$5,170.00
92	12" Bend (Horiz. & Vert.)	7	EA	\$850.00	\$5,950.00
96	8" Plug	1	EA	\$250.00	\$250.00
97	Temporary blow off	1	EA	\$2,395.00	\$2,395.00
100	Connection to existing water line w/tee	2	EA	\$2,000.00	\$4,000.00
101	Non-Displacement Boring Casing, Spacers and Pils	1	EA	\$1,000.00	\$1,000.00
102	<b>Sanitary</b>				
103	4" PVC Sanitary Sewer	94	L.F.	\$42.00	\$3,948.00
104	6" PVC Sanitary Sewer	137	L.F.	\$45.00	\$6,165.00
105	8" PVC Sanitary Sewer	2688	EA	\$48.00	\$127,968.00
106	Wyes, bends and cleanouts	23	EA	\$300.00	\$6,900.00
107	Grease Trap	5	EA	\$8,500.00	\$42,500.00
108	Manholes	10	EA	\$3,500.00	\$35,000.00
109	<b>Total Utility Improvements</b>				<b>\$874,150.60</b>
110	<b>Sub-Total - On-Site Improvements</b>				<b>\$1,816,074.69</b>
111	Contingency	10%			\$181,607.46
112	General Contractors General Conditions	3.5%			\$63,562.61
113	General Contractors OH & Profit	5%			\$90,803.73
114	<b>TOTAL ON-SITE IMPROVEMENTS</b>				<b>\$2,162,048.39</b>
116	<b>OFF-SITE IMPROVEMENTS</b>				
117	<b>State Highway 7 Improvements</b>				
118	<b>Paving &amp; Associated Earthwork</b>				
119	Cul/Fill Material for roadside swale and sidewalk	2187	C.Y.	\$2.80	\$6,342.30
120	Fine Grading (Swale and Sidewalk)	3684	S.Y.	\$1.50	\$5,376.00
121	Sawcut Edge of Pavement	105	L.F.	\$2.00	\$210.00
122	Remove Asphalt Edge	105	S.F.	\$2.50	\$262.50
123	Heavy Duty Asphalt (11" full Depth)	2285	S.F.	\$4.70	\$10,739.50
124	Concrete Sidewalk (4" thick)	1180	S.Y.	\$46.00	\$63,550.00
125	Handicap Ramps	3	EA	\$1,000.00	\$3,000.00
126	Rip-Rap	174	C.Y.	\$101.00	\$17,574.00
127	<b>Landscaping</b>				
128	Hydra Seed/Fert/rotalill to stabilize roadside swale	19511	S.F.	\$0.50	\$9,755.50
129	<b>Utilities</b>				
130	Street Light at Hwy 7 3/4 Access	1	EA	\$6,500.00	\$6,500.00
131	FRICO 8' x 10' Box Culvert Extension	30	LF	\$1,520.00	\$45,600.00
132	New Box Culvert W/ing Walls	177	SF	\$40.00	\$7,080.00

133	Misc				
134	Existing Striping to be removed	3180	L.F.	\$3.50	\$11,130.00
135	Stripe - Lanes	5462	L.F.	\$3.50	\$19,117.00
136	Arrows/Symbols/Crosswalk	11	EA.	\$225.00	\$2,475.00
137	Survey Layout & Staking	1	L.S.	\$2,000.00	\$2,000.00
138	Corner Monument Sign	1	EA.	\$50,000.00	\$50,000.00
139	Temporary Traffic Control	1	L.S.	\$7,500.00	\$7,500.00
140	<b>Total Hwy 7 Improvements</b>				<b>\$258,211.80</b>
141	<b>Sheridan Improvements</b>				
142	<b>Paving &amp; Earthwork</b>				
143	Sawcut Edge of Pavement	80	L.F.	\$2.00	\$160.00
144	Asphalt Patch Back (access point)	404	S.F.	\$4.40	\$1,777.60
145	Remove existing sidewalk	640	S.F.	\$2.60	\$1,664.00
146	Remove existing curb and gutter	80	L.F.	\$1.50	\$120.00
147	Handicap Ramps	3	EA	\$1,000.00	\$3,000.00
148	Concrete Crossspan	667	S.F.	\$7.50	\$5,002.50
149	<b>Landscaping</b>				
150	Hydra Seed/Fert/rotalill	8254	S.F.	\$0.50	\$4,127.00
151	Trees (Overstory)	8	EA	\$450.00	\$3,600.00
152	Trees (Ornamental)	6	EA	\$350.00	\$2,100.00
153	<b>Utilities</b>				
154	Street Light at Full Motion Access	1	EA.	\$6,500.00	\$6,500.00
155	Misc				
156	Existing Striping to be removed	1356	L.F.	\$3.50	\$4,746.00
157	Stripe - Lanes	1438	L.F.	\$3.50	\$5,033.00
158	Arrows/Symbols/Crosswalk	12	EA.	\$225.00	\$2,700.00
159	Survey Layout & Staking	1	L.S.	\$1,200.00	\$1,200.00
160	Temporary Traffic Control	1	L.S.	\$3,500.00	\$3,500.00
161					
162	<b>Total Sheridan Pkwy Improvements</b>				<b>\$44,286.10</b>
163	<b>Ridge View Improvements</b>				
164	<b>Paving &amp; Earthwork</b>				
165	Sawcut Edge of Pavement (access point and sewer connection)	130	L.F.	\$2.00	\$260.00
166	Remove existing curb and gutter	198	L.F.	\$1.50	\$297.00
167	Asphalt Patch Back (access point and sewer connection)	242	S.F.	\$4.40	\$1,064.80
168	Handicap Ramps	4	EA	\$750.00	\$3,000.00
169	Concrete Crossspans	1716	S.F.	\$7.50	\$12,870.00
170	Concrete Sidewalk (4" thlok)	468	S.Y.	\$45.00	\$21,060.00
171	<b>Landscaping</b>				
172	Hydra Seed/Fert/rotalill	8219	S.F.	\$0.80	\$6,575.20
173	Trees (Overstory)	16	EA	\$450.00	\$7,200.00
174	Trees (Ornamental)	9	EA	\$350.00	\$3,150.00
175	<b>Utilities</b>				
176	Street Light at Full Motion Access	1	EA.	\$6,500.00	\$6,500.00
177	8" Sanitary Sewer	395	L.F.	\$34.00	\$13,430.00
178	Sanitary Manhole (4' Dia.)	2	EA	\$5,000.00	\$10,000.00
179	Sanitary Sewer Connect to Existing Manhole	1	EA.	\$1,000.00	\$1,000.00
180	Misc				
181	Existing Striping to be removed	1879	L.F.	\$3.50	\$6,671.50
182	Stripe - Lanes	1992	L.F.	\$3.50	\$7,072.00
183	Arrows/Symbols/Crosswalk	8	EA.	\$225.00	\$1,800.00
184	Survey Layout & Staking	1	L.S.	\$1,200.00	\$1,200.00
185	Temporary Traffic Control	1	L.S.	\$3,500.00	\$3,500.00
186					
187	<b>Total Ridge View Improvements</b>				<b>\$102,289.80</b>
188	<b>Traffic Signal Future Contributions</b>				
189	Signal at Sheridan and Highway 7 (Assume 1/4 of total cost)	0.10	EA	\$250,000.00	\$25,000.00
190	Signal at Sheridan and E access to site (Assume 1/2 of total cost)	0.50	EA	\$250,000.00	\$125,000.00
191	Signal at Sheridan and Ridgeview (Assume 1/4 of total cost)	0.25	EA	\$250,000.00	\$62,500.00
192	<b>Total Traffic Signal Future Contributions</b>				<b>\$212,500.00</b>
193	<b>Sub-Total - Off-Site Improvements</b>				<b>\$617,287.70</b>
194	Contingency	10%			\$61,728.77
195	General Contractors General Conditions	3.5%			\$21,604.37
196	General Contractors OH & Profit	5.0%			\$30,863.39
197	<b>TOTAL OFF-SITE IMPROVEMENTS</b>				<b>\$731,463.22</b>
198					
199	<b>TOTAL ON &amp; OFF-SITE IMPROVEMENTS</b>				<b>\$2,083,611.11</b>

EXHIBIT C  
PHASING PLAN

The Development shall be constructed in one phase. Not applicable.

EXHIBIT D  
PUBLIC IMPROVEMENT REIMBURSEMENT SCHEDULE

Reimbursements due Owner:

1. Erie shall reimburse Owner up to One Million Five Hundred Thousand Dollars (\$1,500,000) as outlined in Section VIII.H of this Agreement.
2. Erie shall reimburse Owner up to Twenty-Five Thousand Dollars (\$25,000) as outlined in Section VIII.I of this Agreement.

Reimbursements due Erie:

1. Erie shall collect from Owner, prior to recordation of this Agreement, Two Thousand Two Hundred Sixty-Eight and 75/100 Dollars (\$2,268.75) as reimbursement (\$55.00 per SFE) within the Vista Ridge Filing No. 14 Minor Subdivision connecting to the Coal Creek Sanitary Sewer Interceptor line that the Town constructed.
2. Erie shall collect from Owner, prior to recordation of this Agreement, Sixteen Thousand Nine Hundred Twelve and 50/100 (\$16,912.50) as reimbursement (\$410.00 per SFE) within the Vista Ridge Filing No. 14 Minor Subdivision connecting to the NWRf Interceptor line that the Town constructed.

Reimbursements due Others:

None.





EXHIBIT G  
FORM OF LETTER OF CREDIT

*(to be attached)*

This Instrument Prepared By:

Jennifer K. Gothard, Esq.  
Dillon Companies, Inc.  
c/o The Kroger Co.  
1014 Vine Street  
Cincinnati, OH 45202-1100

THIS IS A DRAFT FOR DISCUSSION ONLY. IT DOES NOT REPRESENT A LIABILITY OR COMMITMENT OF THE BANK AT THIS TIME. ANY STANDBY LETTER OF CREDIT ISSUED WILL BE PRINTED ON BANK LETTERHEAD.

U.S. BANK NATIONAL ASSOCIATION  
INTERNATIONAL DEPT. SL-MO-L2IL  
721 LOCUST STREET  
ST. LOUIS, MO 63101

SWIFT: USBKUS44STL

TELEPHONE: 314-418-2875  
FACSIMILE: 314-418-8078

IRREVOCABLE LETTER OF CREDIT

BENEFICIARY:  
TOWN OF ERIE  
645 HOLBROOK STREET  
P.O. BOX 750  
ERIE, CO 80516

NO. SLCLSTL11020  
ISSUE DATE: SEPTEMBER 3, 2015  
EXPIRATION: SEPTEMBER 3, 2016

GENTLEMEN:

WE HEREBY AUTHORIZE YOU TO DRAW ON US FOR THE ACCOUNT OF DILLON COMPANIES, INC., A KANSAS CORPORATION, DEB: KING SOOBRS UP TO AN AGGREGATE AMOUNT OF USD 2,883,511.00 (TWO MILLION EIGHT HUNDRED EIGHTY-THREE THOUSAND FIVE HUNDRED ELEVEN AND 00/100 UNITED STATES DOLLARS) AVAILABLE BY YOUR DRAFTS AT SIGHT DRAWN ACCOMPANIED BY YOUR SIGNED STATEMENT THAT THE ABOVE IS DRAWN FOR PAYMENT OF PUBLIC IMPROVEMENTS PURSUANT TO:

VISTA RIDGE FILING NO. 4 MINOR SUBDIVISION NON-RESIDENTIAL DEVELOPMENT AGREEMENT DATED \_\_\_\_\_, ENTERED INTO BETWEEN THE TOWN OF ERIE, COLORADO AND DILLON COMPANIES, INC.

PARTIAL DRAWINGS ARE PERMITTED. IN THE EVENT OF A PARTIAL DRAWING, THE ORIGINAL LETTER OF CREDIT WILL BE RETURNED TO THE TOWN OF ERIE BY THE ISSUING BANK AFTER ENDORSEMENT.

DRAFTS MUST BE DRAWN AND NEGOTIATED AT U.S. BANK NATIONAL ASSOCIATION, INTERNATIONAL DEPT. SL-MO-L2IL, 721 LOCUST STREET, ST. LOUIS, MO 63101 ON OR BEFORE SEPTEMBER 2, 2016. EACH DRAFT PRESENTED UNDER THIS LETTER OF CREDIT MUST STATE THAT IT IS DRAWN UNDER U.S. BANK NATIONAL ASSOCIATION, ST. LOUIS, MISSOURI, LETTER OF CREDIT NO. SLCLSTL11020 AND THE AMOUNT ENDORSED ON THIS LETTER OF CREDIT.

WE HEREBY AGREE WITH THE DRAWERS, ENDORSERS AND BONA FIDE HOLDERS OF ALL DRAFTS DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS LETTER OF CREDIT THAT SUCH DRAFTS WILL BE DULY HONORED UPON THE PRESENTATION TO THE DRAWEE.

THIS LETTER OF CREDIT SHALL BE AUTOMATICALLY EXTENDED WITHOUT AMENDMENT FOR ADDITIONAL PERIODS OF ONE YEAR FROM THE PRESENT OR ANY FUTURE EXPIRATION DATE HEREOF UNLESS AT LEAST SIXTY (60) DAYS PRIOR TO ANY SUCH DATE WE SHALL NOTIFY YOU IN WRITING BY OVERNIGHT COURIER SERVICE THAT WE ELECT NOT TO SO RENEW THIS LETTER OF CREDIT.

EXCEPT AS EXPRESSLY PROVIDED HEREIN, THIS LETTER OF CREDIT IS SUBJECT TO THE  
UNIFORM COMMERCIAL CODE OF THE STATE OF COLORADO.

YOURS VERY TRULY,

U.S. BANK NATIONAL ASSOCIATION

BY: \_\_\_\_\_  
TITLE: ASSISTANT VICE PRESIDENT

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

**DRAFT**

## REPAYMENT OPTION AGREEMENT

(Dillon Companies, Inc. – Lots 1-6, Vista Ridge Filing No. 14 Minor Subdivision)

THIS REPAYMENT OPTION AGREEMENT ("**Repayment Agreement**") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2015 ("Effective Date"), by and **TOWN OF ERIE**, a Colorado municipal corporation, ("**Town**"), whose address is 650 Holbrook Street, P.O. Box 750, Erie, Colorado 80516, Attention: Town Administration, and **DILLON COMPANIES, INC.**, a Kansas corporation dba King Soopers ("**Dillon**"), whose address is 65 Tejon Street, Denver, Colorado 80223, Attention: Real Estate Department.

### RECITALS

WHEREAS, on the date of this Agreement, in conjunction with a particular Purchase and Sale Agreement ("**Purchase and Sale Agreement**") entered into by and between Town and Dillon, Town has conveyed to Dillon that certain real property more particularly described as follows: Lots 1-6, Vista Ridge Filing No. 14 Minor Subdivision, Town of Erie, County of Weld, State of Colorado, according to the recorded plat thereof (the "Property"); and

WHEREAS, in consideration of Town's conveyance of the Property to Dillon, Dillon has agreed to grant to Town the "Repayment Option," as hereinafter defined; and

WHEREAS, Town and Dillon enter into this Agreement to set forth the terms and conditions of the Repayment Option.

### AGREEMENT

NOW, THEREFORE, in consideration of Town's conveyance of the Property to Dillon, and of other good and valuable consideration in the Purchase and Sale Agreement, the receipt and sufficiency of which are hereby acknowledged by the parties, Town and Dillon covenant and agree as follows:

1. Retail Building. The "**Retail Building**" shall mean a building on a portion of the Property containing a King Soopers (or another trade name within The Kroger Co. family of companies) retail store in a large format building of a type similar to other such retail stores in large format buildings operated elsewhere in the State of Colorado offering such types of retail products and services as is ordinary and customary for such a retail store.

2. Improvements. The "**Improvements**" shall mean the "Public Improvements and Common Facilities" as defined and in connection with the "Non-Residential Development Agreement" entered into by and between Town and Dillon on \_\_\_\_\_, 2015.

3. Obtaining Governmental Approvals. Dillon agrees to obtain, prior to commencement of construction of any Improvements, all permits, licenses, certificates, consents and any other approvals necessary or required pursuant to any law, ordinance,

resolution, order, rule or regulation of any governmental authority having jurisdiction over the Property and the development thereof ("**Governmental Approvals**") in order for Dillon to construct the Retail Building and Improvements to be constructed on the Property. The Governmental Approvals shall be deemed to include, but not be limited to, building approvals by the Town of Eric.

4. Open-By Date. Dillon shall, within three (3) years following issuance of all permits by Town and applicable requirements have been met of all governmental agencies with jurisdiction over Property, pursuant to and as necessary for Dillon to construct Improvements and Retail Building on the Property, open a Retail Building on a portion of the Property for at least one day as a grocery store similar to a majority of Dillon's other grocery stores in Colorado (the "**Open-By Date**"). Dillon shall provide to the Town written notice of the Open-By Date. The Open-By Date shall be extended one day for each day of delay in the construction of Dillon's Retail Building, if any, caused by Force Majeure, if and only if Dillon first provides to Town written notice of the new Open-By Date created by such extensions. Notwithstanding the foregoing, however, nothing in this Agreement shall obligate Dillon actually to continue to operate the Retail Building for business with the public for longer than one day. Dillon shall have the right, in its sole discretion, to determine thereafter whether to continue to keep the Retail Building open for business to the public.

5. Repayment Option. In the event that the Open-By Date is not met as defined herein, Dillon shall make a one-time "Repayment", as hereinafter defined, from Dillon to Town upon the terms and conditions as hereinafter set forth (the "**Repayment Option**"). The Repayment Option shall apply to the Property (together with its appurtenances, including, without limitation, each sewer and water tap, if any,) theretofore acquired by Dillon for use in connection with the Property.

6. Exercise of Repayment Option. Town shall have the right to exercise the Repayment Option because of Dillon's failure to meet the Open-By Date by giving Dillon written notice within forty-five (45) days after the Open-By Date. If such notice shall not be so given by Town to Dillon on or before the expiration of the period as aforesaid, Town's right to exercise the Repayment Option shall thereupon cease and terminate, except as hereinafter provided.

7. Repayment Option Price. The "**Repayment Option Price**" shall mean the purchase price of the land paid by Town for the Property in the last, immediately preceding recorded purchase transaction of said Property, and evidenced by the recorded Special Warranty Deed with respect to the Property, which was contemplated at Three Million Thirty-Seven Thousand Nine Hundred Twenty and 00/100 Dollars (\$3,037,920.00), and was to be adjusted as set forth in final closing statements.

8. Transfer if Repayment. Within ninety (90) days after Town gives notice of the exercise of the Repayment Option, Dillon shall tender to Town any documents as may reasonably be necessary for the transfer of "good funds", as defined under Colorado law, from Dillon to Town in the amount of the Repayment Option Price.

9. Evidencing Expiration of Repayment Option. In the event Dillon opens the Retail Building as described in Paragraph 4 prior to the time Town exercises the

Repayment Option for Dillon's failure to meet the Open-By Date deadline, or in the event Town fails to exercise the Repayment Option within the time and in the manner set forth above, Town shall not have any further right to exercise the Repayment Option and Town agrees, upon Dillon's written request, to deliver promptly to Dillon a duly executed and acknowledged release in recordable form, releasing Town's right to exercise the Repayment Option.

10. Force Majeure. In the event that Dillon is unable to meet a respective deadline because of delays from causes beyond the reasonable control of Dillon, such as, but not limited to, acts of God, strikes, lock-outs, work stoppages, unavailability of or delay in receiving labor or materials (other than as a result of any delay or failure by Dillon to make payments therefor), defaults by contractors or subcontractors (other than as a result of any delay or failure by Dillon to make payments therefor), weather conditions, drought conditions or circumstances existing in reasonable anticipation of drought conditions, or fire or other casualty, acts of war, or acts of terrorism, then the date by which Dillon shall be required to meet the respective deadline, and the date by which Town shall be required to exercise the Repayment Option because of Dillon's failure to meet such deadline, shall be extended for a period of time (a "**Force Majeure Delay Period**") equal to the length of said delay or delays, if and only if Dillon first provides to Town written notice of the new Open-By Date created by such extensions. Notwithstanding the foregoing, however, a Force Majeure Delay Period shall not be deemed to have commenced until the later of the date of the occurrence of the event which causes such delay or the date which is thirty (30) days prior to the date upon which notice of the occurrence of such event is given by Dillon to Town.

11. Notices. All notices, consents or other instruments or communications provided for under this Agreement, shall be in writing, signed by the party giving the same and shall be deemed properly given and received on the earlier of when actually delivered and received or three business days after mailed, if sent by registered or certified mail, postage prepaid, to the address for a party set forth at the beginning of this Agreement, or as such party may designate by written notice to the other party, with a copy, in the case of notices to Town of Erie, Attention: Town Administration, 650 Holbrook Street, P.O. Box 750, Erie, Colorado 80516 and with a copy, in the case of notices to Dillon, to The Kroger Co., 1014 Vine Street, Cincinnati, Ohio 45202, Attention: Kroger Law Department.

12. No Oral Amendment or Modifications. No amendments, waivers or modifications of the terms and provisions contained in this Agreement, and no acceptances, consents or waivers by Town under this Agreement, shall be valid or binding unless in writing and executed by the party to be bound thereby. No such termination, extension, modification or amendment shall be effective unless and until a proper instrument in writing has been executed.

13. Severability. If any provision of this Agreement shall be held invalid, illegal or unenforceable, it shall not affect or impair the validity, legality or enforceability of any other provision of this Agreement, and there shall be substituted for the affected provision a valid and enforceable provision as similar as possible to the affected provision.

14. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

15. Captions for Convenience. All headings and captions used herein are for convenience only and are of no meaning in the interpretation or effect of this Agreement.

16. Applicable Law. This Agreement shall be interpreted and enforced according to the laws of the State of Colorado.

17. Time of the Essence. Time is of the essence with respect to performance required under this Agreement.

18. Costs of Legal Proceedings. In the event either party institutes legal proceedings with respect to this Agreement or the Property, the prevailing party shall be awarded, in addition to any other relief to which it is entitled, its costs and expenses incurred in connection with such legal proceedings including, without limitation, reasonable attorneys' fees.

19. Compliance with Laws. Dillon agrees that, in performing its obligations under this Agreement, Dillon shall comply with all laws, rules, regulations, ordinances and orders of any governmental authority having jurisdiction.

20. No Third-Party Beneficiaries. None of the terms, conditions or covenants contained in this Agreement shall be deemed to be for the benefit of any person other than Dillon and Town, and their successors and assigns specifically designated as such in writing, and no other person shall be entitled to rely hereon in any manner.

21. Computation of Time. In computing any period of time under this Agreement, the date of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or federal legal holiday, in which event the period shall run until the end of the next day which is not a Saturday, Sunday, or federal legal holiday.

IN WITNESS WHEREOF, Town and Dillon have executed this Repayment Option Agreement as of the day and year first above written.

ATTEST:

\_\_\_\_\_  
Nancy J. Parker, Town Clerk

WITNESSES:

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

**TOWN:**  
**TOWN OF ERIE,**  
a Colorado Municipal corporation

\_\_\_\_\_  
Tina Harris, Mayor

**PURCHASER:**  
**DILLON COMPANIES, INC.,**  
a Kansas corporation

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

Its: \_\_\_\_\_





(Dillon Acknowledgment)

STATE OF )  
 ) SS.  
COUNTY OF )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by \_\_\_\_\_, the \_\_\_\_\_ of Dillon Companies Inc., a Kansas corporation, on behalf of the corporation, as Purchaser.

IN WITNESS WHEREOF I have hereunto set my hand and official seal.

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

This Instrument Prepared By:

Jennifer K. Gothard, Esq.  
Dillon Companies, Inc.  
c/o The Kroger Co.  
1014 Vine Street  
Cincinnati, OH 45202-1100

**TOWN OF ERIE**  
**BOARD OF TRUSTEES AGENDA ITEM**  
**Board Meeting Date: September 8, 2015**

---

**SUBJECT:** **LAND DEVELOPMENT RESOLUTIONS:**

**CONSIDERATION OF RESOLUTION 15-114:** A Resolution Authorizing The Town Of Erie, Colorado, To Enter Into The Vista Ridge Filing No. 14 Non-Residential Development Agreement; Authorizing And Directing The Appropriate Town Officers To Sign Said Development Agreement; And, Setting Forth Details In Relation Thereto.

**CODE REVIEW:** Erie Municipal Code, Title 10

**PURPOSE:** Board of Trustees to consider the authorization to sign the Vista Ridge Filing No. 14 Non-residential Development Agreement.

**DEPARTMENT:** Community Development

**PRESENTER:** R. Martin Ostholthoff, Community Development Director

---

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

---

**STAFF RECOMMENDATION:** Approval of Resolution 15-114

**PLANNING COMMISSION RECOMMENDATION:** n/a

---

**SUMMARY AND BACKGROUND OF SUBJECT MATTER:**

---

**Applicant:** King Soopers  
Drew Warot  
65 Tejon Street  
Denver, Colorado, 80223

**Owner:** Montex (Brownlee) LLC  
Montex (Vista Ridge) LLC  
Andy Chaikovsky  
4915 South Gaylord Street  
Englewood, CO 80113

**Location:** The property is located on the northwest corner of State Highway 7 and Sheridan Boulevard as highlighted below in red.



**Summary:**

The Resolution, provided for consideration by the Board of Trustees, authorizes the appropriate town official to sign the Vista Ridge Filing No. 14 Non-residential Development Agreement which outlines obligations of the Town and the Owners for Vista Ridge Filing No. 14 Minor Subdivision final plat.

**Public Notice:**

Public Notice is not required.

**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 15-114

# ATTACHMENT A

**RESOLUTION NO. 15-114**

**A RESOLUTION AUTHORIZING THE TOWN OF ERIE, COLORADO, TO ENTER INTO THE VISTA RIDGE FILING NO. 14 NON-RESIDENTIAL DEVELOPMENT AGREEMENT; AUTHORIZING AND DIRECTING THE APPROPRIATE TOWN OFFICERS TO SIGN SAID DEVELOPMENT AGREEMENT; AND, SETTING FORTH DETAILS IN RELATION THERETO.**

**WHEREAS**, the Town of Erie, Colorado wishes to enter into the Vista Ridge Filing No.14 Non-Residential Development Agreement in conjunction with the application of Dillon Companies, Inc., a Kansas corporation, 65 Tejon Street, Denver, Colorado, 80223, for the Vista Ridge Filing No. 14 Minor Subdivision final plat, Town of Erie, County of Weld, State of Colorado; and

**WHEREAS**, the Board of Trustees of the Town of Erie believes it is in the best interest of the Town to enter into the Vista Ridge Filing No.14 Non-Residential Development Agreement.

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

Section 1. That the Vista Ridge Filing No.14 Non-Residential Development Agreement between the Town of Erie and Dillon Companies, Inc., a copy of which is attached hereto as "Exhibit A" and incorporated herein by reference, is found to be a reasonable and acceptable.

Section 2. That the Town of Erie be and is hereby authorized and directed to enter into the Vista Ridge Filing No.14 Non-Residential Development Agreement, and the appropriate Town officers are hereby authorized and directed to sign and bind the Town of Erie to said Agreement.

Section 3. That entering into the Vista Ridge Filing No.14 Non-Residential Development 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 8<sup>TH</sup> DAY OF SEPTEMBER, 2015, 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, CMC, Town Clerk

Exhibit A

**Vista Ridge Filing No. 14 Minor Subdivision  
NON-RESIDENTIAL DEVELOPMENT AGREEMENT**

**THIS NON-RESIDENTIAL DEVELOPMENT AGREEMENT** ("Agreement") is made and entered into this \_\_\_\_ day of \_\_\_\_\_ 2015, 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 **DILLON COMPANIES, INC.**, a Kansas corporation, 65 Tejon Street, Denver, Colorado, 80223, hereinafter referred to as "Owner;" and

**WHEREAS**, Owner has submitted a final plat for the Vista Ridge Filing No. 14 Minor Subdivision ("Development") attached hereto as "Exhibit A" and incorporated herein by reference. Said Development has been approved by Erie; and

**WHEREAS**, The Town has reviewed its Water Supply Plan, which addresses the Town's existing water obligations and its present and future water supplies. The Town has also reviewed its Conservation Plan and its Municipal Code regarding water dedications, and has determined, at its sole discretion, that it will be able to provide an adequate water supply to serve the water needs of the Development at full build out pursuant to Section 29-20-301 C.R.S. et seq. As a term and condition of providing said water, the Owner hereby agrees to comply with the Town's Municipal Code regarding water dedications and cash in lieu of water dedications.

**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 VIII.

**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 AND PUBLIC COMMON FACILITIES IMPROVEMENTS**

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

**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, United Power to install all required street lighting pursuant to United Power 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."
5. All drainage improvements not located on Town owned property shall be maintained by the Owner, maintenance district, or final property owner. Drainage improvements may include, but are not limited to: landscaping, open areas, grass, shrubs, trees, retaining walls, sidewalks, ponds, pipes, underdrains, swales, drain pans, and inlet grates.
6. Owner shall include the Business Association, maintenance district, or final property owner in the final inspection procedures and provide Erie with written acceptance of the drainage facilities for maintenance from this final owner.

**N. Landscape Improvements**

For 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.

**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 Code.

**P. Underdrains**

The Owner may choose to install foundation underdrains and a site wide underdrain collection system under the Town owned sanitary sewer system. The Town grants the use of Town owned right-of-way for these facilities but the Town assumes no maintenance responsibility for the facilities. These underdrain systems shall be maintained by the Owner, Business Association, or maintenance district.

The Owner shall install a curb underdrain system pursuant to the Towns "Standards and Specifications for Design and Construction of Public Improvements" and as shown on the Town accepted construction plans. This system shall be maintained by the Town.

**Q. Maintenance Definition**

Maintenance is the process of preserving capital improvements, structures, development, or systems to meet its function or original intent of the facility. This is the preservation, conservation, keeping in good conditions, operating safely, operating efficiently, testing, inspection, servicing, repairing, grading, cleaning, picking up trash and debris, pest control, painting, mowing, pruning, and prolonging of these facilities. Maintenance also includes the provision of financial support to maintain the facilities. Facilities include but are not limited to: landscaping, open areas, grass, shrubs, trees, playgrounds, site furniture and fixtures, retaining walls, signs, sidewalks, drainage structures such as ponds, swales, drain pans, inlets, and outlet structures.

Maintenance may involve many different number and types of companies, services, individuals to look after the facility and the ability to coordinate these efforts. Maintenance includes both routinely scheduled activities, as well as non-routine repairs that may be required.

A maintenance plan should be prepared and submitted as part of the development review/approval process and be provided to the Business Association or District responsible for maintenance activities.

**IV. IMPROVEMENT ACCEPTANCE**

**A. Construction Acceptance**

No later than ten (10) business days after improvements 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) business days of completion of improvements, 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 commercial phase improvements as provided for in this Agreement, Erie may exercise its right to secure performance as provided in Section IX.B of this Agreement. If improvements 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 improvements 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 (subject to extension due to force majeure events), Erie may exercise its rights to secure performance as provided in Section IX.B of this Agreement. Erie reserves the right to schedule re-inspections.

Additionally, for Common Facilities, the Owner shall include the Business Association, maintenance district, or final property owner in the final inspection procedures and provide Erie with written acceptance of the common facility 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 the 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 IX.B 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, within thirty (30) days of Owner's request, inspect the public improvements and shall promptly 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 (but in no event more than thirty (30) days after corrections and repairs have been accepted). 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 IX.B 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 IX.B 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 not be entitled to any funds contemplated or forthcoming from the Town, nor shall the Town be required to spend any funds, as may be required pursuant to Section VIII.H of this Agreement until Erie has been made whole (and evidence of Erie's expenditures and supporting documentation shall be promptly provided to Owner).

**V. 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" that are included on the Town accepted plans 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 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 “substantial completion 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 “substantial completion construction acceptance” of common facilities: 0%.
  - d) After Final Acceptance of Public Facilities: 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; provided, however, that funds received as a result of a draw on the letter of credit shall only be used to complete the Public Improvements, Common Facilities and all related actual and documented Town costs and expenses until such time as said Improvements and Facilities are complete and all actual and documented costs and expenses paid. 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 IX.B 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 IX.B 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**

If Applicable, Owner's Phasing Plan is detailed on "Exhibit C." The completion of each phase of Development, including public, 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.

**VI. 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 D." 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 D."

**VII. 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.

**VIII. SPECIAL PROVISIONS**

**A. Transportation**

Owner shall be responsible for the construction of transportation improvements as outlined on and limited to the Town accepted construction plans for the Development.

**B. Construction Access**

All construction traffic for the Development shall enter the Development from Sheridan Boulevard and/or Ridge View Drive unless otherwise directed by the Public Works Director. State Highway 7 shall not be used for construction access. Employee parking or storage of construction materials shall only occur interior to the Development and is strictly prohibited on Ridge View Drive, Sheridan Boulevard, and State Highway 7.

**C. 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 third party.

**D. Sanitary Sewer**

1. Coal Creek Interceptor

The Town is due cost recovery at a rate of \$55.00 for each Single Family Equivalent ("SFE"). The reimbursement is outlined in "Exhibit D."

2. NWRF Interceptor

The Town is due cost recovery at a rate of \$410.00 for each SFE. The reimbursement is outlined in "Exhibit D."

**E. Water**

Owner shall pay raw water fees for all permanently irrigated areas on Lots 1, 2 and 6 of the Development and adjacent right-of-ways prior to the issuance of building permits or irrigation taps. Native seeded areas not permanently irrigated may be temporarily irrigated until establishment without paying raw water fees. The establishment period is generally two years.

**F. Drainage Improvements**

Owner shall be responsible for the installation and on-going maintenance of all drainage facilities within Lots 1, 2 and 6 of the Development.

**G. Disclosure Statements**

1. An Airport Disclosure statement indicating the existence of an Avigation Easement ("Exhibit E") shall be signed by the property owner with the execution of the sales contract for the property.

2. A Landfill Disclosure statement indicating that Landfills exist in the area ("Exhibit F") shall be signed by the property owner with the execution of the sales contract for the property.

**H. Reimbursement**

Town agrees it shall pay up to \$1.5 million for the construction of Public Improvements and Common Facilities of regional benefit as identified on "Exhibit B." The Town shall pay such costs through reimbursement to the Owner, as set forth herein. Owner shall construct and pay for all of the items on "Exhibit B." Upon completion of said Public Improvements and Common Facilities and upon verification by the Town of the final costs of the construction, the Town shall reimburse Owner in annual installments which shall not exceed an amount equal to the Town's municipal sales tax revenue from Lots 2, 3, 4, 5, and 6 of the Development as shown on "Exhibit A" in any given year, up to the total amount of \$1.5 million, at which time said payments shall terminate (the "Reimbursement End Date"). Such reimbursement payments will be made annually based on the prior year's sales calculations, and the right to receive the reimbursement is personal to the Owner and does not run with the land. Such reimbursement payments will be subject to annual appropriation and do not constitute a multi-year obligation on

the part of the Town. In any event, such reimbursement payments shall conclude after the 10th year of such payments regardless of the total amount reimbursed to Owner. The reimbursement is outlined in "Exhibit D."

**I. Monument Sign**

Town agrees to reimburse Owner for up to one-half the cost, in an amount not to exceed \$25,000.00, as reimbursement for the Town's pro-rata share of the monument sign that Owner is constructing per Section XI.I of the Sheridan-Highway 7 Commercial Center Annexation Agreement. Such reimbursement shall occur within thirty (30) days of completion of the construction of the monument sign and upon verification by the Town of the final costs of construction of the monument sign. The reimbursement is outlined in "Exhibit D."

**IX. MISCELLANEOUS TERMS**

**A. Vested Rights**

Erie agrees that the Final Subdivision Plat for the Vista Ridge Filing No. 14 Minor Subdivision 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 Agreement shall be deemed to be a "development agreement" pursuant to the Vested Rights Act.

**B. Default**

If Owner fails to fulfill the terms and conditions of this Agreement after being given notice and the opportunity to cure as specified herein, 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 V, 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 expressly related to this Development only, until the completion of the Public Improvements and Common Facilities for this Development and/or the default has been cured by Owner. Any actual and documented 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 V 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 V without notice to Owner, and may further exercise all remedies available to Erie in law and equity and as provided for herein.

**C. 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). Notwithstanding anything contained herein to the contrary, the Owner, its parent company, The Kroger Co., an Ohio corporation, or any of Owner's tenants having a net worth of One Hundred Million Dollars (\$100,000,000) or more or a market capitalization of One Billion Dollars (\$1,000,000,000) or more may self-insure this obligation.

**D. 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.

**E. Recording Agreement**

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

**F. Binding Effect of Agreement**

Except as otherwise provided herein, this Agreement shall run with the land included within the Development and shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto.

**G. Assignment, Delegation and Notice**

Owner shall provide to the Town Administrative Official, for approval, written notice of: 1) any proposed transfer of title to all or any portion of the Development to any successor, 2) arrangements for delegation or transfer of the Improvement obligations hereunder to any successor, and 3) any successor's written acceptance of such

Improvement obligations. Owner and Owner's successor shall be jointly and severally liable for the Improvement obligations of Owner under this Agreement until written approval by the Town Administrative Official of the proposed transfer of title, delegation and acceptance of Improvement obligations, which approval shall not be unreasonably withheld, conditioned or delayed.

**H. 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.

**I. 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:

<b>Erie:</b>	<b>Owner:</b>
Town of Erie	Dillon Companies, Inc., a
Town Administrator	Kansas corporation
P.O. Box 750	65 Tejon Street
Erie, Colorado 80516-0750	Denver, Colorado 80223
Mark Shapiro	Dillon Companies, Inc.
Mark R. Shapiro, PC	c/o The Kroger Law Department
1650 38 <sup>th</sup> Street, Suite 103	1014 Vine Street
Boulder, CO 80301-2624	Cincinnati, OH 45202

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.

**J. 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.

**K. 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, and all such approvals or acceptances shall not be unreasonably withheld, conditioned or

delayed.

**L. 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.

**M. Title and Authority**

Owner warrants to Erie that Dillon Companies, Inc., a Kansas corporation, is the record owner for the property within the Development. The undersigned further warrant to have full power and authority to enter into this Agreement.

**N. 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.

**O. 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 hereunder, venue shall be in the Courts of the County of Weld, State of Colorado.

**P. Agreement Status After Final Acceptance Reimbursement End Date**

Upon the later to occur of (i) Final Acceptance by Erie of all Public Improvements and Public Facilities or (ii) the Reimbursement End Date, 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.

**Q. 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]



STATE OF COLORADO )  
 ) ss.  
COUNTY OF WELD )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by \_\_\_\_\_, the \_\_\_\_\_ of Town of Erie, a Colorado municipal corporation, as Grantee.

IN WITNESS WHEREOF I have hereunto set my hand and official seal.

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

**EXHIBITS LIST**

**EXHIBIT A – VISTA RIDGE FILING NO. 14 MINOR SUBDIVISION**

**EXHIBIT B – PUBLIC IMPROVEMENT SCHEDULE**

**EXHIBIT C – PHASING PLAN**

**EXHIBIT D – PUBLIC IMPROVEMENT REIMBURSEMENT SCHEDULE**

**EXHIBIT E – AIRPORT DISCLOSURE**

**EXHIBIT F – LANDFILL DISCLOSURE**

**EXHIBIT G – FORM OF LETTER OF CREDIT**





**EXHIBIT B**  
**PUBLIC IMPROVEMENT SCHEDULE**

**Galloway**  
Heavy Infrastructure Engineering  
5300 DTC Parkway, Suite 100  
Greenwood Village, CO 80111  
(303) 770-8884 (Phone)  
(303) 770-3636 (Fax)

Date: 13-Jul-15  
Project: King Scoopers #129-Erie, CO  
Location: NWC Hwy 7 & Sheridan  
By: B. McCrary

Opinion of Probable Cost -

1	ON-SITE IMPROVEMENTS	Quantity	Unit	Unit Cost	Total
2	<i>Earth Work</i>				
3	Gut/Fill Material to rough grade	88247	C.Y.	\$2.90	\$197,916.30
4	<i>North-South Internal Drive (Hwy 7 to Ridgeview)</i>				
5	<i>Paving &amp; Associated Earthwork</i>				
6	Fine Grading (Re-Condition: 18" depth)	3024	S.Y.	\$4.50	\$13,608.00
7	Heavy Duty Asphalt (7.5" full depth)	27218	S.F.	\$3.63	\$98,079.64
8	Curb and Gutter (1.5')	924	L.F.	\$18.00	\$16,632.00
9	Concrete Sidewalk	411	S.Y.	\$45.00	\$18,495.00
10	Handicap Ramps	6	EA	\$750.00	\$4,500.00
11	<i>Striping and Signage</i>				
12	Signs (traffic)	2	EA	\$250.00	\$500.00
13	Striping - arrows, lanes	1	LS	\$2,000.00	\$2,000.00
14	<i>Landscaping</i>				
15	Landscaping & Irrigation (Parkstrip)	4024	S.F.	\$3.00	\$12,072.00
16	<i>Utilities</i>				
17	Site Lights (Base, Poles, Fixtures, Electrical)	3	EA	\$4,500.00	\$13,500.00
18	<i>Total N-S Drive Improvements</i>				\$177,386.64
19	<i>East-West Internal Drive (Rear alley behind King Scoopers building and adjacent to pond)</i>				
20	<i>Paving &amp; Associated Earthwork</i>				
21	Fine Grading (Re-Condition: 18" depth)	4087	S.Y.	\$4.50	\$18,391.50
22	Heavy Duty Asphalt (7.5" full depth)	36871	S.F.	\$3.63	\$133,851.63
23	Curb and Gutter	207	L.F.	\$18.00	\$3,726.00
24	Handicap Ramps	2	EA	\$750.00	\$1,500.00
25	<i>Striping and Signage</i>				
26	Signs (traffic)	2	EA	\$250.00	\$500.00
27	Striping - arrows, lanes	1	LS	\$1,500.00	\$1,500.00
28	<i>Utilities</i>				
29	Site Lights (Base, Poles, Fixtures, Electrical)	4	EA	\$4,500.00	\$18,000.00
30	<i>Total E-W Drive Improvements</i>				\$176,437.13
31	<i>East-West Internal Drive (Access adjacent to lots 3-6)</i>				
32	<i>Paving &amp; Associated Earthwork</i>				
33	Fine Grading (Re-Condition: 18" depth)	3688	S.Y.	\$4.50	\$16,596.00
34	Heavy Duty Asphalt (7.5" full depth)	33192	S.F.	\$3.63	\$120,688.56
35	Curb and Gutter (adjacent to islands)	1214	L.F.	\$18.00	\$21,852.00
36	<i>Landscaping</i>				
37	Median Islands along drive	6890	S.F.	\$3.00	\$20,670.00
38	<i>Striping and Signage</i>				
39	Signs (traffic)	1	EA	\$250.00	\$250.00
40	Striping - arrows, lanes	1	LS	\$1,500.00	\$1,500.00
41	<i>Utilities</i>				
42	Site Lights (Base, Poles, Fixtures, Electrical)	7	EA	\$4,500.00	\$31,500.00
43	<i>Total E-W Drive Improvements</i>				\$208,936.76
44	<i>East-West Internal Drive (Tract A to Sheridan Pkwy)</i>				
45	<i>Paving &amp; Associated Earthwork</i>				
46	Fine Grading (Re-Condition: 18" depth)	3129	S.Y.	\$4.50	\$14,080.50
47	Heavy Duty Asphalt (7.5" full depth)	28162	S.F.	\$3.63	\$102,428.06
48	Curb and Gutter (adjacent to islands)	642	L.F.	\$18.00	\$11,556.00
49	Concrete Sidewalk (4" thick)	102	S.Y.	\$45.00	\$4,590.00
50	<i>Landscaping</i>				
51	Median Islands along drive	4620	S.F.	\$3.00	\$13,860.00
52	<i>Striping and Signage</i>				
53	Signs (traffic)	6	EA	\$250.00	\$1,500.00
54	Striping - arrows, lanes	1	LS	\$1,500.00	\$1,500.00
55	<i>Utilities</i>				
56	Site Lights (Base, Poles, Fixtures, Electrical)	8	EA	\$4,500.00	\$36,000.00

67	<b>Total E-W Drive Improvements</b>				<b>\$182,248.36</b>
68	<b>Utilities</b>				
69	<b>Storm</b>				
69	6" PVC Roof drain	27	LF	\$7.80	\$210.60
81	12" PVC Roof drain	224	LF	\$18.35	\$4,110.40
62	15" RCP	43	LF	\$88.60	\$1,569.60
63	18" RCP	1288	LF	\$49.50	\$63,768.00
64	24" RCP	388	LF	\$86.00	\$24,168.00
65	30" RCP	408	LF	\$99.00	\$40,491.00
66	36" RCP	733	LF	\$126.00	\$91,625.00
67	42" RCP	439	LF	\$161.00	\$68,289.00
68	Type 13 Inlet	10	EA	\$3,600.00	\$36,000.00
69	Type R Inlet (Single)	3	EA	\$5,300.00	\$15,900.00
70	Type R Inlet (Double)	3	EA	\$7,000.00	\$21,000.00
71	Type R Inlet (Triple)	1	EA	\$8,000.00	\$8,000.00
72	6" Manhole	3	EA	\$4,000.00	\$12,000.00
73	6" Manhole	1	EA	\$8,000.00	\$8,000.00
74	18" FES	1	EA	\$500.00	\$500.00
76	Outlet Structure	1	EA	\$15,000.00	\$15,000.00
76	Concrete drainage channel	178	LF	\$72.00	\$12,816.00
77	Non-Displacement Boring Casing, Spacers and Pits	1	EA	\$1,000.00	\$1,000.00
78	<b>Water</b>				
82	6" PVC Water line (C900)	720	L.F.	\$28.00	\$20,160.00
83	8" PVC Water line (C900)	2288	L.F.	\$32.00	\$73,536.00
84	12" PVC Water line (C900)	720	L.F.	\$38.00	\$27,360.00
85	Fire Hydrant Assembly	10	EA	\$3,000.00	\$30,000.00
86	8" Gate valve	17	EA	\$1,800.00	\$30,600.00
87	12" Gate valve	8	EA	\$2,400.00	\$21,600.00
88	Tees (8")	5	EA	\$470.00	\$2,350.00
89	Tees (12")	5	EA	\$850.00	\$4,250.00
90	Thrust Block	21	EA	\$125.00	\$2,625.00
91	8" Bend (Horiz. & Vert.)	11	EA	\$470.00	\$5,170.00
92	12" Bend (Horiz. & Vert.)	7	EA	\$850.00	\$5,950.00
96	8" Plug	1	EA	\$250.00	\$250.00
97	Temporary blow off	1	EA	\$2,395.00	\$2,395.00
100	Connection to existing water line w/tee	2	EA	\$2,000.00	\$4,000.00
101	Non-Displacement Boring Casing, Spacers and Pits	1	EA	\$1,000.00	\$1,000.00
102	<b>Sanitary</b>				
103	4" PVC Sanitary Sewer	94	L.F.	\$42.00	\$3,948.00
104	6" PVC Sanitary Sewer	137	L.F.	\$46.00	\$6,165.00
105	8" PVC Sanitary Sewer	2888	EA	\$48.00	\$127,968.00
106	Wyes, bends and cleanouts	23	EA	\$300.00	\$6,900.00
107	Grease Trap	5	EA	\$8,500.00	\$42,500.00
108	Manholes	10	EA	\$3,500.00	\$35,000.00
109	<b>Total Utility Improvements</b>				<b>\$874,160.50</b>
110	<b>Sub-Total - On-Site Improvements</b>				<b>\$1,816,074.59</b>
111	Contingency	10%			\$181,607.46
112	General Contractors General Conditions	3.5%			\$63,662.61
113	General Contractors OH & Profit	5%			\$90,803.73
114	<b>TOTAL ON-SITE IMPROVEMENTS</b>				<b>\$2,152,048.39</b>
115	<b>OFF-SITE IMPROVEMENTS</b>				
116		Quantity	Unit	Unit Cost	Total
117	<b>State Highway 7 Improvements</b>				
118	<b>Paving &amp; Associated Earthwork</b>				
119	Cull/Fill Material for roadside swale and sidewalk	2187	G.Y.	\$2.80	\$8,342.30
120	Fine Grading (Swale and Sidewalk)	3684	S.Y.	\$1.50	\$5,376.00
121	Sawcut Edge of Pavement	105	L.F.	\$2.00	\$210.00
122	Remove Asphalt Edge	105	S.F.	\$2.50	\$262.50
123	Heavy Duty Asphalt (11" full Depth)	2205	S.F.	\$4.70	\$10,739.50
124	Concrete Sidewalk (4" thick)	1180	S.Y.	\$45.00	\$53,550.00
125	Handicap Ramps	3	EA	\$1,000.00	\$3,000.00
126	Rip-Rap	174	C.Y.	\$101.00	\$17,674.00
127	<b>Landscaping</b>				
128	Hydra Seed/Fert/rotalill to stabilize roadside swale	19511	S.F.	\$0.50	\$9,755.50
129	<b>Utilities</b>				
130	Street Light at Hwy 7 3/4 Access	1	EA	\$6,600.00	\$6,600.00
131	FRICO 6' x 10' Box Culvert Extension	30	LF	\$1,520.00	\$45,600.00
132	New Box Culvert Wing Walls	177	SF	\$40.00	\$7,080.00

133	Misc				
134	Existing Striping to be removed	3180	L.F.	\$3.50	\$11,130.00
135	Stripe - Lanes	5462	L.F.	\$3.50	\$19,117.00
138	Arrows/Symbols/Crosswalk	11	EA.	\$225.00	\$2,475.00
137	Survey Layout & Staking	1	L.S.	\$2,000.00	\$2,000.00
138	Corner Monument Sign	1	EA.	\$50,000.00	\$50,000.00
139	Temporary Traffic Control	1	L.S.	\$7,600.00	\$7,600.00
140	<b>Total Hwy 7 Improvements</b>				<b>\$268,211.80</b>
141	<b>Sheridan Improvements</b>				
142	<b>Paving &amp; Earthwork</b>				
143	Sawcut Edge of Pavement	80	L.F.	\$2.00	\$160.00
144	Asphalt Patch Back (access point)	404	S.F.	\$4.40	\$1,777.60
145	Remove existing sidewalk	840	S.F.	\$2.50	\$1,800.00
146	Remove existing curb and gutter	80	L.F.	\$1.50	\$120.00
147	Handicap Ramps	3	EA	\$1,000.00	\$3,000.00
148	Concrete Crosspan	667	S.F.	\$7.50	\$5,002.50
149	<b>Landscaping</b>				
150	Hydra Seed/Fert/rotalll	8254	S.F.	\$0.50	\$4,127.00
151	Trees (Overstory)	6	EA	\$460.00	\$2,700.00
152	Trees (Ornamental)	6	EA	\$350.00	\$2,100.00
153	<b>Utilities</b>				
154	Street Light at Full Motion Access	1	EA.	\$8,500.00	\$8,500.00
155	Misc				
156	Existing Striping to be removed	1356	L.F.	\$3.50	\$4,746.00
157	Stripe - Lanes	1438	L.F.	\$3.50	\$5,033.00
158	Arrows/Symbols/Crosswalk	12	EA.	\$225.00	\$2,700.00
159	Survey Layout & Staking	1	L.S.	\$1,200.00	\$1,200.00
160	Temporary Traffic Control	1	L.S.	\$3,500.00	\$3,500.00
161					
162	<b>Total Sheridan Pkwy Improvements</b>				<b>\$44,286.10</b>
163	<b>Ridge View Improvements</b>				
164	<b>Paving &amp; Earthwork</b>				
165	Sawcut Edge of Pavement (access point and sewer connection)	130	L.F.	\$2.00	\$260.00
166	Remove existing curb and gutter	188	L.F.	\$1.50	\$297.00
167	Asphalt Patch Back (access point and sewer connection)	242	S.F.	\$4.40	\$1,084.80
168	Handicap Ramps	4	EA.	\$750.00	\$3,000.00
169	Concrete Crosspans	1716	S.F.	\$7.50	\$12,870.00
170	Concrete Sidewalk (4" thick)	488	S.Y.	\$45.00	\$21,060.00
171	<b>Landscaping</b>				
172	Hydra Seed/Fert/rotalll	6219	S.F.	\$0.50	\$3,109.50
173	Trees (Overstory)	16	EA	\$450.00	\$7,200.00
174	Trees (Ornamental)	9	EA	\$350.00	\$3,150.00
175	<b>Utilities</b>				
176	Street Light at Full Motion Access	1	EA.	\$8,500.00	\$8,500.00
177	8" Sanitary Sewer	395	L.F.	\$34.00	\$13,430.00
178	Sanitary Manhole (4' Dia.)	2	EA	\$5,000.00	\$10,000.00
179	Sanitary Sewer Connect to Existing Manhole	1	EA.	\$1,000.00	\$1,000.00
180	Misc				
181	Existing Striping to be removed	1679	L.F.	\$3.50	\$5,876.50
182	Stripe - Lanes	1992	L.F.	\$3.50	\$6,972.00
183	Arrows/Symbols/Crosswalk	8	EA.	\$225.00	\$1,800.00
184	Survey Layout & Staking	1	L.S.	\$1,200.00	\$1,200.00
185	Temporary Traffic Control	1	L.S.	\$3,500.00	\$3,500.00
186	<b>Total Ridge View Improvements</b>				<b>\$102,289.80</b>
187	<b>Traffic Signal Future Contributions</b>				
188	Signal at Sheridan and Highway 7 (Assume 1/4 of total cost)	0.10	EA	\$250,000.00	\$25,000.00
189	Signal at Sheridan and E access to site (Assume 1/2 of total cost)	0.60	EA	\$250,000.00	\$125,000.00
190	Signal at Sheridan and Ridgeview (Assume 1/4 of total cost)	0.25	EA	\$250,000.00	\$62,500.00
191	<b>Total Traffic Future Contributions</b>				<b>\$212,500.00</b>
192	<b>Sub-Total - Off-Site Improvements</b>				<b>\$617,267.70</b>
193	Contingency	10%			\$61,726.77
194	General Contractors General Conditions	3.5%			\$21,604.37
195	General Contractors OH & Profit	5.0%			\$30,863.39
196	<b>TOTAL OFF-SITE IMPROVEMENTS</b>				<b>\$734,462.22</b>
197					
198	<b>TOTAL ON &amp; OFF-SITE IMPROVEMENTS</b>				<b>\$2,883,511.00</b>

EXHIBIT C  
PHASING PLAN

The Development shall be constructed in one phase. Not applicable.

EXHIBIT D  
PUBLIC IMPROVEMENT REIMBURSEMENT SCHEDULE

Reimbursements due Owner:

1. Erie shall reimburse Owner up to One Million Five Hundred Thousand Dollars (\$1,500,000) as outlined in Section VIII.H of this Agreement.
2. Erie shall reimburse Owner up to Twenty-Five Thousand Dollars (\$25,000) as outlined in Section VIII.I of this Agreement.

Reimbursements due Erie:

1. Erie shall collect from Owner, prior to recordation of this Agreement, Two Thousand Two Hundred Sixty-Eight and 75/100 Dollars (\$2,268.75) as reimbursement (\$55.00 per SFE) within the Vista Ridge Filing No. 14 Minor Subdivision connecting to the Coal Creek Sanitary Sewer Interceptor line that the Town constructed.
2. Erie shall collect from Owner, prior to recordation of this Agreement, Sixteen Thousand Nine Hundred Twelve and 50/100 (\$16,912.50) as reimbursement (\$410.00 per SFE) within the Vista Ridge Filing No. 14 Minor Subdivision connecting to the NWRP Interceptor line that the Town constructed.

Reimbursements due Others:

None.

EXHIBIT E  
AIRPORT DISCLOSURE

The undersigned, being the purchasers identified in that certain \_\_\_\_\_  
\_\_\_\_\_ (“Purchase Contract”) dated \_\_\_\_\_, 20\_\_\_\_, between  
\_\_\_\_\_, a \_\_\_\_\_, as seller, and the  
undersigned, as purchaser, with respect to Lot \_\_\_\_\_, Vista Ridge Filing No. 14 Minor  
Subdivision, Town of Erie, County of Weld, State of Colorado (the “Lot”) do hereby  
acknowledge and agree as follows, which acknowledgments and agreements are given in  
consideration of and as a condition to Seller’s agreement to sell to the undersigned the Lot and  
the home to be constructed thereon:

Purchaser acknowledges that the Lot being purchased is located in close proximity to the  
Erie Municipal Tri-County Airport. Purchaser further acknowledges that the property is  
encumbered by an Avigation Easement and will be subject to over flights by aircraft to and from  
the Airport. Purchaser is advised to review the Avigation Easement document, a copy of which  
is attached hereto. Purchaser acknowledges that the Town of Erie and the Seller will have no  
responsibility of liability for any claims or causes of action, either in law or in equity, resulting  
from any noise or damage to a person or property occurring from over flights to and from the  
Airport or the rights and obligations described in the Avigation Easement.

IN WITNESS WHEREOF, the undersigned has/have executed this Airport Disclosure  
this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**DILLON COMPANIES, INC.,**  
**a Kansas corporation.**

\_\_\_\_\_  
Purchaser

STATE OF \_\_ )  
                  )     SS.  
COUNTY OF )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_,  
2015, by \_\_\_\_\_, the \_\_\_\_\_ of Dillon Companies Inc., a  
Kansas corporation, on behalf of the corporation, as Purchaser.

IN WITNESS WHEREOF I have hereunto set my hand and official seal.

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

EXHIBIT F  
LANDFILL DISCLOSURE

The undersigned, being the purchasers identified in that certain \_\_\_\_\_  
\_\_\_\_\_ (“Purchase Contract”) dated \_\_\_\_\_, 20\_\_\_\_, between  
\_\_\_\_\_, a \_\_\_\_\_, as seller, and the  
undersigned, as purchaser, with respect to Lot \_\_\_\_\_, Vista Ridge Filing No. 14 Minor  
Subdivision, Town of Erie, County of Weld, State of Colorado (the “Lot”) do hereby  
acknowledge and agree as follows, which acknowledgments and agreements are given in  
consideration of and as a condition to Seller’s agreement to sell to the undersigned the Lot and  
the home to be constructed thereon:

Purchaser acknowledges that the property which is being purchased is located in close  
proximity to the Front Range Landfill, the landfill gas to energy facility located on the Front  
Range Landfill, and the Denver Regional Landfill. Purchaser acknowledges that the Town of  
Erie and the Seller will have no responsibility of liability for any claims or causes of action,  
either in law or in equity, resulting from any noise or damage to person or property occurring  
from landfill activities.

IN WITNESS WHEREOF, the undersigned has/have executed this Landfill Disclosure  
this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**DILLON COMPANIES, INC.,**  
a Kansas corporation.

\_\_\_\_\_  
Purchaser

STATE OF \_\_ )  
                  )     SS.  
COUNTY OF )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
2015, by \_\_\_\_\_, the \_\_\_\_\_ of Dillon Companies Inc., a  
Kansas corporation, on behalf of the corporation, as Purchaser.  
IN WITNESS WHEREOF I have hereunto set my hand and official seal.

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

EXHIBIT G  
FORM OF LETTER OF CREDIT

*(to be attached)*

**TOWN OF ERIE**  
**BOARD OF TRUSTEES AGENDA ITEM**  
**Board Meeting Date: September 8, 2015**

---

**SUBJECT:** **LAND DEVELOPMENT RESOLUTIONS:**

**CONSIDERATION OF RESOLUTION 15-115:** A Resolution Authorizing The Town Of Erie, Colorado, To Enter Into A Grant Of Permanent Avigation Easement Agreement; Authorizing And Directing The Appropriate Town Officers To Sign Said Grant Of Permanent Avigation Easement Agreement; And, Setting Forth Details In Relation Thereto.

**CODE REVIEW:** Erie Municipal Code, Title 10

**PURPOSE:** Board of Trustees to consider the entering into an avigation easement.

**DEPARTMENT:** Community Development

**PRESENTER:** R. Martin Ostholthoff, Community Development Director

---

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

---

**STAFF**

**RECOMMENDATION:** Approval of Resolution 15-115

**PLANNING COMMISSION**

**RECOMMENDATION:** n/a

---

**SUMMARY AND BACKGROUND OF SUBJECT MATTER:**

---

**Applicant:** Montex (Brownlee) LLC  
Andy Chaikovsky  
4915 South Gaylord Street  
Englewood, CO 80113

**Owner:** Montex (Brownlee) LLC  
Andy Chaikovsky  
4915 South Gaylord Street  
Englewood, CO 80113

**Location:** The property is located on the northwest corner of State Highway 7 and Sheridan Boulevard as highlighted below in red.



**Summary:**

The Resolution, provided for consideration by the Board of Trustees, authorizes the appropriate town official to enter into a grant of permanent avigation easement agreement for a portion of the Vista Ridge Filing No. 14 Minor Subdivision final plat.

**Public Notice:**

Public Notice is not required.

**Staff Review:**

- \_\_\_ Town Attorney
- \_\_\_ Town Clerk
- DM* Community Development Director
- \_\_\_ Finance Director
- \_\_\_ Police Chief
- \_\_\_ Public Works Director

**Approved by:**

*[Signature]*  
 A.J. Krieger  
 Town Administrator

**ATTACHMENTS:**

- a. Resolution 15-115

# ATTACHMENT A

**RESOLUTION NO. 15-115**

**A RESOLUTION AUTHORIZING THE TOWN OF ERIE, COLORADO, TO ENTER INTO A GRANT OF PERMANENT AVIGATION EASEMENT AGREEMENT; AUTHORIZING AND DIRECTING THE APPROPRIATE TOWN OFFICERS TO SIGN SAID GRANT OF PERMANENT AVIGATION EASEMENT AGREEMENT; AND, SETTING FORTH DETAILS IN RELATION THERETO.**

**WHEREAS**, the Town of Erie, Colorado wishes to enter into a Grant of Avigation Easement Agreement with Montex (Brownlee), LLC, 4915 South Gaylord Street, Englewood, Colorado 80113; and

**WHEREAS**, the Board of Trustees of the Town of Erie believes it is in the best interest of the Town to enter into the Grant of Avigation Easement Agreement.

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

Section 1. That the Grant of Avigation Easement Agreement by and between the Town of Erie and Montex (Brownlee), a copy of which is attached hereto as "Exhibit A" and incorporated herein by reference, is found to be a reasonable and acceptable.

Section 2. That the Town of Erie be and is hereby authorized and directed to enter into the Grant of Avigation Easement Agreement, and the appropriate Town officers are hereby authorized and directed to sign and bind the Town of Erie to said Agreement.

Section 3. That entering into the Grant of Avigation Easement 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 8<sup>TH</sup> DAY OF SEPTEMBER, 2015, 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, CMC, Town Clerk

Exhibit A

(Grant of Permanent Avigation Easement Agreement)

**GRANT OF PERMANENT AVIGATION EASEMENT  
AGREEMENT**

**THIS GRANT OF PERMANENT AVIGATION EASEMENT AGREEMENT** is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2015, by and between **MONTEX (BROWNLEE), LLC**, a Colorado limited liability company, whose address is 4915 South Gaylord Street, Englewood, CO 80113, 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 manned (as opposed to remote-controlled, for which no easement is granted) 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 manned aircraft using said airspace for landing at, taking off from, or operating at the Erie Municipal 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,

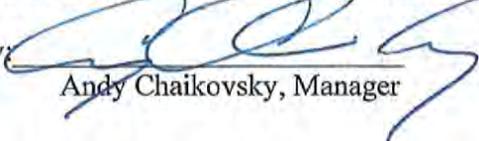
vibration, and other effects that may be caused by the operation of manned aircraft landing at, taking off from, or operating at the Erie Municipal Tri-County Airport, or the use in general of the Avigation Easement as granted herein.

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, 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 which mimics airport lights, or which results in glare affecting aircraft using the Erie Municipal Airport, or which otherwise endangers the landing, take-off, and passage of manned 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.**

**GRANTOR:  
MONTEX (BROWNLEE), LLC, a Colorado limited liability company**

By:   
Andy Chaikovsky, Manager

STATE OF COLORADO    )  
  ) ss.  
COUNTY OF WELD        )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by Andy Chaikovsky, the Manager of Montex (Brownlee) LLC, a Colorado limited liability company, on behalf of the company, as Seller.

WITNESS my hand and official seal.

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

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

**GRANTEE:  
TOWN OF ERIE, a Colorado municipal corporation**

By: \_\_\_\_\_  
Tina Harris, Mayor

ATTEST:

By: \_\_\_\_\_  
Nancy J. Parker, Town Clerk

**EXHIBIT "A"**

(Legal Description of Real Property)

LEGAL DESCRIPTION:

PARCEL 1:

PARCELS 1 AND 2 OF SUBDIVISION EXEMPTION NO. 977 RECORDED JUNE 9, 2003 AT RECEPTION NO. 3070624 AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PARCEL OF LAND LOCATED IN THE SOUTH HALF OF SECTION 33, TOWNSHIP 1 NORTH, RANGE 68 WEST OF THE 6<sup>TH</sup> P.M., MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 33;

THENCE NORTH 00° 06' 16" EAST, 75.00 FEET ALONG THE WEST LINE OF THE SOUTHEAST QUARTER TO THE POINT OF BEGINNING;

THENCE NORTH 89° 38' 37" WEST, 498.22 FEET ALONG THE NORTH RIGHT OF WAY LINE OF COLORADO STATE HIGHWAY 7;

THENCE NORTH 00° 06' 16" EAST, 865.79 FEET ALONG THE EASTERLY LINE OF VISTA RIDGE MASTER PLAT PARCEL 34;

THENCE ALONG THE SOUTHERLY RIGHT OF WAY OF RIDGE VIEW DRIVE THE FOLLOWING TWO COURSES:

1) S89°31'49"E, 551.15 FEET;  
2) 46.57 FEET ALONG THE ARC OF A TANGENT CURVE TO THE RIGHT, SAID ARC SUBTENDED BY A RADIUS OF 30.00 FEET, A CENTRAL ANGLE OF 88°57'03" AND A CHORD BEARING S45°03'17"E, 42.04 FEET; THENCE ALONG THE WESTERLY RIGHT OF WAY LINE OF SHERIDAN BOULEVARD THE FOLLOWING TWO COURSES:

1) S00°34'46"B, 804.80 FEET;  
2) 47.61 FEET ALONG THE ARC OF A TANGENT CURVE TO THE RIGHT, SAID ARC SUBTENDED BY A RADIUS OF 30.00 FEET, A CENTRAL ANGLE OF 90°55'52" AND A CHORD BEARING S44°53'10"W, 42.77 FEET;

THENCE NORTH 89° 38' 54" W, 62.20 FEET ALONG THE NORTH RIGHT OF WAY OF COLORADO STATE HIGHWAY 7 TO THE POINT OF BEGINNING, COUNTY OF WELD, STATE OF COLORADO.

**TOWN OF ERIE**  
**BOARD OF TRUSTEE AGENDA ITEM**  
**Board Meeting Date: September 8, 2015**

---

**SUBJECT:** **RESOLUTIONS**  
Resolution 15-86; Consideration of A Resolution Authorizing Award Of A Design Contract To Loris and Associates , Inc., for the Pedestrian Underpass Repair at Taxiway, In The Amount Of \$33,259.00; And Setting Forth Details In Relation Thereto.

**DEPARTMENT:** Public Works/Parks & Recreation  
**Gary Behlen, Director of Public Works**

**PRESENTER/PREPARER:** **Farrell Buller, Parks & Recreation Director**  
**Russell Pennington, Deputy Director of Public Works**  
**Wendi Palmer, Civil Engineer**

---

<b>FISCAL</b>	Cost as Recommended:	<b>\$39,910</b>
<b>INFORMATION:</b>	Balance Available:	\$260,560
	Budget Line Item Number:	210 . 50 . 110 . 605000 . 100016
	Fund:	Trails and Natural Areas Fund
	New Appropriation Required:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

---

**STAFF RECOMMENDATION:** Approving the Resolution to award said contract, authorizing the Mayor to execute said contract, authorizing Staff to expend contracted funds and contingency funds.

---

**SUMMARY AND BACKGROUND OF SUBJECT MATTER:**

At the May 26, 2015 Board of Trustees meeting, the Board approved a new appropriation for the design and construction of flood mitigation for the Coal Creek Trail Underpass.

A Request for Proposal was solicited from three design firms that have direct knowledge of the underpass.

The following schedule was used for consultant selection:

Request for Proposal Issued	August 5, 2015
Proposals Due	August 26, 2015
Consultant Selected	August 28, 2015

Two of the three design firms submitted proposals. One of the design firms submitted a letter explaining that based on their current commitments, they need to pass on this opportunity. The following are the fee proposals for the two firms that did submit proposals:

**Fee Proposal Information**

RESPEC	\$42,840.00
Loris and Associates	\$33,259.00

Staff is recommending awarding Loris and Associates this project based on their qualifications, approach to the project, and design cost. Loris and Associates has experience with this type of project design and has successfully completed several projects for the Town. Loris and Associates designed the new pedestrian crossing of Coal Creek near Bonnell Ave, the two AARA Funded bike lane projects for Erie Parkway and

County Line Road, the Safe Routes to School Sidewalk project from Telleen north to the railroad tracks and conducted the Coal Creek Trail – Erie Municipal Airport Taxiway Underpass Conceptual Alternative Analysis.

**Project Budget Summary**

Contract	\$33,259.00
Contingency (20%)	\$6,651.00
<b>Total</b>	<b>\$39,910.00</b>

Remaining funds will be used in the construction of the project. The Construction project will be presented to the Board early next year.

**Project Schedule**

Notice of Award	September 9, 2015
Final Design Complete	December, 2015
Construction Contract Bid	February, 2016
Construction Complete	Spring 2016

---

**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
- b. Vicinity Map

**RESOLUTION NO. 15-86**

**A RESOLUTION OF THE TOWN OF ERIE, AWARDING A DESIGN CONTRACT TO LORIS AND ASSOCIATES INC. FOR THE PEDESTRIAN UNDERPASS REPAIR AT TAXIWAY IN THE AMOUNT OF \$33,259.00; AND, SETTING FORTH DETAILS IN RELATION THERETO.**

**WHEREAS**, the Town of Erie, Colorado wishes to award a Design Contract to Loris and Associates, Inc. for the Pedestrian Underpass Repair at Taxiway project in the amount of \$33,359.00; 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 Loris and Associates, Inc is found to be a reasonable and acceptable contract for the Pedestrian Underpass Repair at Taxiway Project.

**Section 2.** That the Town of Erie be and is hereby authorized and directed to enter into the contract with Loris and Associates, Inc. for the Pedestrian Underpass Repair at Taxiway project in the amount of \$33,359.00 with a contingency not to exceed \$6,651.00

**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 8<sup>TH</sup> DAY OF SEPTEMBER, 2015, 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

Vicinity Map for Pedestrian Underpass Repair at Taxiway



**TOWN OF ERIE**  
**BOARD OF TRUSTEE AGENDA ITEM**  
**Board Meeting Date: September 8, 2015**

---

**RESOLUTIONS**

**SUBJECT:** **Resolution 15-110;** A Resolution Approving a Five Year Lease of Nine Hundred and Eighty Colorado Big Thompson Units From Bijou Irrigation Company in the Amount of \$122,500.00; And Setting Forth Details In Relation Thereto.

**DEPARTMENT:** Public Works

**PRESENTER/PREPARER:** **Gary Behlen, Director of Public Works**  
**Jody Lambert, Operation and Maintenance Manager**

---

<b>FISCAL</b>	Cost as	<b>\$122,500.00</b>
	Recommended:	
<b>INFORMATION:</b>	Balance Available:	\$100,000.00
	Fund	Water
	Budget Line Item	500 . 70 . 110 . 573440 . 000000
	Number:	
	New Appropriation Required:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

---

**STAFF RECOMMENDATION:** Approve lease of CBT Units from Bijou Irrigation Company and authorizing the Town Administrator to sign said lease agreement.

---

**SUMMARY AND BACKGROUND OF SUBJECT MATTER:**

Town of Erie staff was given authority from the Board of Trustees on June 23, 2015 to negotiate with the Bijou Irrigation Company ("Bijou") for the lease of 980 Units in the Colorado Big Thompson Project ("CBT Units") on a long term basis. CBT Units have an average yield of 0.7 acre feet per Unit, so 980 CBT Units would have an average yield of 686 acre feet per year. This would provide enough water for approximately 1500 single family homes in Erie. The current market price for 980 CBT Units is approximately \$25,480,000.00, based on recent sales at approximately \$26,000.00 per CBT Unit.

Erie is currently participating in the Windy Gap Firming Project ("WGFP") and the Northern Integrated Supply Project ("NISP"). Construction of the WGFP is currently scheduled to commence in 2018 and completion in 2020, if there are no further delays with permitting or other issues. The construction of NISP is currently scheduled to commence in 2018 with completion in 2023, again if there are no further delays. The Town has carefully planned to utilize these projects to meet water demands as the Town grows.

Based on the current status of both the WGFP and NISP, it is recommended that the Town secure an interim water supply in the event that either project is delayed. The 980 CBT Units would provide security for the Town while the projects are being built. Bijou is seeking a long term lease for the CBT Units to generate revenue.

Staff was successful in negotiating a lease for five years with Bijou at a price of \$250.00 per acre foot with a 2% annual escalator. The average yield of 686 acre feet would cost \$171,500.00 per year (and increased annually at 2%) which could be very valuable security while the WGFP and NISP are being built. These were the terms proposed by Staff except the term. Staff proposed a ten year term and Bijou indicated that it would only be interested in leasing the water for five years. However, the Town would be given a First Right of Refusal to lease for an additional term if it is interested. This may be more beneficial to the Town if the WGFP is constructed on schedule.

A price of \$250.00 per acre foot is within the market for municipal uses, especially for a term of 5 years, under which water would be available in all years including droughts. It should be noted that the Town could also have an opportunity to lease a like amount of water under its CBT Units to recoup a portion of the lease

Leases of CBT water for agricultural and other uses are significantly less. Leases on an annual basis are also substantially less because there is no guarantee of water in dry years. Historically, the Town has leased water on an annual basis for agricultural and other uses at a rate to cover its assessments.

Staff is recommending that the Board authorize Staff to enter into a lease with Bijou with substantially the same terms as the Lease attached hereto.

---

**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
- b. Bijou Irrigation Company Colorado Big Thompson (CBT) Lease

**RESOLUTION NO. 15-110  
TOWN OF ERIE, COLORADO**

**A RESOLUTION APPROVING THE FIVE YEAR LEASE OF NINE HUNDRED EIGHTY COLORADO BIG THOMPSON UNITS FROM BIJOU IRRIGATION COMPANY IN THE AMOUNT OF \$122,500; AND, SETTING FORTH DETAILS IN RELATION THERETO.**

**WHEREAS**, the Town of Erie is authorized to maintain and enter into agreements regarding the Town's water portfolio, for the benefit of its residents; and

**WHEREAS**, the lease would provide enough water for approximately 1500 single family homes per year; and

**WHEREAS**, the Town of Erie believes it is in the best interest of the Town to lease the 980 Colorado Big Thompson Units.

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

- Section 1.** That the Town of Erie is hereby authorized to enter into an agreement to lease the 980 Colorado Big Thompson Units.
- Section 2.** That the Staff is hereby further authorized to expend the funds for the 980 Colorado Big Thompson Units.
- Section 3.** That the Mayor is hereby authorized and directed to execute the necessary documentation to lease the 980 Colorado Big Thompson Units.

**ADOPTED AND APPROVED THIS 8TH DAY OF SEPTEMBER, 2015, 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

**BIJOU IRRIGATION COMPANY**  
**COLORADO BIG THOMPSON (CBT) LEASE**

This CBT Lease, dated this \_\_\_\_\_ day of \_\_\_\_\_, 2015, is between the Bijou Irrigation Company ("Lessor") and the Town of Erie ("Lessee"). (The Lessor and Lessee shall also be referred to herein as a "Party" or collectively as the "Parties")

WHEREAS, Lessor owns 980 Units in the Colorado Big Thompson Project ("CBT Units") as such Units are defined in the allotment contract between the Northern Colorado Water Conservancy District ("NCWCD") and the Bijou Irrigation Company; and

WHEREAS, Lessor wishes to lease the water yielded by the annual quota in acre feet for said CBT Units to Lessee commencing in the 2016 Water Year (November 1, 2015) through the end of the 2020 Water Year (October 31, 2021) (collectively "Lease Term"); and

WHEREAS, Lessee wishes to lease said CBT Units for the purposes and subject to the terms and conditions described below.

**LEASE AGREEMENT**

NOW, THEREFORE, in consideration of the payment of the money provided below and Lessee's promise to make future payments and to perform all of the terms and conditions described below, Lessor leases the water yielded by said CBT Units for the Lease Term to Lessee under the following terms and conditions:

1. Term. The term of the lease shall be for the Lease Term, defined herein as the 2016 Water Year commencing November 1, 2015 through the end of the 2020 Water Year (October 31, 2021), unless sooner terminated under the terms and conditions set forth below.

2. Lease Payments.

a. Lease Price. The price for the lease of the water hereunder shall be \$250.00 per acre foot of yield from the CBT Units per year with an annual escalator of 2% for the term of this lease. Therefore, the lease price shall be as follows:

<u>Water Year</u>	<u>Lease Price per Acre Foot</u>
2016	\$250.00
2017	\$255.00
2018	\$260.10
2019	\$265.31
2020	\$270.61

b. Calculation of Lease Payments. Upon the declaration of a quota for the CBT Units by NCWCD and any supplemental quotas, Lessor shall provide an invoice to Lessee for the number of acre feet declared by NCWCD in the quota times the lease price set forth above.

By way of example, and not limitation, NCWCD typically allocates a quota of 50% on November 1 of each Water Year. This would equate to 490 acre feet. Lessor would send an invoice to Lessee for 490 acre feet times the applicable lease price for that Water Year to Lessee, which would be payable within 30 days. NCWCD then typically considers an additional quota in the spring. If, for instance, NCWCD declares a supplemental quota of 0.2 acre feet per share, this would result in an additional 196 acre feet of yield for the CBT Units for that Water Year. Under this example, Lessor would send a second invoice to Lessee for 196 acre feet times the applicable lease price for that Water Year, which would be payable by Lessee within 30 days.

c. Appropriation of Funds. Lessee intends to remit all payments to Lessor for the full lease term. However, pursuant to state law, in the event that Lessee fails to appropriate sufficient funds to make any future payments, then, and in that event, this Lease shall immediately terminate without further action of either Party without any further obligations for either Party hereunder.

3. CBT Assessments. NCWCD collects assessments on all CBT Units. Lessor shall be responsible for the assessments for irrigation use of the CBT Units and Lessee shall be responsible for any additional assessments for municipal uses. NCWCD sends invoices for said assessments directly Lessor and Lessee.

4. Water Transfer. Upon receipt of the lease payments by Lessor pursuant to Paragraph 2 above, Lessor hereby agrees to transfer all water allocated to the CBT Units for which the lease payment was made to Lessee within ten (10) days of receipt of said payment.

5. Use of Leased Units. The water yielded by the 980 Units leased will be used by Lessee for municipal purposes.

6. Prohibited Uses. This Lease does not include any rights to carryover storage or any other rights attendant to the CBT Units that Lessor owns as part of its allotment contract with NCWCD. However, Lessee is entitled to use all water allocated to said CBT Units during the Lease Term.

7. First Right of Refusal. Upon expiration of the Lease Term, Lessee shall have the first right of refusal to lease the CBT Units for future years ("First Right of Refusal"). Said First Right of Refusal shall be for a term of one year following the expiration of this Lease. If Lessor receives an offer for the lease of the CBT Units and Lessor intends to accept the offer, or if Lessor makes an offer to lease the CBT Units and the potential lessee accepts the offer, Lessor shall give written notice of the offer to Lessee. Lessee shall have 30 days to accept in writing the offer and, if accepted by Lessee, Lessee will be obligated to lease the CBT Units strictly in accordance with the offer.

8. Indemnification. Lessee shall indemnify, defend, and hold harmless Lessor from and against any and all claims for damages to person or property of any kind arising out of, incidental to, or in any way connected with, this CBT Lease and the use of the water yielded by the CBT Units by Lessee. Nothing herein shall be construed as a waiver of Lessee's immunity under the Colorado Constitution or the Governmental Immunity Act.

9. Noncompliance and Right to Terminate. Lessee shall be responsible for doing all accounting associated with the use of the water yielded by the CBT Units and will supply such accounting in an accurate and timely manner as required by NCWCD. If Lessor becomes aware of any conduct that violates this CBT Lease or any laws or regulations, it shall notify Lessee and Lessee shall take prompt action to remedy such violations and prevent future violations. If there are re-occurring violations which are not adequately remedied by Lessee, then Lessor shall have the right to unilaterally terminate this CBT Lease at any time during the term of the Lease by giving Lessee thirty days written notice of such termination. In the event of any such termination, Lessor shall have the right to use any remaining water yielded by the CBT Units for that Water Year that has not already been released by Lessee. In the event of any such termination, Lessee shall not be entitled to a refund of any portion of the Lease Payment.

10. Default and Right to Cure. In the event that either Party believes that the other is in default of any obligation under this CBT Lease, the non-defaulting Party shall give written notice of the default to the defaulting Party. If a notice of default is provided, the Party accused of the default shall either cure it or provide a written statement explaining why it is not in default. If the alleged default is not cured or otherwise resolved within thirty days, the Parties may resort to their remedies. If a default by Lessee is not cured as provided herein, Lessor may terminate this lease by providing written notice of said termination to Lessee.

11. Notices. All notices pertaining to or provided for under this Lease shall be in writing and delivered to the Parties personally by hand, or by first-class mail, postage pre-paid, or by email, at the addresses of the Parties set forth below. All notices shall be deemed given when delivered. The Parties may, by notice as provided above, designate a different address to which notice should be given, but the initial addresses are as follows:

**Lessor:**  
Bijou Irrigation Company  
229 Prospect Street  
P.O. Box 972  
Fort Morgan, CO 80701  
Email: office@bijouirrigation.com

**Lessee:**  
The Town of Erie  
645 Holbrook  
PO Box 750  
Erie, CO 80516  
Email: gbehlen@erieco.gov

12. Assignment. Lessee shall not assign, transfer, or sublet this CBT Lease or the water yielded by the CBT Units without first receiving the prior written consent of the Lessor.

13. Complete Agreement and Modifications. This CBT Lease constitutes the entire agreement between the Parties concerning the CBT Units and supersedes any and all prior negotiations and understandings. No supplement, modification, or amendment of this CBT Lease shall be binding unless executed in writing by the Parties. No waiver of any of the provisions of this CBT Lease shall be deemed or shall constitute a waiver of any other provision, whether or not similar, or shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the Party making the waiver.

14. Compliance With Laws and Regulations. Lessee shall be bound by and must comply with all federal, state, and local water laws, orders, and regulations, which may pertain to the use of said CBT Units, including all rules and regulations of NCWCD.

IN WITNESS WHEREOF, the Parties have set their hands and seals the day and year first written above.

BIJOU IRRIGATION COMPANY

\_\_\_\_\_  
Douglas A. Dill, President

ATTEST:

\_\_\_\_\_  
Denice M. Wagner, Secretary

LESSEE:

TOWN OF ERIE

\_\_\_\_\_  
A.J. Krieger, Town Administrator

ATTEST:

\_\_\_\_\_  
Nancy Parker, Town Clerk

**TOWN OF ERIE**  
**BOARD OF TRUSTEE AGENDA ITEM**  
**Board Meeting Date: September 8, 2015**

---

**SUBJECT:** **RESOLUTION:**  
**CONSIDERATION OF RESOLUTION 15-116:** A Resolution Granting An Extension Of The Time Within Which To Record The Canyon Creek Filing No. 9, 1<sup>ST</sup> Amendment Final Plat, From September 9, 2015 To November 6, 2015; And Setting Forth Details In Relation Thereto.

**PURPOSE:** Owner has requested an extension of sixty (60) days to record the Canyon Creek Filing No.9, 1<sup>st</sup> Amendment final plat.

**CODE:** Erie Municipal Code, Title 10

**DEPARTMENT:** Community Development

**PRESENTER:** R. Martin Ostholthoff, Director

---

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

---

**STAFF**  
**RECOMMENDATION:** Approval of Resolution No. 15-116.

---

**PLANNING**  
**COMMISSION:** n/a

---

**SUMMARY AND BACKGROUND OF SUBJECT MATTER:**

---

**GENERAL INFORMATION:**

**Applicant:** BC Brennan LLC  
David Gregg  
712 Main Street  
Louisville, CO 80027

**Owner:** BC Brennan LLC  
David Gregg  
712 Main Street  
Louisville, CO 80027

**Location:** Canyon Creek Subdivision Filing No. 9, 1<sup>st</sup> Amendment is located on the southeast corner of Erie Parkway and 119th Street as highlighted below in red.



**Summary:**

The resolution provided for consideration by the Board of Trustees, grants a 60 day extension to record the Canyon Creek Subdivision Filing No. 9, 1<sup>st</sup> Amendment final plat and associated documents. The applicant is requesting the 60 day extension to work out financing details.

**Project Description:**

The Canyon Creek Subdivision Filing No. 9, 1<sup>st</sup> Amendment Final Plat created 66 single-family detached lots for patio homes, 64 single family attached lots for townhomes, and 12 tracts for pocket park, HOA open space, landscaping, and associated easements on 26.6 acres.

**Public Notice:**

Public Notice is not required.

**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 No. 15-116
- b. Applicants Request

# ATTACHMENT A

**RESOLUTION NO. 15-116**

**A RESOLUTION GRANTING AN EXTENSION OF TIME WITHIN WHICH TO RECORD THE CANYON CREEK FILING NO. 9, 1<sup>ST</sup> AMENDMENT FINAL PLAT, FROM SEPTEMBER 9, 2015 TO NOVEMBER 6, 2015; AND, SETTING FORTH DETAILS IN RELATION THERETO.**

**WHEREAS**, the Town of Erie, Colorado (“Town”) approved the Canyon Creek Filing No. 9, 1<sup>st</sup> Amendment final plat (“Final Plat”) on May 12, 2015 on behalf of BC Brennan LLC (“Owner”); and

**WHEREAS**, Title 10 of the Town of Erie Municipal Code (“Code”) requires the Final Plat to be recorded within 60 days of approval; and

**WHEREAS**, the Community Development Director has previously granted Owner a 60 day extension within which time to record the Final Plat, as permitted by the Town’s Unified Development Code (“UDC”); and

**WHEREAS**, the Owner has requested that the Board of Trustees of the Town of Erie grant an additional 60 days within which time the Owner must record the Final Plat; and

**WHEREAS**, the Board of Trustees of the Town of Erie believes it is in the best interest of the Town to grant the Owner a 60 day extension within which time to record the Final Plat, from September 9, 2015 to November 6, 2015.

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

Section 1. That the Town hereby grants the Owner a 60 day extension within which time to record the Final Plat, from September 9, 2015 to November 6, 2015.

Section 2. That granting the extension of time as set forth herein is found to be in the best interest of the Town of Erie.

**ADOPTED AND APPROVED THIS 8<sup>TH</sup> DAY OF SEPTEMBER, 2015, 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

## ATTACHMENT B

## Marty Ostholthoff

---

**From:** John Ewing <jcewing@livebouldercreek.com>  
**Sent:** Tuesday, September 01, 2015 9:40 AM  
**To:** David Gregg; Marty Ostholthoff  
**Cc:** Steve Erickson  
**Subject:** RE: extension

Marty

As per your discussion with David Gregg, here is a modified request for extension for 60 days.

Dear Marty,

Boulder Creek Neighborhoods would like to formally request that the Town of Erie Board of Trustees approve an additional 60 day extension for the approval deadline for recording the subdivision plat for Canyon Creek Subdivision Filing No. 9 1st Amendment. Our current approval expires on September 9, 2015 and we have tentatively scheduled the escrow closing for September 4<sup>th</sup> but we are concerned that there may be a few as yet unknown hurdles that would put us in jeopardy of sliding past the current 9/9/2015 deadline. We have loan approval from Great West Bank and they are working through the closing instructions and Letter of Credit language issues with Town Staff. We thank you for all of your efforts to date and we hope that this action can be placed on the September 8, 2015 Town of Erie Board of Trustees meeting agenda for action so that we have "insurance" to preserve our approval.

Thanks again for your consideration of this matter and please let me know if there is anything else that you may require to act on this request

Sincerely,

John C. Ewing  
Director of Product Development and Community Design



BOLDER CREEK  
*Life and Home*

Boulder Creek Neighborhoods  
712 Main St. Louisville, Co 80027  
Office 303-544-5857 Ext. 108  
Direct – 720-259-5273



**Location:** One-half mile west of the 119<sup>th</sup> Street and Erie Parkway intersection, south side of Erie Parkway, west of Orchard Glen subdivision and north of the Arapahoe Ridge subdivision as shown below.



**SUMMARY INFORMATION:**

The resolution provided for consideration by the Board of Trustees authorizes:

- 1) The appropriate town official to sign the Flatiron Meadows Second Amended and Restated Master Development Agreement.
- 2) Extension of the approval date of the Flatiron Meadows Preliminary Plat No. 1 by 18 months, from January 14, 2015 to June 14, 2016.

**Second Amended Master Development Agreement:**

The Flatiron Meadows Master Development Agreement outlines the obligations of the Owner and the Town and provides a basic framework for the development of the 367 acres Flatiron Meadows property, including, among other things, density, phasing of development, land dedications, utility services, and various on-site and off-site public improvements.

The Flatiron Meadows Second Amended and Restated Master Development Agreement propose modifications to multiple sections/subsections of the First Amended and Restated Master Development Agreement as outlined below. Attachment A is a redline comparison of the substantive changes between the First Amended and Restated Master Development Agreement and the proposed Second Amended and Restated Master Development Agreement.

1) Section IX.D – Building Permit Allocation

*First Amended Agreement* - the Owner is required to purchase a pre-determined number of water/sewer taps, pay raw water and impacts fees (“purchase units”) on a yearly basis whether or not a corresponding building permit is issued. The pre-determined number purchase units are indicated in Table IX.D of the agreement. In addition, a timeline is established for when these purchases need to occur, or 4 years from the date of the agreement (January 2009) thus starting in 2012 since no residential permits have been issued.

*Proposed Amendment* – staff recommends removal of this provision.

2) Section IX.E.1.d – Erie Parkway Improvements

*First Amended Agreement* – required Owner to construct center median and one through lane in each direction with road side ditches between Meadow View Parkway and 111<sup>th</sup> Street.

*Proposed Amendment* – requires Owner to construct additional roadway improvements on behalf of the Town. The Town has previously collected fee-in-lieu payments from the Baxter Farms, Candlelight Estates and Candlelight Ridge developments, for their proportional share of improvements to Erie Parkway. The Town will reimburse the Owner for these additional improvements up to \$1,400,000. As a result of these additional improvements, curb and gutter and storm sewer will be installed and provide a finished edge versus the previously approved road side ditches.

3) Section IX.E.2 – Flatiron Meadows Boulevard

*First Amended Agreement* – allowed Flatiron Meadows Boulevard to be constructed in multiple phases.

*Proposed Amendment* – requires Owner to construct the remaining unbuilt portion of Flatiron Meadows Boulevard in its entirety with the next phase of development within Flatiron Meadows lying east of Flatiron Meadows Boulevard.

4) Section IX.E.3 – 111<sup>th</sup> Street

*First Amended Agreement* – required the Owner to construct the existing 111<sup>th</sup> Street as a limited access road.

*Proposed Amendment* – requires Owner to construct 111<sup>th</sup> Street as a rural arterial as this street will function as the primary access point to portions of Flatiron Meadows lying west of the Prince Tributary.

5) Section IX.L.5 – North Water Reclamation Facility (NWRf) Interceptor

*First Amended Agreement* – Not applicable.

*Proposed Amendment* – Allows for the Town to recover costs for the Town constructed NWRf interceptor line that benefits the Flatiron Meadows property. (Note: this provision is being added to all development agreements that benefit from the Town constructing the line).

**Preliminary Plat Extension:**

The Owner is requesting a retroactive 18 month extension for the lapsed Flatiron Meadows Preliminary Plat No. 1.

Staff supports this extension as the previously approved preliminary plat is still in general compliance with Town Code.

**Public Notice:**

Public Notice is not required.

**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. Flatiron Meadows Second Amended and Restated Master Development Agreement redline
- b. Resolution No. 15-117

# ATTACHMENT A

**Flatiron Meadows**  
**SECOND AMENDED AND RESTATED MASTER DEVELOPMENT**  
**AGREEMENT**

**THIS SECOND AMENDED AND RESTATED MASTER DEVELOPMENT AGREEMENT (“Agreement” or “Second Amended and Restated Master Development Agreement”)** is made and entered into this \_\_\_\_ day of \_\_\_\_\_ 2015 (the “Effective Date”), by and between the **Town of Erie, a Colorado municipal corporation**, in the Counties of Weld and Boulder, State of Colorado, hereinafter referred to as “Erie” or “Town,” and **Bayou Development Corporation, a Colorado corporation**, hereinafter referred to as “Owner.”

**WHEREAS**, Erie and Owner previously entered into a First Amended and Restated Master Development Agreement, dated March 28, 2012, and recorded in the real property records of the Boulder County Clerk and Recorder at Reception No. 03212843 (herein after referred to as the “First Amended and Restated Master Development Agreement”); and,

**WHEREAS**, Erie and Flatiron Investors, LLC (the entity owning the Development – as “Development” is defined herein below – prior to the current Owner, and the predecessor to which Owner is the successor in interest), previously entered into a Master Development Agreement, dated January 26, 2009, and recorded in the real property records of the Boulder County Clerk and Recorder at Reception No. 2988917 (herein after referred to as the “Original Master Development Agreement”); and,

**WHEREAS**, Flatiron Investors, LLC has conveyed its interest in the Flatiron Meadows Development (“Development” or “Property”) to Owner through the recordation of a Quit Claim Deed, dated March 21, 2012, and recorded in the real property records of the Boulder County Clerk and Recorder at Reception No. 03211124; and,

**WHEREAS**, Erie, and Owner (as the successor in interest to Flatiron Investors, LLC) intend to terminate the First Amended and Restated Master Development Agreement as of the Effective Date of this Second Amended and Restated Master Development Agreement, as set forth herein, and to replace the First Amended and Restated Master Development Agreement with this Second Amended and Restated Master Development Agreement; and,

**WHEREAS**, Owner has submitted a master Final Plat for the Development attached hereto as “Exhibit A” and incorporated herein by reference. Said master Final Plat has been approved by the Community Development Director and Public Works Director of Erie; and

**WHEREAS**, the regulations of Erie require that the Owner enter into a Development Agreement with Erie relative to improvements related to the Development. This Agreement shall serve as the Second Amended and Restated Master Development Agreement for the Development; and

**WHEREAS**, this Second Amended and Restated Master Development Agreement anticipates that Erie and Owner will enter into separate Development Agreements for each phase

or filing of the Development, which phase or filing Development Agreement will set forth Public Improvements and Common Facilities required to be completed for that phase or filing (“Phase Development Agreement”).

**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 generally described in “Exhibit A-2” attached hereto and incorporated herein by reference. Conveyance of these lands shall be by Special Warranty Deed in form and substance acceptable to Erie. If not already conveyed, conveyance shall be made in accordance with “Exhibit A-2.” Owner shall also furnish at the time of conveyance, at its own expense, an ALTA title insurance policy for all interest(s) so conveyed, subject to acceptance by Erie. The property shall be free and clear of mortgages, debts, liens, taxes and encumbrances except for ad valorem real property taxes up to the date of dedication to Erie, but subject to all easements, rights-of-way, reservations, restrictions 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 the Property as required for the Development (“Public Improvements” and “Common Facilities”). Owner agrees to dedicate said Public Improvements to Erie, or others for the Common Facilities, in accordance with Section’s V and IX, and give a two (2) year guarantee for all improvements constructed as required under this Agreement and each Phase Development Agreement.

Construction and installment of all Public Improvements and Common Facilities required for the Development shall be addressed in the Phase Development Agreements required for each separate Phase (“Phase” as defined in Section IX.A) of the Development.

**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," (the "Standards"), ordinances and regulations. The Standards, and the Erie Municipal Code (the "Code") applicable to each Phase of development shall be those in effect at the time application is made for final plat on each such Phase.

**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 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 each development Phase. 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 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 Public Improvement Permit ("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 Standards and other pertinent requirements, Erie will issue Owner the Public Improvement Permit. 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 Owner 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 the Town Standards. 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 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 Erie 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. Copies of inspection documents shall be made available upon request of the Town. 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 Standards as established and accepted by Erie.

**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. Erie will assist in acquiring the necessary easements and right-of-way, however if condemnation is required the Town may authorize the Metro District to use eminent domain to complete the acquisition.

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:

1. All permits as required by the United States Corps of Engineers.
2. Colorado Department of Health and Environment “General Permit for Stormwater Discharges Associated with Construction Activity”, required during construction.
3. Town of Erie “Grading and Stormwater Quality Permit” per Erie Standards.
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 by 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 Owner’s 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. Street lights and associated infrastructure shall be owned and maintained by Xcel.

**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 Erie, 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 each lot shall be constructed by the owner of said lot in accordance with accepted construction plans. Owner shall furnish copies of approved plans to subsequent purchasers (other than homeowners) of lots within the Development.
3. Owner shall be responsible for obtaining a Colorado Department of Public Health and Environment "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 Standards.

**N. Landscape Improvements.**

For public lands, Common Facilities, and rights-of-way, Owner shall furnish Erie complete final landscape and irrigation plans in conformance with Erie's Standards for each Phase and obtain approval 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 (each a "Lot"). 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 Title 10 of the Code.

**V. IMPROVEMENT ACCEPTANCE**

The Improvement Acceptance requirements contained herein shall apply and be a part of each Phase Development Agreement.

**A. Construction Acceptance.**

No later than ten (10) days after improvements 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 improvements, 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 Standards. If Owner has not completed appropriate residential Phase or commercial Phase improvements as provided for in this Agreement, Erie may exercise its right to secure performance as provided in Section X.C of this Agreement. If improvements 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 improvements 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 HOA, metropolitan district, or final property owner in the final inspection procedures and provide Erie with written acceptance of the Common Facility 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 the 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.

**3. North Portion of Erie Parkway**

Notwithstanding Sections (1) and (2) above or anything to the contrary in this Agreement, Owner shall have no responsibility to provide any surety (including any guarantee or letter of credit as may be contemplated by Section VI(B) below), nor shall Owner have an obligation to maintain, the North Portion of Erie Parkway (defined below) after Final Acceptance.

**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 of Erie Standards, 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 the Agreement and Erie may exercise its rights under Section X.C of this Agreement.

**VI. IMPROVEMENT GUARANTEE**

**A. Public Improvements and Common Facilities Schedule.**

This Agreement sets forth the general terms and obligations for the Owner's completion of the Public Improvement and Common Facilities required for the Development. Certain Public Improvement and Common Facilities as required for the Development are set forth in Section IX, herein below. Additional Public Improvement and Common Facilities as may be required for each Phase (or as are required in Section IX and are located in that Phase) shall be contained in the Phase Development Agreements entered into for each Phase. Each Phase Development Agreement shall list all Public Improvement and Common Facilities required for that Phase separately, along with a total cost for the Public Improvement and Common Facilities for the purpose of establishing the Improvement Guarantee for that Phase Development Agreement. The requirements as set forth in this Section VI shall apply to and be a part of each Phase Development Agreement.

**B. Improvement Guarantee.**

Owner shall submit to Town Administrative Official an Improvement Guarantee for all Public Improvements and Common Facilities for the Final Plat of that Phase. Said guarantee may be in cash or a letter of credit, and, if a letter of credit, shall be in the form as set forth on "Exhibit B-1."

1. Said guarantee, if a letter of credit, shall not expire during the winter season (November 1 - March 1), shall renew automatically unless written notice of non-renewal is received at least 60 days prior to expiration. 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 Phase pursuant to the master Final Plat and the plat for that Phase shall be calculated as the total estimated cost including labor and materials of all Public Improvements and Common Facilities to be constructed in that Phase of the Development. The total minimum amounts are as follows:
  - a) Prior to commencement of construction of Public Improvements and Common Facilities improvements in each Phase: 115% of the amount(s) required for that Phase.
  - b) Upon "substantial completion construction acceptance" of the public improvements in that Phase through "final acceptance": 25% of the amount(s) required for that Phase. The Town will release the guarantees for the wet utilities separate from the roadway improvements on a phased basis as shown in the Phase Development Agreement.
  - c) Upon "substantial completion construction acceptance" of common facilities: 0%.
  - d) After Final Acceptance of Public Improvements: 0%.
  - e) Upon completion and final acceptance of some, but not all Public Improvements and Common Facilities, the letter of credit may be partially

reduced to reflect the completion and final acceptance of such improvements and/or facilities.

3. 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, Owner shall be in default of this Agreement.

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 and/or any Phase Development Agreement.

Prior to drawing on any letter of credit or Improvement Guarantee received pursuant to this Agreement and/or any Phase Development Agreement, Erie shall provide the Owner written notice as provided for in Section X.C., with the exception that 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, 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 requirement 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

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.**

The completion of each Phase of Development, including public, 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 use its best efforts to require as a condition of approval, a proportional reimbursement to Owner as will be described in a future Phase Development Agreement. Nothing contained in this Agreement or in a Phase Development 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 as provided above.

**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.

### C. **Construction Traffic Routing Plan.**

Owner shall submit a Construction Traffic Routing Plan for each Phase of the Development for inclusion in each respective development agreement.

## IX. SPECIAL PROVISIONS

### A. **Phasing.**

The Owner may develop the Property in separate filings or phases (each such filing or phase being a "Phase" hereunder), and the Owner shall determine the sequence of development of each Phase in accordance with the provisions of the Agreement. The final plat for each Phase shall be in general conformance with the approved preliminary plat for the property.

1. A maximum of eight hundred seventy-five (875) dwelling units may be constructed on the Property.
2. The Owner and Erie shall enter into a Phase Development Agreement and/or site plan agreement simultaneously with the recordation of a final plat and/or site plan for each Phase with respect to Public Improvements and Common Facilities. The Public Improvements and Common Facilities shall be described in each Phase Development Agreement.

3. Access acceptable to Erie and the Mountain View Fire Protection District shall be maintained at all times during construction.
4. All construction traffic shall enter the site from Erie Parkway. No construction traffic shall utilize Arapahoe Road for access purposes unless directed otherwise by the Public Works Director.

**B. Flatiron Meadows Planned Unit Development (“PUD”)**

The Owner and Erie acknowledge the PUD approved concurrent with the preliminary plat. The Owner shall be responsible for recording the PUD prior to the first final plat allowing residential development. In the event there is any discrepancy between the PUD or the Agreement and the Code, the provisions of the Code shall govern. Any provisions that are not specifically addressed in the PUD or the Agreement, shall comply with the Code.

The master Final Plat is in compliance with the PUD and all final plats for each Phase shall be in compliance with the approved PUD.

**C. Overlot Grading**

Overlot grading may be initiated by Owner at such time as Erie approves overlot grading plans by the issuance of grading and storm water permits.

**~~D. Building Permit Allocation.~~**

~~The Town and Owner agree to the creation of a residential building permit allocation program (“Building Permit Program”) for the Property. This Building Permit Program does not guarantee raw water rights to the Owner for the Minimum Required Purchase of Water & Sewer Tap Certificates and Impact Fees (“Required Purchase Units”) identified in Table IX.D., below. This Building Permit Program is intended to guarantee to the Town that a minimum number of water and sewer taps (excluding the cash in lieu fee for raw water, if applicable), all current Town Impact Fees (transportation, parks, public facilities, street trees, and drainage) and applicable development fees will be purchased and/or paid for the Property each year, at the then current rates, whether or not a corresponding building permit is issued.~~

~~The term Year (“Year”) is used throughout this Section. “Year” shall refer to a calendar year. Year 1 shall refer to the calendar year in which the first residential building permit, excluding model home permits, for the Property is issued by Erie or 26 months from the Date of this Agreement as set forth on Page 1, whichever occurs first.~~

~~The Owner shall not be required to purchase Required Purchase Units during any Year (as defined in Section XI.D., herein above) in which the Town has refused to issue water taps or sewer taps due to insufficient availability of water or sewer service. The Town agrees to make its best efforts to maintain and construct the~~

~~system capacity for any Required Purchase Units purchased pursuant to this Section IX.D. The current cost of each Required Purchase Units is \$18,451.00 per unit, which cost shall increase to the then applicable rate at the time of purchase by the Owner.~~

~~The Owner or holder of the Required Purchase Unit shall be required to pay any additional amount due for the cost of the water and sewer tap fees and Town Impact Fees (as Town Impact Fees are defined herein above in paragraph 1 of this Section IX.D.) in the event that such water and sewer tap fees and/or Town Impact Fees are higher at the time the Required Purchase Units are used to obtain a building permit by the Owner or holder. The Owner or holder shall not be entitled to any refund in the event that said fees are lower at the time the Required Purchase Units are used to obtain a building permit.~~

~~Owner shall pay the cash-in-lieu fee for raw water and any additional fees or balances due for the Required Purchase Units at the time of building permit application. The Building Permit Program will commence at the end of Year 1. The Town may issue up to ten (10) building permits for model homes on the Property prior to the commencement of the Building Permit Program, which building permits will count toward the minimum Required Purchase Units purchase for the first Year, as long as such model homes meet the requirements set forth in the Code.~~

**Table IX.D.**

Year	Minimum Required Purchase of Water & Sewer Tap Certificates and Impact Fees ("Required Purchase Units")	Maximum Carry Forward Per Year
1	20	10
2	35	18
3	55	28
4	55	28
5	55	28
6	55	28
7	55	28
8	55	28
9	55	28
10	55	28

~~Each Year Owner shall be required to purchase the Required Purchase Units as set forth on Table IX.D., above. If Owner purchases more than the Required Purchase Units in any Year, such purchase shall count toward the following Year's Required Purchase Units. In any Year where the Owner has purchased the Required Purchase Units but does not obtain building permits for all of the Required Purchase Units, Owner shall be given a credit towards the purchase of the following Year's Required Purchase Units in the amount of the Maximum~~

~~Carry Forward Per Year, as described in Table IX.D., above, which amount will be subtracted from the number of Required Purchase Units for that Year. Any Required Purchase Units from the prior Year that exceed the Maximum Carry Forward Per Year are still available for use by Owner to obtain building permits but will not count towards the following Year's Required Purchase Units.~~

~~Owner may elect to assign all or a portion of its obligation to purchase the Required Purchase Units to one or more third party homebuilders upon the sale of finished or unfinished lots within the Property to such homebuilder. The Building Permit Program will be tracked and administered by Owner and reconciled with the Town on or before December 31<sup>st</sup> of each Year. In the event the Required Purchase Units are not purchased by December 31<sup>st</sup> of each Year, Owner agrees to pay or cause to be purchased and paid for such Required Purchase Units on or before January 31<sup>st</sup> of the subsequent Year. In that event, Owner shall be required to pay or cause to be purchased and paid for such Required Purchase Units regardless of any assignment.~~

**D. [Reserved].**

**E. Transportation.**

**1. Eric Parkway**

The Owner shall be responsible for the design and construction of Eric Parkway from 119<sup>th</sup> Street to 109<sup>th</sup> Street in accordance with the requirements as set forth herein below in this Paragraph IX. E.1. The Town shall allow the issuance of up to a maximum of 39 residential building permits for Phase 1 of the Development. No further residential building permits shall be issued for any subsequent Phase of the Development until items IX. E.1.a, c. and e. have been constructed and completed. The reimbursement due Owner is outlined in "Exhibit C."

The Traffic Impact Analysis referenced below is the Flatiron Meadows Traffic Impact Analysis (Revised), dated July 8, 2008, created by LSC Transportation Consultants, Inc. and as amended by the Traffic Analysis Report completed by Aldridge Consultants, Inc. dated February 14, 2014.

- a. Improvements from the existing roundabout at 119<sup>th</sup> Street west to the east side of Meadow View Parkway shall be completed with Phase 1, shall include:
  - i. Detached 8-foot sidewalk on both sides;
  - ii. Minimal left turn lanes at Harvest Point Drive and Meadow View Parkway intersection;
  - iii. Roadside ditch and/or stormwater system to convey stormwater to existing stormwater facilities; and
  - iv. Re-vegetation of disturbed areas with a Town approved native seed mix. Minimal left turn lanes at Harvest Point Drive and Meadow View Parkway intersections;

- v. Roadside ditch and/or stormwater system to convey stormwater to existing stormwater facilities; and
  - vi. Re-vegetation of disturbed areas with a Town approved native seed mix.
- b. Improvements from the existing roundabout at 119<sup>th</sup> Street west to the east side of Meadow View Parkway to be completed prior to the 200<sup>th</sup> building permit or as determined by an intersection level of service D, whichever occurs earlier, shall include:
- i. One 12-foot through lane in each direction;
  - ii. 6-foot asphalt shoulder in each direction;
  - iii. 12-foot turn lanes at the Harvest Point Drive and Meadow View Parkway intersections in accordance with the Traffic Impact Analysis;
  - iv. Existing detached 8-foot sidewalk on north side shall be maintained;
  - v. Roadside ditch and/or stormwater system to convey stormwater to existing stormwater facilities;
  - vi. Re-vegetation of disturbed areas with a Town approved native seed mix; and
  - vii. Striping.
- c. Improvements from Meadow View Parkway to the existing 111<sup>th</sup> Street shall be completed with Phase 1, shall include:
- i. Detached 8-foot sidewalk on south side from Meadow View Parkway to Flatirons Boulevard;
  - ii. Intersection of Flatirons Boulevard and Erie Parkway;
  - iii. Widening and/or replacement of the Leyner-Cottonwood Ditch crossing bridge;
  - iv. Roadside ditch and/or stormwater system to convey stormwater to existing stormwater facilities;
  - v. Re-vegetation of disturbed areas with a Town approved native seed mix;
  - vi. Street lighting; and
  - vii. Striping.
- ~~d. Improvements from Meadow Sweet Parkway to the existing 111<sup>th</sup> Street to be completed prior to the issuance of the 200<sup>th</sup> building permit or as determined by an intersection level of service D, whichever occurs earlier, shall include:~~
- ~~i. One 12-foot through lane in each direction;~~
  - ~~ii. Up to an 18-foot landscaped median with curb and gutter;~~
  - ~~iii. 6-foot asphalt shoulder in each direction;~~
  - ~~iv. Detached 8-foot sidewalk on south side from Flatirons Boulevard to existing 111th Street;~~
  - ~~v. Installation of traffic signal at the intersection of Flatirons Boulevard and Erie Parkway;~~
  - ~~vi. Widening and/or replacement of the Prince Tributary culverts;~~
  - ~~vii. Roadside ditch and/or stormwater system to convey stormwater to existing stormwater facilities;~~

- ~~viii. Re-vegetation of disturbed areas with a Town approved native seed mix;~~
- ~~ix. Street lighting; and~~
- ~~x. Striping.~~

- d. Erie Parkway Improvements as generally shown on “Exhibit G” from Meadow View Parkway to the 111<sup>th</sup> Street shall be completed prior to the issuance of the 261<sup>st</sup> building permit in the Development. Owner shall be reimbursed by the Town for improvements for the north half of Erie Parkway from Mountain View Parkway to Baxter Farms along with any transition to the west of Baxter Farms as shown on “Exhibit G” (the “**North Portion of Erie Parkway**”). Prior to the commencement of any portion of the North Portion of Erie Parkway and as a condition to Owner’s obligations for such construction, the Town shall deposit with a title company selected by Owner an amount equal to 100% of the estimated cost to complete the North Portion of Erie Parkway. Such amount shall be evidenced by the final and accepted bid for the work. Such 100% shall be held in escrow pursuant to an escrow agreement reasonably acceptable to the Town. Owner and such third party title company. Such escrow agreement shall provide that Owner may draw upon the escrowed funds from time to time (but no more often than once each calendar month) to pay bills and invoices incurred by Owner in completing the work; provided, however, that no such draws shall be disbursed by such title company until (i) after the Town’s approval (not to be unreasonably withheld) of the draw request (which shall be delivered to the Town concurrently with its delivery to title company by Owner) (the “**Draw Request**”); provided, however, if the Town does not disapprove of the Draw Request within ten (10) business days after receipt it shall be deemed approved, and (ii) the Draw Request is accompanied by copies of invoices, receipts, cancelled checks, remittance advices or other such evidence of the costs paid (or to be paid out of escrow) or incurred by Owner.
- e. Improvements from the existing 111<sup>th</sup> Street to 109<sup>th</sup> Street shall be completed with Phase 1, shall include:

  - i. Widening and/or replacement of the two Leyner-Cottonwood Ditch crossing bridges;
  - ii. A roadside ditch and/or stormwater system to convey stormwater to existing stormwater facilities;
  - iii. Re-vegetation of disturbed areas with a Town approved native seed mix;
  - iv. Striping.
- f. Improvements from the existing 111<sup>th</sup> Street to 109<sup>th</sup> Street to be completed prior to the issuance of the 200<sup>th</sup> building permit or as determined by a level of service D, shall include:

  - i. One 12-foot through lane in each direction;
  - ii. 4-foot asphalt shoulder in each direction;
  - iii. Relocation and piping of the Leyner-Cottonwood Ditch to

- accomplish items f.i and f.ii above;
- iv. A roadside ditch and/or stormwater system to convey stormwater to existing stormwater facilities;
- v. Re-vegetation of disturbed areas with a Town approved native seed mix;
- vi. Striping.

The Town acknowledges that the foregoing subsections (a), (b), (c), (e) and (f) have received Construction Acceptance prior to the Effective Date.

## 2. Flatiron Meadows Boulevard

The Owner shall be responsible for the design and construction of the full pavement section, including landscaping and landscaping within the adjacent landscape buffer, of an 80-foot wide collector roadway for Flatiron Meadows Boulevard from Erie Parkway to the southern boundary of the Property. ~~Construction may be phased as indicated in "Exhibit D" provided that the entire roadway shall be completed prior to the issuance of the 300 building permit or as required to meet emergency access requirements for any Phase of the Development.~~

Flatiron Meadows Boulevard is currently constructed from Erie Parkway to Front Range Road. The remaining unbuilt portion of Flatiron Meadows Boulevard (from Front Range Road to the southern boundary of the property) shall be constructed in its entirety, concurrent with any future phase of the Development lying east of the unbuilt portion of Flatiron Meadows Boulevard. No building permits shall be issued for phases lying east of the unbuilt portion of Flatiron Meadows Boulevard prior to Construction Acceptance of this remaining portion of Flatiron Meadows Boulevard.

## 3. 111<sup>th</sup> Street

a. ~~Upon completion of the relocated 111<sup>th</sup> Street,~~ Owner shall ~~install a limited access control system at the northern~~ be responsible for the design and construction of 111<sup>th</sup> Street from Erie Parkway to the southern ends ~~end or the property in conjunction with any development west of the existing Prince Tributary. 111<sup>th</sup> Street to the satisfaction~~ will be constructed as a Rural Arterial with the addition of a five foot wide sidewalk on the west side.

b. The Owner shall be responsible for the design and construction of 12-foot turn lanes at the intersection of 111<sup>th</sup> Street and Arapahoe Avenue as identified by the Traffic Impact Analysis. The Owner shall also be responsible for the design and construction of all modifications to the existing traffic signal (of whatever nature) and all geometric and operational improvements (turning lanes, extensions of lanes, median modifications, etc.) that are caused by the extra traffic generated from Flatiron Meadows development at the intersection of 111<sup>th</sup> Street and

Arapahoe Avenue. All improvements to the intersection as required herein shall be constructed prior to the issuance of the 700<sup>th</sup> residential building permit for the Development or when warranted by a traffic study, whichever occurs first.

**4. Vertical Curb**

The location of Vertical curb shall be shown in each Phased Development Agreement.

**F. Public and Private Land Provisions.**

**1. Parks and Open Space**

The park and open space land dedications required in the Code will be met by Owner at subdivision based on the number of units approved with the preliminary plat. All parks and open space costs discussed in this Section shall escalate according to the ENR Construction Cost Index, which escalation shall start upon recordation of this Agreement. Owner shall receive parks and open space credit for lands that comply with the Code.

Public access easements shall be granted on the plat or by separate document at the time of final plat approval for pocket parks and private open space areas (excluding private amenity facilities) that are held in private ownership and used for public purposes.

**a. Community Park.**

The Owner shall provide a fee in-lieu of land dedication for 4.33 acres of Community Park to Erie in compliance with the approved preliminary plat and the Code. The fee in-lieu payment shall be based on the number of residential units permitted by each final plat and shall be paid prior to the recordation of each final plat allowing residential development.

**b. Neighborhood Park.**

The Owner shall be responsible for the dedication of 7.3 acres of land for a Neighborhood Park in the general location as shown on the Preliminary Plat. Erie shall be responsible for approving the amenities/program of facilities within the park. Dedication can occur at the time of the first plat or up to the required time line below for the below stated construction timing.

Prior to the completion of the fourth phase or the 250<sup>th</sup> unit, the Owner shall grade (to the satisfaction of Erie), seed with Town approved seed mix, provide a temporary irrigation system to establish grass per Town Standards, and stub out water and sanitary sewer lines. The Owner shall provide and implement a tree protection plan for the existing mature trees on the site, prior to commencement of overlot grading of the property.

Prior to commencement of construction of the Neighborhood Park, and following notice by the Erie, the Owner shall pay for the following: water tap fees, sewer tap fees, and raw water dedication fees necessary for the construction, maintenance and upkeep of the park. At the same time, the Owner shall also pay all costs associated with the following: final grading; soil preparation; the purchase and installation of grass; the purchase and installation a permanent irrigation system (including electrical facilities for said system); landscaping within all adjacent right-of-ways; and, landscape buffers. All landscaping and landscape buffers shall be in conformance with approved landscape construction plans, the Standards and the Code.

**c. Pocket Parks.**

The Owner shall be responsible for the design, construction and dedication of Pocket Parks on the Property in accordance with the Code. The improvements required for each Pocket Park will be determined at the time of final plat approval for the Phase of the Property in which each Pocket Park is located. The minimum cost of each Pocket Park shall be \$175,000 including all active and passive improvements, landscaping and hardscape. The minimum cost shall not include land value, design fees, water tap and raw water fees.

The improvements within the Pocket Park(s) located in any one Phase shall be substantially complete prior to the issuance of fifty percent of the building permits in the respective Phase.

Lots abutting Pocket Parks shall not be issued building permits until Erie determines the installation of the Pocket Park improvements has been completed to the Erie's satisfaction.

**d. Open Space (Town Dedicated).**

The Owner shall be responsible for the design, construction and improvements to Town dedicated Open Space, including but not limited to; finished grade, water tap and raw water fees, installation of temporary and/or permanent irrigation systems, landscaping (including replacement trees), a minimum of one pedestrian bridge or low water crossing of the Prince Tributary, construction of the spine trail (8-foot concrete + 4-foot crusher fines) connecting Arapahoe Ridge with the spine trail within the 30-foot landscape buffer along the south side of Erie Parkway, and the construction of other connecting trails.

Construction of the spine trail shall be completed in phases contemporaneously with the installation of the infrastructure for the Phase within which the trail is situated. Owner shall make reasonable efforts to complete construction of the spine trail prior to the issuance of the 350<sup>th</sup> building permit. Owner shall dedicate an easement for the spine trail to

the Town upon 30 days notice by the Town. All trails shall be constructed to Town Standards.

Lots backing onto Town dedicated Open Space shall not be issued building permits until improvements, including landscaping have been completed to Erie's satisfaction.

**e. Erie Parkway 30-Foot Landscape Buffer**

The Owner shall install landscaping within the 30-foot landscape buffer in general conformance with the approved Landscape Plan.

Installation of 150 lineal feet of landscaping on the east side of the entrance (the relocated 111<sup>th</sup> Street) to the Development shall be concurrent with the first Phase of development. Installation of the balance of the 30-foot landscape buffer shall be concurrent with the adjacent Phase of development.

**2. Private Amenity Facilities**

Owner may construct one or more private amenity facilities on the Property. These facilities may include pools, clubhouses, a recreation center, parking lots, landscaping, etc., to be determined at the Owner's discretion at the time of any final plat approval. These facilities and related improvements shall be owned and maintained by the Metro District or a Homeowner's Association ("HOA") and shall not receive any credit towards meeting Erie's dedication requirements for parks and open space.

**a. Improvements to Private Tracts.**

The Owner shall be responsible for all improvements to be located on all privately owned (Metro District/HOA) tracts. Trails and landscaping within these tracts shall be constructed to Erie Standards. Owner shall be responsible for water tap and raw water fees, installation of temporary and/or permanent irrigation systems and landscaping (including replacement trees).

**G. Maintenance of Parks, Trails, Open Space and Landscaping.**

The maintenance of public and private landscape, park, open space, trail, and irrigation improvement areas that will be maintained by Erie and/or the Metro District/HOA shall be determined with each Phase and be described in each Phase Development Agreement.

**H. Fire Protection District Tract.**

The fire facility tract shall be deeded to the Mountain View Fire Protection District, in a form acceptable to the district and concurrent with the recordation of the final plat in which the fire facility tract is located.

The Owner shall overlot grade, re-vegetate with native grasses, and stub out water

and sanitary sewer service lines to said tract. The Owner shall be responsible for maintenance of said tract until ownership has been transferred to the fire district.

**I. School District Tract.**

Except as otherwise agreed to between the Owner and the Boulder Valley School District, RE-2, the Owner acknowledges and agrees to comply with the Intergovernmental Agreement dated June 28, 2011 between Erie and the Boulder Valley School District, RE-2, as the same may be amended from time to time.

1. The school tract shall be deeded to the Boulder Valley School District, RE-2, in a form acceptable to the district and concurrent with the recordation of the final plat in which the school tract is located. The Owner shall overlot grade, re-vegetate with native grasses, stub out water and sanitary sewer service lines, and provide the raw water fees for the school as approved by the Public Works Director.
2. The Owner shall be responsible for maintenance of said tract until ownership has been deeded to the school district.

**J. Maintenance of Property.**

The Owner shall be responsible for erosion control and vegetation and weed management on the Property.

**K. Fencing and Screening.**

If fencing is installed on any single-family residential lots or multi-family tracts adjacent to parks and open spaces, the fencing shall be limited to low (4 foot high) open (50 percent) fencing. The finished side of the fence shall face the park and/or open space.

**L. Sanitary Sewer.**

**1. West Side Interceptor**

Owner understands that the West Side Interceptor constructed by Erie is due cost recovery at a rate of \$1,500 for each Single Family Equivalent (“SFE”). Owner shall reimburse Erie prior to recordation of a final plat for each Phase allowing single family residential Development. Reimbursement for the multi-family tracts shall be collected prior to Site Plan approvals. The amount for the school tract and fire protection district tract shall be collected when a water and sewer tap application is made. The reimbursement is outlined in “Exhibit C.”

**2. Extension to adjacent properties**

The design of the onsite sanitary sewer system will take into account all adjacent properties. The sanitary sewer mains shall be extended to insure that development of adjacent properties can connect to the sanitary sewer system. In the event the sewer mains within the development must be oversized (greater than 8-inches) to account for the development on adjacent properties,

Erie will assist with cost recovery when those other properties develop. Erie has no obligation to reimburse Owner for oversizing sanitary sewer lines.

**3. Onsite Sanitary Sewer System**

The onsite sanitary sewer system will be designed to provide sanitary sewer to all lots and tracts within the development. The phasing of construction shall insure that each development Phase has sanitary sewer.

**4. Lift Station**

The Owner shall be responsible for the demolition and removal of the Town owned lift station located adjacent to Erie Parkway. The property on which the lift station is located shall be incorporated into the adjacent right-of-way, 30-foot landscape buffer and open space area to the satisfaction of Erie. Erie shall provide the CDPHE permit. Owner shall provide all other permits, a Phase I environmental study, an engineering report and costs as may be required for demolition and removal of the lift station. Owner shall demolish and remove the lift station and reclaim the site. Owner shall not be deemed to have assumed any environmental risk for the demolition, disposal and removal of the lift station, unless due to the acts of Owner.

**5. North Water Reclamation Facility Interceptor**

Owner understands that the North Water Reclamation Facility Interceptor constructed by Erie is due cost recovery at a rate of \$410.00 for each Single Family Equivalent (“SFE”). Owner shall reimburse Erie prior to recordation of a final plat for each Phase allowing single family residential Development. Reimbursement for the multi-family tracts shall be collected prior to Site Plan approvals. The amount for the school tract and fire protection district tract shall be collected when a water and sewer tap application is made. The reimbursement is outlined in “Exhibit C.”

**M. Utilities.**

The Owner shall be responsible for placing all existing and proposed utilities on or adjacent to the Property underground.

**N. Drainage Improvements.**

**1. Prince Lake # 2**

Only to the extent that the Development has a direct impact on the following shall each of the following be completed (as no development of adjacent or other lands shall require the following to be completed). The Drainage Report submitted with the Preliminary Plat identified the need for improvements to Prince Lake #2 to insure the safety of the Development due to the cascading effect of potential upstream dam failures. This reservoir has a jurisdictional dam which requires the State Engineer’s Office review and approval prior to any building permits being issued within the dam breach limits and improvements made to the reservoir. Prince Lake #2 is owned and operated by Boulder County Open Space. Erie, Urban Drainage and Flood Control

District (“UDFCD”), and Boulder County Open Space have been working on an Intergovernmental Agreement to allow improvements to be made to Prince Lake #2 to incorporate the needs of the Development and to include storm water detention. This Intergovernmental Agreement is contingent upon Owner funding the improvements, to the extent required by the State Engineer’s Office in any update of the Drainage Report. If required, these improvements will be required with the Phase that abuts and is effected by the upstream dam. Owner is responsible for the cost of the improvements. The construction of the improvements will be contracted through UDFCD based upon an agreement between Erie and UDFCD. The Owner will be notified prior to advertising for construction bids with an estimated engineers cost estimate. Owner will provide funding for the entire engineering and construction cost, including testing and engineering services during construction. Notwithstanding anything to the contrary set forth in this paragraph, Erie shall be satisfied with the improvement plans for Prince Lake #2 upon approval of such plans by the State Engineer’s Office and/or UDFCD.

**2. Prince Tributary Improvements**

Prince Tributary is within a regulated flood plain, and is identified as a regional drainage channel on Erie’s Outfall Systems Plan. Owner is responsible for improvements to the channel which passes historic flows through the Property. The channel must be constructed as a natural channel with drop structures to control erosion that have a natural appearance. The channel must meet both UDFCD requirements to qualify for maintenance eligibility and Federal Emergency Management Agency (“FEMA”) requirements. A Conditional Letter of Map Revision (“CLOMR”) has been approved by FEMA. After improvements are complete a Letter of Map Revision (“LOMR”) must be approved by FEMA prior to any lots being final platted that may be impacted by the existing flood plain, however, Erie will allow infrastructure improvements within the CLOMR area at the owners risk.

**3. Regional Detention Ponds**

There are two regional detention ponds identified in Erie’s outfall Systems Plan within the Property, one on the north end of the site and the other approximately in the middle of the site, east of the Prince Tributary. The northern pond only serves the site, and is solely the responsibility of the Owner; the one near the middle of the site will also serve a drainage basin including a portion of the proposed Rex Ranch subdivision and existing development in unincorporated Boulder County. Cost recovery for this pond will be based on the proportional area contributing from the Property and the proposed Rex Ranch subdivision, the area tributary from existing unincorporated Boulder County development will not be used for cost recovery calculations. Cost recovery from the proposed Rex Ranch subdivision will be incorporated into a final plat development agreement. The reimbursement is outlined in “Exhibit C.”

Both ponds must be designed and constructed in accordance with Erie's Outfall Systems Plan and meet UDFCD requirements to qualify for maintenance eligibility. Any additional maintenance required shall be provided by the Owner. The size and number of ponds may be adjusted with Erie and UDFCD approval.

**O. Water.**

**1. Onsite Water Distribution System**

Based on the water distribution analysis for the Property, the Owner is responsible for constructing the water distribution system for the development to insure that fire flows and peak water demand is met. The construction of the system will be phased to insure that the system is looped during all Phases of Development.

**2. New Offsite Improvements**

Offsite improvements required to serve the development will be the responsibility of the Owner. In the event other developments benefit from the offsite improvements, Erie will assist with cost recovery when such water lines are oversized (greater than 12-inches) when other properties benefiting from the oversized lines develop. Erie has no obligation to reimburse Owner for oversizing water lines.

**3. Existing Offsite Improvements**

Owner shall reimburse Erie \$51,274.87 for the construction of the existing 12-inch waterline within Erie Parkway. Reimbursement shall be made prior to the recordation of the second final plat allowing residential development. The reimbursement is outlined in "Exhibit C." The Town acknowledges that such \$51,274.87 has been paid prior to the Effective Date.

**P. Entry Monuments.**

Owner shall be allowed to construct entry monuments in accordance with Title 10 of the Code.

**Q. Oil and Gas Well Sites.**

All existing oil and gas well sites/facilities and all future oil and gas well sites/facilities on the Property shall meet access requirements, be screened and integrated into open space and park areas within the Property in accordance with the Code. Per the approved Preliminary Plat, the setback to any single-family residential lot has been reduced to 250-feet from proposed oil/gas wells and their associated production facilities.

**R. Oil and Gas Disclosure**

The Oil and Gas Well Disclosure statement "Exhibit E" shall be signed by individual lot owners with the execution of the sales contract for the property.

**S. Avigation Easements.**

Owner agrees to provide Erie with an executed avigation easement, "Exhibit F," prior to the Mayor's signature to this Agreement, which provides Erie an easement for the operation of aircraft to and from the Erie Municipal Airport, and which provides the residents of Parkland Estates, a Weld County Subdivision, an easement for the operation of aircraft to and from the private landing strip in Parkland Estates within the airspace of the Owner's Property.

**T. Northern Colorado Water Conservancy District Water Transmission Line.**

The existing Northern Colorado Water Conservancy District Water transmission line that crosses the site may be relocated, and placed into a new easement, and the existing 80-foot wide easement at Rec. # 1468332 shall be vacated, prior to recordation of any final plat affected by the line relocation.

Any relocation or work to the transmission line or within the existing easement shall require approval by the Northern Colorado Water Conservancy District prior to any final plat approval involving the relocation of the transmission line and/or easement.

**U. Leyner-Cottonwood Ditch.**

1. The Owner is responsible for obtaining necessary approvals and/or authorizations from the Leyner-Cottonwood Consolidated Ditch Company prior to working in and adjacent to said ditch.
2. The Owner shall not utilize the Leyner-Cottonwood Ditch for waste and/or storm water conveyance purposes.
3. Preservation of trees identified along the Leyner-Cottonwood Ditch shall be reserved to the maximum extent practicable.
4. The Owner shall be responsible for maintaining all lateral connections from the Leyner-Cottonwood Ditch improvements associated with the construction of Erie Parkway improvements.

**X. MISCELLANEOUS TERMS**

**A. Vested Rights.**

Erie agrees that the Final Subdivision Plat for the Flatiron Meadows 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 twelve (12) 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 master 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 either party fails to fulfill the terms and conditions of this Agreement, the other party may declare such party in default. Other than a default by the Owner under Section VI of this Agreement (or the "Improvement Guarantee" section of any subsequent Phase Development Agreement) or any other monetary, security or surety default by Owner, in the event of a non-monetary, security or surety default by either party under this Agreement the non-defaulting party shall deliver written notice to the defaulting party of such default, and the defaulting party shall have ten (10) days from and after receipt of such notice to cure such default. If such default is not of a type which can be cured within such ten (10) day period and the defaulting party gives written notice to the non-defaulting party within such ten (10) day period that it is actively and diligently pursuing such cure, the defaulting party shall have a reasonable period of time given the nature of the default following the end of such ten (10) day period to cure such default, provided that such defaulting party is at all times within such additional time period actively and diligently pursuing such cure.

In the case notice has already been given by Erie pursuant to Section V.A., Section V.C., Section VIII.A., or as required by any other Section of this Agreement, the ten (10) day notice required in this Section X.C. shall be waived and no further notice shall be required.

If any default under this Agreement is not cured as described above or in Section V.A., Section V.C., or Section VIII.A., or pursuant to any other provision, the non-defaulting party shall have the right to enforce the defaulting party's obligations hereunder by an action for any equitable remedy, including injunction or specific performance, or an action to recover damages. Each remedy provided for in this Agreement is cumulative and is in addition to every other remedy provided for in this Agreement.

In the event of a default by Owner in relation to any Phase, Erie may also withhold any additional building permits, certificates of occupancy, or provision of new utilities fixtures or services within such Phase until the completion of the Public Improvements and Common Facilities within such Phase or the default has been cured by Owner. Any costs incurred by Erie, including, but not limited to, 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.

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 (or the "Improvement Guarantee" section of any subsequent Phase Development Agreement), as provided for therein, 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, require and furnish to Erie proof thereof that all employees and contractors engaged in the construction of improvements carry required Workman's Compensation Insurance and Public Liability Insurance, and Owner 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 (collectively, the "Owner Parties"), and/or suit, action, or claim resulting from 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 its employees, agents, consultants, contractors, and subcontractors, 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 property 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. Town Consultants.**

Erie may engage consultants as reasonably required to timely process development applications for the Development, including but not limited to review of plans and inspections. The Owner shall reimburse Erie for these expenses in a timely manner.

**G. 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.

**H. 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 (provided, however, notwithstanding the foregoing, no homeowner that takes title to a residential lot or residential home shall be liable for any obligations of Owner under this Agreement). Owner shall not be released from its obligations hereunder until written notice to Erie 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. I. 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.

**I. Assignment, Delegation and Notice.**

Owner shall provide to Erie, for consent, written notice of: 1) any proposed transfer of title to all or any portion of the Development, 2) arrangements for any delegation or transfer of the Master Development Agreement obligations hereunder to any successor, and 3) successor's written acceptance of such Master Development Agreement obligations. Notwithstanding the foregoing, 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 Second Amended and Restated Master Development Agreement and the Phase Development Agreement with respect to each such Phase in place of Owner's guaranties, security and sureties and purchaser expressly agrees to assume all obligations under this Second Amended and Restated Master Development Agreement and the Phase Development Agreement with respect to such Phase (provided, however, notwithstanding the foregoing, no homeowner that takes title to a residential lot or residential home shall be liable for any obligations of Owner under this Agreement). Until the Town provides its written consent to assignment, Owner and Owner's successors and assigns shall be jointly and severally liable for the assigned 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 obligations under this Master Development Agreement or any constituent element hereof 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.

**J. 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.

**K. 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:	Owner:
Town of Erie	Bayou Development Corp.
Town Administrator	H. Hunter White
645 Holbrook Street	38 St. Lucia Avenue
P.O. Box 750	Santa Rosa, FL 32459
Erie, Colorado 80516-0750	

Mark Shapiro  
Mark R. Shapiro, PC  
1650 38<sup>th</sup> 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.

**L. 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.

**M. 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.

**N. Previous Agreements.**

All previous written agreements between the parties, their successors, and assigns, including, but not limited to, any Annexation, Pre-Annexation Agreement, shall remain in full force and effect and shall control this Development, but excepting therefrom the First Amended and Restated Master Development Agreement which shall be null and void upon the Effective Date of this Second Amended and Restated Master Development Agreement. If any prior agreements conflict with this Agreement, then this Agreement controls.

**O. Title and Authority.**

Owner warrants to Erie that Bayou Development Corporation, is the record owner for the property within the Development. The undersigned further warrant to have full power and authority to enter into this Agreement.

**P. 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.

**Q. Attorney Fees.**

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.

**R. Agreement Status After Final Acceptance.**

Upon Final Acceptance by Erie of all improvements, issuance of all building permits and certificates of occupancy for the approved units authorized under the PUD, payment of all reimbursements due to Owner, release of all sureties and guaranties, completion of all Phases of the Development 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.

**S. Formation of Special District.**

Erie acknowledges the formation of the Flatiron Meadows Metropolitan District (the "District") to facilitate financing and development of the infrastructure improvements and Public Improvements for the Development, including, without limitation, development of the road and utility improvements contemplated by the development approvals. Upon Erie's approval of the master Final Plat for the Development and this Agreement, the first of the conditions precedent described in the Service Plan for the District approved by the Town on September 12, 2006, will be satisfied.

**T. Binding Obligation.**

This Agreement constitutes a valid and binding obligation of the Owner, enforceable according to its terms, except to the extent limited by bankruptcy, insolvency and other laws of general application affecting creditor rights.

**U. Recitals; Exhibits.**

All exhibits referred to in this Agreement are incorporated into the Agreement and are made a part hereof by this reference. The recitals set forth at the beginning of

the Agreement are true and correct and are hereby incorporated into the Agreement as if fully set forth herein.

**XI. TERMINATION OF FIRST AMENDED AND RESTATED MASTER DEVELOPMENT AGREEMENT DATED MARCH 28, 2012.**

This Second Amended and Restated Master Development Agreement shall replace the First Amended and Restated Master Development Agreement, dated March 28, 2012, and the First Amended and Restated Master Development Agreement shall be and hereby is declared null and void and of no further force or effect as of the Effective Date of this Second Amended and Restated Master Development Agreement.

Any references to the Original Master Development Agreement and/or First Amended and Restated Master Development Agreement contained within any Phase Development Agreement shall now refer to the Second Amended and Restated Development Agreement.

[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

By: \_\_\_\_\_  
Tina Harris, Mayor

OWNER:

Bayou Development Corporation,  
a Colorado corporation

By: \_\_\_\_\_  
Hunter H. White III

ATTEST:

By: \_\_\_\_\_  
Nancy J. Parker, Town Clerk

STATE OF COLORADO    )  
                                  ) SS.  
COUNTY OF                )

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_ as \_\_\_\_\_ of Bayou Development Corporation.

Witness my hand and official seal.  
My Commission expires \_\_\_\_\_.

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

## EXHIBITS LIST

EXHIBIT A – MASTER FINAL PLAT

EXHIBIT A-1 – (Exhibit left intentionally blank as no Exhibit A-1 is provided with this agreement)

EXHIBIT A-2 – PUBLIC LAND DEDICATION SUMMARY

EXHIBIT B – PUBLIC IMPROVEMENT SCHEDULE

EXHIBIT B-1 – LETTER OF CREDIT FORM

EXHIBIT C – PUBLIC IMPROVEMENT REIMBURSEMENT SCHEDULE

EXHIBIT D – PHASING PLAN

EXHIBIT E – OIL AND GAS DISCLOSURE

EXHIBIT F – AVIGATION EASEMENT

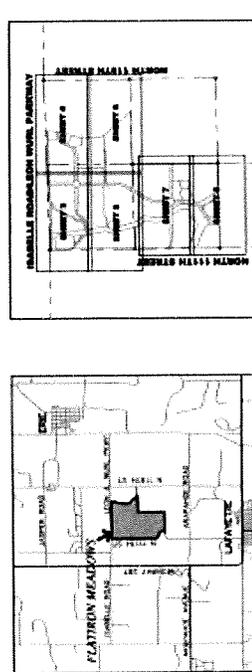
EXHIBIT G – ERIE PARKWAY CONSTRUCTION DOCUMENTS

# EXHIBIT A MASTER FINAL PLAT

## FLATRION MEADOWS SUBDIVISION - MASTER PLAT A SUBDIVISION LOCATED IN A PORTION OF THE SOUTH HALF OF SECTION 23 AND THE NORTHWEST QUARTER OF SECTION 26, 387.188 ACRES - 9 TRACTS FP-08-001

**CERTIFICATE OF REGISTRATION AND CONVEYANCE:**  
I, the undersigned, being duly qualified and sworn, do hereby certify that the foregoing plat is a true and correct copy of the original plat on file in the office of the County Clerk of Boulder County, Colorado, and that the same is in full compliance with the provisions of the laws of the State of Colorado relating to the subdivision of land.

**STATE OF COLORADO**  
COUNTY OF BOULDER  
I, the undersigned, being duly qualified and sworn, do hereby certify that the foregoing plat is a true and correct copy of the original plat on file in the office of the County Clerk of Boulder County, Colorado, and that the same is in full compliance with the provisions of the laws of the State of Colorado relating to the subdivision of land.



TRACT	ACRES	OWNER	REMARKS
TRACT A	10.000	FLATRION MEADOWS, LLC	RESERVED FOR FUTURE DEVELOPMENT
TRACT B	10.000	FLATRION MEADOWS, LLC	RESERVED FOR FUTURE DEVELOPMENT
TRACT C	10.000	FLATRION MEADOWS, LLC	RESERVED FOR FUTURE DEVELOPMENT
TRACT D	10.000	FLATRION MEADOWS, LLC	RESERVED FOR FUTURE DEVELOPMENT
TRACT E	10.000	FLATRION MEADOWS, LLC	RESERVED FOR FUTURE DEVELOPMENT
TRACT F	10.000	FLATRION MEADOWS, LLC	RESERVED FOR FUTURE DEVELOPMENT
TRACT G	10.000	FLATRION MEADOWS, LLC	RESERVED FOR FUTURE DEVELOPMENT
TRACT H	10.000	FLATRION MEADOWS, LLC	RESERVED FOR FUTURE DEVELOPMENT
TRACT I	10.000	FLATRION MEADOWS, LLC	RESERVED FOR FUTURE DEVELOPMENT
TOTAL	90.000		

**TRACT SUMMARY CHART:**  
This chart provides a detailed breakdown of the 9 tracts, including their acreage, owner information, and any specific notes regarding their intended use or future development plans.

TRACT	ACRES	OWNER	REMARKS
TRACT A	10.000	FLATRION MEADOWS, LLC	RESERVED FOR FUTURE DEVELOPMENT
TRACT B	10.000	FLATRION MEADOWS, LLC	RESERVED FOR FUTURE DEVELOPMENT
TRACT C	10.000	FLATRION MEADOWS, LLC	RESERVED FOR FUTURE DEVELOPMENT
TRACT D	10.000	FLATRION MEADOWS, LLC	RESERVED FOR FUTURE DEVELOPMENT
TRACT E	10.000	FLATRION MEADOWS, LLC	RESERVED FOR FUTURE DEVELOPMENT
TRACT F	10.000	FLATRION MEADOWS, LLC	RESERVED FOR FUTURE DEVELOPMENT
TRACT G	10.000	FLATRION MEADOWS, LLC	RESERVED FOR FUTURE DEVELOPMENT
TRACT H	10.000	FLATRION MEADOWS, LLC	RESERVED FOR FUTURE DEVELOPMENT
TRACT I	10.000	FLATRION MEADOWS, LLC	RESERVED FOR FUTURE DEVELOPMENT
TOTAL	90.000		

**LAND SUMMARY CHART:**  
This chart summarizes the land parcels, including their acreage, owner information, and any specific notes regarding their intended use or future development plans.

**APPLICANT'S REPRESENTATIONS:**  
I, the undersigned, being duly qualified and sworn, do hereby certify that the foregoing plat is a true and correct copy of the original plat on file in the office of the County Clerk of Boulder County, Colorado, and that the same is in full compliance with the provisions of the laws of the State of Colorado relating to the subdivision of land.

**STATE OF COLORADO**  
COUNTY OF BOULDER  
I, the undersigned, being duly qualified and sworn, do hereby certify that the foregoing plat is a true and correct copy of the original plat on file in the office of the County Clerk of Boulder County, Colorado, and that the same is in full compliance with the provisions of the laws of the State of Colorado relating to the subdivision of land.

**TITLE VERIFICATION CERTIFICATE:**  
I, the undersigned, being duly qualified and sworn, do hereby certify that the foregoing plat is a true and correct copy of the original plat on file in the office of the County Clerk of Boulder County, Colorado, and that the same is in full compliance with the provisions of the laws of the State of Colorado relating to the subdivision of land.

**COMMUNITY DEVELOPMENT AND PUBLIC WORKS APPROVAL CERTIFICATE:**  
I, the undersigned, being duly qualified and sworn, do hereby certify that the foregoing plat is a true and correct copy of the original plat on file in the office of the County Clerk of Boulder County, Colorado, and that the same is in full compliance with the provisions of the laws of the State of Colorado relating to the subdivision of land.

**BOARD OF TRUSTEES ACCEPTANCE CERTIFICATE:**  
I, the undersigned, being duly qualified and sworn, do hereby certify that the foregoing plat is a true and correct copy of the original plat on file in the office of the County Clerk of Boulder County, Colorado, and that the same is in full compliance with the provisions of the laws of the State of Colorado relating to the subdivision of land.

**CLAIMS & ENCUMBRANCES CERTIFICATE:**  
I, the undersigned, being duly qualified and sworn, do hereby certify that the foregoing plat is a true and correct copy of the original plat on file in the office of the County Clerk of Boulder County, Colorado, and that the same is in full compliance with the provisions of the laws of the State of Colorado relating to the subdivision of land.

**FLATRION MEADOWS SUBDIVISION MASTER PLAT COVER SHEET**  
FLATRION MEADOWS, LLC  
4176 FLATRION PLAT  
9/25/11 11:30 AM  
100%

**Calibre**  
Professional Surveyors  
1000 17th Street, Suite 100  
Boulder, CO 80502  
Phone: 303.440.1111  
Fax: 303.440.1112  
www.calibresurveyors.com

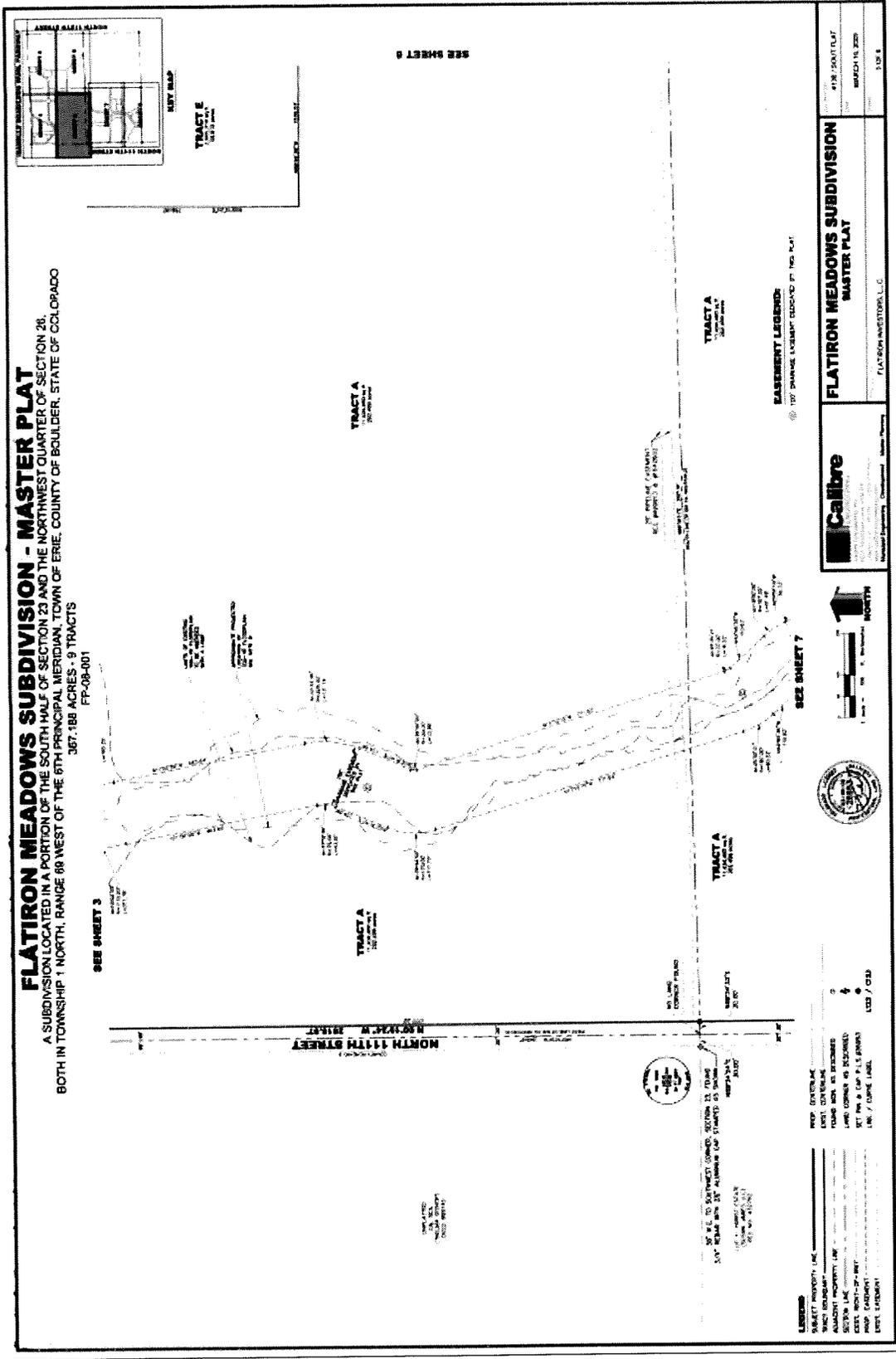
**APPLICANT'S REPRESENTATIONS:**  
I, the undersigned, being duly qualified and sworn, do hereby certify that the foregoing plat is a true and correct copy of the original plat on file in the office of the County Clerk of Boulder County, Colorado, and that the same is in full compliance with the provisions of the laws of the State of Colorado relating to the subdivision of land.

**STATE OF COLORADO**  
COUNTY OF BOULDER  
I, the undersigned, being duly qualified and sworn, do hereby certify that the foregoing plat is a true and correct copy of the original plat on file in the office of the County Clerk of Boulder County, Colorado, and that the same is in full compliance with the provisions of the laws of the State of Colorado relating to the subdivision of land.









**FLATIRON MEADOWS SUBDIVISION - MASTER PLAT**  
 A SUBDIVISION LOCATED IN A PORTION OF THE SOUTH HALF OF SECTION 23 AND THE NORTHWEST QUARTER OF SECTION 28,  
 BOTH IN TOWNSHIP 1 NORTH, RANGE 80 WEST OF THE 6TH PRINCIPAL MERIDIAN, TOWN OF ERIE, COUNTY OF BOULDER, STATE OF COLORADO  
 357.180 ACRES - 9 TRACTS  
 FP-08-001

SEE SHEET 3

SEE SHEET 7

SEE SHEET 9

SEE SHEET 11

SEE SHEET 13

SEE SHEET 15

SEE SHEET 17

SEE SHEET 19

SEE SHEET 21

SEE SHEET 23

SEE SHEET 25

SEE SHEET 27

SEE SHEET 29

SEE SHEET 31

SEE SHEET 33

SEE SHEET 35

SEE SHEET 37

SEE SHEET 39

SEE SHEET 41

SEE SHEET 43

SEE SHEET 45

SEE SHEET 47

SEE SHEET 49

SEE SHEET 51

SEE SHEET 53

SEE SHEET 55

SEE SHEET 57

SEE SHEET 59

SEE SHEET 61

SEE SHEET 63

SEE SHEET 65

SEE SHEET 67

SEE SHEET 69

SEE SHEET 71

SEE SHEET 73

SEE SHEET 75

SEE SHEET 77

SEE SHEET 79

SEE SHEET 81

SEE SHEET 83

SEE SHEET 85

SEE SHEET 87

SEE SHEET 89

SEE SHEET 91

SEE SHEET 93

SEE SHEET 95

SEE SHEET 97

SEE SHEET 99

SEE SHEET 101

SEE SHEET 103

SEE SHEET 105

SEE SHEET 107

SEE SHEET 109

SEE SHEET 111

SEE SHEET 113

SEE SHEET 115

SEE SHEET 117

SEE SHEET 119

SEE SHEET 121

SEE SHEET 123

SEE SHEET 125

SEE SHEET 127

SEE SHEET 129

SEE SHEET 131

SEE SHEET 133

SEE SHEET 135

SEE SHEET 137

SEE SHEET 139

SEE SHEET 141

SEE SHEET 143

SEE SHEET 145

SEE SHEET 147

SEE SHEET 149

SEE SHEET 151

SEE SHEET 153

SEE SHEET 155

SEE SHEET 157

SEE SHEET 159

SEE SHEET 161

SEE SHEET 163

SEE SHEET 165

SEE SHEET 167

SEE SHEET 169

SEE SHEET 171

SEE SHEET 173

SEE SHEET 175

SEE SHEET 177

SEE SHEET 179

SEE SHEET 181

SEE SHEET 183

SEE SHEET 185

SEE SHEET 187

SEE SHEET 189

SEE SHEET 191

SEE SHEET 193

SEE SHEET 195

SEE SHEET 197

SEE SHEET 199

SEE SHEET 201

SEE SHEET 203

SEE SHEET 205

SEE SHEET 207

SEE SHEET 209

SEE SHEET 211

SEE SHEET 213

SEE SHEET 215

SEE SHEET 217

SEE SHEET 219

SEE SHEET 221

SEE SHEET 223

SEE SHEET 225

SEE SHEET 227

SEE SHEET 229

SEE SHEET 231

SEE SHEET 233

SEE SHEET 235

SEE SHEET 237

SEE SHEET 239

SEE SHEET 241

SEE SHEET 243

SEE SHEET 245

SEE SHEET 247

SEE SHEET 249

SEE SHEET 251

SEE SHEET 253

SEE SHEET 255

SEE SHEET 257

SEE SHEET 259

SEE SHEET 261

SEE SHEET 263

SEE SHEET 265

SEE SHEET 267

SEE SHEET 269

SEE SHEET 271

SEE SHEET 273

SEE SHEET 275

SEE SHEET 277

SEE SHEET 279

SEE SHEET 281

SEE SHEET 283

SEE SHEET 285

SEE SHEET 287

SEE SHEET 289

SEE SHEET 291

SEE SHEET 293

SEE SHEET 295

SEE SHEET 297

SEE SHEET 299

SEE SHEET 301

SEE SHEET 303

SEE SHEET 305

SEE SHEET 307

SEE SHEET 309

SEE SHEET 311

SEE SHEET 313

SEE SHEET 315

SEE SHEET 317

SEE SHEET 319

SEE SHEET 321

SEE SHEET 323

SEE SHEET 325

SEE SHEET 327

SEE SHEET 329

SEE SHEET 331

SEE SHEET 333

SEE SHEET 335

SEE SHEET 337

SEE SHEET 339

SEE SHEET 341

SEE SHEET 343

SEE SHEET 345

SEE SHEET 347

SEE SHEET 349

SEE SHEET 351

SEE SHEET 353

SEE SHEET 355

SEE SHEET 357

SEE SHEET 359

SEE SHEET 361

SEE SHEET 363

SEE SHEET 365

SEE SHEET 367

SEE SHEET 369

SEE SHEET 371

SEE SHEET 373

SEE SHEET 375

SEE SHEET 377

SEE SHEET 379

SEE SHEET 381

SEE SHEET 383

SEE SHEET 385

SEE SHEET 387

SEE SHEET 389

SEE SHEET 391

SEE SHEET 393

SEE SHEET 395

SEE SHEET 397

SEE SHEET 399

SEE SHEET 401

SEE SHEET 403

SEE SHEET 405

SEE SHEET 407

SEE SHEET 409

SEE SHEET 411

SEE SHEET 413

SEE SHEET 415

SEE SHEET 417

SEE SHEET 419

SEE SHEET 421

SEE SHEET 423

SEE SHEET 425

SEE SHEET 427

SEE SHEET 429

SEE SHEET 431

SEE SHEET 433

SEE SHEET 435

SEE SHEET 437

SEE SHEET 439

SEE SHEET 441

SEE SHEET 443

SEE SHEET 445

SEE SHEET 447

SEE SHEET 449

SEE SHEET 451

SEE SHEET 453

SEE SHEET 455

SEE SHEET 457

SEE SHEET 459

SEE SHEET 461

SEE SHEET 463

SEE SHEET 465

SEE SHEET 467

SEE SHEET 469

SEE SHEET 471

SEE SHEET 473

SEE SHEET 475

SEE SHEET 477

SEE SHEET 479

SEE SHEET 481

SEE SHEET 483

SEE SHEET 485

SEE SHEET 487

SEE SHEET 489

SEE SHEET 491

SEE SHEET 493

SEE SHEET 495

SEE SHEET 497

SEE SHEET 499

SEE SHEET 501

SEE SHEET 503

SEE SHEET 505

SEE SHEET 507

SEE SHEET 509

SEE SHEET 511

SEE SHEET 513

SEE SHEET 515

SEE SHEET 517

SEE SHEET 519

SEE SHEET 521

SEE SHEET 523

SEE SHEET 525

SEE SHEET 527

SEE SHEET 529

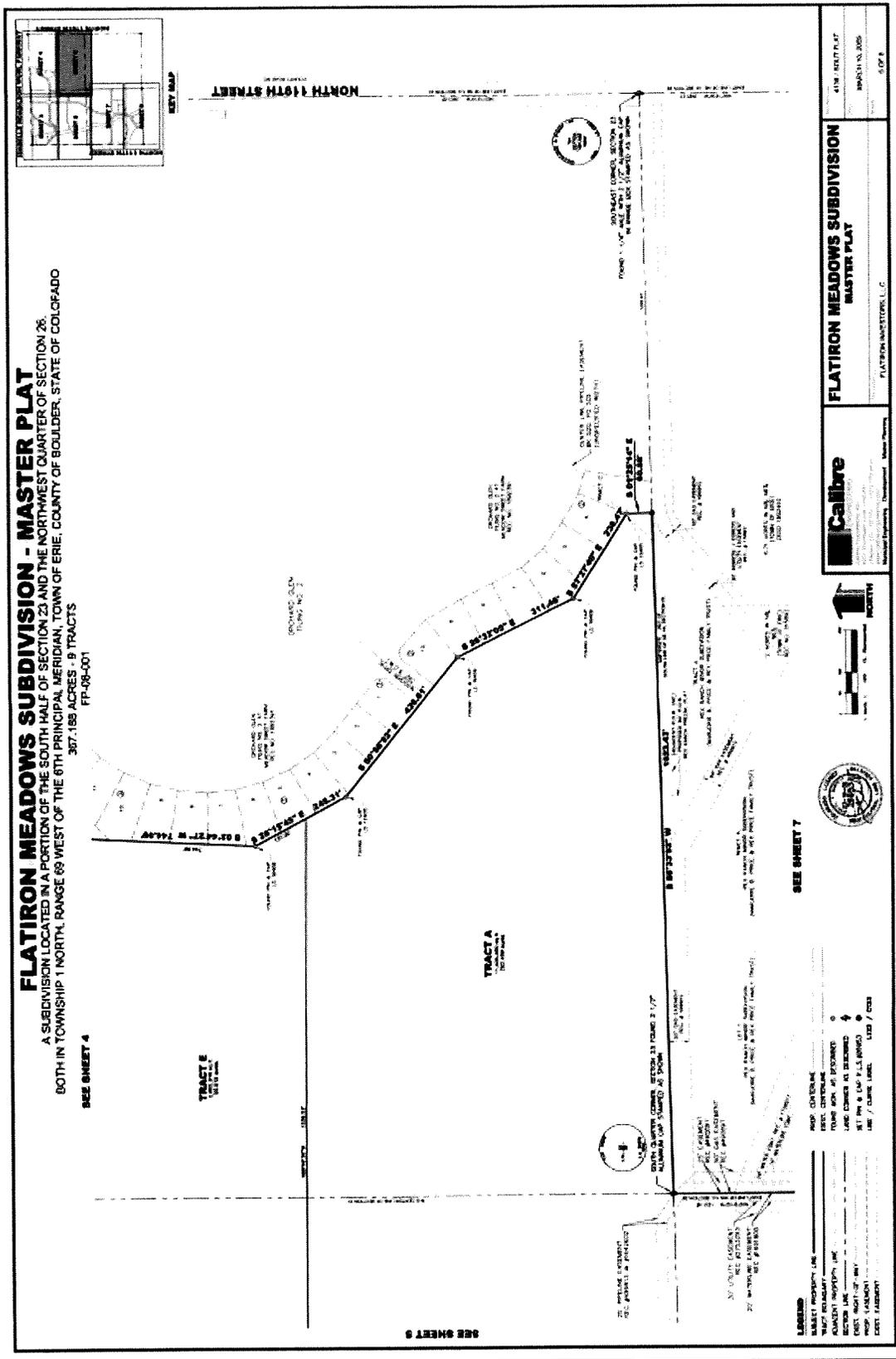






EXHIBIT A-1

(Exhibit left intentionally blank as no Exhibit A-1 is provided with this agreement)

EXHIBIT A-2  
PUBLIC LAND DEDICATION SUMMARY

(Public Land Dedications per the Flatiron Meadows Master Plat)

EXHIBIT B  
PUBLIC IMPROVEMENT SCHEDULE

(Page left intentionally blank as no public improvements are approved with this agreement)

EXHIBIT B-1  
LETTER OF CREDIT FORM  
LETTER OF CREDIT

**INSERT PROPERTY IDENTIFICATION**  
**(IF FOR 2 YEAR WARRANTY ADD APPROPRIATE ITEM: LANDSCAPING OR**  
**HARDSCAPE OR TOTAL SUBDIVISION IMPROVEMENTS)**

Town of Erie  
645 Holbrook Street  
P.O. Box 750  
Erie, CO 80516

No.  
Issue Date:  
Expiration:

Gentlemen:

We hereby authorize you to draw on us for the account of \_\_\_\_\_ up to an aggregate amount of \$\_\_\_\_\_ available by your drafts at sight accompanied by your signed statement that the above is drawn for payment of public improvements pursuant to: Town of Erie Development Agreement dated \_\_\_\_\_, entered into between the Town of Erie, Colorado and \_\_\_\_\_ (Include name of subdivision and filing number [if applicable]).

Partial Drawings are permitted. In the event of a partial drawing, the original Letter of Credit will be returned to the Town of Erie by the issuing Bank after endorsement.

Drafts must be drawn and negotiated on or before \_\_\_\_\_ (expiration date). Each draft presented under this letter of credit must state that it is drawn under \_\_\_\_\_ (Title of Bank and identification of the Letter of Credit) and the amount endorsed on this letter of credit.

We hereby agree with the drawers, endorsers and bona fide holders of all drafts drawn under and in compliance with the terms of this Letter of Credit that such drafts will be duly honored upon the presentation to the drawee.

This Letter of Credit shall be automatically extended without amendment for additional periods of one year from the present or any future expiration date hereof unless at least sixty (60) days prior to any such date we shall notify you in writing by overnight courier service that we elect not to so renew this Letter of Credit.

Except as expressly provided herein, this Letter of Credit is subject governed by the Uniform Commercial Code of the State of Colorado.

Yours very truly,

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

Title: \_\_\_\_\_

Attest:

EXHIBIT C  
PUBLIC IMPROVEMENT REIMBURSEMENT SCHEDULE

Reimbursements due Erie:

1. The Town shall collect from the Owner, prior to the recordation of the second final plat allowing residential development, Fifty One Thousand Two Hundred Seventy Four and 87/100 Dollars (\$51,274.87) as reimbursement for the construction of the existing 12-inch waterline within Erie Parkway.
2. The Town shall collect from the Owner One Thousand Five Hundred Dollars (\$1,500) for each Single Family Equivalent as reimbursement for the Town constructed West Side Interceptor. Reimbursement shall be collected before recordation of a final plat for each Phase allowing single family residential Development. Reimbursement for the multi-family tracts shall be collected prior to Site Plan approvals. The amount for the school tract and fire protection district tract shall be collected when a water and sewer tap application is made. Owner (Fire and School District) shall be responsible for reimbursements.
- ~~2.3.~~ The Town shall collect from the Owner Four Hundred and Ten Dollars (\$410.00) for each Single Family Equivalent as reimbursement for the North Water Reclamation Facility Interceptor. Reimbursement shall be collected before recordation of a final plat for each Phase allowing single family residential Development. Reimbursement for the multi-family tracts shall be collected prior to Site Plan approvals. The amount for the school tract and fire protection district tract shall be collected when a water and sewer tap application is made. Owner (Fire and School District) shall be responsible for reimbursements.

Reimbursements due Owner:

1. If any, reimbursement shall be determined with each Phase of the Development and be incorporated into each Phase Development Agreement.
2. Based on the June 2008 Master Utility Report for Flatiron Meadows there will be a total of 697 single family units contributing to the sanitary sewer when it changes size from an 8" to a 10" line. Of the 697 units, 122 are from off-site upstream properties. Owner should expect a maximum reimbursement of 17.5% for the cost of constructing the 10-inch line. This should be updated and included in the development agreement that constructs this line.
3. The Town will reimburse the Owner up to \$221,091 for Erie improvements from Meadow View Parkway to 119<sup>th</sup> Street, up to \$759,623 for improvements of Erie from 111<sup>th</sup> Street to 109<sup>th</sup> Street and up to \$140,000 for a traffic signal on Erie if warranted and constructed. The Town of Erie will pay the Owner on the following schedule up to \$670,008 at the end of year 1 after construction acceptance of the improvements, and up to \$450,707 in year 9. The Owner will provide detailed invoices to the Town on work

performed.

4. Owner may be reimbursed the proportional costs of drainage improvements from the benefited Rex Ranch property pursuant with Section IX.N.3 of this Agreement.
5. The Town will reimburse the Owner up to a maximum of \$1,400,000.00 for the North Portion of Erie Parkway improvements as defined in Section IX.E.1.d of this Agreement. Said reimbursement shall cover construction costs through Final Acceptance.

Reimbursements due others:

None.

EXHIBIT D  
PHASING PLAN

This exhibit is intentionally left blank as there is no phasing plan.

EXHIBIT E

**OIL AND GAS DISCLOSURE**

The undersigned, being the purchasers identified in that certain \_\_\_\_\_ (“Purchase Contract”) dated \_\_\_\_\_, 20\_\_, between \_\_\_\_\_, a \_\_\_\_\_, as seller, and the undersigned, as purchaser, with respect to Block \_\_\_\_, Lot \_\_\_\_, Flatiron Meadows Filing No. \_\_\_\_, Town of Erie, County of Boulder, State of Colorado (the “Lot”) do hereby acknowledge and agree as follows, which acknowledgments and agreements are given in consideration of and as a condition to Seller’s agreement to sell to the undersigned the Lot and the home to be constructed thereon:

The undersigned hereby acknowledges the current existence of oil and gas wells and related well facilities (and the possibility of additional future wells and facilities) located within the real property encompassed by Flatiron Meadows plat(s) (“Plat”). The locations of the current and possible future oil and gas wells and related well facilities are identified on Plat or Plats of the Community, recorded \_\_\_\_\_, 20\_\_, under Reception No. \_\_\_\_\_, as amended from time to time. In addition to the foregoing, other oil and gas interests affecting the property may exist which may or may not be recorded in the real property records. The oil and gas leases and other interests generally permit certain surface activity on the premises which activity may include drill sites, gathering pipelines, production sites and facilities, and access roads, all as further described in the oil and gas leases and other documents affecting the premises.

EXHIBIT F

**GRANT OF PERMANENT AVIGATION EASEMENT AGREEMENT**

**THIS GRANT OF PERMANENT AVIGATION EASEMENT AGREEMENT** is made and entered into this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between **Bayou Development Corporation, a Colorado corporation**, whose address is, 38 St. Lucia Avenue, Santa Rosa, FL 32459, 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.

**GRANTOR:**

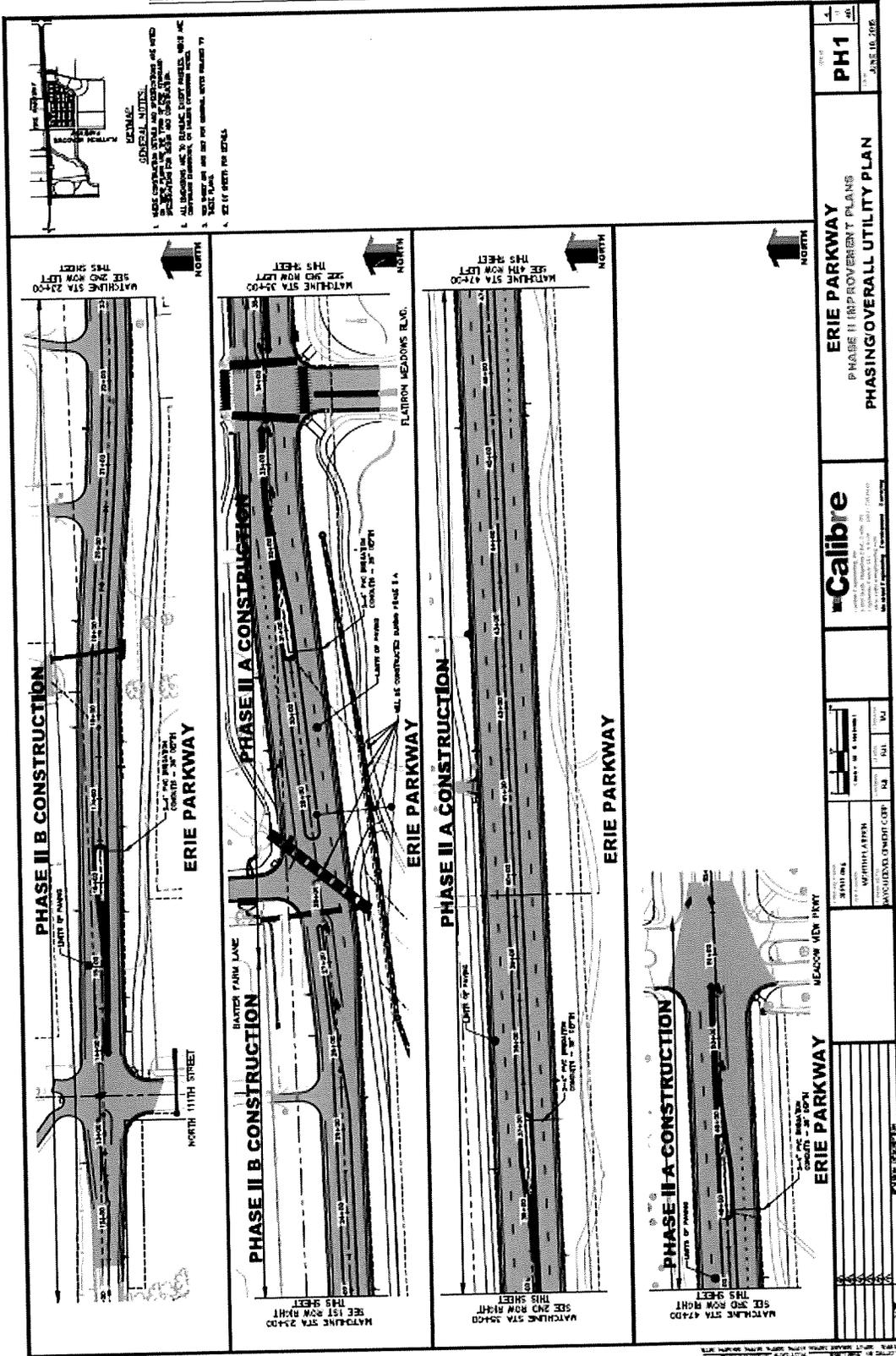
\_\_\_\_\_

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

(Name) \_\_\_\_\_



# EXHIBIT G ERIE PARKWAY CONSTRUCTION DOCUMENTS



# ATTACHMENT B

**RESOLUTION NO. 15-117**

**A RESOLUTION AUTHORIZING THE TOWN OF ERIE, COLORADO, TO ENTER INTO THE FLATIRON MEADOWS SECOND AMENDED AND RESTATED MASTER DEVELOPMENT AGREEMENT; AUTHORIZING AND DIRECTING THE APPROPRIATE TOWN OFFICERS TO SIGN SAID AGREEMENT; EXTENDING THE APPROVAL OF THE FLATIRON MEADOWS PRELIMINARY PLAT NO. 1 FROM JANUARY 14, 2015 TO JUNE 14, 2016; AND, SETTING FORTH DETAILS IN RELATION THERETO.**

**WHEREAS**, the Town of Erie, Colorado (“Town”) and Bayou Development Corporation (“Owner”), previously entered into the Flatiron Meadows Master Development Agreement on March 28, 2012; and,

**WHEREAS**, the Owner and the Town have agreed upon changes and amendments of the Flatiron Meadows First Amended and Restated Master Development Agreement, and desire to set forth those changes and amendments in the Flatiron Meadows Second Amended and Restated Master Development Agreement; and,

**WHEREAS**, the Flatiron Meadows Preliminary Plat No. 1 (“Preliminary Plat”) was approved on June 26, 2007 and through various final plat approvals the Preliminary Plat approval has been extended to January 14, 2015; and,

**WHEREAS**, the Owner has requested and extension of the approval of the Preliminary Plat from January 14, 2015 to June 14, 2016; and

**WHEREAS**, the Board of Trustees of the Town of Erie believes it is in the best interest of the Town to enter into the Flatiron Meadows Second Amended and Restated Master Development Agreement and to extend the approval of the Preliminary Plat from January 14, 2015 to June 14, 2016.

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

Section 1. That the Flatiron Meadows Second Amended and Restated Master Development Agreement between the Town of Erie and Bayou Development Corp., a copy of which is attached hereto, marked “Exhibit A,” and incorporated herein by reference, is found to be reasonable and acceptable.

Section 2. That the Town of Erie be and is hereby authorized and directed to enter into the Flatiron Meadows Second Amended and Restated Master Development Agreement, and the appropriate Town officers are hereby authorized and directed to sign and bind the Town of Erie to said Flatiron Meadows Second Amended and Restated Master Development Agreement following the meeting of such conditions.

Section 3. That the approval of the Preliminary Plat be and is hereby extended from January 14, 2015 to June 14, 2016.

Section 4. That entering into the Flatiron Meadows Second Amended and Restated Master Development Agreement and extending of the approval of the Preliminary Plat as set forth herein are found to be in the best interest of the Town of Erie.

**ADOPTED AND APPROVED THIS 8<sup>TH</sup> DAY OF SEPTEMBER, 2015, 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

Exhibit A

**Flatiron Meadows**  
**SECOND AMENDED AND RESTATED MASTER DEVELOPMENT**  
**AGREEMENT**

**THIS SECOND AMENDED AND RESTATED MASTER DEVELOPMENT AGREEMENT (“Agreement” or “Second Amended and Restated Master Development Agreement”)** is made and entered into this \_\_\_\_ day of \_\_\_\_\_ 2015 (the “Effective Date”), by and between the **Town of Erie, a Colorado municipal corporation**, in the Counties of Weld and Boulder, State of Colorado, hereinafter referred to as “Erie” or “Town,” and **Bayou Development Corporation, a Colorado corporation**, hereinafter referred to as “Owner.”

**WHEREAS**, Erie and Owner previously entered into a First Amended and Restated Master Development Agreement, dated March 28, 2012, and recorded in the real property records of the Boulder County Clerk and Recorder at Reception No. 03212843 (herein after referred to as the “First Amended and Restated Master Development Agreement”); and,

**WHEREAS**, Erie and Flatiron Investors, LLC (the entity owning the Development – as “Development” is defined herein below – prior to the current Owner, and the predecessor to which Owner is the successor in interest), previously entered into a Master Development Agreement, dated January 26, 2009, and recorded in the real property records of the Boulder County Clerk and Recorder at Reception No. 2988917 (herein after referred to as the “Original Master Development Agreement”); and,

**WHEREAS**, Flatiron Investors, LLC has conveyed its interest in the Flatiron Meadows Development (“Development” or “Property”) to Owner through the recordation of a Quit Claim Deed, dated March 21, 2012, and recorded in the real property records of the Boulder County Clerk and Recorder at Reception No. 03211124; and,

**WHEREAS**, Erie, and Owner (as the successor in interest to Flatiron Investors, LLC) intend to terminate the First Amended and Restated Master Development Agreement as of the Effective Date of this Second Amended and Restated Master Development Agreement, as set forth herein, and to replace the First Amended and Restated Master Development Agreement with this Second Amended and Restated Master Development Agreement; and,

**WHEREAS**, Owner has submitted a master Final Plat for the Development attached hereto as “Exhibit A” and incorporated herein by reference. Said master Final Plat has been approved by the Community Development Director and Public Works Director of Erie; and

**WHEREAS**, the regulations of Erie require that the Owner enter into a Development Agreement with Erie relative to improvements related to the Development. This Agreement shall serve as the Second Amended and Restated Master Development Agreement for the Development; and

**WHEREAS**, this Second Amended and Restated Master Development Agreement anticipates that Erie and Owner will enter into separate Development Agreements for each phase

or filing of the Development, which phase or filing Development Agreement will set forth Public Improvements and Common Facilities required to be completed for that phase or filing (“Phase Development Agreement”).

**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 generally described in “Exhibit A-2” attached hereto and incorporated herein by reference. Conveyance of these lands shall be by Special Warranty Deed in form and substance acceptable to Erie. If not already conveyed, conveyance shall be made in accordance with “Exhibit A-2.” Owner shall also furnish at the time of conveyance, at its own expense, an ALTA title insurance policy for all interest(s) so conveyed, subject to acceptance by Erie. The property shall be free and clear of mortgages, debts, liens, taxes and encumbrances except for ad valorem real property taxes up to the date of dedication to Erie, but subject to all easements, rights-of-way, reservations, restrictions 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 the Property as required for the Development (“Public Improvements” and “Common Facilities”). Owner agrees to dedicate said Public Improvements to Erie, or others for the Common Facilities, in accordance with Section’s V and IX, and give a two (2) year guarantee for all improvements constructed as required under this Agreement and each Phase Development Agreement.

Construction and installment of all Public Improvements and Common Facilities required for the Development shall be addressed in the Phase Development Agreements required for each separate Phase (“Phase” as defined in Section IX.A) of the Development.

**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," (the "Standards"), ordinances and regulations. The Standards, and the Erie Municipal Code (the "Code") applicable to each Phase of development shall be those in effect at the time application is made for final plat on each such Phase.

**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 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 each development Phase. 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 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 Public Improvement Permit ("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 Standards and other pertinent requirements, Erie will issue Owner the Public Improvement Permit. 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 Owner 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 the Town Standards. 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 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 Erie 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. Copies of inspection documents shall be made available upon request of the Town. 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 Standards as established and accepted by Erie.

**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. Erie will assist in acquiring the necessary easements and right-of-way, however if condemnation is required the Town may authorize the Metro District to use eminent domain to complete the acquisition.

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:

1. All permits as required by the United States Corps of Engineers.
2. Colorado Department of Health and Environment “General Permit for Stormwater Discharges Associated with Construction Activity”, required during construction.
3. Town of Erie “Grading and Stormwater Quality Permit” per Erie Standards.
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 by 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 Owner’s 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. Street lights and associated infrastructure shall be owned and maintained by Xcel.

**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 Erie, 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 each lot shall be constructed by the owner of said lot in accordance with accepted construction plans. Owner shall furnish copies of approved plans to subsequent purchasers (other than homeowners) of lots within the Development.
3. Owner shall be responsible for obtaining a Colorado Department of Public Health and Environment "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 Standards.

**N. Landscape Improvements.**

For public lands, Common Facilities, and rights-of-way, Owner shall furnish Erie complete final landscape and irrigation plans in conformance with Erie's Standards for each Phase and obtain approval 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 (each a "Lot"). 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 Title 10 of the Code.

**V. IMPROVEMENT ACCEPTANCE**

The Improvement Acceptance requirements contained herein shall apply and be a part of each Phase Development Agreement.

**A. Construction Acceptance.**

No later than ten (10) days after improvements 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 improvements, 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 Standards. If Owner has not completed appropriate residential Phase or commercial Phase improvements as provided for in this Agreement, Erie may exercise its right to secure performance as provided in Section X.C of this Agreement. If improvements 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 improvements 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 HOA, metropolitan district, or final property owner in the final inspection procedures and provide Erie with written acceptance of the Common Facility 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 the 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.

**3. North Portion of Erie Parkway**

Notwithstanding Sections (1) and (2) above or anything to the contrary in this Agreement, Owner shall have no responsibility to provide any surety (including any guarantee or letter of credit as may be contemplated by Section VI(B) below), nor shall Owner have an obligation to maintain, the North Portion of Erie Parkway (defined below) after Final Acceptance.

**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 of Erie Standards, 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 the Agreement and Erie may exercise its rights under Section X.C of this Agreement.

**VI. IMPROVEMENT GUARANTEE**

**A. Public Improvements and Common Facilities Schedule.**

This Agreement sets forth the general terms and obligations for the Owner's completion of the Public Improvement and Common Facilities required for the Development. Certain Public Improvement and Common Facilities as required for the Development are set forth in Section IX, herein below. Additional Public Improvement and Common Facilities as may be required for each Phase (or as are required in Section IX and are located in that Phase) shall be contained in the Phase Development Agreements entered into for each Phase. Each Phase Development Agreement shall list all Public Improvement and Common Facilities required for that Phase separately, along with a total cost for the Public Improvement and Common Facilities for the purpose of establishing the Improvement Guarantee for that Phase Development Agreement. The requirements as set forth in this Section VI shall apply to and be a part of each Phase Development Agreement.

**B. Improvement Guarantee.**

Owner shall submit to Town Administrative Official an Improvement Guarantee for all Public Improvements and Common Facilities for the Final Plat of that Phase. Said guarantee may be in cash or a letter of credit, and, if a letter of credit, shall be in the form as set forth on "Exhibit B-1."

1. Said guarantee, if a letter of credit, shall not expire during the winter season (November 1 - March 1), shall renew automatically unless written notice of non-renewal is received at least 60 days prior to expiration. 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 Phase pursuant to the master Final Plat and the plat for that Phase shall be calculated as the total estimated cost including labor and materials of all Public Improvements and Common Facilities to be constructed in that Phase of the Development. The total minimum amounts are as follows:
  - a) Prior to commencement of construction of Public Improvements and Common Facilities improvements in each Phase: 115% of the amount(s) required for that Phase.
  - b) Upon "substantial completion construction acceptance" of the public improvements in that Phase through "final acceptance": 25% of the amount(s) required for that Phase. The Town will release the guarantees for the wet utilities separate from the roadway improvements on a phased basis as shown in the Phase Development Agreement.
  - c) Upon "substantial completion construction acceptance" of common facilities: 0%.
  - d) After Final Acceptance of Public Improvements: 0%.
  - e) Upon completion and final acceptance of some, but not all Public Improvements and Common Facilities, the letter of credit may be partially

reduced to reflect the completion and final acceptance of such improvements and/or facilities.

3. 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, Owner shall be in default of this Agreement.

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 and/or any Phase Development Agreement.

Prior to drawing on any letter of credit or Improvement Guarantee received pursuant to this Agreement and/or any Phase Development Agreement, Erie shall provide the Owner written notice as provided for in Section X.C., with the exception that 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, 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 requirement 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

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.**

The completion of each Phase of Development, including public, 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 use its best efforts to require as a condition of approval, a proportional reimbursement to Owner as will be described in a future Phase Development Agreement. Nothing contained in this Agreement or in a Phase Development 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 as provided above.

**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.

### C. **Construction Traffic Routing Plan.**

Owner shall submit a Construction Traffic Routing Plan for each Phase of the Development for inclusion in each respective development agreement.

## IX. SPECIAL PROVISIONS

### A. **Phasing.**

The Owner may develop the Property in separate filings or phases (each such filing or phase being a "Phase" hereunder), and the Owner shall determine the sequence of development of each Phase in accordance with the provisions of the Agreement. The final plat for each Phase shall be in general conformance with the approved preliminary plat for the property.

1. A maximum of eight hundred seventy-five (875) dwelling units may be constructed on the Property.
2. The Owner and Erie shall enter into a Phase Development Agreement and/or site plan agreement simultaneously with the recordation of a final plat and/or site plan for each Phase with respect to Public Improvements and Common Facilities. The Public Improvements and Common Facilities shall be described in each Phase Development Agreement.

3. Access acceptable to Erie and the Mountain View Fire Protection District shall be maintained at all times during construction.
4. All construction traffic shall enter the site from Erie Parkway. No construction traffic shall utilize Arapahoe Road for access purposes unless directed otherwise by the Public Works Director.

**B. Flatiron Meadows Planned Unit Development (“PUD”)**

The Owner and Erie acknowledge the PUD approved concurrent with the preliminary plat. The Owner shall be responsible for recording the PUD prior to the first final plat allowing residential development. In the event there is any discrepancy between the PUD or the Agreement and the Code, the provisions of the Code shall govern. Any provisions that are not specifically addressed in the PUD or the Agreement, shall comply with the Code.

The master Final Plat is in compliance with the PUD and all final plats for each Phase shall be in compliance with the approved PUD.

**C. Overlot Grading**

Overlot grading may be initiated by Owner at such time as Erie approves overlot grading plans by the issuance of grading and storm water permits.

**D. [Reserved].**

**E. Transportation.**

**1. Erie Parkway**

The Owner shall be responsible for the design and construction of Erie Parkway from 119<sup>th</sup> Street to 109<sup>th</sup> Street in accordance with the requirements as set forth herein below in this Paragraph IX. E.1. The Town shall allow the issuance of up to a maximum of 39 residential building permits for Phase 1 of the Development. No further residential building permits shall be issued for any subsequent Phase of the Development until items IX. E.1.a, c. and e. have been constructed and completed. The reimbursement due Owner is outlined in “Exhibit C.”

The Traffic Impact Analysis referenced below is the Flatiron Meadows Traffic Impact Analysis (Revised), dated July 8, 2008, created by LSC Transportation Consultants, Inc. and as amended by the Traffic Analysis Report completed by Aldridge Consultants, Inc. dated February 14, 2014.

- a. Improvements from the existing roundabout at 119<sup>th</sup> Street west to the east side of Meadow View Parkway shall be completed with Phase 1, shall include:
  - i. Detached 8-foot sidewalk on both sides;
  - ii. Minimal left turn lanes at Harvest Point Drive and Meadow View



Owner's obligations for such construction, the Town shall deposit with a title company selected by Owner an amount equal to 100% of the estimated cost to complete the North Portion of Erie Parkway. Such amount shall be evidenced by the final and accepted bid for the work. Such 100% shall be held in escrow pursuant to an escrow agreement reasonably acceptable to the Town, Owner and such third party title company. Such escrow agreement shall provide that Owner may draw upon the escrowed funds from time to time (but no more often than once each calendar month) to pay bills and invoices incurred by Owner in completing the work; provided, however, that no such draws shall be disbursed by such title company until (i) after the Town's approval (not to be unreasonably withheld) of the draw request (which shall be delivered to the Town concurrently with its delivery to title company by Owner) (the "**Draw Request**"); provided, however, if the Town does not disapprove of the Draw Request within ten (10) business days after receipt it shall be deemed approved, and (ii) the Draw Request is accompanied by copies of invoices, receipts, cancelled checks, remittance advices or other such evidence of the costs paid (or to be paid out of escrow) or incurred by Owner.

- e. Improvements from the existing 111<sup>th</sup> Street to 109<sup>th</sup> Street shall be completed with Phase 1, shall include:
  - i. Widening and/or replacement of the two Leyner-Cottonwood Ditch crossing bridges;
  - ii. A roadside ditch and/or stormwater system to convey stormwater to existing stormwater facilities;
  - iii. Re-vegetation of disturbed areas with a Town approved native seed mix;
  - iv. Striping.
- f. Improvements from the existing 111<sup>th</sup> Street to 109<sup>th</sup> Street to be completed prior to the issuance of the 200<sup>th</sup> building permit or as determined by a level of service D, shall include:
  - i. One 12-foot through lane in each direction;
  - ii. 4-foot asphalt shoulder in each direction;
  - iii. Relocation and piping of the Leyner-Cottonwood Ditch to accomplish items f.i and f.ii above;
  - iv. A roadside ditch and/or stormwater system to convey stormwater to existing stormwater facilities;
  - v. Re-vegetation of disturbed areas with a Town approved native seed mix;
  - vi. Striping.

The Town acknowledges that the foregoing subsections (a), (b), (c), (e) and (f) have received Construction Acceptance prior to the Effective Date.

## **2. Flatiron Meadows Boulevard**

The Owner shall be responsible for the design and construction of the full

pavement section, including landscaping and landscaping within the adjacent landscape buffer, of an 80-foot wide collector roadway for Flatiron Meadows Boulevard from Erie Parkway to the southern boundary of the Property.

Flatiron Meadows Boulevard is currently constructed from Erie Parkway to Front Range Road. The remaining unbuilt portion of Flatiron Meadows Boulevard (from Front Range Road to the southern boundary of the property) shall be constructed in its entirety, concurrent with any future phase of the Development lying east of the unbuilt portion of Flatiron Meadows Boulevard. No building permits shall be issued for phases lying east of the unbuilt portion of Flatiron Meadows Boulevard prior to Construction Acceptance of this remaining portion of Flatiron Meadows Boulevard.

### **3. 111<sup>th</sup> Street**

- a. Owner shall be responsible for the design and construction of 111<sup>th</sup> Street from Erie Parkway to the southern end of the property in conjunction with any development west of the Prince Tributary. 111<sup>th</sup> Street will be constructed as a Rural Arterial with the addition of a five foot wide sidewalk on the west side.
- b. The Owner shall be responsible for the design and construction of 12-foot turn lanes at the intersection of 111<sup>th</sup> Street and Arapahoe Avenue as identified by the Traffic Impact Analysis. The Owner shall also be responsible for the design and construction of all modifications to the existing traffic signal (of whatever nature) and all geometric and operational improvements (turning lanes, extensions of lanes, median modifications, etc.) that are caused by the extra traffic generated from Flatiron Meadows development at the intersection of 111<sup>th</sup> Street and Arapahoe Avenue. All improvements to the intersection as required herein shall be constructed prior to the issuance of the 700<sup>th</sup> residential building permit for the Development or when warranted by a traffic study, whichever occurs first.

### **4. Vertical Curb**

The location of Vertical curb shall be shown in each Phased Development Agreement.

## **F. Public and Private Land Provisions.**

### **1. Parks and Open Space**

The park and open space land dedications required in the Code will be met by Owner at subdivision based on the number of units approved with the preliminary plat. All parks and open space costs discussed in this Section shall escalate according to the ENR Construction Cost Index, which escalation shall start upon recordation of this Agreement. Owner shall receive parks and open space credit for lands that comply with the Code.

Public access easements shall be granted on the plat or by separate document at the time of final plat approval for pocket parks and private open space areas (excluding private amenity facilities) that are held in private ownership and used for public purposes.

**a. Community Park.**

The Owner shall provide a fee in-lieu of land dedication for 4.33 acres of Community Park to Erie in compliance with the approved preliminary plat and the Code. The fee in-lieu payment shall be based on the number of residential units permitted by each final plat and shall be paid prior to the recordation of each final plat allowing residential development.

**b. Neighborhood Park.**

The Owner shall be responsible for the dedication of 7.3 acres of land for a Neighborhood Park in the general location as shown on the Preliminary Plat. Erie shall be responsible for approving the amenities/program of facilities within the park. Dedication can occur at the time of the first plat or up to the required time line below for the below stated construction timing.

Prior to the completion of the fourth phase or the 250<sup>th</sup> unit, the Owner shall grade (to the satisfaction of Erie), seed with Town approved seed mix, provide a temporary irrigation system to establish grass per Town Standards, and stub out water and sanitary sewer lines. The Owner shall provide and implement a tree protection plan for the existing mature trees on the site, prior to commencement of overlot grading of the property.

Prior to commencement of construction of the Neighborhood Park, and following notice by the Erie, the Owner shall pay for the following: water tap fees, sewer tap fees, and raw water dedication fees necessary for the construction, maintenance and upkeep of the park. At the same time, the Owner shall also pay all costs associated with the following: final grading; soil preparation; the purchase and installation of grass; the purchase and installation a permanent irrigation system (including electrical facilities for said system); landscaping within all adjacent right-of-ways; and, landscape buffers. All landscaping and landscape buffers shall be in conformance with approved landscape construction plans, the Standards and the Code.

**c. Pocket Parks.**

The Owner shall be responsible for the design, construction and dedication of Pocket Parks on the Property in accordance with the Code. The improvements required for each Pocket Park will be determined at the time of final plat approval for the Phase of the Property in which each Pocket Park is located. The minimum cost of each Pocket Park shall be \$175,000 including all active and passive improvements, landscaping and

hardscape. The minimum cost shall not include land value, design fees, water tap and raw water fees.

The improvements within the Pocket Park(s) located in any one Phase shall be substantially complete prior to the issuance of fifty percent of the building permits in the respective Phase.

Lots abutting Pocket Parks shall not be issued building permits until Erie determines the installation of the Pocket Park improvements has been completed to the Erie's satisfaction.

**d. Open Space (Town Dedicated).**

The Owner shall be responsible for the design, construction and improvements to Town dedicated Open Space, including but not limited to; finished grade, water tap and raw water fees, installation of temporary and/or permanent irrigation systems, landscaping (including replacement trees), a minimum of one pedestrian bridge or low water crossing of the Prince Tributary, construction of the spine trail (8-foot concrete + 4-foot crusher fines) connecting Arapahoe Ridge with the spine trail within the 30-foot landscape buffer along the south side of Erie Parkway, and the construction of other connecting trails.

Construction of the spine trail shall be completed in phases contemporaneously with the installation of the infrastructure for the Phase within which the trail is situated. Owner shall make reasonable efforts to complete construction of the spine trail prior to the issuance of the 350<sup>th</sup> building permit. Owner shall dedicate an easement for the spine trail to the Town upon 30 days notice by the Town. All trails shall be constructed to Town Standards.

Lots backing onto Town dedicated Open Space shall not be issued building permits until improvements, including landscaping have been completed to Erie's satisfaction.

**e. Erie Parkway 30-Foot Landscape Buffer**

The Owner shall install landscaping within the 30-foot landscape buffer in general conformance with the approved Landscape Plan.

Installation of 150 lineal feet of landscaping on the east side of the entrance (the relocated 111<sup>th</sup> Street) to the Development shall be concurrent with the first Phase of development. Installation of the balance of the 30-foot landscape buffer shall be concurrent with the adjacent Phase of development.

**2. Private Amenity Facilities**

Owner may construct one or more private amenity facilities on the Property.

These facilities may include pools, clubhouses, a recreation center, parking lots, landscaping, etc., to be determined at the Owner's discretion at the time of any final plat approval. These facilities and related improvements shall be owned and maintained by the Metro District or a Homeowner's Association ("HOA") and shall not receive any credit towards meeting Erie's dedication requirements for parks and open space.

**a. Improvements to Private Tracts.**

The Owner shall be responsible for all improvements to be located on all privately owned (Metro District/HOA) tracts. Trails and landscaping within these tracts shall be constructed to Erie Standards. Owner shall be responsible for water tap and raw water fees, installation of temporary and/or permanent irrigation systems and landscaping (including replacement trees).

**G. Maintenance of Parks, Trails, Open Space and Landscaping.**

The maintenance of public and private landscape, park, open space, trail, and irrigation improvement areas that will be maintained by Erie and/or the Metro District/HOA shall be determined with each Phase and be described in each Phase Development Agreement.

**H. Fire Protection District Tract.**

The fire facility tract shall be deeded to the Mountain View Fire Protection District, in a form acceptable to the district and concurrent with the recordation of the final plat in which the fire facility tract is located.

The Owner shall overlot grade, re-vegetate with native grasses, and stub out water and sanitary sewer service lines to said tract. The Owner shall be responsible for maintenance of said tract until ownership has been transferred to the fire district.

**I. School District Tract.**

Except as otherwise agreed to between the Owner and the Boulder Valley School District, RE-2, the Owner acknowledges and agrees to comply with the Intergovernmental Agreement dated June 28, 2011 between Erie and the Boulder Valley School District, RE-2, as the same may be amended from time to time.

1. The school tract shall be deeded to the Boulder Valley School District, RE-2, in a form acceptable to the district and concurrent with the recordation of the final plat in which the school tract is located. The Owner shall overlot grade, re-vegetate with native grasses, stub out water and sanitary sewer service lines, and provide the raw water fees for the school as approved by the Public Works Director.
2. The Owner shall be responsible for maintenance of said tract until ownership has been deeded to the school district.

**J. Maintenance of Property.**

The Owner shall be responsible for erosion control and vegetation and weed management on the Property.

**K. Fencing and Screening.**

If fencing is installed on any single-family residential lots or multi-family tracts adjacent to parks and open spaces, the fencing shall be limited to low (4 foot high) open (50 percent) fencing. The finished side of the fence shall face the park and/or open space.

**L. Sanitary Sewer.**

**1. West Side Interceptor**

Owner understands that the West Side Interceptor constructed by Erie is due cost recovery at a rate of \$1,500 for each Single Family Equivalent (“SFE”). Owner shall reimburse Erie prior to recordation of a final plat for each Phase allowing single family residential Development. Reimbursement for the multi-family tracts shall be collected prior to Site Plan approvals. The amount for the school tract and fire protection district tract shall be collected when a water and sewer tap application is made. The reimbursement is outlined in “Exhibit C.”

**2. Extension to adjacent properties**

The design of the onsite sanitary sewer system will take into account all adjacent properties. The sanitary sewer mains shall be extended to insure that development of adjacent properties can connect to the sanitary sewer system. In the event the sewer mains within the development must be oversized (greater than 8-inches) to account for the development on adjacent properties, Erie will assist with cost recovery when those other properties develop. Erie has no obligation to reimburse Owner for oversizing sanitary sewer lines.

**3. Onsite Sanitary Sewer System**

The onsite sanitary sewer system will be designed to provide sanitary sewer to all lots and tracts within the development. The phasing of construction shall insure that each development Phase has sanitary sewer.

**4. Lift Station**

The Owner shall be responsible for the demolition and removal of the Town owned lift station located adjacent to Erie Parkway. The property on which the lift station is located shall be incorporated into the adjacent right-of-way, 30-foot landscape buffer and open space area to the satisfaction of Erie. Erie shall provide the CDPHE permit. Owner shall provide all other permits, a Phase I environmental study, an engineering report and costs as may be required for demolition and removal of the lift station. Owner shall demolish and remove the lift station and reclaim the site. Owner shall not be deemed to have assumed any environmental risk for the demolition, disposal and removal of the lift station, unless due to the acts of Owner.

**5. North Water Reclamation Facility Interceptor**

Owner understands that the North Water Reclamation Facility Interceptor constructed by Erie is due cost recovery at a rate of \$410.00 for each Single Family Equivalent (“SFE”). Owner shall reimburse Erie prior to recordation of a final plat for each Phase allowing single family residential Development. Reimbursement for the multi-family tracts shall be collected prior to Site Plan approvals. The amount for the school tract and fire protection district tract shall be collected when a water and sewer tap application is made. The reimbursement is outlined in “Exhibit C.”

**M. Utilities.**

The Owner shall be responsible for placing all existing and proposed utilities on or adjacent to the Property underground.

**N. Drainage Improvements.**

**1. Prince Lake # 2**

Only to the extent that the Development has a direct impact on the following shall each of the following be completed (as no development of adjacent or other lands shall require the following to be completed). The Drainage Report submitted with the Preliminary Plat identified the need for improvements to Prince Lake #2 to insure the safety of the Development due to the cascading effect of potential upstream dam failures. This reservoir has a jurisdictional dam which requires the State Engineer’s Office review and approval prior to any building permits being issued within the dam breach limits and improvements made to the reservoir. Prince Lake #2 is owned and operated by Boulder County Open Space. Erie, Urban Drainage and Flood Control District (“UDFCD”), and Boulder County Open Space have been working on an Intergovernmental Agreement to allow improvements to be made to Prince Lake #2 to incorporate the needs of the Development and to include storm water detention. This Intergovernmental Agreement is contingent upon Owner funding the improvements, to the extent required by the State Engineer’s Office in any update of the Drainage Report. If required, these improvements will be required with the Phase that abuts and is effected by the upstream dam. Owner is responsible for the cost of the improvements. The construction of the improvements will be contracted through UDFCD based upon an agreement between Erie and UDFCD. The Owner will be notified prior to advertising for construction bids with an estimated engineers cost estimate. Owner will provide funding for the entire engineering and construction cost, including testing and engineering services during construction. Notwithstanding anything to the contrary set forth in this paragraph, Erie shall be satisfied with the improvement plans for Prince Lake #2 upon approval of such plans by the State Engineer’s Office and/or UDFCD.

**2. Prince Tributary Improvements**

Prince Tributary is within a regulated flood plain, and is identified as a regional drainage channel on Erie's Outfall Systems Plan. Owner is responsible for improvements to the channel which passes historic flows through the Property. The channel must be constructed as a natural channel with drop structures to control erosion that have a natural appearance. The channel must meet both UDFCD requirements to qualify for maintenance eligibility and Federal Emergency Management Agency ("FEMA") requirements. A Conditional Letter of Map Revision ("CLOMR") has been approved by FEMA. After improvements are complete a Letter of Map Revision ("LOMR") must be approved by FEMA prior to any lots being final platted that may be impacted by the existing flood plain, however, Erie will allow infrastructure improvements within the CLOMR area at the owners risk.

### **3. Regional Detention Ponds**

There are two regional detention ponds identified in Erie's outfall Systems Plan within the Property, one on the north end of the site and the other approximately in the middle of the site, east of the Prince Tributary. The northern pond only serves the site, and is solely the responsibility of the Owner; the one near the middle of the site will also serve a drainage basin including a portion of the proposed Rex Ranch subdivision and existing development in unincorporated Boulder County. Cost recovery for this pond will be based on the proportional area contributing from the Property and the proposed Rex Ranch subdivision, the area tributary from existing unincorporated Boulder County development will not be used for cost recovery calculations. Cost recovery from the proposed Rex Ranch subdivision will be incorporated into a final plat development agreement. The reimbursement is outlined in "Exhibit C."

Both ponds must be designed and constructed in accordance with Erie's Outfall Systems Plan and meet UDFCD requirements to qualify for maintenance eligibility. Any additional maintenance required shall be provided by the Owner. The size and number of ponds may be adjusted with Erie and UDFCD approval.

## **O. Water.**

### **1. Onsite Water Distribution System**

Based on the water distribution analysis for the Property, the Owner is responsible for constructing the water distribution system for the development to insure that fire flows and peak water demand is met. The construction of the system will be phased to insure that the system is looped during all Phases of Development.

### **2. New Offsite Improvements**

Offsite improvements required to serve the development will be the responsibility of the Owner. In the event other developments benefit from the offsite improvements, Erie will assist with cost recovery when such water

lines are oversized (greater than 12-inches) when other properties benefiting from the oversized lines develop. Erie has no obligation to reimburse Owner for oversizing water lines.

**3. Existing Offsite Improvements**

Owner shall reimburse Erie \$51,274.87 for the construction of the existing 12-inch waterline within Erie Parkway. Reimbursement shall be made prior to the recordation of the second final plat allowing residential development. The reimbursement is outlined in "Exhibit C." The Town acknowledges that such \$51,274.87 has been paid prior to the Effective Date.

**P. Entry Monuments.**

Owner shall be allowed to construct entry monuments in accordance with Title 10 of the Code.

**Q. Oil and Gas Well Sites.**

All existing oil and gas well sites/facilities and all future oil and gas well sites/facilities on the Property shall meet access requirements, be screened and integrated into open space and park areas within the Property in accordance with the Code. Per the approved Preliminary Plat, the setback to any single-family residential lot has been reduced to 250-feet from proposed oil/gas wells and their associated production facilities.

**R. Oil and Gas Disclosure**

The Oil and Gas Well Disclosure statement "Exhibit E" shall be signed by individual lot owners with the execution of the sales contract for the property.

**S. Avigation Easements.**

Owner agrees to provide Erie with an executed avigation easement, "Exhibit F," prior to the Mayor's signature to this Agreement, which provides Erie an easement for the operation of aircraft to and from the Erie Municipal Airport, and which provides the residents of Parkland Estates, a Weld County Subdivision, an easement for the operation of aircraft to and from the private landing strip in Parkland Estates within the airspace of the Owner's Property.

**T. Northern Colorado Water Conservancy District Water Transmission Line.**

The existing Northern Colorado Water Conservancy District Water transmission line that crosses the site may be relocated, and placed into a new easement, and the existing 80-foot wide easement at Rec. # 1468332 shall be vacated, prior to recordation of any final plat affected by the line relocation.

Any relocation or work to the transmission line or within the existing easement shall require approval by the Northern Colorado Water Conservancy District prior to any final plat approval involving the relocation of the transmission line and/or easement.

**U. Leyner-Cottonwood Ditch.**

1. The Owner is responsible for obtaining necessary approvals and/or authorizations from the Leyner-Cottonwood Consolidated Ditch Company prior to working in and adjacent to said ditch.
2. The Owner shall not utilize the Leyner-Cottonwood Ditch for waste and/or storm water conveyance purposes.
3. Preservation of trees identified along the Leyner-Cottonwood Ditch shall be reserved to the maximum extent practicable.
4. The Owner shall be responsible for maintaining all lateral connections from the Leyner-Cottonwood Ditch improvements associated with the construction of Erie Parkway improvements.

**X. MISCELLANEOUS TERMS**

**A. Vested Rights.**

Erie agrees that the Final Subdivision Plat for the Flatiron Meadows 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 twelve (12) 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 master 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 either party fails to fulfill the terms and conditions of this Agreement, the other party may declare such party in default. Other than a default by the Owner under Section VI of this Agreement (or the “Improvement Guarantee” section of any subsequent Phase Development Agreement) or any other monetary, security or surety default by Owner, in the event of a non- monetary, security or surety default by either party under this Agreement the non-defaulting party shall deliver written notice to the defaulting party of such default, and the defaulting party shall have ten (10) days from and after receipt of such notice to cure such default. If such default is not of a type which can be cured within such ten (10) day period and the defaulting party gives written notice to the non-defaulting party within such ten (10) day period that it is actively and diligently pursuing such cure, the defaulting party shall have a reasonable period of time given the nature of the default following the end of such ten (10) day period to cure such default,

provided that such defaulting party is at all times within such additional time period actively and diligently pursuing such cure.

In the case notice has already been given by Erie pursuant to Section V.A., Section V.C., Section VIII.A., or as required by any other Section of this Agreement, the ten (10) day notice required in this Section X.C. shall be waived and no further notice shall be required.

If any default under this Agreement is not cured as described above or in Section V.A., Section V.C., or Section VIII.A., or pursuant to any other provision, the non-defaulting party shall have the right to enforce the defaulting party's obligations hereunder by an action for any equitable remedy, including injunction or specific performance, or an action to recover damages. Each remedy provided for in this Agreement is cumulative and is in addition to every other remedy provided for in this Agreement.

In the event of a default by Owner in relation to any Phase, Erie may also withhold any additional building permits, certificates of occupancy, or provision of new utilities fixtures or services within such Phase until the completion of the Public Improvements and Common Facilities within such Phase or the default has been cured by Owner. Any costs incurred by Erie, including, but not limited to, 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.

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 (or the "Improvement Guarantee" section of any subsequent Phase Development Agreement), as provided for therein, 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, require and furnish to Erie proof thereof that all employees and contractors engaged in the construction of improvements carry required Workman's Compensation Insurance and Public Liability Insurance, and Owner 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 (collectively, the “Owner Parties”), and/or suit, action, or claim resulting from 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 its employees, agents, consultants, contractors, and subcontractors, 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 property 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. Town Consultants.**

Erie may engage consultants as reasonably required to timely process development applications for the Development, including but not limited to review of plans and inspections. The Owner shall reimburse Erie for these expenses in a timely manner.

**G. 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.

**H. 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 (provided, however, notwithstanding the foregoing, no homeowner that takes title to a residential lot or residential home shall be liable for any obligations of Owner under this Agreement). Owner shall not be released from its obligations hereunder until written notice to Erie 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. I. 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.

**I. Assignment, Delegation and Notice.**

Owner shall provide to Erie, for consent, written notice of: 1) any proposed transfer of title to all or any portion of the Development, 2) arrangements for any

delegation or transfer of the Master Development Agreement obligations hereunder to any successor, and 3) successor's written acceptance of such Master Development Agreement obligations. Notwithstanding the foregoing, 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 Second Amended and Restated Master Development Agreement and the Phase Development Agreement with respect to each such Phase in place of Owner's guaranties, security and sureties and purchaser expressly agrees to assume all obligations under this Second Amended and Restated Master Development Agreement and the Phase Development Agreement with respect to such Phase (provided, however, notwithstanding the foregoing, no homeowner that takes title to a residential lot or residential home shall be liable for any obligations of Owner under this Agreement). Until the Town provides its written consent to assignment, Owner and Owner's successors and assigns shall be jointly and severally liable for the assigned 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 obligations under this Master Development Agreement or any constituent element hereof 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.

**J. 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.

**K. 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  
645 Holbrook Street  
P.O. Box 750  
Erie, Colorado 80516-0750

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

Owner:

Bayou Development Corp.  
H. Hunter White  
38 St. Lucia Avenue  
Santa Rosa, FL 32459

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.

**L. 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.

**M. 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.

**N. Previous Agreements.**

All previous written agreements between the parties, their successors, and assigns, including, but not limited to, any Annexation, Pre-Annexation Agreement, shall remain in full force and effect and shall control this Development, but excepting therefrom the First Amended and Restated Master Development Agreement which shall be null and void upon the Effective Date of this Second Amended and Restated Master Development Agreement. If any prior agreements conflict with this Agreement, then this Agreement controls.

**O. Title and Authority.**

Owner warrants to Erie that Bayou Development Corporation, is the record owner for the property within the Development. The undersigned further warrant to have full power and authority to enter into this Agreement.

**P. 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.

**Q. Attorney Fees.**

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.

**R. Agreement Status After Final Acceptance.**

Upon Final Acceptance by Erie of all improvements, issuance of all building permits and certificates of occupancy for the approved units authorized under the PUD, payment of all reimbursements due to Owner, release of all sureties and guaranties, completion of all Phases of the Development 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.

**S. Formation of Special District.**

Erie acknowledges the formation of the Flatiron Meadows Metropolitan District (the "District") to facilitate financing and development of the infrastructure improvements and Public Improvements for the Development, including, without limitation, development of the road and utility improvements contemplated by the development approvals. Upon Erie's approval of the master Final Plat for the Development and this Agreement, the first of the conditions precedent described in the Service Plan for the District approved by the Town on September 12, 2006, will be satisfied.

**T. Binding Obligation.**

This Agreement constitutes a valid and binding obligation of the Owner, enforceable according to its terms, except to the extent limited by bankruptcy, insolvency and other laws of general application affecting creditor rights.

**U. Recitals; Exhibits.**

All exhibits referred to in this Agreement are incorporated into the Agreement and are made a part hereof by this reference. The recitals set forth at the beginning of the Agreement are true and correct and are hereby incorporated into the Agreement as if fully set forth herein.

**XI. TERMINATION OF FIRST AMENDED AND RESTATED MASTER DEVELOPMENT AGREEMENT DATED MARCH 28, 2012.**

This Second Amended and Restated Master Development Agreement shall replace the First Amended and Restated Master Development Agreement, dated March 28, 2012, and the First Amended and Restated Master Development Agreement shall be and hereby is declared null and void and of no further force or effect as of the Effective Date of this Second Amended and Restated Master Development Agreement.

Any references to the Original Master Development Agreement and/or First Amended and Restated Master Development Agreement contained within any Phase Development Agreement shall now refer to the Second Amended and Restated Development Agreement.

[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

OWNER:

Bayou Development Corporation, a Colorado corporation

By: \_\_\_\_\_  
Tina Harris, Mayor

By: \_\_\_\_\_  
Hunter H. White III

ATTEST:

By: \_\_\_\_\_  
Nancy J. Parker, Town Clerk

STATE OF COLORADO    )  
                                  ) SS.  
COUNTY OF                )

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_ as \_\_\_\_\_ of Bayou Development Corporation.

Witness my hand and official seal.  
My Commission expires \_\_\_\_\_.

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

## **EXHIBITS LIST**

EXHIBIT A – MASTER FINAL PLAT

EXHIBIT A-1 – (Exhibit left intentionally blank as no Exhibit A-1 is provided with this agreement)

EXHIBIT A-2 – PUBLIC LAND DEDICATION SUMMARY

EXHIBIT B – PUBLIC IMPROVEMENT SCHEDULE

EXHIBIT B-1 – LETTER OF CREDIT FORM

EXHIBIT C – PUBLIC IMPROVEMENT REIMBURSEMENT SCHEDULE

EXHIBIT D – PHASING PLAN

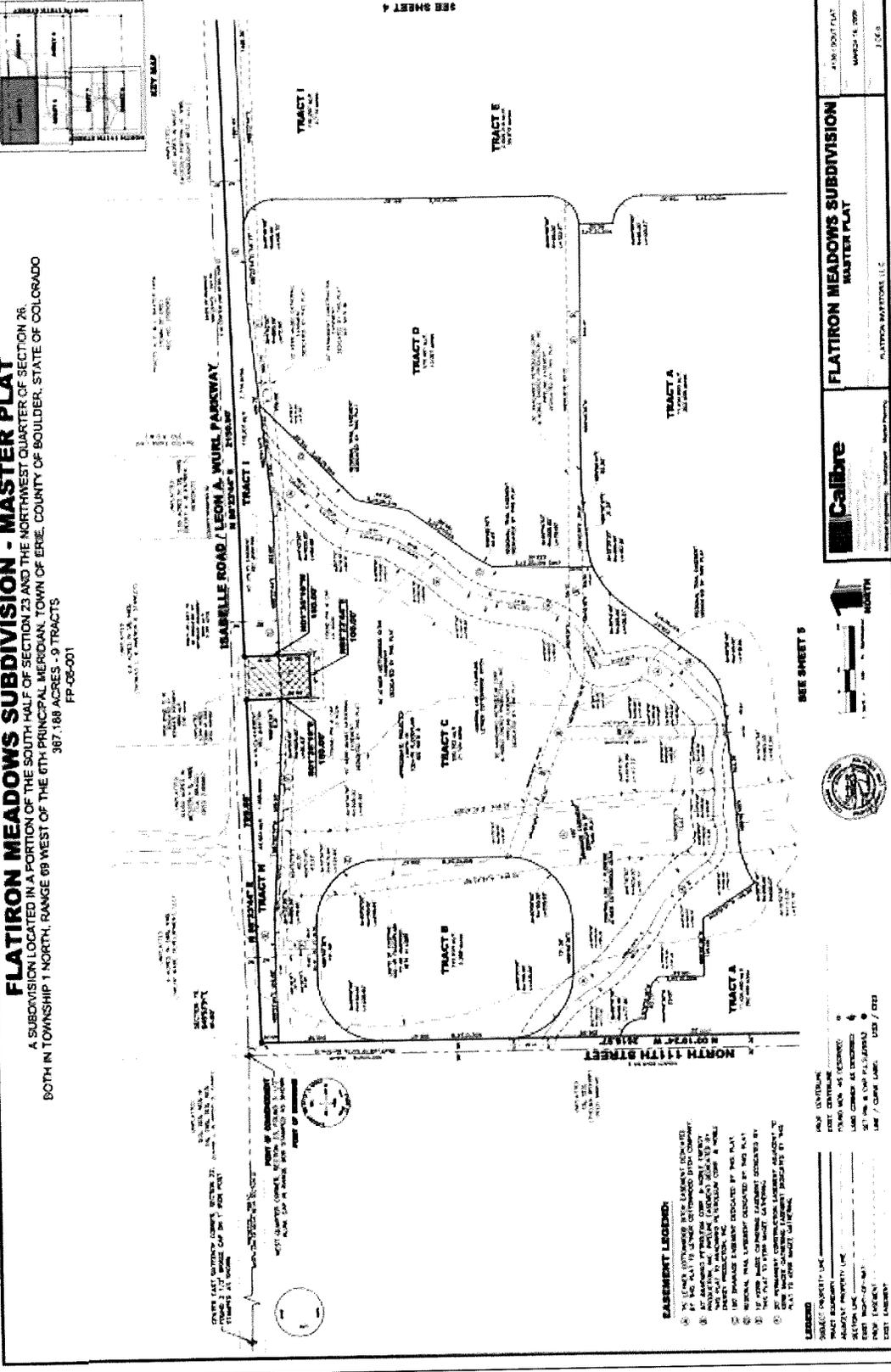
EXHIBIT E – OIL AND GAS DISCLOSURE

EXHIBIT F – AVIGATION EASEMENT

EXHIBIT G – ERIE PARKWAY CONSTRUCTION DOCUMENTS

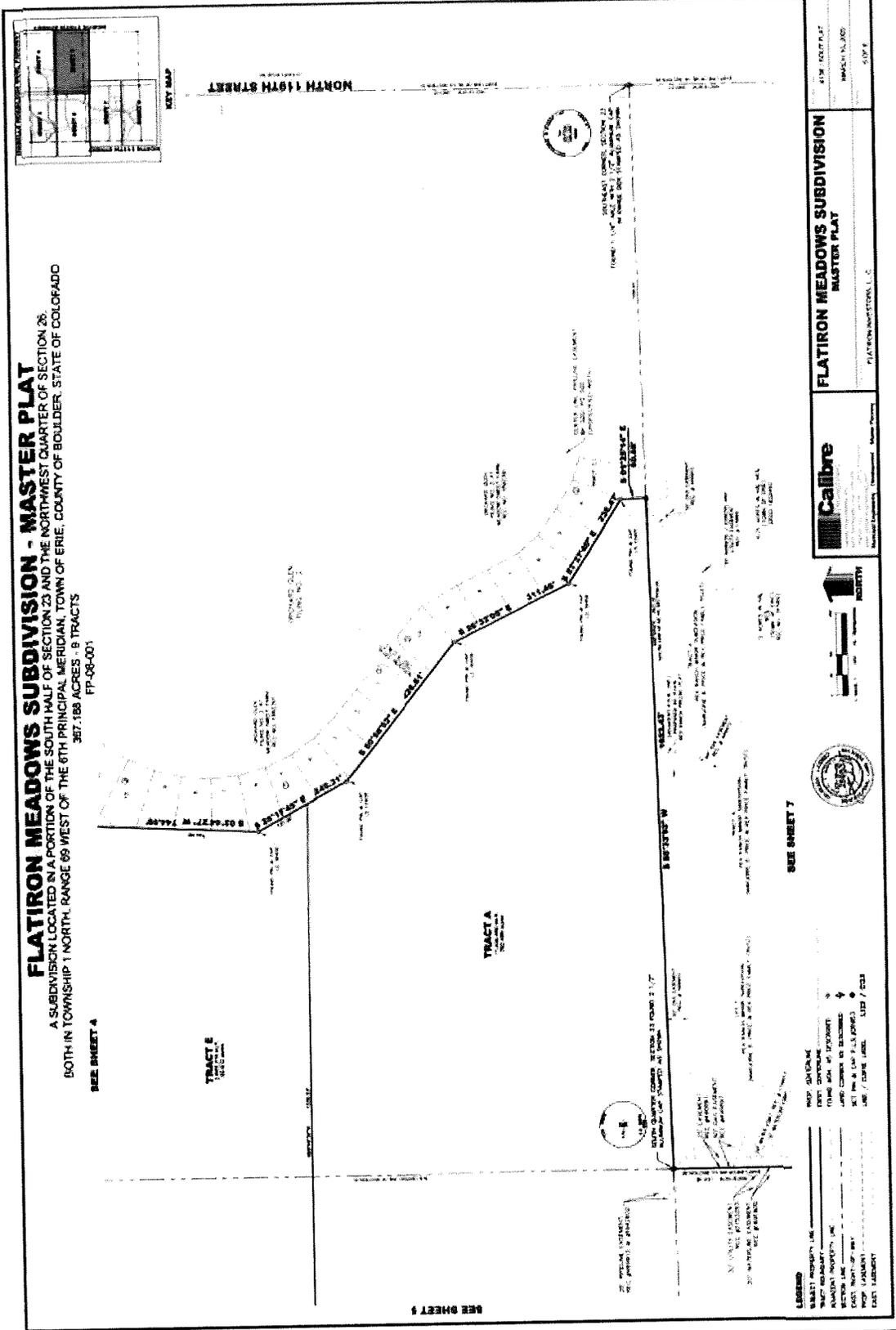














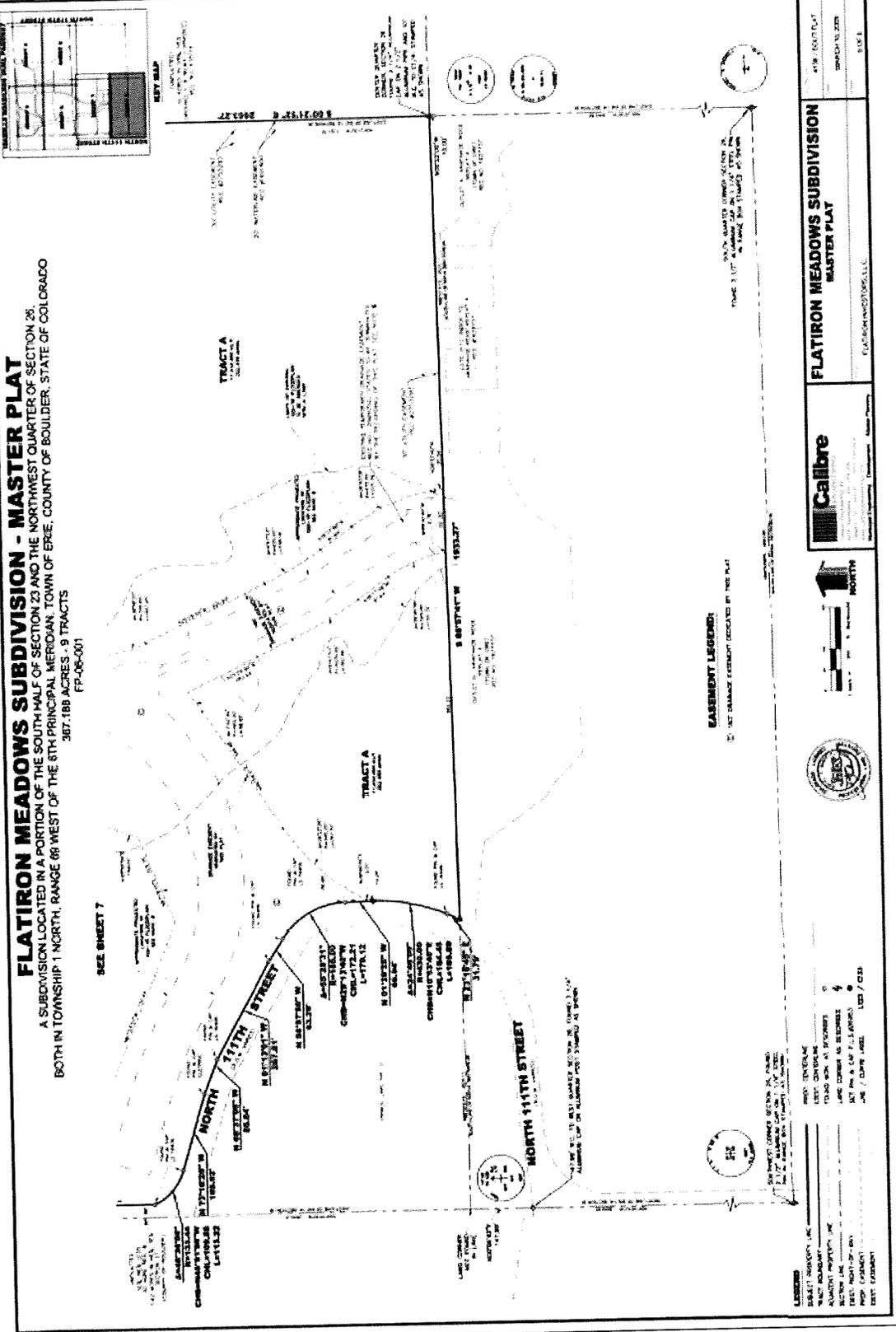


EXHIBIT A-1

(Exhibit left intentionally blank as no Exhibit A-1 is provided with this agreement)

EXHIBIT A-2  
PUBLIC LAND DEDICATION SUMMARY

(Public Land Dedications per the Flatiron Meadows Master Plat)

EXHIBIT B  
PUBLIC IMPROVEMENT SCHEDULE

(Page left intentionally blank as no public improvements are approved with this agreement)

EXHIBIT B-1  
LETTER OF CREDIT FORM  
LETTER OF CREDIT

**INSERT PROPERTY IDENTIFICATION**  
**(IF FOR 2 YEAR WARRANTY ADD APPROPRIATE ITEM: LANDSCAPING OR**  
**HARDSCAPE OR TOTAL SUBDIVISION IMPROVEMENTS)**

Town of Erie  
645 Holbrook Street  
P.O. Box 750  
Erie, CO 80516

No.  
Issue Date:  
Expiration:

Gentlemen:

We hereby authorize you to draw on us for the account of \_\_\_\_\_ up to an aggregate amount of \$\_\_\_\_\_ available by your drafts at sight accompanied by your signed statement that the above is drawn for payment of public improvements pursuant to: Town of Erie Development Agreement dated \_\_\_\_\_, entered into between the Town of Erie, Colorado and \_\_\_\_\_ (Include name of subdivision and filing number [if applicable]).

Partial Drawings are permitted. In the event of a partial drawing, the original Letter of Credit will be returned to the Town of Erie by the issuing Bank after endorsement.

Drafts must be drawn and negotiated on or before \_\_\_\_\_ (expiration date). Each draft presented under this letter of credit must state that it is drawn under \_\_\_\_\_ (Title of Bank and identification of the Letter of Credit) and the amount endorsed on this letter of credit.

We hereby agree with the drawers, endorsers and bona fide holders of all drafts drawn under and in compliance with the terms of this Letter of Credit that such drafts will be duly honored upon the presentation to the drawee.

This Letter of Credit shall be automatically extended without amendment for additional periods of one year from the present or any future expiration date hereof unless at least sixty (60) days prior to any such date we shall notify you in writing by overnight courier service that we elect not to so renew this Letter of Credit.

Except as expressly provided herein, this Letter of Credit is subject governed by the Uniform Commercial Code of the State of Colorado.

Yours very truly,

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

Title: \_\_\_\_\_

Attest:

EXHIBIT C  
PUBLIC IMPROVEMENT REIMBURSEMENT SCHEDULE

Reimbursements due Erie:

1. The Town shall collect from the Owner, prior to the recordation of the second final plat allowing residential development, Fifty One Thousand Two Hundred Seventy Four and 87/100 Dollars (\$51,274.87) as reimbursement for the construction of the existing 12-inch waterline within Erie Parkway.
2. The Town shall collect from the Owner One Thousand Five Hundred Dollars (\$1,500) for each Single Family Equivalent as reimbursement for the Town constructed West Side Interceptor. Reimbursement shall be collected before recordation of a final plat for each Phase allowing single family residential Development. Reimbursement for the multi-family tracts shall be collected prior to Site Plan approvals. The amount for the school tract and fire protection district tract shall be collected when a water and sewer tap application is made. Owner (Fire and School District) shall be responsible for reimbursements.
3. The Town shall collect from the Owner Four Hundred and Ten Dollars (\$410.00) for each Single Family Equivalent as reimbursement for the North Water Reclamation Facility Interceptor. Reimbursement shall be collected before recordation of a final plat for each Phase allowing single family residential Development. Reimbursement for the multi-family tracts shall be collected prior to Site Plan approvals. The amount for the school tract and fire protection district tract shall be collected when a water and sewer tap application is made. Owner (Fire and School District) shall be responsible for reimbursements.

Reimbursements due Owner:

1. If any, reimbursement shall be determined with each Phase of the Development and be incorporated into each Phase Development Agreement.
2. Based on the June 2008 Master Utility Report for Flatiron Meadows there will be a total of 697 single family units contributing to the sanitary sewer when it changes size from an 8" to a 10" line. Of the 697 units, 122 are from off-site upstream properties. Owner should expect a maximum reimbursement of 17.5% for the cost of constructing the 10-inch line. This should be updated and included in the development agreement that constructs this line.
3. The Town will reimburse the Owner up to \$221,091 for Erie improvements from Meadow View Parkway to 119<sup>th</sup> Street, up to \$759,623 for improvements of Erie from 111<sup>th</sup> Street to 109<sup>th</sup> Street and up to \$140,000 for a traffic signal on Erie if warranted and constructed. The Town of Erie will pay the Owner on the following schedule up to \$670,008 at the end of year 1 after construction acceptance of the improvements, and up

to \$450,707 in year 9. The Owner will provide detailed invoices to the Town on work performed.

4. Owner may be reimbursed the proportional costs of drainage improvements from the benefited Rex Ranch property pursuant with Section IX.N.3 of this Agreement.
5. The Town will reimburse the Owner up to a maximum of \$1,400,000.00 for the North Portion of Erie Parkway improvements as defined in Section IX.E.1.d of this Agreement. Said reimbursement shall cover construction costs through Final Acceptance.

Reimbursements due others:

None.

EXHIBIT D  
PHASING PLAN

This exhibit is intentionally left blank as there is no phasing plan.

EXHIBIT E

**OIL AND GAS DISCLOSURE**

The undersigned, being the purchasers identified in that certain \_\_\_\_\_ (“Purchase Contract”) dated \_\_\_\_\_, 20\_\_, between \_\_\_\_\_, a \_\_\_\_\_, as seller, and the undersigned, as purchaser, with respect to Block \_\_\_\_, Lot \_\_\_\_, Flatiron Meadows Filing No. \_\_\_\_, Town of Erie, County of Boulder, State of Colorado (the “Lot”) do hereby acknowledge and agree as follows, which acknowledgments and agreements are given in consideration of and as a condition to Seller’s agreement to sell to the undersigned the Lot and the home to be constructed thereon:

The undersigned hereby acknowledges the current existence of oil and gas wells and related well facilities (and the possibility of additional future wells and facilities) located within the real property encompassed by Flatiron Meadows plat(s) (“Plat”). The locations of the current and possible future oil and gas wells and related well facilities are identified on Plat or Plats of the Community, recorded \_\_\_\_\_, 20\_\_, under Reception No. \_\_\_\_\_, as amended from time to time. In addition to the foregoing, other oil and gas interests affecting the property may exist which may or may not be recorded in the real property records. The oil and gas leases and other interests generally permit certain surface activity on the premises which activity may include drill sites, gathering pipelines, production sites and facilities, and access roads, all as further described in the oil and gas leases and other documents affecting the premises.

EXHIBIT F

**GRANT OF PERMANENT AVIGATION EASEMENT AGREEMENT**

**THIS GRANT OF PERMANENT AVIGATION EASEMENT AGREEMENT** is made and entered into this \_\_\_day of \_\_\_\_\_, 20\_\_\_, by and between **Bayou Development Corporation, a Colorado corporation**, whose address is, 38 St. Lucia Avenue, Santa Rosa, FL 32459, 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.

**GRANTOR:**

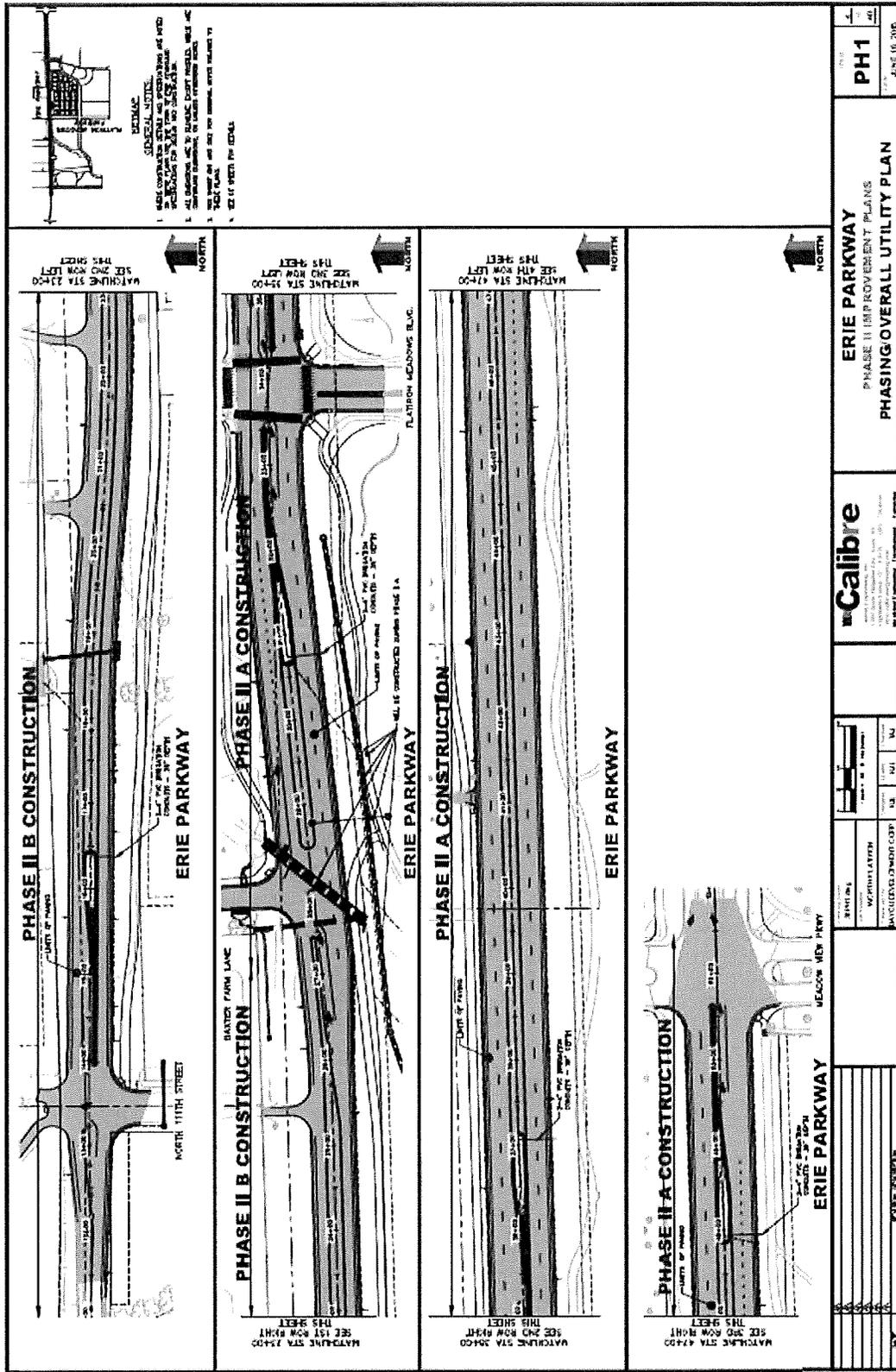
\_\_\_\_\_

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

(Name) \_\_\_\_\_



**EXHIBIT G**  
**ERIE PARKWAY CONSTRUCTION DOCUMENTS**



**TOWN OF ERIE**  
**BOARD OF TRUSTEE AGENDA ITEM**  
**Board Meeting Date: September 8, 2015**

---

**SUBJECT:** **ORDINANCES**  
**Consideration of Ordinance 21-2015:** An Ordinance Of The Town Of Erie, Colorado, Repealing The June 2015 Title 10 Unified Development Code; Adopting By Reference the August 2015 Title 10 Unified Development Code; Providing For The Effective Date Of This Ordinance; And, Setting Forth Details in Relation Thereto. Second Reading

**PURPOSE:** Amendments to Title 10 of the Municipal Code.

**CODE:** Erie Municipal Code, Title 10

**DEPARTMENT:** Community Development

**PRESENTER:** Barbara Green, Board of Trustees Special Counsel

---

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

---

**STAFF**  
**RECOMMENDATION:** n/a

**PLANNING**  
**COMMISSION**  
**RECOMMENDATION:** On August 19, 2015, the Planning Commission considered the proposed amendments and recommended (5-1) that the proposed Code Amendments be approved by the Board of Trustees by approving Resolution P15-25.

---

**SUMMARY AND BACKGROUND OF SUBJECT MATTER**

Per Board of Trustees direction, the Town’s Special Counsel is proposing an amendment to Title 10 and has provided the proposed amendment attached to Ordinance 21-2015 as Exhibit A.

Barbara Green of Sullivan Green Seavy will present the proposed Code amendments to the Board of Trustees and be available to answer questions.

---

**STAFF REVIEW AND ANALYSIS**

---

**Amendment Approval Criteria:**

The application to amend Title 10 of the Municipal Code of the Town of Erie, Colorado may be approved if the Board of Trustees finds that the approval criteria of Chapter 7.21.C.9 have been met:

- a. The proposed amendment will promote the public health, safety, and general welfare;
- b. The proposed amendment is consistent with the Town’s Comprehensive Master Plan and the stated purposes of the Code; and

- c. The proposed amendment is necessary of desirable because of changing conditions, new planning concepts, or other social or economic conditions.

**Public Notice:**

The required public notice for the Title 10 Amendment is in compliance with Section 7.2.F of the Code and C.R.S. 31-16-203 (which requires two published notices when a Title of a Code is adopted by reference); with published notice in the Colorado Hometown Weekly on August 5, 2015 and August 12, 2015.

Mailed and posted notice is not required for amendments to Title 10.

---

**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. Ordinance 21-2015

# ATTACHMENT A

**ORDINANCE NO. 21-2015**  
**Series 2015**

**AN ORDINANCE OF THE TOWN OF ERIE, COLORADO, REPEALING THE JUNE 2015 TITLE 10 UNIFIED DEVELOPMENT CODE; ADOPTING BY REFERENCE THE AUGUST 2015 TITLE 10 UNIFIED DEVELOPMENT CODE; PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE; AND, SETTING FORTH DETAILS IN RELATION THERETO.**

**WHEREAS**, It has been determined by the Board of Trustees of the Town of Erie, Colorado, that it is necessary to repeal the June 2015 Title 10 Unified Development Code and to adopt, by reference, the “August 2015 Title 10 Unified Development Code,” published by the Town of Erie in August, 2015, setting forth the zoning regulations, development code and design guidelines of the Town of Erie; and,

**WHEREAS**, the Colorado state statutes provide that the August 2015 Title 10 Unified Development Code as set forth above may be adopted by reference; and,

**WHEREAS**, after the introduction of this adopting Ordinance a public hearing was scheduled and held following notice of the public hearing published twice, once as least fifteen (15) days preceding the public hearing and once at least eight (8) days preceding the public hearing, as required by Colorado statute; and,

**WHEREAS**, three (3) copies of the August 2015 Title 10 Unified Development Code were and are on file in the Town of Erie Clerk’s office; and,

**WHEREAS**, for reference and review, the specific changes to the June 2015 Title 10 Unified Development Code made by this Ordinance are set forth in “Exhibit A,” attached hereto and incorporated herein by this reference; and,

**WHEREAS**, all penalty clauses, if any, contained in the August 2015 Title 10 Unified Development Code are set forth in full herein and shall be published along with this adopting Ordinance in full upon adoption; and,

**WHEREAS**, adoption by the Town of Erie, by reference, of the August 2015 Title 10 Unified Development Code it is deemed to be in the best interest of the residents of the Town of Erie.

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

Section 1. The June 2015 Title 10 Unified Development Code is hereby repealed in its entirety.

Section 2. The August 2015 Title 10 Unified Development Code, three (3) copies of which are on file in the Town of Erie Clerk's office, is hereby adopted by reference.

Section 3. The August 2015 Title 10 Unified Development Code adopted herein by reference contains the following penalty clauses:

10-10-4: REMEDIES AND PENALTIES:

The community development director shall have the following remedies and powers to enforce this title:

A. Civil Remedies And Enforcement Powers:

1. Deny/Withhold Entitlements: The community development director may deny or withhold all entitlements, including certificates of occupancy, or other forms of authorization to use or develop any land, structure, or improvements, until an alleged violation, associated civil penalty, and/or lien resulting from a previous final order related to such property, use, or development is corrected. This subsection A1 shall apply whether or not the current owner or applicant for the permit or other approval is responsible for the violation.
2. Revoke Entitlements:
  - a. Any entitlement or other form of authorization required under this title may be revoked when the community development director determines that:
    - (1) There is a departure from the approved plans, specifications, limitations, or conditions as required under the entitlement;
    - (2) The entitlement was procured by false representation;
    - (3) The entitlement was issued in error; or
    - (4) There is a violation of any provision of this title.
  - b. Written notice of revocation shall be served upon the property owner, agent, applicant, or other person to whom the entitlement was issued, or such notice may be posted in a prominent location at the place of violation. No work or construction shall proceed after service of the revocation notice. An entitlement shall only be revoked by way of a procedure that is equivalent (in terms of due process) to the proceeding that originally granted the entitlement.
3. Stop Work Orders:
  - a. Whenever any building or structure or site or part thereof is being demolished, constructed, reconstructed, altered, or repaired in a hazardous manner, in substantial violation of any state or local building law, or in a manner that endangers life or property, the community development director has the authority to issue a stop work order for the specific part of the work that is in violation or presents the hazard.
  - b. With or without revoking permits, the community development director may issue an order to stop work on any property on which there is an uncorrected

violation of either a provision of this title or a provision of an entitlement or other form of authorization issued under this title.

- c. The stop work order shall be in writing and posted at the site of the work, and shall specify the provisions of this title or other law allegedly in violation. After any such order has been posted, no work shall proceed on any building, other structure, or tract of land covered by such order, except to correct such violation or comply with the order.
  - d. Once conditions for resumption of the work have been met, the community development director shall rescind the stop work order.
4. Civil Penalties: Violation of this title may be punishable through imposition of a civil penalty as set forth in this municipal code.
  5. Injunctive Relief: The community development director may seek injunctive relief or other appropriate relief in district court or other court of competent jurisdiction against any person who fails to comply with any provision of this title or any requirement or condition imposed pursuant to this title. In any court proceedings in which the town seeks a preliminary injunction, it shall be presumed that a violation of this title is a real, immediate, and irreparable injury to the public; that the public will be irreparably injured by the continuation of the violation unless the violation is enjoined; and that there is no plain and adequate remedy at law for the subject violation of this title.
  6. Abatement: The town may abate the violation pursuant to this subsection A6:
    - a. Before action is taken to abate a violation, a final warning notice shall be posted on the property and served personally or by certified mail, with return receipt required, to the owner of record of the property.
    - b. Unless this notice is appealed, pursuant to section [10-7-22](#) of this title, to the board of adjustment within ten (10) days of the posting of the final warning, the community development director shall proceed to abate the violation.
    - c. The community development director shall keep an account of the cost, including incidental expenses, incurred by the town in the abatement of any violation. The community development director shall forward a bill for collection to the violator and owner of record of the property specifying the nature and costs of the work performed. For purposes of this subsection A.6.c, the term "incidental expenses" shall include, but not be limited to, the actual expenses and costs to the town in the preparation of the notices, specifications and contracts, work inspection, and interest from the date of completion at the rate prescribed by law for delinquent real property taxes.
    - d. The responsibility for payment of the charges for abatement as set forth in this subsection A6 shall rest solely upon the owners of the property upon which the abatement occurred. Such charges become a lien upon the real property upon which the violation was located. When charges for abatement remain unpaid after thirty (30) days from billing, the community development director shall record a claim of lien at the district recorder's office. The lien shall be subordinate to all existing special assessment liens

previously imposed upon the same property and shall be paramount to all other liens except for state or municipal property taxes with which it shall be upon a parity. The lien shall continue until the charges and all interest due and payable thereon are paid.

**B. Criminal Remedies And Enforcement Powers:**

1. Misdemeanor: A person shall be guilty of a misdemeanor upon conviction in any case where a violation of this title exists, where notice of violation, including any stop work, enforcement, or compliance order has been properly served, and where such person fails to comply with such notice or stop work, enforcement, or compliance order.
2. Penalty: Persons found guilty of a misdemeanor pursuant to this subsection shall be punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment for not more than ten (10) days, or by both such fine or imprisonment, for each violation.

**C. Remedies Cumulative:** The remedies provided for violations of this title, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.

Section 4. All references to Title 10, “Unified Development Code and Design Guidelines,” as contained in the Erie Municipal Code and all references to the June 2015 Title 10 Unified Development Code, and earlier versions of the Unified Development Code and Design Guidelines shall now refer to the August 2015 Title 10 Unified Development Code as adopted by reference herein.

Section 5. Severance Clause. If any article, section, paragraph, sentence, clause or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Board of Trustees of the Town of Erie, Colorado hereby declares that it would have passed this Ordinance and each part or parts thereof, irrespective of the fact that any one part of parts may be declared invalid or unconstitutional.

Section 6. Repeal. All other ordinances, or parts of any ordinances or other Code provisions in conflict herewith are hereby repealed. The repeal established herein shall not be construed to revive any ordinance Code provision or part thereof that had been previously repealed by any ordinance which is repealed by this Ordinance.

Section 7. Effective Date. This ordinance shall take effect thirty (30) days after publication following final passage.

**INTRODUCED, PASSED, ADOPTED AND ORDER PUBLISHED IN FULL BY  
THE BOARD OF TRUSTEES OF THE TOWN OF ERIE THIS \_\_\_\_ DAY OF  
\_\_\_\_\_, 2015.**

**PUBLISHED IN FULL ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 2015.**

**TOWN OF ERIE, COLORADO**, a Colorado  
municipal corporation

By: \_\_\_\_\_  
Tina Harris, Mayor

ATTEST:

By: \_\_\_\_\_  
Nancy Parker, Town Clerk

## EXHIBIT A

### AMENDMENTS TO JUNE 2015 TITLE 10 UNIFIED DEVELOPMENT CODE

Part I.

New text is underlined; deleted text is shown with ~~strike through~~.

#### **1. Chapter 3, Use Regulations**

Section 10.3.2, Use Specific Standards

DELETE **Section 10.3.2 D.3**, Oil and Gas Facilities, and revise the numbering as necessary.

##### ~~3. Oil And Gas Facilities~~

###### ~~a. *Setbacks*~~

~~Wells and any associated oil and gas operation facility or structure (above ground) shall be set back in accordance with State of Colorado Oil & Gas Conservation Commission Regulations, as amended.~~

###### ~~b. *Access Roads*~~

~~Access roads on the site and access points to public streets shall be reviewed by the Public Works Department and shall be built and maintained in accordance with the Town standards.~~

~~All erosion control, access and oversize or overweight vehicle permits must be obtained from the Public Works Department prior to beginning operation. All proposed transportation routes to the site shall also be reviewed and approved by the Public Works Department to minimize traffic hazards and adverse impacts on public streets. Existing streets shall be used to minimize land disturbance unless traffic safety, visual or noise concerns, or other adverse surface impacts clearly dictate otherwise.~~

Access roads to well and production facilities shall be improved from the point of connection to a street a minimum distance of 200 feet on the access road. The access road shall be improved as a hard surface (concrete or asphalt) for the first 100 feet from the street and then improved as a crushed surface (concrete or asphalt) for 100 feet past the hard surface in the appropriate depth to support the weight load requirements of the vehicles accessing the well and production facilities. If an access road intersects with a pedestrian trail or walk, the developer shall pave, as a hard surface (concrete or asphalt), the access road 100 feet either side of the trail or walk and if necessary, replace the trail or walk to address the weight load requirements of the vehicles accessing the well and production facilities.

*e. Fencing*

Oil and gas well facilities (above ground) within the Town of Erie are required to be fenced with wrought iron fencing or *Ameristar Impasse* or *Stronghold* fencing or approved equivalent, as determined by the Community Development Director. The fencing color shall be bronze unless the Community Development Director approves black fencing. Black fencing will only be approved by the Community Development Director if fencing or site furnishings in the adjacent developments have approved black elements.

*d. Oil and Gas Operation Facility or Structure Color*

Oil and gas operation facilities or structures (above ground) such as tanks shall be painted a color designated by the Community Development Director.

**2. Chapter 6, Development and Design Standards**

Section 10.6.4, Landscaping, Screening, and Fencing

AMEND **Section 10.6.4.H.5.c.ii** as follows:

H. Fencing and Walls

5. Height Restrictions

c. No fence in any district shall exceed 6 feet in height; except:

**ii.** Fences in the LI and AP districts ~~and surrounding oil and gas wells and production facilities in any district~~ may be up to 8 feet in height;

AMEND **Section 10.6.4.H.7.a** as follows:

H. Fencing and Walls

7. Restrictions Regarding Certain Materials

a. Fences in the RC, LI, PD and AP zoning districts ~~and surrounding oil and gas wells and production facilities in any district~~ may include up to 4 strands of barbless wire, with the lowest strand at least 6 feet above ground level. The barbless wire may be placed vertically or at a 45 degree angle; provided, that it does not extend across the property line.

### **3. Chapter 6, Development and Design standards**

Section 10.6.14, Oil and Gas Wells and Production Facilities

REVISE **Section 10.6.14, Oil and Gas Wells and Production Facilities**, as follows.

*Amend* Section title:

**Section 10.6.14, Development and Design Standards to Accommodate Oil and Gas Wells and Production Facilities**

*Amend* **Section 10.6.14.A.4:**

A. Existing Oil and Gas Wells and Production Facilities

4. Developments with existing oil and gas wells and associated above ground production facilities shall add fencing to non-fenced wells and facilities or upgrade fencing for wells

and facilities in conformance with the following requirements. ~~to be in compliance with Subsection 3.2.D.3.c of this UDC. All proposed fencing changes shall be approved by the mineral right owner either before Final Plat approval or for sites already platted, before Site Plan approval.~~

a. Oil and gas well facilities (above ground) within the Town of Erie shall be fenced with wrought iron fencing or Ameristar Impasse or Stronghold fencing or approved equivalent, as determined by the Community Development Director.

b. The fencing color shall be bronze unless the Community Development Director approves black fencing. Black fencing will only be approved by the Community Development Director if fencing or site furnishings in the adjacent developments have approved black elements.

c. All proposed fencing changes shall be approved by the mineral right owner before Final Plat approval or for sites already platted, before Site Plan approval.

*Delete Section 10.6.14.C:*

~~C. Relocation of Oil and Gas Wells, Production Facilities and Pipelines~~

~~1. Relocation of oil and gas wells, production facilities and flow lines associated with development shall be reviewed and approved by the Town through the subdivision process.~~

~~2. Relocation, recordation of vacation of easements and recordation of new easements shall~~

~~be finalized and copies submitted to the Town before a Final Plat is approved.~~

*Amend* **Section 10.6.14.E.4.b:**

E. Future Oil and Gas Wells and Production Facilities

4. The following setbacks shall be provided to future oil and gas wells and above ground production facilities:

b. Street right-of-ways shall be setback a minimum of 150 feet from future oil and gas wells and above ground facilities.

**4. Chapter 7**

Review and Approval Procedures

**DELETE Section 10.7.13.F**

~~13. Special Review Use~~

~~F. Operator Agreement~~

~~The Town may enter into an Operator Agreement with an oil and gas operator governing proposed mining and mineral extraction. IN the event that such an Operator Agreement is approved by the Town Board of Trustees, such mining and mineral extraction is exempt from the requirement for Special Review Use approval under this Section 10.7.13 and from Site Plan Review under Section 10.7.12, unless such Operator Agreement provides otherwise.~~

**5. Chapter 11, Definitions**

Section 10.11.3 Terms Defined.

AMEND definition of **Mining and Mineral Extraction** as follows:

The extraction of minerals, including oil and gas and solids like coal and other ores, from their natural occurrences on affected land.

AMEND definition of **Oil and Gas Well Gathering Lines** to be the same definition used in the Oil and Gas Regulations.

A pipeline which transports natural gas beyond leasehold gas metering equipment to a

~~compressor facility, processing plant or interstate pipeline connection.~~

A pipeline and equipment that transports gas from a production facility (ordinarily commencing downstream of the final production separator at the inlet flange of the custody transfer meter) to a natural gas processing plant or transmission line or main. The term “gathering line” includes valves, metering equipment, communication equipment, cathodic protection facilities, and pig launchers and receivers, but does not include dehydrators, treaters, tanks, separators, or compressors located downstream of the final production facilities and upstream of the natural gas processing plants, transmission lines, or main lines.

DELETE definition of **Operator Agreement**:

~~OPERATOR AGREEMENT~~

~~An agreement between the Town and an oil and gas operator establishing Best Management Practices and/or other terms and conditions for Mining and Mineral Extraction~~

DELETE definition of **Oil and Gas Operator**:

~~OIL AND GAS OPERATOR.~~

~~The individual or firm engage in all or a portion of the extraction of oil and gas.~~

Part II.

New CHAPTER 12: REGULATIONS FOR OIL AND GAS OPERATIONS, to read as follows:

CHAPTER 12: REGULATIONS FOR OIL AND GAS OPERATIONS

<b>10.12.1</b>	<b>GENERAL PROVISIONS</b> .....	<b>1</b>
A.	Title and Citation .....	1
B.	Purpose.....	1
C.	Authority .....	1
D.	Oil and Gas Permit Required .....	1
E.	Applicability .....	1
F.	Exemptions from these Regulations .....	2
G.	Expansion of Operations Existing at the Time of the Effective Date of These Regulations .....	2

	H.	Severability .....	2
	I.	Definitions .....	3
<b>10.12.2</b>		<b>PERMIT APPLICATION PROCESS FOR OIL AND GAS OPERATIONS</b> .....	<b>7</b>
	A.	Permit Application Submittal .....	7
	B.	Waiver of Permit Application Material Requirements .....	7
	C.	Permit Application Fee .....	7
	D.	Permit Application Materials for Oil and Gas Operation .....	7
<b>10.12.3</b>		<b>PERMIT PROCESS FOR OIL AND GAS OPERATIONS AND NOTICE</b>	
		<b>OF RECOMPLETION OF EXISTING WELLS .....</b>	<b>13</b>
	A.	Pre-Application Conference and Permit Classification .....	13
	B.	Classification of Permit Application.....	14
	C.	Determination of Completeness.....	17
	D.	Type A Permit Review and Planning Commission Decision Process .....	17
	E.	Type B Permit Review and Decision.....	24
	F.	Recompletion of Wells Existing as of the Effective Date of These Regulations ..	27
<b>10.12.4</b>		<b>OIL AND GAS OPERATIONS APPROVAL STANDARDS .....</b>	<b>28</b>
	A.	Standards Applicable to Type A Permits.....	28
	B.	Standards Applicable to Type A and Type B Permits .....	29
	C.	Waiver of Approval Standards.....	37
<b>10.12.5</b>		<b>ENFORCEMENT .....</b>	<b>38</b>

## CHAPTER 12: REGULATIONS FOR OIL AND GAS OPERATIONS

### 10.12.1 GENERAL PROVISIONS

#### A. Title and Citation

These Regulations are entitled and may be cited as the "Regulations for Oil and Gas Operations."

#### B. Purpose

The purpose of these Regulations is to provide a framework for the responsible exploration and production of oil and gas resources in a manner that preserves other natural resources, that is sensitive to surrounding land uses, and that mitigates adverse impacts to and protects public health, safety, welfare and the environment of the Town. These standards are not intended to supersede state laws, regulations or rules pertaining to oil and gas development, but rather are meant to supplement those requirements where appropriate, and to address areas of regulation where none has been established by the state.

#### C. Authority

This section is adopted pursuant to C.R.S. § 31-15-401, C.R.S. and §§ 29-20-101 et seq.,

#### D. Oil and Gas Permit Required

Oil and Gas Operations to be located wholly or partially within the municipal boundaries on public or private lands require an Oil and Gas Permit issued pursuant to these Regulations.

##### 1. Type A Permit.

Planning Commission review and decision, subject to call-up by Board of Trustees. Public hearing is not required. See Section 10.12.3.D.

##### 2. Type B Permit.

Director review, public hearing and recommendation by Planning Commission, public hearing and decision by Board of Trustees. See Section 10.12.3.E.

#### E. Applicability

1. New or expanded Oil and Gas Operations within the Town are subject these Regulations. These Regulations take the place of the existing special review use process. In the event that the provisions of these Regulations conflict with any

other provisions of the UDC, this section shall supersede as it applies to Oil and Gas Operations.

2. Oil and Gas Permits issued pursuant to these Regulations shall encompass within its authorization the right of the Operator, its agents, employees, subcontractors, independent contractors, or any other person to perform that work reasonably necessary to conduct the activities authorized by the permit, subject to all other applicable Town regulations and requirements.

#### **F. Exemptions from these Regulations**

1. **Operator Agreement**

An Operator Agreement approved by the Town Board of Trustees may, by its terms, exempt the proposed Oil and Gas Operation from these Regulations.

2. **Continuation of Existing Operations**

Oil and Gas Operations that are in existence on the effective date of these Regulations or that are located within territory which thereafter is annexed to the Town may continue operating without the issuance of an Oil and Gas Permit under these Regulations.

3. **Recompletion of Existing Wells**

Recompletion of wells in existence as of the effective date of these regulations shall be reviewed in accordance with Section 10.12.3.F.

#### **G. Expansion of Operations Existing at the Time of the Effective Date of These Regulations**

Expansion of existing oil and gas operations is subject to these Regulations. "Expansion" includes:

1. Installation of new wells on existing well pad sites.
2. Expansion of the areas of existing well pad sites

#### **H. Severability**

If any section, clause, provision, or portion of these Regulations should be found to be unconstitutional or otherwise invalid by a court of competent jurisdiction, the remainder of these Regulations shall not be affected thereby and is hereby declared to be necessary for the public health, safety and welfare.

#### **I. Definitions**

##### **Closed Loop Drilling Process or System**

A closed loop mud drilling system typically consists of steel tanks for mud mixing and storage and the use of solids removal equipment which normally includes some combination of shale shakers, mud cleaners and centrifuges sitting on top of the mud tanks. This equipment separates

drill cutting solids from the mud stream coming out of the wellbore while retaining the water or fluid portion to be reused to continue drilling the well bore. The solids are placed in containment, either a shallow lined pit or an above ground container, provided on location. The system differs from conventional drilling where a reserve pit is used to allow gravitational settling of the solids from the mud which can then be reused. A Closed Loop Drilling System does not include use of a Conventional Reserve Drilling Pit.

**Degradation**

Lowering in grade or desirability; lessening in quality.

**Director**

Community Development Director or the Director's representative.

**Exploration and Production Waste**

Those wastes associated with Oil and Gas Operations to locate or remove oil or gas from the ground or to remove impurities from such substances and which are uniquely associated with and intrinsic to oil and gas exploration, development or production activities that are exempt from regulation under the Resource Conservation and Recovery Act (RCRA).

**Flare Pit**

A pit used exclusively for flaring gas.

**Flowlines**

Those segments of pipe from the wellhead downstream through the production facilities ending at:

- (a) In the case of gas lines, the gas metering equipment; or
- (b) In the case of oil lines, the oil loading point or LACT unit; or
- (c) In the case of water lines, the water loading point, the point of discharge to a pit, the injection wellhead, or the permitted surface water discharge point.

**Gathering Line**

A pipeline and equipment that transports gas from a production facility (ordinarily commencing downstream of the final production separator at the inlet flange of the custody transfer meter) to a natural gas processing plant or transmission line or main. The term “gathering line” includes valves, metering equipment, communication equipment, cathodic protection facilities, and pig launchers and receivers, but does not include dehydrators, treaters, tanks, separators, or compressors located downstream of the final production facilities and upstream of the natural gas processing plants, transmission lines, or main lines.

**Geologic Hazards**

Terrain and geological traits that pose a risk of causing damage to property or human life, including subsurface features such as fault lines, aquifers and other geothermic and geologic phenomena.

### **Hydraulic Fracturing or Hydraulic Fracturing Treatment**

All stages of the treatment of a well by the application of hydraulic fracturing fluid under pressure that is expressly designed to initiate or propagate fractures in a target geologic formation to enhance production of oil and natural gas.

### **Hydraulic Fracturing Fluid**

The fluid, including the applicable base fluid and all hydraulic fracturing additives, used to perform a hydraulic fracturing treatment.

### **Linear Feature**

A road, gathering line, or pipeline that is necessary to cross a water body or connect or access a well or gathering line. A linear feature is not considered necessary simply because it is the most proximate or least expensive method for crossing a water body or connecting or accessing a well or gathering line.

### **Mitigation**

The following actions, in order of preference:

- (a) Avoiding impacts: avoiding an impact by not taking a certain action or parts of an action; or
- (b) Minimizing impacts: limiting the degree or magnitude of the action or its implementation, or by changing its location; or
- (c) Rectifying impacts: repairing, rehabilitating, or restoring the impact area, facility or service; or
- (d) Reducing or eliminating impacts: reducing or eliminating the impact over time by preservation and maintenance operations; and
- (e) Other provisions for addressing impacts: replacing or providing equivalent biological, social, environmental and physical conditions, or a combination thereof.

### **Oil and Gas Operations**

Exploration for oil or gas, including but not limited to conventional oil and gas and coalbed methane gas; the siting, drilling, deepening, recompletion, reworking, refracturing, closure or abandonment of an oil or gas well; pumping stations; production facilities and operations including the installation of flow lines and gathering lines; accessory equipment; construction, site preparation, reclamation and related activities associated with the development of oil and gas resources, including their impacts on or construction of access roads and easements.

### **Operator Agreement**

An agreement between the Town and an Operator describing how proposed Oil and Gas Operations are to be conducted within the municipal boundaries.

### **Operation(s)**

Oil and Gas Operations.

**Operator**

The applicant, a parent or subsidiary entity or person, or an entity that has a financial interest in the Operation.

**Permit**

Town of Erie Oil and Gas Permit issued pursuant to the provisions of this Chapter 12.

**Pipelines**

Flowlines and gathering lines for oil and gas wells.

**Pit**

Any natural or man-made depression in the ground used for oil or gas exploration or production purposes. A pit does not include steel, fiberglass, concrete or other similar vessels which do not release their contents to surrounding soils.

**Pitless**

Pitless with respect to drilling means there is no pit regardless of size or function. This includes conventional reserve drilling pits and drilling cutting pits, but does not include flare pits which may be utilized to contain necessary flaring during the drilling, completion, or up-set conditions. An above ground water tight metal or other material container is utilized instead of a sub surface pit to hold drilling cuttings until they are disposed of.

**Production Facilities**

All storage, separation, treating, dehydration, artificial lift, power supply, compression, pumping, metering, monitoring, flowline, and other equipment directly associated with oil wells, gas wells, or injection wells.

**Regulation(s)**

The Town of Erie Oil and Gas Regulations set forth in Chapter 12 of the UDC.

**Reference Area**

An area either (1) on a portion of the site that will not be disturbed by oil and gas operations, if that is the desired final reclamation; or (2) another location that is undisturbed by oil and gas operations and proximate and similar to a proposed oil and gas location in terms of vegetative potential and management, owned by a person who agrees to allow periodic access to it for the purpose of providing baseline information for reclamation standards, and intended to reflect the desired final reclamation.

**Residential Building Unit**

Building or structure designed for use as a place of residency by a person, a family, or families. The term includes manufactured, mobile, and modular homes, except to the extent that any such manufactured, mobile, or modular home is intended for temporary occupancy or for business purposes.

**Significant**

Of considerable or substantial consequence.

**Significantly Degrade**

To lower in grade or desirability to a significant as opposed to trifling degree.

**UDC**

Town of Erie Uniform Development Code.

**VOC Emissions**

Volatile organic compounds in oil and gas operations that are released into the atmosphere and/or ground.

**Water Body**

Any surface waters which are contained in or flow in or through the Town, including: Coal Creek, Boulder Creek, Erie Lake, Erie Reuse Reservoir, Thomas Reservoir, Prince Lake #2, and any irrigation ditches.

**Well (Oil and Gas)**

An oil or gas well, a hole drilled for the purpose of producing oil or gas, a well into which fluids are injected, a stratigraphic well, a gas storage well, or a well used for the purpose of monitoring or observing a reservoir.

**Wildlife Habitat**

A natural or man-made environment that contains the elements of food, shelter, water, and space in a combination and quantity necessary to sustain one or more wildlife or plant species at stable population levels in historically-used habitats. Sensitive wildlife habitat areas include, but are not limited to, nesting, brood rearing areas, rookeries, leas, migration corridors, calving and fawning grounds for big game.

**10.12.2 PERMIT APPLICATION PROCESS FOR OIL AND GAS OPERATIONS****A. Permit Application Submittal**

The applicant shall submit the Permit application materials to the Director. The Permit application materials are set forth in Section 10.12.2.D.

**B. Waiver of Permit Application Material Requirements**

The Director may waive any part of the Permit application material requirements when the information would not be relevant to determining whether the proposed Oil and Gas Operation complies with the approval standards.

**C. Permit Application Fee**

The applicant is responsible for the costs of reviewing and processing the Permit application. The applicant is responsible for the costs of counsel, consultant and referral agency review of the Permit application including reviews associated with the pre-application conference, completeness determination, and all hearings and meetings on the Permit application.

1. **Fee Requirement**  
The Permit application shall be accompanied by the application fees set forth in Section 2-10-5 of the Municipal Code.
2. **Payment of Additional Costs**  
If there are costs for reviewing and processing the Permit application in addition to the application fees paid pursuant to C.1 above, the additional cost shall be billed to the applicant. Additional costs billed to the applicant must be paid within thirty (30) days of the billing date, and must be paid in full prior to final action by the Town on the Permit application.

**D. Permit Application Materials for Oil and Gas Operation**

The applicant shall submit the application materials to the Community Development Department. The Director may waive any part of the application material requirements when the information would not be relevant to determining whether the proposed Oil and Gas Operation complies with the applicable standards.

1. **Application Form**  
Completed application form.
2. **Summary of Proposed Oil and Gas Operation**  
Summary of proposed Oil and Gas Operation, including a list of all proposed oil and gas facilities to be installed and estimated timeline.
3. **Topographic Map**  
Topographic map at a scale not to exceed 1"=40' that shows:
  - a. Proposed Oil and Gas Operation location. The location of the proposed Oil and Gas Operation including well pads, tanks, roads, pipelines and gathering systems, and related features on a United States Geological Survey quadrangle map or on a recorded plat if the proposed Oil and Gas Operation is within an approved subdivision, with the location highlighted so that it is easy to see.
  - b. Topography. Existing and proposed topography at intervals established by the Director as necessary to portray the direction and slope of the area affected by the proposed Oil and Gas Operation.
  - c. Transportation and roads. All public and private roads that traverse and/or provide access to the proposed Oil and Gas Operation.
  - d. Easements. Easements recorded or historically used that provide access to or across, or other use of, the property.

- e. Municipal and subdivision boundaries. Municipal or subdivision boundaries within one mile of the well pad, tanks, gathering lines, storage areas or any other ancillary feature of the proposed Oil and Gas Operation.
  - f. Other Operations. Location of other Oil and Gas Operations within one mile of the site.
  - g. Shortest distance between any proposed well or surface equipment on the well pad and the nearest exterior wall of an existing Building Unit.
4. **Current Aerial Photo**  
Current aerial photo that shows the location of the proposed Oil and Gas Operation and the shortest distance between any proposed well or surface equipment on the well pad and the nearest exterior wall of an existing Building Unit, displayed at the same scale as the topographic map to facilitate use as an overlay.
5. **Site Preparation Plan**  
Site plan for site preparation, mobilization, and demobilization.
6. **Applications and Permits**  
Copies of all state applications for the proposed Oil and Gas Operation, and permits, when issued.
7. **Reports/Studies/Plans**  
The following reports, studies and plans shall be prepared to adequately portray the physical characteristics of the property.
- a. **Air Quality Impact Assessment and Mitigation Plan**  
An assessment of air quality impacts of the proposed Oil and Gas Operation and a plan to maintain air quality, including a plan to minimize VOC emission in compliance with these Regulations.
  - b. **Chemicals and Hydraulic Fracturing Fluids Disposal and Reporting Plan**  
A plan for disposal and reporting of chemicals and hydraulic fracturing fluids, that includes:
    - i. Material safety data sheets for the chemicals used in the proposed Oil and Gas Operation.
    - ii. Chemical Abstract Service Registry Numbers for every chemical used in the proposed Oil and Gas Operation, if available, other than those protected as Trade Secrets.
    - iii. Hydraulic fracturing.

- iv. Provision for reporting to the Town the chemicals, other than those protected as a Trade Secret, that will be stored and used during any hydraulic fracturing event along with the maximum quantity that will be present on-site at any one time.
  
- c. **Cultural Survey**  
A cultural, historical, and archeological survey of the proposed Oil and Gas Operations site and other areas and properties impacted by access to the site.
  
- d. **Dust Suppression Plan**  
Dust suppression and control plan.
  
- e. **Grading/Drainage and Erosion Control Plan**  
A plan that identifies existing (dashed lines) and proposed (solid lines) contours, at two-foot intervals, and the methods for controlling erosion during construction and operational phases of the proposed Oil and Gas Operation.
  
- f. **Emergency Response Plan**  
A plan that addresses events such as explosions, fires, gas or water pipeline leaks or ruptures, leaks from well casings and pits, tank leaks or ruptures, hydrogen sulfide or other toxic gas emissions, transportation of hazardous material and vehicle accidents or spills. The plan must include proof of adequate personnel, supplies, and funding to immediately implement the emergency response plan at all times during construction and Operations.
  
- g. **Geological Report**  
A report detailing the geological characteristics of the site, prepared by a registered engineer. The report shall include an assessment of the geologic hazards within one mile of the site and a plan for mitigating impacts from geologic hazards to the proposed Oil and Gas Operation and impacts of the proposed Operation on geologic hazards.
  
- h. **Public Services and Facilities Impact Assessment**  
A description of existing levels, demand for, adequacy of, and the operational costs of public services affected by the proposed Oil and Gas Operation; a description of the increase in demand on those services and a plan for mitigating the impacts to public services and facilities.
  
- i. **Lighting Plan**  
A plan for installation of down cast lighting or some other form of lighting that mitigates light pollution and spill-over onto adjacent properties; provided, however, that the Operator may still use lighting that is necessary for public and occupational safety.

- j. **Operation Plan**  
A plan including the method and schedule for drilling, completion, transporting, production and post-operation, and a description of future Oil and Gas Operations.
- k. **Reclamation Plan**  
A plan for interim reclamation and revegetation of the site and final reclamation of the site. The plan shall include the locations of any proposed Reference Areas to be used as guides for interim and final reclamation.
- l. **Spill Prevention Control and Countermeasures Plan**
- m. **Traffic Management Plan**  
A plan showing the estimated number of vehicle trips per day for each type of vehicle, proposed access routes to and from the site, and measures to mitigate adverse impacts to traffic patterns and safety caused by the proposed operation.
- n. **Access Road Plan**  
A plan sufficient to demonstrate compliance with the approval standards in Section 10.12.4.
- o. **Stormwater Control Plan**  
A plan to minimize impacts to surface waters from erosion, sediment, and other sources of nonpoint pollution. The stormwater control plan required by COGCC Rule 1002(f) may be provided to establish compliance with this provision.
- p. **Vegetation and Weed Management Plan**  
A written description of the species, character and density of existing vegetation on the site, a summary of the potential impacts to vegetation as a result of the proposed Oil and Gas Operation, and proposed mitigation to address these impacts. The plan shall include any COGCC required interim and final reclamation procedures.
- q. **Water Quality Impact Assessment and Mitigation Plan**
  - i. Identification of all surface and subsurface water bodies. An inventory and location of all water bodies, as well as domestic and commercial water wells within one mile of the proposed Oil and Gas Operation.
  - ii. Identification of intake(s) for public drinking water supply.
  - iii. Water quality monitoring and mitigation plan. A Water Quality Monitoring Plan that establishes a baseline and a process for

monitoring changes to water quality and the aquatic environment to demonstrate the effectiveness of mitigation. The plan shall comply with the Colorado Oil and Gas Association Voluntary Baseline Groundwater Quality Sampling Program, as it may be amended, and be complementary to any monitoring required by the state. The plan shall, at a minimum, include the following elements:

- (A) Key stream segments, other water bodies, and groundwater to monitor.
- (B) Locations for and frequency of sampling and monitoring to establish baseline of existing conditions prior to the proposed Oil and Gas Operation including existing water quality, aquatic life and macro-invertebrates, and groundwater data.
- (C) Key indicators of water quality and stream health, and threshold levels that will be monitored to detect changes in water quality and health of the aquatic environment.
- (D) Locations for and frequency of sampling and monitoring for key indicators of water quality and stream health, including but not limited to constituents regulated by the Colorado Water Quality Control Commission, and constituents associated with the proposed Oil and Gas Operation.
- (E) Locations for and frequency of sampling and monitoring to measure effectiveness of water quality mitigation during the life of the proposed Oil and Gas Operation and five years after final reclamation of all disturbed areas is complete.
- (F) Mitigation steps that will be implemented to avoid degradation of water bodies if monitoring of key indicators reveals degradation.

r. **Water Availability: Physical Availability and Legal Right to Utilize**

An assessment of how much water will be needed for each phase of the proposed Oil and Gas Operation, and the source of water supply both physically and legally, for the life of the proposed Operation.

s. **Wildlife and Wildlife Habitat Assessment**

An assessment of existing wildlife and wildlife habitat, an evaluation of the impacts of the proposed Oil and Gas Operation on wildlife and wildlife habitat, and proposed mitigation to address these impacts.

- t. **Operational Conflict/Technical Infeasibility/Environmental Protection Waiver Request**  
Documentation of the basis for any waiver of approval standards based on operational conflict, technical infeasibility or environmental protection that the applicant may request pursuant to Section 10.12.4.C of these Regulations.
- u. Additional information requested by the Director.

### **10.12.3 PERMIT PROCESS FOR OIL AND GAS OPERATIONS AND NOTICE OF RECOMPLETION OF EXISTING WELLS**

#### **A. Pre-Application Conference and Permit Classification**

##### **1. Pre-Application Conference**

Prior to submitting an application for an oil and gas permit, an applicant shall meet with the Director to discuss the proposed Oil and Gas Operation. The purpose of the pre-application conference includes, without limitation:

- a. To discuss the location and nature of the proposed Oil and Gas Operations;
- b. To explain the application submittal requirements, the nature of materials that will be responsive to those requirements, and waivers of any materials that would not be necessary in determining whether the application complies with Town requirements;
- c. To discuss state terms and conditions imposed on the proposed Oil and Gas Operation;
- d. To identify site-specific concerns and issues that bear on the proposed Oil and Gas Operation;
- e. To discuss projected impacts and potential mitigation;
- f. To discuss the Town Oil and Gas Operation Standards that must be satisfied for Permit approval;
- g. To discuss whether the application will be classified as a Type A or Type B Permit application; and
- h. To identify potential Operational Conflicts, or waivers of Oil and Gas Operation Standards based on technical infeasibility or environmental protection that the applicant intends to raise.

##### **2. Pre-Application Materials**

At or before the pre-application conference, the applicant shall provide the Director with information that is sufficient for determining the location and nature of the proposed Oil and Gas Operation, the degree of impacts associated with the Operation, and mitigation proposed to offset such impacts.

**B. Classification of Permit Application**

Within ten (10) working days after the pre-application conference the Director shall classify the Permit application as a Type A or Type B Permit application.

**1. Oil and Gas Operations Classified as Type A**

An Oil and Gas Operation will be classified as a Type A Permit application if the Operator agrees to conduct the operation in conformance with the following requirements<sup>1</sup>.

- a. The Operation will be at least 1000 feet from occupied buildings or occupied buildings permitted for construction.
- b. Wells and production facilities shall be 750 feet or more from Erie platted residential lots or parks, sports fields and playgrounds, or other designated outside activity areas.
- c. The Operation will be at least 500 feet from any surface water body.
- d. The Operation will be at least 500 feet from any domestic or commercial water wells or irrigation wells and the Operation is not located within a floodway district as defined in Section 10.2.7.C.4 of the UDC.
- e. The Operation will utilize closed-loop systems for drilling and completion operations.
- f. The Operator agrees to control noise levels as follows.
  - i. For db(A) scale noise, Operator will insure that the noise level from Operations subject to the light industrial zone noise standard under COGCC Regulations 802.b and 604.c.(2)(A) does not exceed sixty (60) db(A) and that the noise level from Operations subject to the industrial zone noise standard under COGCC Regulations 802.b and 604.c.(2)(A) is reduced at least five (5) db(A) below the maximum level permitted by those Regulations. For this purpose, the noise level shall be measured as set forth in COGCC Regulations 802.b and c, except no measurements shall be taken when traffic is passing the sound level meter, and Operator shall be present during all measurements. As set forth in COGCC Regulation 802.b, the noise levels shall be subject to increase for a period not to exceed fifteen (15) minutes in any one

---

<sup>1</sup> These requirements may not be waived.

- (1) hour period and reduction for periodic, impulsive or shrill noises.
  - ii. For db(C) scale noise, Operator shall comply with the requirements of COGCC Regulation 802.
- g. The Operator agrees to control air quality through the following practices.
  - i. To identify leaks, Operator will perform audio, visual and olfactory inspections on a monthly basis at all of its new and existing wells and related facilities and equipment within Erie's Town Limits. Operator will also inspect each such well with an infra-red camera on a monthly basis. The initial baseline inspections will occur within sixty (60) calendar days after the date of Permit approval. After a well has produced for twelve (12) months, the frequency of such inspections shall decrease from monthly to quarterly. If Operator determines that any repairs are required based on these inspections, Operator will promptly initiate these repairs.
  - ii. Operator will report to the Director on the inspection results and any associated repairs the month after the inspection or repair occurs. This information will be collectively reported on a monthly basis in the same format that Operator uses for reporting to the Air Pollution Control Division under Regulation 7, but that is specific to wells located within the Erie Town Limits. The Town will make this information available upon its website, or may provide a link for such information from Town's website to Operator's website.
  - iii. For each well completion operation with hydraulic fracturing, the Operator will control emissions by the following procedures.
    - (A) For the duration of flowback, route the recovered liquids into one or more storage vessels or re-inject the recovered liquids into the well or another well, and route the recovered gas into a gas flow line or collection system, re-inject the recovered gas into the well or another well, use the recovered gas as an onsite fuel source, or use the recovered gas for another useful purpose that a purchased fuel or raw material would serve, with no direct release to the atmosphere.
    - (B) If compliance with the prior paragraph is infeasible, the Operator must capture and direct flowback emissions to a completion combustion device equipped with a reliable continuous ignition source over the duration of flowback,

except in conditions that may result in a fire hazard or explosion, or where high heat emissions from a completion combustion device may negatively impact waterways or nearby structures. Non-flammable gas may be vented temporarily until flammable gas is encountered where capture or combustion is not feasible.

- h. The Operation will recycle and reuse water at the pad sites and otherwise minimize waste water production to the extent that it is determined such recycling, reuse, and waste water minimization is technically and economically feasible.
- i. If water is not being piped to a well pad site, the proposed Operation will utilize Town water rather than trucking water to the site.
- j. The Operation will not utilize Class II underground injection control wells.

**2. Oil and Gas Operations Classified as Type B**

Operations that are not classified as Type A Permits shall be classified as Type B Permits.

**C. Determination of Completeness**

**1. Application Is Not Complete**

If the Director determines that the application is not complete, the Director shall inform the applicant in writing of the deficiencies and shall take no further action on the application until the deficiencies are remedied. If the applicant fails to correct the deficiencies within thirty (30) calendar days after the notice that the application is incomplete, the application shall be considered withdrawn unless the applicant requests more time to ensure that the materials are as complete as possible.

**2. Application Is Complete**

If the Director determines that the application is complete, the Director shall date the application and notify the applicant in writing.

**3. Completeness Is Not a Determination of Compliance**

A determination that an application is complete shall not constitute a determination that it complies with the approval standards of these Regulations.

**D. Type A Permit Review and Planning Commission Decision Process**

A Type A Permit is subject to review and decision by the Planning Commission. The Planning Commission shall make a decision on the Permit application at a properly noticed public meeting. A public hearing is not required.

1. **Neighborhood Meeting**

The purpose of a neighborhood meeting is to provide an informal opportunity to inform the residents and landowners of the surrounding neighborhood(s) of the details of the proposed Oil and Gas Operation, how the applicant intends to meet the standards contained in these Regulations, and to receive public comment and encourage dialogue at an early time in the review process. No decision regarding the application will be made at the Neighborhood Meeting.

a. **Applicability**

The Director may waive the neighborhood meeting requirement if it is determined that the proposed Oil and Gas Operation would not have significant impacts in any of the following areas. The waiver shall be in writing and shall be included as part of the case record.

- i. Traffic;
- ii. Natural resources protected under the UDC; and
- iii. Operational compatibility, such as lighting, hours of operation, odors, noise, litter, or glare.

b. **Notice of Neighborhood Meeting**

The applicant shall submit an affidavit to the Town stating that the public notice requirement has been met.

c. **Attendance at Neighborhood Meeting**

The applicant or applicant's representative shall attend the neighborhood meeting. The applicant shall be responsible for scheduling the meeting, coordinating the meeting, and for retaining an independent facilitator if needed. Attendance at the meeting by Town staff is not required. The Director may require attendance at the meeting, only for the purpose of explaining the application process. Comments made by staff at the neighborhood meeting are preliminary in nature and not determinative of the Town's position on the application.

d. **Summary of Neighborhood Meeting**

The applicant shall prepare a written summary of the neighborhood meeting. The written summary shall be provided to Town staff.

2. **Public Notice of Planning Commission Meeting**

a. **Written Notice of Planning Commission Meeting to Adjacent Property Owners**

Not less than fifteen (15) calendar days prior to the date of the Planning Commission meeting to consider the Permit application, the Director shall mail written notice of the meeting to adjacent property owners. The applicant shall provide a stamped and addressed envelope for each party to

be notified.

i. **Notice**

The applicant is responsible for composing the written notice. The notice shall include:

- (A) Date, time, and place of the meeting;
- (B) Description of the property involved in the application by street address or by legal description and nearest cross street;
- (C) Description of the purpose of the meeting and that interested parties can come to the meeting and speak on the matter.
- (D) Information on how to obtain additional information on the proposed Oil and Gas Operation and to comment on the proposed Operation.
- (E) Contact information for the Operator, including phone number and office hours.

ii. **List of Property Owners**

The list of property owners to be notified shall include the following persons and shall be compiled by the applicant using the most current list of property owners on file with the County Assessor.

- (A) Owners of record of property within one-half (1/2) mile of the site of the proposed Operation.
- (B) Associated homeowners associations.
- (C) Additional persons or geographic areas that the Director may designate.

iii. **Validity of Notice**

The applicant is responsible for the accuracy of lists of property owners to whom written notice is provided. If the applicant makes reasonable good faith efforts to accomplish the notice responsibilities identified above, then the failure of any property owner to receive notice shall not affect the validity of the decision.

b. **Posted Notice**

The applicant is required to post on the property a notice of the Planning Commission meeting to consider the Permit application. The Town will

provide the signs for posting. The applicant is responsible for filling out the signs, posting the signs, checking on the signs to make sure they remain in place, and to remove the signs within two days after the meeting. Prior to the meeting the applicant shall submit to the Community Development Department a notarized affidavit, on the Town form, stating that the notice was posted and maintained.

3. **Referral of Application**

The Director may send a copy of the complete application to consultants and any local, state or federal agency that may have expertise or an interest in impacts that may be associated with the proposed Oil and Gas Operation. The applicant shall be responsible for the costs of any consultant and referral agency review.

4. **Application Review and Staff Report**

a. **Director Review and Staff Report**

The Director shall prepare a report taking into account the application, review comments, issues raised by referral agencies and consultants, terms and conditions imposed by state agencies, probability of compliance with the approval standards, and any other available information on the record.

b. **Distribution of Staff Report**

The Director shall submit the staff report to the applicant and to the Planning Commission. A copy of the staff report shall also be available for public review prior to the hearing.

5. **Permit Decision by Planning Commission**

The Planning Commission shall approve, approve with conditions, or deny the Permit application based upon compliance with the approval standards in Section 10.12.4 of these Regulations. The Commission's decision shall include the following:

a. **Description of Project**

Brief discussion of the proposed Oil and Gas Operation;

b. **Issues**

Description of issues raised by the affected property owners, referral agencies and consultants;

c. **Conditions Imposed by the State**

Description of terms, conditions and requirements imposed on proposed Oil and Gas Operation by the state;

d. **Impacts and Mitigation**

Description of impacts of the proposed Oil and Gas Operation, proposed mitigation, and whether each approval standard has been satisfied; and

- e. **Conditions of Approval**  
Conditions of approval, if any, necessary to ensure compliance with approval standards.

6. **Reconsideration of Planning Commission's Decision by Board of Trustees**

- a. **Call-up by Board of Trustees**  
At the next regularly scheduled meeting for which proper notice can be accomplished following the Planning Commission's decision, the Board of Trustees may, at its discretion, decide to reconsider the Commission's decision.
- b. **Request by Applicant for Reconsideration by Board of Trustees**  
Not more than five (5) working days after the Planning Commission's decision, the applicant may submit a written request for reconsideration by the Board of Trustees of the Planning Commission's decision.
- c. **Reconsideration of Planning Commission's Decision**  
After call-up by the Board or upon receiving the request for reconsideration of the Planning Commission's decision, the Board may reconsider the decision at the next regularly scheduled meeting for which proper notice can be accomplished. A public hearing is not required. The Board shall either uphold the Planning Commission's decision, modify the decision, or reverse the decision based upon the information on record.

E. **Type B Permit Review and Decision**

1. **Neighborhood Meeting**

The purpose of a neighborhood meeting is to provide an informal opportunity to inform the residents and landowners of the surrounding neighborhood(s) of the details of the proposed Oil and Gas Operation, how the applicant intends to meet the standards contained in these Regulations, and to receive public comment and encourage dialogue at an early time in the review process. No decision regarding the application will be made at the Neighborhood Meeting.

- a. **Applicability**  
The Director may waive the neighborhood meeting requirement if it is determined that the proposed Oil and Gas Operation would not have significant impacts in any of the following areas. The waiver shall be in writing and shall be included as part of the case record.
  - i. Traffic;
  - ii. Natural resources protected under the UDC;
  - iii. Operational compatibility, such as lighting, hours of operation, odors, noise, litter, or glare.

- b. **Notice of Neighborhood Meeting**  
The applicant shall submit an affidavit to the Town stating that the public notice requirement has been met.
- c. **Attendance at Neighborhood Meeting**  
The applicant or applicant's representative shall attend the neighborhood meeting. The applicant shall be responsible for scheduling the meeting, coordinating the meeting, and for retaining an independent facilitator if needed. Attendance at the meeting by Town staff is not required. The Community Development Director may require attendance at the meeting, only for the purpose of explaining the application process. Comments made by staff at the neighborhood meeting are preliminary in nature and not binding.
- d. **Summary of Neighborhood Meeting**  
The applicant shall prepare a written summary of the neighborhood meeting. The written summary shall be provided to Town staff.

2. **Public Notice of Planning Commission Hearing**

- a. **Published Notice**  
Not less than fifteen (15) calendar days prior to the date of the public hearing, the Director shall publish a notice of public hearing on the Permit application. The notice shall be published once in a newspaper having general circulation in the area. The notice shall include contact information for the Operator, including phone number and office hours. The applicant shall be responsible for the cost of publication.
- b. **Written Notice of Planning Commission Hearing to Adjacent Property Owners**  
Not less than fifteen (15) calendar days prior to the date of the public hearing, the Director shall mail written notice of the public hearing to adjacent property owners. The applicant shall provide a stamped and addressed envelope for each party to be notified.
  - i. **Notice**  
The applicant is responsible for composing the written notice of public hearing. The notice shall include:
    - (A) Date, time, and place of the hearing;
    - (B) Description of the property involved in the application by street address or by legal description and nearest cross street;

- (C) Description of the purpose of the hearing and that interested parties can come to the hearing and speak on the matter.
- (D) Information on how to obtain additional information on the proposed Oil and Gas Operation and to comment on the proposed Operation.
- (E) Contact information for the Operator, including phone number and office hours.

ii. **List of Property Owners**

The list of property owners to be notified shall include the following persons and shall be compiled by the applicant using the most current list of property owners on file with the County Assessor.

- (A) Owners of record of property within 300 feet of the site of the proposed Operation.
- (B) Associated homeowners associations.
- (C) Additional persons or geographic areas that the Director may designate.

iii. **Validity of Notice**

The applicant is responsible for the accuracy of lists of property owners to whom written notice is provided. If the applicant makes reasonable good faith efforts to accomplish the notice responsibilities identified above, then the failure of any property owner to receive notice shall not affect the validity of the decision.

c. **Posted Notice**

The applicant is required to post on the property a notice of the Planning Commission hearing. The Town will provide the signs for posting. The applicant is responsible for filling out the signs, posting the signs, checking on the signs to make sure they remain in place, and to remove the signs within two days after the final decision on the Permit application. Prior to the hearing the applicant shall submit to the Community Development Department a notarized affidavit, on the Town form, stating that the notice was posted and maintained.

3. **Referral of Application**

The Director may send a copy of the complete application to consultants and any local, state or federal agency that may have expertise or an interest in impacts that may be associated with the proposed Oil and Gas Operation. The applicant shall be responsible for the costs of any consultant and referral agency review.

4. **Application Review and Staff Report**

a. **Director Review and Staff Report**

The Director shall prepare a report taking into account the application, review comments, issues raised by referral agencies and consultants, terms and conditions imposed by state agencies, probability of compliance with the approval standards, and any other available information on the record.

b. **Distribution of Staff Report**

The Director shall submit the staff report to the applicant and to the Planning Commission. A copy of the staff report shall also be available for public review prior to the hearing.

5. **Planning Commission's Hearing and Recommendation**

The Planning Commission shall consider the Permit application at a public hearing following proper public notice.

a. **Recommend Approval of Permit Application**

If the proposed Oil and Gas Operation satisfies the approval standards, the Planning Commission shall recommend the Permit application be approved.

b. **Recommend Denial of Permit Application**

If the proposed Oil and Gas Operation fails to satisfy the approval standards, the Planning Commission may recommend that the Permit application be denied; or

c. **Recommend Conditional Approval of Permit Application**

The Planning Commission may recommend approval with conditions determined necessary for compliance with applicable development standards.

6. **Public Hearing and Decision by Board of Trustees**

a. **Public Notice of Board of Trustees Hearing**

i. **Published Notice**

Not less than fifteen (15) calendar days prior to the date of the public hearing, the Director shall publish a notice of public hearing on the Permit application. The notice shall be published once in a newspaper having general circulation in the area. The notice shall include contact information for the Operator, including phone number and office hours. The applicant shall be responsible for the cost of publication.

ii. **Written Notice of Planning Commission Hearing to Adjacent**

### **Property Owners**

Not less than fifteen (15) calendar days prior to the date of the public hearing, the Director shall mail written notice of the public hearing to adjacent property owners. The applicant shall provide a stamped and addressed envelope for each party to be notified.

#### **(A) Notice**

The applicant is responsible for composing the written notice of public hearing. The notice shall include:

- (1) Date, time, and place of the hearing;
- (2) Description of the property involved in the application by street address or by legal description and nearest cross street;
- (3) Description of the purpose of the hearing and that interested parties can come to the hearing and speak on the matter.
- (4) Information on how to obtain additional information on the proposed Oil and Gas Operation and to comment on the proposed Operation.
- (5) Contact information for the Operator, including phone number and office hours.

#### **(B) List of Property Owners**

The list of property owners to be notified shall include the following persons and shall be compiled by the applicant using the most current list of property owners on file with the County Assessor.

- (1) Owners of record of property within 300 feet of the site of the proposed Operation.
- (2) Associated homeowners associations.
- (3) Additional persons or geographic areas that the Director may designate.

#### **(C) Validity of Notice**

The applicant is responsible for the accuracy of lists of property owners to whom written notice is provided. If the applicant makes reasonable good faith efforts to accomplish the notice responsibilities identified above, then the failure of any property owner to receive notice shall not

affect the validity of the decision.

iii. **Posted Notice**

The applicant is required to post on the property a notice of the hearing. The Town will provide the signs for posting. The applicant is responsible for filling out the signs, posting the signs, checking on the signs to make sure they remain in place, and to remove the signs within two days after the final decision on the Permit application. Prior to the hearing the applicant shall submit to the Community Development Department a notarized affidavit, on the Town form, stating that the notice was posted and maintained.

b. **Application Review and Staff Report**

i. **Director Review and Staff Report**

The Director shall prepare a report taking into account the application, Planning Commission recommendation, review comments, issues raised by referral agencies and consultants, terms and conditions imposed by state agencies, probability of compliance with the approval standards, and any other available information on the record.

ii. **Distribution of Staff Report**

No less than seven (7) calendar days prior to the date of the public hearing, the Director shall submit the staff report to the applicant and to the Board of Trustees. A copy of the staff report shall also be available for public review prior to the hearing.

c. **Permit Decision by Board of Trustees**

The Board of Trustees shall approve, approve with conditions, or deny the Permit application based upon compliance with the approval standards in Section 10.12.4 of these Regulations. The Board's decision shall include the following:

i. **Description of Project**

Brief discussion of the proposed Oil and Gas Operation;

ii. **Issues**

Description of issues raised by the Planning Commission, affected property owners, referral agencies and consultants;

iii. **Conditions Imposed by the State**

Description of terms, conditions and requirements imposed on proposed Oil and Gas Operation by the state;

iv. **Impacts and Mitigation**

Description of impacts of the proposed Oil and Gas Operation, proposed mitigation, and whether each approval standard has been satisfied; and

v. **Conditions of Approval**

Conditions of approval, if any, necessary to ensure compliance with approval standards.

**F. Recompletion of Wells Existing as of the Effective Date of These Regulations**

**1. Notice of Recompletion**

Prior to submitting Form 2 to the COGCC for recompletion of any well existing as of the effective date of these Regulations, the Operator shall notify the Local Government Designee (“LGD”) of its intent to submit such form.

**2. Neighborhood Meeting**

Prior to submitting the Form 2 for recompletion of any well existing as of the effective date of these Regulations, the Operator shall hold a neighborhood meeting at the Erie Community Center or a similarly convenient location approved by the Operator and the Town. The Operator shall provide 3 x 5 cards for the public to make written comments. The Town shall provide a lockbox for purposes of collecting written comments from meeting attendees. The LGD or his appointee will attend the meeting and collect the lockbox containing any written comments from meeting attendees. The LGD will transmit the written comments to the COGCC with any comments he submits on behalf of the Town regarding the Form 2.

**3. Mailed Notice**

Prior to the neighborhood meeting, the Operator shall mail notice of the anticipated recompletion to those properties located within at least one-half (1/2) mile of the pad site that would be affected by the recompletion. Owners of record shall be ascertained according to the records of the County Assessor's Office, unless more current information is made available in writing to the Town prior to the mailing of the notices. This notice shall include reference to the neighborhood meeting, contact information for the Operator, and the approximate date recompletion will begin. The Operator will provide the Town with an affidavit or certificate of mailing showing that notice was provided to the list of property owners.

**4. Posted Notice**

Ten (10) days prior to the neighborhood meeting, the Operator shall post a sign at the pad site, giving notice to the general public of the recompletion and contact information for the Operator. The Town will provide the signs for posting. The applicant is responsible for filling out the signs. For parcels of land exceeding ten (10) acres in size, two (2) signs shall be posted. Such signs shall be posted on the subject property in a manner and at a location or locations reasonably calculated by the Town to afford the best notice to the public.

**A. Standards Applicable to Type A Permits**

In addition to the standards in Section 10.12.4.B, below, all Type A permits shall be subject to the requirements set forth in Section 10.12.3.B.1.

**B. Standards Applicable to Type A and Type B Permits**

The following standards are the minimum standards that will apply to all proposed Oil and Gas Operations, and shall be in addition to any applicable state standards.

**1. Use of Steel-Rim Berms**

The Oil and Gas Operation will use steel rim berms or some other state of the art technology that will contain fluids and other material instead of sand or soil berms.

**2. Setbacks**

Wells and any associated Oil and Gas Operation facility or structure (above ground) shall be set back in accordance with Colorado Oil and Gas Conservation Commission Regulations, as amended.

**3. Minimal Site Disturbance**

The Oil and Gas Operation shall be located and constructed in a manner so that there is no unnecessary or excessive site disturbance and that minimizes the amount of cut and fill:

- a. Multi-well drill pads and consolidated facilities will be used to minimize surface disturbance.
- b. Pad dimensions will be the minimum size necessary to accommodate operational needs while minimizing surface disturbance.
- c. Structures and surface equipment will be the minimum size necessary to satisfy present and future operational needs.
- d. The Operation will be located in a manner to minimize impacts on surrounding uses, and achieve compatibility with the natural topography and existing vegetation.

**4. Visual Quality**

The Oil and Gas Operation will not cause significant degradation to the scenic attributes and rural character of the Town.

- a. Facilities shall be painted in a uniform, non-contrasting, non-reflective color, to blend with the surrounding landscape and with colors that match

the land rather than the sky. The color should be slightly darker than the surrounding landscape.

- b. The Oil and Gas Operation should be buffered from sensitive visual areas by providing landscaping along the perimeter of the site between the surface equipment and the sensitive visual area.
- c. The Oil and Gas Operation should be constructed in a manner to minimize the removal of and damage to existing trees and vegetation. If the Operation requires clearing trees or vegetation, the edges of the cleared vegetation should be feathered and thinned and the vegetation should be mowed or brushhogged while leaving root structure intact, instead of scraping the surface.
- d. The Oil and Gas Operation shall be sited away from prominent natural features and visual, scenic and environmental resources such as distinctive rock and land forms, rivers and streams, and distinctive vegetative patterns.
- e. To the maximum extent practicable, the Oil and Gas Operation will use low profile tanks or less intrusive equipment.

**5. Natural Resource Areas**

The Oil and Gas Operation may not be located as to cause significant degradation of natural landmarks, rare plant species, riparian corridors, wildlife habitat or other sensitive areas.

**6. Historical and Cultural Resources**

The Oil and Gas Operation shall not cause significant degradation to resources of historic, cultural, paleontological, or archeological importance.

**7. Public Services and Facilities**

The Oil and Gas Operation shall not have a significant adverse effect on the capability of the Town to provide municipal services or the capacity of the service delivery systems.

**8. Use of Existing Roads**

Unless traffic safety, visual or noise concerns, or other adverse surface impacts clearly dictate otherwise, existing roads on or near the site of the Oil and Gas Operation shall be used in order to minimize land disturbance.

**9. Transportation, Roads, and Access Standards**

**a. Compliance with Town Standards**

All public roads shall be constructed and maintained in compliance with Town standards as necessary to accommodate the traffic and equipment related to Oil and Gas Operations and emergency vehicles.

b. **Dust Suppression**

Dust associated with on-site activities and traffic on access roads shall be minimized throughout construction, drilling and operational activities such that there are no visible dust emissions from access roads or the site to the extent practical given wind conditions.

c. **Access to Public Roads**

- i. Access points to public roads shall be located, improved and maintained to assure adequate capacity for efficient movement of existing and projected traffic volumes and to minimize traffic hazards.
  - ii. Access roads shall be improved a minimum distance of 200 feet on the access road from the point of connection to a public road. The access road shall be improved as a hard surface (concrete or asphalt) for the first 100 feet from the public road and then improved as a crushed surface (concrete or asphalt) for 100 feet past the hard surface in the appropriate depth to support the weight load requirements of the vehicles accessing the well and production facilities.
  - iii. If an access road intersects with a pedestrian trail or walk, the Operator shall pave the access road as a hard surface (concrete or asphalt) a distance of 100 feet either side of the trail or walk and if necessary, replace the trail or walk to address the weight load requirements of the vehicles accessing the well and production facilities.
  - iv. Temporary access roads associated with the Oil and Gas Operation shall be reclaimed and revegetated to the original state within sixty (60) days after discontinued use of the temporary access roads.
- d. If the projected use of public roads as a result of the Oil and Gas Operation will result in a need for an increase in roadway maintenance, the Operator shall enter into an agreement with the Town whereby the Operator provides for private maintenance or reimburses the Town for such increased costs and/or provides a bond or other financial assurance in an amount acceptable to the Town to cover the costs of mitigating impacts to public roads.

**10. Implementation of Traffic Management Plan**

The Operator will implement the required Traffic Management Plan.

**11. Road Repairs**

- a. The Operator will arrange for a qualified outside consultant to perform a road impact study for all public roads that are used to access the Oil and Gas Operation. The consultant will conduct the first part of the study prior to operations and the second part of the study after the Operator completes all drilling and hydraulic fracturing. The Operator and the Town will use these studies to determine the extent of any damage accruing to the road during the study period. The Operator will either promptly pay the Town to repair such damage or arrange for and pay the cost of such repairs itself, whichever the Town prefers.
- b. The Operator shall maintain financial assurance to secure its road repair obligations. The amount of such financial assurance shall equal the Town's annual road maintenance budget as of the date of permit approval multiplied by the percentage yielded by dividing the total number of Town road miles as of the date of permit approval into the number of such road miles that the Operator will use to access the Oil and Gas Operation. The Operator shall select the form of such financial assurance and shall maintain such assurance until it fulfills its obligation to repair road damage pursuant to paragraph a, above.

**12. Grading / Drainage and Erosion Control**

The Oil and Gas Operation shall be conducted in accordance with the Grading/Drainage and Erosion Control Plan.

**13. Water Quality**

The Oil and Gas Operation shall not cause significant degradation of water quality of affected water bodies. The Operator will implement the required water quality monitoring plan. Determination of effects of the Operation on water quality may include, but is not limited to the following considerations:

- a. Applicable narrative and numeric water quality standards.
- b. Changes in point and nonpoint source pollution loads.
- c. Increase in erosion and sediment loads.
- d. Changes in stream channel or shoreline stability.
- e. Changes in stormwater runoff flows.
- f. Changes in quality of ground water.
- g. Certification. The Operator must submit annual reports to the Director certifying compliance with water quality standards, documenting any non-compliance, including its date and duration. A compliance plan is required for all instances of non-compliance.

- 14. Wells**  
The Oil and Gas Operation shall not cause water quality or water pressure of any public or private water wells to go below pre-project levels. The Operator must submit annual reports to the Director certifying that the Operation has not caused water quality or pressure of public and private wells to go below pre-project levels, documenting non-compliance, including its date and duration. A compliance plan is required or all instances of non-compliance.
- 15. Floodplain, Wetlands and Riparian Areas**  
The Oil and Gas Operation will not have a significant adverse effect on the floodplain and will not significantly degrade wetlands and riparian areas. Oil and Gas Operations conducted within the Floodplain Overlay District shall comply with Section 10.2.7.C of the UDC.
- 16. Wildlife**  
The Oil and Gas Operation shall not cause significant degradation of wildlife or wildlife habitat.
- 17. Fuel Storage Areas**  
The Oil and Gas Operation includes measures to contain fuel in fuel storage areas to prevent release to any water body. Inventory management or leak detection plans may be required.
- 18. Disposal of Hydraulic Fracturing Fluid**  
The Operator shall demonstrate the ability to and shall dispose of all hydraulic fracturing fluids in accordance with the Hydraulic Fluid Fracturing Disposal Plan.
- 19. Hazardous Materials**
- a. The Oil and Gas Operation includes measures to contain all hazardous materials in storage areas to prevent release to any water body. Inventory management and leak detection systems are required.
  - b. Full disclosure, consistent with COGCC requirements, including material safety data sheets of all hazardous materials that will be transported on any public or private roadway within the Town for the Oil and Gas Operation, shall be provided to the Director. This information will be treated as confidential and will be shared with other emergency response personnel only on an as needed basis.
- 20. Spill and Release Response and Reporting**  
The Operator has demonstrated the ability to control and contain all spills and releases of exploration and production waste, including produced fluids, immediately upon discovery in compliance with the following requirements:
- a. Impacts resulting from spills and releases shall be investigated and cleaned up as soon as practicable.

- b. For all spills and releases reportable under COGCC Rule 906, within ten (10) days after discovery Operator shall submit to the Director a copy of the spill and release report (COGCC Form 19), including the topographic map showing location of the spill and any information relating to initial mitigation, site investigation, and remediation that accompany the report.
- c. For spills and releases which exceed twenty (20) barrels of exploration and production waste, the spill and release shall be verbally reported to the Director as soon as practicable, but not more than twenty-four (24) hours after discovery.
- d. Spills and releases of any size which impact or threaten to impact any waters of the state, residence or occupied structure, livestock, or public byway shall be verbally reported to the Director as soon as practicable, but not more than twenty-four (24) hours after discovery.
- e. Spills and releases of any size which impact or threaten to impact any water supply area shall be verbally reported to the Colorado Environmental Spill Reporting Hotline at 1-877-518-5608, to the Local Government Designee, and to the Director immediately after discovery.
- f. Spills, chemical spills and releases shall be reported in accordance with applicable state and federal laws, including the Emergency Planning and Community Right to Know Act, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the Oil and Pollution Act, and the Clean Water Act, as applicable.

**21. Emergency Response**

The Oil and Gas Operation shall be conducted in accordance with the Emergency Response Plan.

**22. General Operation and Maintenance Requirements**

- a. The Oil and Gas Operation shall maximize resource recovery and minimize releases to the atmosphere during flowback and subsequent recovery / operation.
- b. Gas produced during production shall be captured and not flared or vented to the maximum extent practicable.
- c. The Operator shall at all times keep the well sites, roads, rights-of-way, facility locations, and other Oil and Gas Operation areas safe and in good order, free of noxious weeds, litter and debris.
  - i. The Operation shall comply with COGCC rules concerning weed control. The Operator shall be responsible for ongoing weed

control at all locations disturbed by the Operation and along access roads during construction and operation, until abandonment and final reclamation is completed.

- ii. The Operation shall comply with COGCC rules concerning removal of debris.
  - iii. The Operator shall utilize vehicle tracking control practices to control potential sediment discharges from unpaved surfaces. Such practices may include road and pad design and maintenance to minimize rutting and tracking, controlling site access, street sweeping or scraping, tracking pads, and wash racks. Traction chains from heavy equipment shall be removed before entering a public roadway.
- d. The Operator shall dispose of all water, unused equipment, litter, sewage, waste, chemicals and debris off of the site at an approved disposal site.
- i. All equipment used for drilling, re-drilling and maintenance shall be removed from the well pad site within thirty (30) days after completion of the work, unless otherwise agreed to by the surface owner. Permanent storage of equipment on well pad sites shall not be allowed.
  - ii. Materials shall not be buried on-site.
- e. The Operator shall promptly reclaim and reseed all disturbed sites in conformance with COGCC rules.
- f. Routine field maintenance of vehicles or mobile machinery shall not be performed within three hundred (300) feet of any water body.
- g. All mechanized equipment associated with the Operation shall be anchored to minimize transmission of vibrations through the ground.
- h. No burning of trash shall occur in association with the Operation.
- i. Open-ended discharge valves on all storage tanks, pipelines and other containers shall be secured where the Operation site is unattended or is accessible to the general public. Open-ended discharge valves shall be placed within the interior of the tank secondary containment.
- j. All permanent equipment with engines or motors that can be electrified shall be electrified from the power grid or from renewable sources. All well pads that are not electrically operated should use quiet design mufflers (also referred to as hospital grade or dual dissipative) or

equivalent; or acoustically insulated housing or covers to enclose the motor or engine.

- k. Exhaust from all engines, motors, coolers and other mechanized equipment shall be vented up or in a direction away from the closest occupied structures.
- l. Oil and gas well facilities (above ground) shall be fenced with wrought iron fencing or Ameristar Impasse or Stronghold fencing or approved equivalent, as determined by the Director. The fencing color shall be bronze unless the Director approves black fencing. Black fencing will only be approved by the Director if fencing or site furnishings in the adjacent developments have approved black elements.
- m. The Operator will install down cast lighting or some other form of lighting that mitigates light pollution and spill-over onto adjacent properties; provided, however, that Operator may still use lighting that is necessary for public and occupational safety.
- n. Well Abandonment. The Operator shall comply with any COGCC rules regarding well abandonment. Upon plugging and abandonment of a well, the Operator shall provide the Director with surveyed coordinates of the abandoned well and shall leave onsite a permanent physical marker of the well location.

**C. Waiver of Approval Standards**

The Town may waive one or more of the Oil and Gas Operation Approval Standards set forth in this Section 10.12.4.B for Operational Conflict, Technical Infeasibility or Environmental Protection.

**1. Operational Conflict**

An approval standard may be waived by the Board of Trustees if the application of a Town standard to the proposed Oil and Gas Operation would materially impede or destroy the state's interest in the responsible, balanced development, production and utilization of oil and gas consistent with protection of public health, safety and welfare, including protection of the environment and wildlife resources.

**a. Request for Waiver**

Upon written request by the applicant, the Director shall schedule a public hearing by the Board of Trustees at the next regularly scheduled meeting for which proper notice can be accomplished and for which there is time on the agenda following receipt of the written waiver request.

**b. Notice of Public Hearing**

- i. The notice of public hearing on the waiver request shall be prepared by the Director and shall include a description of the proposed Oil and Gas Operation, description of the standard(s) sought to be waived, and the date and location of the hearing.
  - ii. Not less than fifteen (15) days prior to the hearing, the Director shall publish the notice of public hearing on the waiver request in a newspaper having general circulation in the area. The Operator shall be responsible for the cost of publication.
  - iii. Not less than fifteen (15) calendar days prior to the date of the public hearing on the waiver request, the Director shall mail written notice of the public hearing to owners of real property within 300 feet of the subject parcel when the proposed Oil and Gas Operation is located. The applicant shall provide a stamped and addressed envelope for each party to be notified. The list of property owners to be notified shall be compiled by the applicant using the most current list of property owners on file with the County Assessor.
- c. **Decision by Board of Trustees on Request for Waiver of Standard**  
The Board of Trustees may waive the standard if the Board determines, based on evidence and testimony at the hearing, that application of the approval standard to the proposed Oil and Gas Operation will result in an operational conflict with a state statute, regulation, or other requirement. The Board may impose conditions that are necessary to minimize any negative impacts of the waiver.

**2. Technical Infeasibility**

The Operator may make a written request to the Director for a waiver due to technical infeasibility at any time during the application review process prior to the final decision on the application. The Director may approve the request for waiver based upon the following determinations:

- a. There is no economical technology commercially available to conduct the proposed Oil and Gas Operation in compliance with the standard; and
- b. Conduct of the proposed Oil and Gas Operation if the standard is waived will be protective of public health, safety, welfare and the environment.

**3. Environmental Protection**

The Operator may make a written request to the Director for a waiver based on environmental protection at any time during the application review process prior to the final decision on the application. The Director may approve the request for waiver if protection of public health, safety welfare and the environment will be enhanced by an alternate approach not contemplated by the standard.

## **10.12.5 ENFORCEMENT**

These Regulations for Oil and Gas Operations shall be enforced pursuant to Section 10.10.1 of the UDC.

**TOWN OF ERIE**  
**BOARD OF TRUSTEE AGENDA ITEM**  
**Board Meeting Date: September 8, 2015**

---

**SUBJECT:** GENERAL BUSINESS  
**DEPARTMENT:** Parks & Recreation  
**PRESENTER:** Farrell Buller, Parks & Recreation Director

---

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

---

**STAFF RECOMMENDATION:** **Approval of letter of support for Aspen Ridge Preparatory School grant application**

---

**SUMMARY AND BACKGROUND OF SUBJECT MATTER:**

Staff has been working with Aspen Ridge Preparatory School (ARPS) to provide support and assistance as they design an outside play space for their school. As a part of this process ARPS is in the process of completing an application for the Great Outdoors Colorado (GOCO) 2016 School Play Yard Initiative. This program is aimed at improving school grounds and to bring nature to the spaces youth and families access most often. To achieve this, GOCO offers a grant for professional design services; whereby the consultants help students to think through the technicalities of construction on school grounds, and engage student in the design process to think creatively about bringing nature to the school grounds.

In order for ARPS to apply for the 2016 School Play Yard Initiative they must partner with a local government or school district. Since 2012, the Town and ARPS have collaborated to share available space and staff through programs and services offered through our Parks and Recreation Department and because of this close association and the Parks and Recreation Department's expertise in playgrounds ARPS has requested that the Town be the sponsoring partner.

As the sponsoring partner the Town is required to provide a letter signed by a member of the Board of Trustees confirming support of the application and recognizing the further obligations if ARPS is successful in their request. These additional requirements are as follows:

- ✓ Designate a primary contact for the initiative
- ✓ Sign the application for design and construction is selected
- ✓ Pass a resolution supporting the project
- ✓ Establish an IGA/MOU with Aspen Ridge
- ✓ Sign the grant agreement
- ✓ Serve as the fiscal agent for all grant related reporting and distribution of funds

The Parks and Recreation Department would provide administrative support outlined above, should ARPS be successful.

---

**Staff Review:**

\_\_\_\_ Town Attorney  
\_\_\_\_ Town Clerk

**Approved by:**

**TOWN OF ERIE**  
**BOARD OF TRUSTEE AGENDA ITEM**  
**Board Meeting Date: September 8, 2015**

\_\_\_\_ Community Development Director

\_\_\_\_ Finance Director

\_\_\_\_ Police Chief

\_\_\_\_ Public Works Director

 Park & Recreation Director

  
\_\_\_\_\_  
**A.J. Krieger**  
**Town Administrator**

Attachments:

- a. GOCO School Play Yard Application Guidelines
- b. Letter of Support



## 2016 School Play Yard Initiative

Great Outdoors Colorado (GOCO), in partnership with Colorado Parks and Wildlife (CPW), is requesting proposals for projects that seek to revitalize school playgrounds and outdoor learning environments across the state with an emphasis on opportunities for nature-based play and learning.

In addition to receiving GOCO funding for infrastructure improvements, schools selected for the 2016 School Play Yard Initiative (SPYI) will also become partner schools in CPW's Schools and Outdoor Learning Environments (SOLE) program. SOLE provides outdoor experiences and teacher training to help students and families connect with nature on-site, and through 4<sup>th</sup> grade field trips to nearby natural spaces.

GOCO's recently completed strategic planning process once again identified connecting youth with nature as one of Colorado's greatest concerns. This sentiment was heard in communities across the state: from the plains' rural outposts, through the Front Range's urban centers, and up through the Western Slope's peaks, valleys, and high-desert plateaus. While the geography of these areas differs, the importance of nearby opportunities to access nature, especially for underserved communities, was a common theme. Though Colorado's outdoor assets are vast, youth focus group participants shared that their families often aren't able to access even relatively nearby outdoor places, and that their home communities frequently lack safe outdoor areas to play in and explore. By improving school grounds, GOCO aims to bring nature to the spaces youth and families access most often, and by partnering with the SOLE program, we hope to turn schools into trailheads for the great outdoor places beyond.

Applications for the 2016 SPYI will be a two-step process. Schools, in partnership with their local governments, will participate in a competitive grant process for:

1. **Professional design services:** Grantees are required to hire and work with a professional design consultant in order to help think through the technicalities of construction on school grounds, engage students in the design process, and think creatively about bringing nature to the school grounds. Five schools will be awarded up to \$7,000 to hire professional design consultants to help guide their SPYI projects.

Accordingly, the first application for design (included in this document) is focused on understanding each school's need for GOCO's assistance, and their initial vision for transforming school grounds into havens for nearby nature for youth and families.

2. **Funds for construction and SOLE status:** After completing the planning process, those five schools will complete a second application to compete for funds to construct their projects. Each school is eligible to receive a grant of up to \$100,000 for project implementation.

**Applications for design are due on October 12, 2015.** GOCO has moved to an online application system. Instructions are included at the end of this document regarding online submission.

Please contact Joe Davidson at [jdavidson@goco.org](mailto:jdavidson@goco.org) or 303.226.4512 for more information or with any questions. We're here to help and are eager to answer any questions you may have about the grant cycle.

## 2016 School Play Yard Initiative Fact Sheet

**Eligible Entities:** School Play Yard projects must be proposed through a partnership between a local government and a school or school district as local governments are the only entities eligible to receive GOCO Local Government grants per the Constitutional Amendment that created GOCO (see page 3 for more information).

**Eligible Project Types:** Funding can be used to develop a new school play yard and/or to enhance or improve current school play yards. Projects can include natural playscapes, outdoor classrooms, learning gardens, walking paths, environmental education signage, shade, and age specific play equipment. All projects must be constructed on or adjacent to school grounds. Projects must include opportunities for outdoor education and recreation with an emphasis on natural components. The planning and design of all projects must involve the students.

**Award and Grant Amount:** Five schools will be awarded initial funds of up to \$7,000 toward hiring a professional design consultant to empower the students to design a compelling outdoor space for learning and recreation with an emphasis on natural components. Through a separate application process, those five schools will then apply for grants of up to \$100,000 for project construction.

**Access:** The proposed play yard must be open to the general public, daily, when school is not in session. The project budget must include funding for signage that informs the community of the days and hours the play yard is open to the public.

**SOLE Program Partnership:** As part of the 2016 SPYI, schools awarded construction funding will also become partner schools with Colorado Parks and Wildlife's Schools and Outdoor Learning Environments program. SOLE schools participate in field trips to nearby nature areas such as state parks, wildlife areas, or partner organizations such as nature centers and museums. SOLE also hosts Family Nature Nights on the school grounds and in-class presentations. Current SOLE programs provide 3 field trips to students in the 4th grade.

To encourage use of school grounds as outdoor learning environments, the SOLE program is piloting teacher training workshops to provide specific hands-on strategies and activities to inspire teachers from all subject areas to take learning outdoors. Schools will be asked to send several teacher and administrative representatives to a regional workshop, or to provide professional development time for SOLE to host an on-site teacher training.

For more information, see: <http://cpwsole.com/>

**Match Requirements:** There are no match requirements associated with this initial application for design services. However, if your school is one of the five invited to apply for funds for construction; you will have to come up with matching funds. GOCO will not fund more than 75% of the proposed project's eligible costs up to \$100,000. At least 25% of the total project cost must come from sources other than GOCO. Of the 25%, a minimum of 10% of the total project costs must be a cash match from the applicant and/or partners. Matching funds can come from the school or district, the local government's Conservation Trust Fund dollars, grants from other organizations, fundraisers, donations, etc.

Additional funds spent on planning and design services, beyond GOCO's initial contribution, can be applied as match to the final grant for construction funds.

**Timeline:** If an applicant is awarded funds for construction, work on the proposed project may not begin until after the grant has been awarded (June 2016) and a contract is signed with GOCO. Grantees are allowed

up to two years for construction. GOCO will make all efforts to support construction plans aimed for summer 2016, though school districts and local governments will need to take an aggressive stance toward reviewing documents and proactively involving all necessary parties in the planning and design process to meet that goal. Considering bidding processes for final design services and contractors, it may be necessary to plan for construction in 2017. Schools may also consider completing some or all phases of construction while school is in session in order to involve students, families and volunteers directly in compatible roles such as planting and or site prep.

**Property Ownership:** All property on which GOCO funded projects are located must be owned by or under control of the applicant for the useful life of the project. Considering these projects will be constructed on school grounds and therefore owned by the school/school district, an Intergovernmental Agreement (IGA) between the local government and the school district will be required if grant funding for construction is awarded.

**School Play Yard Initiative Grant Cycle Calendar:**

Oct. 12, 2015	Applications for design services due at GOCO
Nov. 12, 2015	Schools notified of recommendation of funding for planning
Nov. 19, 2015	Committee recommends projects to Board
Dec. 10, 2015	GOCO Board awards five projects funding for professional design services
Dec. 14, 2016	Those five projects receive an application to compete for up to \$500,000 in funds for construction. Grants for construction will not exceed \$100,000.
Mar. 20 - Apr. 8	Student-led site visits for GOCO board and staff
April 13, 2016	Applications for project construction due at GOCO
May 12, 2016	Schools notified of recommendation of funding for construction
June 9, 2016	Board decisions on projects, construction funds awarded

**Local Government / School Partnership**

School Play Yard projects must be proposed through a partnership between a local government and school district or school. Article XXVII of the Colorado Constitution establishes that the only entities eligible to receive grants through this initiative are municipalities, counties, and title 32 special park and recreation districts. Those eligible entities may sponsor projects on behalf of entities that are not eligible for GOCO funding; allowing schools the opportunity to construct projects on school grounds. For the purposes of this initiative, the local government will serve as the applicant, and the school will serve as the partner. If a grant is awarded, the local government – as GOCO’s grantee – will be responsible for grant administration. This means that they will sign the GOCO grant agreement, and will receive GOCO grant payments (to then be passed on to the school).

To bind the school as a third party, to the terms and obligations set forth in GOCO’s Grant Agreement, the two parties must enter into an Intergovernmental Agreement (IGA), Memo of Understanding, Special Use Agreement or other contract. That contract must be in place if a school is selected to compete for funds for

construction. Please contact GOCO to get a sample IGA, which includes particular language GOCO needs to see in these contracts.

**Minimum Local Government Role as Grantee:**

- Designate a primary contact for the initiative
- Sign applications for design and construction, if selected.
- Pass a resolution supporting the project
- Work with school district to establish and execute IGA/MOU regarding school grounds
- Sign GOCO Grant Agreement
- Participate in grant award orientation call
- Serve as fiscal agent:
  - Accounting/financial department approves and signs progress and or final reports
  - receive grant funds from GOCO
  - distribute funds to school

**Letter of Support from Local Government**

GOCO requires a letter of support from the local government to be signed by a member of its governing body (a city/town council member, a county commissioner, or member of a special district board) to ensure the applicant’s ultimate decision-makers are aware of and support the application and recognize the financial and other obligations the grant creates. The letter must:

- Confirm support for the project and the application to GOCO.
- Recognize the need to enter into an Intergovernmental Agreement with the school to bind it to the terms and obligations of any grant awarded.

A formal resolution is not needed until the application for construction phase.

**Letter of Support from School and School District**

GOCO requires a letter of support from the partnering school and school district to demonstrate support for the project and solidify their partnership with the local government. The letter must be co-signed by the district superintendent, the school principal, and the school’s facilities and risk department or comparable representative. The letter must:

- Confirm support for the project and the application to GOCO.
- Confirm district ownership of the project site for the project’s useful life.
- Confirm that the play yard will be open to the general public, daily, when school is not in session.
- Recognize the need to enter into an Intergovernmental Agreement with the local government to bind the school to the terms and obligations of any grant awarded.
- Recognize the need to provide matching funds for project completion.
- Confirm that the school’s facilities and risk department or comparable representative will participate in the design process to ensure the viability of the proposed components.
- Recognize the need to maintain the project in a high quality condition for its useful life.
- Administration will provide time for teachers to participate in teacher training and support SOLE efforts at their school.



September 8, 2015

Great Outdoors Colorado  
303 E. 17<sup>th</sup> Avenue, Suite 1060  
Denver, CO 80203

RE: Aspen Ridge Preparatory School Play Yard Initiative Application

On behalf of the Town of Erie, Colorado, I wish to express the support of the application by Aspen Ridge Preparatory School (ARPS) for the Great Outdoors Colorado School Play Yard Initiative. This playground would be a community asset, providing additional outdoor play space with in Erie. Due to the school's proximity to the local gathering places, the Erie Community Center and area trails we feel this project is vital component for the outdoor health and wellness of our citizens.

Since 2012, the Town and ARPS have collaborated to share available space and staff through programs and services offered through our Parks and Recreation Department. The Town has been able to offer physical education classes and before and after school care for ARPS students, and in exchange use the ARPS building to offer a state licensed summer camp for 5-7 year olds. Additionally, ARPS students utilize the Recreation Center for programs and ARPS staff are able to utilize the facility for their personal fitness needs.

In addition, as the sponsoring partner in this application, the Town is aware it obligations should Aspen Ridge be successful in their application. The Town will as the Grantee:

- Designate a primary contact for the initiative
- Sign the application for design and construction is selected
- Pass a resolution supporting the project
- Establish an IGA/MOU with Aspen Ridge
- Sign the grant agreement
- Serve as the fiscal agent for all grant related reporting and distribution of funds

I sincerely hope that Aspen Ridge is successful in their application for funding and hope you will give them every consideration.

Sincerely,

Tina Harris  
Mayor

**TOWN OF ERIE**  
**BOARD OF TRUSTEE AGENDA ITEM**  
**Board Meeting Date: September 8, 2015**

---

**SUBJECT:** **STAFF REPORT**  
  
Community Development Monthly Reports

**DEPARTMENT:** Community Development

**PRESENTER:** R. Martin Ostholthoff, Director

---

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

---

**STAFF**  
**RECOMMENDATION:** n/a

---

**SUMMARY AND BACKGROUND OF SUBJECT MATTER:**

**Building Permit Monthly Report**

The attached Building Permit Report indicates the number of new residential building permits issued to date (through August 2015) versus the building permit projections utilized in determining the 2015 budget. The Town issued 23 new residential building permits in August 2015.

For 2015 the Town has issued 312 building permits or 78 percent of the yearly projected total of 400 building permits.

The Building Permit Reports for 2014 and 2013 are attached hereto for comparison.

**Historic Erie Neighborhood Building Permit Fee Waiver**

The effective date of the Historic Erie Neighborhood waiver was October 6, 2012.

A total of 9 permits valued at \$620.03 in fees were waived for the month of August 2015. The cumulative value of fees waived since the inception of the program is \$28,565.65. A breakdown of the fees waived is attached hereto.

---

**Staff Review:**

\_\_\_\_ Town Attorney  
\_\_\_\_ Town Clerk  
VM Community Development Director  
\_\_\_\_ Finance Director  
\_\_\_\_ Police Chief  
\_\_\_\_ Public Works Director

**Approved by:**

  
\_\_\_\_\_  
**A.J. Krieger**  
**Town Administrator**

---

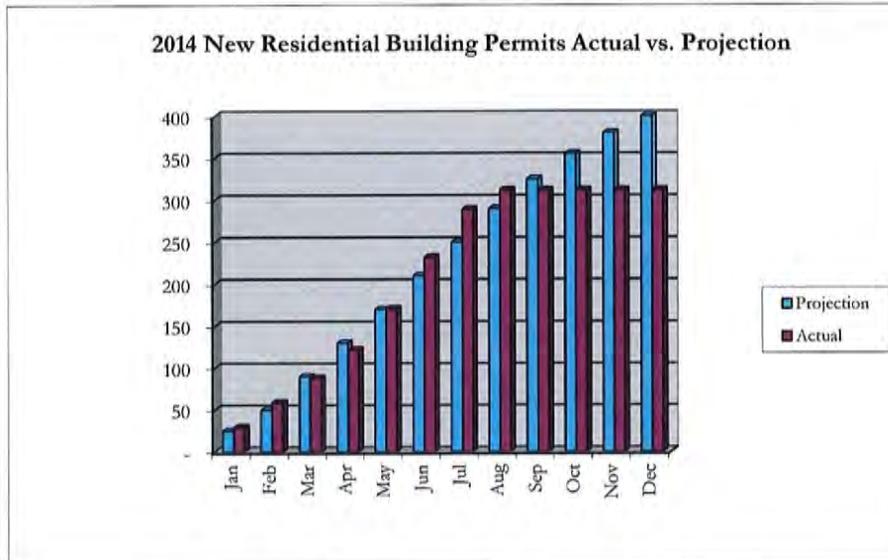
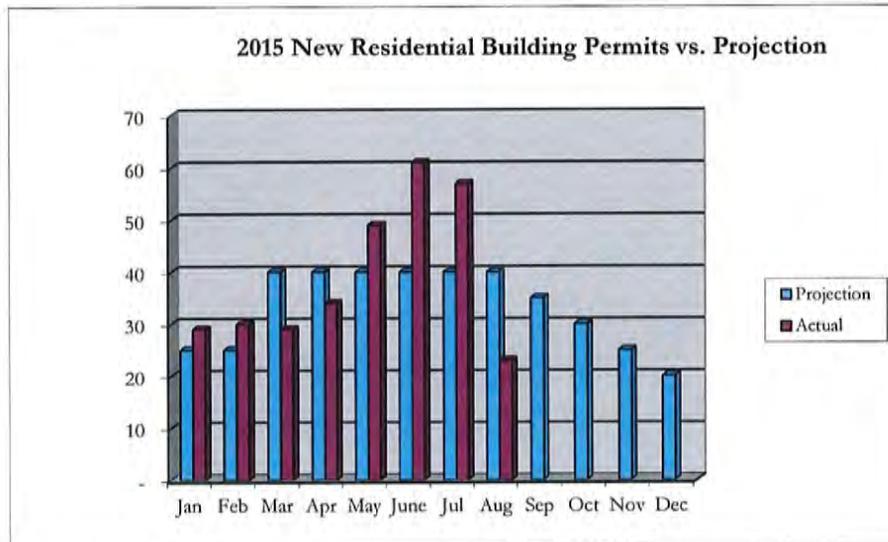
**ATTACHMENTS:**

- A. 2015/2014/2013 Building Permits to Projection Comparison
- B. Historic Erie Neighborhood Fees Waived

# ATTACHMENT A

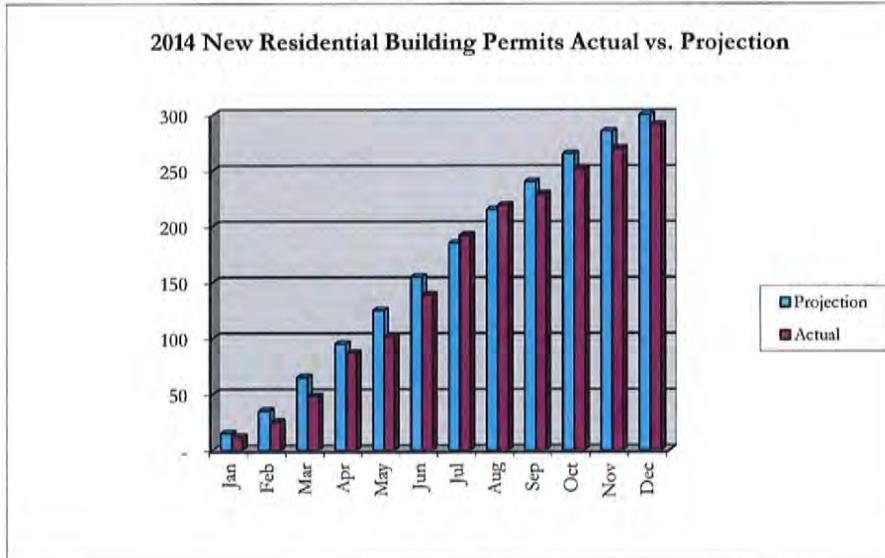
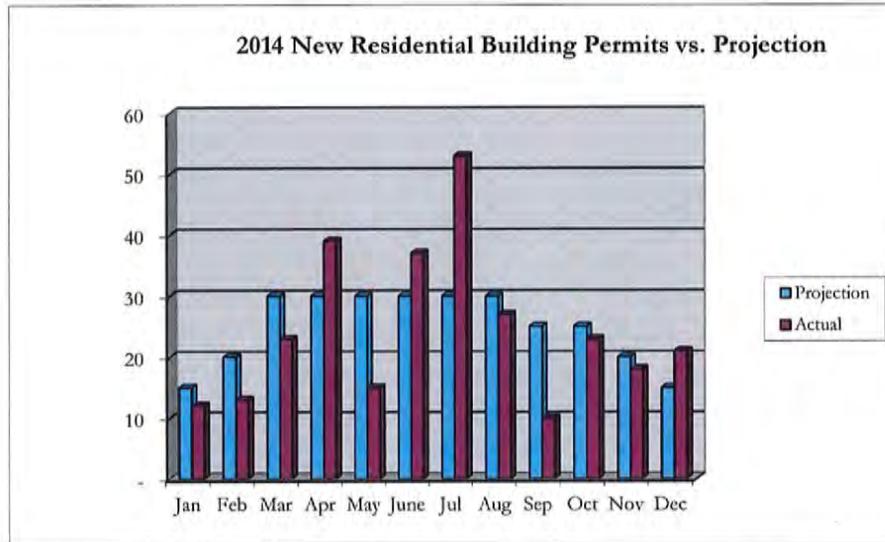
## 2015 Building Permits to Projection Comparison

2015	Month by Month		Seasonal Projection		Accumulation	
	Projection	Actual			Projection	Actual
Jan	25	29	8%	Jan	25	29
Feb	25	30	7%	Feb	50	59
Mar	40	29	11%	Mar	90	88
Apr	40	34	12%	Apr	130	122
May	40	49	10%	May	170	171
June	40	61	11%	Jun	210	232
Jul	40	57	10%	Jul	250	289
Aug	40	23	8%	Aug	290	312
Sep	35		7%	Sep	325	312
Oct	30		6%	Oct	355	312
Nov	25		7%	Nov	380	312
Dec	20		5%	Dec	400	312
<b>Total</b>	<b>400</b>					



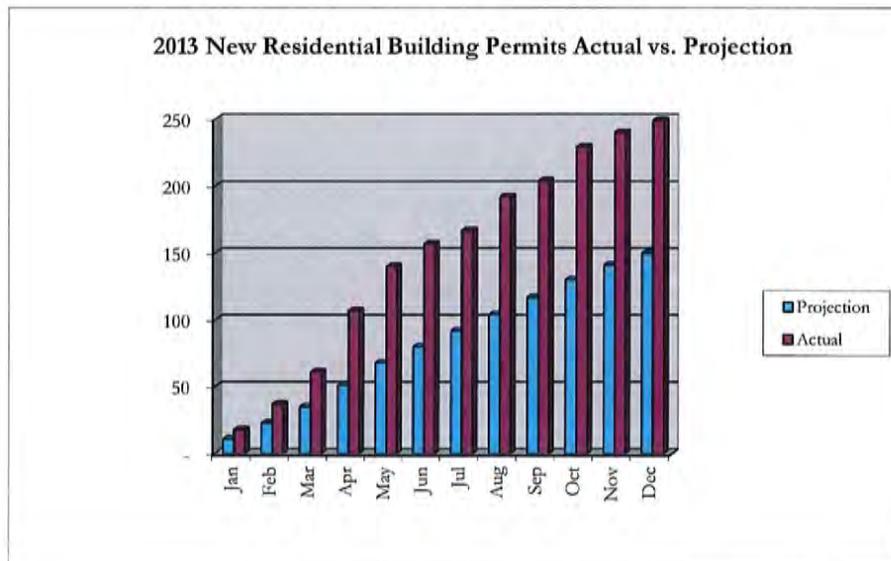
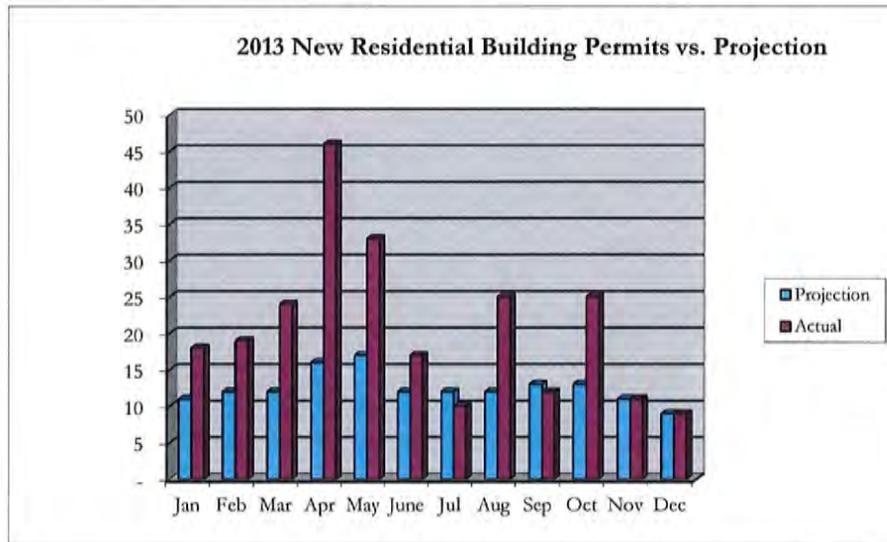
## 2014 Building Permits to Projection Comparison

2014	Month by Month		Seasonal Projection	Accumulation		
	Projection	Actual		Projection	Actual	
Jan	15	12	8%	Jan	15	12
Feb	20	13	7%	Feb	35	25
Mar	30	23	11%	Mar	65	48
Apr	30	39	12%	Apr	95	87
May	30	15	10%	May	125	102
June	30	37	11%	Jun	155	139
Jul	30	53	10%	Jul	185	192
Aug	30	27	8%	Aug	215	219
Sep	25	10	7%	Sep	240	229
Oct	25	23	6%	Oct	265	252
Nov	20	18	7%	Nov	285	270
Dec	15	21	5%	Dec	300	291
<b>Total</b>	<b>300</b>					



## 2013 Building Permits to Projection Comparison

2013	Month by Month		Seasonal Projection		Accumulation	
	Projection	Actual			Projection	Actual
Jan	11	18	8%	Jan	11	18
Feb	12	19	7%	Feb	23	37
Mar	12	24	11%	Mar	35	61
Apr	16	46	12%	Apr	51	107
May	17	33	10%	May	68	140
June	12	17	11%	Jun	80	157
Jul	12	10	10%	Jul	92	167
Aug	12	25	8%	Aug	104	192
Sep	13	12	7%	Sep	117	204
Oct	13	25	6%	Oct	130	229
Nov	11	11	7%	Nov	141	240
Dec	9	9	5%	Dec	150	249
<b>Total</b>		150				



# ATTACHMENT B

Aug-15

Permit No.	Permit Type	Contractor Name	Home Owner	Property Address	Building Fee	Electrical Fee	Mechanical Fee	Plumbing Fee	Misc. Fee	Total Fees Waived	Use Tax Collected
BPR-001200-2015	Misc - siding	Northern Lights Exteriors	John Vogel	175 Holbrook St	\$ 195.25					\$ 195.25	\$ 175.00
BPC-001319-2015	Misc - window replacement	St Scholastica Catholic Church	St Scholastica Catholic Church	575 Wells St	\$ -					\$ -	\$ -
BPC-001071-2015	Sign	Echo Brewing	Town of Erie	600 Briggs St	\$ 54.00					\$ 54.00	\$ 28.00
BPR-001282-2015	Patio Cover	Homeowner	Cindy Drozda	655 Pierce St	\$ 23.50					\$ 17.50	\$ 17.50
BPC-001172-2015	Electrical	Erie Electric	Mexican Express Grille	656 Kattell St	\$ 60.10					\$ 25.72	\$ 25.72
BPR-001226-2015	Plumbing	Master Excavating	Jack Seloover	684 Moffatt St	\$ 50.00					\$ 35.00	\$ 35.00
BPR-001262-2015	Re-Roof	Jon Walter Roofing	Susan Cosick	635 Holbrook St	\$ 47.00					\$ 151.76	\$ 151.76
BPR-001224-2015	Patio Cover	Homeowner	Shirley Adler	744 Holbrook St	\$ 111.25					\$ 35.00	\$ 35.00
BPR-001261-2015	Re-Roof	Kissner Roofing	Charles McCarthy	755 Main St	\$ 47.00					\$ 69.05	\$ 69.05
BPR-001322-2016	Electrical	Wayne's Electric	William Naewe	780 Kattell St	\$ 45.00					\$ 36.75	\$ 36.75
										\$ 620.03	\$ 573.78

**TOWN OF ERIE**  
**BOARD OF TRUSTEE AGENDA ITEM**  
**Board Meeting Date: September 8, 2015**

**SUBJECT:** **STAFF REPORT**  
10<sup>th</sup> Annual Fall Clean Up

**DEPARTMENT:** Public Works

**PRESENTER/PREPARER:** **Gary Behlen, Director of Public Works**  
**Kris McDaniel, Public Works Coordinator**

**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:** N/A

**SUMMARY AND BACKGROUND OF SUBJECT MATTER:**  
**Town of Erie to Host 10<sup>th</sup> Annual Fall Clean-Up**  
**SATURDAY, SEPTEMBER 12, 2015**

**ERIE, CO** – The Town of Erie Parks and Public Works Departments are partnering with a variety of vendors including Front Range Landfill, Goodwill Industries of Denver, Shred-It, and other vendors during the 10<sup>th</sup> Annual Town of Erie Fall Clean-Up.

**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. **NOTE: Due to vendor limitations, the Town will not be accepting any furniture at this event.** General guidelines for donations are:

**Goodwill accepts:**

Gently used or new clothing	Home electronics (no TVs)	Books
Shoes	Sports equipment	Linens
Toys	Jewelry	Computer electronics (working or not)

**Goodwill does not accept:**

Furniture	Small/Large appliances	Mattresses
Large rolls of carpet	Windows or doors	Water heaters
Construction material	Car batteries	Paint & chemicals
Box springs	Pressurized containers	Tires
Swing or slide sets	Skis	Propane tanks

**Metal-Type Non-Working Items:** The Town of Erie's Public Works Department will also have a disposal of metal-type non-working items at the Service Center, located at **150 Bonnell Avenue**, from **8:00 am to 2:00 pm**. Items accepted include:

Washers/dryers	Refrigerators/freezers	AC units
Stoves	Hot Water Heaters	Small Appliances
Lawn Mowers / Bikes	Vacuum Cleaners	Misc Computer Parts
Car Parts	Batteries	BBQs
Engine Blocks	Transmissions	Screen Doors
Window Frames		

**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 located at **150 Bonnell Ave** from **9:00 am to 12:00 pm**.

**Hazardous Waste:** Residents, can dispose of hazardous waste at the one of two facilities, Hazardous Waste Facility located at 5500 Highway 52, Dacono and Boulder Hazardous Materials Management Facility located at 1901c 63<sup>rd</sup> Street in Boulder.

For more information and hours of operations: <http://www.erieco.gov/980/Household-Hazardous-Waste>.  
*Note, this service is not restricted to the Fall Clean Up event times.*

**Recycling Center:** Erie's Recycling Center located at 1000 Briggs Street. This unmanned center is open to the public 24 hours a day, 7 days a week. For more information, visit <http://www.erieco.gov/282/Erie-Recycling-Center>.

**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 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](mailto: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: September 8, 2015**

---

<b>SUBJECT:</b>	<b>STAFF REPORT</b>	
	Erie Police Station and Court Facility Ribbon Cutting	
<b>DEPARTMENT:</b>	Public Works Department	
	<b>Gary Behlen, Director of Public Works</b>	
<b>PRESENTER:</b>	<b>Marco Vasquez, Chief of Police</b>	
	<b>Raelynn Ferrera, Public Works Coordinator</b>	

---

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

---

<b>STAFF RECOMMENDATION:</b>	<b>None</b>
------------------------------	-------------

---

**SUMMARY AND BACKGROUND OF SUBJECT MATTER:**

During the April 1, 2014 Town of Erie Regular Municipal Election, voters approved funding for the construction of a new police station and municipal court building to improve the safety of the growing community and to replace the outdated workspace for the police and courts currently located at Town Hall

The ground breaking was held September 12, 2014 and now just over one year later we will be celebrating the completion of the \$6.2 million dollar facility. The Town of Erie will be hosting a ribbon cutting ceremony for the Erie Police Station and Court Facility on Friday September 18, 2015.

**WHAT:** Erie Police Station and Court Facility Ribbon Cutting

**WHEN:** Friday September 18, 2015 at 4:00pm

**WHERE:** 1000 Telleen Avenue

**YOU'RE INVITED!**

**Town of Erie**  
**Police Station & Municipal Court Building**  
**Ribbon Cutting**

**When: Friday, September 18, 2015 at 4:00 p.m.**  
**Where: 1000 Telleen Avenue | Erie, CO 80516**

Join the Mayor and Board of Trustees as they cut the ribbon and dedicate the new Police Station & Municipal Court Building to the citizens of Erie! After the ribbon cutting, refreshments and tours of the new facility will be available.



**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



## TOWN OF ERIE

### MEMORANDUM

**TO:** Board of Trustees  
A.J. Krieger, Town Administrator

**CC:** Town Clerk

**FROM:** Steve Felten, Finance Director

**DATE:** September 1, 2015

**SUBJECT:** Monthly Financial Report – June 2015 YTD

---

Under this cover is the monthly financial report for June 2015 year-to-date. Included in the report are the following:

- Comments on significant budget variances and changes from the prior year (pp. 2-3)
  - Summary year-to-date fund statements of revenues and expenditures and related graphs for the following funds:
    - Total of All Funds (pp. 4-5)
    - General Fund (pp. 6-9)
    - Water Fund (pp. 10-11)
    - Wastewater Fund (pp. 12-13)
    - Storm Drainage Fund (pp. 14-15)
    - Airport Fund (pp. 16-17)
    - Solid Waste/Streets Fund (pp. 18-19)
    - Impact and Special Revenue Funds (pp. 20-23)
    - Urban Renewal Authority (pp. 24-25)
    - Erie Housing Authority (pp. 26-27)
- (Note: The fund balance/working capital amounts on these schedules represent the approximate portion available for appropriation.)*
- Analysis of key revenue indicators, as follows: sales tax (including a monthly analysis by source), property tax, residential and commercial water use fees, residential and commercial wastewater use fees, and residential permit-related revenues (pp. 28-35)
  - A summary of pooled cash and investments, managed by Davidson Fixed Income Management (pp. 36-39)

Please let me know if you have any questions.

The following comments provide explanations of significant variances from budget (reflecting the July supplemental appropriation) and changes from the prior year as reflected on the fund summaries on the following pages. Monthly budget amounts reflect appropriate timing of those material revenue and expenditure items that vary in timing from month to month, such as property taxes, water use fees, and debt service payments. Timing of capital outlays can vary dramatically during the course of the year due to the weather, receipt of grant funding, and other factors. To better reflect budget variances, budgets for significant capital projects are reflected in the various schedules over the timeframe the projects are projected to occur.

When reading the following explanations reference should be made to the relevant schedules.

**Notes for “Total - All Funds” (pages 5-6):**

- **Taxes** – The favorable budget variance of \$492 thousand, or 8%, and increase of \$760 thousand, or 12%, from the prior year largely reflect positive trends in sales tax and use tax. Sales tax is \$298 thousand, or 17%, favorable to budget and \$179 thousand, or 9%, above the same period for 2014, due primarily to an increase in retail sales tax. Use tax is \$261 thousand, or 27%, over budget and \$499 thousand, or 68%, over 2014, due to increased levels of construction activity. In addition, property taxes are \$98 thousand, or 3%, under budget and \$107 thousand, or 4%, over 2014. The increase over 2014 is due primarily to the mill levy for the public safety building.
- **Fees and charges** – Water and wastewater use fees, recreation fees, and landfill fees are the primary sources of this revenue stream. The unfavorable variance from budget of \$702 thousand, or 9%, and decrease of \$371 thousand, or 5%, compared to 2014 are primarily related to commercial and residential water sales. Water sales declined significantly in May and June compared to the same months a year ago due to reduced demand. Wastewater fees also contributed to the unfavorable variance and decline from 2014.
- **Capital contributions** – Capital contributions consist primarily of impact and tap fees received by the various impact funds and the water and wastewater funds. The favorable comparison to budget of \$620 thousand, or 7%, is due primarily to the timing of issuance of residential permits. The increase of \$4.3 million, or 89%, compared to the same period in 2014 is due to an increase in permit activity – 230 permits in 2015 compared to 139 for the same period in 2014.
- **Personnel expense** – The favorable variance to budget of \$224 thousand, or 4%, is primarily timing related (i.e., filling of temporarily open positions due to turnover and filling of new positions). The increase of \$449 thousand, or 8%, compared to 2014 is due to new positions added during 2014 and annual salary increases.
- **Operations and maintenance** – The \$1.2 million, or 22%, favorable variance in operations/maintenance expense is primarily due to timing of expenditures. The

increase of \$205 thousand, or 5%, compared to 2014 is due primarily to street maintenance expenditures, legal fees and timing of certain expenses.

- **Capital outlay** –The \$1.3 million increase compared to 2014 reflects construction of the public safety facility and the Erie Lake bypass.

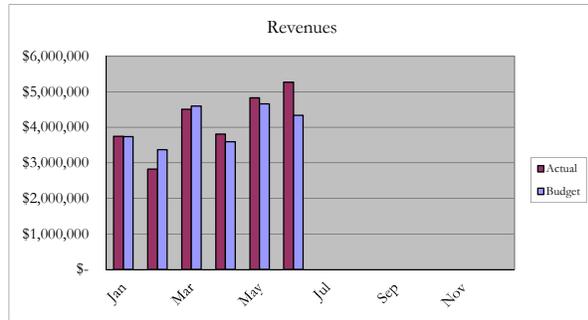
**Total - All Funds**

	2015 YTD Actual	2015 YTD Budget	Variance from Budget	2014 YTD Actual	Change from Prior Yr.	2015 Full Year Budget
Taxes	6,956,101	6,464,500	491,601	6,196,422	759,679	10,949,200
Intergovernmental	560,032	587,400	(27,368)	573,026	(12,994)	1,940,800
Fees and charges	6,752,083	7,454,400	(702,317)	7,123,571	(371,488)	15,195,400
Licenses and permits	913,119	792,400	120,719	770,453	142,666	1,584,800
Capital contributions	9,192,257	8,571,800	620,457	4,853,995	4,338,262	16,664,600
Investment income	188,874	58,400	130,474	172,193	16,681	116,800
Other income	406,472	373,000	33,472	448,051	(41,579)	746,000
<b><i>Total revenues</i></b>	<b>24,968,938</b>	<b>24,301,900</b>	<b>667,038</b>	<b>20,137,711</b>	<b>4,831,227</b>	<b>47,197,600</b>
Personnel expense	5,744,634	5,968,800	224,166	5,296,040	448,594	11,995,600
Operations/maintenance	4,288,626	5,479,000	1,190,374	4,083,859	204,767	10,406,000
Capital outlay	6,933,534	6,893,800	(39,734)	5,603,090	1,330,444	34,764,800
Debt service	2,030,949	2,034,400	3,451	2,056,554	(25,605)	7,954,900
Other expense	-	-	-	-	-	-
<b><i>Total expenditures</i></b>	<b>18,997,743</b>	<b>20,376,000</b>	<b>1,378,257</b>	<b>17,039,543</b>	<b>1,958,200</b>	<b>65,121,300</b>
<b><i>Revenues over (under) expenditures</i></b>	<b>5,971,195</b>	<b>3,925,900</b>	<b>2,045,295</b>	<b>3,098,168</b>	<b>2,873,027</b>	<b>(17,923,700)</b>
Transfers in	9,410	9,400	10	12,849	(3,439)	1,955,700
Transfers out	(9,410)	(9,400)	(10)	(12,849)	3,439	(1,955,700)
Debt proceeds, net	-	-	-	6,401,866	(6,401,866)	-
<b><i>Change in fund balance</i></b>	<b>5,971,195</b>	<b>3,925,900</b>	<b>2,045,295</b>	<b>9,500,034</b>	<b>(3,528,839)</b>	<b>(17,923,700)</b>

***Note: For information purposes only as each fund must stand on its own.***

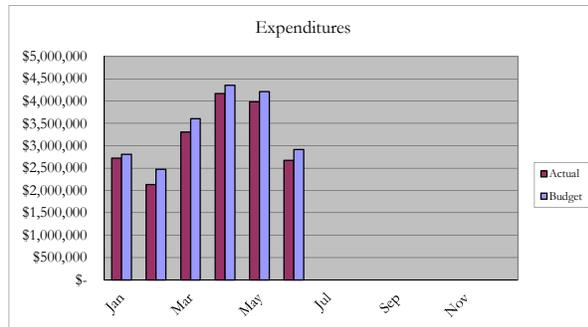
**Total of All Funds - Revenues (excludes transfers and net debt proceeds):**

Month	2015		Budget Variance	2014	
	Actual	Budget		Actual	Change
Jan	3,740,659	3,740,100	559	2,367,267	1,373,392
Feb	2,820,719	3,368,800	(548,081)	2,242,536	578,183
Mar	4,503,887	4,596,800	(92,913)	3,815,732	688,155
Apr	3,809,240	3,594,300	214,940	3,555,870	253,370
May	4,829,133	4,663,100	166,033	3,704,969	1,124,164
Jun	5,265,300	4,338,800	926,500	4,451,333	813,967
Jul	-	-	-	-	-
Aug	-	-	-	-	-
Sep	-	-	-	-	-
Oct	-	-	-	-	-
Nov	-	-	-	-	-
Dec	-	-	-	-	-
YTD	24,968,938	24,301,900	667,038	20,137,707	4,831,231
			3%		24%
Full Year		47,197,600		41,621,194	



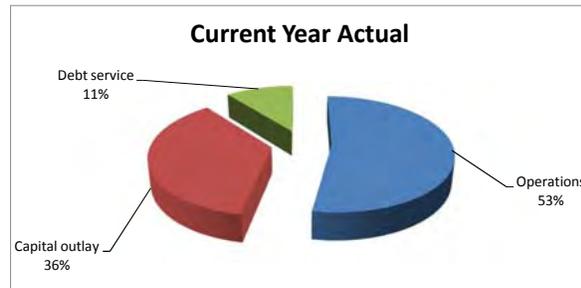
**Total of All Funds - Expenditures (excludes transfers):**

Month	2015		Budget Variance	2014	
	Actual	Budget		Actual	Change
Jan	2,724,391	2,810,700	86,309	2,417,488	306,903
Feb	2,132,926	2,476,600	343,674	1,394,816	738,110
Mar	3,310,925	3,605,200	294,275	2,693,131	617,794
Apr	4,168,765	4,553,200	184,435	2,176,223	1,992,542
May	3,986,245	4,214,800	228,555	3,988,223	(1,978)
Jun	2,674,491	2,915,500	241,009	4,369,665	(1,695,174)
Jul	-	-	-	-	-
Aug	-	-	-	-	-
Sep	-	-	-	-	-
Oct	-	-	-	-	-
Nov	-	-	-	-	-
Dec	-	-	-	-	-
YTD	18,997,743	20,376,000	1,378,257	17,039,546	1,958,197
			7%		11%
Full Year		65,121,300		42,820,102	



**Expenditures by Type:**

	2015		Budget Variance	2014	
	Actual	Budget		Actual	Change
Operations	10,033,260	11,447,804	1,414,544	9,379,899	653,361
Capital outlay	6,933,534	6,893,796	(39,738)	5,603,090	1,330,444
Debt service	2,030,949	2,034,400	3,451	2,056,554	(25,605)
Total	18,997,743	20,376,000	1,378,257	17,039,543	1,958,200



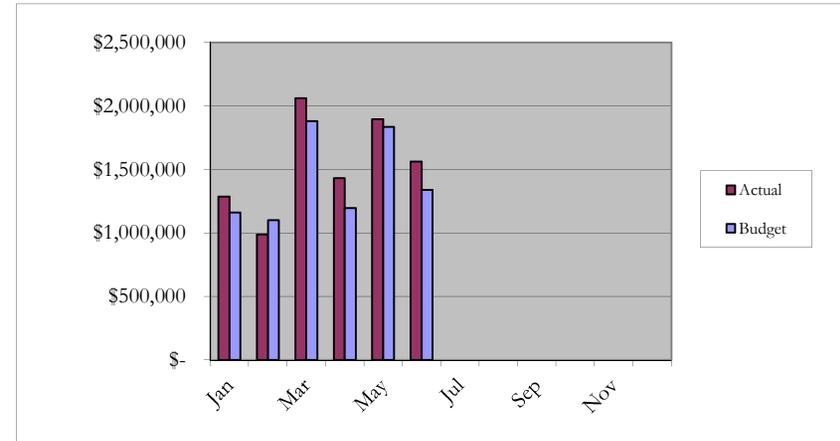
**General Fund:**

	2015 YTD Actual	2015 YTD Budget	Variance from Budget	2014 YTD Actual	Change from Prior Yr.	2015 Full Year Budget
Taxes	6,235,779	5,720,800	514,979	5,467,670	768,109	9,965,200
Intergovernmental	453,255	504,700	(51,445)	483,044	(29,789)	1,204,600
Fees and charges	1,219,581	1,217,100	2,481	1,224,966	(5,385)	1,925,800
Licenses and permits	913,119	792,400	120,719	770,453	142,666	1,584,800
Capital contributions	-	-	-	17,649	(17,649)	-
Investment income	180,873	25,000	155,873	42,424	138,449	50,000
Other income	228,198	260,000	(31,802)	230,053	(1,855)	520,000
<b><i>Total revenues</i></b>	<b>9,230,805</b>	<b>8,520,000</b>	<b>710,805</b>	<b>8,236,259</b>	<b>994,546</b>	<b>15,250,400</b>
Personnel expense	4,021,725	4,202,100	180,375	3,720,252	301,473	8,462,300
Operations/maintenance	2,461,864	2,838,400	376,536	2,154,543	307,321	5,648,800
Capital outlay	3,748,514	3,738,600	(9,914)	625,538	3,122,976	6,835,500
Debt service	393,753	393,800	47	309,272	84,481	1,925,300
Other expense	-	-	-	-	-	-
<b><i>Total expenditures</i></b>	<b>10,625,856</b>	<b>11,172,900</b>	<b>547,044</b>	<b>6,809,605</b>	<b>3,816,251</b>	<b>22,871,900</b>
<b><i>Revenues over (under) expenditures</i></b>	<b>(1,395,051)</b>	<b>(2,652,900)</b>	<b>1,257,849</b>	<b>1,426,654</b>	<b>(2,821,705)</b>	<b>(7,621,500)</b>
Transfers in	-	-	-	-	-	1,925,700
Transfers out	(9,410)	(9,400)	(10)	(12,849)	3,439	(30,000)
Debt proceeds, net	-	-	-	6,401,866	(6,401,866)	-
<b><i>Change in fund balance</i></b>	<b>(1,404,461)</b>	<b>(2,662,300)</b>	<b>1,257,839</b>	<b>7,815,671</b>	<b>(9,220,132)</b>	<b>(5,725,800)</b>

<b>Beginning fund balance</b>	8,026,330			7,903,287		8,026,330
Change per above	(1,404,461)			7,815,671		(5,725,800)
Change in URA advance	(228,903)			(171,423)		(787,300)
Change in restricted bond funds	<u>3,397,051</u>			<u>-</u>		<u>-</u>
<b>Ending fund balance</b>	<u><u>9,790,017</u></u>			<u><u>15,547,535</u></u>		<u><u>1,513,230</u></u>

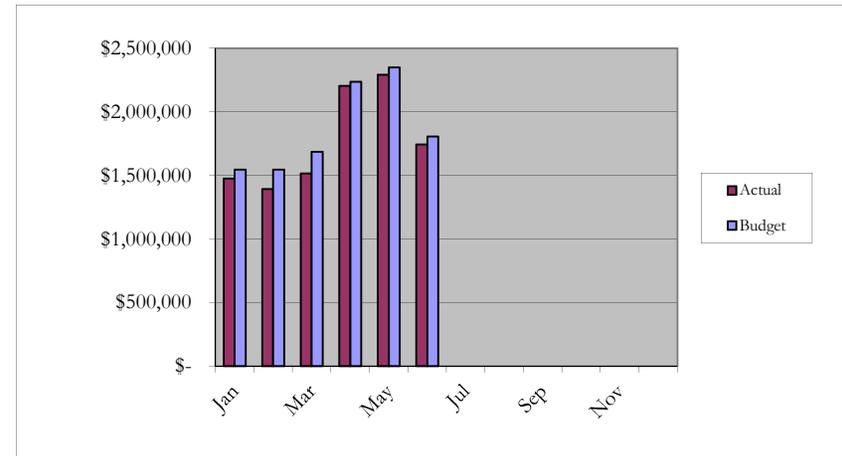
## General Fund Revenues

Month	2015 Actual	2015 Budget	Budget Variance	2014 Actual	Change
Jan	1,286,729	1,162,600	124,129	982,985	303,744
Feb	989,079	1,102,500	(113,421)	1,040,761	(51,682)
Mar	2,062,218	1,882,400	179,818	1,760,634	301,584
Apr	1,433,553	1,195,800	237,753	1,252,848	180,705
May	1,896,508	1,836,300	60,208	1,665,124	231,384
Jun	1,562,718	1,340,400	222,318	1,533,906	28,812
Jul	-	-	-	-	-
Aug	-	-	-	-	-
Sep	-	-	-	-	-
Oct	-	-	-	-	-
Nov	-	-	-	-	-
Dec	-	-	-	-	-
YTD	<u>9,230,805</u>	<u>8,520,000</u>	<u>710,805</u>	<u>8,236,258</u>	<u>994,547</u>
			<b>8%</b>		<b>12%</b>
Full Year		<u>15,250,400</u>		<u>15,070,105</u>	



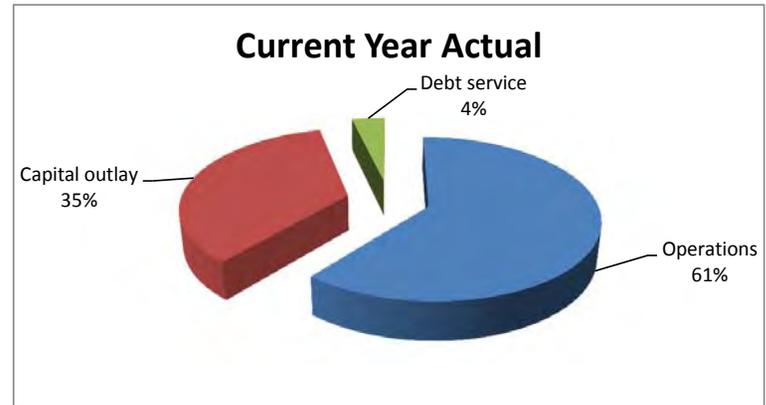
## General Fund Expenditures

Month	2015 Actual	2015 Budget	Budget Variance	2014 Actual	Change
Jan	1,476,065	1,547,100	71,035	1,285,347	190,718
Feb	1,394,449	1,545,800	151,351	835,097	559,352
Mar	1,515,945	1,687,000	171,055	906,029	609,916
Apr	2,204,806	2,236,100	31,294	1,284,905	919,901
May	2,291,119	2,351,100	59,981	1,329,560	961,559
Jun	1,743,471	1,805,800	62,329	1,168,667	574,804
Jul	-	-	-	-	-
Aug	-	-	-	-	-
Sep	-	-	-	-	-
Oct	-	-	-	-	-
Nov	-	-	-	-	-
Dec	-	-	-	-	-
YTD	<u>10,625,855</u>	<u>11,172,900</u>	<u>547,045</u>	<u>6,809,605</u>	<u>3,816,250</u>
			<b>5%</b>		<b>56%</b>
Full Year		<u>22,871,900</u>		<u>17,464,031</u>	



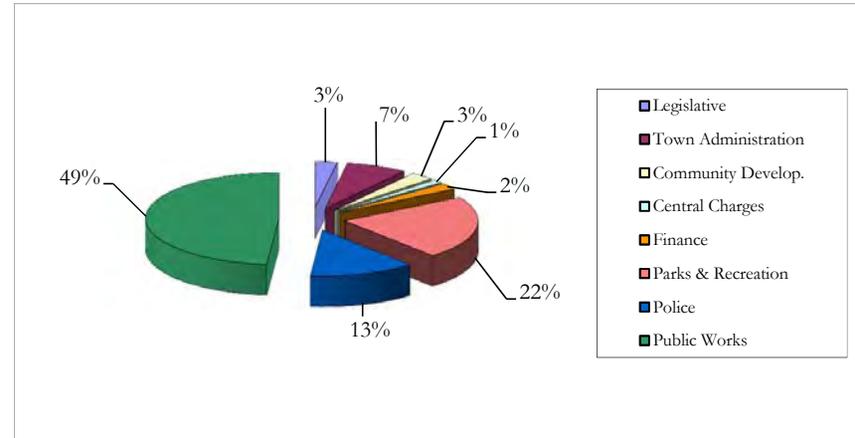
**General Fund Expenditures by Type:**

	2015 Actual	2015 Budget	Budget Variance	2014 Actual	Change
Operations	6,483,589	7,040,500	556,911	5,874,795	608,794
Capital outlay	3,748,514	3,738,600	(9,914)	625,538	3,122,976
Debt service	393,753	393,800	47	309,272	84,481
<b>Total</b>	<b>10,625,856</b>	<b>11,172,900</b>	<b>547,044</b>	<b>6,809,605</b>	<b>3,816,251</b>



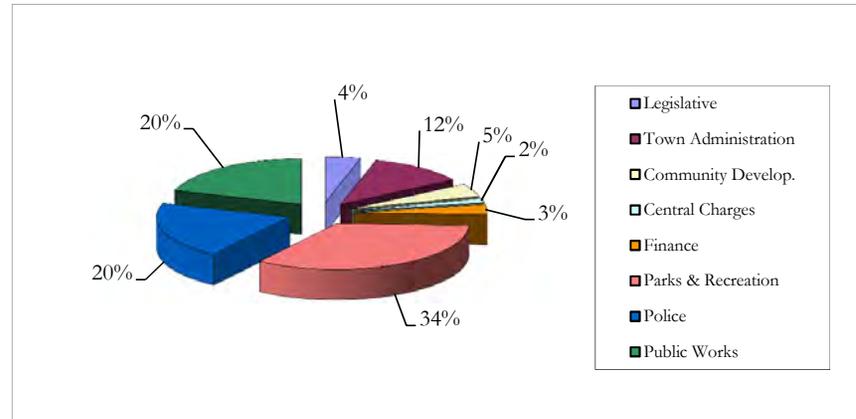
**General Fund Expenditures by Department - Operating & Capital Outlay:**

By Department	2015 Actual	2015 Budget	Budget Variance	2014 Actual	Change
Legislative	275,584	272,900	(2,684)	184,473	91,111
Town Administration	760,204	818,100	57,896	651,822	108,382
Community Develop.	296,393	360,200	63,807	260,017	36,376
Central Charges	127,855	93,000	(34,855)	567,157	(439,302)
Finance	227,971	236,900	8,929	230,758	(2,787)
Parks & Recreation	2,260,457	2,404,300	143,843	2,076,092	184,365
Police	1,316,155	1,393,300	77,145	1,243,034	73,121
Public Works	4,967,482	5,200,400	232,918	1,286,978	3,680,504
<b>YTD</b>	<b>10,232,101</b>	<b>10,779,100</b>	<b>546,999</b>	<b>6,500,331</b>	<b>3,731,770</b>



**General Fund Expenditures by Department - Operating:**

By Department	2015 Actual	2015 Budget	Budget Variance	2014 Actual	Change
Legislative	275,584	272,900	(2,684)	184,473	91,111
Town Administration	760,204	818,100	57,896	651,822	108,382
Community Develop.	296,393	360,200	63,807	260,017	36,376
Central Charges	100,420	65,500	(34,920)	87,948	12,472
Finance	227,971	236,900	8,929	230,758	(2,787)
Parks & Recreation	2,206,719	2,350,600	143,881	2,030,052	176,667
Police	1,316,155	1,393,300	77,145	1,243,034	73,121
Public Works	1,300,141	1,543,000	242,859	1,186,691	113,450
YTD	6,483,587	7,040,500	556,913	5,874,795	608,792



**General Fund Expenditures by Department - Capital Outlay:**

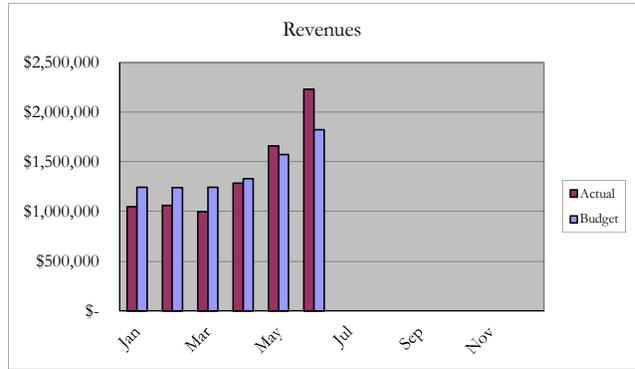
By Department	2015 Actual	2015 Budget	Budget Variance	2014 Actual	Change
Legislative	-	-	-	-	-
Town Administration	-	-	-	-	-
Community Develop.	-	-	-	-	-
Central Charges	27,435	27,500	65	479,209	(451,774)
Finance	-	-	-	-	-
Parks & Recreation	53,738	53,700	(38)	46,040	7,698
Police	-	-	-	-	-
Public Works	3,667,341	3,657,400	(9,941)	100,287	3,567,054
YTD	3,748,514	3,738,600	(9,914)	625,536	3,122,978

**Water Fund:**

	2015 YTD Actual	2015 YTD Budget	Variance from Budget	2014 YTD Actual	Change from Prior Yr.	2015 Full Year Budget
Taxes	-	-	-	-	-	-
Intergovernmental	-	-	-	-	-	-
Fees and charges	2,429,759	3,087,500	(657,741)	2,891,215	(461,456)	6,970,000
Licenses and permits	-	-	-	-	-	-
Capital contributions	5,848,878	5,344,700	504,178	3,120,444	2,728,434	10,689,400
Investment income	3,851	12,500	(8,649)	35,087	(31,236)	25,000
Other income	2,923	12,500	(9,577)	2,908	15	25,000
<b><i>Total revenues</i></b>	<b>8,285,411</b>	<b>8,457,200</b>	<b>(171,789)</b>	<b>6,049,654</b>	<b>2,235,757</b>	<b>17,709,400</b>
Personnel expense	812,783	823,800	11,017	744,862	67,921	1,647,700
Operations/maintenance	1,224,084	1,644,400	420,316	1,267,925	(43,841)	2,764,600
Capital outlay	2,556,434	2,536,400	(20,034)	2,455,234	101,200	10,814,100
Debt service	1,046,676	1,048,500	1,824	1,141,075	(94,399)	4,436,500
Other expense	-	-	-	-	-	-
<b><i>Total expenditures</i></b>	<b>5,639,977</b>	<b>6,053,100</b>	<b>413,123</b>	<b>5,609,096</b>	<b>30,881</b>	<b>19,662,900</b>
<b><i>Revenues over (under) expenditures</i></b>	<b>2,645,434</b>	<b>2,404,100</b>	<b>241,334</b>	<b>440,558</b>	<b>2,204,876</b>	<b>(1,953,500)</b>
Transfers in	-	-	-	-	-	-
Transfers out	-	-	-	-	-	-
Debt proceeds, net	-	-	-	-	-	-
<b><i>Change in working capital</i></b>	<b>2,645,434</b>	<b>2,404,100</b>	<b>241,334</b>	<b>440,558</b>	<b>2,204,876</b>	<b>(1,953,500)</b>
<b>Beginning working capital</b>	11,320,896			10,791,543		11,320,896
Change per above	<u>2,645,434</u>			<u>440,558</u>		<u>(1,953,500)</u>
<b>Ending working capital</b>	<u><u>13,966,330</u></u>			<u><u>11,232,101</u></u>		<u><u>9,367,396</u></u>

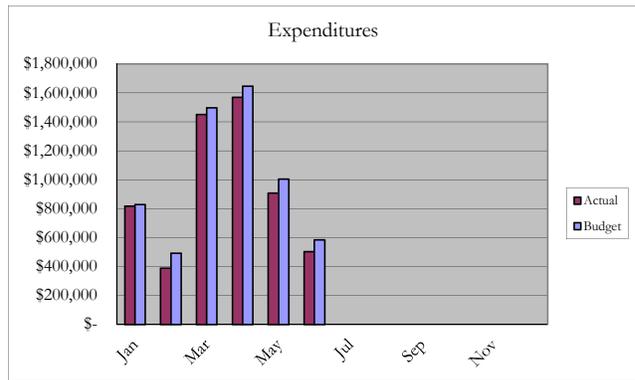
**Water Fund Revenues:**

Month	2015		Budget Variance	2014	
	Actual	Budget		Actual	Change
Jan	1,048,592	1,242,900	(194,308)	593,887	454,705
Feb	1,062,952	1,241,500	(178,548)	607,186	455,766
Mar	998,156	1,242,900	(244,744)	788,087	210,069
Apr	1,285,149	1,331,500	(46,351)	1,214,146	71,003
May	1,660,381	1,573,300	87,081	1,055,722	604,659
Jun	2,230,181	1,825,100	405,081	1,790,626	439,555
Jul	-	-	-	-	-
Aug	-	-	-	-	-
Sep	-	-	-	-	-
Oct	-	-	-	-	-
Nov	-	-	-	-	-
Dec	-	-	-	-	-
YTD	8,285,411	8,457,200	(171,789)	6,049,654	2,235,757
			-2%		37%
Full Year		17,709,400		14,265,471	



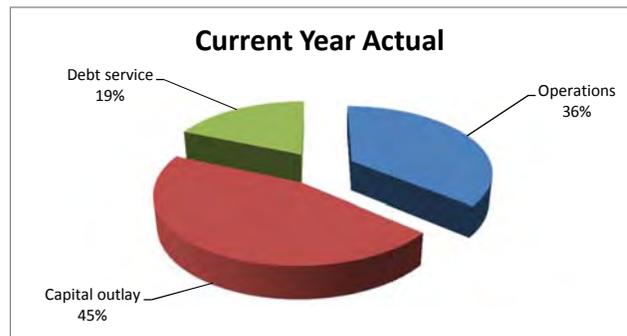
**Water Fund Expenditures:**

Month	2015		Budget Variance	2014	
	Actual	Budget		Actual	Change
Jan	817,975	828,500	10,525	803,850	14,125
Feb	389,685	493,400	103,715	274,232	115,453
Mar	1,451,122	1,497,600	46,478	1,469,987	(18,865)
Apr	1,569,607	1,645,900	76,293	350,485	1,219,122
May	907,902	1,003,600	95,698	1,357,561	(449,659)
Jun	503,686	584,100	80,414	1,352,985	(849,299)
Jul	-	-	-	-	-
Aug	-	-	-	-	-
Sep	-	-	-	-	-
Oct	-	-	-	-	-
Nov	-	-	-	-	-
Dec	-	-	-	-	-
YTD	5,639,977	6,053,100	413,123	5,609,100	30,877
			7%		1%
Full Year		19,662,900		13,842,088	



**Water Fund Expenditures by Type:**

	2015		Budget Variance	2014	
	Actual	Budget		Actual	Change
Operations	2,036,867	2,468,200	431,333	2,012,787	24,080
Capital outlay	2,556,434	2,536,400	(20,034)	2,455,234	101,200
Debt service	1,046,676	1,048,500	1,824	1,141,075	(94,399)
Total	5,639,977	6,053,100	413,123	5,609,096	30,881

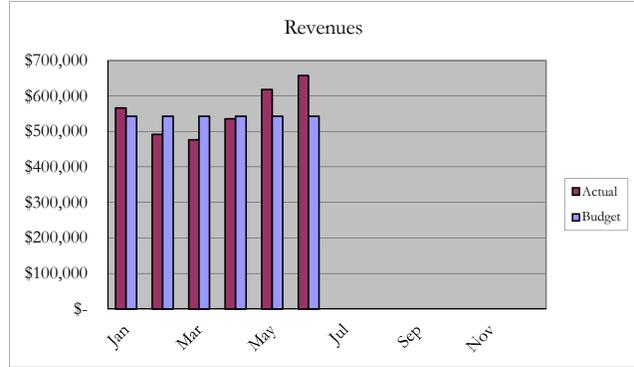


**Wastewater Fund:**

	2015 YTD Actual	2015 YTD Budget	Variance from Budget	2014 YTD Actual	Change from Prior Yr.	2015 Full Year Budget
Taxes	-	-	-	-	-	-
Intergovernmental	-	-	-	-	-	-
Fees and charges	2,052,373	2,182,500	(130,127)	2,129,814	(77,441)	4,365,000
Licenses and permits	-	-	-	-	-	-
Capital contributions	1,189,067	1,053,500	135,567	604,890	584,177	2,107,000
Investment income	3,781	10,000	(6,219)	36,375	(32,594)	20,000
Other income	100,740	8,500	92,240	154,097	(53,357)	17,000
<b><i>Total revenues</i></b>	<b>3,345,961</b>	<b>3,254,500</b>	<b>91,461</b>	<b>2,925,176</b>	<b>420,785</b>	<b>6,509,000</b>
Personnel expense	719,659	732,100	12,441	658,652	61,007	1,464,000
Operations/maintenance	457,201	711,000	253,799	462,598	(5,397)	1,422,000
Capital outlay	21,055	16,900	(4,155)	69,188	(48,133)	6,779,000
Debt service	554,020	555,600	1,580	561,596	(7,576)	1,538,400
Other expense	-	-	-	-	-	-
<b><i>Total expenditures</i></b>	<b>1,751,935</b>	<b>2,015,600</b>	<b>263,665</b>	<b>1,752,034</b>	<b>(99)</b>	<b>11,203,400</b>
<b><i>Revenues over (under) expenditures</i></b>	<b>1,594,026</b>	<b>1,238,900</b>	<b>355,126</b>	<b>1,173,142</b>	<b>420,884</b>	<b>(4,694,400)</b>
Transfers in	-	-	-	-	-	-
Transfers out	-	-	-	-	-	-
Debt proceeds, net	-	-	-	-	-	-
<b><i>Change in working capital</i></b>	<b>1,594,026</b>	<b>1,238,900</b>	<b>355,126</b>	<b>1,173,142</b>	<b>420,884</b>	<b>(4,694,400)</b>
<b>Beginning working capital</b>	<b>10,357,297</b>			<b>8,702,544</b>		<b>10,357,297</b>
Change per above	<u>1,594,026</u>			<u>1,173,142</u>		<u>(4,694,400)</u>
<b>Ending working capital</b>	<b><u>11,951,323</u></b>			<b><u>9,875,686</u></b>		<b><u>5,662,897</u></b>

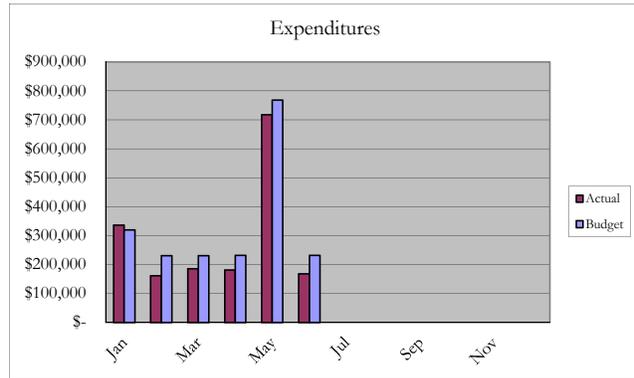
**Wastewater Fund Revenues:**

Month	2015 Actual	2015 Budget	Budget Variance	2014 Actual	Change
Jan	566,331	542,400	23,931	527,778	38,553
Feb	491,637	542,400	(50,763)	415,248	76,389
Mar	476,127	542,400	(66,273)	442,266	33,861
Apr	536,062	542,400	(6,338)	540,197	(4,135)
May	618,302	542,400	75,902	426,672	191,630
Jun	657,502	542,500	115,002	573,014	84,488
Jul	-	-	-	-	-
Aug	-	-	-	-	-
Sep	-	-	-	-	-
Oct	-	-	-	-	-
Nov	-	-	-	-	-
Dec	-	-	-	-	-
YTD	3,345,961	3,254,500	91,461	2,925,175	420,786
			3%		14%
Full Year		6,509,000		5,827,862	



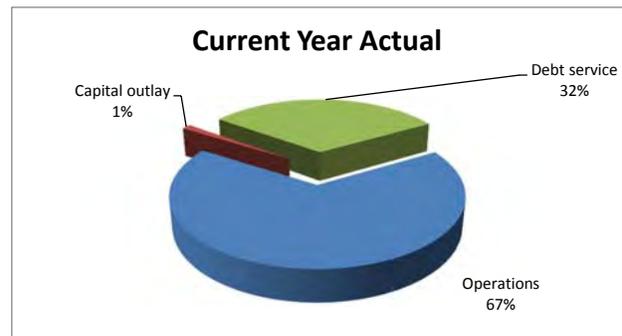
**Wastewater Fund Expenditures:**

Month	2015 Actual	2015 Budget	Budget Variance	2014 Actual	Change
Jan	336,734	319,800	(16,934)	273,560	63,174
Feb	161,855	231,200	69,345	204,767	(42,912)
Mar	185,802	231,300	45,498	158,346	27,456
Apr	180,812	232,300	51,488	258,149	(77,337)
May	718,112	768,700	50,588	629,323	88,789
Jun	168,620	232,300	63,680	227,889	(59,269)
Jul	-	-	-	-	-
Aug	-	-	-	-	-
Sep	-	-	-	-	-
Oct	-	-	-	-	-
Nov	-	-	-	-	-
Dec	-	-	-	-	-
YTD	1,751,935	2,015,600	263,665	1,752,034	(99)
			13%		0%
Full Year		#####		4,032,273	



**Wastewater Fund Expenditures by Type:**

	2015 Actual	2015 Budget	Budget Variance	2014 Actual	Change
Operations	1,176,860	1,443,100	266,240	1,121,250	55,610
Capital outlay	21,055	16,900	(4,155)	69,188	(48,133)
Debt service	554,020	555,600	1,580	561,596	(7,576)
Total	1,751,935	2,015,600	263,665	1,752,034	(99)



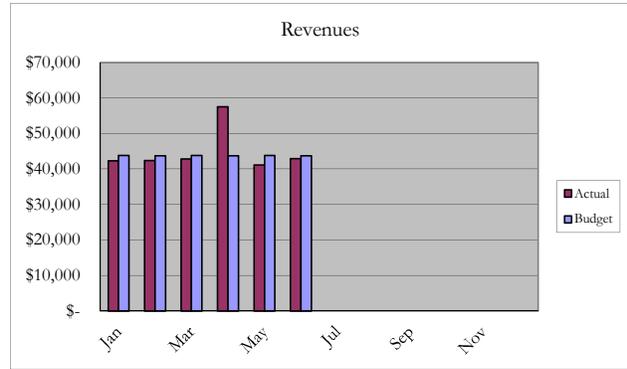
**Storm Drainage Operating Fund:**

	2015 YTD Actual	2015 YTD Budget	Variance from Budget	2014 YTD Actual	Change from Prior Yr.	2015 Full Year Budget
Taxes	-	-	-	-	-	-
Intergovernmental	-	-	-	-	-	-
Fees and charges	253,952	262,500	(8,548)	210,828	43,124	525,000
Licenses and permits	-	-	-	-	-	-
Capital contributions	-	-	-	-	-	-
Investment income	-	-	-	4,349	(4,349)	-
Other income	15,000	-	15,000	-	15,000	-
<b>Total revenues</b>	268,952	262,500	6,452	215,177	53,775	525,000
Personnel expense	54,687	57,300	2,613	49,875	4,812	114,600
Operations/maintenance	33,178	93,400	60,222	27,367	5,811	186,800
Capital outlay	124,854	124,900	46	716,092	(591,238)	802,700
Debt service	18,223	18,200	(23)	18,223	-	18,200
Other expense	-	-	-	-	-	-
<b>Total expenditures</b>	230,942	293,800	62,858	811,557	(580,615)	1,122,300
<b>Revenues over (under) expenditures</b>	38,010	(31,300)	69,310	(596,380)	634,390	(597,300)
Transfers in	-	-	-	-	-	-
Transfers out	-	-	-	-	-	-
Debt proceeds, net	-	-	-	-	-	-
<b>Change in working capital</b>	38,010	(31,300)	69,310	(596,380)	634,390	(597,300)

<b>Beginning working capital</b>	921,239		1,549,315	921,239
Change per above	<u>38,010</u>		<u>(596,380)</u>	<u>(597,300)</u>
<b>Ending working capital</b>	<u>959,249</u>		<u>952,935</u>	<u>323,939</u>

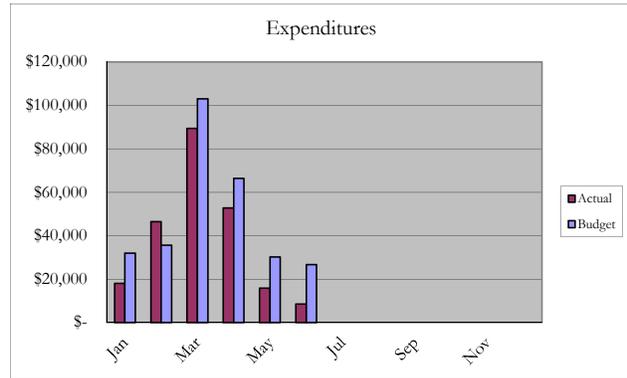
**Storm Drainage Operating Fund Revenues:**

Month	2015 Actual	2015 Budget	Budget Variance	2014 Actual	Change
Jan	42,274	43,800	(1,526)	36,603	5,671
Feb	42,387	43,700	(1,313)	35,900	6,487
Mar	42,793	43,800	(1,007)	34,513	8,280
Apr	57,466	43,700	13,766	36,379	21,087
May	41,132	43,800	(2,668)	36,276	4,856
Jun	42,900	43,700	(800)	35,506	7,394
Jul	-	-	-	-	-
Aug	-	-	-	-	-
Sep	-	-	-	-	-
Oct	-	-	-	-	-
Nov	-	-	-	-	-
Dec	-	-	-	-	-
YTD	268,952	262,500	6,452	215,177	53,775
			2%		25%
Full Year		525,000		436,706	



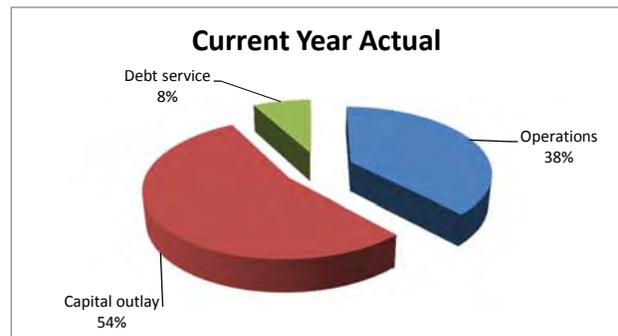
**Storm Drainage Operating Fund Expenditures:**

Month	2015 Actual	2015 Budget	Budget Variance	2014 Actual	Change
Jan	17,993	31,900	13,907	14,509	3,484
Feb	46,432	35,600	(10,832)	31,829	14,603
Mar	89,411	103,100	13,689	25,611	63,800
Apr	52,709	66,400	13,691	8,319	44,390
May	15,890	30,200	14,310	108,521	(92,631)
Jun	8,505	26,600	18,095	622,768	(614,263)
Jul	-	-	-	-	-
Aug	-	-	-	-	-
Sep	-	-	-	-	-
Oct	-	-	-	-	-
Nov	-	-	-	-	-
Dec	-	-	-	-	-
YTD	230,940	293,800	62,860	811,557	(580,617)
			21%		-72%
Full Year		1,122,300		1,064,958	



**Storm Drainage Operating Fund Expenditures by Type:**

	2015 Actual	2015 Budget	Budget Variance	2014 Actual	Change
Operations	87,865	150,700	62,835	77,242	10,623
Capital outlay	124,854	124,900	46	716,092	(591,238)
Debt service	18,223	18,200	(23)	18,223	-
Total	230,942	293,800	62,858	811,557	(580,615)

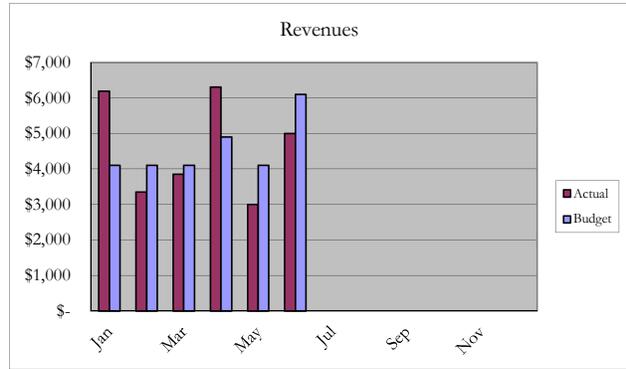


**Airport Fund:**

	2015 YTD Actual	2015 YTD Budget	Variance from Budget	2014 YTD Actual	Change from Prior Yr.	2015 Full Year Budget
Taxes	-	-	-	-	-	-
Intergovernmental	2,665	2,700	(35)	3,850	(1,185)	416,200
Fees and charges	5,611	3,900	1,711	3,200	2,411	7,800
Licenses and permits	-	-	-	-	-	-
Capital contributions	-	-	-	-	-	-
Investment income	-	-	-	216	(216)	-
Other income	19,429	20,800	(1,371)	20,863	(1,434)	41,500
<b><i>Total revenues</i></b>	<b>27,705</b>	<b>27,400</b>	<b>305</b>	<b>28,129</b>	<b>(424)</b>	<b>465,500</b>
Personnel expense	1,938	1,900	(38)	1,725	213	3,800
Operations/maintenance	14,548	12,800	(1,748)	24,699	(10,151)	25,700
Capital outlay	2,850	2,900	50	4,277	(1,427)	436,300
Debt service	-	-	-	-	-	-
Other expense	-	-	-	-	-	-
<b><i>Total expenditures</i></b>	<b>19,336</b>	<b>17,600</b>	<b>(1,736)</b>	<b>30,701</b>	<b>(11,365)</b>	<b>465,800</b>
<b><i>Revenues over (under) expenditures</i></b>	<b>8,369</b>	<b>9,800</b>	<b>(1,431)</b>	<b>(2,572)</b>	<b>10,941</b>	<b>(300)</b>
Transfers in	-	-	-	-	-	-
Transfers out	-	-	-	-	-	-
Debt proceeds, net	-	-	-	-	-	-
<b><i>Change in working capital</i></b>	<b>8,369</b>	<b>9,800</b>	<b>(1,431)</b>	<b>(2,572)</b>	<b>10,941</b>	<b>(300)</b>
<b>Beginning working capital</b>	<b>68,171</b>			<b>41,715</b>		<b>68,171</b>
Change per above	<u>8,369</u>			<u>(2,572)</u>		<u>(300)</u>
<b>Ending working capital</b>	<b><u>76,540</u></b>			<b><u>39,143</u></b>		<b><u>67,871</u></b>

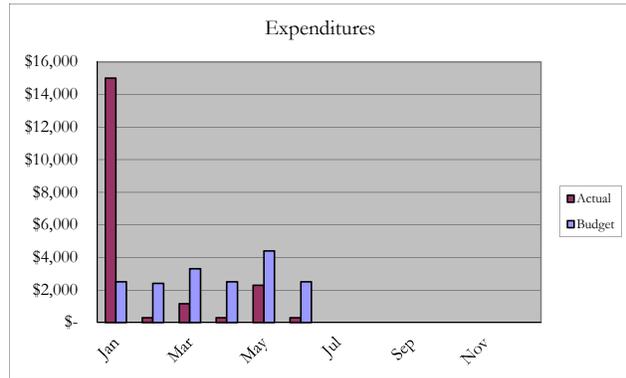
**Airport Fund Revenues:**

Month	2015 Actual	2015 Budget	Budget Variance	2014 Actual	Change
Jan	6,189	4,100	2,089	6,532	(343)
Feb	3,354	4,100	(746)	3,512	(158)
Mar	3,853	4,100	(247)	3,608	245
Apr	6,307	4,900	1,407	6,910	(603)
May	3,000	4,100	(1,100)	3,730	(730)
Jun	5,002	6,100	(1,098)	3,837	1,165
Jul	-	-	-	-	-
Aug	-	-	-	-	-
Sep	-	-	-	-	-
Oct	-	-	-	-	-
Nov	-	-	-	-	-
Dec	-	-	-	-	-
YTD	27,705	27,400	305	28,129	(424)
			1%		-2%
Full Year	465,500	130,860			



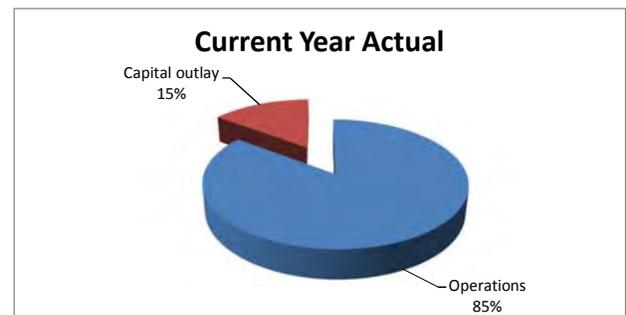
**Airport Fund Expenditures:**

Month	2015 Actual	2015 Budget	Budget Variance	2014 Actual	Change
Jan	15,016	2,500	(12,516)	8,048	6,968
Feb	294	2,400	2,106	10,844	(10,550)
Mar	1,150	3,300	2,150	6,804	(5,654)
Apr	297	2,500	2,203	649	(352)
May	2,288	4,400	2,112	485	1,803
Jun	291	2,500	2,209	3,871	(3,580)
Jul	-	-	-	-	-
Aug	-	-	-	-	-
Sep	-	-	-	-	-
Oct	-	-	-	-	-
Nov	-	-	-	-	-
Dec	-	-	-	-	-
YTD	19,336	17,600	(1,736)	30,701	(11,365)
			-10%		-37%
Full Year	465,800	104,403			



**Airport Fund Expenditures by Type:**

	2015 Actual	2015 Budget	Budget Variance	2014 Actual	Change
Operations	16,486	14,700	(1,786)	26,424	(9,938)
Capital outlay	2,850	2,900	50	4,277	(1,427)
Total	19,336	17,600	(1,736)	30,701	(11,365)



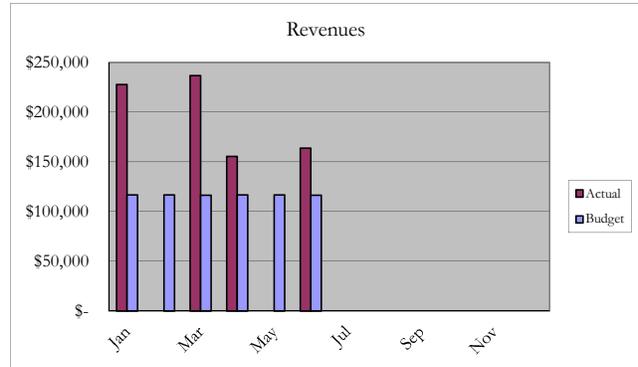
**Solid Waste/Streets Fund:**

	2015 YTD Actual	2015 YTD Budget	Variance from Budget	2014 YTD Actual	Change from Prior Yr.	2015 Full Year Budget
Taxes	-	-	-	-	-	-
Intergovernmental	-	-	-	-	-	-
Fees and charges	783,907	700,000	83,907	658,148	125,759	1,400,000
Licenses and permits	-	-	-	-	-	-
Capital contributions	-	-	-	-	-	-
Investment income	-	-	-	7,882	(7,882)	-
Other income	-	-	-	-	-	-
<b>Total revenues</b>	783,907	700,000	83,907	666,030	117,877	1,400,000
Personnel expense	-	-	-	-	-	-
Operations/maintenance	-	-	-	-	-	-
Capital outlay	-	-	-	-	-	-
Debt service	-	-	-	-	-	-
Other expense	-	-	-	-	-	-
<b>Total expenditures</b>	-	-	-	-	-	-
<b>Revenues over (under) expenditures</b>	783,907	700,000	83,907	666,030	117,877	1,400,000
Transfers in	-	-	-	-	-	-
Transfers out	-	-	-	-	-	(1,600,000)
Debt proceeds, net	-	-	-	-	-	-
<b>Change in fund balance</b>	783,907	700,000	83,907	666,030	117,877	(200,000)

<b>Beginning fund balance</b>	2,066,926			2,170,175		2,066,926
Change per above	<u>783,907</u>			<u>666,030</u>		<u>(200,000)</u>
<b>Ending fund balance</b>	<u><u>2,850,833</u></u>			<u><u>2,836,205</u></u>		<u><u>1,866,926</u></u>

**Solid Waste/Streets Fund Revenues:**

Month	2015 Actual	2015 Budget	Budget Variance	2014 Actual	Change
Jan	227,785	116,700	111,085	115,708	112,077
Feb	-	116,700	(116,700)	2,184	(2,184)
Mar	236,660	116,600	120,060	250,598	(13,938)
Apr	155,551	116,700	38,851	151,080	4,471
May	-	116,700	(116,700)	145,727	(145,727)
Jun	163,911	116,600	47,311	733	163,178
Jul	-	-	-	-	-
Aug	-	-	-	-	-
Sep	-	-	-	-	-
Oct	-	-	-	-	-
Nov	-	-	-	-	-
Dec	-	-	-	-	-
YTD	783,907	700,000	83,907	666,030	117,877
			12%		18%
Full Year		1,400,000		1,691,751	



**Solid Waste/Streets Fund Expenditures:**

Month	2015 Actual	2015 Budget	Budget Variance	2014 Actual	Change
Jan	-	-	-	-	-
Feb	-	-	-	-	-
Mar	-	-	-	-	-
Apr	-	-	-	-	-
May	-	-	-	-	-
Jun	-	-	-	-	-
Jul	-	-	-	-	-
Aug	-	-	-	-	-
Sep	-	-	-	-	-
Oct	-	-	-	-	-
Nov	-	-	-	-	-
Dec	-	-	-	-	-
YTD	-	-	-	-	-
			na		na
Full Year		-		-	

**Expenditures by Type:**

	2015 Actual	2015 Budget	Budget Variance	2014 Actual	Change
Operations	-	-	-	-	-
Capital outlay	-	-	-	-	-
Total	-	-	-	-	-

**Impact Fee & Special Revenue Funds <sup>(1)</sup>:**

	2015 YTD Actual	2015 YTD Budget	Variance from Budget	2014 YTD Actual	Change from Prior Yr.	2015 Full Year Budget
Taxes	720,322	743,700	(23,378)	728,752	(8,430)	984,000
Intergovernmental	104,112	80,000	24,112	86,132	17,980	320,000
Fees and charges	6,900	900	6,000	5,400	1,500	1,800
Licenses and permits	-	-	-	-	-	-
Capital contributions	2,154,312	2,173,600	(19,288)	1,111,012	1,043,300	3,868,200
Investment income	-	10,900	(10,900)	45,859	(45,859)	21,800
Other income	-	31,200	(31,200)	-	-	62,500
<b>Total revenues</b>	<b>2,985,646</b>	<b>3,040,300</b>	<b>(54,654)</b>	<b>1,977,155</b>	<b>1,008,491</b>	<b>5,258,300</b>
Personnel expense	51,950	72,800	20,850	45,884	6,066	145,600
Operations/maintenance	26,471	70,900	44,429	28,907	(2,436)	141,900
Capital outlay	377,069	371,300	(5,769)	1,732,761	(1,355,692)	8,623,700
Debt service	-	-	-	-	-	-
Other expense	-	-	-	-	-	-
<b>Total expenditures</b>	<b>455,490</b>	<b>515,000</b>	<b>59,510</b>	<b>1,807,552</b>	<b>(1,352,062)</b>	<b>8,911,200</b>
<b>Revenues over (under) expenditures</b>	<b>2,530,156</b>	<b>2,525,300</b>	<b>4,856</b>	<b>169,603</b>	<b>2,360,553</b>	<b>(3,652,900)</b>
Transfers in	-	-	-	-	-	-
Transfers out	-	-	-	-	-	(325,700)
Debt proceeds, net	-	-	-	-	-	-
<b>Change in fund balance</b>	<b>2,530,156</b>	<b>2,525,300</b>	<b>4,856</b>	<b>169,603</b>	<b>2,360,553</b>	<b>(3,978,600)</b>

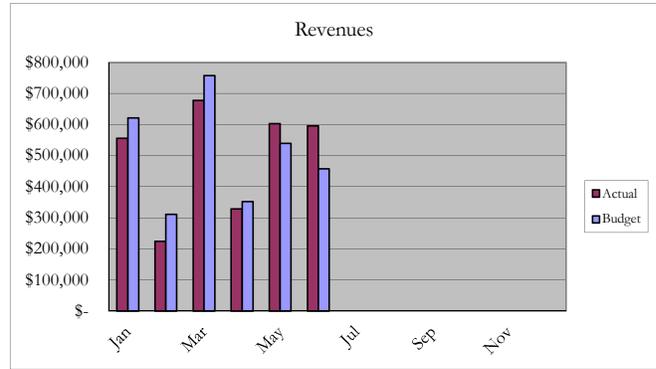
<b>Beginning fund balance</b>	14,258,562	15,330,386	14,258,562
Change per above	<u>2,530,156</u>	<u>169,603</u>	<u>(3,978,600)</u>
<b>Ending fund balance</b>	<u><u>16,788,720</u></u>	<u><u>15,499,989</u></u>	<u><u>10,279,962</u></u>

<sup>1</sup> Funds included are Transportation Impact, Public Facilities Impact, Parks Improvement Impact, Storm Drainage Impact, Tree Impact, Trails & Natural Areas, Conservation Trust, Cemetery, and Forfeitures & Seizures.

Summary of fund balances:	Current	End of Prior Year
Impact funds	12,772,107	10,883,582
Trails & Natural Areas	3,414,602	2,797,742
Conservation Trust	456,628	419,047
Cemetery	139,186	151,996
Forefeiture & Seizures	<u>6,196</u>	<u>6,196</u>
Total	<u><u>16,788,719</u></u>	<u><u>14,258,563</u></u>

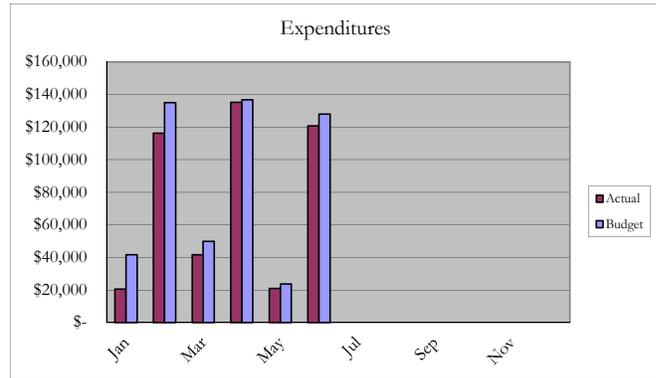
**Impact Fee & Special Revenue Fund Revenues:**

Month	2015 Actual	2015 Budget	Budget Variance	2014 Actual	Change
Jan	556,062	620,900	(64,838)	97,111	458,951
Feb	224,613	311,200	(86,587)	131,082	93,531
Mar	677,382	758,000	(80,618)	529,363	148,019
Apr	328,455	352,600	(24,145)	347,647	(19,192)
May	603,113	539,800	63,313	364,903	238,210
Jun	596,021	457,800	138,221	507,048	88,973
Jul	-	-	-	-	-
Aug	-	-	-	-	-
Sep	-	-	-	-	-
Oct	-	-	-	-	-
Nov	-	-	-	-	-
Dec	-	-	-	-	-
YTD	2,985,646	3,040,300	(54,654)	1,977,154	1,008,492
			-2%		51%
Full Year		5,258,300		4,117,846	



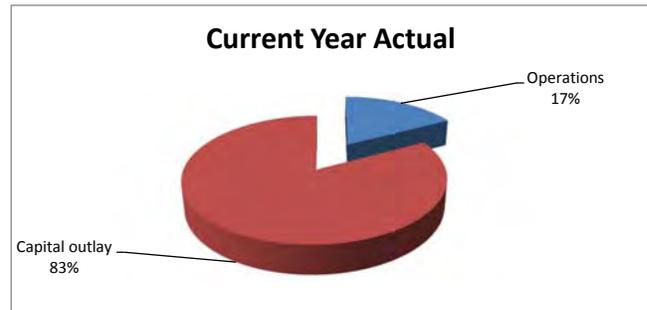
**Impact Fee & Special Revenue Expenditures:**

Month	2015 Actual	2015 Budget	Budget Variance	2014 Actual	Change
Jan	20,565	41,700	21,135	7,056	13,509
Feb	116,241	135,000	18,759	110,135	106,106
Mar	41,657	49,800	8,143	73,648	(31,991)
Apr	135,261	136,800	1,539	234,492	(99,231)
May	20,979	23,700	2,721	538,002	(517,023)
Jun	120,790	128,000	7,210	944,218	(823,428)
Jul	-	-	-	-	-
Aug	-	-	-	-	-
Sep	-	-	-	-	-
Oct	-	-	-	-	-
Nov	-	-	-	-	-
Dec	-	-	-	-	-
YTD	455,493	515,000	59,507	1,807,551	(1,352,058)
			12%		-75%
Full Year		8,911,200		5,180,968	



**Expenditures by Type:**

	2015 Actual	2015 Budget	Budget Variance	2014 Actual	Change
Operations	78,421	143,700	65,279	74,791	3,630
Capital outlay	377,069	371,300	(5,769)	1,732,761	1,732,761
Total	455,490	515,000	59,510	1,807,552	1,736,391



**Impact Fund Summary - Current Year Activity:**

	<u>Transportation</u>	<u>Public Facilities</u>	<u>Parks Improvement</u>	<u>Tree</u>	<u>Storm Drainage</u>	<u>Total Impact Funds</u>
<b><u>Revenues:</u></b>						
Impact fees & related	\$ 384,395	\$ 415,093	\$ 986,824	\$ 71,000	\$ 297,000	\$ 2,154,312
Other revenues	-	-	-	-	14,581	14,581
Transfers in	-	-	-	-	-	-
Total revenues	<u>384,395</u>	<u>415,093</u>	<u>986,824</u>	<u>71,000</u>	<u>311,581</u>	<u>2,168,893</u>
<b><u>Expenditures:</u></b>						
Operating	-	-	-	25,912	-	25,912
Capital	5,329	208,686	9,752	-	30,689	254,456
Transfers out	-	-	-	-	-	-
Total expenditures	<u>5,329</u>	<u>208,686</u>	<u>9,752</u>	<u>25,912</u>	<u>30,689</u>	<u>280,368</u>
Revenues less expenditures	379,066	206,407	977,072	45,088	280,892	1,888,525
Beginning fund balance	<u>2,686,176</u>	<u>3,012,494</u>	<u>922,080</u>	<u>252,663</u>	<u>4,010,169</u>	<u>10,883,582</u>
<b>Ending fund balance</b>	<u><u>\$ 3,065,242</u></u>	<u><u>\$ 3,218,901</u></u>	<u><u>\$ 1,899,152</u></u>	<u><u>\$ 297,751</u></u>	<u><u>\$ 4,291,061</u></u>	<u><u>\$ 12,772,107</u></u>

**Special Revenue Fund Summary - Current Year Activity:**

	<u>Trails &amp; Natural Areas</u>	<u>Conservation Trust</u>	<u>Cemetery</u>	<u>Forfeitures &amp; Seizures</u>	<u>Total Special Revenue Funds</u>
<b><u>Revenues:</u></b>					
Property taxes	\$ 720,322	\$ -	\$ -	\$ -	\$ 720,322
Other revenues	-	89,531	6,900	-	96,431
Transfers in	-	-	-	-	-
Total revenues	<u>720,322</u>	<u>89,531</u>	<u>6,900</u>	<u>-</u>	<u>816,753</u>
<b><u>Expenditures:</u></b>					
Operating	559	51,950	-	-	52,509
Capital	102,903	-	19,710	-	122,613
Transfers out	-	-	-	-	-
Total expenditures	<u>103,462</u>	<u>51,950</u>	<u>19,710</u>	<u>-</u>	<u>175,122</u>
Revenues less expenditures	616,860	37,581	(12,810)	-	641,631
Beginning fund balance	<u>2,797,742</u>	<u>419,047</u>	<u>151,996</u>	<u>6,196</u>	<u>3,374,981</u>
<b>Ending fund balance</b>	<u><u>\$ 3,414,602</u></u>	<u><u>\$ 456,628</u></u>	<u><u>\$ 139,186</u></u>	<u><u>\$ 6,196</u></u>	<u><u>\$ 4,016,612</u></u>

**Urban Renewal Authority:**

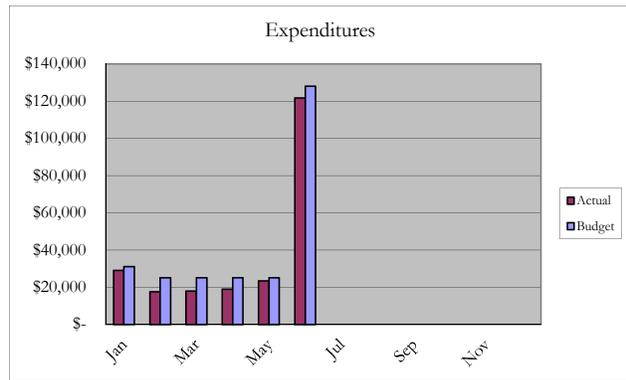
	2015 YTD Actual	2015 YTD Budget	Variance from Budget	2014 YTD Actual	Change from Prior Yr.	2015 Full Year Budget
Taxes	-	-	-	-	-	-
Intergovernmental	-	-	-	-	-	-
Fees and charges	-	-	-	-	-	-
Licenses and permits	-	-	-	-	-	-
Capital contributions	-	-	-	-	-	-
Investment income	-	-	-	-	-	-
Other income	-	-	-	-	-	-
<b><i>Total revenues</i></b>	-	-	-	-	-	-
Personnel expense	81,892	78,800	(3,092)	74,790	7,102	157,600
Operations/maintenance	44,253	78,100	33,847	96,633	(52,380)	156,200
Capital outlay	102,758	102,800	42	-	102,758	473,500
Debt service	-	-	-	-	-	-
Other expense	-	-	-	-	-	-
<b><i>Total expenditures</i></b>	228,903	259,700	30,797	171,423	57,480	787,300
<b><i>Revenues over (under) expenditures</i></b>	(228,903)	(259,700)	30,797	(171,423)	(57,480)	(787,300)
Transfers in	-	-	-	-	-	-
Transfers out	-	-	-	-	-	-
Debt proceeds, net	-	-	-	-	-	-
<b><i>Change in fund balance</i></b>	(228,903)	(259,700)	30,797	(171,423)	(57,480)	(787,300)
<b>Beginning fund balance</b>	(4,408,588)			(4,065,293)		(4,408,588)
Change per above	<u>(228,903)</u>			<u>(171,423)</u>		<u>(787,300)</u>
<b>Ending fund balance</b>	<u><u>(4,637,491)</u></u>			<u><u>(4,236,716)</u></u>		<u><u>(5,195,888)</u></u>

**Urban Renewal Authority Revenues:**

Month	2015 Actual	2015 Budget	Budget Variance	2014 Actual	Change
Jan	-	-	-	-	-
Feb	-	-	-	-	-
Mar	-	-	-	-	-
Apr	-	-	-	-	-
May	-	-	-	-	-
Jun	-	-	-	-	-
Jul	-	-	-	-	-
Aug	-	-	-	-	-
Sep	-	-	-	-	-
Oct	-	-	-	-	-
Nov	-	-	-	-	-
Dec	-	-	-	-	-
YTD	-	-	na	-	na
Full Year	-	-	-	-	-

**Urban Renewal Authority Expenditures:**

Month	2015 Actual	2015 Budget	Budget Variance	2014 Actual	Change
Jan	29,009	31,200	2,191	18,291	10,718
Feb	17,608	25,100	7,492	21,135	(3,527)
Mar	18,011	25,100	7,089	42,930	(24,919)
Apr	19,033	25,100	6,067	31,470	(12,437)
May	23,423	25,100	1,677	17,079	6,344
Jun	121,819	128,100	6,281	40,518	81,301
Jul	-	-	-	-	-
Aug	-	-	-	-	-
Sep	-	-	-	-	-
Oct	-	-	-	-	-
Nov	-	-	-	-	-
Dec	-	-	-	-	-
YTD	228,903	259,700	30,797	171,423	57,480
Full Year	-	787,300	-	343,295	-



**Expenditures by Type:**

	2015 Actual	2015 Budget	Budget Variance	2014 Actual	Change
Operations	126,145	156,900	30,755	171,423	(45,278)
Capital outlay	102,758	102,800	42	-	102,758
Debt service	-	-	-	-	-
Total	228,903	259,700	30,797	171,423	57,480

**Erie Housing Authority:**

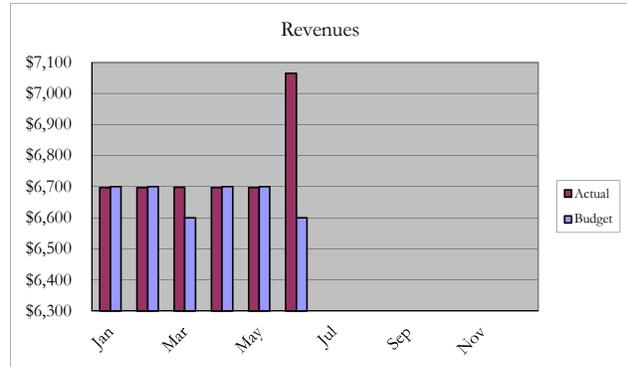
	2015 YTD Actual	2015 YTD Budget <sup>(1)</sup>	Variance from Budget	2014 YTD Actual	Change from Prior Yr.	2015 Full Year Budget <sup>(1)</sup>
Taxes	-	-	-	-	-	-
Intergovernmental	-	-	-	-	-	-
Fees and charges	-	-	-	-	-	-
Licenses and permits	-	-	-	-	-	-
Capital contributions	-	-	-	-	-	-
Investment income	369	-	369	1	368	-
Other income	40,182	40,000	182	40,130	52	80,000
<b><i>Total revenues</i></b>	<b>40,551</b>	<b>40,000</b>	<b>551</b>	<b>40,131</b>	<b>420</b>	<b>80,000</b>
Personnel expense	-	-	-	-	-	-
Operations/maintenance	27,027	30,000	2,973	21,187	5,840	60,000
Capital outlay	-	-	-	-	-	-
Debt service	18,277	18,300	23	26,388	(8,111)	36,500
Other expense	-	-	-	-	-	-
<b><i>Total expenditures</i></b>	<b>45,304</b>	<b>48,300</b>	<b>2,996</b>	<b>47,575</b>	<b>(2,271)</b>	<b>96,500</b>
<b><i>Revenues over (under) expenditures</i></b>	<b>(4,753)</b>	<b>(8,300)</b>	<b>3,547</b>	<b>(7,444)</b>	<b>2,691</b>	<b>(16,500)</b>
Transfers in	9,410	9,400	10	12,849	(3,439)	30,000
Transfers out	-	-	-	-	-	-
Debt proceeds, net	-	-	-	-	-	-
<b><i>Change in fund balance</i></b>	<b>4,657</b>	<b>1,100</b>	<b>3,557</b>	<b>5,405</b>	<b>(748)</b>	<b>13,500</b>

(1) Budget was not presented to the Board for formal approval. Represents staff-developed operating budget.

<b>Beginning working capital</b>	(28,492)	(33,553)	(28,492)
Change per above	<u>4,657</u>	<u>5,405</u>	<u>13,500</u>
<b>Ending working capital</b>	<u><u>(23,835)</u></u>	<u><u>(28,148)</u></u>	<u><u>(14,992)</u></u>

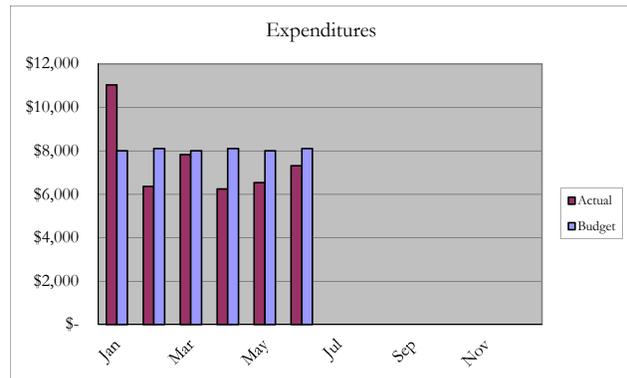
**Eric Housing Authority Revenues:**

Month	2015 Actual	2015 Budget	Budget Variance	2014 Actual	Change
Jan	6,697	6,700	(3)	6,663	34
Feb	6,697	6,700	(3)	6,663	34
Mar	6,698	6,600	98	6,663	35
Apr	6,697	6,700	(3)	6,663	34
May	6,697	6,700	(3)	6,815	(118)
Jun	7,065	6,600	465	6,663	402
Jul	-	-	-	-	-
Aug	-	-	-	-	-
Sep	-	-	-	-	-
Oct	-	-	-	-	-
Nov	-	-	-	-	-
Dec	-	-	-	-	-
YTD	40,551	40,000	551	40,130	421
			1%		1%
Full Year		80,000		80,593	



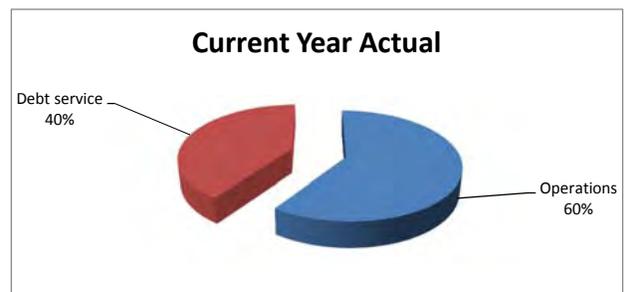
**Eric Housing Authority Expenditures:**

Month	2015 Actual	2015 Budget	Budget Variance	2014 Actual	Change
Jan	11,034	8,000	(3,034)	6,827	4,207
Feb	6,562	8,100	1,738	6,777	(415)
Mar	7,827	8,000	173	9,776	(1,949)
Apr	6,240	8,100	1,860	7,754	(1,514)
May	6,532	8,000	1,468	7,692	(1,160)
Jun	7,309	8,100	791	8,749	(1,440)
Jul	-	-	-	-	-
Aug	-	-	-	-	-
Sep	-	-	-	-	-
Oct	-	-	-	-	-
Nov	-	-	-	-	-
Dec	-	-	-	-	-
YTD	45,304	48,300	2,996	47,575	(2,271)
			6%		-5%
Full Year		96,500		788,086	



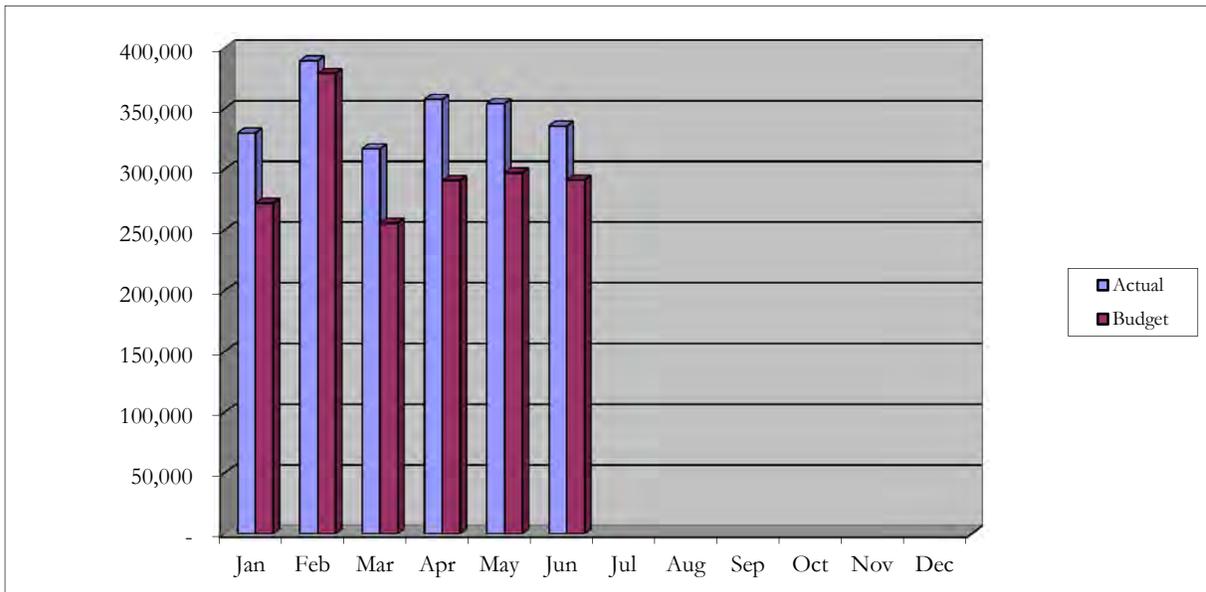
**Expenditures by Type:**

	2015 Actual	2015 Budget	Budget Variance	2014 Actual	Change
Operations	27,027	30,000	2,973	21,187	5,840
Debt service	18,277	18,300	23	26,388	(8,111)
Total	45,304	48,300	2,996	47,575	(2,271)



## Sales Tax

	2015 Actual	2015 Budget	Budget Variance	2014 Actual	Change from prior year	Seasonal Budget Adjustment
Jan	330,045	272,200	57,845	290,082	39,963	7%
Feb	389,562	379,100	10,462	404,708	(15,146)	10%
Mar	317,017	255,800	61,217	272,536	44,481	7%
Apr	357,700	290,900	66,800	311,137	46,563	8%
May	354,243	297,200	57,043	316,764	37,479	8%
Jun	335,776	291,300	44,476	310,241	25,535	8%
Jul	-	-	-	-	-	8%
Aug	-	-	-	-	-	8%
Sep	-	-	-	-	-	10%
Oct	-	-	-	-	-	9%
Nov	-	-	-	-	-	9%
Dec	-	-	-	-	-	9%
<b>Total</b>	<b>2,084,343</b>	<b>1,786,500</b>	<b>297,843</b>	<b>1,905,468</b>	<b>178,875</b>	<b>100%</b>
			17%		9%	
<b>Full Year</b>		<b>3,775,000</b>		<b>4,027,197</b>		



Sales tax revenue represents about 24% of budgeted General Fund revenues. It serves as a primary funding source of the general government. This category also includes the sales tax received on the purchase of motor vehicles.

### Performance Indicator Key

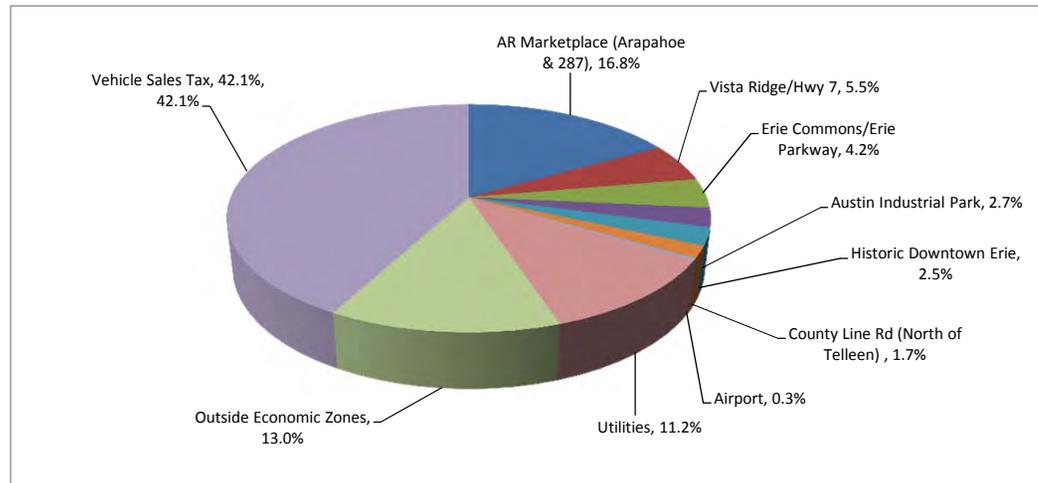
**POSITIVE** = Positive variance or negative < 10% compared to seasonal trends

**WARNING** = Negative variance > 10% compared to seasonal trends

**Sales Tax Revenues - Cash Basis**

	Jan-15	Feb-15	Mar-15	Apr-15	May-15	Jun-15	Jul-15	Aug-15	Sep-15	Oct-15	Nov-15	Dec-15	Year-end Accrual	2014 Total	% of Total
<b>Sales Tax - non-auto:</b>															
<b>Economic Zones:</b>															
AR Marketplace (Arapahoe & 287)	57,292	72,120	54,051	54,912	55,220	56,727	-	-	-	-	-	-	-	350,322	16.8%
Vista Ridge/Hwy 7	17,208	20,262	17,265	18,315	22,651	19,665	-	-	-	-	-	-	-	115,366	5.5%
Erie Commons/Erie Parkway	13,572	16,828	13,579	14,072	15,569	14,524	-	-	-	-	-	-	-	88,144	4.2%
Austin Industrial Park	9,395	10,083	8,536	8,437	10,195	10,007	-	-	-	-	-	-	-	56,653	2.7%
Historic Downtown Erie	9,246	10,609	5,968	6,405	11,206	9,064	-	-	-	-	-	-	-	52,498	2.5%
County Line Rd (North of Telleen)	3,979	4,965	5,602	6,695	6,240	7,445	-	-	-	-	-	-	-	34,926	1.7%
Airport	821	1,640	497	1,606	1,751	819	-	-	-	-	-	-	-	7,134	0.3%
<b>Economic Zones total</b>	111,513	136,507	105,498	110,442	122,832	118,251	-	-	-	-	-	-	-	705,043	33.7%
Utilities	45,205	37,494	41,526	37,303	38,536	33,641	-	-	-	-	-	-	-	233,705	11.2%
Vendors outside Economic Zones	47,086	48,842	40,055	34,034	54,535	44,021	-	-	-	-	-	-	-	268,573	13.0%
<b>Sales Tax - non-auto total</b>	203,804	222,843	187,079	181,779	215,903	195,913	-	-	-	-	-	-	-	1,207,321	57.9%
Vehicle Sales Tax	126,241	166,721	129,937	175,921	138,341	139,862	-	-	-	-	-	-	-	877,023	42.1%
<b>Grand Total</b>	330,045	389,564	317,016	357,700	354,244	335,775	-	-	-	-	-	-	-	2,084,344	100.0%

\* Revenue is reflected in the table above based on when collections are received from the State of Colorado and the Treasurers for Boulder and Weld Counties. During the year-end close process revenues are adjusted to an accrual basis (reflected in the "Year-end Accrual" column).



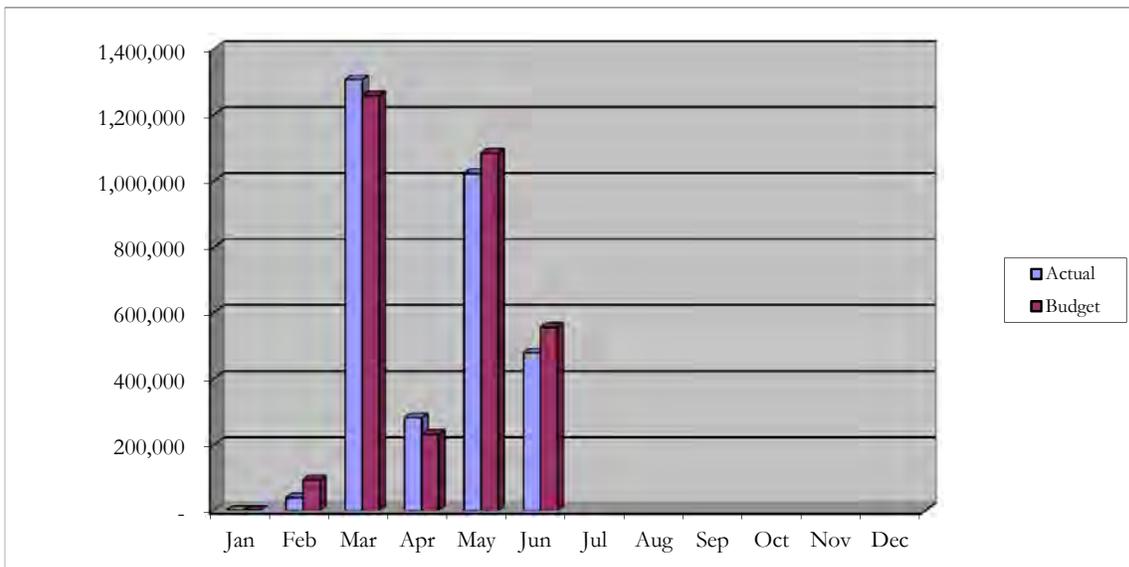
## Property Taxes - All Funds

	2015 Actual	2015 Budget	Budget Variance	2014 Actual	Change from prior year	Seasonal Budget Adjustment
Jan	38	500	(462)	434	(396)	0%
Feb	38,827	93,700	(54,873)	87,788	(48,961)	2%
Mar	1,306,095	1,257,500	48,595	1,177,636	128,459	29%
Apr	281,150	231,700	49,450	216,949	64,201	5%
May	1,021,486	1,084,200	(62,714)	1,015,349	6,137	25%
Jun	477,451	555,400	(77,949)	520,151	(42,700)	13%
Jul	-	-	-	-	-	22%
Aug	-	-	-	-	-	1%
Sep	-	-	-	-	-	1%
Oct	-	-	-	-	-	0%
Nov	-	-	-	-	-	0%
Dec	-	-	-	-	-	0%
<b>Total</b>	<b>3,125,047</b>	<b>3,223,000</b>	<b>(97,953)</b>	<b>3,018,307</b>	<b>106,740</b>	<b>100%</b>
			-3%		4%	

Full Year

4,264,200

3,993,378



Property tax revenues represent approximately 23% of General Fund budgeted revenues and essentially 100% of the Trails and Natural Areas Fund revenue budget. It serves as a primary funding source of the general government as well as funding for general obligation bonds and trails and natural areas. The Town receives a majority of these revenues in March and July. The first payment deadline is February 28 and the second payment deadline is June 30. These taxes are collected by the Boulder and Weld County Treasurers on behalf of the Town.

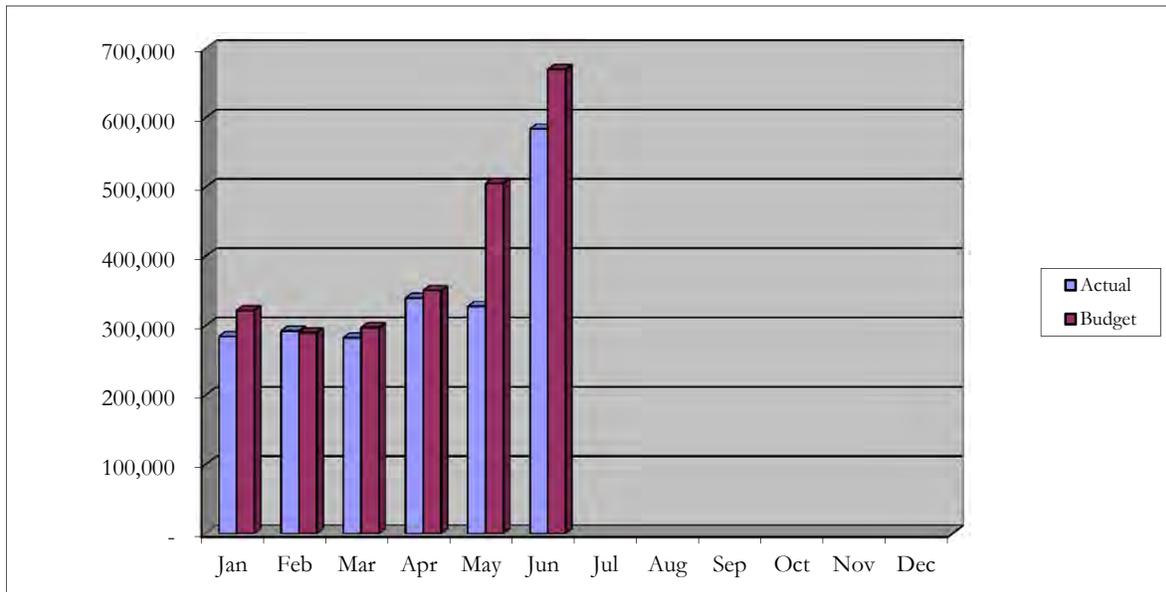
### Performance Indicator Key

**POSITIVE** = Positive variance or negative < 10% compared to seasonal trends

**WARNING** = Negative variance > 10% compared to seasonal trends

## Residential Water Use Fees

	2015 Actual	2015 Budget	Budget Variance	2014 Actual	Change from prior year	Seasonal Budget Adjustment
Jan	284,065	321,600	(37,535)	298,098	(14,033)	6%
Feb	292,050	289,600	2,450	268,438	23,612	5%
Mar	282,223	296,900	(14,677)	275,148	7,075	5%
Apr	339,507	350,500	(10,993)	324,881	14,626	6%
May	327,489	504,900	(177,411)	467,983	(140,494)	9%
Jun	583,591	669,700	(86,109)	620,707	(37,116)	12%
Jul	-	-	-	-	-	15%
Aug	-	-	-	-	-	12%
Sep	-	-	-	-	-	10%
Oct	-	-	-	-	-	7%
Nov	-	-	-	-	-	6%
Dec	-	-	-	-	-	6%
<b>Total</b>	<b>2,108,925</b>	<b>2,433,200</b>	<b>(324,275)</b>	<b>2,255,255</b>	<b>(146,330)</b>	<b>100%</b>
			<b>-13%</b>		<b>-6%</b>	
<b>Full Year</b>		<b>5,530,000</b>		<b>5,125,265</b>		



Water user fees account for 100% of the revenue needed to fund the operations of the water enterprise fund. This includes maintenance capital projects and a portion of the debt service payments.

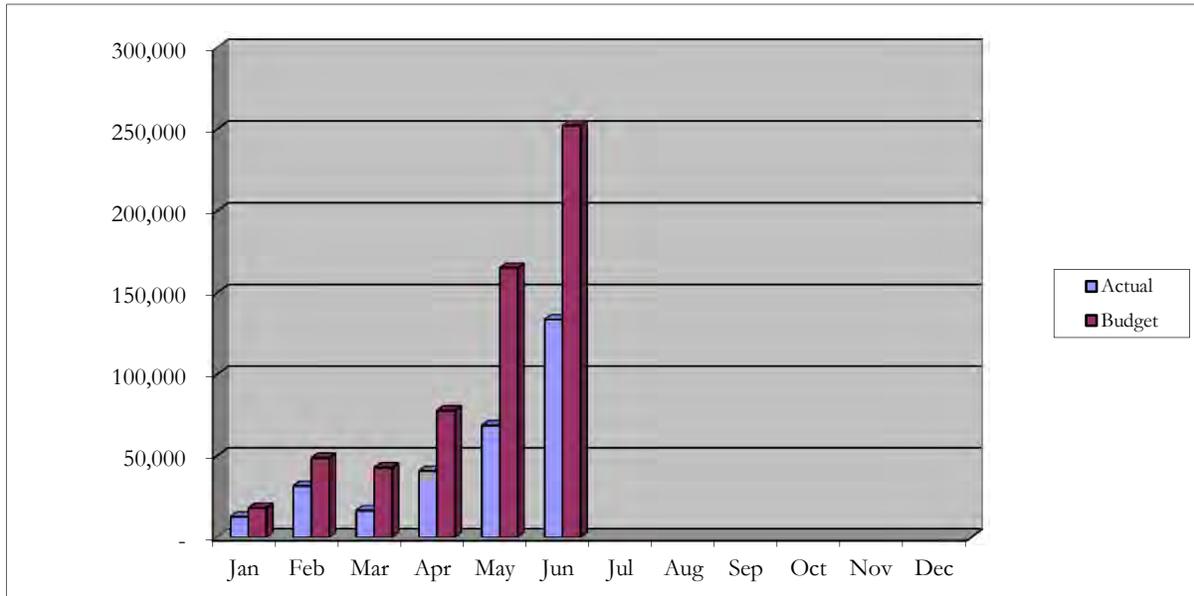
### Performance Indicator Key

**POSITIVE** = Positive variance or negative < 10% compared to seasonal trends

**WARNING** = Negative variance > 10% compared to seasonal trends

## Commercial Water Use Fees

	2015 Actual	2015 Budget	Budget Variance	2014 Actual	Change from prior year	Seasonal Budget Adjustment
Jan	12,531	18,000	(5,469)	17,149	(4,618)	1%
Feb	31,411	48,600	(17,189)	46,348	(14,937)	4%
Mar	16,320	42,700	(26,380)	40,653	(24,333)	3%
Apr	40,597	77,700	(37,103)	74,015	(33,418)	6%
May	68,589	165,100	(96,511)	157,341	(88,752)	12%
Jun	133,561	252,200	(118,639)	240,305	(106,744)	19%
Jul	-	-	-	-	-	20%
Aug	-	-	-	-	-	16%
Sep	-	-	-	-	-	10%
Oct	-	-	-	-	-	7%
Nov	-	-	-	-	-	1%
Dec	-	-	-	-	-	1%
<b>Total</b>	<b>303,009</b>	<b>604,300</b>	<b>(301,291)</b>	<b>575,811</b>	<b>(272,802)</b>	<b>100%</b>
			-50%		-47%	
<b>Full Year</b>		<u>1,340,000</u>		<u>1,276,791</u>		



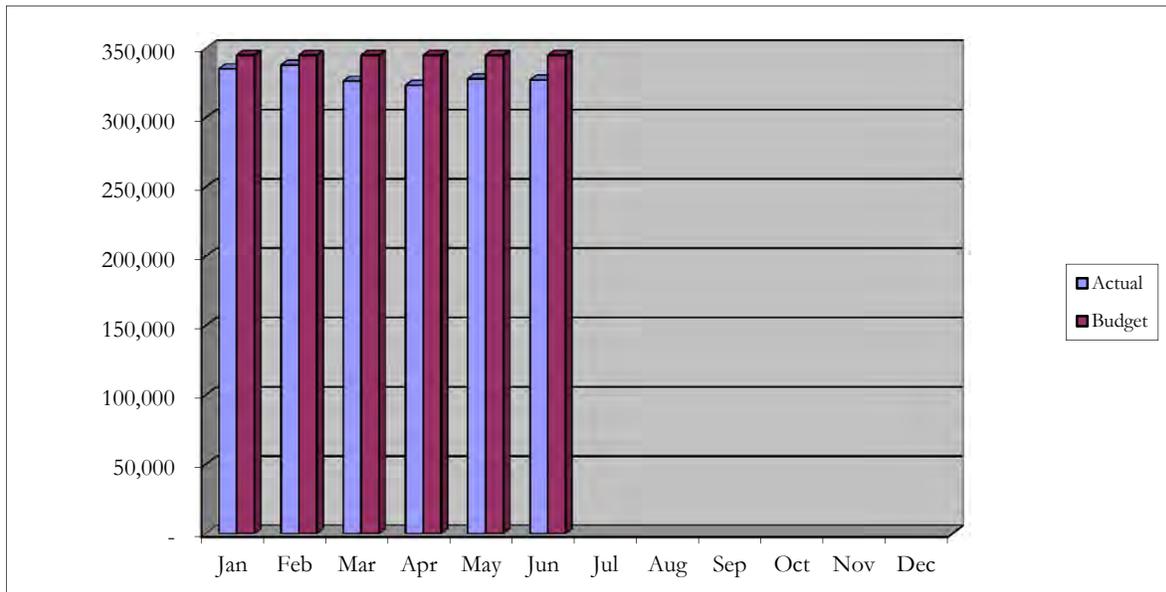
Water user fees account for 100% of the revenue needed to fund the operations of the water enterprise fund. This includes maintenance capital projects and a portion of the debt service payments.

*Performance Indicator Key*

- POSITIVE** = Positive variance or negative < 10% compared to seasonal trends
- WARNING** = Negative variance > 10% compared to seasonal trends

## Residential Wastewater Use Fees

	<u>2015 Actual</u>	<u>2015 Budget</u>	<i>Budget Variance</i>	<u>2014 Actual</u>	<i>Change from prior year</i>
Jan	335,215	345,000	(9,785)	338,051	(2,836)
Feb	337,968	345,000	(7,032)	334,008	3,960
Mar	326,315	345,000	(18,685)	335,007	(8,692)
Apr	323,363	345,000	(21,637)	337,349	(13,986)
May	328,024	345,000	(16,976)	335,216	(7,192)
Jun	327,144	345,000	(17,856)	329,607	(2,463)
Jul	-	-	-	-	-
Aug	-	-	-	-	-
Sep	-	-	-	-	-
Oct	-	-	-	-	-
Nov	-	-	-	-	-
Dec	-	-	-	-	-
<b>Total</b>	<u>1,978,029</u>	<u>2,070,000</u>	<u>(91,971)</u>	<u>2,009,238</u>	<u>(31,209)</u>
			-4%		-2%
<b>Full Year</b>		<u>4,140,000</u>		<u>4,026,328</u>	



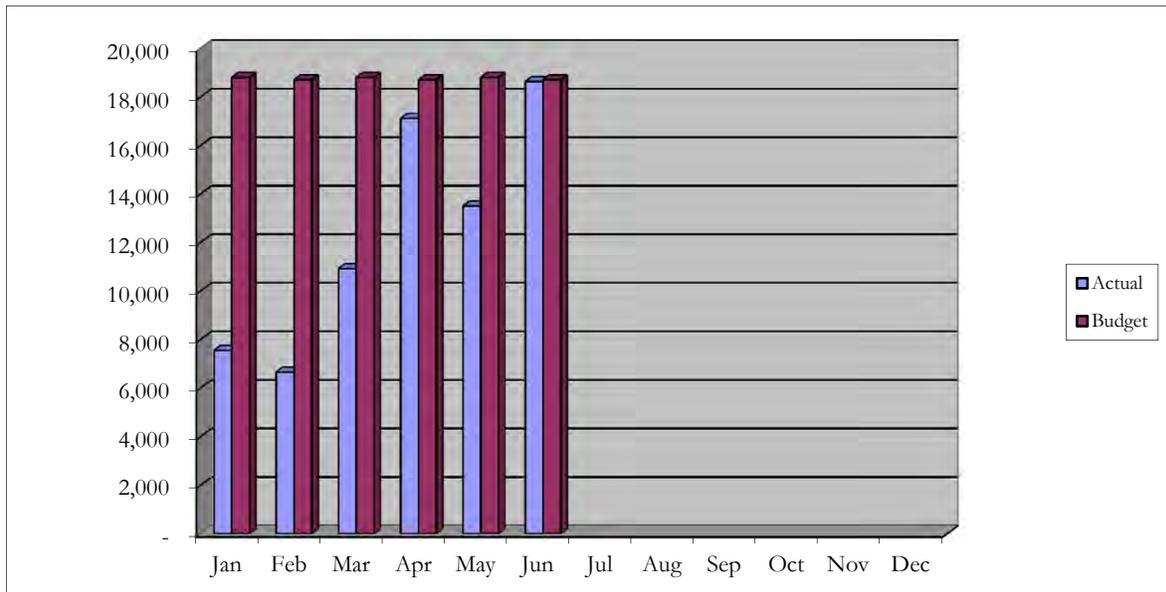
Wastewater user fees account for 100% of the revenue needed to fund the operations of the wastewater enterprise fund. This includes maintenance capital projects and a portion of the debt service payments.

### Performance Indicator Key

- POSITIVE = Positive variance or negative < 10% compared to seasonal trends
- WARNING = Negative variance > 10% compared to seasonal trends

## Commercial Wastewater Use Fees

	<u>2015 Actual</u>	<u>2015 Budget</u>	<i>Budget Variance</i>	<u>2014 Actual</u>	<i>Change from prior year</i>
Jan	7,546	18,800	(11,254)	14,696	(7,150)
Feb	6,651	18,700	(12,049)	13,945	(7,294)
Mar	10,913	18,800	(7,887)	13,773	(2,860)
Apr	17,109	18,700	(1,591)	19,786	(2,677)
May	13,497	18,800	(5,303)	26,676	(13,179)
Jun	18,627	18,700	(73)	31,698	(13,071)
Jul	-	-	-	-	-
Aug	-	-	-	-	-
Sep	-	-	-	-	-
Oct	-	-	-	-	-
Nov	-	-	-	-	-
Dec	-	-	-	-	-
<b>Total</b>	<b>74,343</b>	<b>112,500</b>	<b>(38,157)</b>	<b>120,574</b>	<b>(46,231)</b>
			<b>-34%</b>		<b>-38%</b>
<b>Full Year</b>		<u><u>225,000</u></u>		<u><u>241,048</u></u>	



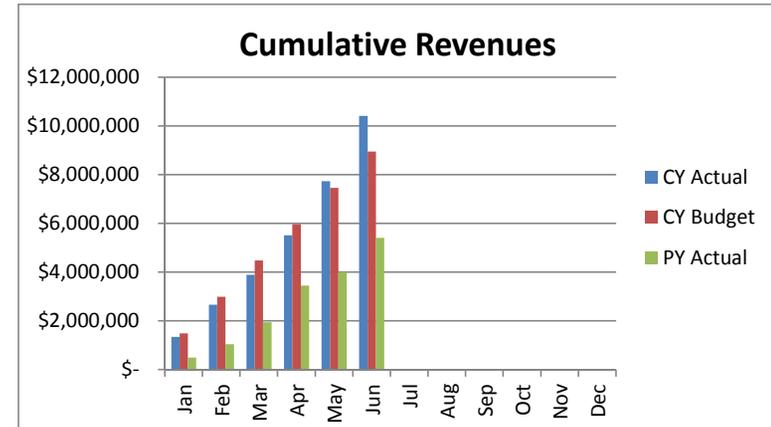
Wastewater user fees account for 100% of the revenue needed to fund the operations of the wastewater enterprise fund. This includes maintenance capital projects and a portion of the debt service payments.

### Performance Indicator Key

- POSITIVE = Positive variance or negative < 10% compared to seasonal trends
- WARNING = Negative variance > 10% compared to seasonal trends

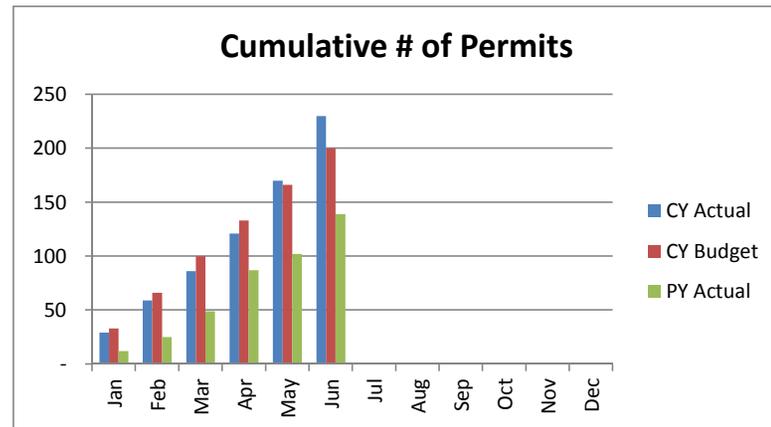
## Residential Permit-related Revenues - All Funds

Month	2015 Actual	2015 Budget	Budget Variance	2014 Actual	Change from prior year
Jan	1,337,261	1,492,200	(154,939)	490,407	846,854
Feb	1,328,736	1,492,200	(163,464)	549,956	778,780
Mar	1,221,369	1,492,300	(270,931)	898,607	322,762
Apr	1,620,385	1,492,200	128,185	1,508,378	112,007
May	2,224,350	1,492,200	732,150	557,054	1,667,296
Jun	2,684,012	1,492,300	1,191,712	1,408,005	1,276,007
Jul	-	-	-	-	-
Aug	-	-	-	-	-
Sep	-	-	-	-	-
Oct	-	-	-	-	-
Nov	-	-	-	-	-
Dec	-	-	-	-	-
YTD	10,416,113	8,953,400	1,462,713	5,412,407	5,003,706
			16%		92%
Full Year	10,416,113	17,906,800		11,461,918	



## # of Residential Permits

Month	2015 Actual	2015 Budget	Budget Variance	2014 Actual	Change from prior year
Jan	29	33	(4)	12	17
Feb	30	33	(3)	13	17
Mar	27	34	(7)	24	3
Apr	35	33	2	38	(3)
May	49	33	16	15	34
Jun	60	34	26	37	23
Jul	-	-	-	-	-
Aug	-	-	-	-	-
Sep	-	-	-	-	-
Oct	-	-	-	-	-
Nov	-	-	-	-	-
Dec	-	-	-	-	-
YTD	230	200	30	139	91
Full Year	230	400		291	



**Treasury Cash & Investments**

<b><u>Rollforward by Fund:</u></b>	Balance at 1/1/2015	Revenues & Other Sources	Expenditures & Other Uses	Debt Proceeds, Net	Change in Receivables/ Payables	Ending Balance
General Fund (1)	\$ 19,491,579	\$ 9,230,805	\$ (10,635,266)	\$ -	\$ (1,169,814)	\$ 16,917,304
Water Fund	11,011,386	8,285,411	(5,639,977)	-	(80,271)	13,576,549
Wastewater Fund	10,715,128	3,345,961	(1,751,935)	-	17,863	12,327,017
Storm Drainage Operating Fund	921,443	268,952	(230,942)	-	(49,793)	909,660
Airport Fund	59,959	27,705	(19,336)	-	(8,894)	59,434
Solid Waste/Streets Fund	2,336,523	783,907	-	-	-	3,120,430
Transportation Impact Fund	2,974,483	384,395	(5,329)	-	(292,063)	3,061,486
Parks Improvement Impact Fund	921,048	986,824	(9,752)	-	-	1,898,120
Public Facilities Impact Fund	3,030,740	415,093	(208,686)	-	46,006	3,283,153
Tree Impact Fund	260,640	71,000	(25,912)	-	(2,967)	302,761
Storm Drainage Impact Fund	4,297,101	311,581	(30,689)	-	(291,750)	4,286,243
Trails & Natural Areas Fund	2,856,405	720,322	(103,462)	-	(61,551)	3,411,714
Conservation Trust Fund	418,579	89,531	(51,950)	-	-	456,160
Cemetery Fund	151,825	6,900	(19,710)	-	-	139,015
Forfeiture & Seizures Fund	6,189	-	-	-	-	6,189
Urban Renewal Authority	-	-	(228,903)	-	188,448	(40,455)
<b>Total</b>	<b>\$ 59,453,028</b>	<b>\$ 24,928,387</b>	<b>\$ (18,961,849)</b>	<b>\$ -</b>	<b>\$ (1,704,786)</b>	<b>\$ 63,714,780</b>

(1) Difference between ending balance and available fund balance of \$7,127,287 reflects inclusion in treasury funds of bond proceeds for construction of the public safety facility. In addition, the Town holds refundable deposits from developers pending satisfactory completion of various infrastructure which are reflected as liabilities on the balance sheet of the General Fund.

**Treasury Cash & Investments at Month-end:**

**Held through investment advisor:**

Investment pools	\$ 17,792,603
CD's	2,215,225
Commercial paper	1,500,422
Municipals	2,005,170
U.S. Agencies	24,170,336
U.S. Treasury	8,025,680
<b>Total held through investment advisor (2)</b>	<b>55,709,436</b>

**Held directly:**

Checking account	2,637,241
Money market account	36,656
Investment pools	1,308,522
<b>Total held directly</b>	<b>3,982,419</b>
<b>Total Treasury Cash &amp; Investments</b>	<b>59,691,855</b>
<b>Bond proceeds for public safety building</b>	<b>4,022,925</b>
<b>Total Treasury and related</b>	<b>\$ 63,714,780</b>

(2) Difference from investment advisor report on p. 37 due to various reconciling items, primarily compounded CD interest not reflected on their report

# Town of Erie

---

Reports for the period: 06/01/2015 – 06/30/2015

Town of Erie  
645 Holbrook  
PO Box 750  
Erie, CO 80516

We urge you to compare the information contained in this periodic statement with the account statement(s) that you receive directly from the custodian that holds your account(s). Please notify us immediately if you identify any discrepancies or have any questions.



**Davidson**  
**Fixed Income Management**

REGISTERED INVESTMENT ADVISER

# Town of Erie

## Account Review – June 2015



- Town of Erie: Steve Felten, Finance Director; Christine Morrison, Deputy Finance Director/Chief Accountant
- Davidson Fixed Income Management: Glenn Scott, Account Manager
- Investment Objectives:
  - Safety of Principal: The primary objective is to protect against any loss of principal.
  - Liquidity: Investments will be managed to ensure that funds are available to meet obligations as necessary.
  - Yield: Investments will be managed to optimize returns within the appropriate safety and liquidity constraints.

### Performance Information (03/31/2015 - 06/30/2015)

	<u>Town of Erie</u> <sup>1</sup>	<u>Colotrust</u> <sup>4</sup>	<u>CSAFE</u> <sup>2</sup>
BV Return (Yield) <sup>3</sup>	<b>0.50%</b>	0.01%	0.17%

1. Reflects yield to maturity, net of management & custodial fee.
2. Reflects the CSAFE average daily rate for the quarter.
3. Book Value Return (Yield) = Earned Interest +/- Realized Gain/Loss +/- Amortization.
4. Reflects the Colotrust Prime average daily rate for the quarter.

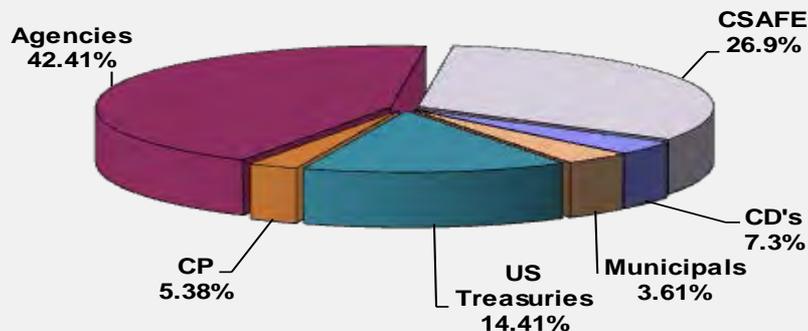
Past performance of the Town of Erie portfolio does not guarantee future results.

### Portfolio Characteristics 06/30/2015

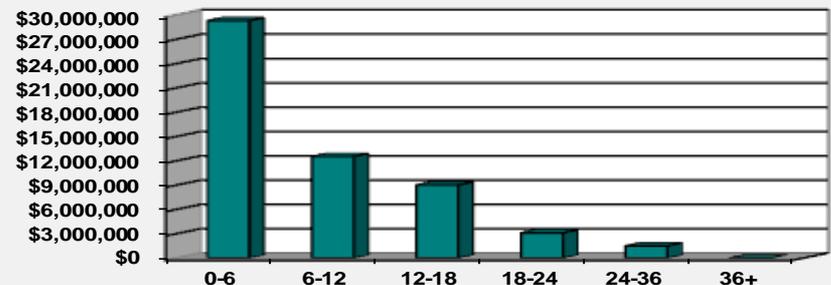
Par Value:	\$ 37,600,000
Book Value:	\$ 37,636,860
<b>Market Value:</b>	<b>\$ 37,695,072</b>
<b>CSAFE Balance:</b>	<b>\$ 17,792,603</b>
<b>Total Account Balance:</b>	<b>\$ 55,487,676</b>

Weighted Avg YTM:	0.52%
Weighted Avg Maturity/Call:	7.5 Months
Weighted Avg YTM (excluding cash):	0.68%

### Portfolio Diversification



### Maturity Distribution



**Town of Erie**  
 Investment Details  
 June 30, 2015

Cusip	Security Description	Trade Date	Par Value	Original Cost	Market Value	Book Value	Coupon Rate	YTM/C	DTM/C	Next Call Date	Maturity Date	Pct Assets
<b>Cash and Equiv.</b>												
CSAFE	CSAFE			17,792,603.37	17,792,603.37	17,792,603.37	0.170	0.170				32.07
<b>Commercial Paper</b>												
06538CW80	BANK TOKYO-MIT UFJ NY	03-11-15	1,500,000.00	1,497,375.00	1,497,375.00	1,498,979.17	0.000	0.351	68		09-08-15	2.70
<b>CD's</b>												
FBCD005	1ST BANK	05-06-11	2,000,000.00	2,000,000.00	2,000,000.00	2,000,000.00	2.470	2.478	311		05-06-16	3.60
<b>Agencies</b>												
31398AZ54	FEDERAL NATL MTG ASSN	10-23-13	1,500,000.00	1,548,885.00	1,502,865.00	1,502,639.16	2.150	0.310	36		08-04-15	2.71
3134G3ZA1	FEDERAL HOME LN MTG CORP	11-29-12	2,000,000.00	2,006,920.00	2,000,902.00	2,000,407.66	0.500	0.373	58		08-28-15	3.61
3134G3W55	FEDERAL HOME LN MTG CORP	12-20-12	2,000,000.00	2,000,928.00	2,002,218.00	2,000,127.61	0.450	0.434	145		11-24-15	3.61
3135G0SB0	FEDERAL NATL MTG ASSN	12-20-12	2,500,000.00	2,494,122.50	2,501,780.00	2,499,066.04	0.375	0.454	173		12-21-15	4.51
3133ED5L2	FEDERAL FARM CR BKS	10-21-13	1,500,000.00	1,500,000.00	1,502,320.50	1,500,000.00	0.480	0.480	204		01-22-16	2.71
3135G0VA8	FNMA AGENCY	12-05-13	2,000,000.00	2,003,600.00	2,002,774.00	2,001,166.76	0.500	0.422	273		03-30-16	3.61
3133ECWT7	FEDERAL FARM CR BKS	08-27-13	2,000,000.00	1,995,840.00	2,004,606.00	1,998,673.56	0.650	0.728	314		05-09-16	3.61
313373SZ6	FEDERAL HOME LOAN BANKS	11-05-13	2,000,000.00	2,080,760.00	2,032,468.00	2,029,498.24	2.125	0.555	345		06-10-16	3.66
3133834R9	FEDERAL HOME LOAN BANKS	05-09-13	1,000,000.00	998,540.00	999,932.00	999,540.79	0.375	0.422	359		06-24-16	1.80
3135G0XP3	FEDERAL NATL MTG ASSN	12-06-13	1,000,000.00	996,090.00	999,753.00	998,455.17	0.375	0.528	371		07-05-16	1.80
3134G5A96	FEDERAL HOME LN MTG CORP	06-27-14	2,000,000.00	1,999,600.00	2,001,618.00	1,999,780.36	0.625	0.628	79	09-19-15	09-19-16	3.61
3130A3RB2	FEDERAL HOME LOAN BANKS	12-30-14	600,000.00	599,925.60	601,006.80	599,943.80	0.750	0.755	557		01-10-17	1.08
3133ECT79	FEDERAL FARM CR BKS	09-18-14	2,500,000.00	2,505,200.00	2,515,652.50	2,503,549.65	1.000	0.914	610		03-01-17	4.53
3133EEJ50	FEDERAL FARM CR BKS	05-06-15	1,500,000.00	1,496,070.00	1,499,710.50	1,496,248.96	1.030	1.119	1,046		05-11-18	2.70
			24,100,000.00	24,226,481.10	24,167,606.30	24,129,097.76	0.825	0.580	306			43.55
<b>Municipals</b>												
574193HL5	MARYLAND ST	07-26-13	1,000,000.00	1,004,700.00	1,002,640.00	1,001,712.09	0.950	0.790	398		08-01-16	1.81
93974DAL2	WASHINGTON ST FOR ISSUES DTD P	08-08-13	1,000,000.00	1,000,500.00	1,002,530.00	1,000,184.76	0.850	0.833	398		08-01-16	1.81
			2,000,000.00	2,005,200.00	2,005,170.00	2,001,896.85	0.900	0.812	398			3.61
<b>US Treasury Notes</b>												
912828WQ9	UNITED STATES TREAS NTS	06-27-14	2,000,000.00	2,001,484.38	2,003,282.00	2,000,742.19	0.500	0.463	365		06-30-16	3.61
912828VR8	UNITED STATES TREAS NTS	01-03-14	1,000,000.00	1,000,273.43	1,002,812.00	1,000,118.29	0.625	0.614	412		08-15-16	1.81
912828VW7	UNITED STATES TREAS NTS	01-03-14	1,000,000.00	1,006,171.87	1,005,781.00	1,002,778.54	0.875	0.643	440		09-15-16	1.81
912828VW7	UNITED STATES TREAS NTS	02-11-14	1,000,000.00	1,008,164.06	1,005,781.00	1,003,822.49	0.875	0.557	440		09-15-16	1.81
912828WA4	UNITED STATES TREAS NTS	03-03-14	1,000,000.00	1,002,734.38	1,002,656.00	1,001,350.50	0.625	0.520	471		10-15-16	1.81
912828WF3	UNITED STATES TREAS NTS	03-14-14	1,000,000.00	1,000,664.06	1,002,578.00	1,000,342.95	0.625	0.600	501		11-15-16	1.81
912828A59	UNITED STATES TREAS NTS	03-19-14	1,000,000.00	995,742.19	1,002,031.00	997,731.70	0.625	0.782	532		12-15-16	1.81
			8,000,000.00	8,015,234.37	8,024,921.00	8,006,886.65	0.656	0.580	441			14.46
<b>TOTAL PORTFOLIO</b>			<b>37,600,000.00</b>	<b>55,536,893.84</b>	<b>55,487,675.67</b>	<b>55,429,463.80</b>	<b>0.630</b>	<b>0.519</b>	<b>225</b>			<b>100.00</b>